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THE
TREACHERY and DISLOYALTY
OF
PAPISTS TO THEIR SOVERAIGNES,
AND
DOCTRINE AND PRACTISE.

Together with
The first part of the SOVERAIGNE POWER
OF
PARLIAMENTS and KINGDOMES.

Wherein the Traiterous, Antimonarchicall Doctrines, Practises, and Attempts of Papists upon the Persons, Crownes, Prerogatives, of their Sovereignes, with the dangerous delignes, effects, and consequences, of their present illegall Arming, and access to the Kings Person, Court, Army, by meanes of evill Counsellours, are briefly discovered, related; The Jurisdiction, Power, Priviledges, claimed, exercised by our Popish Parliaments, Prelates, Lords and Commons in former ages, exactly paralleld with those now claimed by the Lords and Commons in this present Parliament; which are manifested, to be farre more loyall, dutifull, moderate; more consistent with, lesse invasive on, and destructive to the pretended Sovereigne Power and Prerogative of the King, then those of former ages. And the high Court of Parliament proved by pregnant Reasons, and Authorities, To be the most Sovereigne Power of all other, in this Kingdome, in severall respects; And Superior to the King himselfe: who is not above, but subject to the Lawes: Together with a punctuall Answer to the chiefe Calumnies, and grandest Objections, of Royallists, Papists, Malignants, Delinquents, against the Parliaments Power, and Proceedings; with other Particulars worthy Observation.

The Second Edition Enlarged. *Sum. Ed. Unfounded*
By WILLIAM PRYNNE, Utter-Barrester, of Lincolnes Inne. 1728

Isai 24. 16, 17.
Woe unto me, the treacherous dealers have dealt treacherously: yea, the Treacherous dealers have dealt very treacherously: Feare, and the pit, and a snare are upon thee, O Inhabitants of the Earth.
Psalme 120. 5, 6.
My soule hath long dwelt with them, that are enemies unto peace. I labour for peace; but when I speake unto them thereof, they make them ready to Battle.

It is this second day of May, 1643. Ordered by the Committee of the House of Commons in Parliament for Printing, that this Booke, Intituled, *The Treachery and Disloyalty of Papists to their Sovereignes, &c.* with the Additions, be re-printed by Michael Sparke, senior.

John White.

Printed at London for Michael Sparke, Senior. 1643.

1799

Jean Abbot

Ch

Recd

1799



To the Reader.

Courteous Reader,

THE importunity of some Members of Parliament, hath induced me to enlarge the first Part of this Discourse, with sundry pertinent Additions, and to Re-print it in a greater Character, then before; yet distinct from the following part, for the ease, the benefit both of Stationer and Buyer. When I first entred upon this necessary publike Theame, my Primitive Intention was, to have Collected the chiefe Heads, Reasons, Authorities of this and the ensuing Members, into one compendious Summulary, and so to publish them all together in an intire Brieve: But afterwards considering the extraordinary weight and consequence of that Grand common Cause, both of Parliament and Kingdome, which I was to plead; the Novelty and Rarity of the Subject matter; the extraordinary Prejudice of the ignorant long-deluded world against it; the Potency, Policy, Multitude of learned Advocates (as well Divines as Lawyers) of the opposite Royall, and Malignant party; the insufficiency and unsatisfactoriness of all late Printed Pleas for the Parliaments Interest, through defect of punctuall Precedents, and Authorities to backe their rationall Discourses; and that a Summary slight debate of these important publicke differences, would give but small satisfaction to the Adversary, and rather prejudice than advance the Parliaments, Kingdomes Native Rights and Priviledges: I did thereupon enlarge my Meditations, my Collections, so farre forth, as straites of Time, with other avocating Imployments, would permit, seconding all my Arguments, fortifying all my Reasons, with such Domesticke, Foraine Precedents, and Authorities of all sorts, as well Divine, as Humane, Politicall, Historicall, as Legall; as through Gods concurrence with, and blessing on my impotent endeavours, may effectually convince the obstinate wils, abundantly satisfie the most seduced, prejudicated Judgement, finally resolve the most scrupulous Consciences, and eternally silence the ignorant, the most malicious Tongues and Pennes of all Royallists, &c. Anti-parliamentary Malignants, who are not wilfully wedded to their long-espoused Errors; or more enamored with sordid Court flattery for private selfe-ends, then fairest (though hated, ungainfull) verity, which aims at nothing but the Publicke good.

For my part, I seriously protest before the great Judge of Heaven and Earth, that I have herein wittingly maintained nothing at all, but what my Judgement and Conscience both (byassed with no sinister ends, no private respects, ayming at nought else but the Glory of God, the settled weale, and Tranquillity, of our distracted, bleeding, dying Church, and State, the onely Motives, engaging me in this Service) informe me, to be a well-grounded, ancient, pregnant, (though lately over-clouded, undiscovered, neglected, much-oppugned) Truth: and albeit most particulars therein debated, have for many yeares hitherto bene deposed (that I say not stigmatized) for seditious, dangerous Antimonarchicall Paradoxes, if not worse, by the generall Torrent of Court-Parasites, Lawyers,

To the Reader.

Religion, Nature, Law, Policy, the various Precedents, and Authorities of former ages, and thoroughly digested without prejudice or partiality; they will appeare; yea, shine forth as most necessary, profitable, loyall, State-securing, Peace-procuring verities; yea, as the very Nerves and sinewes to unite; the Pillars to support; the Bulwarkes to protect both Church and State, against all invasions, of heretic, or tyranny; and to keepe all the Potent Members of them within their Legall bounds. Peruse it therefore with an upright heart a dis-ingaged Judgement, an unbiassed affection; and when thou hast thus done, nought but naked Truth resolve thy Conscience, and regulate all thy future Action services both towards thy God, King, Country, in such sort; That *glory may dwell our land; that mercy and truth may meet together; righteousness and peace may kisse each other, once more in our Nation; and God may now at last speake peace unto his people and to his Saints: So Truth shall spring out of the Faith, and Righteousnesse shall looke downe from Heaven: Yea, the Lord shall give that which is good; and our Land shall yeeld her increase; Righteousnesse shall goe before him, and shall set us in the way of his steps. * And the worke of Righteousnesse shall be Peace; and the effect of righteousness, quietnesse and assurance for ever. And we (being God. people) shall dwell in a peaceable habitation, and in sure dwellings, and in quiet resting places; Yea, we * shall beate our swords into Plow-shares, and our Spears into Pruning-hooke; Nation shall not lift up sword against Nation, neither shall they learne warre any more; But wee shall sit every man under his Vine and under his Figge-tree, and none shall make us afraid; The effecting, the restoring of which sweet blessed Harmony of Peace and quietnesse throughout our kingdome, hath bene one principall end of this my Labour, which takes away the pretended causes, the nourishing fewell of our present unnaturall contentions, and destructive bloody warres.

Entertaine it therefore, with that Candidnesse and Ingenuity, as becomes the cordiallest En- devours, of a reall unmercenary Philo-pater, who hath freely done and suffered many thing and is still prest to doe and suffer all things, for his dearest Countries service, in an honourable lawfull Christian way; though he receive no other Guerdon, than the losse of all his earthly comforts, and a new addition to his former sufferings. That saying of Symmachus hath been encouragement enough to me, * Saluti publicæ dicata industria crescit Merito, cum caret Præmio; which I wish were more considered and better practised by some degenerate Mercenary spirits in these sad times; who receive great wages, and doe little worke; refusing to stirre either hand or foote upon any advantage, or necessary occasion to preserve their Native Country from desolation, before they have purged up their undeserited pay; and yet even then perchance sit still: It is a basenesse not onely farre below * Christianity, but Humanity it selfe, for men (especially those of publicke place and abilities) to preferre their owne private ends, before the publicke safety; their particular gain, before the commonweale, when the whole kingdome lyeth at stake. But I hope Heroicke English Spirits, will learne more generous resolutions and Activity in times of such extremity; and that those whom it most concernes, will take timely notice, That sordid Mercenaries are the greatest, falsest Cowards; Christ himselfe resolving what poore, what ill service they will do in dayes of tryall, Joh. 10. 12, 13. He that is an Hireling, seeth the Wolfe comming and leaveth the Sheepe, and F L E E T H; and the Wolfe catcheth them and scattereth the Sheepe. The hireling fleeth, because he is an hireling, and careth not for the Sheepe. He loves onely his Wages, not his Charge, his Duty; God discover and amend all such, or else speedily discard them: That so all aiming onely at the publique good and Tranquility; we may est-soone procure, enjoy the same to our greatest consolation.

* Psa. 85. 8, 9,
10.

* Isa. 32. 17, 18

* Micah 4. 3, 4.
Isay 2. 4. Joel 3.
10.

* Apud Ambros.
Epist. 12. Ep. 2.
Tom. 5. p. 97.

* Jer. 45. 5.

Farewell.



The Treachery and Disloyalty of Papists to their Sovereignes, both in Doctrine and Practise.

When I seriously consider the memorable Preamble of 3. Jac. ch. 4. That it is found by daily experience, that many of his Majesties Subjects who adhere in their hearts to the Popish Religion, by the infection drawne from thence, and by the wicked and divellish counsell of Jesuites, Seminaries, and other persons dangerous to the Church and State, are so farre perverted in the point of their loyalties and due obedience unto the Kings Majesty, and the Crowne of England, as they are ready to entertaine and execute any Treasonable Conspiracies and Practises, as evidently appears by that more then barbarous and horrible attempt to have blowne up with Gunpowder, the King, Queene, Prince, Lords and Commons in the House of Parliament assembled, tending to the utter subversion of the whole State, lately undertaken by the instigation of Jesuites and Seminaries, and in advancement of their Religion by their Schollars taught and instructed by them for that purpose. With the Statutes of 35. Eliz. ch. 2. and 3. Jacob. ch. 5. which Enact: That all Popish Recusants shall be restrained to some certaine places of abode, and confined to their private houses in the Country, and not at any time after to passe or remove above five miles from thence, under paine of forfeiting all their Lands, Goods, and Chattels, during life. That none of them shall remaine within ten miles of the City of London, nor come into the Court or house where his Majesty, or Heire apparent to the Crowne of England shall be; nor have in their owne houses, or in the hands or possession of any other at their disposition, any Armour, Gunpowder, or Munition, of what kinde soever; And all this, for the better discovering and avoyding of such Trayterous, and most dangerous Conspiracies, Treasons, Practises, and attempts, as are daily devised, and practised against our most gracious Sovereaignes Person, and the Commonweale, by rebellious and trayterous Papists. And when I read in * two of King James his Proclamations: That those adhering to the profession of the Church of Rome, are blindly led (together with the superstition of their Religion) both unto some points of Doctrine which * cannot consist with the loyalty of Subjects towards their Prince, and oft times unto direct actions of conspiracies, and conjurations against the State wherein they live, (as hath most notoriously appeared by the late most horrible and almost incredible conjuration (grounded upon points of Doctrine in that Church held and maintained, and contrived, and practised with the privacy and warrant of many of the principall Priests of that profession) to blow up our children and all the three States in Parliament assembled. And when we consider the course and claime of the Sea of Rome, we have no reason to imagine, that Princes of our Religion and profession can expect any assurance long to continue, unlesse it might be assented by the mediation of other Princes Christian, that some good course might be taken (by a generall Councell, free, and lawfully called) to plucke up those rootes of dangers and jealousies which arise for cause of Religion, as well betweene Princes and Princes, as betweene them and their Subjects; and

* Dated. Janu.
10. 1605. and
Febr. 22. 1603.
* Note this.

to make it manifest, that no State or Potentate, either doth or can challenge power to dispose of earthly Kingdomes, or Monarchies, or to dispence with Subjects obedience to their natural Sovereignes; (Which was never yet attempted, much lesse effected.) And in the Booke of *Thanksgiving* appointed for the fifth of November; (set forth by King James, and the Parliaments speciall direction) this observable Prayer (somewhat altered by the now (a) Arch-bishop of Canterbury in the latter Editions to pleasure his Friends the Papiſts) *To that end strenghten the hand of our gracious King, the Nobles and Magistrates of the Land, with Judgement and justice, to cut off these workers of iniquity (the Papiſts) whose Religion is rebellion, whose faith is faction, whose practise is murdering of Soules and bodies, and to roote them out of the confines of this Kingdome. I cannot but stand amazed, yea utterly confounded in my selfe, at the Impudency and Treachery of those pernicious Counsellors, who in affront of all these Lawes and premises, have issued out sundry (b) Commissions, under his Majesties hand and seale, to divers notorious Papiſts, not onely to furnish themselves with all sorts of Armes and Munition; but likewise to meeete together armed, and raise forces in the Field, to fight against the Parliament, Kingdome, and Protestant Religion, (even contrary to divers his Majesties late Printed Declarations, and Protestations, to all his loving Subjects) advanced them to places of great trust and command in his Majesties severall Armies; & procured them free acceſſe unto, if not places of note about his sacred person, as if they were his loyallest Subjects, his surest guard (as many now boldly stile them) and more to be confided in, then his best and greatest Councell, the Parliament; whom they most execrably revile, as Rebels, and Traytors, the more colourably to raise an Army of Papiſts to cut their throats, and the throat of our Protestant Religion first (as they have already done in Ireland,) and then last of all his Majesties, in case he refuse to become the Popes sworne vassall, or alter his Religion, which he hath oft protested (and we beleve) he will never doe.*

But I desire these ill counsellors of the worst edition, to informe his Majesty, or any rational creature, how it is either probable, or possible, that an army of papiſts should secure his royall person, Crowne, Dignity, or protect the Protestant Religion, the Parliament, or its Priviledges, to all which they have shewed themselves most professed enemies. We all know that Popish Recusants (c) obstinately refuse to take the Oath of Supremacy, or Allegiance (some of them that tooke it, having bene excommunicated by their Priests for a reward) The summe of which Oath is, * *That they doe truly and sincerely acknowledge and professe; That the Pope hath no authority to depose the King, or to dispose of any his Kingdomes, or to authorize any foraine Prince to invade his Countries, or to discharge any his Subjects from their Allegiance to his Majesty, or to licence any of them to beare armes, or raise tumults against him, or to offer any violence or hurt to his royall Person, State, Government, Subjects. That notwithstanding any Declaration, Excommunication, or deprivation made or granted by the Pope, or any Authority derived from him, against the King, his Heires, and Successors, or any absolution from their obedience, they will beare faith and true allegiance to them, and them protect to the uttermost of their power against all conspiracies and attempts whatsoever against their Persons, Crowne, and Dignity, by reason of any such sentence or Declaration, or otherwise. And that they doe from their hearts, abhorre, detest, abjure as impious and hereticall, this damnable Doctrine and position: (professedly maintained by English Papiſts, else why should the Parliament prescribe, and they absolutely refuse to take this Oath?) that Princes excommunicated*

(a) Who confesseth & justifieth it, in his Speech in Star-chamber, June 14. 1637.

(b) See the Parliaments late Declaration.

(c) See King James his Apology against Bellarmin, Laurentius Byslink, Opus Ctro. p. 319. Deu & Rex. The Lord William Howards Sonnes late Booke in Defense of Papiſts taking the Oath of Allegiance.

* 3 Jac. c. 4.

or deprived by the Pope, may be deposed or murdered by their Subjects, or any other whatsoever. Will those then who refuse to take this Oath, or abjure this King-deposing, King-killing Popish Doctrine; harbouring a *Seminary Priest* in their *Tents*, and a *Pope* in their hearts, prove a faithfull guard to his Majesties Person, Crowne, Kingdomes? Will those who so oft conspired the death, and attempted the murders of *Queene Elizabeth*, and *King James*, onely because they were Protestants, and Defenders of the Protestant Faith, now cordially protect and assist *King Charles*, without attempting any thing against his Crowne or Person, who hath lately made and published so many *Protestations*, and *Declarations*, that he will never imbrace, nor countenance Popery, but most resolutely Defend, and Advance the Protestant Religion; and makes this one principall motive (how truly, he taketh Heaven and Earth to witnesse) of his present taking up of Armes? Will they (thinke you) spend their lives for King and Parliament, who but few yeares since lost their lives for attempting by a traine of Gunpowder to blow up both *King* and *Parliament*? Will those secure his Majesty in his Throne, now he is actually King of *England*, who would have murdered him in his *Cradle*, ere he was *Prince*, to forestall him of the Crowne of *England*? Can those prove really royall to his Majesty and his Royall Posterity, who would have blowne up him and all his Royall House at once, even long before he had posterity? In a word (if ancient preidents will not convince us) are those who for (d) two yeares last past or more, have beene labouring with might and maine to uncrowne his Majesty, and utterly extirpate the Protestant Religion by horrid conspiracies and force of Armes, in *Ireland*, and are now there acting the last Scene of this most barbarous bloody Tragedy; likely to spend their dearest blood in fighting for the preservation of his Majesties Crowne and the Protestant cause in *England*, if this onely be the reall quarrell, as is speciously pretended? Or will any of that Religion, who within these three yeares, have by force of Armes, both in *Catalonia*, *Portugall*, and elsewhere, revolted from, and cast off their allegiance to their owne most Catholicke King, to set up others of the same Religion in his Tribunal for their greater advantage; put to their helping hands to establish his Majesty (the most Protestant King) in his regall Throne, admit it were really, not fictitiously endangered to be shaken by the Parliament? Certainly, if the ground of this unnatural warre be such as these ill Counsellors pretend, they would never be so farre besotted as to make choyce of such unfitting Champions as Papists, for such a designe, who are very well knowne to be the greatest enemies and malignants of all others, both to King, Kingdome, Religion, Parliament, whose joynt destructions (what ever these ill Counsellors pretend) is questionlesse the onely thing really intended by the Popish party in this warre, as the proceedings in *Ireland*, the introducing of foraine, the raising of domestick Popish Forces, the disarming of Protestants, and Arming Papists with their Harnesse, clearly demonstrate to all whom prejudice hath not blinded.

Now that I may evidence to these pernicious Counsellors, and all the world, how dangerous, how unsafe it is to his Majesty, to the Kingdome, to put Armes into Papists hands, and make use of them to protect the Kings person, or Crowne; I shall desire them to take notice both of the Papists traiterous Doctrine, and Practise, in these three particulars they maintaine.

First, That the Pope by a meere divine right, is the sole and supreme Monarch of the

(d) See Dr. Jones his Book of Examinations.

whole world, and all the Kingdomes in it, to dispose of them at his pleasure, to whom and when he will, without giving any account of his actions. That all Emperours and Kings are but his vassals, deriving, and holding their Crownes from him by base unworthy services, worse then villenage, that they call, and repute them their Popes vassals, curs, pukke-asses with Bels about their neckes, and use them like such, if they offend the Pope. For full prooffe whereof out of their own Authours and practise, I shall refer them to Doctor (e) Richard Crackenthorps Booke, *Of the Popes temporall Monarchy*, chap. 1. p. 1. to 27. worthy any mans reading, to *John Bodins Commonwealth*, Lib. 1. cap. 9. Bishop Jewels view of a Seditious Bull, and Doctor *John Whites* Defence of the way to the true Church, chap. 10. p. 43.

Secondly, That the Pope alone without a Councell, may lawfully excommunicate, censure, depose both Emperours, Kings, and Princes; and dispose of their Crownes and Kingdomes unto others; That it is meete and necessary he should excommunicate and deprive all Kings, who are either Heretickes or Apostates (as they repute all protestant Princes) or oppressors of the Common-wealth: That as soone as such Princes are actually excommunicated, or notoriously knowne to be Heretickes or Apostates, their Subjects are ipso facto absolved from their government, and Oathes of Allegiance whereby they were bound unto them; and may, yea ought to take up Armes against them to deprive them of their Kingdomes.

Thirdly, That such hereticall, tyrannicall, oppressing Kings may be killed, poisoned, or slaine by open force of Armes, not onely lawfully, but with glory and commendations; That this is to be executed by Catholikes; and that it is not onely an heroicall, but meritorious act, worthy the highest Encomiums; and a Saint-ship in the Roman Candler.

These two last propositions you may read abundantly proved by the words of Popish writers, and forty examples of severall Emperours, Kings and Princes, which Popes and Papists have excommunicated, deprived, violently assaulted and murdered, in (e) Doctor *John Whites* defence of the way to the true Church, chap. 6. pag. 14. to 22. and chap. 10. p. 43. 44. in his Sermon at *Pauls Crosse*, *March 24. 1615.* pag. 11. 12. in *Bishop Jewels view of a seditious Bull*, in *Bishop Bilsons true difference of Christian Subjection, and unchristian rebellion*, part. 3. throughout *Aphorismi Doctrinae Jesuitarum: King James his Apology against Bellarmine*, with his *Answer to Cardinal Perron*, and sundry printed Sermons, preached on the fifth of November, to which I shall referre the Reader. What security or protection then of his Majesties royall person, Crowne, Kingdomes, can now be expected from our popish Recusants, (infected with these trayterous principles, and branded with so many ancient, moderne, nay present Treasons and Rebellions against their Sovereignes) let the world and all wise men seriously judge; What faire quarter and brotherly assistance the Parliament, Protestants, Protestant Religion, Lawes and Liberties of the Subject are like to receive from this popish Army, the late *Gunpowder Treason*, the *Spanish Armado*, the *English and French booke of Martyrs*, the present proceedings in *Ireland*, *Torkeshire*, and elsewhere, will resolve without dispute: And what peace and safety the Kingdome may expect in Church or State, whiles Popery and Papists have any armed power or being among us, (f) Doctor *John White* hath long since proclaimed at *Pauls Crosse* (and now we feele it by experience) in these words; *Papistry can stand neither with peace nor piety; the State therefore that would have these things, hath just cause to suppress it. Touching our peace, it hath not bene violated in our State* these

(e) Dedicated to King James, printed at London 1621.

(e) Dedicated to King James, and printed at London 1624.

(f) In his Sermon there, Mar. 24. 1615. P. 43. 44.

these many yeares but by them, nor scarce in any Christian State, since Charles the Great his time, but the Pope and his ministers have had a hand in it.

All these ill advisers (to colour their close (g) designe of re-establishing Popery, principally intended) can alleadge for arming Papists against Law, is; That the Parliament hath trayterously invaded the Kings Prerogatives in a high degree; claimed a power and jurisdiction above his Majesty in sundry particulars; yea, usurped to its selfe a more exorbitant, unlimited, arbitrary authority in making Lawes, imposing taxes, &c. then any Parliaments challenged in former ages; to repress which insolences, and reduce the Parliament to its due limits, his Majesty is now necessitated to raise an Army, and pray in ayde of Papists, who in former ages have bene more moderate in their Parliaments, and are like to prove most cordiall and loyall to his Majesty in this service.

To answer which pretence more fully, though it be for the maine, most palpably false, yet (by way of admission onely) I shall suppose it true, and with all possible brevity manifest; That Parliaments, Prelates, Peeres, Commons in times of Popery, have both claimed and exercised faire greater authority over our Kings and their Prerogatives, then this or any other Protestant Parliament hath done: Wherefore Papists of all others, have least cause to tax the Parliaments proceedings, and those ill Counsellors and his Majesty small reason to imploy or trust Papists in this service. To descend to some particular heads of complaint, involved in this generall.

First, it is objected, that the Parliament and some of its (b) Advocates, with its approbation, affirme; that the Parliament being the representative Body of the whole Kingdome, is in some respects of greater power and authority then the King; who though he be singulis major, yet he is, universis minor; which is contrary to the Oath of Supremacy, (wherein every Subject, * doth utterly testifie and declare in his conscience, that the Kings highnesse is THE ONLY SUPREAME GOVERNOUR of this Realme, &c. as well in all Spirituall or Ecclesiasticall causes, as Temporall:) and a kinde of unkinging his Majesty, no wayes to be indured.

To which I answer, first, that if this Doctrine be either Traytorous or Hereticall, the Papists were the first broachers of it long agoe; For Hen. de Bracton a famous English Lawyer, who writ in King Henry the third his reigne, lib. 2. cap. 16. f. 34. a. resolves thus, (i) But the King hath a SUPERIOUR, to w^{ch} God: Also the Law, by which he is made a King: likewise HIS COURT; - namely, the EARLES AND BARONS; because they are called Comites, as being THE KINGS FELLOWES (or companions;) and he who hath a fellow (or associate) hath a MASTER: and therefore if the King shall be without a bridle, that is, without Law, THEY OUGHT TO IMPOSE A BRIDLE ON HIM, unlesse they themselves with the King shall be without bridle; and then the Subject shall cry out and say, O Lord Jesus Christ doe thou binde their jawes with bit and brid'le, &c. A cleare resolution, That the Law, with the Earles and Barons assembled in Parliament, are above the King, and ought to bridle him when he exorbitates from the Law: which he also seconds in some sort, lib. 3. cap. 9. f. 107. This Doctrine was so authenticke in those dayes, and after times, that in the great Councell of Basl. Anno 1431. when this mighty question was debated; Whether a Pope were above a generall Councell, or a Councell above him? such a Councell was at last resolved to be above the Pope, upon

(g) See Plane English. Object. Crimination. 1.

Object. 2.

Answer.

(b) The observations, a fuller answer to Dr. Ferne, with others. The Remonstrance of the Lords and Commons, Novem. 2. 1642 * 1 Eliz. ch. 1.

Answer.

(i) Rex habet superiorem, Deum, &c. Item legem per quam factus est Rex. Item Curiam suam: viz. Comites, & Barones, quia Comites dicuntur quasi scii Regis, & qui habet socium habet magistrum: Et ideo si Rex fuerit sine fratre, sine lege, DEBENTE IMPONERE, &c.

(k) Fox Aht &
Mon. Edi. 1641
Vol. 2, p. 879,
880. Aeneas
Sylvius de ge-
stis concilii Ba-
silienfis, & Su-
rius corci. Tom.
4.
* Lib. 2.

this reason, among others (k) *The Pope is in the U. King is in his Kingdome,* and for a King to be of more authority then his Kingdome, were too absurd; Ergo, Neither ought the Pope to be above the Church. In every well ordered Kingdome, it ought specially to be desired, that the whole Realme should be of more authority then the King; which if it happened contrary, were not to be called a Kingdome, but a Tyranny. And like as oftentimes Kings, which doe wickedly governe the Common-wealth and expresse cruelty, are deprived of their Kingdomes; even so it is not to be doubted but that the Bishop of Rome may be deposed by the Church, that is to say, by the generall Councell. At the beginning (as * Cicero in his Offices saith) it is certaine there was a time when as the people lived without Kings. But afterwards when Lands and Possessions beganne to be divided according to the custome of every Nation, then were Kings ordained for no other causes but onely to execute justice: for when at the beginning the common people were oppressed by rich and mighty men, they ranne by and by to some good and vertuous man, which shou'd defend the poore from injury, and ordaine Lawes, whereby the rich and poore might dwell together. But when as yet under the rule of Kings, the poore were oftentimes oppressed, Lawes were ordained and instituted, the which should judge, neither for hatred nor favour, and give like care unto the poore as rich: whereby we understand and know, not only the people, but also the King to be subject to the Law. For if we do see a King to contemne and despise the Lawes, violently rob and spoile his Subjects, deflower Virgins, dishonest Matrons, and doe all things licentious and temerariouly, doe not the Nobles of the Kingdome assemble together, deposing him from his Kingdome, set up another in his place, which shall sweare to rule and governe uprightly, and be obedient unto the Lawes? Verily as reason doth perswade, even so doth the use thereof also teach us: It seemeth also agreeable unto reason, that the same should be done in the Church, that is, in the Councell, which is done in any Kingdome. And so is this sufficiently apparent, that the Pope is subject unto the Councell; Thus the Bishop of Burgen, Ambassadour of Spaine, the Abbot of Scotland, and Thomas de Corcellis, a famous Divine, reasoned in this Councell, which voted with them. Here we have a full resolution of this great Councell (which the Papists call a generall one, being (l) approved by the Greeke and Romane Emperours, and most Christian Kings, and States, and ours among others:) That the Kingdome in Parliament Assembled, is above the King, as a Generall Councell is paramount the Pope: which they manifest by five reasons.

(l) Surius, con-
cil. tom. 4. p. 1.
&c And Aeneas
Sylvius hist.
Concil. Basili-
ensis.

First, because Kings were first created and instituted by their Kingdomes and people; not their Kingdomes and people by them.

Secondly, because they were ordained onely for their Kingdomes and peoples service and welfare, not their Kingdomes and people for them.

Thirdly, because their Kingdomes and people, as they at first created, so they still limit and confine their royall Jurisdiction by Lawes, to which they are and ought to be subject.

Fourthly, because they oblige them by a solemne Oath, to rule according, and to be obedient unto the Lawes.

Fifthly, because they have power to depose them in case they contemne the Lawes, and violently rob and spoyle their Subjects.

This then being the Doctrine of Papists concerning the Power and Superiority of Parliaments, Peeres, and Kingdomes over their Kings, they have least ground of all others, to taxe this Parliament or its Advocates, as guilty of Treason, and usurpation upon the Crowne, for a more moderate claime then this amounts to, and

the King or his ill Counsell no ground to expect more moderation and loyalty from Popish then Protestant Parliaments.

Secondly, I answer, that Popish Parliaments, Peeres, and Prelates have heretofore challenged and exercised a greater Jurisdiction over their Kings, then this Parliament, or any other, since the embracing of the Protestant Religion, ever claimed; and doe in a great measure disclaime.

For, first of all, they have challenged and executed a just and legall power (as they deemed it) to depose their Kings, for not governing according to Law; for following and protecting evill Counsellours, and Officers; oppressing their Subjects, and making warre against them. This is evident, not onely by the fore-mentioned passages of the Councell of *Basil*, with infinite presidents in foraine Empires and Kingdomes, which I pretermit, but by sundry domestick examples of which I shall give you a short touch. (m) *Anno Dom.* 454. King *Vortigern*, when he had reigned sixe yeares space, for his negligence and evill Government (for which *Vodine* Arch-bishop of *London* told him, he had endangered both his Soule and Crowne) was deposed from his Crowne by his Subjects (the *Britaines*) generall consent, imprisoned, and his Sonne *Vortimer* chosen and crowned King in his stead; After whose untimely death (being poysoned by *Roxena*) *Vortigern* was againe restored by them to the Crowne, and at last for his notorious finnes, by the just revenging hand of God, consumed to ashes by fire, kindled by *Aurelius*, and *Uter*, as Heavens ministers to execute its wrath. *Sigebert* (n) King of the *West-Saxons*, setting aside all Lawes and rules of true piety, wallowing in all sensuall pleasures, and using exactions and cruelties upon his Subjects, and slaying the Earle *Cumbra*, his most faithfull Counsellour, for admonishing him lovingly of his vicious life: the Peeres and Commons thereupon seeing their State and lives in danger, and their Lawes thus violated, assembled all together; and *provida omnium deliberatione*, rose up in Armes against him, deposed, and would acknowledge him no longer their Sovereigne, whereupon flying into the Woods, as his onely safeguare, and there wandering in the day like a forlorne person, and lodging in dens and caves by night, he was slaine by *Cumbra* his Swin-herd, in revenge of his Malters death, and *Kenwolfe* made King in his stead, *Anno Dom.* 756. (o) *Ofred* King of *Northumberland*, for his ill government was expelled by his Subjects, and deprived of all Kingly Authority, *Anno* 789. So *Ethelred*, (the sonne of *Mollo*) his next successor, being revoked from exile and restored to the Crowne, of which he was formerly deprived, thereupon murdering divers of his Nobles and Subjects to secure his Crowne, so farre offended his Subjects thereby, that *An.* 794. they rose up in Armes against him, and slew him at *Cobre*. Thus (n) *An.* 758. the people of the kingdome of *Mercia* rising up against *Bearnard* their King, because he governed the people not by just Lawes, but tyranny, assembled all together, as well Nobles as ignoble; and *Offa*, a most valiant young man being their Captaine, they expelled him from the kingdome: which done, *unanimi omnium consensu*, by the unanimous consent of all, as well Clergy as People, they Crowned *Offa* King. (o) *Ceolwulfe* King of *Mercia*, *An.* 820. after one yeares Reigne, was for his misgovernment expelled by his people, abandoning his Crowne and Country for the safety of his life.

(p) *Edwyn* King of *Mercia* and *Northumberland*, for his *Misgovernment*, *Tyranny*, *Oppression*, following vaine, base, wicked Counsellors, rejecting the advise of the *Wiseft* and

(m) *Spee. hist. p.*
207, 266, 267.
Mat. West. Anno
445. 454, &c.
See Hunt. hist.
l. 2. p. 320 Pol.
l. 5. c. 1. Fab. p.
73. *Dan p. 8.*
H. l. Graf. Vin.
Speed hist. l. 20
c. 11. & others.
(n) *Spee hist. p.*
229, *Huntin. &*
Mat. West. An.
756. *Hol. Graf.*
in his life.

(o) *Spee. hist. p.*
245, 246 *Hunt.*
& *Mat. West. an.*
792 *See Holin.*
Graf. & others

(n) *Math. West.*
An. 758. p. 275

(o) *Math. West.*
An. 821. Speed
hist. p. 255.

(p) *Mat. West.*
Hunt. Pely. Fab.
Holin. Graf. An.
957.

and noblest person, was, by the unanimous consent of all his Subjects, removed from all Kingly dignity, and deposed; in whose place Edgar was elected King, An. 957. D E O DICTANTE & annuente populo. Not to mention the story of (q) Archigallo, one of our ancient British Kings, in times of Paganisme; Who giving himselfe to all dissention and strife, imagining causes against his Nobles, to put them from their goods and dignities, setting up ignob'e persons in their places, and plucking away by sinister, wrongfull meanes from the rich their wealth and goods, by which he enriched himselfe, and impoverished his Subjects; was for these his conditions murmured against by his Subjects; who of one assent lastly tooke and deprived him of all Kingly honour and dignity, when he had Reigned almost five yeares, making his Brother Elidurus King of Britaine, by one assent, in the yeare of the world, 4915. Who after five yeares good Reigne, feigning himselfe sicke, assembled the Barons of the Land, and by his discreet words, and bearing loving carriage, Perswaded them to restore Archigallo to his former honour and regalty; and thereupon assembling a Councell of his Britaines at Torke, caused such meanes to be made to the Commons, that in conclusion he religned his Crowne to Archigallo: Who being thus restored to his Crowne by joynt consent of the people, remembered well the evill life that before time he had led, and the punishment hee had suffered for the same. Wherefore for eschewing the like danger, he changed all his old conditions and became a good and righteous man, ministring to the people equity and justice, and bare himselfe so nobly towards his Lords and Rulers, that he was beloved and dread of all his Subjects, and so continued during the terme of his naturall life. Nor yet to remember (r) Emerian, another old British King, who for misordering of his people was deposed by them, in the sixth yeare of his reigne, and Ydwallo promoted to the Kingdome; who taught by Emerian his punishment, behaved himselfe justly all the time of his reigne: or any more such precedents before the Conquest.

We finde the (s) Popish Barons, Prelates, and Commons, disavowing King John, whom they had formerly elected King, for making warre upon them, and waiting, burning and spoyling the Kingdome like an Enemy, and electing Lewis of France for their King, to whom they did homage and fealty: There are none so ignorant but know, that the Popish Prelates, Lords and Commons in Parliament, (t) Anno 1327. deposed King Edward the second their naturall King, for his misgovernment, and following and protecting ill Counsellors, inforcing him by way of complement to resigne his Crowne, threatning else, that they would never endure him, nor any of his Children, as their Sovereigne, but disclaiming all homage and fealty, would elect some other for King not of his bloud, whom themselves should think most fit and able to defend the kingdome. After which they elected and crowned his son Edward the third for their King. That Anno 1399. (u) King Richard the second, for sundry misdemeanours objected against him in 32. Articles in Parliament, and breach of his Coronation Oath, was judicially deposed by a Popish Parliament, by a definitive sentence of deposition given against him, which you may read at large in our Hiltorians, and Henry the fourth elected and created King in his stead: In both which depositions the Popish Prelates were chiefe actors. (x) Anno 1462. King Henry the sixth, Queene Margaret and Prince Edward their Sonne were by a popish Parliament disinherited of their right to the Crowne; and Edward the fourth made King: after which King Henry was by another Parliament recrowned, and re-established in his kingdome, and Edward the fourth declared a Traytor and usurper of the

Crowne

(q) Fabian, part 2. c. 49. 40. 41. p. 30. 31. with Math. Westm. Huntingdon, Polychronicon, Geoffry Monmouth, Hollinsh. Grafton, Speed, and others in his life.

(r) Fabian, part 2. c. 46. p. 34. Geoffry Monmouth, Huntingdon, Matthew Westm. Polychronicon, Hollinsh. Grafton, Speed, in his life.

(s) Math. Paris, hist. Angl. p. 264. to 280. Speed, p. 585. Gc. Hollinsh. Grafton, Stow, Daniel, Walsingham.

(t) Walsingham, hist. Angl. p. 398. Gc. Fabian, part. 7. p. 345. Polychronicon, Hollinsh. Grafton, & Speed, p. 758 to 766.

(u) Walsingham Hist. Fab. Speed, p. 680. to 697.

(x) Speed, p. 869 878. 879. 887. Hollinsh. Polychronicon, Fabian, Grafton, Hall, Stow, Caxton in their lives.

Crowne. And not long after, *Edward* taking King *Henry* prisoner, and causing him to be murdered in the Tower, another Popish Parliament, Anno 1472. abrogated King *Henries* Lawes, and re-established King *Edward*. All this have our Popish Parliaments, Prelates, Lords and Commons formerly done, and that rightly and legally, as they then supposed; which farre transcends the highest straines of pretended inroachments on his Majesties royalties by the present Parliament.

Secondly, our Popish Parliaments, Peeres and Prelates have oft translated the Crown from the right heires, & setled it on others who had no lawful right or title to it, electing and acknowledging them for their onely Sovereigne Lords; in which actions the Popish Prelates and Clergy were commonly the Ring-leaders: witnesse their (y) electing and crowning of *Edward*, who was illegitimate, and putting by *Ethelred* the right heire after *Edgars* decease, An. 975. Their electing and Crowning *Canutus* King, a meere forrainger, in oppolition to *Edmund* the right heire to King *Ethelred*, Anno 1016. Of *Harold* and *Hardiknut*, both elected and crowned Kings successively without title, *Edmund* and *Alfred* the right heires being dispossessed, and the latter imprisoned and tortured to death, Anno 1036. and 1040. yet after *Hardiknutes* decease *Edward* (surnamed the Confessor) was chosen King by consent of Parliament. And the English Nobilitie, upon the death of King *Harold*, enacted, That none of the Danish blood should any more reigne over them. After this Kings death, *Edward Eiheling* who had best title, was rejected, and *Harold* elected and crowned King: so after *William* the Conquerors decease, Anno 1087. *Robert* the elder brother was pretermitted, and *William Rufus* the younger brother crowned and established in the Throne: After whose death *Henry* the first, his younger brother (though not next heire) was elected King by the Clergy, Nobles and Commons, (who refused to admit of any King but with capitulations and caveats to their owne liking) upon faire promises for reforming bad and rigorous Lawes, remission of Taxes exacted on the Subjects, and punishment of the chiefe causers of them, and a solemne Oath to frame good Lawes, and raise *Saint Edwards* Lawes; all which he really performed. So after the death of *Richard* the first, *John* Earle of *Morton* was established and crowned King, and his Nephew *Arthur*, the right heire, disinherited. And he dying, his sonne *Henry* the third was elected and crowned, and *Lewis* (made King in his fathers life by the Barons) removed. The like we finde in the case of K. *Henry* 4. K. *Edw.* 4. and *Richard* the third, made Kings by Acts of Parliament, by our Popish Prelates and Nobles with the Commons consent, upon unlawfull or doubtfull Titles, by way of usurpation, and the right hereditary line put by. Such a transcendent power and jurisdiction as this to disinherit the right heire and transerre the Crowne to whom they thought meetest, neither the present nor any other Protestant. Parliaments, Peeres or Subjects ever exercised, though Popish Parliaments, Prelates, Lords, and Commons have thus frequently done it; of which you may reade more in 25 H. 8. c. 22. 26 H. 8. c. 12. 28 H. 8. c. 7. 35 H. 8. c. 1. and other Acts hereafter cited.

Thirdly, the Lords and Commons in times of Popery have sent out Writs and summoned Parliaments in the Kings name, and forced the King to call a Parliament without and against his full consent. Thus Anno 1214. (2) the Barons petitioned King *John* to confirme *Magna Charta* and their Liberties tendered to him; who having heard them read, in great indignation asked; Why the Barons did not likewise demand the Kingdome? and swore, that he would never grant those Liberties whereby

(1) Speed p. 410 411. 425, 426. 404. 10 407. 410 416. 418 419 455, 456. 466, 467. 548, 549, 550, 590, 591. 762 See Matthew Paris, Matth. West. Malmsbu. Hunt. Eadmerus Fabian, Walsing. Caxton, Polych. Polydor, Virgil. Hall, Grafton. Stow, Hol. Hayward, Martin, Daniel, and Sir Rich. Baker in their severall lives of these Kings.

(2) Mat. Paris hist p. 243. 10 255. Daniel, p. 142, 143, 44.

himselfe should be made a servant : So harsh a thing is it (writes Daniel) to a power that hath once gotten out into the wide liberty of his will, to beare againe of any reducing within his circle : not considering, how those who inherit Offres succeed in the Obligation of them, and that the most certaine means to preserve unto a King his kingdome, is to possesse them with the same conditions that he hath inherited them. The Barons hereupon raise a great Army at Stamford, wherein were 2000. Knights besides Esquires, constituting Robert Fitz-Walter their Generall, intituling him, the Marshall of the Army of God and holy Church, seize upon the Kings Castles : and the Londoners sending them a privie message to joyne with them, and deliver up the City to be guided by their discretion: thither they repaire, and are joyfully received under pact of their indemnity. After which they sent Letters to the Earles, Barons, and Knights throughout England, who seemed (although fainedly) to adhere to the King, exhorting them with a commination, that as they loved the indemnity of their goods and possessions, they should desert a perjured King, and that adhering faithfully to them, they should with them stand immovably, and effectually contend for the Liberties and peace of the kingdome. which if they contemned to doe, they would with Armes and Banners displayed, march against them as publike enemies, subvert their Castles, burne their houses, and edifices, and not cease to destroy their Ponds, Parkes, and Orchards : Whereupon all the Lords, Knights, and people deserting the King, who had scarce seven Knights in all left with him, confederated themselves to the Barons. The King seeing himselfe generally forsaken, counterfeites the Seales of the Bishops, and writes in their names to all Nations ; that the English were all turned Apostates, and whosoever would come to invade them, he, by the Popes consent, would conferre upon them all their lands and possessions. But this devise working no effect in regard of the little credit they gave to and confidence they had in the King, the truth being knowne, all men detested such wickednesses and forgeries, and so the King fell into his owne snares ; Hereupon the King fearing the Barons would take all his Castles without any obstacle, though he conceived an inexorable hatred against them in his heart, yet he craftily dissembled, that he would make peace with them for the present ; ut cum furtim surrexisset, in dissipata agmina acrius se vindicaret ; & qui in omnes non poterat, in singulos deserviret. Wherefore sending William Marshall Earle of Pembroke to them, with other credible messengers, he certified them, that for the good of peace, and the exaltation and honour of his kingdome, he would gladly grant them the Lawes and Liberties they desired ; commanding the Lords by the same messengers that they should provide a fit day and place, where they might meeete and prosecute all these things : Who related all these things deceitfully imposed on them, without fraud to the Barons at London ; who appointed the King a day to come and conferre with them in a Meade betweene Stanes and Windsor, called Running-meade ; on the 15. day of June. Where both parties meeting at the day, and conferring, the King perceiving his forces too weake for the Barons, who were innumerable, easily granted their subscribed Lawes and Liberties without difficulty, and confirmed them with his Charter, Hand, Seale, Oath, Proclamations, and other assurances, which you shall heare anon : This meeting Daniel and others stile a Parliament (as well as that at (a) Clarindon and other assemblies in the open field) the great Charter being therein first confirmed ; which Parliament the King by force of Armes was constrained to summon. So (b) Anno Dom. 1225. King Henry the third cancelling the Charter of the Forest at Oxford, pretending that he was under age when he sealed and granted it at first, and so a nullity: Hereupon the Barons confede-

(a) Math. Paris
p. 96. 97. Daniel
p. 85.

(b) Math. Paris
p. 324. 325.
Daniel. p. 151.
152.

rate by Oath, and put themselves in Armes at Stamford, from whence they sent to the King, requiring him to make restitution without delay of the Liberties of the Forests lately cancelled at Oxford, otherwise they would compell him thereto with the sword; to avoid which danger he was enforced to summon a Parliament at Northampton, where a concord was concluded on all hands, Anno 1226. and so the Parliament brake up, (c) Anno 1237. Henry the third incensing his Nobility and generally all his Subjects, by his entertainment of Forainers by whom he was ruled, by marrying his sister Elianor to Simon de Monfort a banished Frenchman, and his oppressions, contrary to his Oath and promise in Parl. that year, put them into a new commotion, who thereupon made a harsh Remonstrance of their grievances to him, by his brother Richard, by means whereof the King was forced to call a Parliament at London Anno 1238. whither the Lords came armed to constrain the King (if he refused) to the reformation of his courses. (d) Anno 1250. King Henry is againe enforced by the Barons and 24 Peeres to call a Parliament at Oxford and at London against his will, and to assent to ordinances therein made: And Anno 1264. he was likewise constrained to call two other Parliaments at London, and to assent to the new Ordinances therein proposed, which he did onely to get time and circumvent the Barons. (e) Anno Dom. 1310. and 1311. King Edward the second was in a manner constrained at the instant supplication of his Nobles to summon a Parliament, and to banish his Minion Pierce Gaveston against his will. (f) In the 14. and 15. yeares of this King, the Barons raising an Army by force of Armes compelled him to summon a Parliament at Westminster, and to passe an Act for the banishment of these two great Favorites the Spencers who miscounsellled and seduced him, and oppressed his people. (g) And in the last yeare of this Kings reigne, his Popish Prelates, Nobles, and Commons, taking him prisoner, summoned a Parliament in his name much against his will: wherein for his misgovernment, they enforced him to resigne his Crowne; deposed him, renounced their allegiance to him, and set up his sonne King Edward the third in his Throne; as you may reade at large in Walsingham, Polychronicon, Caxton, Fabian, Grafion, Hollinshead, Speed, Stow, Howes, Daniel, Mr. Fox, and others who have written the History of his life. In the yeare 1341. (the 15. of Edward the third his reigne) the Popish Lords, Prelates, and Commons in Ireland, summoned a Parliament there by their owne authority, without, and against the Kings or Deputies consents; wherein they framed divers Questions and Articles against the Kings Ministers there employed, (which the Irish (h) Annals record at large) refusing to appeare at the Parliament there summoned by the Kings authority and Officers. I reade in the Statute of 21 R. 2. c. 12. (and our (i) Historians have a touch of it.) That the Duke of Gloucester, and the Earles of Arundel and Warwicke assembled forcibly and in great number at Heregy, and so came in such manner forcibly to the Kings Palace at Westminster, arrived in manner of warre, that the King might not then resist them without great perill of his body and destruction of his people: so that by coercion and compulsion the said Duke and Earles made the King to summon a Parliament at Westminster the morrow after the Purification of our Lady, the eleventh yeare of his reigne: Which Parliament so begunne, the said Duke and Earles in such forcible manner continued; and in the same did give many and divers judgements, as well of death of man as otherwise, upon divers of the Kings liege people, and did give judgement of forfeitures of lands, tenements, goods, and cattels, whereof they be convict of high Treason; and also for certaine questions, which were demanded by the King touching

(c) Math. Paris
P. 420. 421.
430. 451. 452.
See Math. West.
Polychronicon,
Fabian, Holling.
Grafion, Don.
P. 157. 158.

(d) Math. Paris,
p. 938 940
941. 942. Dun.
P. 177. 179

(e) Walsingham.
Hist. p. 70 71.
See Fabian, Hollinshead, Grafion,
Speed, Daniel,
in 3. & 4 E. 2.

(f) Walsingham,
Hist. p. 90. 91,
92, 93. Exiliun
Hugonis le
Disperser, in
Magna Charta.
part. 2. f. 50. to
57. See Hollin.
Fabian, Speed,
Grafion, Daniel,
in 14. & 15.
E. 2.

(g) Hist. p. 107.
108. Ipedigm.
Neustr. p. 109.
110.

(h) In Cambd.
Britan. the last
English edition
on p. 188.

(i) Grafion.
Tryffel. Hollin-
head, Speed,
Walsingham, in
10. & 11. &
21. R. 2.

his estate and regality, of certaine of his Judges, then at Nottingham the same yeare. And for their answers of the same, given to the King upon the same questions, the same Justices were forejudged of their lives, and judgement given against them of forfeiting their Lands, Goods, and Chattels; and the said Duke and Earles made divers Statutes and Ordinances in that Parliament at their will, the summons whereof was made expressly against the right of the Kings Crowne, and contrary to the Liberty and Franchise of his person and Royall estate: Whereupon it was by this packed over-awed Parliament, and Act, annulled, revoked, and holden as none; as a thing done without Authority, and against the will and liberty of the King, and the right of his Crown. Yet it continued in full force for 10. yeares space, during which time there were 8 Parliaments held which would not repeal it: and by the Parliament in 1 H. 4. c. 3, 4. this Parliament of 21 R. 2. was repealed, with all the circumstances, and dependants thereof; the Parliament and Statutes of 11 R. 2. Revived, and enacted to be firmly holden and kept after the purport and effect of the same, as a thing made for the great honour and common profit of this Realme. After this in the 23 yeare of King Richard the third, when he had yeilded himselfe prisoner to Henry Duke of Lancaster; the Duke comming with him to London, sent out (k) summons for a Parliament to be holden the last of September, in the Kings name, (sore against his will) and enforced him first to resigne his Crowne unto him, and afterwards caused him to be judicially and solemnly deposed by consent of all the States of the Realme in Parliament, for certaine abuses in his Government objected against him; The whole manner of which resignation, deprivation, and proceedings, you may reade at large in our Histories.

(k) *Walſin Ed. Holinſh. Speed, Hall, Graf. Truſſel, Hows, in 23 R. 2. & 1 H. 4. Fox Acts and Man. vol. 1. edit. ult. p. 671, 677*

These Popish Prelates, Lords and Commons, enforcing their Kings to summon all these Parliaments, (with others which I pretermit) might seeme to have some legall colour from the ancient Law of King Alfred; who in an assembly of Parliament (l) Enacted this for a perpetuall Custome: *That a Parliament should be called together at London TWICE EVERY YEARE, OR OFTNER, in time of Peace, to keepe the people of God from sin, that they might live in peace, and receive right by certaine usages and holy judgements.* And from the Statutes of 4 E. 3. c. 4. & 36 E. 3. c. 10. (backing this ancient Law) which enact: *That for the maintenance of the Lawes and Statutes, and redresse of divers mischiefs and grievances which daily happen, a Parliament shall be holden EVERY YEARE ONCE, and MORE OFTEN IF NEED BE.* Now these Lawes would have bene meereley voyd and ineffectual, if these Kings, who were obliged by their Coronation Oathes to observe them, refusing to call a Parliament as often as there was need, or at least once every yeare, according to the purport of these Lawes, might not be constrained by their Nobles, Prelates, people to summon them, in case they peremptorily refused to call them of their owne accords, or upon the motion or petition of their Counsell, Lords and Commons. Whereupon in the Bill newly passed this Session, for a *Trienniall Parliament*, for time to come, there is speciall provision made how the Parliament shall be summoned and convented by the Lords, Commons, and great Officers of the Realme, themselves, without the Kings concurrent assent, (though by his Writ and in his name) in case of his neglect or wilfull refusal to summon one within that time.

(l) *Hornes Myrrou of Justices, c. 1. sect. 2. p. 10. Cookes Instit. on Lit. f. 110. and 9. Report in the Preface, Spelm. Concl. Tom. 1. p. 347.*

(m) *Scrius to n. 1. Concl. p. 342*

Neither is this a thing unusuall in other parts. In the (m) *Generall Councell of Nire An. 363. Canon 5. it was decreed; That a Councell should be held TWICE EVERY*

RY YEARE in every Province to regulate the affaires and abuses of the Church. The
 (n) Council of Amiens, Can. 20. appoints two Councils to be held every yeare in every Pro-
 vince, the one the third weeke after Easter, the other upon the 15. of October: to heare and de-
 termine all Ecclesiasticall causes and controversies. And in the 1. (o) Council of Constantinople,
 Can. 3. The Council of Africke, Can. 18. Pope Leo the first, in his Decretall Epistles,
 Epist. 4. c. 17. The Council of Chalcedon, Can. 19. the third Council of Toledo under King
 Recaredus, An. 600. cap. 18. the fourth Council of Toledo, under King Sisenandus,
 An. 681. The Greeke Synods, Collected by Martin Bishop of Bracar, cap. 18. the second
 Council of Aurelia, Can. 2. the third at the same place Can. 1. and the fourth, Can. 37.
 the second Synod of Tonnes, Can. 1. the fifth Council of Aurelia, cap. 22. the
 Council of Hereford, under King Egfred, An. 670. in Beda's Ecclesiast. Hist. l. 4. c. 5.
 Pope Gregory the first in his Decretall Epistles, lib. 7. Registr. Epist. 110. the sixth
 Council of Constantinople, Can. 8. the Council of Antrism, Can. 7. the Council of
 Mafcon, Can. 20. (p) Pope Gregory the third his Decretall Epistles. The Synod of
 Suesions, under King Childeric, the Council under King Pepin, at the Palace of
 Vernis, An. 755. cap. 4. The Council of Paris, under Lewis, and Lothaire, An. 829. l. 3.
 cap. 11. The Council of Meldes, An. 845. cap. 32. With sundry other Councils,
 decree, that a Synod or Council shall be kept twice (or at the least once) every yeare,
 at a certaine time and place in every Province; that all Bishops and others,
 unlesse hindered by sicknesse, or other inevitable occasions, should be present at
 it, and not depart from it till all businesses were ended, and the Council determined,
 under paine of excommunication; that Kings by their mandates should not interrupt
 these Councils, nor keepe backe any Members from them. And to the end they might
 be the more duely observed without interruption for want of a new Summons;
 they likewise decreed; "That before the Councils determined, they should still
 appoint both the day and place, when and where the next Council should assemble,
 of which every one was to take notice, and to appeare there at his perill, under
 paine of excommunication and other censure, without any new citation. Yea, the
 Great (q) Council of Basil, An. 1431. Session 15. provides and decrees; "That
 in every Province an annuall, or at least a bienniall or trienniall Council at
 farthest, shall be kept at a set time and place, where none should faile to meet
 under paine of forfeiting halfe their annuall Revenues; And if the Metropolitan,
 without lawfull impediment, should neglect to summon such Councils at the
 times appointed; he should for his first default forfeit the moiety of his
 Revenues; and if within three moneths after he neglected to summon the
 said Council, then he was to be suspended from all his Offices and Benefices,
 and the ancientest, or most eminent Bishop in the Province in his default,
 or any other that by custome ought to doe it, was to supply his neglect in
 assembling and holding the Council. As it was thus in summoning Councils,
 for the government of the Church, and Ecclesiasticall affaires: (many of which
 Councils, as is evident by (r) divers Saxon, British, Spanish, French
 Councils, were no other but Parliaments, wherein the King and all temporall
 estates assembled, and sate in Council as well as the Prelates and Clergie,
 as they did as well in generall, as in Nationall and Provinciaall Councils;
 so likewise in calling Dicts, Parliaments, and General Assemblies of the
 Estates, for settling and ordering the Civill affaires of Kingdomes. Not to
 mention the power of assembling the Roman Senate; residing principally in
 the Consuls, as (s) Bodin proves at large.

(n) Swin. tom. 1. p. 407.

(o) Swin. tom.

3. p. 488. 574.

575. 732. 1. m:

2. p. 203. 675.

728. 754. 603.

603. 641. 642.

643. 892. 695.

713. 1042. 715

685. Gravian.

Dist. Et. 18. l. 2.

Canon. Decret.

pars 4. c. 241.

243. 244. Spel.

Concil. tom. 1. p.

153.

(p) Swin. tom.

3. p. 24. 42. 42.

406.

(q) Swin. tom.

4. p. 44.

(r) See H. Spel.

Concil. tom. 1. p.

529. Sigibert.

An. 528. Eadm.

Hist. Nonor. l. 3.

p. 67. Com. Tele.

8. 12 and others

Aquisgra. Cone.

sub Ludovico Pic.

(s) Commonw.

l. 3. c. 1.

(t) Hieronymus
Blanca Arago-
nensium Rerum
comment. p. 764
c. 683, 689.
723, 724.

(u) Nichol. Istb.
de Rebus Ung.
hist. l. 6. f. 84. 85

* Arago Rerum
Comment. p. 762
763.

In the (t) kingdome of *Aragon* in *Spain*, of ancient times by an ancient statute of that Kingdome, a Parliament or generall assembly of the States was to assemble at a set time and place, once every yeare at least, and of later times by other Lawes, once every second yeare. Neither can the King of *Aragon* hinder or adjourne this Assembly above forty dayes at most, nor adjourne or dissolve it when met, but BY THE GENERALL CONSENT OF ALL THE COURT. And during the *Interregnum*, when there is no King, the Estates themselves have power to assemble and make Lawes, not onely to binde themselves, but the succeeding King: As they may likewise doe in *Hungary*; where the (u) Grand Pa-
latine (elected by the Estates of *Hungary* alwayes in their Parliament, not the King) during the *Interregnum* hath power to call a Parliament or generall assembly of the States of *Hungary*, to make obligatory Lawes, as well to succeeding Kings as to the kingdome.

* Hieronymus Blanca recites this Law of King James of *Aragon*, for altering their Annuall into a Bienniall Parliament. *Cum in Curias, quas Reges suis subditis celebrant, ea que sunt ad conservationem pacis, ac justitiæ, & Statum pacificum Regni, & Regimen subditorum, & ad tuitionem & augmentum Reipub: ordinem & disponant: Nos Jacobus Dei Gratia Aragonum Rex, Licet jam per illustrissimum Dominum Regem Petrum, recolendæ memoriæ patrem nostrum, statutum fuisset in favorem Aragonensium; Quod ipse & sui Successores QUOLIBET ANNO eis curiam celebraret in Civitate Cæsar-Augustæ, quod etiam statutum fuit per Dominum Regem Alfonsum claræ memoriæ fratrem nostrum, & per nos postmodum confirmatum. Nunc vero attendentes ad Communem utilitatem totius Regni Aragonum, quia loca ubi Curie celebrantur, propter congregationem gentium magnum suscipiant incrementum; DE VOLUNTATE & ASSENSU Prælatorum, Religiosorum, Baronum, Mesnaderiorum, Militum, & Procuratorum Civitatum, Villarum, & Villariorum Aragonum, in hac Curia congregatorum: Statuimus, & perpetuo ordinamus, Quod de cætero nos & successores nostri faciamus, & celebremus Curiam generalem Aragonum DE BIENNIO IN BIENNIIUM, in Festo omnium Sanctorum, in quacunque Civitate, Villa, vel Villario Aragonum, ubi nobis, & successoribus nostris melius fuerit visum expedire; non obstantibus statuto & ordinationibus prælibatis. In aliis vero, Privilegio generali Aragonum, & Foris per nos jam editis, in suo robore duraturis. Et hæc Juramus per nos & successores nostros perpetuo observare. Et Prælati & Religiosi, qui in dicta Curia erant, hæc firmarunt, & Barones, Mesnadarii, Milites, & Procuratores Civitatum, Villarum, & Villariorum similiter Jurarunt. Which Law was afterwards somewhat altered, restraining these Parliaments to some Townes of great Receipt. And concerning the forme of their Parliaments and their Kings power to adjourne them, or not adjourne them, he writes thus. In Comitibus Respub: nostra quasi integrum quoddam fingitur corpus: cujus caput, censetur Rex: truncus vero corporis, ac membra in eo locata, ipsi Ordines; Justitia autem Aragonum, collum, quod utrumque conjungit, & corporis, & capitis faucibus adhærescit. Ad nostra igitur comitia hi quatuor Ordines evocandi sunt. Evocantur autem singulatim per literas, quas apellamus, las Cartas dellamamiento. In his a Regibus proponitur ratio consilii, quo ductus Comititia habenda decreverit, tum ipsorum Comitiorum dicitur dies, ac opportunus designatur locus. De cujus mutatione, an fieri possit, ab eodem Molino hæc traduntur. Si in aliquo loco sunt semel convocata Curie generales, & inceptæ, NON POTEST ILLAS MUTARE seu continuare dominus Rex ad alium*

alium locum Regni, NISI TOTA CURIA GENERALI CONSENTIENTE. Et idem paulo post. Tamen si Curie generales nondum sunt integre congregatae, seu inceptae; tunc Dominus Rex, etiam sine Curia potest illas mandare continuari ad alium locum sibi bene visum. Et ista continuatio fiet per justitiam Aragonum, seu ejus Locum tenentem. Quibus poterit Dominus Rex mandare, quod illas continent ad locum domino Regi bene visum. Jus est autem; Ne comitia nostra ultra quadraginta dies possunt differri.

* *The Estates and Parliaments generall of France, under the Kings of the second Line, met and held but twice in the yeare only, according to the Testimony of Hincmarus Archbishop of Reimes, drawne from the Narration of the Abbot of Corbie Alard, who lived in the time of Charlemayne; under the Reigne of King Lewis, called Sanctus, when France was in her flourishing Estate, and the Princes and Lords were of souple nature, ranking with the termes of duty and obedience, the Parliaments were ruled and assured at certaine seasons of the yeare. For in times of Peace foure Parliaments were holden yearely, or three at the least. And the same was used under the Reigne of his Sonne Philip the Hardy, Third of the name. In the time of Philip de Bel, his Sonne, King of France and Navarre, they were reduced to two Parliaments yearely according to the ancient custome; One in Winter, and the other in Summer during Peace; and but one in Winter during Warre. (It appeareth nevertheless by the Registers of the Court, that by hindrance of warre against the Rebellious Flemmings, there was not any Parliament during some yeares;) And the King by his Ordinance, dated the Munday after Mid-lent, An. 1302. (set downe in the Register of ancient Orders of Parliament, fol. 45.) Willed, that for the commodity of his Subjects there should be every yeare two Parliaments at Paris, and in other Provinces; as Andrew Favin Records: By which it is apparent, that Parliaments in France, Spaine, and other kingdomes, were not arbitrarily called at the Kings free pleasures as seldome as they pleased, but frequently summoned every yeare, once, twice, or more, at certaine seasons, by publike Acts of Parliament, for the better government of these Realmes, redresse of grievances, and preservation of the peoples Liberties against all royall encroachments on them.*

* Andrew Favine his Theatre of Honour. l. 2. c. 12. p. 175. 176.

In *Germany*, though Diets and Assemblies of the States be commonly made by the Emperours, and in their names; yet, we find that the Princes Electors, and Estates have assembled, not onely without, but against the Emperours consents, when they saw good cause; and not onely questioned, but deposed their Emperours, and elected new in their steads, of which there are sundry precedents in the lives of (x) *Ludovicus pius, Henry the 1, 4, 5, 6, 7. Frederickus Barbarossus, Charles the Grosse, Winceslaw, Philip, Otho the fourth, Ludovicus Bavarus,* and others. In this regard therefore of forcing Kings to summon Parliaments (so frequent with Popish Prelates, Peeres, Subjects, both in our owne and other Realmes) our present Protestant Parliament, and all others, since the Reformation, have bene more moderate and dutifull, then those in times of Popery heretofore; or then the Popish Rebels in *Ireland* are now: (y) who have lately at *Kilkenny* held a kinde of Parliament, erected new Lawes, and Officers of Justice, enacted new Lawes and Ordinances, as we'l Civill and criminall as Martiall, and done as much herein without the Kings assent or Commission, as our King and Parliament could doe, if conjoynd.

(x) See Grimston, Aveminus, Nacl. Munster, Sabelli, Uspeng, Otho Frisingen. Herm. Schedel, Anon. Opincor. Mat. Par. Mat. West. Walsing. &c others in their lives and histories.

(y) See their 35 Articles made at their general Assembly at *Kilkenny* 1642.

Fourthly, Our Popish Barons, Prelates and Commons, have refused to meete in Parliament

(2) *Mat. Paris,*
an. 1233. p. 344
473. Gc. Speed
hist p. 607. to
613, Daniel p.
154, 155.

liament when the King hath summoned them by his Writ. (2) *An. Dom. 1233.* King Henry the third summoned his Earles and Barons to appeare at a Parliament at Oxford, (where the King now resides;) but they all joyntly sent him an expresse message that they would not come upon his summons, for that the Kings person went guarded with *Poictovines*, and other strangers, who swayed and miscounselled him (as ill Counsellors doe now the King) so as they could not there appeare with safety: at which message the King grew very angry, resolving that they should be once, twice and thrice summoned to appeare: Whereupon *Roger Bacon*, who usually preached before the King, freely told him, *That if he did not remove from him Peter Bishop of Winchester, and Peter de Rivallis (his malignant Counsellors) he could never be quiet:* And *Roger Bacon* a Clergy man also of a pleasant wit, seconding *Roberts* advise, told the King, that *Petræ* and *Rupes* were molt dangerous things at Sea, alluding to the Bishops name, *Petrus de Rupibus*. The King hereupon comming a little to himselfe, and taking that good advise of * *Schollers* which he would not of his Peeres, summons another Parliament to be holden at *Westminster*, giving the world to know withall, *that his purpose was, to amend by their advise wh itsoever was to be amended.* But the Barons considering, *that still there arrived more and more strangers, men of warre, with Horse and Armes (as now alas we see they doe) and not trusting the Poictovine Faith (as we have now cause to mistrust the perfidious papists, and malignant Cavaliers) and seeing no footsteps of peace (our present condition) refused to come at the appointed day; sending the King word by solemne Messengers, that he should without any delay remove Peter Bishop of Winchester, and the other Poictovines out of his Court, which if he refused, they all of them by the common consent of the whole kingdome, would drive him, with his wicked Counsellors, out of the Kingdome, and consult about creating a new King.* These things thus acted, the King was much dejected in mind, and all his Court too, hanging downe their heads, and fearing not a little, lest the errors of the Sonne should become worse then the Fathers errors, whom his Subjects endeavouring to depose from his Royall Throne, almost detrued him to that name, which was given him by a certaine presage; *John the Banished:* Wherefore he could easily have bene drawne to redeeme the love of his naturall Liegemen, with the disgrace of a few strangers.

* Who now
 give the King
 no such good
 advice

But the Bishop of *Winchester*, with other his ill Counsellors, and *Poictovine* Cavaliers, counselled him to take up *Armes* against his rebellious Subjects, as they stiled them, and to give their Castles and Lands to them, who would defend him and the kingdome of England from these Traytors, (The Counsell now given to his Majesty, by his ill Counsellors and Cavaliers:) hereupon the King inclining to the worse part, raiseth an Army of *Poictovine*, & foraine Souldiers, which came to him being sent for out of *Flanders*, (from whence the King now hath many old Souldiers, and Commanders sent him) seisseth a Manour of *Guilbert Bassets*, a Noble man, given him by King *John*, calling him Traytor when he demanded it; sets downe a day, wherein all his Lords he suspected should deliver him sufficient pledges of their loyalty; and being at *Glocester* with his Army,) whither the Lords refused to come, being required, (the King thereupon, as if they were Traytors, burnes their Manors, destroyes their Parkes and Ponds, besiegeth their Castles, and without the judgement of his Court, and of their Peeres, denounceth them exiles and banished men, gives their Lands to the *Poictovines*, and adding grieffe to grieffe, wound to wound, commanded their bodies

dies to be apprehended where ever they were within the kingdom: he likewise sends a defiance to the Earle Marshall, whose Lands he had wasted, who thereupon understood himselfe discharged of that obligation by which he was tyed to the King, and free to make his defence; Whereupon, he seeing neither ** Faith, nor Oath, nor Peace to be kept by the King, or his ill Counsellours*, who contrary to their promise and Oath, refused to deliver up his Castle, which they promised to render to him, upon demand; he raiseth a great Army, and takes his Castle. On this the King upon better consideration, did againe promise and affirme; That by advise of his great Councell, all that was amisse should be restified and amended; And at the day and place appointed, he holds a great conference with the Lords; But the evill Counsellors he followed, suffered him not to make good his promise. For when divers there present, greatly in the Kings favour, with sundry Preachers and Fryers, whom the King was wont to reverence and hearken to, *Humbly beseeched, and earnestly exhorted the King to make peace with his Barons and Nobles*, and to embrace them with due affection, being his naturall Subjects, whom without any judgement by their Peeres he had banished, destroying their Manours, Woods, Parkes, Ponds; and being led and seduced by evill Counsels, lesse regarded his faithfull Subjects, (whose native blood would not permit them to bow downe) than Forainers; and which is worse, called them Traytors, by whom he ought to settle the peace, order the Counsels, and dispose the affaires of his kingdome: The Bishop of *Winchester* (offended it seemes at Peeres) takes the word out of the Kings mouth, and answers; That *there are not Peeres in England, as in the Realme of France; and that therefore the King of England, by such Justiciars as himselfe pleaseth to ordaine, may banish any offenders out of the Realme, and by judiciable processe condemne them.* Which insolent speech the *English* Bishops relished so harshly, that they presently with one voyce threatned to accurse and excommunicate by name the Kings principall wicked Counsellors; of whom *Winchester* being the foreman, appealed; whereupon they accursed (and I would our Bishops would doe so now, if the *God-dam-me Cavaliers* accurse not themselves sufficiently) all such as alienated the heart of the King from his Subjects, and all others that perturbed the peace of the Realme; and so the hoped Accomodation vanished into greater discontents. Hereupon the Earle Marshall and other Lords with their Forces, fell pell mell upon the Kings Army, slew divers of his Forainers; and in conclusion drew him to such straits, that enforced him to be capable of better advise: Then *Edmund* Arch-Bishop of *Canterbury* elect, with other suffragan Bishops, bewailing the estate of the kingdome, presented themselves before the King at *Westminster*, telling him as his loyall liegeman (and O that some Bishop or faithfull person, if there be any such about his Majesty, would now deale thus clearely with him, touching his evill Counsellors!) “ That the Counsell of *Peter* Bishop of *Winchester*, and his complices, which now he had and used, was not sound nor safe, “ but evill and dangerous to himselfe and his Realme: First, for that they hated “ and despised the *English*, calling them Traytors, turning the Kings heart from the “ love of the people, and the hearts of the people from him, as in the Earle Mar- “ shall, whom (being one of the worthiest men of the Land) by sowing false tales “ they drave into discontentment. Secondly, that by the Counsell of the said *Peter*, “ his Father King *John*, first lost the hearts of his people, then *Normandy*, then other “ lands, and finally wasted all his treasure, and almost *England* also, and never after

* Note.

The Parliaments present case.

had quiet. Thirdly, that if the Subjects had now beene handled according to Justice
 and law, & not by their ungodly Counsels, these present troubles had not hapned,
 but the Kings hands had remained undestroyed, his treasure unexhausted. Fourthly,
 that the Kings Councill is not the Councill of peace but of perturbation, because
 they that cannot raise themselves by peace, must raise themselves by the troubles &
 dis-inherison of others. Fifthly, that they had the Treasure, Castles, Wardships, and
 strength of the kingdome in their hands, which they insolently abused, to the
 great hazard of the whole estate, for that they made no conscience of an Oath,
 Law, Justice, or the Churches censures. Therefore we, O King, speake of these
 things faithfully unto you, in the presence of God and man, and doe counsell,
 beseech and admonish you, to remove such a Councill from about you; and (as
 it is the usage in other Realmes) governe yours by the faithfull and sworne chil-
 dren thereof. *To which the King in briefe answered;* That he could not suddainely
 put off his Councill, and therefore prayed a short respite. * Nothing had hither-
 to preserved the King more, Than that he could without griefe forgoe any favorites,
 if he were nearely pressed; the contrary quality whereof hath beene the cause of
 finall desolation to so many Princes. For though choyce of Counsellors be for the
 most part free; yet by common intendment they should be good; or how ever they
 are, or are not; it is madnesse to hazard a Crowne, or lose the love of a whole
 Nation, rather than to relinquish or diminish a particular dependance, for which
 the publique must not be hazarded, nor subverted; The King therefore, in this
 point not infortunate, commands Bishop *Peter* from his Court, to keepe residence
 at his Cure, without once meddling in State affaires, removes all his evill Coun-
 sellors, deprives them of their Offices, and puts good men in their places, and
 commands all *Poictovians* and Foraine Forces to depart the Realme, receives all
 his Nobles unto favour, restoring them to their lost Offices, Lands, Castles, admits
 them into his Court and Councill; puts all his ill Counsellors, and Delinquent
 Officers to their legall trials and fines. And for *Peter Rivalet*, his Treasurer, he
 was so incensed against him for his ill Counsell, that he sware he would plucke
 out his eyes, were it not for reverence of his holy Orders. And at his Arraign-
 ment at *Westminster* the King sitting in person with his Justices upon the Bench,
 and shooting *Rivalet* through with an angry eye, spake thus to him. "O thou
 Traytor, by thy wicked advise, I was drawne to set my Seale to those Treachero-
 us Letters, for the destruction of the Earle Marshall, the contents whereof were
 to me unknowne; and by thine and such like Counsell, I banished my naturall
 Subjects, and turned their mindes and hearts from me. By thy bad counsell and
 thy complices, I was moved to make warre upon them to my irreparable losse, and
 the dishonour of my Realme, in which enterprise I wasted my Treasure, and lost
 many worthy persons, together with much of my Royall respect. Therefore, I
 exact of thee an accompt, and thou shalt be carried to the Tower of *London*, to
 deliberate till I am satisfied. And thus were these civill warres and differences
 reconciled, ill Counsellors removed, enormities reformed, Delinquents punished,
 (not without reducing store of coyne to the King) and peace established in the king-
 dome. Which History, I have more largely recited, because most of its passages are
 Parallel to the Kings, and his evill Counsellors present proceedings, on the one
 hand, and to the Parliaments in some sort, on the other hand in the premises; and I
 doubt

* Speed *ibid.*

doubt not but they will prove parallels in the conclusion, to the terrour and just punishment of all ill counsellors, Cavaliers, and Delinquents, the contentment of all good Subjects joy, and re-establisment of our peace in truth and righteousness.

To end the point proposed; * *Anno Dom. 1315.* King Edward the second by his Writ summoned a Parliament at London; But many of the Lords refused to come, pretending causes and impediments, by which their absence might well be excused, and so this Parliament tooke no effect, and nothing was done therein. In this particular then Popish Prelates, Lords and Commons, have exceeded Protestants in this, or any other Parliament.

Fifthly, Popish Parliaments, Prelates, Lords and Subjects have by Force of Armes compelled their Kings to grant and confirme their Lawes, Liberties, Charters, Priviledges, with their Seales, Oathes, Proclamations, the Popes Bulls, Prelates Excommunications; and to passe, confirme, or repeale Acts of Parliament against their wils. Thus the Barons, Prelates, and Commons, by open warre and Armes enforced both (a) King John; and King Henry the third, to confirme *Magna Charta*, and *Charta de Foresta* (both in and out of Parliament) sundry times with their hands, Seales, Oathes, Proclamations, and their Bishops Excommunications, taking a solemne Oath one after another at Saint Edmonds, upon the High Altar, 1214. That if King John should refuse to grant these Lawes and Liberties, they would wage warre against him so long, and withdraw themselves from their Allegiance to him, untill he should confirme to them by a Charter ratified with his Seale, all things which they required: And that if the King should afterwards peradventure recede from his owne Oath, as they verily beleaved he would, by reason of his double dealing, they would forthwith, by seizing on his Castles, compell him to give satisfaction; Which they accordingly performed, as our Histories at large relate. Yea, when they had enforced King (b) John thus to ratifie these Charters, for the better maintenance of them, they elected 25. Barons to be the Conservators of their Priviledges, who by the Kings appointment (though much against his liking, as afterwards appeared) tooke an Oath upon their Soules, that with all diligence they would observe these Charters, & *Regem coherere*; and would COMPELL THE KING, if he should chance to repent, to observe them; All the rest of the Lords and Barons, then likewise taking another Oath, to obey the commands of the 25. Barons.

After this (c) *Anno Dom. 1258.* King Henry the third summoned a Parliament at Oxford, whither the Lords came armed with great Troopes of men for feare of the Poitevines, to prevent treachery and civill warres, and the Kings bringing in of Foraine force, against his naturall Subjects; to which end they caused the Sea-ports to be shut up, and guarded. The Parliament being begun, the Lords propounded sundry Articles to the King, which they had immutably resolved on, to which they required his assent. The chiefe points whereof were these: That the King should firmly keepe and conserve the Charter and Liberties of England, which King John his Father made, granted, and ratified with an Oath, and which himselfe had so often granted, and sworn to maintaine inviolable, and caused all the infringers of it, to be horribly excommunicated by all the Bishops of England, in his owne presence, and of all his Barons; and himselfe was one of the Excommunicators. That such a one should be made their Chiefe Justice, who would judge according to Right, without respect to poore or rich. With other things concerning the kingdome, to the common utility, peace, and honour of the King and kingdome.

* *Walsing. Hist.*
p. 84. 44. &
Ypod. Neustr. p.
101.

(a) *Mat. Pa. An.*
1214, 1215. p.
240. to 256. &
Math. West. &
Walsing. Tpod.
Neustr. An. 1214
1215. Fabian,
Caxton, H. Ulin.
Grafton, Daniel
in the life of K.
John & Hen.
3. *Speed, Hist p.*
578. to 637.

(b) *Math. Par.*
p. 252. *Sp. Hel.*
accordingly.

(c) *Math. Pry.*
An. 1258. p. 9.
940, 941. *Mat.*
Westmin. 1258.
Walsing. Tpod.
Neustr. p. 61.
Sp. p. 635 Hel.
Grafton, Daniel,
Polychron.

To these their necessary Counsels and provisions, they did frequently, and most constantly, by way of advice, desire the King to condescend, swearing and giving their mutuall Faith and hands one to another; That they would not desist to prosecute their purpose, neither for losse of money or Lands, nor love, nor hate, no nor yet for life or death of them or theirs; till they had cleared *England* (to which they and their forefathers were borne) from upstarts and aliens, and procured laudable Lawes. The King hearing this, and that they came exquisitely armed that so he and his aliens might be enforced, if they would not willingly assent, tooke his corporall Oath (and his Sonne Prince *Edward* also) that he would submit to their Counsels, and all those their Ordinances, for feare of perpetuall imprisonment; The Lords having by an Edict, threatened death to all that resisted: Which done, all the Peeres and Prelates took their Oath; To be faithfull to this their Ordinance, and made all who would abide in the Kingdome, to swear they would stand to the triall of their Peeres; the Arch-Bishops and Bishops solemnely accursing all that should rebell against it. And *Richard* King of *Romans*, the Kings younger brother comming soone after into *England* to visit the King and his own Lands, the (d) Barons enforced him (according to his promise sent them in writing before his arrivall) to take this Oath, as soone as he landed, in the Chapter-house at *Canterbury*. *Hear all men that I Richard Earle of Cornewal, swear upon the holy Gospels, to be faithfull and forward to reforme with you the Kingdome of England, hitherto by the Counsell of wicked men so much deformed. And I will be an effectuall coadjutor to expell the Rebels and troublers of the Realm from out of the same. This Oath will I observe under paine to forfeit all my Lands I have in England.*

(d) *Math. Par.*
p. 952, 953.
Speed, p. 636.

To such a high straine as this, did these Popish Parliaments, Prelates, Peeres, and Commons scruce up their jurisdictions, to preserve themselves and the kingdome from slavery and desolation; whom *Matthew Paris* his continuer, for this service stiles, (e) *Anglia Reipublice Zelatores*: the Zelots of the *English* Republicke. Neither is this their example singular, but backed with other precedents. In the second and third yeares of King *Edward* the second, (f) *Piers* *Gaueston* his great, proud, insolent, covetous, unworthy Favorite, miscounselling and seducing the young King, (from whom he had been banished by his Father) & swaying all things at his pleasure, the Peers and Nobles of the Realme, seeing themselves contemned, and that foraine upstart preferred before them all, came to the King, and humbly entreated him, *That he would manage the Affaires of his Kingdome, by the Counsels of his Barons, by whom he might not onely become more cautious, but more safe from incumbent dangers*; the King *Voce tenuis*, consented to them, and at their instance summoned a Parliament at *London*, to which he commanded all that ought to be present, to repaire. Where, upon serious debate, they earnestly demanded of the King, *free liberty for the Barons to compose certaine Articles profitable to himselfe, to his kingdome, and to the Church of England*: The King imagining that they would order *Piers* to be banished, a long time denied to grant their demand, but at last, at the importunate instance of them all, he gave his assent, and swore he would ratifie, and observe what ever the Nobles should ordaine: The Articles being drawne up, and agreed by common consent, they propounded them to the King; and by their importunity, much against his well-liking, caused him to ratifie them with his Seale, and to take his corporall Oath, to observe them: Which done, the Arch-bishop of *Canterbury* with his Suffragans, solemnly denounced a sentence of excommunication against al who should contradict these Articles, which they caused to be openly read in *Pauls Church London*, in the presence of the Prelates, Lords and Commons.

(e) *Histor. Angliae*, p. 553.

(f) *Walsingb. Typod. Neust. An.*
1309, 1310.
Hist. Ang. p. 70.
1077. S. p. 608.
Chr. with Hol. Stew, Grafton, How, Daniel, & others. Fox. 481.
& Mon. vol. I.
Ed. ult. p. 480,
481.

Commons of the whole kingdom, the King being present; Among which Articles they demanded; That Magna Charta, with other provisions necessary to the Church and Realme, should be observed, that the King as his Father had commanded, should thrust all Strangers out of his Court and kingdom, and remove all Counsellours from him: That he would thenceforth order all the affaires of the kingdom by the Counsel of the Clergy and Lords, and begin no war, nor depart any where out of the kingdom without common consent. The King consented to the Articles, and banished Piers into Ireland. No* sooner was the Parliament dissolved, but the King neglecting his Fathers solempne adjurations, together with his owne Oath, never to reduce Piers, sends for him back to his Court, marrieth him to the Countesse of Gloucester, his owne sisters daughter, sheweth him more favour then ever; Resolving with himselfe to retaine this Gaveston, manere all his Earles, Barons, and for the love of him, to put his Crowne and life in perill, when time should serve: In which, whether the King or his Favourite shewed lesse discretion, it is not at the first easily determined; it being as unsafe for the one with so offensive behavior to affect immoderate shew and use of grace, as for the other, to the injury of his name and Realme, to bestow the same. But upon the Queenes complaint to the King of France her Brother, of Piers his insolence and prodigality, and on the Barons message to the King by common consent; That he should banish Piers from his company, and observe the effect of the foresaid Articles, or else they would certainly rise up against him as a perjured person by a like vow (which speech seemed hard to the King, because he knew not how to want Piers, but yet discerned that more danger would spring up if he obeyed not the Lords Petition;) Piers rather by the Kings permission, then good liking, did the third time abjure the Realme with this proviso; that if at any time afterward he were taken in England, he should be forthwith put to death as a perilous enemy to the Kingdom: yethe returning in Christmas to the King at Yorke, the Lords spirituall and temporall, to preserve the Liberties of the Church, the kingdom, and remove this Uiper, elected Tho. Earle of Lancaster for their General, and sent honorable messengers to the King, requesting him, to deliver Piers into their hands, or drive him from his company out of England, as being perswaded, while that King-bane breathed, peace could never be maintained in the Realme, nor the King abound in treasure, nor the Queene enjoy his love. But the wilfull King would not condescend. Whereupon the Lords thus contemned and deluded, presently raise an Army, and march with all speed towards Newcastle, not to offer injury, or molestation to the King, writes Walsingham, (the case and purpose of the prent Parliaments Army) but that they might apprehend Piers himselfe, and judge him according to the Laws enacted. Which when the King heard, he fled together with Piers to Tynemouth, and from thence to Scarborough Castle. Where Piers was forced to yeeld himselfe, upon condition to speake but once more with the king. And then carried to Warwick Castle, where he had his head stricke off, at the command, and in the presence of the Earles of Lancaster, Warwicke, and Hereford; as one who had bene a subverter of the Lawes, and an open Traynor to the kingdom, and that without any judiciall proceedings or triall of his Peeres, though an Earle, and so deare a Favorite of the Kings. Which bred a lasting hatred betwene the King and his Nobles: Who being afterwards charged by the King in Parliament with their contempt against him, in the spoiles committed by them at Newcastle, and wickedly killing Piers: they stoutly answered, That they had not offended in any point, but deserved his royall favour, for that they had not gathered force against him, but against the publike enemy of the Realme: And then obtained an Act of Pardon that no man should be questioned for Gavestons returne or death, printed in old (g) Magna Charta.

*Note the credit of Princes Regal promises and Protections.

Not long after, this unfortunate King doting upon the two (b) Spencers as much

(g) *Tales Magna Charta*, part. 2. f. 50. 10 57.
 (b) *Walsin. Hist.* p. 90. 10 110.
Ypod. Neust. p. 195. 10 111.
Speeds Hist. p. 674. 20 683. See *Fabian, Hollin. Graf. Thomas de la More, Higden, Caxton, Daniel,* in his life.

as ever he did on Gaveston, to whom they succeeded, not onely in *pride, rapine, oppression and intolerable insolencies*, but even in height of familiarity and power with the King. So as they ruled and lead the King as they pleased, in so much that no Earle, Baron, or Bishop was able to dispatch anything in Court without their advise and favour, which made them generally envied of all, because they domineered over all. The Lords and Barons hereupon, confederated together to live and die for justice, and to their power to destroy the Traytors of the Realme, especially the two Spencers: And meeting together with their forces at Shirborne, Thomas of Lancaster being their Captaine; they tooke an oath to prosecute their deligne to the division of soule and body: Then they spoyled these Spencers and their friends goods, take their Castles by violence, waste their Manors through malice, slay their servants, utterly omitting the usuall wayes of Law and equity, and following the impetuoufnesse of their minds they march on to Saint Albons with Ensignes displayed, and sent solemne messengers to the King then at London; commanding him, not onely to rid his Court, but Kingdome too, of the Traytors of the Realme, the Spencers, condemned in many Articles (which they had framed against them) by the Commonalty of the Realme, if he loved the peace of the Kingdome. And they further required the King to grant letters Patents of indemnity, to themselves and all such as had bore armes in their company, that they should not be punished by the King or any other for their forepast or present transgressions. The King denyed both these demands at first, as unjust and illegall; swearing, that he would not violate his Coronation Oath, in granting such a pardon to contemptuous Delinquents. Whereupon running to their armes, they marched up to London, entered the City, and to avoyd danger, the King (through the Queenes and others mediation) condescended to their desires, passing an Act for the Spencers banishment; and the Barons indemnities; which you may reade in ancient (h) Magna Chartaes. Upon this the Barons departed, neither mercy nor secure, despairing of the Kings Benevolence, which made them goe alwayes armed, and to retire to safe places. The King soone after, recalling the Spencers, reversed the sentence against them as erroneous, gathers an Army; encounters and defeates the Barons, and puts many of them to death by these Spencers procurements; who not content with their blood, procured also the confiscation of their goods and inheritances: Whereupon getting into greater favour and power then before, puffed up with their good successe and new honours, they discontented not onely the Nobles, but Queene too; who going over into France with her sonne, the Prince, (whose lives these favorites attempted) She raised an Army beyond the Seas, and returning with it into England, most of the Lords and Commons resorted to her, and fell off from the King: who being destitute of friends and meanes, demanded assistance of the City of London, whose answer was; That they would honour with all duty the King, the Queene and Prince, but would shut their gates against Foreigners and Traytors to the Realme, and with all their power withstand them. And under the name of John of Eltham the Kings second sonne, whom they proclaimed Custos of the City & of the Land, they got the Tower of London into their possession, placing and displacing the Garrison and Officers therein as they pleased. The King hereupon (after he had commanded all men to destroy, and kill the Queenes partakers, none excepted but her selfe, her sonne, and the Earle of Kent, and that none upon paine of death, and losse of all that they might lose, should aide or assist them, and that he should have a 1000. l. who did bring the Lord Mortimers head) flies to Bristol, in the Castle where-

(h) Part. 2 f.
50.

of the elder Spenser was taken by the *Queenes Forces*, and without any formall tryall, cruelly cut up alive, and quartered; being first at the clamours of the people, drawne and hanged in his proper armour upon the common Gallowes without the City: After which the King forsaken of all his Subjects flies into *Wales* for shelter, where he was taken prisoner, and then by his Lords and Parliament forced to resigne his Crowne to his son, confessing, That for his many sins he was fallen into this calamity, and therefore had the lesse cause to take it grievously: That he much sorrowed for this; that the people of the kingdom were so exasperated against him, that they should utterly abhorre his any longer rule and Sovereignty, and therefore he besought all there present to forgive and spare him being so afflicted: Soone after he was murdered in *Bark's Castle*: And so the sickness, and wounds which the Common-wealth sustained by his ill raigne, upon the change of her Physician, recovered not onely health and strength, but beauty also and ornament, writes *John Speed*.

After all this (i) King *Richard the second* in the ninth yeare of his reigne summoned a Parliament, wherein *Michael de la Pole* Earle of *Suffolke*, for cheating the King was put from his Lord Chancellorschip of England by the Parliament, and the Seale taken from him against the Kings will, and given to *Thomas Arundell* Bishop of *Ely*; Whereupon both the Houses gave halfe a tenth and halfe a fiteene, to be disposed of as the Lords thought fit, for the defence of the Realme. The Parliament was no sooner dissolved, but the King recalls *de la Pole* and other ill Counsellors to the Court, shewing them greater favour then before: In so much that at *Christmas*, the King made *de la Pole* sit at his owne table, not in the usuall garment of a Peere, but of a Prince, out of a stomacke and hatred against the Peeres, whom from thenceforth he never regarded but feinedly, and then sets to plot the death of the Duke of *Glocester* and other Nobles, who opposed his ill Counsellors; For which purpose he appoints a meeting at *Nottingham Castle*, with a few persons generally ill-beloved, ill-advised, and ill-provided. The course agreed upon by the King and that ill-chosen Senate was, first, to have the opinion of all the chiefe Lawyers; (who saith *Speed*, seldom faile Princes in such turnes) concerning certaine Articles of Treason, within whose nets they premed the reforming Lords were; and if the Lawyers concluded those Articles contained Treasonable matters, then under a shew of justice they should be proceeded against accordingly. The Lawyers (who were the very men, which in the last Parliament, gave advice to the Lords to do as they did) now meeting were demanded: Whether by the Law of the Land, the King might not disannull the Decrees of the last Parliament? They joyntly answered, he might, because he was above the Lawes; (a most apparent error) confessing; that themselves had in that Parliament decreed many things, and given their judgement, that all was according to Law, which they acknowledged to be altogether unlawfull. The King thus informed, appointeth a great Councell at *Nottingham*, and withall sends for the Sheriffes of Shires, to raise Forces against the Lords; who denyed, saying, that they could not raise any competent forces or Armes against them, the whole Counties were so addicted to their favours; and being further willed; to suffer no Knights to be chosen for their Shires, but such as the King and his Councell should name; they answered, that the election belonged to the Commons, who favored the Lords in all, and would keepe the usuall custome; (a good precedent for our present Sheriffes) whereupon they were dismissed. Then were the Lawyers and Judges (*Robert Tresilian* and his companions) called before the King, to determine the judgements of Treasons against the

(i) *Walsingham*
hist Ang. p. 349
 to 400 *Ypod. R.*
Newstr. p. 144
 to 158. *Spe. d.*
Hist. p 74. 10
 762 *Hollinsb.*
Grafton, Stron,
Fabian, Cart. n,
Trussell, and
others.

Lords

Lords to be legall and to set their Seales thereto, which they did : Meane time the King and Duke of Ireland, sent messengers to hire what Forces they could, *That they might stand with them if need were against the Lords in the day of battle :* * *Many of which answered, that they neither could nor would stand against the Lords, whom they knew for certaine intimately to love the King, and to endeavour all things, study all things, doe all things for his honour : yet many out of simplicity, thinking themselves to be hired, promised to be ready upon the Kings notice :* The Lords hearing of these proceedings were much fadded ; being conscions to themselves of no qui't worthy the Kings so great indignation. The Duke of Gloucester sent his purgation upon Oath by the Bishop of London, to the King ; who inclining to credit the same, was in an evill houre diverted by *De la Pole*. The Duke hereupon makes his and their common danger knowne to the rest of the Lords: upon which they severally gather Forces, that they might present their griefes to the King ; How he favoured Traytors, not onely to them, but to the Publique, to the imminent danger of the Realme, unlesse it were speedily prevented. The King on the other side (by Trayterous Counsellours advise) sought how to take them off single, before they were united : but in vaine, by reason their party was so great. Meantime, some peaceable men procured, that the Lords should repaire safe to *Westminster*, and there be heard. Thither approaching, they are advertised by some, (who had sworne on the Kings behalfe for good dealing to be used during the interim) that in the *Mewes* by *Charing-Crosse*, a thousand armed men (which without the Kings privy Sir *Thomas Trivet*, and Sir *Nicholas Brambre* knights, were reported to have laid for their destruction) attended in ambush. The King sweares his innocency, promising safe conduct to the Lords if they would come ; who thereupon came strongly guarded, and would trult no longer. The King sitting in Royall State in *Westminster Hall* ; the Lords present themselves upon their knees before him : and being required by the Lord Chancellor ; Why they were in warlike manner assembled at *Haring gye Parke*, contrary to the Lawes ? their joynt answer was : *That they were assembled for the good of the King and kingdome, and to weed from about him, such Traytors as be continually beld with him ;* The Traytors they named to be *Robert de Vere*, Duke of Ireland ; *Alexander Nevill*, Arch-bishop of *Torke* ; *Michael de la Pole*, Earle of *Suffolke* ; Sir *Robert Tresilian*, that false Julticiar ; Sir *Nicholas Brambre*, that false knight of *London*, with others : To prove them such, *They threw downe their Gloves, as gages of challenge for a triall by the Sword.* The King hereupon replied, as knowing they were all hidden out of the way ; *This shall not be done so, but at the next Parliament* (which shall be the morrow after *Candlemas*) *all parties shall receive according as they deserve.* And now to you my Lords ; *How or by what authority durst you presume to levy Forces against me in this Land ? did you thinke to have terrified mee by such your presumption ? Have not I men and armes, who (if it pleased me) could environ and kill you like sheepe ? Certainly in this respect I esteeme of you all no more than of the basest Scullions in my kitchins.* Having used these, and many like high words, he tooke up his Uncle the Duke from the ground, where he kneeled, and bade all the other rise. The rest of the conference was calme, and the whole deferred till the next Parliament, then shortly to be holden at *Westminster*. In the meane time (that the world might see, how little able the King was to equall his words with deeds) a Proclamation was set forth, in which the King (before any tryall) cleareth the Lords of Treason, names thoe persons for unjust accusers, whom the Lords had

* Note this.

before

before nominated. The Lords neverthelesse thought not good to sever themselves, but kept together for feare of the worst; which fell out for their advantage: For the Duke of Ireland (with the Kings privy, such was his false dissimulation) had gathered a power in *Wales*, and *Cheeshire*: which they intercepting neare *Burford* and *Bablecke*, slew Sir *William Molinex*, leader of the *Cheeshire* men, and made the Duke to flye in great feare. Among the Dukes carriages was found (as the devill, or rather God would have it) certaine Letters of the Kings to the said Duke, by which their Counsels were plainly discovered. The Lords hereupon march with speed up to *London*, having an Army of forty thousand men, the Lord Mayor and City doubtfull whether to displease the King or Lords, upon consultation receive the Lords into the City, and supply their Army with provisions in the Suburbs, Which the King hearing of, seemed to slight them, saying; * *Let them lye here till they have spent all their goods, and then they will returne poore and empty to their houses, and then I shall speake with and judge them one after another,* The Lords hearing this, were exceedingly moved, and sware, *They would never remove thence, till they had spoken with him face to face.* And forthwith sent some to guard the Thames, lest the King should slip out of their hands, and then scoffe at them. The King being then in the Tower, and seeing himselfe every way encompassed, sent a message to the Lords, that he would treat with them; who thereupon desired him, *That he would come the next day to Westminster, where they would declare their desire to him:* The King replied, *That he would not treat with them at Westminster, but in the Tower.* To which the Lords answered, *That it was a suspicious place, because traines might there be laid for them, and dangers prepared to destroy them;* Whereupon the King sent word, *They should send thither two hundred men or more, to search and view all places, lest any fraud should lye hid.* Upon which the Lords repaired to the Tower, and in the Kings Bed-chamber, laid open to him briefly, all his conspiracy, in causing them indirectly to be indicted; *They object to him his mutability, and underhand working, producing his owne Letters to the Duke of Ireland, to raise an Army to destroy them; together with the French packets they had intercepted; whereby it appeared he had secretly practised to flye with the Duke of Ireland into France, to deliver up Callice to the French Kings possession, and such pieces as the Crowne of England held in those parts; whereby his honour might diminish, his strength decay, and his fame perish.* The King seeing this, knew not what to doe, especially because he knew himselfe notably depressed. At last craving leave, they left him confounded and shedding teares, yet upon condition, that he should come to *Westminster* the next day, where hee should heare more, and treat of the necessary affaires of the kingdome; Which he promised to doe, retaining the Earle of *Darby*, to sup with him. But before he went to bed (O the ficklenesse of weake Princes, and faithlesseesse of their royall words and Protestations!) some whisperers telling him, that it was not decent, safe, nor honourable for the King to goe thither, he changed his resolution. The Nobles hearing this, were very sad, and discontented, and thereupon sent him word, *That if he came not quickly according to appointment, they would chuse them another King, who both would and should obey the Counsell of his Peeres.* The King stricke with this dact, came the next day to *Westminster*, there attending his Nobles pleasures. To whom (after few discourfes) the Nobles said; *That for his honour, and the benefit of his kingdome, all Traytors, whisperers, flatterers, evill instruments, slanderers, and unprofitable persons should be banished out of his Court and company, and others substituted in their*

* Note the perill and policy of protraiding.

places, who both know how, and would serve him more honourably and faithfully. Which when the King had granted (though with sorrow) they thought fit that Alexander Nevill Archbishop of Yorke, John Fordham, Bishop of Durham, with sundry other Lords, knights, and Clergy men should be removed and kept in strait prison, to answer such accusations as should be objected against them the next Parliament. Whereupon they were apprehended forthwith and removed from the Court: After the feast of Purification, the Parliament (much against the Kings will, who would have shifted it off at that time) began at London. The first day of the Session, Fulborne, and all the rest of the Judges were arrested, as they sate in judgement on the Bench; and most of them sent to the Tower: for that having first over-ruled the Lords with their Counsels and direction, which they assured them to be according to Law, they afterward at Nottingham, gave contrary judgement to what themselves had determined formerly. Tresilian the chiefe Justice prevented them by flight, but being apprehended and brought backe to the Parliament in the forenoone, had sentence to be drawne to Tiburne in the afternoone, and there to have his Throate cut, which was done accordingly.

* *Grafi.* p 348,
349. 150, 151.

The King seeing these proceedings, by advise of his ill Counsellors,* absented himselfe from his Parliament, and sent Michael de la Pole then Lord Chancellor, to demand foure fifteens in his name, of the Commons, for that without lesse he could not maintaine his estate and outward warre. To which the body of the Parliament made answer; that without the King were present, they would make therein no answer; and that unlesse the King would remove him from his Chancellorship, they would no further meddle with any Act this Parliament. The King upon this sent to the Commons, that they should send to Eltham, (where he then lay,) 40. of the wisest and best learned of the Commons, who in the name of the whole House should declare unto him their minde, Upon which message the House were in more feare then before; for there went a talke, that the King intended to betray divers of them, which followed not his minde, either that way, or at a banquet appointed to be made purposely at London, if Nicholas Exton the Mayor of London would have consented thereunto; at which time the Duke of Gloucester should have bene taken. Wherefore the Lords and Commons assembled together, agreed with one assent, that the Duke of Gloucester, and Bishop of Ely, should in the name of the whole Parliament be sent to the King to Eltham; which was done, and the King well pleased that they should come. When they came into his presence they most humbly saluted him, and said. "Most high
"and redoubted Sovereigne Lord, the Lords and Commons of this your Parlia-
"ment assembled, with most humble subjection unto your most royall Majesty, de-
"sire your most gracious favour; so that they may live in tranquillity and peace un-
"der you, to the pleasure of God and wealth of the Realme. On whose behalfe we
"also shew unto you, that one old statute and laudable custome is approved, which
"no man can deny; That the King our Sovereigne Lord may once in the yeare law-
"fully summon his high Court of Parliament, and call the Lords and Commons
"thereunto, as to that which is the highest Court of this Realme: In which Court
"all equity and justice must shine, even as the Sunne when it is at the highest, where-
"of poore and rich may take refreshing: where also must be reformed all the op-
"pressions, wrongs, exactions and enormities within the Realme, and there to
"consult with the wise men for the maintenance of the Kings estate. And if it might
"be knowne that any persons within the Realme or without intended the contrary.
there

“ there also must be devised how such evill weeds might be destroyed. There also must
 “ be studyed and foreseene, that if any charge doe come upon the King and his
 “ Realme, how it may be well and honourably supported and sustained. Hitherto
 “ it is thought by the whole Realme, that your Subjects have lovingly demeaned
 “ themselves to you, in ayding you with substance to the best of their powers; and
 “ they desire to have knowledge, how and by whom these goods be spent. One thing
 “ reiteth yet to declare in their behalfe unto you: * how that by an old Ordinance,
 “ they have an Act, if the King absent himselfe forty dayes not being sicke, but of
 “ his owne minde (not heeding the charges of his people, nor their great paines)
 “ will not resort to his Parliament; they then may lawfully returne home to their
 “ houses: And now Sir, you have beene absent a longer time, and yet refuse to come
 amongst us; which greatly is our discomfourt: (And our Parliaments present case.)
 To this the King answered by these words: *Well, we doe consider that the people and
 Commons goe to rise against us; wherefore we thinke we can doe no better than to aske ayde of
 our Cousin the French King, and rather submit us to him, than to our owne Subjects.* The
 Lords answered: *Sir, that Counsell is not best, but a way rather to bring you into danger.
 For it is well knowne, that the French King is your ancient enemy, and your greatest adver-
 sary: and if he set foot once within your Realme, he will rather dispoyle you, invade you, and
 depose you from your estate Royall, than put any hand to helpe you, &c. And as that King
 cannot be poore that hath rich people; so cannot he be rich that hath poore Commons. And all
 these inconveniences be come by the evill Counsell which are about you. And if you put not your
 helping hand to the redresse of the premises, this Realme of England shall be brought to nought
 and utter ruine, which clearly shou'd be laid to your default, and in your evill Counsell: See-
 ing that in the time of your Father, this Realme throughout all the world was highly esteemed,
 and nothing ordered after these wayes. Wherefore we be sent unto you to exhort you to sequester
 all such persons as might be the occasion of ruine either of you or else of your Realme. By these
 good persuasions the King was appeased, and promised within three dayes after to come
 to the Parliament, and to condescend to their Petitions; And according to his appointment he
 came. Where soone after John Fordham Bishop of Durham, was discharged of the
 Treasurourship, and the Bishop of Hereford set in his place; * De la Pole was put from
 his Chancellourship for diverse crimes, frauds, briberies and treasons, by him com-
 mitted, to the prejudice of the King and his Realme, committed to the Tower, and
 fined twenty thousand Markes to the King, in relieving of the Commons: Divers
 other Judges, knights, & Delinquents of all sorts were condemned, & executed, others
 banished and their states confiscated; others put out of Office by this Parliament, as
 you may read in our Histories, and in the (k) Statutes at large: in which Statutes the
 mischievous effects of these evill Counsellors to King, kingdom, and people are
 at full related, whereby the King and all his Realme were very nigh to have beene
 wholly undone and destroyed: the Lords raising of Forces against them resolved to
 be lawfull; and these traitorous Delinquents made incapable of any pardon; (l)
 and their raising of Armes against the Parliament and kingdom, (though with the
 Kings owne consent and his command) declared and enacted to be high Treason.
 These proceedings ratified and assented to in Parliament by the King, much against
 his will, wrought an intolerable secret hatred and desire of revenge in his heart a-
 gainst the Lords, which for want of power he concealed neare ten yeares space; but
 in the twentyeth yeare of his Reigne, being somewhat elevated in his spirit with a*

* *Nrs.*
 The King
 should be pre-
 sent in Parlia-
 ment once in
 forty dayes.

* *Walsing. Tped.*
Nujsl. p. 146,
*147. & *astin p.**
35; 353.

(k) 10 R. 2. c.
 1 11 R. 2. c. 1, 2
 3, 4, 5, 6, 21 R.
 2. 2. 3. 12.
 (l) See the
 Records of this
 Parliament
 published by
 order of both
 Houses, Aug.
 27. 1642.

rumour that he should be elected Emperour; he suddenly apprehended the Duke of Gloucester, the Earles of Warwick and Arundell (the chiefe ticklers in the premises) committing them to severall prisons: And to blinde the peoples eyes, lest they should rise up in Armes to rescue these Lords; the King sent out a feigned Proclamation, (which he caused to be proclaimed throughout the Realme) that these Lords were apprehended only for new Treasons committed against him, for which he would prosecute them in the next Parliament, and not for the old trespasses: After which he proclaimes those Lords Traytors.

Which done he summoned a (m) Parliament at Westminster, to this Parliament the King commanded to come all such as he had best confidence in, omitting the rest; and the Knights were not elected by the Commons, as custome required they should be, but by the Kings pleasure; yea, he put out divers persons elected, and put in oiber in their places to serve his turne; which was one Article objected against him when he was deposed. Against the time of this Parliament, the King received a guard of 4000. Archers, all Cheshire men, as if he would have gone in battle against enemies, so that divers came armed to the Parliament out of feare. These Cheshire men were rude and beastly people, and so proud of the Kings favour, (n) that they accounted the King to be their fellow, and set the Lords at nought, though few of them were Gentlemen, but taken from the Plough and other Trades. After these rusticall people had a while Courted, they grew so bold, that they would not let neither within the Court nor without to beat and slay the Kings good Subject, (as the Cavaliers doe now) and to take from them their victuals at their pleasure, paying litle or nothing for them, and to ravish their wives and daughters: And if any man presumed to complaine to the King of them, he was soone rid out of the way, no man knew why, nor by whom, so that in effect they did what they listed. In this Parliament the King having made the Speaker, and a great part of mercenary, proud, ambitious men of the Commons House to be of his side, to act what he required them; he then prevailed likewise with the Upper House, first with the Prelates, then with the Lords, more out of feare of him, then any reason; by meanes whereof the Commission, Charters of pardon, and Acts made in Parliament in the 10. and 11. yeares of his Reigne were quite revoked and declared voyd in Law, as being done without authority and against the will and liberty of the King and of his Crowne: And withall they declared the Judges opinions for which they were condemned in that Parliament, to be good and lawfull, and attained the said imprisoned Lords of high Treason, and confiscated their lands. The two Earles hereupon were beheaded, and the Duke (by reason of his popularity) sent over to Callice, and there by Hall and others smothered, onely for their former actions; which done, the King adjourned the Parliament to Sbrewsbury where he subtilly procured an (o) Act to passe by common consent, that the power of the Parliament should remaine in seven or eight persons, who (after the Parliament dissolved) should determine certaine petitions delivered that Parliament, and not dispatched. By colour whereof, (p) Those Committees proceeded to other things generally touching the Parliament, and that by the Kings appointment, in derogation of the state of the Parliament, the discommodity and pernicious example of the whole Realme: And by colour and authority hereof, the King caused the Parliament Rols to be altered and defaced, against the effect of the foresaid grant. After which he much vexed and oppressed his people with divers forced Loanes, Oathes, Impositions, and oppressing Projects to raise money, seeking to trample them under his feet, and destroy the Realme, and tooke all the Jewels of the Crown with him into Ireland, without the kingdomes consent. Which rendered him so odious

(m) Graf. p. 329
 &c. Mr. Samr
 Johns Speech,
 1640. p. 33. 1 H.
 4. No. 21. 21. 48

(n) As the Ca-
 valiers do now.

(o) 21 R. c. 12

(p) 21 R. 2. c.
 16. 20. 1 H. 4. c.
 3. Walsin. hist.
 Ang. An. 1398.
 p. 394. Grafson,
 & Holinshed.

odious to his people, that Henry Duke of Lancaster, landing in England, the whole kingdome came flocking to his ayde, so that he had an Army of 60000. men in a short time; who vowed to prosecute the Kings ill Counsellours. Whereupon King Richard returning out of Ireland, hearing of the Dukes great Army assembled against him, and knowing that they would rather dye than yeeld, out of their hatred, and feare of him, he dismissed his Courtiers, hiding obscurely in corners till he was apprehended, and by a Parliament summoned in his name (though against his will) judicially deposed for his misgovernment.

Among the Articles exhibited against him in Parliament for his evill government, for which he was by sentence dethroned, these are remarkable. First, * That hee wastfully spent the Treasure of the Realme, and had given the possessions of the Crowne to men unworthy, by reason whereof daily new charges more and more, were laid on the neckes of the poore Commonalty. And when divers Lords were appointed by the high Court of Parliament to commune and treat of divers matters concerning the Common-wealth of the same, which being busie about those Commissions, he with other of his affinity, went about to impeach them of high Treason, and by force and threaning, compelled the Justices of the Realme at Shrewesbury, to condescend to his opinion, for the destruction of the said Lords; In somuch that hee began to raise warre against John Duke of Lancaster, Thomas Earle of Arundell, Richard Earle of Warwicke, and other Lords, contrary to his honour and promise.

+ Grafr. p. 400
401, 402. &c.
Trussel. p. 45, 46
47.

Item, He assembled certaine Lancashire and Cheshire men, to the intent to make warre on the foresaid Lords; and suffered them to rob and pillage without correction or reproofe.

Item, Although the King flatteringly, and with great dissimulation made Proclamation throughout the Realme, that the Lords before named, were not attached for any crime of Treason, but onely for extortions and oppressions done in the Realme, yet he laid to them in the Parliament, rebellion and manifest Treason.

Item, He hath compelled divers of the said Lords servants and friends, by menace and extreme paines, to make great fines to their utter undoing. And notwithstanding his pardon to them granted, yet he made them fine of new.

Item, That he put out divers * Sheriffes lawfully elected, and put in their roomes, divers of his owne Minions, subverting the Law, contrary to his Oath and Honour.

* Note.

Item, For to serve his purpose, he would suffer the Sheriffes of the Shire to remaine above one yeare or two.

Item, He borrowed great sums of money, and bound him under his Letters Patents for repayment of the same, and yet not one penny paid.

Item, He taxed men at the Will of him and his unhappy Counsell, and the same Treasure spent in folly, not paying poore men for their vittuall and viand.

Item, He said, That the Lawes of the Realme were in his head, and sometime in his brest, by reason of which phantasticall opinion, he destroyed Noble men, and impoverised the Commons.

Item, The Parliament setting and exacting divers notable Statutes for the profit and advancement of the Commonwealth, he by his private friends and solicitors, caused to be enacted; * That no Act then enacted should be more prejudiciall to him, than it was to any of his Predecessors, though with proviso he did often as he listed, and not as the Law meant.

* Such a kind of proviso was endeavourd to be added to the Petition of Right, 3. Caroli

Item, That he at his going into Ireland, exacted many notable summes of money, besides Plate and Jewels, without Law or custome, contrary to his Oath taken at his Coronation.

Item, That without the assent of the Nobility, he carried the Jewels, Plate, and Treasure of the kingdome over the Sea into Ireland, to the great impoverishing of the Realme. And all the good Records for the Common-wealth, and against his extortions, he privily caused to be imbezeled and conveyed away.

Item, When divers Lords and Justices were sworne to say the truth for divers things to them committed in charge both for the honour of the Realme, and profit of the King, the said King so menaced them with sore threatenings, that no man would, or durst say the right.

Item, He most tyrannically and unprincely said, that the lives and goods of all his Subjects were in the Princes hands, and at his disposing.

Item, He craftily devised certaine privie Oathes, contrary to the Law, and caused divers of his Subjects, first to be sworne to observe the same, and after bound them in bonds for the firmer keeping of the same, to the great undoing of many honest men.

(7) 1 H 4 c. 1.

2. 3. 4

(r) Walsin. hist.

Angl. p. 416.

417. Ypodig. p.

168. 170. Pol.

L. 8. c. 10. Caxton

p. 430 Hal. Chr.

par. 1. f. 25 Hol.

p. 529. Speed. p.

775. Martin

Fab Grafi. and

others Fox Acts

6y Mon. vol. 1. p.

676, 677, 678.

Trussell. p. 74

75.

(s) Spee. p. 486

Hunting lib 8.

(t) Walsing. hist.

Angl. p. 258. 10

281. Speed p.

849. Grc. 734.

Grc.

(u) Speed p.

1032. 1049.

1112. 101120.

See Hall. Grafi.

Hollinsb. Hwer,

Martin. in the

lives of H. 8.

Ed. 6. and Q.

Eliz.

(x) Walsin. hist.

Ang. p. 36 37,

38, 39, 40 41,

42, 44 48. Ypo-

digma Neust p.

83, 84, 85, 86,

97 Coles Mag-

na Charta. p.

530. 530.

Which how parallel they are to the late and present Court Practises, and Doctrines of our times, let wise men determine. The King being thus Judicially dethroned in Parliament, Henry the fourth by the same Parliament, (which continued notwithstanding Richards deposition who summoned it) was created King, who in the (q) first Parliament of his Raigne, reversed, and annulled as illegal, the Parliament of 21 Richard 2. with all its Acts, Circumstances and dependants; and revived that of 11 Richard 2. in all points, as made for the great honour, and common profit of this Realme. To these I might adde the (r) Rebellious insurrections of Richard Scroope, Arch-bishop of Yorke, the Earle of Northumberland, and their Complices, against King Henry the fourth, Anno 1405. to reforme the State and government, relieve the Church and Common-weale, and Depose King Henry in and by a forced Parliament. The (s) insurrection of the Popish Nobles against King Stephen, for violating his Oath, touching Forests, and other immunities of Church and Common-wealth, which they would force him to confirme; the severall (t) insurrections of Jacke Cade, Jacke Straw, Wat Tyler, and their Popish V. lgar rabble, to force their King to call Parliaments, to alter and repeale old Lawes, enact new, displace offensive great Officers, promote new ones of their nomination, to ratifie what propositions they required, and subvert the government of the Realme: with the (u) severall Rebellions of the Popish Lincolneshire and Yorke-shire men, under Doctor Mackarell, a Monke, and some men of quality in Henry the eighth his raigne; Of the Cornish men, Norfolk men, Kent, and others in Edward the sixth his Rule; of the Popish Earles of Northumberland, Westmorland, and other Northerne Papists in Queene Elizabeths dayes, by force of Armes to compell these severall Princes to summon Parliaments to repeale all Lawes against Masse and Popery, and for the establishment of the Protestant Religion, with other Acts concerning the government of the Common-wealth, to enact divers new Lawes and propositions, which they demanded, to remove great Officers and privie Counsellors from their places, and the like. All which transcend the Acts and proceedings of this or any other our Protestant Parliaments or subjects, being done without any preceding Order or resolution of both Houses, representing the whole kingdome, and against the generall consent of the people. But I shall conclude with one ancient precedent more, in one of our best Kings reignes, In 25 E. 1. (x) The Lords and Commons in Parliament grievously complained and Petitioned to the King against divers taxes, tallages, and prisages wherewith they were oppressed by him, to the great impoverishing of the Realme; against the violation of Magna Charta, the Charter of the Forest, the imposition upon Wools, and their summons

to goe with him into Flanders, to which they were not bound by Law. The King excusing these taxes, by reason of his necessity to maintaine the warres, and giving them a dilatory answer; the Earle Marshall, and Hereford withdrew themselves from Parliament, and with their complices, commanded the Barons of the Exchequer not to levie the eighth penny of the people, granted to the King at Saint Edmonds; and induced the Citizens of London to joyne with them to recover their Liberties. Whereupon the King sending to them for peace, they would condescend to no peace but on these termes; That the King should confirme Magna Charta, and Charta de Foresta, with the other Articles to them annexed; that he should exact and take no aides, taxe, or tallage from the Clergy or Commons without their common consent in Parliament, and that he should remit all offences to these Earles, and their confederates, all which the King ratified by his (y) Charter at large, by his oath, and by a solemne excommunication of the Bishops twice every yeare, of all those who should transgresse this Charter of his; For which the Laity gave him the ninth, and the Clergy the tenth penny of their goods. And because this confirmation was made in Scotland, the Kings, and divers others promised for him, that he should confirme it when he came into England, which they pressing him to doe in a Parliament at London, in the 27. yeare of his reign; after some delaies, he ratified it with this addition in the close; saving the right of our Crowne, which when the Lords heard, they departed home in great discontent; but the King re-summoning them at quindena Pasche, granted all things absolutely according to their desire, committing the perambulation of the Forests throughout England to three Bishops, three Earles, and three Barons, to settle their bounds according to God and justice: which not being speedily executed, but neglected (the King having purchased a dispensation of his oath, wherewith he had ratified his foresaid Charter, from the Pope) hereupon the King holding a Parliament at Stamford, the 29. of his reigne, the Lords and Barons repaired thither with great store of horses and Arms, with a purpose to extort a full execution of the Charter of the Forests hitherto deferred: upon which the King, considering their earnestnesse and importunity, condescended to their will in all things.

(y) Articuli super Chartam.

Sixthly, Parliaments, Lords and Prelates, in former times have affirmed; that when a Parliament was once met together by lawfull summons, it might not be dissolved or discontinued againe at the Kings meere pleasure, till all the publike affaires for which it was called were dispatched, all grievances redressed, and all Petitions exhibited therein, fully heard, and answered; agreeable to the resolution of the great (a) Councils of Basil, Constanz, and divers Popish* Writers, that a generall Councell once lawfully summoned by the Pope and met, cannot be dissolved by him againe at his pleasure, without the Councils consent, before all the Churches affaires be therein settled: Upon which resolution these Councils continued together and deposed sundry Popes notwithstanding their Bulls to dissolve them, to keepe themselves in their haies. This is apparent; first by the Ancient Treatise, Of the manner of holding Parliaments in England: which informes us; That the first day of the Parliament, publike Proclamations ought to be made in the City or Towne where the Parliament is kept; That all those who would deliver Petitions or Bills to the Parliament, should deliver them in a certaine time: That the Parliament should not depart so long as any Petition made therein hangeth undecidid or undecided, or at the least to which there is not made a determinate answer: the Kings Majesty being desirous of his grace and favour to give the Subject redresse of any injury, not to suffer his people to goe unsatisfied. Hence departing of the Parliament OUGHT TO BE in such manner. First, IT OUGHT TO

(a) Svarius Concil. Tom. 4 p. 103. Cyc. Fox Act & Mem. vol. 1. Edit. ult. p. 879 &c.
* John White his way, &c. Sect 37. n. 30. p. 102.

TO BE demanded, yea and publickely proclaimed in the Parliament, and within the Palace of the Parliament, whether there be any that hath delivered a Petition to the Parliament, and hath not received answer thereto? If there be none such, it is supposed that every one is satisfied, or else answered unto at the least, So far forth as by Law it may be. And then all may depart. Hence it was, that in 21 R. 2. c. 16, 17, 18, 19. Divers Petitions not read nor answered in Parliament, by reason of shortnesse of time, and not determined fitting the Parliament, were by special Acts of Parliament referred to divers Lords and Commons, to examine, answer, and plainely determine all matters contained in the said Petitions, as they should thinke best by their good advise and discretion; even out of Parliament; which they heard and determined accordingly, and made binding Acts thereupon, as appeares by the Statutes themselves. This Doctrine was very well knowne to King John, Henry the 3. Edward the 2. Richard the 2. Henry the 6. and Edward the 4. the Parliaments which opposed, and deposed most of them, sitting and continuing sitting, both before and after their deposing, sore against their wills, as the fore-remembered histories manifest; else no doubt they would have broken up all these Parliaments at their pleasure, and never permitted such Acts and Judgements to passe against themselves, Favorites, ill Counsellours, pretended Prerogatives, had they lawfull power to dissolve them, summoned in their names, or the Parliaments actually determined by their depositions, or resignations, as we find they did not, and none ever yet held they did. King Richard the 2. fearing the losse of his Crowne, or some restraints by Lawes, in the 11. yeare of his Reigne, proposed this question among others, to his Judges at Nottingham Castle; which (for ought I finde) was never doubted before. (b) Whether the King whensoever pleaseth him, might dissolve the Parliament, and command his Lords, and Commons to depart from thence or not? Whereunto it was of one minde answered, That he may: And if any would proceed in the Parliament against the Kings will, he is to be punished as a Traytor. For which opinion and others, some of these Judges and Lawyers (as *Tresilian* and *Blake*) were condemned of high Treason the next Parliament, 11 R. 2. drawn upon a Hurdle to *Tyburne*, and there executed, as Traytors to the King and Commonwealth: others of them (who delivered their opinions rather out of feare of death, and bodily tortures than malice) were yet condemned as Traytors, and banished the kingdome, onely their lives were spared. True it is, that the packed and over-awed Parliament of 21 R. 2. (terrified by the Kings unruly great Guard of *Cheeshire* Archers forementioned) 21 R. 2. c. 12. being specially interrogated by the King, how they thought of these answers of the Judges, said; That they thought they gave their answers duely and faithfully, as good and lawfull liege people of the King ought to doe: But yet the Parliament of 1 H. 4. c. 3, 4. repealed this Parliament of 21 R. 2. with all its circumstances and dependents, revived the Parliament of 11 R. 2. with the judgements and proceedings, given against these trecherous temporising Judges, as a thing made for the great honour and common profit of the Realme. Besides, the (c) Statutes of King *Alfred*, and *Edward the 3.* (which enact, that a Parliament shall be bolden once every yeare, and ofner if need be, for redresse of mischiefes and grievances which daily happen) strongly intimate, that if a Parliament ought in Law to be called as often as neede is, of purpose to redresse the Subjects grievances and mischiefes; then it ought not in point of Law to be dissolved, till these grievances, and mischiefes be redressed; else the summoning of it would be to no purpose, and bring a great trouble

(b) See 21 R. 2.
c. 12.

(c) Cooke 9.
Rep. f. 1. in the
Epistle. 4 E 3.
c. 14. 3^e E. 3. c.
10.

trouble and charge to the whole kingdome, without any benefit at all; Moreover, the King by his Oath, is bound to doe equall justice and right to all his Subjects in all his Courts of Justice: In *Magna Charta* c. 29. he makes this Protestation; *We shall deny nor deferre to no man, either Justice or Right: and by sundry other (d) Acts, all the Kings Judges are sworn and commanded, to doe even Law and execution of right to all his Subjects rich or poore, without having regard to any person, and without letting or delaying to doe right for any Letters, Writs, or Commandements that shall come to them from the King or any others, and shall doe nothing by vertue of them, but goe forth to doe the Law, and hold their Courts, and Processes where the Pleas and matters be depending before them, notwithstanding, as if no such Letters, Writs, or Commandements, were come unto them.* The makers therefore of these Oathes and Lawes (in dayes of Popery) and the Parliaments of 2 E. 3. c. 8. 14 E. 3. c. 14. 1 R. 2. c. 2. 11 R. 2. c. 9. which enact, *That it shall not be commanded by the great seale or little seale, to delay or disturbe common right, and though such commandements doe come, the Justices shall not therefore leave to doe right in ANY POINT, that Justice and right be indifferently ministred to every of the Kings Subjects: did certainly beleve, that the King neither by his great nor privy seale, nor by Writ or Letter could without just or lawfull cause assigned, prorogue or adjourne the Terme or sitting of any Courts of Justice, much lesse prorogue or dissolve his highest Court, and grand Councell of the Realme, the Parliament, or disable them to sit to redresse the kingdomes and Subjects severall grievances, or secure the Realme from danger; Which if he might lawfully doe at his pleasure, without the Houses joynt assents, there would necessarily follow, not onely a deferring and deniall, but likewise a fayler of Justice in the highest Court of Justice; which these Acts disable the King (who is so farre inferior to the Law, that he cannot so much as delay the smallest proceedings of it in any Court or Session, by his supream power, by any meanes whatsoever) to effect in his meanest Courts, much lesse then in the greatest; from whence the subversion of Lawes, Liberty, Justice, and the whole Realme would ensue. If any therefore cavill at the Act for continuance of this Parliament, till both Houses shall agree to adjourne or dissolve it; or at the Bill for Trienniall Parliaments, which when they meete, shall not be dissolved without their consents for fifty dayes space next after their first meeting: Let them now learne, that this is no Innovation, nor encroachment on the Crowne, but an ancient Priviledge of Parliament, both claimed, practised, and resolved in times of Popery, in an higher degree then now it is. And thus you see how in these particulars, the Popish Parliaments, Prelates, Lords and Commons in former times, have claimed and exercised farre greater Priviledges and Jurisdictions, than this or any other Protestant Parliament hath hitherto claimed, or practised: which I hope, will for ever silence the clamorous tongues of all ill Counsellours, Courtiers, Royalists, Malignants, Papists, and Cavaliers against the present Parliament, of whose highest (yet moderate) proceedings, themselves alone have bene the occasions, and therefore (of all others) have least cause to complaine against them.*

BUT to returne againe to the first grand Objection. Thirdly, I answer, that the High Court of Parliament, and whole kingdome which it represents, may in divers respects be truly and properly said, to be the Highest Sovereigne power of all others, and above the King himselfe: which because it may seeme a dangerous paradox, and

Answ. 3.
The Parliament and kingdome proved to be above the King.

and tends much to the vindication both of the *Priviledges, Honour, and Jurisdictions* of our High Court of Parliament, (now so much undervalued, because not really known to most) and to the justification of the proceedings in this present Parliament, which many out of ignorance and malice so much declaime against both by word and writing, in a most licentious manner; I shall take a little liberty to demonstrate the truth of it, by such convincing reasons and Authorities, as no rationally man (I hope) shall be able to contradict, but must necessarily submit to.

(e) See *Cromptions jurisdiction of Courts Tit. Parli. n. Brooke Tit. Parli. Holin. Descript of Eng. c. 8. p. 173. Chro. of Ireland, p. 120. 10 130. Sir Tho. Smith Commonwealth of Engl. l. 2. c. 1, 2, 3. Cowel & Mirsh. Tit. Par. Can. Bri. p. 177*

First, it is undeniable that (e) the Court of Parliament hath a lawfull power, to question all the Kings Patents, Charters, Commissions, Proclamations, Grants, Warrants, Writs, and Commitments whatsoever, whether they be Legall; yea to cancell or repeale them in case they be illegall, mischievous, or onerous to the Subject, not onely without but against the Kings consent, and mandate to the contrary; as appears by infinite precedents in this and all former Parliaments, the scourges of Monopolists, Patentees and Projectors, the Pelts of the Commonwealth. The like power have all other Courts of Justice within the kingdome in some degree, when such Charters and Writs of the King are brought judicially before them, because they are Courts of the Law, to which the King and all his Actions are and must be subject. Now that which can thus question, cancell, disannull, revoke the Kings owne Royall Charters, Writs, Commissions, Patents, &c. though ratified with the Great seale and regall power, even against his will, must certainly be a Sovereign power and Authority, which in point of Law and Justice is superiour to the King. This is *Bractons* resolution, l. 2. c. 16. f. 34. a, and *Fletoes* l. 1. c. 17. Where they affirme, the Law and Parliament to be above the King, because they may censure, judge, and rescinde the Kings Acts & Charters, legally and judicially, even against his personall, though not legall Will, which is the Law.

Secondly, It is unquestionably true, that in all cases of difference betweene the King, and all or any of his Subjects, though they concerne the Kings Prerogative and the highest branches thereof, the Parliament is the supreamest and most proper Judge, and its resolution (from which there is no appeale to any higher tribunall) shall finally binde not onely all the Subjects, but the King himselfe, notwithstanding his owne personall disassent. This is manifest by the many late resolutions given in Parliament against sundry Patents, Commissions, Writs, Charters, Impositions, Loanes, Shipmoney, Forest-Bounds, Marshall Law, Pressing and Billeting Souldiers, Imprisonment by speciall Comands of the King or his Privy Councell, Tonnage and Poundage, Knight-hood and Taxes, the Commission of Array, and the like, which oblige both King and Subject; the King in receiving justice, in such cases, being subject to the Law as well as the meaneest of his Subjects; as (f) *Bracton* truly avers, against all Royalists mistakes. Now that which can thus finally conclude and binde the King himselfe, even *volens nolens*, in cases of highest concernment, entrenching farthest upon his Prerogative Royall, must doubtlesse be the most Sovereign power, Superiour to the Kings. And in this sence every Court of Justice, whose just resolutions, and every petty Jury, whose upright verdicts oblige the King (because warranted by the Law which is Paramount the King (as *Bracton*, (g) *Fleta*, (h) *Fortescue*, (i) *King James*, (k) *Edward the Confessor*; yea and (l) *Aristotle*, resolve) may be truly said to be above the Kings person, which they binde; but not above the Parliament, which by its superlative power may examine all (m) judgements and verdicts, in other Courts by way of error, or appeale, and reverse them if there be cause, when as the King in person

(f) *Rex in justitia recit pienda minimo de regno suo comparatur: minimus esse debet vel quasi in judicio suscipiendo*, *Bracton*, l. 1. c. 8. f. 5. b & l. 3. c. 9. f. 107. (g) *li. 1. c. 5. 17* (h) *Cap. 9. 10 15* (i) *Speech in Parliam. 1609* (k) *In his Laws in Foxe Acts & Mon. Edit. vol. 1 p. 214.* (l) *Polit. l. 3. c. 10, 11, 12.* (m) *1 H. 1. Br. Parli. 92. Aff. ab. 63, 67.*

son cannot by law examine or reverse them, but onely in his Courts of Justice, by his Judges.

Thirdly, *Parliaments oft times doe, and may as theyse cause, enlarge the Kings Prerogative and Royall power in sundry particulars, in which the King had no such jurisdiction before these Acts*; witness the Statute de Prærogativa Regis, The notable Parliament Roll of 1 M. 4. num. 108. Where the Commons in Parliament grant the King, that he shall be in as GREAT ROYALL LIBERTY as his Noble Progenitors were before him: having formerly made the like Grant to King Richard the second, who perverted it to the altering of the Lawes in many things, as appears by this Roll. 25 H. 8. c. 19, 20, 21. 26 H. 8. c. 1, 3. 31 H. 8. c. 9. 34, and 35 H. 8. c. 23. 27 H. 8. c. 15. 28 H. 8. c. 7, 17. 3 & 4 E. 6. c. 11, 12. 1 Eliz. 1, 2. with sundry other Acts. Now that Parliamentary power, which onely can create and conferre on Kings a greater regall Authority, and Prerogative than they had before; must needs be the Originall and supream Authority: for as we rightly argue (m) That the Kings Authority is superiour to all other his greatest Officers and subordinate Ministers of Justice, because their power is by Patent, or Commission derived from his: So we may from the selfe-same reason conclude, that the High Court of Parliaments power (the representative Body of the whole kingdome) is the most Primitive, Sovereigne and greatest Authority of all other, yea, larger and higher than the Kings; (n) because it only can enlarge the Kings Prerogative, all whose original or additional Royalties, proceeded not from the King himselfe, or his Ancestors owne inherent hereditary power, (for what King could justly without his peoples consents, usurpe a Crowne or lawfull Royall Prerogative to himselfe, over an whole Countrey?) but merely from the voluntary consent and grant of his people in the Parliament. This is inrefragably evident not onely by the various (o) kinds of Kings; whereof some are of greater power and authority, others of lesse; some by Election, others by succession onely, by reason of their Kingdomes & Subjects original institution, by the divers alterations of the Monarchy in this kingdome, which hath beene (p) sometimes divided into seven, sometimes into five, sometimes into three or two kingdomes, and at last reduced unto one; by the great (q) changes and alterations made in all Foraine Realmes, which have sometimes multiplied, sometimes diminished the number and power of their Princes, and sometimes quite abolished the royall forme of Government, changing it into an Aristocraticall or popular rule, or Dukedome: by the divine Authority of S. Peter, who in this regard calls Kings and their Supremacy, a (r) humane creature, or Ordinance of man, because instituted, limited, and moulded into severall degrees of power by men over whom they reigne; but likewise by two expresse determinations of Aristotle in these termes, (s) Regna patrii moribus & legibus FUNDATA & CONFIRMATA SUNT. And (t) Verum Regnum est imperium majoribus & præstantioribus viris VOLUNTATE CIVIUM DELATUM, seconded by (u) Tully, Livie, and others.

It is the unanswerable Argument of Marius Salsomonius (an * incomparable Roman Lawyer and Philosopher) in his Lib. 1. de Principatu, p. 17 to 27. Printed at Paris, 1578. Cum privilegio Regis; To prove, The whole Kingdome and people the Sovereigne power, greater than the Prince, and the Prince (be he King or Emperour) inferiour unto them; because he is not onely their Servant, but creature too; being originally created by, and for them. Now as every Creator, is of greater power and authority than its creature, and

(m) See 1 Eliz. c. 1. Rashall Tit. Soverens or Commissioners Rashall Tit. Justit. &c.
(n) Quicquid officii tale est magis tale & nemo potest dare quod non habet: are true in this case.
(o) See Alex. ab Alexandro, l. 3. c. 2. Facile perspicui potest & regni multitudine genera, necesse denique impertit fortuna in omnibus esse regibus. Regalis potentie genera nunes, Jun. quæst. Arist. Polit. l. 3. c. 10, 11. See Dan. c. 8. § 11.
(p) See Mar. Pasp. Hist. Graf. and others
(q) Livie hist. Rom. l. 1. Arist. Polit. l. 2. c. 8. Gordius Rom. Antiq.
(r) 1 Per. 2. 13 14. Alex. ab Alexandro. Gen. de. l. 3. c. 3 l. 4. c. 23
(s) Polit. l. 5. c. 10 p. 209, 210.
(t) De. l. 5. c. 13. p. 357.
(u) De Officiis, l. 2. Celsus Rhodi. Antiq. Lect. l. 8. c. 1. Alex. ab Alexandro Gen. Dierwenl 4. c. 23 Livie Hist. Rom. l. 1. Sect. 17. p. 1415 & l. 4. p. 144, 145. Pluribus Nona Pontificus * So Jactus Carbellus & others Silebin.

every cause greater then its effect: So the Authority and power of the people which creates the Prince and Princely power, and augments or limits it as there is cause, must needs be greater, then the Prince or royall power. Who though he be greater than any private subject or magistrate, over whom he rules; yet he is still inferiour to all the people and kingdome, whose Servant or Creature he is, and by whose authority he doth and managetb all things. And though Principalities generally considered be of God; yet the constitution of Princes, and their severall degrees of power are meerey from men: for if the regall Authority of Kings were meerey from the Law of God, or nature (as many ignorant Court Doctors now Preach and write) it should be the same, and like it selfe in all kingdomes, the same among the Romans, as Parthians, Scythians, Medes, and other Nations; But it is not the same among all these Nations, but different, such, *Qualis suo cuique placet populo*, or every People pleaseth to prescribe and make choyce of; the Power, Rights, and Royalties of the Kings of the Parthians, Medes, and Scythians, being such as the Parthians, Medes and Scythians please; therefore the Rights and Prerogatives of the Roman Empire and Emperours, (and of the kingdom and King of England too) such as the Romans pleased, and prescribed by their *Lex Regia*: Which he there prosecutes at *large. And it is the direct conclusion, not onely of this Authour, but likewise of *John Mariana* a Spanish Jesuïte in his Booke *De Rege & Regis institutione*, l. 1. c. 8. Dedicated to King Philip the third of Spaine, and Printed by his and the Emperours speciall Priviledge both in Spaine and Germany; That the whole Commonweale, kingdome and people, are of greater power and Authority than the King; as for other reasons, so for this, that he is but their Creature, Servant, and derives all his Royall Authority from them alone, not for his owne, but their service, and benefit, who may enlarge or restraine it as they see just cause. And not to trouble you with Foraine Authorities in this point, which are infinite; I shall onely acquaint you with the resolutions of some eminent ancient Lawyers of our owne.

Andrew Horne, an eminent Lawyer in *Edward* the first his Reigne, in his *Myrrour of Justices*; Chap. 1. Sect. 2. p. 7, 8, 9. writes thus of the originall institution of our English Monarches. After that God had abated the Nobility of the Brittaines, who rather used force than right, he delivered it to the most humble and simple of all the neighbour Nations, the Saxons; who came from Germany to conquer it, of which Nation there have beene forty Kings, all which held themselves to have COMPANIONS. "These Princes called this Land *England*, which before was named *Greater Britaine*. These after great warres, elected from among them a King to Reigne over them, to governe the people of God, and to maintaine and defend their persons and goods in peace, by the Rules of Law (or Right :) And at the beginning they caused the King to sweare, that he will maintaine the holy Christian faith to the utmost of his power, and guide his people by Law, without respect to any person, and shall be obedient to suffer (or undergoe) Law, as well as others of his people. And afterwards this Realme was turned to an heritage, according to the number of his Companions, who divided the Realme into 38. Counties, and delivered each one a County to keepe and defend from Enemies, according to every ones estate. And although the King ought to have no Peeres in the Land, yet because if the King of his owne wrong should offend against any of his people, neither he, nor any his Commissaries, can be both Judge and Party; OF RIGHT IT BEHOVES, that the King should have COMPANIONS, for to heare and determine in Parliaments all the Writs and plaints of the wrongs of the King, the Queene, and their chil-

*See p. 45. 126
127.

children, and of those especially, of whose wrongs they could not otherwise have common right. These *Companions* are now called *Counts*, after the Latine *Comites*, and so at this day these Countries are called Counties, and in Latine *Comitatus*, &c. Henry de Bracton, who writ in Henry the third his Reigne, as in his forecited Passages; so in others, resolves; (x) That the King is under the Law, because the Law makes him a King, by giving him dominion and power. Now how doth the Law thus make him a King, but by the Parliament, the Kingdomes great Counsell? by whose Counsell and consent alone, all Lawes were first enacted, and yet are, as the (y) same Authour informs us, who further addes. That the King ought to be under the Law, because Christ whose Vicar he is on earth, when he came to redeeme mankind, made choise of this way especially to destroy the workes of the Devill, using not the strength of his power, but the reason of his justice, and so would be (z) under the Law, that he might redeeme those that are under the Law; Thus the Virgin Mary the mother of our Lord, who by singular privilege was above the Law, yet to shew an example of humility, refused not to be (a) subject to Legall Ceremonies. So therefore the King, lest his power should remaine unbridled, there ought not to be a greater than he in the Kingdome in the exhibition of Justice; yet he OUGHT TO BE THE LEAST, or AS THE LEAST IN RECEIVING JUDGEMENT, if he require it. (b) That a King is created and elected, (by whom but by his kingdome?) to this purpose, to doe justice unto all. That a King cannot doe any thing else in earth (seeing he is Gods Minister and Vicar) nisi id solum quod de jure potest: but that onely which he can doe by Law. That God, the Law, and his Court (to wit) the Earles and Barons (in Parliament) are above the King, and ought to bridle him, and are thence called *Comites*, because they are the Kings Companions. Fleta an ancient Law-booke, written in King Edward the third his Reigne, l. 3. c. 3. & 17. useth the selfe-same words that Bracton doth; and concludes That the King hath a Superior, to wit, God, and the Law, by which he is made a King, and his Court of Earles and Barons; to wit, the Parliament.

Fortescue a Lawyer, Chancellour to King Henry the sixth, proves at large, That (d) the King of England cannot alter nor change the Lawes of his Realme, at his pleasure; for why, he governeth his people by power not onely Royall, but Politique. If his power over them were royall onely, then he might change the Lawes of his Realme, and charge his Subjects with tallage and other burthens, without their consent; and such is the Dominion the Civill Lawes purport, when they say; The Princes pleasure hath the force of a Law. But from this much differeth the power of a King whose Government over the people is Politique; For HE CAN NEITHER CHANGE the LAW without the consent of his Subjects, NOR YET CHARGE THEM WITH STRANGE IMPOSITIONS AGAINST THEIR WILL. Wherefore his people doe frankly and freely enjoy and recover their owne goods, BEING RULED BY SUCH LAWES AS THEMSELVES DESIRE, neither are they pill'd off their owne King or any other. Like pleasure also should the Subjects have of a King ruling onely by Royall power, so long as he falleth not into tyranny, St. Thomas in the Booke he wrote to the King of Cyprus, justifieth the State of a Realme to be such, that it may not be in the Kings power to oppresse his people with tyranny; which thing is performed onely, when the power Royall is restrained by power Politique. Rejoyce then O* Sovereigne Prince, and be glad, that the Law of the Realme wherein you shall

(x) L. b. 1. c. 8
f. 5. lib. 3. c. 9. f.
107.

(y) *Hinc radi
leges Anglicane
cum fuerint ap-
probatae & Sa-
cramento Regis
confirmate irru-
tari non poterunt
&c. Idem. l. 1. c.
2. f. 1. b.*

(z) Gal. 4. 5.
(a) Luk. 2. 22,
23, 24.

(b) Bract. lib. 3.
c. 9. f. 10. l. 1.
8. f. 5. l. 2. c. 10.
f. 34.

(c) *Comites, vi.
quia a Comitatu
sive a societate
nomen sumpsere-
runt, qui etiam
dici possunt Con-
sules a consulen-
do; Reges enim
tales sibi affeci-
erunt ad consulen-
dum & regen-
dum populum
Dei, ordinantes
eos in magna po-
restate, hinc e &
nomine &c. Idem
l. 1. c. 8. f. 5, 6.*

(d) Fortescue de
Laud. Legum
Angl. c. 9.

* This he writes
to our King
Henry the 6. to
whom he di-
rects his Booke

succeed is such, for it shall exhibit and minister to you and your people no small security and content, Chap. 10, 11, 12. He shoves the different sorts of Kings or kingdomes, some of greater, others of lesser power; some elective, others successive; proceeding meerey from the peoples free consents and institution, and that the ancient *Agyptian*, *Aethiopian*, and other Kings, were subject to, and not above their Lawes, quoting sundry passages out of *Aristotle*, concerning the originall of kingdomes. Chap. 13. He proceeds thus: "A People that will raise themselves into a kingdome or
 "other Politique body, must ever appoint one to be chiefe Ruler of the whole bo-
 "dy; which in kingdomes is called a King. In this kinde of Order, as out of an
 "Embryo ariseth a body naturall, ruled by one head, because of a multitude of peo-
 "ple associated by the consent of Lawes, and communion of wealth, ariseth a king-
 "dome, which is a body mysticall, governed by one man as by an head. And like
 "as in a naturall body, the heart is the first that liveth, having within it blood,
 "which it distributeth among the other members, whereby they are quickned;
 "semblably in a body Politique, THE INTENT OF THE PEO-
 "PLE IS THE FIRST LIVING THING, having within it blood;
 "that is to say, Politique provision for the Utility and wealth of the same people;
 "which it dealeth forth and imparteth AS WELL TO THE HEAD as
 "to the Members of the same body, whereby the body is nourished and maintained,
 "&c. Furthermore, the Law under which a multitude of men is made a people, re-
 "presenteth the forme of sinews in the body naturall; because that like as by sinews
 "the joyning of the body is made sound; so by the Law, (which taketh the name
 "a *Ligando*, from binding) such a Mysticall body is knit and preserved together;
 "and the members and bones of the same body, (whereby is represented the found-
 "nesse of the wealth, whereby that body is sustained) doe by the Lawes, as the na-
 "turall body by sinewes, retaine every one their proper function. And as the head
 "of a body naturall cannot change his Sinewes, nor cannot deny nor with-hold
 "from his inferiour members, their proper powers, and severall nourishments of
 "blood: So NEITHER, CAN THE KING (who is the head of the
 "Politique body) CHANGE THE LAWES OF THAT BODY,
 "nor with-draw from the said people THEIR PROPER SUBSTANCE
 "AGAINST THEIR WILLS OR CONSENTS. For such a
 "King of a kingdome politique, is made and ordained for THE DEFENCE
 "OF THE LAWES OF HIS SUBJECTS, and of their bodies
 "and goods. WHEREUNTO HE RECEIVETH POWER OF
 "HIS PEOPLE, SO THAT HEE CANNOT GOVERNE
 "HIS PEOPLE BY ANY OTHER LAW. Chap. 14. he addes, No
 "Nation did ever of their owne voluntary minde incorporate themselves into a
 "kingdome FOR ANY OTHER INTENT, BUT ONELY TO
 "THE END, that they might thereby with MORE SAFETY THEN
 "BEFORE MAINTAINE THEMSELVES, and enjoy THEIR
 "Goods free from such misfortunes and losses as they stood in feare of. And of
 "this intent should such a Nation be defrauded utterly, IF THEIR KING
 "MIGHT SPOYLE THEM OF THEIR GOODS, WHICH
 "BEFORE WAS LAWFULL FOR NO MAN TO DOE.
 "And yet should such a people be much more injured, if they should afterwards be
 governed

“governed by Foraine and strange Lawes, and such peradventure as they deadly
 “hated and abhorred, and most of all, if by those Lawes their substance should be
 “diminished; for the safeguard whereof, as also for their honour, and of their
 “owne bodies, **THEY OF THEIR OWNE FREEWILL**
 “**SUBMITTED THEMSELVES TO THE GOVERNE-**
 “**MENT OF A KING. NO SUCH POWER FREELY**
 “**COULD HAVE PROCEEDED FROM THEM;** and yet **IF**
 “**THEY HAD NOT BEENE, SUCH A KING COULD**
 “**HAVE HAD NO POWER OVER THEM.** And *Chap. 36. f.*
 86. He concludes thus. “The King of *England*, neither by himselfe nor his Mi-
 “nisters imposeth no Tallages, Subsidies or any other burthens on his Lieges, or
 “changeth their Lawes, or makes new ones without the concession or assent OF
 “**HIS WHOLE KINGDOME EXPRESSED IN HIS PAR-**
 “**LIAMENT.** Thus and much more this Learned Chancellour in point both
 of Law and Conscience, sufficient to stop the mouthes of all Malignant Lawyers and
 Royalists, being Dedicated to and approved by one of our devoutest Kings, and
 written by one of the greatest and learnedest Officers of the Kingdome in those
 dayes.

In few words, (f) *Raphael Holinshed, John Vowell* and others, in their Description of *England*, Printed *Cum Privilegio*, resolve thus of the Parliaments power. *This House HATH THE MOST HIGH AND ABSOLUTE POWER OF THE REALME*, for thereby **KINGS AND MIGHTY PRINCES HAVE FROM TIME TO TIME BEENE DEPOSED FROM THEIR THRONES**, and *Lawes are enacted, and abrogated, Offenders of all sorts punished, and corrupted Religion, either disannulled or reformed. It is THE HEAD AND BODY OF ALL THE REALME*, and the place where every particular man is intended to be present, if not by himselfe, yet by his Advocate and Attorney: For this cause any thing that is there enacted, is not to be withstood but obeyed of all men, without contradiction or grudge: and to be short, all that ever the people of *Rome* might doe, either *Centuriatis Comitibus*, or *Tribunitiis*, the same is and may be done by the Authority of Parliament. Now the *Romans* in their Assemblies had power to enact binding Lawes, to create and elect their Kings and Emperours, and likewise to judge, censure, and depose them; to create and elect all kindes of Officers, and to* change the very forme of their State and Government (as I shall hereafter manifest:) Therefore by these Authours resolution, the Parliament hath an absolute power to doe the like, when they see just cause. *Sir Thoms Smith* one of the Principall Secretaries of State to King *Edward* the 6. and *Queene Elizabeth*, and a Doctor of Law, in his *Common-wealth of England*, l. 2. c. 1. in the old, but 2. in the last Edition, hath the same words in effect with *Holinshed*, and addes, that the *Parliament* giveth forme of Succession to the Crowne, &c. Our Kings Royall power being then originally derived to them, conferred on them by the Peoples and Kingdomes common consents in Parliament, and all their new additionall Prerogatives too, as he premises evidence, it cannot be denyed, but that the whole kingdome and Parliament, are really in this sense above him, and the most Sovereigne primitive power from whence all other powers were, and are derived.

Fourthly, This is undeniable, because the whole kingdome in Parliament, may
 not

(f) *Cap. 8. fol.*
 1 p. 173.

* See *Eodin* l. 2.
 c. 5. l. 1. c. 10.
Eutropius &
Grimston in the
life of Nero,
Maximinus, *Hel-*
logabalus, and
 others.

not onely augment, but likewise abridge, allay, abolish, and resume some branches of the Kings royall power and prerogative if there be just cause, as when it becomes onerous, mischievous, or dangerous to the Subjects, inconvenient to, or inconsistent with the kingdomes, peoples welfare, peace, safety, Liberty, or the Lawes; This is most apparent by *Magna Charta*; *Charta de Foresta*, *Statutum De Tallagio non concedendo*, *Articuli super Chartas*, *Confirmatio Chartarum*, 1 E.3. c.6, 7. 2 E.3. c.2.8. 3 E.1. c.35. 9 E.3. c.12. 5 E.2. c.9. 10 E.3. c.2, 3. 14 E.3. c.1. 14. 18 E.3. c.8. 25 E.3. c.4. *Stat.* 3. c.1, 2. & *Stat.* 5. c.8. 11. 36 E.3. c.10. 37 E.3. c.18. 42 E.3. c.3. 10 R.2. c.1. 11 R.2. c.1. to 7. 1 R.3. c.2. 4 H.4. c.13. 21 Jac. c.3. 24. 7 H.8. c.3. *The Petition of Right*, 3 *Caroli*, most Statutes against *Purveyers*, *Pardons*, *Protections*, and for regulating the Kings *Charters*, *Grants*, *Revenues*: the Acts made this Parliament against *Ship-money*, *Knighthood*, *Forest-bounds*, *Pressing of Souldiers*, the *Star-Chamber*, *High-Commission*, the *Trienni' all Parliament*, the *continuance of this Parliament*, whiles they please, with (g) *sundry other Acts*, which restraine, abridge, repeale, resume divers reall and pretended branches of the kings royall Prerogative, because they proved grievous, mischievous, dangerous, pernicious to the people and kingdom. This then answers that irracionall, groundlesse position of *Doctor Ferne*; *That (b) the Subjects neither lawfully may, nor ought in any case to resume all or any part of that Regall power wherewith they have once invested their Kings by common consent, though it prove never so mischievous, and be never so much abused to the peoples prejudice.* Which, as it is contrary to that received principle of nature and reason: *Eodem modo quo quid constituitur, dissolvitur*, That all Governments created by mens consents, especially being but officers in trust for their good and welfare onely; to (i) *sundry president's and Prophecies in Scripture concerning the Alterations, Subversions, Diminutions of Kings and kingdomes*; to the constant practise of (k) all Realmes, all States whatsoever, from *Adam* till this instant, who have undergone many strange alterations, eclipses, diminutions, yea Periods of Government: to the Resolution of (l) *Aristotle*, and all other Politicians, who hold all formes of Government *changeable and revocable, without any injustice, if necessary or convenient*; So likewise to the very end for which Kings have regall power (as well as other Governours, and Governements) and for which they were ordained; to wit, *their kingdomes, peoples (m) welfare, safety, peace, protection, &c. Salus populi*, being not onely that *Suprema Lex*, but principall end for which all royall power was instituted by *God and Man*, and to which it must submit in case it becomes incompatible, or inconsistent with the publique weale or safety: What therefore that learned Father *Augustine* Bishop of *Hippo*, long since resolved touching the (now much contelted for) Lordly State of *Episcopacy*, which he and neere three hundred *African Bishops* more, were then ready to lay downe for the *Churches peace*; I may fitly apply to the now over-much contended for supposed royall Prerogatives of Kings, to effect peace in our State, in these times of uncivill military (that I say not bloody) dissentions, raised about them betweene King and Parliament, *An vero, &c. (n) What verily did our Redeemer descend from heaven into humane members, and shall we, lest his very members be rent in pieces with cruell division, fear to descend out of our Thrones?* we are ordained Bishops for Christian peoples sake what therefore may profit them for Christian peace, that let us doe with our Bishopricks. *Quid autem sum propter te sum, si tibi prodest, non sum, si tibi obest.* What I am, I may be for thee, if it profit thee; I may not be, if it be hurtfull to thee. If we be profitable servants, why doe we envy the eternall gaines of our Lord for our ten

(g) See the Arguments against Ship money, & Impositions, & the declarations against the commission of Array.
(h) Resolving of Conscience Sect 4, 5.

(i) See *Jesua*, *Judges*, *Samuel*, *Kings Chron. Dan.* throughout.

Isa. Jerem. Ezek. in sundry chap.

(k) See *Sleidan de 4 or Imperiis Mat. West. Lroy*, *Justin*, *Opnerus*, *Parcha*, *Chroni. Chronicarum*; & all generall hist.

(l) *Polit. 1, 2, 3 4, 5*, *Plato de Republica*, *Bod. Common-weale.*

The *Repub. of sundry Nations Polyb. Hist. 1. 6.*

(m) *Rom. 14. 1 to 6. 1 Pet. 2. 13. 14 2 Sam. 5 12. Nehe. 2. 10. Pla. 78. 70. 71. 2 Chro. 9. 8. 1 Cor. 3. 21, 22. Esh. 10. 3.*

Arist. Pol. 1. 3, 4 5. Caelius Rhodig. 1. 8. c. 1. Bra. 1. 3. c. 9. f. 107.

(n) *Augustinus de Gestis cum Emerita Denarist. Epist. Tom 7 par 1 p. 82 783.*

porall sublinities or Prerogatives? Our Episcopall dignity will be more fruitfull to us, if being laid downe it shall more unite the flocke of Christ, than disperse it if retained. If when I will retaine my Bishopricke I disperse the flocke of Christ, how is the dammage of the flocke the honour of the Shepherd? &c. Old statute Lawes, yea the common Law of *England*, though above the King and his Prerogative, may be, and oft are repealed and altered by Parliaments, when they become mischievous or inconvenient; therefore by like or greater reason, may any branches of the Kings Prerogative, interiour to these Lawes, be restrained, yea resumed, when they prove grievous or dangerous to the Subject: It is the Kings owne professed *Maxime*, in full Parliament; (o) (Printed and inrolled by his speciall command, in all his Courts) *That the Kings Prerogative is but to defend the Peoples Liberties*: when therefore it either invades or subverts them, it may justly, it must necessarily be restrained, diminished or resumed by the Parliament, from whose assent or grant, it first proceeded, and that onely for the publique weale, not prejudice of the people. The Emperour (p) *Otho* the first, and our King *Richard* the second (as (q) some imagine) *voluntarily resigned, relinquished their Crownes, to their immortall honour, to prevent the effusion of their Subjects blood, by civill warres, and settle peace within their Realmes*: and shall not other Kings then most joyfully part with some *Punctiliones* of their reall, or branches of their supposed Prerogatives for the selfsame ends, if their Parliaments see good cause to resume them, and of right may doe it?

(o) At the end of the *Petition of Right*, 3 *Caroli*.

(p) See *Eurapius, Sabellius, Grimston, Speed* & others of his life.

(q) *Speeds History* p. 757.

Fifthly, The King though he be the chiefe and principall (yet he is onely one member of the Parliament and kingdom, the least (because but one person) though the highest branch; the Lords and Commons (not elected by, but assigned Counsellors to the King, by the kingdom and people) being the greatest and most considerable part, as representing the intire body of the Kingdom. Now common reason, Law, and experience manifests, and *Aristotle Polit. l. 1. c. 2.* with *Marius Salomonius, de Principatu, l. 1. p. 40, 41.* conclude, *that the whole, or greatest part in all politique or naturall Bodies is of greater excellency, power, and jurisdiction, than any one particular member.* Thus in all our (r) *Corporations, the Court of Aldermen and Common Councell is of greater power than the Mayor alone, though the chiefe Officer: the Chapter of greater authority than the Deane, the Deane and Chapter than the Bishop; the whole Bench, than the Lord chiefe Justice, the whole Councell than the President; the whole Parliament then either of the Houses*: and by like reason than the King; especially, since one of the three Estates is lesser than the three Estates together; who in Parliament, by the fundamentall Constitutions of the Realme, are not (s) *Subordinate*, but *Coordinate* parts of the same great Common-Councell of the kingdom. It is *Aristotles* expresse determination, (t) that in an *Oligarchie, Aristocracie, and Democracie*, whatsoever seemes good to the *major* part of the Governours of the Common-wealth, that is ratified; that the whole City, Kingdom, Family, is more excellent, and to be preferred before any part or member thereof. And that it is unfit the part should be above the whole: And in all Courts of Justice, Corporations, and Elections, (u) the *major* part have alwayes had the greatest sway, and constantly over-ruled the lesse, though it be but by one casting voyce; as is evident to all in the Elections of Knights, and Burgesses of, and votes in the Parliament; in which the (x) *King, Lords and Commons*, by the Common Law, make up but one intire Corporation: since then even in Parliament it selfe, the *major* part over-swayer the rest, yea the King himselfe (who hath

(r) See *Br. Tit. Corporations*.

(s) See the *Fuller Answer to Dr. Ferne*, p. 253.

(t) *Quod eorum qui rempublicam gerunt majori parti placuerit, id est ratum ac firmum, Arist. Polit. l. 4. c. 8. l. 1. c. 2. l. 3. c. 8.*

(u) *Br. Corpora. 34. 8 H. 6. c. 7.*

(x) *14 H. 8. f. 3. b.*

(y) Major Part
est totum, Brooks
Corporati. 34
Sinitis Com-
mune. of Engl.
l. 2 c. 3.

* See the man-
ner of holding
Parliaments in
England: newly
Printed at Lon-
don, 1641. &
Dye f 60. a, Br.
Part. 7.

no absolute negative voyce, but onely in refusing to passe some kind of Bills not all (of which more hereafter) doubtlesse the whole, or (y) major part of the Parliament (which in Law is the whole) is above the King, the chiefe member of it. Which consideration, together with the Statutes of 5 R. 2. Stat. 2. c. 4. 6 H. 8. c. 16. Enacting, That none elected to be in any Parliament shall depart or absent himselfe from the same Parliament till it be fully ended or prorogued, without speciall license of the Speaker of the Commons to be entred of Record in the journall Booke, under paine of amercement, losse of wages, & other punishment; nor * any Member of the Upper House without that Houses license under paine of inditement, imprisonment or fine, as appears by the Bishop of Winchesters case, 3 E. 3. 19. Fitz. Coron. 161. and Stamford, l. 3. c. 1. f. 153. compleatly answers that fond cavill of Malignants and Royalists against this Parliament; that the King and many of the other Members have wilfully absented themselves from the House, (of purpose to dissolve it if they could, notwithstanding the late speciall Act made by their joynt consents for its continuance,) Ergo this unlawfull Action of theirs (to effect this pernicious designe) must nullifie, or at least invalid (in their new non-sence Law and Logicke) the Lawfull proceedings of those worthy faithfull members who continue in it, to preserve both Parliament, Kingdome, Religion, Lawes, Liberties, from ruine and dissolution. If these absent Members be the greater number, why doe they not come and over-vote the rest in the House in a peaceable, legall, usuall Parliamentary way, rather than challenge them into the field in a military, illegall, unusuall bloody manner, unheard of in former ages? If the lesser party, then present or absent the major part must over-rule them *volens nolens*, as it hath ever used, unlesse they will be willfuller (I cannot say wiser) than all their predecessors put together.

Objct.

As for his Majesties absence from the Parliament by the pernicious advise of evil Counsellors; so much insited on by Malignants.

Answer.

(a) See their
Messages & peti-
tions to the King
to this purpose.
(b) See Cambil.
B. 11. p. 163.
which stile the
Parliament the
Kings presence
The Register of
Writs. Old & New
Natura Brevium
old & new book
of Entries. Coeks
Instit. on Lit. f.
71. 6.

I answer, First, That it was without any just cause given by the Parliament. Secondly, It was much against their wills, who have (a) oft importuned, petitioned, and used all possible meanes to procure his returne. Thirdly, His absence was procured, and is yet continued by those alone, who most unjustly taxe the Parliament for it, and would take advantage of this their owne wrong. Fourthly, though he be personally absent as a man, yet he is still Legally present in Parliament, (called the Kings presence) as he is a King; as he is in all other his Courts of Justice, where all proceedings are entred, (b) *Coram Rege*, though the King never yet sate personally in either of them, as he hath oft times done in this Parliament; for the continuance whereof he hath passed such an Act, as will inseparably tye his royall presence to it, though the Cavaliers about him should by force withdraw his person from it, not onely as farre as *Yorke*, but the remotest *Indies*; yea, he must first cease to be King of England, ere he can be legally absent from his Parliament of England. This his wilfull personall absence from his greatest Counsell which desires and needs it, is (as many conceive) an Act of the highest injustice that ever any Prince could offer to his Parliament, worse than (c) *Rehoboams forsaking the counsell of his ancient Sages*, to follow the bare-brain'd advise of his young *Cavalieres*; for though he followed not their ancient prudent counsell, yet he with-drew not himselfe from them, as his Majesty now severs himselfe from his Parliament, not only without but against all precedents of his Royall predecessors, except King (d) *Richard the second* (who once absented himselfe from his Parliament above forty dayes, yet then returned to

(c) 1 King. 12.
& 2 Chron. 10.
(d) *Grafton*. p.
348. 349. 350.

it upon better advise) and the very common custome and Law of the Land, (which he is obliged by his *Coronation Oath*, and many late Protestations added to it, constantly to maintaine.) This appeares most clearly by the ancient Treatise, *Of the manner of holding of Parliaments in England*, both before and since the Conquest, (* tendered to and approved by the Conquerour himselfe, newly Printed 1641.) which in the Section, *Touching the Kings absence from Parliament*, resolves thus. *The King is BOUND by all means possible TO BE PRESENT AT THE PARLIAMENT; unless he be detained or let therefrom by bodily sicknesse, and then he may keepe his Chamber, yet so as he lye not without the Manour, or Towne at the least, where the Parliament is held: and then he ought to send for twelve persons of the greatest and best of them that are summoned to the Parliament, that is, two Bishops, two Earles, two Barons, two Knights of the shire, two Burgeses, and two Citizens, to looke upon his person, to testifie and witnesse his estate, and give* Authority to the Arch-bishop of the place, the Steward of England, and chiefe Justice, that they joyntly and severally should begin the Parliament, and continue the same in his name,* (See 8 H. 5. c. 1. *Cromptons Jurisdiction. f. 13. a. 17. b.* according herewith) *expresse mention being made in that Commission, of the cause of his absence there, which ought to suffice. The reason is, because there was want to be a cry and murmure in the Parliament for the Kings absence, because his absence is hurtfull and dangerous to the whole commonalty of the Parliament, neither indeed OUGHT, OR MAY HE BE ABSENT, BUT ONELY IN THE CASE AFORESAID.* And whereas *Malignants* clamour, that most of the Lords are absent as well as the King, and therefore this can be no lawfull Parliament; The same Authour will informe them; *That if the Lords be once summoned to Parliament, and then appeare not, or absent themselves, the King may hold the Parliament with the Commonalty and Commons of the kingdome* (every of which hath a greater voyce in Parliament then the greatest Earle in England, because he represents a whole County, Towne, or City, the other himselfe alone) *without Bishops, Earles, or Barons; because in times past, before there was either Bishop, Earle, or Baron, yet even then Kings kept their Parliaments; but on the contrary, no Parliament can be kept by the King and Peeres, if all the Commons* (for the Kings misgovernment, or such like cause) *should absent themselves.* This is the judgement of (r) *Malter John Vowel* too, who writes in this manner: *Yet nevertheless, if the King in due order have summoned all his Lords and Barons, and they will not come: or if they come, they will not yet appeare: or if they come and appeare, yet will not doe or yeeld to any thing, then the King with the consent of his Commons, may ordaine and establish any acts or Lawes, which are as good, sufficient and effectually, as if the Lords had given their consents.* But on the contrary, *If the Commons be summoned and will not come, or coming will not appeare, or appearing will not consent to doe any thing, alledging some just, weighty, and great cause; the King in these cases (d) cannot with his Lords devise, make, or establish any Law.* The reasons are these, *When Parliaments were first begun and ordained, there were no Prelates or Barons of the Parliament, and the temporall Lords were very few or none; and then the King and his Commons did make a full Parliament, which Authority was never hitherto abridged.* Againe, every Baron in Parliament, doth represent but his owne person, and speaketh in the behalfe of himselfe alone. But in the Knights, Citizens, and Burgeses are represented the Commons of the whole Realme, and every of these giveth not consent onely for himselfe, but for all those also for whom he is sent. And the King with the consent of his Commons had ever a sufficient and full authority, to make, ordaine, and establish

* See *Mishes Dictionary. 11. Parliament f 526.*

* Note this.

(r) In *Holinsh. Chron. of Ireland f. 127, 128.*

(d) *Cromptons Jurisdiction of Courts, f. 3. 4 H. 7, 18 7 H. 14 11 H. 27 Parliament 42 76. 33 H 6. 17 ad judged accordingly, Br Prerogative 134.*

good and wholesome Lawes for the Commonwealth of his Realme. Wherefore the Lords being lawfully summoned and yet refusing to come, sit, or consent in Parliament, cannot by their folly, abridge the King and the Commons of their lawfull proceedings in Parliament. Thus and more John Vowel in his Order and Usage how to keepe a Parliament; Printed Cum Privilegio. And Sir Edward Cooke, in his Institutes on Magna Charta, proves that the Lords and Peeres in many Charters and Acts, are included under the name of the Commons and Commonalty of England. But we need not retire to this last doubtfull refuge; the Honourable, faithfull Lords now present, though not so many as could be desired, are the intire House of Peeres in judgement of Law, (as those present at the election of Knights of the Shire, or Burgesses (though the major part be negligently or wilfully absent) are the whole Shire or Burrough) and the wilfull absence of the residue, though the greater number, being (e) contrary to Law, contrary to the Priviledges of Parliament, and their late Protestations, tending to the very subversion of Parliaments (for which high contempt they and their * Potterities too, may justly be disabled for ever to sit as members of that House, which they have so dishonourably, if not treacherously, deserted, even as (f) well as Knights and Burgesses, whose personall attendance is so necessary, that if during the Parliament, they absent themselves from it, about any busineses of their owne, without leave of the House, or be so sicke, or elected Mayors of a Towne, or any other judiciall Officers, so as they cannot attend the service of the House, they may thereupon be lawfully expelled the House, and a new Writ expressing the cause of their removall, shall issue for a new election of others in their places, to make the House compleat, as was resolved by the Commons House, 38 H.8. Br.

(e) See Stamford f. 38. 155. 3 E.3. 19. Coro. 161. * See 21 R.2. c. 6.

(f) Dyer f. 60. n. Braet. Parli. 7. Crompt. Jurisd. f. 16. a.

(g) Luk. 12. 32 Matth. 13. 23. Mat. 7. 13, 14.

(h) See Bishop Jewels Defence of the Apologie, p. 6. c. 7. Divis. 1. Bishop Bilson true difference of Christian subjection, and unchristian rebel. part 3. p. 540, 541, 542. Bishop Pilkington of the burning of Pauls steeple. Keilway, f. 184. b. Cromp. Jurisd. of Courts, f. 19, 20. 10 E. 4. f. 6. Stamf. Plein. l. 33. 1 f. 153. Br. Coron. 135. Antiq. Ecl. f. Brit. p. 299, 300. Sp. p. 156. Mary. hist. p. 450. 10

454. John Vowels Chronicle of Ireland p. 127, 128, * 25 E. 3. stat. 6. de Provisembw. 31 E. 3. c. 4. 36 E. 3. c. 8. 58 E. 3. stat. 2. c. 2. 7 R. 2. c. 12. 3 R. 2. c. 12. 11 R. 2. Preface & c. 3. 12. 1 E. 3. c. 2. 14 E. 3. stat. 3. Preface. Sec 20 H. 3. c. 9. 21 H. 3. stat. of Leape-yeare. 4 H. 3. stat. of Marlbridge. 4 E. 1. de Big. Prolog. & c. 6. 6 E. 1. stat. de Glister. Preface 13 E. 1. Adon Ewel. 13 E. 1. c. 43. de malefact. in part. 21 E. 1. Eschevours, 5 E. 1. Quo warrant, 9 E. 2. Artic. Cleri. Pref. (i) 1 Sam. 19. 2 c. 2 Sam. 5. 12. 2 Chron. 9. 8. Isa. 49. 23. Rom. 13. 45. 1 Pet. 2. 13, 14. (k) Arist. Pelin. l. 3. & 5. Plato: Aegistlaus. Xenophon de Instit. Cyri. hist. Cælius Rhodig. Antiq. Lect. l. 8. c. 1. Bodin de Republica. Oserius de Rege & Regum Instit. (l) The Preambles of all ancient statutes, Braeten l. 1. c. 8. l. 2. c. 9. Plein l. 1. c. 5. 17. Forreque c. 9. 10 15.

Sixthly, it is most apparent both by (i) Scripture, the verdict of all (k) Politicians and writers of note, the (l) Statutes of our Realmes and Lawyers, that kingdomes, Subjects,

and Parliaments, were not created by God for the wils, pleasures, profit or benefit of Kings, who by birth and nature differ not at all from the meanest of their Subjects; but Kings were at first constituted, and still continued for the protection, welfare, benefit, service of their Kingdoms, Parliaments, People, whose publicke Servants, Ministers, Shepherds, Fathers, Stewards, and Officers they are. Now Nature, Reason, and (m) Scriptures resolve, that he who is instituted meereley for the benefit and service of another (as all the (n) Creatures were created for mans use, and therefore are inferiour unto man in dignity and power) is of lesse dignity, power, and jurisdiction, than the intire body of those for whose good he was instituted; as the (o) servant is inferiour to his Master; the (p) Wife to her Husband, for whom they were created; the Mayor to the whole Corporation; and the King to his whole Kingdome and Parliament: which consideration hath caused sundry Kings and Emperours, not onely to adventure their lives in bloody battles, but to lay downe their Crownes for the peace and safety of their Subjects; witnesse (q) Orho the first, and others; with the Examples of Moses, Exod. 32. 9. to 15; 32. Numb. 14. 11, to 15. of David, 2 Sam. 29. 17. 1 Chron. 21. 17. and John 10. 11. 15. with other precedents which I pretermit. And the reason is apparent, for if the King be slaine in defence of the kingdome or People, yet the kingdome and people may remaine secure, and another succeed him in that office of trust, (In which respect a Politique body differs from a Naturall, that it hath life, continuance, and meanes to guide, defend, and Order it selfe, though the King and head be cut off by death.) But if the Realme and People be destroyed, though the King survive them as a Man, yet he must necessarily perish in and with them as a King, since he cannot possibly be a King without a kingdome and people; for whose good and safety alone he was made a King. Hence Aristotle, Polit. l. 3. c. 4. and Marius Salamonius, de Principatu, l. 2. p. 50. define a Principality, to be A just Government for the benefit of the people, respecting onely the pub-lique good and welfare, not its owne private advantage. Hence Plato de Repub. l. 1. thus describes the Office of a Prince towards the Common-wealth. That as he is a Prince, he neither mindes nor commands what is advantagious to himselfe, but what is beneficiall to his Subjects; and whatever he saith or doth, he saith and doth it for the profit and honour of the Republicke; which Cicero in his Offices hath more elegantly thus translated; As the defence, so the procuracion of the Common-weale is to be managed to the benefit of those who are committed, not of those to whom it is committed. And de Finibus l. 3. A good and wise man, not ignorant of his civill Office, is more carefull of the utility of all, than of any one, or of his owne: Neither is a Traytor to his Country to be more dispraised, than a deserter of the common profit and safety, for his owne profit and safety. And the Emperour * Justinian used this golden sentence. Quod communiter omnibus prodest, hoc private nostre utilitati preferendum esse censemus; nostrum esse proprium, subjectorum commodum Imperialiter existimantes: Imperialis benevolentia hoc esse judicantes, ut omni tempore Subjectorum commoda tam investigare, quam eis mederi procuremus. I shall conclude this with * Salamonius his words. Let the Prince be either from God, or from men, yet think not that the world was created by God, and in it men, that they should serve for the benefit of Princes; for it is an absurdity, above what can be spoken, to opine that men were made for Princes, since God hath made us free and equall: But Princes were ordained, ONE-
LY FOR THEIR PEOPLES BENEFIT, that so they might innocently preserve humane and civill societie with greater facility, helping one the other with mutual benefits: Which he there largely proves by sundry Histories and Authorities.

(m) 1 Cor. 3. 21
22, 23.

(n) Gen. 1. 26.

to 31. c. 9. 23,

4. Psal. 8. 6, 7, 8.

(o) Ephes. 6. 5.

Col. 3. 22, 23.

(p) Gen. 8. 18.

c. 3. 16. 1 Cor.

11. 3. 8, 9. E-

phes. 5. 23, 24.

1 Pet. 3. 1. 1. &

3. 18.

(q) See Eurip.

Grinist. & other

in h. s. l. ite.

* Salamonius de
Principatu l. 2.

P. 52. 59. See

Codicis l. 1. 11.

l. 3. Codi nobis

est, P. C. semper

nostri animi cu-

ras rebus con-

stitutis ac idis-

sime impendere,

&c.

* De Principatu

l. 2. P. 57.

That of * Peter Matthem being a certaine verity. *All the Actions of a Prince must tend to the good and health of his people, for whom he lives, and more than for himse fe, as the Sun doth not shine and give heat, but for men, and the elements.* The King then being made King, onely for the Kingdomes, Parliaments, Peoples service, mult needs (in this regard) be inferiour to, not Paramount them in absolute Sovereaign power; though greater, * better than any particular Subjects.

* General Hist. of Fran. p. 1069
 * 2 Sam. 18. 3.
 (r) *Crompt. Jurisdiction of Court f. 1.*
Ge. Bract. l. 1. c. 2. 19 H. 6. 3. a.
64. b. 31 H. 8. c. 10. Dyer 60. a
Cooks Instit. on Lit. f. 109, 110
 (s) *Sir Thomas Smith, of the Commonweal. of England, l. 2. c. 1.*
2. Hol. Descrip. of Engl. c. 8. p. 173. Cam. Brit. p. 173. F. Vowels Order & Usage how to keep a Parliament. in Holin. Chron. of Ireland, p. 101, to 120. Minsh. Dictionary Tit. Parliament.
 (t) *Fortescue, c. 10 to 15. Bract. l. 1. c. 8. l. 3. c. 9. Fleta l. 1. c. 5. 17. Brook. Pate. 25. 41, 12, 51, 53, 69, 73, 100 & Prerogative, 15, 103. Commissi. 15, 16. See Judge Crooks, & Judge Huttons Arguine. against Ship money, petition of Right, 3 Carol. Br. Parli. 42.*
 (u) *Of the Commonw. l. 1. c. 10 p. 159.*
 (x) *l. 2. c. 16. f. 34. a. & l. 1. c. 8 f. 5. b. & Fleta l. 1. c. 17. Walsing. Hist. p. 36, 37, 40. (y) See Sir Thomas Smiths Common-wealth of England. l. 2. c. 1, 2, 3. Holinsheads Description of England, c. 8. p. 173. & Chronicles of Ireland, p. 101, 102. M. Hackwells manner of passing Bills, Sect. 8. p. 74. Brook Parliament 4. 107 33 H. 6. c. 33. 33 H. 8. c. 21. Cromptons Jurisdiction f. 7 b. Br. Parliament 26, 39, 40, 41.*

Seventhly, The Parliament (as our (r) Law-bookes, and (s) Writers resolve) is the most high and absolute power, the supreamest and most ancient Court of the Realme of England, and hath the power of the whole Realme, both Head and Body; and among other Priviledges this is the highest, that it is above the Law it selfe, having power upon just grounds to alter the very common Law of England; to abrogate and repeale old Lawes, to enact new Lawes of all sorts, to impose taxes upon the people: Yea, it hath power to declare the meaning of any doubtfull Lawes, and to repeale all Patents, Charters, Grants, and Judgements whatsoever of the King or any other Courts of Justice, if they be erroneous or illegal, not onely without, but against the Kings personall consent, so farre as finally to oblige both King and Subjects. Now it is cleare on the contrary side, that the King hath not the power of the whole Realme vested in his person, that he (t) and his Prerogative are not above, but subordinate to the Lawes of the Realme; that he cannot by his absolute regall power, alter the Common Law of the Realme in any particular point whatsoever, that he cannot repeale any old, nor enact any new Law whatsoever, nor impose the least tax or common charge upon his people, nor imprison their persons, diltraine their goods, declare any Law, or reverse any judgement in the meanest of his Courts, without or against his peoples joynt consents in Parliament; For *Potestas sua Juris est & non injurie, & Nihil aliud potest Rex in terris, nisi ID SOLUM QUOD DE JURE POTEST.* *Bract. l. 3. c. 9. f. 107.* Therefore without any peradventure, the Parliament in this regard is the most Sovereaign Authority, and greater in jurisdiction than the King. (u) *John Bodin* that great Lawyer and Politician, resolves; *That the chiefe marke of an absolute and Sovereaign Prince is to give Lawes to all his Subjects in generall, and to every of them in particular without consent of any other greater, equall, or lesse than himse fe.* For if a Prince be bound not to make any Lawes, without the consent of a greater than himse fe, he is then a very Subject: if not without his equall, he then hath a Companion (as (x) *Bracton* and others forecited, say our English King hath; namely his Earles and Lords, thence titled *Comites*;) if not without the consent of his inferiours, whether it be of his Subjects, or of the Senate, or of the People; he is then no Sovereigne. Whence it followes, that the Kings of England, who cannot make any Law to oblige either all or any of their Subjects, nor impose any Taxes, nor repeale any Common or Statute Law, but in and by their Parliaments, are no absolute Sovereaign Princes (as some Royalists and Court Divines, most fally averre them to be) but meere mixt Politique King, inferiour to their Lawes and Parliaments, the sole Law-makers, Law-alterers, though not against, but with the Kings assent, considered not abstractively as Kings, but copulative as a branch and member of the Parliament. And indeed to speake impartially, though the Kings Royall assent (y) be generally requisite to passe and ratifie Lawes: yet I hum-

bly conceive, that the originall, prime, Legislative power of making Lawes to binde the Subjects and their Posterity, rests not in the Kings owne Royall person, or Jurisdiction, but in the Kingdome, and Parliament, which represents it.

For first, admit the King should propound any Lawes to his people (as Kings and Law-givers usually did at first) yet these Lawes would no wayes oblige them, unlesse they voluntarily consented and submitted to them in Parliament; and the sole reason why our Acts of Parliament binde the Subjects in former times, and at this day, is, not because the King willed them (æ) but because the people gave their generall consents unto them in Parliament, as Sir Thomas Smith in his Commonwealth of England, Holinsbed, the Prologues to most ancient Statutes, (the King by the advise, and assent of the Lords Spirituall and Temporall, and Commons, and at the speciall request of the Commons in Parliament assembled, and by THE * AUTHORITY OF THE SAME PARLIAMENT, doth grant and ordaine, &c.) The Kings Coronation Oath, *Quas vulgus Elegerit* and all our Lawbookes resolve, and that upon this received Maxime of Law; *Quod omnes tangit ab omnibus debet approbari*. Hence * Marius Sulanonius defines a Law to be, *Expressa Civium Conventio*; and averres, that *Ligatur populus suis legibus, quasi patris conventis, que vere sunt Leges*: And he likewise proves at large, *That the Lawes to which Princes assent are more the Peoples Lawes than the Kings*, because Kings doe passe and grant them but as the publicke Ministers of the people, and by their command and direction, and they could neither assent to Lawes, nor doe any other Act of Royalty unlesse the people had given them such authority: with which Fortescue concurs, c. 9. 13, 14. The King in passing Bills, doth but like the Minister in Marriage, declare it to be a Law; but it is the parties consents which makes the Marriage, and the peoples onely that makes it a Law to binde them; whence those in (a) Scotland, Ireland, Man, Garnsey, and Jersey are not bound by our English Statutes, nor Tenants in Ancient Demesne, as hath bene oft times judged; because they consented not to them. Therefore the chiefe Legislative power is in the people and both Houses of Parliament, not in the King: as it was in the Rom in State, where the (b) people had the Sovereigne Jurisdiction of making and confirming Lawes to binde them, not their Kings, Emperours, or Senate, as I shall hereafter manifest.

Secondly, This appears by the case of (c) Customes, of By-Lawes in Corporations and Manours, which binde all the Corporation and Tenants (if they be reasonable) without the Kings or Lords consents, by reason of their mutuall assents alone; and as these private By-Lawes oblige all those who consent to them by reason of their owne free assents onely, so doe all publicke Acts of Parliaments oblige all Subjects, onely because of their generall assents to them in their Knights, Citizens, and Burgessees, elected by and (d) representing their persons.

Thirdly, all (e) Bills or Acts of Parliament are usually made, framed, altered, thrice read, engrossed, voted and fully agreed upon in both Houses, without the Kings personall knowledge or privy for the most part, before they come to have his Royall assent. And when they are thus agreed on by both Houses, the King cannot alter any one word or letter in them (as the Houses may doe) but must either absolutely assent to, or consider further of them. And if the King send any Bill he desires to have passe, it must be thrice read and assented to in both Houses (which have power to reject, alter, enlarge, or limit it as they thinke meete) else it can be

(æ) 4 H. 7. 18.
7 H. 7. 14. 11
H. 7. 27. 33. H. 6.
17. Br. Parlia.
4. 40. 76. 107.
Crompt. Jurisd.
f. 8. a. Bro. Ant.
nem Demesne,
20. 10. H. 7. 2.
c. 33. H. 8. c. 17.
+ Soc. 2. 7. 8. 12
14. 17. 4. H. 7.
* De Principatu
l. 1. p. 35. 56. &
p. 29. o. 43.

(a) Cooke 7.
Calvins case, 7
H. 6. 35. b. Dyar,
373. Br. Parli-
ament, 98.

(b) Livie Hist.
l. 1. & 2. Bond
Commonwealth,
l. 1. c. 10.

(c) Fitz. Assise,
413. Avoary 74
Prescrip. 67. Br.
Custom 31 Co.
5 Rep. f. 63. 64
67. 68. Kitchin
45. 73. 80.

(d) See l. Jac. c. 1
(e) 33 H. 5. 17.
Br. Parli. 4. Mr.
Hackwell, of pas-
sing Bills, Crom.
law. f. 8. Chren.
of Ireland f. 127
to 130.

(y) *Cromp. In-
st. of Courts, f. 1
2. & at the end
of the manner of
holding Parlia-
ments in England*

no Act at all. A cleare Demonstration, that the chiefe power of enacting and making Lawes is onely in the people, Commons, and Peeres, not the King: who by his Writ doth purposely summon them to meete and enact Lawes, as the chiefe Legislators. Witnesse this notable clause in the (y) Writ for the Election of Knights, and Burgesses: *Ita quod iidem Milites plenam & sufficientem Potestatem pro SE & COMMUNITATE Comitatus predicti, & dicti Cives & Burgenses pro SE & COMMUNITATE Civitatum & Burgorum predictorum divisim ab ipsis babeant, AD FACIENDUM ET CONSENSIENDUM HIS que tunc & ibidem DE COMMUNI CONSILIO DICTI REGNI (not Regis) nostri contigerint ORDINARI super negotiis antedictis. Ita quod PRO DEFECTU POTESTATIS HUIJUSMODI, &c. dicta negotia INFECTA NON REMANEANT* quovis modo: answerable to which is that clause in Pope Elutherius his Epistle to our first Christian King Lucius, about An. 185. *Ex illis Deigratia, PER CONSILIUM REGNI VESTRI SUME LEGEM, & per illam Dei potentia vestrum reges Britania regnum.*

(z) See 151u
before.

Fourthly, all publicke Acts are the whole Kingdome Lawes, not Kings alone, made principally and solely for the Subjects benefit, if good; their prejudice, if ill: therefore the whole Kingdome (represented in and by both Houses, not the King) knowing much better what is good or bad for themselves, than the King alone, it is (z) iust and reasonable that they, and not the King, should be the principall Law-makers, to binde or burthen themselves with any new Lawes, penalties or restraints.

* Justinian Cod.
l. 1. Tit. 17. Lex
8.

This is the ground of that notable Rescript of the Emperour *Theodosius* to the Roman Senate; which proves the Roman Emperours to have no right, nor power to declare or make Lawes, but by the Senates concurring assent and approbation, ** Humanum esse probamus, si quid de cetero in publica privatarum causa emerferit necessarium, quod formam generalem & antiquis Legibus non insertum exposcat, id AB OMNIBUS autem tam Proceribus nostri Palatii, quam gloriosissimo cætu vestro, Patres conscripti, tractari: & si UNIVERSIS tam Judicibus, quam VOBIS placuerit, tunc legata dictari: & sic ea demum COLLECTIS OMNIBUS recenseri: & CUM OMNES CONSENSERINT, tunc demum in sacro nostri numinis consistorio recitari: ut UNIVERSORUM CONSENSUS, & nostre Serenitatis auctoritate firmetur. Scitote igitur, Patres conscripti, NON ALITER IN POSTERUM LEGEM a nostra clementia PROMULGANDAM nisi supradicta forma fuerit observata. Bene enim cognoscimus quod cum vestro consilio fuerit ordinatum ID AD BEATITUDINEM NOSTRI IMPERII ET AD NOSTRAM GLORIAM REDUNDARE.* Therefore doubtlesse he deemed the Senate the chiefe Legislators, as knowing better than himselfe, what conduced to the beatitude of the Empire, and to his owne Imperiall honour, and never dreamed of any negative voyce annexed to his Imperiality, to deny such Acts as they once Voted for usefull publicke Lawes.

Fifthly, It is cleare, that all Acts which give any Subsidie, Taxes, Penalties, or forfeitures to the King, are made onely by the People in Parliament, and not principally by the King, since the King cannot be said in any propriety to give any thing to himselfe. This is undenyable by the forme of penning all subsidie Bills granted by the Commons or Clergy. Your Commons assembled in your High Court of Parliament,

liament, &c. humbly present your Majesty with the free and chearefull gift of two entire Subsidies, which we humbly beseech your Majesty graciously to accept, &c. Your Majesties faithfull Subjects the Prelates and Clergie, &c. with one agreement and uniforme consent, have given and granted, and by these presents doe give and grant to your Highnesse, &c. foure in-
 (a) Le Roy remery ses Loaulz Subjectis accept LOUR BENEVOLENCE, &c. the Commons having the sole power to grant or deny (b) Subsidies and Taxes when they see cause, and to limit the proportion of them, the manner and time of paying them; and to order how and by whom they shall be received and imployed; as all Acts of this nature manifest. If then they be the chiefe Law-makers in these Acts which lay any imposition upon the Subjects goods, or restraint on his person; then by like reason in all other penall publicke Lawes. This is infallibly cleare by the Kings *Coronation Oath; who sweares, *That he will grant, fulfill and defend ALL RIGHTFULL LAWES and CUSTOMES the which THE COMMONS OF THE REALME SHALL CHUSE, and shall strengthen and maintaine them after his power.* If the Commons then are to chuse Lawes, and the King by his Oath bound to grant, strengthen, maintaine and defend them when chosen by them, then doubtlesse they are the chiefe Legislators, not the King; whence Forrescue c. 9. resolves, *That the People of England, are ruled by such Lawes as themselves chuse or desire: And that their Lawes are their owne, not the Kings.*

Seventhly, all Acts of Parliament made in the Reignes of usurpers who have no Title to the Crowne, nor right to assent to Lawes, are (c) firme and good in Law, and shall binde the right heires to the Crowne, as is evident by the Lawes made by King John, Henry the 4. 5. & 6. (reputed usurpers by Edward the 4.) and Richard the 3. acknowledged an usurper, whose Lawes are yet in force. Thereason is (as is cleare by 1 E. 4. c. 6.) because these Lawes, and all other Judiciall Acts in Courts of Justice, are the Acts of the Parliament and Courts themselves, which are lawfull; not of the usurping King, who is unlawfull. Therefore certainly the Legislative power is more in the Parliament than in the King, if not wholly in it, there being Lawes and kingdoms before Kings were.

Eightly, There are good and binding Lawes in many Aristocraticall and Democraticall States (as in (d) Venice, the Netherlands, Geneva, Florence, Switzerland, and other Republickes) where there are no Kings at all: Yea, there were such obligatory Lawes in Bohemia, Poland, Sweden, Spaine, Hungary, and other Realmes, before they were erected into kingdoms; which remained in full force, and efficacy, and still bound both King and People after they became kingdoms; And the (e) Romans, Athenians, Lacedeminians Lawes of old, made under their Kings, survived and continued in their vigour, after their Kings were abandoned, and the very forme of their states quite altered into an Aristocracy; yea the Lawes made by the Roman Senate and People, continued in force after their Emperours were erected; and the very Lex Regia (recorded by (f) Salmonius) which created, limited, and defined the very Prerogative, Power and Authority of the Roman Emperours, was made onely by the Senate and People, who by that Law gave sometimes more Authority to one Emperour than to another; and restrained the power of some Emperours more than others, and subjecting them to some Lawes from which they exempted others; and therefore doubtlesse were the supremest Law-givers, and the Sovereigne power above the Emperour) as (g) Marius Salmonius,

(a) Hackwell
 passing of Bills,
 sect. 8 p. 78.

(b) See Rastall
 Tax, & Ten his
 the Acts of Sub-
 sidies, 2 1 Jac. &
 this present
 Parliament, 3 p.

p. 745.
 See part 2 p.
 745 5.

(c) See 1 E. 4 c.
 6. 4 E. 4. 10, 9 E.
 4 1, 2. Br. Char-
 ters de Pardon,
 22. 13 Eliz. c. 1

(d) See the Re-
 publicke of
 those States, &
 Bodin, l. 1 c. 10.

l. 2, c. 3, 4. & 5.
 (e) Arist. Polit.
 l. 1, 2, 3, 4, 5.
 G. Livius Roman
 Antiquities.

(f) De principa-
 tu l. 6. p. 127. 10
 126.

(g) De principa-
 tu l. 1, 2, 3, 4, 5.
 6. passim.

* *Iustin. Codicis*
l. 1. Tit. 17 Lex
4.

and * *Bodin* prove at large. And the Emperour *Theodosius* is not ashamed to professe as much in his Edict to *Volusianus*, in these termes: *Digna vox Majestate regnantis LEGIBUS ALLIGATUM SE PRINCIPEM PROFITERI: ADEO DE AUTHORITYATE JURIS NOSTRA PENDET AUTHORITYAS: & revera majus Imperio est summittere Legibus Pincipatum. Et oraculo presentis Edicti, Quod NOBIS LICERE NON PATIMUR, aliis indicamus.* If then Lawes may thus be made where there are no Kings, by the peoples jynt consents alone; If Lawes enacted in a State before by consent it be made a Kingdome, remaine in force after it is erected into a kingdome, and continue after it ceaseth to be a kingdom, only by and for the peoples consenting to them; as is evident by infinite, examples; and the people, Parliament, Senate, have anciently made, and may make Lawes even to binde their Kings, and Sovereignes themselves in points of their Prerogative and power; then doubtlesse they, and not Kings are the chiefe Sovereigne Legislators; and their Royall assents to Lawes, are no wayes essentiall to the very being of Lawes, but rather a complementall Ceremony.

(d) The true difference, &c. part. 3. p. 416.

* *Hieron. Blanca*
Rer. Arag. Com.
p. 588, 589.

(e) *Fox Aet. & Monu.* vol. 1. p. 173. *Spe. Hist.* p. 244.

* *Mat. West. An.*
1273. p. 353.
Dan. p. 185. See
Speed & Holin.
I E I.

(f) See *Nubrig. Spee. Hol. Mat. West.* & others in the lives of R. I. H. 1, 2, 3, 4 5, 6, 8. Ed. 1, 2, 3, 4.

(g) *Walving hist. Angl. An.* 1422. p. 458. *Spee p.* 1108. *Graft. p.* 496, 447, 643. *F. b. p.* 470. *Hall f.* 176. 10 183. *Hoved. Annal. pars posterior. p.* 702, 703, 705, 706

(h) *Aet. & Mon. old Edit p.* 705. See *Hol. Speed, Graft.* in their lives.

Ninthly, admit the King should dye without Heire, no doubt the kingdome and Parliament have a just right either to alter the government, or dispose of the Crown to what family they please (as the constant practise of all kingdomes in such cases manifests, and (d) Bishop *Bilson* himselfe assureth us; *That all Nations once members of the Roman Empire, when the right Heires failed, were suffered to elect their Governours, where they pleased, as the Romans themselves might doe*) and no doubt they may make binding publike Lawes during the *Inter-regnum*: as the kingdome and Estates of * *Aragon* did during their *Inter-regnums*. Yea, if the King be an infant (as *Henry* the 3. *Henry* the 6. *Edward* 3. 5. and *Richard* 2. with other our Kings were, when the Crowne descended to them) or *non Compos Mentis*, or taken with a dead Palsie or Apoplexie, or an Ideot by birth or Age, or a Monke professed, (as (e) some Kings have beene) or absent in a Pilgrimage to *Rome*, or a voyage to the Holy Land, (As the * *Lords* and *State* Assembled at the *New Temple*, after the death of King *Henry* the third, during his Sonne King *Edward* the 1. his absence in the *Holy Land*, *Proclaimed him King, swore fealty to him, CAUSED A NEW SEALE TO BE MADE*; appointed fit *Officers and Ministers, for the Custody of his Treasure and Peace*, and proclaimed his Peace throughout the Realme) or other remote foraine parts by reason of warres, as (f) divers of our Kings heretofore have beene; and so unable personally to consent to Lawes; no doubt in all such cases, the right of creating a *Protector* to execute regall power, summon Parliaments, assent to Lawes, is only in the (g) *Parliament*, which may in these cases make any publicke Acts without the Kings personall presence or assent; and the assent of the *Regent* or *Protector*, usually created by them, shall as firmly binde the King, as if he had personally consented, as is evident by all the Acts of Parliament passed during the minority of (b) *Henry* the third, who was but nine yeares old; *Edward* the third, who was but thirteene; *Richard* the second, who was but eleven yeares of age; *Henry* the sixth, who was but nine moneths old; *Edward* the fifth, but twelve yeares; *Henry* the eighth not eighteene yeares; *Edward* the sixth but nine yeares of age, when they began their Reignes; and so incapable of giving any personall consent to Lawes by themselves (of which they could not judge, but by their *Protectors*;) and by all Acts made in the absence

of King (i) *Richard* the first, *Edward* the 1,2,3,4. *Henry* the 3,2,3,4,5,6. and others out of the Realme; all good and binding Lawes, as appeares by 28 H. 8. c. 17. which altered, and 33 H. 8. c. 22. which declareth the Law in these particulars. A cleare demonstration, that the Parliament is the most absolute Supream power, and Law-giver, not the King.

Tenthly, The King hath little or no hand in making, but onely in assenting to Lawes, when they are made by the Houses; as the uttall forme of passing Acts (*Le Royale vult, The King wills (or assents to) it*, not before, but after they have passed both Houses, imports: which assent of his, if the Bills be publike and necessary for the Common good, is not meere arbitrary at the Kings will, but the King by Oath and duty is bound to give it, and the Lords and Commons may in justice demand it of meere right, as I shall shew anon. His Royall assent then, though it be the last act which compleates Bills, and makes them Lawes, yet since it is but an assent to a Law formerly made by both Houses, which he cannot alter in any point: Yea, an assent, which the King in Honour, Law, Justice, Duty, by vertue of his Coronation Oath, is bound to give, as appeares by the Prefaces of most Statutes, the Statute of *Provisours*, 25 E. 3. Parl. 6. 20 E. 3. and other Acts) it is so farre from proving the King the Supream power and Law-giver, that it manifestes the contrary, that this power principally resides in both the Houses, not the King.

Eleventhly, The kingdomes Sovereignty and supream jurisdiction above the King is most apparent by those Coronation Oathes, which Parliaments and the kingdome anciently, long before, or at leastwise in King *Edward*s dayes, before and ever since the Conquest, have prescribed to our Kings ere they would accept of them for their Sovereignes, of which I shall give you a short account.

Before the Conquest, I read in (n) King *Edward* the Confessors Lawes, not onely the Office, but Oub of the King of England, (whom he and *Bracton* oft stiles, *Gods and Christs Vicar upon earth*) thus excellently described. *A King ought above all things to feare God: to love and observe his Commandements, and cause them to be observed through his whole kingdome: He ought also to set up good Lawes and customes, such as be wholesome and approved, such as be otherwise, to repeale them and thrust them out of his kingdome. Item, he ought to doe Justice and Judgement in his kingdome, by the counsell of the Nobles of his Realme. All these things ought the King in his owne person to doe, taking his Oath upon the Evangelists, and the blessed Reliques of Saints; swearing in the presence of the whole State of his Realme (as well of the temporality as of the spirituality) before he be Crowned of the Archbishops and Bishops. Three servants the King ought to have under him as Vassals, fleshy lust, avarice, and greedy desire, whom if he keepe under as his servants and slaves, he shall Reigne well and honourably in his kingdome. He must doe all things with good advisement and premeditation: and that properly belongeth to a King: for hasty rashnesse bringeth all things to ruine; according to the saying of the Gospell; Every kingdome divided in it selfe shall be brought to desolation. Master (o) *Fox* informes us, that *William* the Conquerour through the peoples clamour promised to confirme this King *Edward*s Lawes, but the most part of them be omitted, contrary to his Oath at his Coronation. Indeed, I finde not in * *William* of *Malmesbury*, *Henry* *Huntingdon*, *Matthew* *Paris*, or *Westminster*, that *William* the Conquerour tooke this Oath at his Coronation; but onely, that he was received by the Clergie and people at London in great triumph, & AB OMNIBUS REX ACCLAMATUS, and proclaimed King by them all, and then Crowned: but Ro-*

(i) See *Hoveden* *Annal. pars posterior*, p. 702, 703, 705, 706.

(n) *Fox Act. & Mon. Edit. 1641. vol. 1. p. 214. & Lambards Archaion. Leges Edwardi c. 17. Bishop Bilson, par. 3 p. 494.*

(o) *Vol. 1 p. 214*

* In the life of *William* the first.

ger de Hoveden, and Daniel out of him, are expresse in point; that according to the accustomed forme, the Bishops and Barons of the Realme tooke their Oathes, to be his true and loyall Subjects; and he reciprocally, being required thereunto by Aldred, Arch-bishop of Yorke, who Crowned him, made his personall Oath before the Altar of the Apostle Saint Peter, in the presence of the Clergy and People; That he would defend the holy Churches of God, and the Rectors of the same: Likewise that he would govern all the people Subject to him justly, and with royall providence: RECTAM LEGEM STATUERE ET TENERE, (which referres to future Lawes) that he would establish and observe RIGHTEOUS LAWES; and that he would utterly prohibit rapines, and unjust judgements. Nor did he claime any power by Conquest, but as a regular Prince submitted himselfe to the Orders of the kingdome; desirous to have his Testamentary title (howsoever weake) to make good his Succession, rather than his Sword; the flattery of the time onely giving him the Title of Conquerour afterwards; but himselfe not claiming it. But William soone after forgetting this his solemne Oath, did (as * Speed with others write) abrogate for the most part, the ancient Lawes of the Land, and introduce new hard Lawes of his owne, written in the Norman tongue, which the people understood not, and the Judges wrested at their pleasures, to the forfeiture of Goods, Lands, Life. Hereupon the Nobility and Natives, seeking to cast off these snares and setters of his Lawes, set up Edgar Atheling for their King and Generall once again, & fell into a new conspiraey, raising great forces, & resolving to make the sword their judge. The King hereupon by Lanfrankes advise, who as Rebovams sages, gave him counsell, somewhat to beare with their abuses, rather than hazard the ruine of all in fight, appointed a meeting at Berkhamsted, Anno 1172. Where the King entring parley with the English Nobility, did so farre winde himselfe into their good opinions, that they all forthwith laid downe their weapons. And he for his part fearing to lose the Crowne with shame, which he had gotten with effusion of so much blood, gave his Oath upon the holy Evangelists, and the reliques of Saint Albane the Martyr: (the same being ministred to him by Abbot Fredericke) swearing to observe, and inviolably to keepe the ancient Lawes of this Land, and most especially those compiled by King Edward the Confessor; though (as the event soone shewed) he little meant to doe as he promised. Peace thus established; this conference ended, and the Kings Oath received, the English Armies disband themselves, as dreaming they had now good fortune by the foote, and hoping the greatest stormes of their dangers were past; which presently proved but a vaine surmise. For King William having compounded with the Danes, began extremely to hate the English Nobles, and with full resolution of their destruction, suddenly set upon them apart, which hee durst not attempt when they were united; so that * slaying many, imprisoning others, and persecuting all of them with fire and sword, well was he that could be first gone. Such little faith, or assurance is there in the solemne Oathes and Protestations of Kings to their Subjects; which are seldome really performed, and intended onely as snares to intrap them, if they confide and rely upon them without any better security.

(a) After the death of William the Conquerour, William Rufus his younger sonne, in the absence of Robert the elder Brother, hastens into England, to obtain the Crown; and finding the greatest part of the Nobles against him; he gave his solemne Oath and faith to Lanfranke Arch-bishop of Canterbury his Tutor, that if they would make choise of him for their King, he would abrogate the over-hard Lawes of his Father, and promise to observe justice, equity and mercy throughout the kingdome in every businesse, and defend the Peace

and

* Hist. p. 440,
441.

* See Huntingdon
hist. l. 7 p. 369,
Mat. Par. hist. p.
6.

(a) Mat. Westm.
An. 1088. Ead-
murus hist. l. 1, p.
13, 14. Math.
Paris hist. p. 12,
13. Speed, hist.
p. 456. Graff. p.
21, 22. Malmsb.
l. 4. p. 119, 120.

and Liberty of the Church against all men; and ease them of all hard taxes. Upon which conditions, *volentibus omnibus Provincialium animis*, by the voluntary consent and voices of all, he was chosen and Crowned King. Which promise and Oath he soon after brake; saying, *Who is it that can fulfill his promises?* Whereupon many of the Nobles, levied warre against him, adopting *Robert* his elder Brother King. (b) *William Rufus* dying, *Henry* the first his younger Brother, in the life of *Robert* the right Heire assembling all the Clergy and people together to *London*, to procure their favour and love to chuse him for their King and Patron, He promised the Reformation of those Lawes, by which *England* had bene oppressed in the Reignes of his Father and Brother. To which the Clergy and Nobles answered; That if hee would with a willing minde reforme those rigorous Lawes, remit the Taxes imposed upon the Subjects, and by his Charter confirme those ancient Lawes and Customes which flourished in the kingdome in the time of holy King *Edward*, they would unanimously consent to him, and consecrate him for their King. Which he willingly assenting to, and affirming with an Oath that he would performe; he was by the assent both of Clergy and people consecrated King at *Westminster*, promising by Oath, to confirme King *Edwards* Lawes, and renounce all oppression; in pursuance whereof as soon as he was created, he by his Charter confirmed and reformed divers Lawes for the ease and benefit of his Subjects, recorded at large by *Matthew Paris*, *Speed*, and others. The beginning of this Charter is observable. *Henry* by the Grace of God, of *England*, &c. Know ye, that by the mercy of God, and COMMON COUNSELL of the Barons of the Kingdome of *England*, I am Crowned King. And because the kingdome was oppressed with unjust exactions, I, out of respect to God, and the love I beare towards you all, make the Church of God free, &c. And all the evill customes wherewith the kingdome of *England* was unjustly oppressed, I take from thence, which evill customes I here in part set downe. And in the end of his Charter, he confirmed and restored to them King *Edwards* Lawes, with those amendments of them which his Father made by the consent of his Barons. After which, those Lawes of his were published through all *England*, and *Ranulph* Bishop of *Durham* banished the Court and committed to the Tower, for his oppression, bribery, and other crimes. *Henry* deceasing (c) *Maud* the Emperesse his right Heire (to whom the Prelates and Nobles had sworne fealty in her Fathers life time) was put by the Crowne by the Prelates and Barons; who thought it basenesse for so many and great Peeres to be subject to a woman, and that they were freed of their Oath by her marrying out of the Realme, without their consents, and *Stephen* Earle of *Mortaine* (who had no good Title) assembling the Bishops and Peeres at *London*, promising to them an amendment of the Lawes according to all their pleasures and liking, was by them all proclaimed King; whereupon they all tooke their Oathes of Allegiance to him, conditionally; to obey him as their King; so long as hee should preserve the Churches Liberties, and keepe all Covenants, and confirme them with his Charter; according to the old Proverbe; *Quandiu habebis me pro Senatore, & ego te pro Imperatore*. All this the King at his Coronation swore, and promised to God, the people, and Church to performe. And presently after going to *Oxford*, he (in pursuance of his Oath) there sealed his fore-promised Charter of many indulgent favours: the summe whereof was this.

That all Liberties, Customes, and Possessions granted to the Church, should be firme and

(b) *Mat. Par. p.*
 52, 53, 54 *Ead-*
merus hist. l. 2.
p. 55. Malmf.
l. 5. p. 156 H.
Hunt. l. 7. p. 378
Roger Hæder,
annal. pars 1. p.
 468. *Polych. l. 7*
c. 11. Fab. par. 7.
c. 226. p. 318.
Graft. p. 32 Sp.
 p. 466, 467.

(c) *Mat. Par. hi.*
 p. 73. *Malm. no-*
vella hist. l. 1. p.
 178, 179, 180
Hen. Hunt. l. 8. p.
 386, 387. *Hov. e.*
 p. 481, 482. *Ma.*
West. An. 1136.
 p. 35. *Sp. p. 483*
 484. *Graft. p. 41,*
 42.

in force; that all bad usages in the Land touching Forests, exactions, and annual Taxes which his Ancestors usually received, should be eternally abolished; the ancient Lawes restored; pre-facing therein, (d) That he obtained the Crowne BY ELECTION ONELY; Hæc

d Assensu Cleri
& populi in Re-
gem Anglia ele-
ctus, Malm. p.

179.

* See Speed p.

483, 484.

(e) Hoveden p.

491. Graf p. 50.

autem specialiter, & alia multa generaliter, se servaturum juravit; sed nihil eorum que Deo promiserat, observavit, write Matthew Paris, Hoveden, and Huntindon. Pene omnia perperam mutavit, quasi ad hoc tantum jurasset, ut prævaricatore Sacramenti se regno toti ostenderet, saith Malmesbury. * Granting these immunities rather to blinde their eyes, than with any purpose to manacle his owne hands with such parchment chains: Such faith is to be given to the solemnest Oathes of Kings. But this his perjury was like to cost him his Crowne, his Prelates and Peeres thereupon revolting unto Maude. The form of King Henry the second his Oath I finde not; onely I read (e) that upon his Coronation he caused the Lawes to be reformed, by advise of discreet men learned in the Law, and by his Proclamation commanded, that the good Lawes of his Grand-father Henry should be observed and firmly kept throughout the Realme. Wherefore it is probable, he tooke the same Oath that he did. (f) Richard the first, succeeding, at his Coronation in Westminster Church comming to the High Altar, before the Clergy and people tooke this solemn Oath upon the Holy Evangelists, and many Saints reliques. 1. That all the dayes of his life he would beare peace, honour, and reverence to God, and holy Church, and the ordinances thereof. 2. That to the people committed to his charge, he would exercise Right, Justice and Equity. 3. That he would abolish naughty Laws and Customes if any were brought upon his kingdome; and would enact good Lawes, and the same in good sort keepe, and without Mal-engin. Which Oath most solemnly taken, Baldwin Arch-bishop of Canterbury, standing at the Altar, forbad him in the name of Almighty God, to assume that honour, UNLESSE HE HAD A FULL PURPOSE TO KEEPE WHAT HE HAD SWORNE, Whereunto Richard ASSENTING, and promising by Gods helpe to performe all the pre-mises WITHOUT FRAUD; With his owne hand humbly taking the Imperiall Crowne from the Altar, delivered it to the Archbishop, who set it on his head. (g) King Richard deceasing, John his younger Brother, to put by Arthur the next heire to the Crowne, came speedily out of Normandy into England; where the great assembly at Northampton, to preserve their Rights and Liberties, were content to accept of him for their King, to yeeld fealty, and keepe faith and Peace to King John upon condition onely, if he would restore to every of them their Rights; which, he afterwards violating it, was the occasion of great dissentions. Comming to London to be Crowned, Hubert Archbishop of Canterbury, (the Pillar of the Common-wealths stability, and incomparable for deepe reaching wisdom) steps forth in the midit of all the Bishops, Lords, Barons, and others there assembled at his Coronation, and spake thus unto them. Heare yee all, you are in discretion to know, that no man hath right, or any other fore-title to succeed another in a kingdome * unlesse first (with invocation for grace, and guidance of Gods Spirit) he be BY THE BODY OF THE KINGDOME THEREUNTO CHOSEN, and be indeed some choyce man, and picked out for some eminency of his vertues, according to the example and similitude of Saul the first anointed King, whom God set over his people, though neither the Sonne of a King nor of any royall descent. So after him likewise David the son of Jesse; the one for being valorous, and a person fitting Royall dignity, the other for being holy and humble minded. To shew, that whosoever in a kingdome excelleth all in valour and vertue, ought to surmount all in Rule and Authority: yet so, as that, if any of the Off-spring of a deceased King surpasseth others, it is fit joyntly to consent in election of such a one. This there-

(f) Mat. Par. p.

147. Hoved. p.

657. Walsl. Ypo-

dig. Neustr. An-

1189. p. 45, 46.

Speed p. 530.

(g) Hoveden p.

793 Mat. Par.

p. 189, 190. Sp.

p. 548, 549.

550 See Poly.

Virg. Hol. Dan.

p. 127, 128.

* A strange

Archiepiscopall

Doctrine.

fore we have spoken in favour of eminent Earle John, who is present, the Brother of our most illustrious King Richard now deceased, wanting an heire of his body; whom being provident, vaſant, and truly noble, we having invocated the grace of the holy Spirit, have all unanimously ELECTED, as well in regard of his Merits, as of his royall Blood. Neither durst any doubt or demurre on these things, knowing that the Arch-bishop had not thus defined without cause. Wherefore Earle John, and all men approving this speech, they ELECTED and ASSUMED the Earle for their King, and cryed out saying, Let the King live. But the Arch-bishop being afterwards demanded, why he had spoken these things? answered, That he was assured by some divining foresight, that King John would worke the ruine of the kingdome, corrupt the Crowne, and precipitate it into great confusion. And to it he might not have the reins free to doe this, he OUGHT TO BE CHOSEN BY ELECTION, NOT BY SUCCESSION. King John at this his Coronation was involved in a threefold Oath: namely, That hee should love holy Church and its Ministers, and preserve it harmelesse from the incursion of Malignants; That abolishing perverse Lawes, he should substitute good ones, and exercise Right judgement in the kingdome of England. After which he was adjured by the Arch-bishop, in the behalfe of God, and strictly prohibited, not to presume to accept this honour unlesse he fully purposed in his minde, actually to fulfill what he had sworne. To which he answering, promised that by Gods assistance he would bona fide keepe those things which he had sworne. After which he rightly settled the affaires of England by the counsell of his Nobles, and then passed over into Normandy. But how ill he kept this his Oath, with others of this nature; and how he violated the Statutes of Magna Charta and De Foresta, which he had confirmed with his hand, seale, Oath, Proclamations, the Bishops Excommunications, yea, the Popes Bull, within three moneths after he had confirmed them, and procured a dispensation of his Oath, an abrogation of these Lawes from the Pope, making bloody warres upon his Barons and Subjects (who confiding to those confirmations and royal promises expected no such strange performances) spoiling, robbing, destroying his people every where, in the selfe-same manner as we now are plundered; * the Histories of his life too manifestly relate; which oft put his Crown in danger of utter losse, Lewis of France being Crowned King by the Barons in his stead, who renounced their allegiance to him, for his perjuries and breach of faith and making warre upon them. John departing this life, his son Henry being but 9. yeares old, was proclaimed King, through the perswasion of the Earle Marshall and of Pembroke (afterwards made his Protector,) who informed the Lords and Commons, (h) that though King John for his evill demerits deserved their persecution and losse of his Crowne, yet his young child, tender in yeares, was pure and innocent from his Fathers doings. Wherefore sith every man is to be charged with the burthen of his owne transgressions, neither shall the childe (as Scriptures teach) beare the iniquity of his Fathers, they ought of duty and conscience, to beare themselves mildly towards this tender Prince, and take compassion of his age. And for as much as he was Johns naturall and eldest sonne, and ought to be their Sovereigne, let us with one joynnt assistance APPOINT HIM our King and Governour, let us renounce from us Lewys the French Kings Sonne, and suppress his people, which are a confusion and shame to our Nation, and the yokes of their Servitude let us cast from our shoulders. Upon which perswasion Henry was presently proclaimed and Crowned King at Gloucester. And though he were but an infant, yet being (i) set before the High Altar, he swore before the Clergy and people upon the Holy Evangelists and divers Saints Reliques, Joceline Bishop of Bath declaring the Oath, That he would beare honour, peace and reverence to God, to holy Church and Priests, all the dayes of his life. He likewise swore, that he would maintaine right justice among the People committed to his charge; And that he would blot out ill Lawes and unjust cus-

* See before p. 9. 10. Mat. Par. p. 243, 10147. worthy reading & consideration (h) Fox Aſſ. & Men. Edit. ult. v. 1. p. 334. Speed p. 591.

(i) Mat. Par. p. 278, 305.

(k) In his Edition Tigu 1589 p 876. 938, 958, 959, 960.

(l) Hist. Ang. p. 1,

(m) Lib. 3.c.9. f.107.

(p) Mag. Char. Printed Cwn Privilegio London 1558. part 2. f. 1640. Jaraminum Regis quando coronatur Remonstrance, Nov. 2. p. 25. to 38.

(q) See the Parliaments Remonstrance of the 26 of May, F 9. His Majesties Answer thereto, p. 16, 17. & the Parliaments Reply, Nov. 2. p. 29. to 38.

* Judge Huttons Argument against Shipmoney, p. 32. determines so.

stones, if there should be any in the Kingdome, and observe good ones, and cause them to be kept by all men: How well he observed this solemn Oath, with many others of like nature made to his Lords and Subjects, for confirmation of *Magna Charta*, and their Liberties, (k) *Matthew Paris* will informe us; who writes, That the King in all his Oathes and promises did so farre transgresse the bounds of truth, that the Prelates and Lords knew not how to hold this Pious, the King, for where there is no truth, there can be no fixed confidence: That though he sometimes humbled himselfe, confessing that he had bene often bewitched by ill counsell, and promised with a great Oath solemnely taken upon the Altar and Coffin of *Saint Edward*, that he would plainly and fully correct his former Errors, and graciously condescend to his naturall Subject. god counsell; yet his frequent preceding breaches of Oathes and promises, *Se penitus incredibilem reddiderunt*, made him altogether incredible, so that (though he usually heard three Masses every day, but seldom any Sermons (as (l) *Walsingham* notes) yet none would afterwards believe him, but ever feared and suspected his words and actions, and to avoid the infamy of perjury, which he feared, he sent to the Pope to absolve him from his Oathes he repented of, who easily granted him an absolution. Such faith, such assurance is there in the Oathes, the Protestations of Princes to their Subjects; whose Politicke capacities oft times have neither soule nor conscience, and seldome keepe any Oathes or promises, no further than it stands with their owne advantages, repuring enely pious frauds, to over-reach and intrap their credulous people. This perfidiousnesse in the King, made his long Reigne full of troubles, of bloody civill warres, and oft times endangered the very losse of his Crowne and Kingdome, as our Historians informe us, for which he repented and promised amendment: at his death

(m) *Breton* an antient Lawyer in this Kings daies, writes. *T. at the King in his Coronation OUGHT* by an Oath taken in the name of *Jesus Christ*, to promise these three things to the people subject to him. First, that he will command and endeavour to his power, that true peace shall be kept to the Church and all Christian people in his time. Secondly, That he will prohibit rapines (or plunderings) and all iniquities, in all degrees. Thirdly, That in all judgements he will command equity and mercy, that so God who is gracious and mercifull may bestow his mercy on him, and that by his justice all men may enjoy firme peace. For (saith he) a King is SACRED and ELECTED (to wit, by his Kingdome) for this end, to doe justice unto all; for if there were no justice, peace would be easily exterminated, and it would be in vaine to make Lawes, and doe justice unless there were one to defend the Lawes, &c.

The forme of the Kings Coronation & Oath ever since *Edward the second* hath bene this, and is thus administered (p) *The Metropolitan or Bishop* that is to Crowne the King, with a meane and distinct voyce shall intenuerage him, if he will confirme with an Oath the Lawes and Customes granted to the people of England, by ancient, just, and devout Kings towards God, to the same people, and especially the Lawes, and Customes, and Liberties granted by glorious King *Edward* to the Clergie and People. And IF HE SHALL PROMISE that he will assent to all these; Let the Metropolitan or Bishop expound to him, what things he shall swear, saying thus. Thou shalt keepe to the Church of God, to the Clergie and people, peace intirely, and concord in God, according to thy power; The King shall answer, I will keepe it. Thou shalt cause to be done in all thy judgements, equall and right justice, and discretion, in mercy and verity, according to thy power: He shall answer; I will doe it. Thou grantest just Lawes and Customes to be kept, and thou dost promise, that these Lawes shall be observed and confirmed by thee to the honour of God, QUAS VULGUS ELEGIT, which the people shall chuse, according to thy power: He shall answer; I doe grant and promise. And there may be added to the foresaid Interrogations, what other things shall be just. All things being pronounced, he shall with an Oath upon the Altar presently taken before all, confirme that he will observe all these things.

There hath bene a late unhappy difference raised betweene the (q) King and Parllament about the word ELEGIT; the Parllament affirming the word to signifie, shall chuse; according to sundry written Rolles and Printed Copies in Latine and French, the King on the contrary affirming, it should be *hath doin*; But he that observes the words of these ancient Oathes: *Populo tibi commisso rectam justitiam exercetis, malas leges & iniquas consuetudines, si aliqua fuerint in Regno tuo, delebis, & bonas observabis*, all in the future tence: and the verbes, *servabis, Facies fieri, protegendus, corroborandus* in the former and same clauses of the Oath now used, all of them in the future, with the whole Scope, intent and purport of this part of the Oath, must necessarily grant, shall chuse, to be the true reading; and that it referres to the confirmation of* *saue Lawes*, to be afterwards made in Parllament, not to those onely in being when the Oath was administered; else Kings should not be obliged by their Oathes, to keepe any Lawes made after their Coronations by their owne assent, but onely those their Predecessors assented to, not themselves, which were most absurd to asseme. But because I have largely debated this particular, and given you an account of our Kings Coronation Oathes from King *Richard the seconds* Reigne downeward, in my following Discourse, and debate of the Kings pretended Negative voyce in passing Bills in Parllament, I shall proceed no further in this subject here.

From these severall Oathes and Passages, the usuall forme of the Nobles proclaiming such and such Kings of *England*, the (r) fore-cited Histories; the manner of our Kings Coronation thus expressed in the close Roll of 1 R. 2. n. 44. Afterwards the Archbishop of Canterbury having taken the corporall Oath of our Lord the King, to grant and keepe, and with his Oath to confirme the Lawes and customes granted to the people of the Kingdome of England, by ancient, just, and devout Kings of England, the progenitors of the said King, and especially the Lawes, Customes and Freedomes granted to the Clergy and people of the said Kingdome, by the most glorious and holy King Edward, to keepe to God and the holy Church of God, and to the Clergy and people, peace and concord in God entirely, according to his power, and to cause equall and right Justice to be done, and discretion in mercy and truth, and also to hold and keep the just Lawes and customes of the Church; and to cause that by our said Lord the King they should be protected, and to the honour of God corroborated, which the PEOPLE SHOULD JUSTLY AND REASONABLY CHUSE to the power of the said Lord the King: the aforesaid Archbishop, going to the foure sides of the said Scaffold, declared and related to all the people. how that our Lord the King had taken the said Oath, inquiring of THE SAME PEOPLE, IF THEY WOULD CONSENT TO HAVE HIM THEIR KING AND LIEGE LORD? WHO WITH ONE ACCORD CONSENTED THERETO. Which

() Page 8, 9.

* *Thomas of Walsingham* who relates the whole forme of this Kings Coronation thus describeth. *Quibus completis, Archiepiscopus procedente eo Marescallus Angliae Henrico Percy, convertit se ad omnes plagas Ecclesiae, INDICANS POPULO REGIUM JURAMENTUM & quaerens SI SE TALI PRINCIPI AC RECTORI SUBJICERE, & ejus jussionibus obtemperare Vellent, ET RESONSUMESTA PLEBE resonno clamore, QUOD LUBENTER SIBI PARERE Vellent.* Which custome both before and since hath been constantly in this Land observed at the Coronation of our Kings: from all these I say it is apparent: First, that Popish Parliaments, Peeres, and Subjects, have deemed the Crowne of *England* not meereley successive and hereditary, though it hath usuallly gone by descent, but arbitrary and elective, when they saw cause, many of our Kings comming to the Crowne without just hereditary Title, by the Kingdome, Peeres, and peoples free election onely confirmed by subsequent Acts of Parliament, which was then reputed a sufficient Right and Title; by vertue whereof they then reigned and were obeyed as lawfull Kings, and were then and yet so acknowledged to be; their right by Election of their Subjects (the footsteps whereof doe yet continue in the solemne demanding of the peoples consents at our Kings Inaugurations) being seldome or never adjudged an illegall usurpation in any Parliaments: whence the statute of 1 E. 4. c. 1. & 9 E. 4. f. 2. declares King *Henry* the 4. 5. and 6. to be successively Kings of *England* indeed, and not of right, yet not usurpers because they came in by Parliament. Onely *Richard* the third, (who treacherously murdered *Edward* the 5. his Sovereigne, and violently usurped his Crowne, at first, before any Parliament gave it him, compelling the Lords and Commons afterwards to Elect him King out of feare, after his slaughter in *Bosworth* field,) was declared an usurper by Act of Parliament 1 Hen. 7. c. 6. and so adjudged to be by 8 H. 7. f. 1. sec 1 E. 4. c. 1 & c. 9 E. 4. f. 1, 2. and *Henry* the 7. had the Crown set upon his head in the field, by my Lord *Stanly*, as though (saith (s) *Grafton*) he had been elected king by the voyce of the people, as in ancient times past in divers Realmes it hath been accustomed. Secondly, that those Kings who have enjoyed the Crown by succession, descent, or election,

* *Hist. Angliae,*
1 R. 2. p. 193.

(s) Page 852.

(t) Cooke 7. Re-
port. f. 10, 11.
Calvins case.
Marsil. Patavi-
nus Defen. Pacis
part. 2. c. 25.
* Littleton, sect.
378, 379. &
Cooke's Instit.
Ibid. f. 232,
233, 234.

(v) Baldus
Proem de Feud.
n. 32. Dr. Cra-
kenhede's defence
of Constantine,
p. 163. 10 175.
Grimsf. Imper-
all hist. p. 653.
* See Fortescue,
c. 12, 10 15.
Johan. Mar. de
Rege & Regis
Instit. l. 1. c. 7,
8, 9.
* Pag. 7, 8, 9.

* Walsingham,
hist. Ang. p. 107,
108, 109: Ipo-
dizma, Neustria:
p. 109, 110:
Polychron, l. 7.
ch. 4.
Polydor Virgil.
hist. Angl. l. 18.
Sir Thomas de la
More, Grafson,
p. 215, 216.
Speels, p. 681,
682. Daniel,
p. 217, 218.
Halsted, Cay-
ron, Stone, and
others in his
life:

have still taken it upon the conditions and covenants contained in their Coronation Oathes; which if they refused to sweare to the Peeres and people, really and bona fide to performe, they were not then to be crowned or received as Kings, but adjured in the name of God to renounce this dignity. And though in point of Law, (t) those who enjoy the Crowne by Succession, be Kings, before their Coronations; yet it is still upon those subsequent * Conditions both contained in their Coronation Oathes, which impose no new but only ratifie the old conditions inseparably annexed to the Crowne by the Common Law, ever since Edward the Confessors daies, and long before, as Father * Littleton resolves, (the Office of a King being an Office of the greatest trust of any other, which the Common Law, binds the King well and lawfully to discharge, to doe that which to such Office belongeth to doe) as the Oathes of all our Kings to their people; really to performe these Articles and Conditions, fully demonstrate. Thirdly, that these Oathes are not merely arbitrary or voluntary at the Kings pleasure, to take or refuse them if he will, but necessary and inevitable, by the Law, and constant usage of the Realm, yea of all (v) Christian most Pagan Realms whatsoever, which prescribe like Oathes to their Kings. From all which I may firmly conclude, that the whole kingdome and Parliamt are the Supream Sovereigne Authority; and Paramount the king, because they* may lawfully, and doe usually prescribe such conditions, termes, and rules of governing the people to him, and bind him thus by Oath, faithfully to performe the same, as long as he shall continue King; which Oath our Kings usually tooke, or at least faithfully promised to take to their Subjects in ancient times, before ever they did or would take an Oath of fealty, homage or Allegiance to them, as the premises evidence, & *Clasf. Res.* 1 R. 2. M. 44.

Tenthly, Our Parliaments and Kingdome anciently in times of popery, and Paganisme have both challenged and exercised a Supream power over the Crowne of England it selfe, to transerre it from the right heire, and setle it on whom themselves thought meete to elect for their King; and likewise to call their Kings to an account for their mis-government, and breach of Oath to the prejudice of their people, so farre as to atticle against them, and either by force of Armes, or a judiciall sentence in Parliament, actually to depose them, and set up others in the Throne, as the * fore-cited presidents. (of Archigallo, Emserian, two ancient Brittish Kings, of Edwin king of Mercia, and others deprived of all honour and kingly dignity, by the unanimous consent of their Subjells for their Tyranny, Oppression, Male-administration, vicious lives, and others elected and made kings in their places) evidence, which Acts of theirs they then reputed just and legall. I shall cite you onely two presidents of this kind, which have meere relation to Parliaments. The first is that of * King Edward the second, who being taken prisoner by his Queen, Sonne, Nobles, for his male-administration; the Queen, with her sonne by the advice of her Councell, summoned an high Court of Parliament at Westminster in the Kings name, which began the 16 day of January, An. 1325. In which assembly it was declared, that this Realm could not continue without an head and governour, and therefore first, they agreed to draw into Articles the Mis-government of the king that was in prison, and all his evil doings, which he had done by evill and naughty Councell. And when the said Articles were read and made knowne to all the Lords, Nobles, and Commons of the Realme, they then consulted how the Realme should be governed from thenceforth. And after good deliberation, and consultation of the fore-laid Articles of the Kings evill government, they concluded: THAT SUCH A MAN WAS NOT WORTHY TO BE A KING, NOR TO WEARE A CROWNE ROYALL. And therefore they all agreed, that

that Edward his eldest sonne, who was there present, and was rightfull heire, should be crowned King in stead of his Father, SO THAT HE WOULD TAKE ABOUT HIM SAGE, TRUE, AND GOOD COUNCELL, and that from thenceforth the Realm might be better governed then before it had been. And it was also agreed, that the old king his father should be well and honestly kept as long as he lived, according to his estate. All these things concluded, they ELECTED his son Edward King in the great hall at Westminster, with the UNIVERSALL CONSENT OF THE PEOPLE THERE PRESENT; and the Archb. of Canterbury thereupon makes there a Sermon on this Text, *Vox populi, vox Dei*: exhorting the people, to invoke the king of kings for him they had then chosen. It was further ordered and agreed, that during the Parliament time, a solemne Message should be sent to the King to Kenelworth Castle, (where he was kept prisoner) to declare unto him not only the determination of the three estates concerning HIS DEPOSING FROM THE KINGDOME, but also to resigne unto him IN THE NAME OF THE WHOLE REALME, all their homage that before time they had done him: and to doe this message, there was certaine select persons chosen by the Parliament, namely, the Bishops of Winchester, Hereford, and Lincoln, two Earles, two Abbots, foure Barons, two Iustices, three knights for every County, and for London, the Cinqueports, and other Cities and Burroughes, a certaine chosen number, with the Speaker of the Parliament, whose name was Sir William Trussell: who comming into the Kings presence told him, That the Common-weale had received so irreconcilable dislikes of his government, the particulars whereof had been opened in the Assembly at London, that it was resolved never to indure him as King any longer. That notwithstanding, those dislikes had not extended themselves so farre, as for his sake to exclude his issue, but that with univiersall applause and joy, THE COMMON-WEALE HAD IN PARLIAMENT ELECTED HIS ELDEST SONNE, THE LORD EDWARD FOR KING. That it would be a very acceptable thing to God, willingly to give over an earthly kingdome for the common good and quiet of his Country, which they said could not otherwise be secured. That yet his honour should be no lesse after his resignation then before it was; onely him the Commonweale would never suffer to resigne any longer. They finally told him, That unlesse he did of himselfe renounce his Crowne and Scepter, the people would neither endure him, nor any of his children as their Sovereaign; but disclaiming all homage and fealty, would elect some other for king, who should not be of the blood. This message strucke such a chilnesse into the King, that he fell groveling to the earth in a swoon; which the Earle of Leicester and Bishop of Winchester beholding, run unto him, and with much labour recovered the halfe dead King, setting him on his feet: who being come to himselfe, the Bishop of Hereford running over the former points, concludes, saying, as in the person of the Commonwealth, That the king must resigne his Diadem to his eldest sonne; or, after the refusall, suffer THEM TO ELECT SUCH A PERSON AS THEMSELVES SHOULD JUDGE TO BE MOST FIT AND ABLE TO DEFEND THE KINGDOME. The dolorous King having heard this speech, brake forth into sighes and teares, & made at the last this answer, to this effect, That he knew, that for his many finnes he was fallen into this calamity, and therefore had the lesse cause to take it grievously. That he much sorrowed for this, that the people of the kingdome were so exasperated against him, as that they should utterly abhor his any longer rule and sovereignty: and therefore he besought all that were there present, to forgive and spare him being so afflicted. That neverth lesse it was greatly to his good pleasure and liking, (seeing it could none other be in his behalfe) that his eldest sonne

was so gracious in their sight, and therefore he gave them thanks for chusing him their King. This being said, then was a proceeding to the short Ceremonies of his resignation, which principally consisted in the surrender of his Diadem and Ensignes of Majesty to the use of his Sonne the new King. Thereupon Sir *William Trussell* the Speaker, ON THE BEHALFE OF THE WHOLE REALM, renounced all homage and allegiance to the said *Edward of Carnarvan*, late King, in these words following, *I William Trussell, IN THE NAME OF ALL MEN OF THIS LAND OF ENGLAND, AND OF ALL THE PARLIAMENT PROCURATOR, resigne to thee Edward the homage that was sometimes made unto thee, and from this time now forward I desie thee, AND DEPRIUE THEE OF ALL ROYALL POWER, I shall never be attendant to thee as King after this time.* After which King *Edward* the third being solemnly crowned, proclaimed his peace to all his people in these words :

‘*Edward by the grace of God, King of England, Lord of Ireland, and Duke of Aquitaine, to N. N. our Sheriffe of S. greeting: Because the Lord Edward our Father, late King of England, by THE COMMON COUNSELL AND ASSENT OF THE PRELATES, EARLS, BARONS, AND OTHER THE CHIEFE MEN AND WHOLE COMMONALIE OF THE KINGDOM, did voluntarily remove himselfe from the government thereof; willing and granting that We, as his eldest Sonne and Heire, should take upon us the rule and regiment of the same: and we, with the counsell of the Prelates, Earls, and Barons aforesaid, yeelding therein to our Fathers good pleasure and will, have taken upon Us the Governanee of the said Kingdome, and as the manner is, have received the Fealties and Homages of the said Prelates and Peeres. We therefore desirous that Our peace for the quiet and calme of Our people should be inviolably observed, do will and command you, that presently upon sight of these presents, you cause Our Peace to be proclaimed throughout your Bayli-mick, forbidding all and every one on Our behalfe, under paine and perill of disinheriance, and losse of life and limbs, not to presume to violate or infringe Our said Peace, but that every one pursue or follow his Actions and Complaints without any manner of outrage, according to the Lams and Customs of Our Kingdome: for We are ready and alwayes will be, to administer full right to all and singular complaints, as well of poore as rich, in Our Courts of Iustice.*

The second *President is, that of King *Richard* the second, who being taken prisoner by *Henry* Duke of *Lancaster*, An. 1399. the Duke soone after, on the thirteenth of September called a Parliament in the Kings Name, wherein was declared, how unprofitable King *Richard* had been to the Realme during his reigne, how he subverted the Lawes, polled the people, ministred Iustice to no man, but to such as pleased him. And to the intent the Commons might be perswaded, that he was an unjust and unprofitable Prince, and a Tyrant over his Subjects, and THEREFORE WORTHY TO BE DEPOSED; there were set forth certaine Articles (to the number of 32, or 38. as some record) very hainous to the eares of many: some whereof I have * formerly recited, and the residue you may read in *Hall, Grafston, Haywood, Trussell*, and others. After which *Richard* was charged with the foresaid Articles. there was an instrument made declaring his Answers, and how he consented willingly to be deposed; the Tenor of which instrument was as followeth. ‘This present Instrument made the Munday the 29. day of September, and feast of Saint *Michael*, in the yeere of our Lord God, 1389. and the 23. yeere of ‘*King Richard* the second, witnesseth that where by the Authority of the Lords

‘*Spirituall*

* *Walsingham* hist. Ang p 398.
399. 400. Tpo-
digma p 156.
Halls Chron. 1.
H. 4. 1. 6. 10 9.
Fabian part 7.
p. 346. 10 355.
Grafston p. 400.
10 407.
Speed p 757.
758. 759. 760.
Trussell p. 43. 10
50.
Holinshed, Stow,
Heywood, and
others. Fox
Acts and Mon.
vol. 1. p. 671.
* Here p. 29. 30.

Spirituall and Temporall of this present Parliament, and Commons of the same,
 the right honourable, and discret persons hereunder named, were by the said
 Authority assigned to goe unto the *Tower of London*, there to heare and testifie
 such Questions and Answers as then and there should be by the said honourable
 and discret persons heard. Know all men to whom these present Letters shall
 come, That we, Sir *Richard Seroop Archbishop of York*, *John Bishop of Hereford*,
Henry Earle of Northumberland, *Ralse Earle of Westmerland*, *Thomas Lord of Bark-*
by, *William Abbot of Westminster*, *John Prior of Canterbury*, *William Thirning*, and
Hugh Burnell Knights, and *John Markham Justice*, *Thomas Stome*, and *John Bur-*
bage Doctors of the Law civill, *Thomas Fereby* and *Denis Lopham Notaries pub-*
 like, the day and yeer abovesaid, betweene the houres of eight and nine of the clock
 before noone, were present in the chiefe Chamber of the Kings lodging within
 the said place of the *Tower*, where was rehearsed to the King by the mouth of the
 foresaid *E. of Northumb.* that before time at *Conway* in north *Wales*, the King being
 there at his pleasure and liberty, promised unto the *Archbishop of Cansebury*, then
Thomas Arundell, and unto the said *Earle of Northumberland*, that for insufficiency
 which he knew himselfe to be of, to occupie so great a charge as to governe this *Realm* of
England, he would gladly leave off, and renounce the right and title, as well of that, as of
 his isle to the *Crowne of France*, and his *Majestie*, unto *Henry Duke of Hertford*;
 and that to doe in such convenient wise, as by the learned men of this *Land* it should most
 sufficiently be by them devised and ordained. To the which rehearfall the King in our
 said presences answered benignly and said, That such promise he made, and so to the
 same he was at that houre in full purpose to perform and fulfill, saving that he desired first
 to have personall speech with the said *Duke*, and with the *Archbishop of Canterbury* his
 Counsels: And furthermore, he desired to have a *Bill* drawn of the said *Resignation*, that
 he might be made perfect in the rehearfall thereof. After which Copy by me the said
Earls delivered, we the said *Lords* and others departed. And upon the same after-
 noone the King desired much of the comming of the *Duke of Lancaster*, at the last
 the said *Duke*, with the *Archbishop of Canterbury*, entred the foresaid Chamber,
 bringing with them the *Lord Ros*, the *Lord Burgeiney*, & the *Lord Willoughbie*, with
 divers others: where after due obeyfance done by them unto the King, he fami-
 liarly and with a glad countenance to us appearing, talked with the said *Archbishop*
 and *Duke* a good season: And that Communication finished, the King with a glad
 countenance in presence of us, and the other above rehearsed, said openly, That he
 was ready to renounce and resigne all his *Kingly Majestie* in manner and forme as he be-
 fore seasons had promised: And although he had and might sufficiently have declared his
 renouncement by the reading of another meane person, yet he for the more surety of the
 matter, and for the said *resignation* should have his full force and strength, he therefore
 read the *Scroll* of *resignation* himselfe in manner and forme as followeth. In the Name of
 God, Amen. I *Richard* by the grace of God, King of *England* and of *France*, and
 Lord of *Ireland*, acquit and assoile all *Archbishops*, *Bishops*, and other *Prelates* secular
 or religious, of what dignity, degree, state, or condition that they be of; and also all
Dukes, *Marquesses*, *Earles*, *Barons*, *Lords*, and all mine other liege men both spirituall
 and secular, of what manner of name or degree they be, from their Oath of fealty and ho-
 mage, and all other Deeds and Priviledges made unto me, and from all manner of Bonds
 of *Allegeance* and *Regality* or *Lordship*, in the which they were or be bound to me, or in any
 otherwise constrained, and them their heires and successors for evermore from the same
 Bonds and Oaths I release, deliver, acquit, and let them for ever be free, dissolved and

acquit, and to be harmlesse for so much as belongeth to my person, by any manner way or
 title of right that to me might follow of the foresaid things or any of them: And also I
 resigne all my Kingly Dignity, Majesty, and Crowne, with all the Lordships, Power,
 and Priviledges to the foresaid Kingly Dignity and Crown belonging, and all other Lord-
 ships and Possessions to me in any manner of wise pertaining, what name or condition they
 be of, out take the Lands and Possessions for me and mine obite purchased and bought. And
 I renounce all right and colour of right, and all manner of title of possession and Lordship
 which I ever had or have in the same Lordships and possessions, or any of them, or to them,
 with any manner of rights belonging or appertaining unto any part of them: And also the
 rule and governance of the same Kingdome and Lordships, with all ministrations of the
 same, and all things, and every of them, that so the whole Empire and Iurisdctions of the
 same belongeth of right, or in any wise may belong: And also I renounce the name, wor-
 ship, and regality, and kingly highnesse, cleerly, freely, singularly, and wholly in the most
 best manner and forme that I may, and with deed and word I leave off and resigne them,
 and go from them for evermore, saving alway to my successors Kings of England, all the
 Rights, Priviledges and appurtenances to the said Kingdome and Lordships abovesaid
 belonging and appertaining: For well I wote and acknowledge, and deem my selfe to be
 and have bin unsufficiant and unable, and also unprofitable, and for mine open d'serts not
 unworthy to be put down: And I sweare upon the holy Evangelists here presently with
 my hands touched, that I shall never repugne to this resignation, dimission, or yeelding
 up, nor never impugne them in any manner by word or by deed, by my selfe, nor by none
 other; ner I shall not suffer it to be impugned in as much as in me is, privily nor apart:
 but I shall have, hold, and keep this renouncing, dimission, and leaving up for firme and
 stable for evermore in all and in every part thereof, so God me helpe and all Saints, and
 by this holy Evangelist by me bodily touched and kissed: And for more record of the
 same, here openly I subscribe and signe this present Resignation with mine owne hand.
 And forthwith in our presences, and other, subscribed the same, and after deliver-
 ed it to the Archbishop of Canterbury, saying, That if it were in his power, or at
 his assignment, he would that the Duke of Lancaster there present should be Successour
 and King after him. And in token thereof, he took a Ring of gold from his finger,
 being his Signet, and put it upon the said Dukes finger, desiring and requiring the
 Archbishop of Yorke, to shew and make report unto the Lords of the Parliament of
 his voluntary Resignation, and also of his intent and good minde that he bare
 toward his Cousin the Duke of Lancaster, to have him his Successour and King after
 him. And this done, every man took their leave, and returned to their own.

Upon the morrow following, being Tuesday, and the last day of September,
 all the Lords Spirituall and Temporall, with also the Commons of the said Par-
 liament, assembled at Westminster, where, in the preferre of them, the Archbishop
 of Yorke, according to the Kings desire, shewed unto them seriously the voluntary
 Renouncing of the King, with also the favour which he ought unto his Cousin
 the Duke of Lancaster for to have him his Successour: And over that shewed
 unto them the Scedule or Bill of Renouncement, signed with King Richards hand.
 After which things in order by him finished, the question was asked first of the
 Lords, If they would admit and allow that Renouncement? The which when it was of
 the Lords granted and confirmed, the like question was asked of the Commons,
 and of them in like manner affirmed. After which admission it was then decla-
 red, That notwithstanding the foresaid renouncing so by the Lords and Commons ad-
 mitted, it were needfull unto the Realme, in avoiding of all suspicions and surmises of
 will

evill disposed persons, to have in writing and registred the manifold crimes and defaults
 before done by the said Richard late King of England, to the end that they might be first
 openly shewed to the people, and after to remain of Record among the Kings Records.
 The which were drawn and compiled, as before is said, in 38. Articles, and there
 shewed readie to be read: but for other causes then more needfull to be prefer-
 red, the reading of the said Articles at that season were deferred and put off.
 Then forso much as the Lords of the Parliament had well considered this volunta-
 ry Renouncement of King Richard, and that it was behovefull and necessary for the
 weale of the Realme to proceed unto the sentence of his depofall, they there appoint-
 ed by authority of the Statutes of the said Parliament, the Bishop of Saint Asse, the Abbot
 of Glasstebury, the Earle of Glocester, the Lord of Barkley, William Thyrning Justice,
 and Thomas Erpingham. and Thomas Gray Knights, that they should give and beare
 open sentence to the Kings depofition: whereupon the said Commissioners lay-
 ing there their heads together, by good deliberation, good counsell and advisement, and
 of one assent agreed among them, that the Bishop of Saint Asse should publish the sen-
 tence for them, and in their names, as followeth. *In the Name of God, Amen. We*
John Bishop of Saint Asse or Assence, John Abbot of Glasstebury, Richard Earle of
Glocester, Thomas Lord of Barkley, William Thyrning Justice, Thomas Erping-
ham and Thomas Gray Knights, chosen and depuied speciall Commissaries by the three
Estates of this present Parliament, representing the whok body of the Realme, for all such
matters by the said Estates to us committed; We understanding, and considering the manifold
crimes, hurts, and harmes done by Richard King of England, and misgovernance of the
same by a long time, to the great decay of the said Land, and utter ruine of the same short-
ly to have been, ne had the speciall grace of our Lord God thereunto put the sooner remedie,
and also furthermore advecting the said King Richard, knowing his own insufficiency, hath
of his own meere voluntarie and free will renounced and given up the rule and govern-
ment of this Land, with all Rights and Honours unto the same belonging, and utterly for his
merits hath judged himselve NOT UNWORTHY TO BE DEPO-
SED OF ALL KINGLY MAJESTY AND ESTATE ROY-
ALL, We, the Premisses well considering, by good and diligent deliberation, by the
POWER, NAME, AND AUTHORITIE TO US AS A-
BOUE IS SAID COMMITTED, PRONOUNCE, DIS-
CERNE, AND DECLARE the same King Richard before this to have
 bene, and to be unprofitable, unable, insufficient, and unworthy to the rule and govern-
 ance of the foresaid Realms, Lordships, and all other Appurtenances to the same belonging:
 and FOR THE SAME CAUSES WE DEPRIUE HIM OF ALL KING-
 LY DIGNITIE AND WORSHIP, AND OF ANY KING-
 LY WORSHIP IN HIMSELFE. AND WE DEPOSE HIM BY
 OUR SENTENCE DEFINITIEVE, forbiding expressly to all Archbishops, Bi-
 shops, and all other Prelates, Dukes, Marquesses, Earles, Barons, and Knights, and to all
 other men of the foresaid Kingdom and Lordships, or of other places belonging to the same
 Realms and Lordships, Subjects and Lieges whatsoever they be, that none of them from
 this time forward, to the foresaid Richard as King and Lord of the foresaid Realms and
 Lordships, be neither obedient nor attendant.

After which sentence thus openly declared, the said Estates admitted forthwith
 the same persons for their Procurators, to resigne and yeeld up to King Richard
 all their homage and fealty which they have made and ought unto him before
 times, and for to shew unto him, if need were, all things before done that concern-

ed his deposing. The which resignation at that time was spared, and put in respice till the morrow next following: And anon, as this sentence was in this wise passed, and that by reason thereof the Realme stood void without Head or Governour for the time, the said Duke of Lancaster rising from the place where he before sat, and standing where all might behold him, he meekly making the signe of the Crosse upon his forehead and upon his breast, after silence by an Officer was commanded, said unto the people there being, these words following: *In the name of the Father, Sonne, and holy Ghost, I Henry of Lancaster claime the Realme of England and the Crowne, with all the appurtenances, as I that am descended by right line of the blood, comming from that good Lord King Henry the third, and through the right that God of his grace hath sent to me, with the helpe of my kenne and of my friends to recover the same, which was in point to be undone for default of good Governance and due Justice.*

After which words thus by him uttered, he returned & set him down in the place where he before had sitten. Then the Lords perceiving and hearing this claim thus made by this noble man, either of them frained of other what he thought; and after a distance or pause of time, the Archbishop of Canterbury having notice of the Lords minde, stood up and asked the Commons if they would ASSENT TO THE LORDS, WHICH in their mindes thought the claime by the Duke more to BE RIGHTFULL AND NECESSARY FOR THE WEALTH of the Realm, and of them all. Whereunto they cryed with one voice, YEA, YEA, YEA After which answer, the said Archbishop going to the Duke and setting him upon his knee, had unto him a few words: the which ended, he rose, and taking the Duke by the right hand, led him unto the Kings seat, and with great reverence set him therein, after a certaine Kneeling and Orison made by the said Duke, &c he were therein set. And when the King was thus set in his Throne, to the great rejoycing of the people, the Archbishop of Canterbury began there an Oration or Collation in manner as after followech: * *Vir Dominabitur in populo, 1 Regum cap. 9.* These be the words of the high and most mighty King, speaking to Samuel his Prophet, teaching him how he should chuse and ordaine a Governour of his people of Israel, when the said people asked of him a King to rule them. And notwithstanding without cause may these words be said here of our Lord the King: that is, For if they be inwardly conceived, they shall give unto us matter of consolation and comfort, when it is said that a Man shall have Lordship and rule of the people, and not a Childe, for God threatneth not us as he sometime threatned the people by Esay 3. *Esay. I shall, saith our Lord, give children to be their Rulers and Princes and weak or fearfull shall have dominion over them.* But of his great mercy hee hath visited us. I truit his peculiar people, and sent us a Man to have the rule over us, and put by Children, that before time ruled this land after childish conditions, as by the works of them it hath right lately appeared, to the great disturbance of all this Realme, and for want and lack of a man: For as saith the Apostle Paul, in 1 Cor. 14. *When I was a childe I favoured and spake as a childe; but at the time when I came to the stature of a man, then I put by all my childish conditions.* The Apostle saith, he favoured and spake as a childe in whom is no stedfastnesse or constancy; for a childe will lightly promise, and lightly he will breake his promise, and doe all things that his appetite giveth him unto, and forgeteth lightly what he hath done. By which reason it followeth, that needs great inconvenience must fall to that people that a Childe is ruler and Governour of; nor is it possible for that Kingdon

*Fabian part 7.
p. 351. 352.
353.

to stand in felicity where such conditions reigne in the head and ruler of the same.
 But now wee ought all to rejoyce, that all such defaults bee expelled, and that a
 Man and not a Childe shall have Lordship over us, to whom it belongeth to have
 a sure reine upon his tongue, that he may be knowne from a Childe, or a Man
 using childish conditions; of whom I trust I may say as the wise man saith in his
 Proverbs, *Blessed be the man that hath wisdom, and that aboundeth in prudence*: For
 that man that is ruled by sapience, must needs love and dread our Lord God; and
 who so loveth and dreadeth him, it must consequently follow, that he must keep his
 Commandements. By force whereof he shall minister true Justice unto his Sub-
 jects, and do no wrong nor injury to any man, so that then shall follow the words
 of the wise man, which he rehearsed in Proverbs 10. *The blessing of our Lord God
 shall alight upon the head of the King, being a just and right wise man, for the tongue of
 him worketh not iniquity and injustice, but the tongue of the wicked and sinners covereth
 iniquity*: And who that worketh or ministreth Justice in due order, he not only safe
 guardeth himselfe, but also holdeth the people in a surety of restfulnesse, of the
 which ensueth peace and plenty: and therefore it is said of the wise King *Solo-
 mon*, Eccles. 10. *Blessed and happy is that land, of which the King or Ruler is noble
 and wise, and the Princes be blessed that live in his time*. As who would say, They
 may take example of him to rule and guide their Subjects; for by the discretion
 of a noble and wise man, being in authority, many evils are sequestred and put
 apart, and all dissemblers put unto silence; for the wise man considereth well the
 great inconveniences which daily now grow of it, where the childe or insipient
 drinketh the sweet and dilicious words unadvisedly, and perceiveth not intox-
 ication which they be mingled or mixt with, till he be invironed and wrapped
 in all danger, as lately the experience thereof hath been apparent to all our
 sights and knowledges, and not without the danger of all this Realm, and all
 was for lacke of wisdom in the Ruler, which deemed and taught as a childe, gi-
 ving sentence of wilfulnesse and not of reason; so that while a childe reigned,
 selfe will and lust reigned, and reason with good conscience was outlawed, with
 Justice, stedfastnesse, and many other vertues. But of this perill and danger wee
 be delivered by the especiall help and grace of God, because he that now ruleth
 is not a childe, but perfect in reason, for he commeth not to execute his owne
 will, but his will that sent him, that is to wit, Gods will, as a man unto whom
 God of his abundant grace hath given perfect reason and discretion to discern
 and deem as a perfect man; wherefore of this man we shall not onely say, that he
 shall dwell in wisdom, but as a perfect man, and not a childe, he shall thinke and
 deem, and have such circumspection with him, that hee shall diligently fore-
 looke and see that Gods will be done, and not his: and therefore now I trust the
 words of the wise man, Eccles. 10. shall be verified in our King, saying, *A wise
 and discreet Judge shall now deeme his people, and the Dominion or Lordship of a discreet
 wise man shall stand stedfast*; whereupon shall then follow the second verse of the
 same Chapter, saying, *Like as the Head and Sovereigne is replenished with all sapi-
 ence and vertue in guiding of his people, administering to them Law with due and con-
 venient Justice, so shall the Subjects be garnished with awe and loving dread, and
 beare unto him, next God, all honour, truth, and allegiance*. So that then it may bee
 concluded with the residue of the foresaid verses, Such as the Ruler of the City
 is, such then be the inhabitants of the same: So that consequently it followeth,
 A good Master maketh a good Disciple: And likewise, an evill King or Ruler

th li lose his people, and the Cities of his Kingdome shall be left desolate and uninhabited. Wherefore thus I make an end, in stead of a childe, wilfully doing his lust and pleasure without reason, now shall a man be Lord and Ruler, that is replenished with sapience and reason, and shall governe the people by skillfull doings, setting apart all wilfulnesse and pleasure of himselfe; so that the word that I began with, may be verified in him, *Ecce quia vir dominabitur in populo*, the which our Lord grant, and that he may prosperously reign unto the pleasure of God, and wealth of his Realm. Amen.

The which Oration being thus finished, and the people answering with great gladnesse, Amen. The King standing upon his feet, said unto the Lords and Commons present. *Sirs, I thanke you, my Lords Spirituall and Temporall, and all the States of this Land, and doe you to understand, that it is not my will that any man think that by the way of conquest I would disinherit any man of his heritage, franchise, or other rights that he ought to have, of right, nor for to put him out of that which he now enjoyeth, and hath had before time by custome of good Law of this Realm, except such private persons as have bene against the good purpose and the common profit of the Realme.* And this speech thus finished, all Sheriffs and other Officers were put in their Authorities, which season for the time that the Kings Sea was void, and after every man departed. And at afternoon were Proclamations made in accustomed places of the City in the name of King Henry the fourth. And upon the morrow following, being wednesday, and the first of October, the Procurators abovenamed went unto the Tower of London, and there certified Richard of the admission of King Henry: And the foresaid Justice, *William Thyrning*, in the name of the other, and for all the States of the land, gave up unto Richard late King, all homage and fealty unto him before time due, in like manner and forme as before I have shewed to you in the deposition of King Edward the second. And thus was this Prince deprived of all Kingly dignity and honour by reason of his evil counsell, and such unlawfull wayes and meanes as he by his insolency in his Realme suffered to be used, when he had reigned two and twenty yeers, three moneths, and eight dayes. So *Fabian* and others *verbatimim*.

Those Parliaments then and Nationall Assemblies, which have thus disposed of the Crown and Kings themselves, and exercised such jurisdiction over them, must certainly be above them, and the highest Sovereigne power. True it is, our Protestant Pceres, Commons and Parliaments, never challenged nor exercised such jurisdiction, and I presume they will not doe it. However, it is neither honourable nor safe for Kings, and the most destructive policy their ill Counsellors can suggest unto them, so farre to oppresse their Subjects, or exasperate their Parliaments, as to provoke them to use the extremity of their Sovereigne power, and revive dead sleeping Presidents for their reliefe; *The consideration whereof when they were fresh, made succeeding Kings more just and moderate in their governments, and reclaimed many vicious oppressing Princes, as* * Archigallo and others witnesse. We know what *Solomon* saith. (y) *Surely oppression maketh a wise man mad*; and if Kings or their evil Instruments shall so far mad their Subjects and Parliaments (either by oppressions, rapines, misgovernment, destroying making warre upon them, or putting them out of their protections) as to make them cry out as they did against King *John*. (z) *Johannes factus est de Rege Tyrannus, imo de homine in bestialem prorumpens feritatem. Va tibi Johanni Regum ultime, Anglorum Principum abominatio, Nobilitatis Anglicanae confusio: Hen Anglia vastata, & amplius vastanda, &c.* Whereupon presently

* See *Mar. West.*
Jesory Monum.
Polych. Fab.
Graston Holin
Speeds, in his
life.
 (y) *Eccles. 7. 7.*
 (z) *Matth. Par.*
p. 264, 265, 268
Graft. p. 111.
 112.
Bishop Bilson.
part. 3. p. 480.

presently ensued, a *Nolimus hunc regnare. Tandemque decretum est, ut aliquem potentem in Regem eligerent, per quem possint ad possessiones pristinas revocari, credentes quod nullus Johanne peior, vel durior possit dominari, & tale miserabile statuentes argumentum.*

— *Fortuna miserrima tuta est,
Nam timor eventus deterioris abest.*

*Cumque aliquandiu, quem eligerent hesitassent, demum in hoc pariter consenserunt, ut Ludovicum filium Philippi Regis Francorum sibi praeficerent, & ipsum in Regem Anglie sublimerent; Which they did, to King Johns, their own, and the whole Kingdomes great prejudice. We know what the ill advise of Rehoboams rough & will Counsellours produced, 2 Chron. 10. And the King answered the people roughly after the advice of the young men, saying: My father made your yoke heavy, but I will adde thereto; my father chastised you with whips, but I will chastise you with scorpions. And when all Israel saw, that the King would not hearken unto them, the people answered the King (though some say he came to the Crown by succession) saying, What portion have we in David? and we have none inheritance in the Sonne of Jesse; every man to your Tents O Israel: and now David, see to thine owne house. So all Israel went to their Tents, and elected Ieroboam for their King, and fell away from the house of David to this day, being never after united to it, but continuing a distinct Kingdome from it. This grosse impoliticke maxime of ambitious Princes, now so much cryed up and profecured: Aut Caesar, aut Nullus, hath utterly unkinged, ruined hundreds of Kings and Emperours, with their families; and deprived them not onely of their Crownes but lives, as it did * Caesar himselfe, with many of his successors, whose tragicall ends should deter all other Princes from their destructive, aspiring, tyrannous counsels, courses, maximes.*

Wherefore the best policy Kings can use, to perpetuate their Thrones to them and their posterity, is to treat their subjects so, (a) as may win their hearts and affections, and not to straine their pretended prerogatives beyond the bounds of Law; this being a most certaine experimented rule which (b) Aristotle (the Prince of politicians) gives, That there are two intestine causes most perilous and frequent of all others, by which a Kingdome is usually lost, and subverted. The first is, if the Nobles and people dissent from the King himselfe. The second, if Kings will reigne tyrannically, and usurpe a greater domination or prerogative, then the Lawes of their Kingdoms give them. Then he addes, Verily a kingdome is preserved by contrary remedies, specially, by a moderate kinde and temperate forme of Government. For by how much the more moderate the King shall be, and contented with smaller and fewer prerogatives, by so much the more constant and longer-lasting shall his kingdome necessarily be; For by this meanes it recedes farther from the domination of Tyrants, and it comes nearer to the equability of manners and humanity of life, and is lesse envied by His subjects, which he proves by the notable speech and example of King Theopompus. And indeed this is the principall policy which God himselfe hath prescribed a King, to prolong his days in his Kingdome, he and his children after him; to keepe all the words of this Law, and these Statutes to doe them, (that is, to governe himselfe and his subiects onely by Law, not power) to doe justice and judgement, avoid oppression, & not to lift up his heart above his brethren; as if they were his vassals and not men, not Christians of the same kinde and quality as himselfe is. Wherefore I shall close up this with old Bractons resolution. (d) *Potest. & itaque Regis, juris est, & non injurie. Exercere igitur debet Rex potestatem Injuris sicut Dei vicarius & Minister in terra: quia illa potestas SOLIUS Dei est: potestas autem injurie, Diaboli & hominis: cujus horum operum feceris rex, ejus Minister*

See 2 Chro. 10.
& 11.

* See Plutarchi,
Julius Caesar,
Eutropius, Zonaras, Gringlor,
and others in
his life.

(a) Seneca de
Clementia, l. 1.

(b) Polit. l. 5. c.
10, 11. p. 367,
368. See Polybius,
Hist. l. 6.

(c) Deut. 17. 19,
20. See Prov.
16. 12. c. 20. 28.
c. 29. 4. 14. c. 25.
5.

(d) Lib. 2. c. 9.
f. 107. & c. 103.
l. 1. c. 17.

* Id est, Sola.

* See Leges Edwardi Confessoris cap. 17. in Lambards Archaion. f. 130. accordingly. * Iustinian. Codit. l. 1. Tit. 17. cap. 4.

(f) See p. 2. 3. & the Authors there quoted. Bishop Jewels View of a feditious Bull, and of the Popes Supremacy. Cassaneus Cata. glorie mundi part. 4.

(f) See Iohn Writes Way sect. 36. n. 30. 34. 35. p. 122. 104. 105. Surlus Tom. 3. & 4. (g) Fox Act & Monuments, vol. 1. p. 231. 235. 879. to 890. 962.

(h) See Iohn Writes Way sect. 36. n. 30. p. 103. & n. 34. 35. p. 104. 105. * See p. 6. (i) Psal. 82. J. 2. Ex. 22. 28. John 10. 34. (k) Rom. 13. 1. 3. 3. 4. (l) Pro. 8. 15. (m) Howden p. 702, 703. 705, 705. with Speed, Holinsbed, Graffm, Stow, Matthew Paris, Polychronicon, Fabian.

(n) Walsingh. Speed, Holinsh. Fabian, in Edw. 2. Froissards Chron part. 1. c. 12. 13.

ster erit, cuius operi a fecerit. Igitur dum facit iustitiam, vicarius est Regis aeterni, minister autem Diaboli dum declinat ad injuriam. * Dicitur enim Rex à bene regendi, non à regnando: quia Rex est dum bene regit. Tyrannus dum populum sibi creditum violenta opprimit dominatione. Temperet igitur potentiam suam per legem, qua frantum est potentia, quod secundum leges vivat, quia hoc sanxit Lex humana; quod leges suum ligent latorem; & valibi in eadem, * Digna vox Majestate regnantis est, legibus alligatum se Principem prostiteri. Item, nihil tam proprium est imperii quam legibus vivere: Et majus imperio est legibus submittere principatum; & merito debet retribuere legi, quia Lex tribuit ei; facit enim Lex quod ipse fit Rex. Item, cum non semper oporteat Regem esse armatum armis sed legibus, addiscat Rex sapientiam & conservet iustitiam. (All which is notably seconded by Judge Fortescue, De Laudibus Legum Anglia, c. 9. to. 15. worthy any Princes serious perusal:) And thus doing, neither he nor his Posterity need feare this Supream prerogative power of Parliaments, which hath laine dead and buried for many ages; Et pereat positum rubigine telum.

II. All Papists (e) attribute farre more divine authority and Sovereign Jurisdiction over Emperours, Kings, Princes, Kingdomes, Subjects, to the Pope their Lord and God, whom they make the Supream Monarch of the World and all kingdomes in it, and give him greater authority to summon, ratify, and dissolve generall Councils, then ever any Christian King or Emperour, challenged or usurped: yet those who maintaine these Paradoxes of the Popes Supremacy, confesse (f) that a Generall Council is above the Pope; and may upon just cause (though they all plead his Sovereignty to be jure divino, and his person most sacred, terming him his Holinesse, in the abstract) not onely convent and censure the Pope for his misdeameanours, but likewise actually depose him, and set up another in his stead, as the Councils of Pisa, Constans, Basil, (which deposed foure Popes, namely, Gregory the 12. Benedict the 13. Iohn the 23. and Eugenius the fourth) the Council of Chalcedon against Pope Leo, the Council of Sinuesse against Pope Marcellinus; the sixth, seventh, and eighth generall Councils against Honorius, the Councils of (g) Wormes and Brixia against Hildebrand, the Council of Pisa, summoned An. 1511. of purpose to depose Pope Julius for his perjury, experimentally manifest, and (h) sundry popish Writers acknowledge. Now the Council of Basil (as I shewed * before) defined, That the whole Kingdome or Parliament hath as great power over their Kings, as a Council hath over the Pope: Therefore by Papists verdicts they are above the King in point of Sovereigne power, as a Council is above the Pope: which Iohn Mariann, de Rege & Regis Instit. l. 1. c. 3. to 10. professedly proves at large.

12. That Court which may lawfully censure, question, depose, banish, execute the Kings greatest Favorites, Officers, Judges, yea Lord Protectors themselves, the highest Peeres of the realme, (notwithstanding such are said to be (i) Gods, (k) Ordained of God, Gods Ministers, To (l) decree iudgement by God to be the higher powers, &c. in Scripture, as well as Kings;) and that not onely with, but against the Kings good will; must questionlesse be the highest power and jurisdiction in the realme, else the Kings and their Authorities might protect them against its Justice. But the Parliament may lawfully censure, question, depose, banish, execute all or any of these, not onely without, but against the Kings consent: witnesse the proceedings in Parliament against (m) William Longchamp, Bishop of Ely, Chiefe Justiciar, Lord Chancellor, and Vice-roy of England, in Richard the first his reigne, during his absence in the Holy Land, from which offices he was by the Peeres and Commons deposed for his misdeameanour, and oppressions. (n) Pierce Gaveston and the two

Hugh Spencers, in *Edward* the seconds reigne, oft banished by Parliament, and violently put to death, though the Kings highest Officers, and darling Minions. (o) *Michael De la pole*, with other great Officers, and Favourites to King *Richard* the second, condemned, deprived of their Offices, banished and executed by the Peeres in Parliament, together with *Tresilian*, *Belknap*, and their fellow Judges, who misadvised him in point of Law: (p) *Humphrey Duke of Gloucester*, protector to king *Henry* the sixth, arrested of high Treason in a Parliament at *Bury*, and there murdered; (q) *Cardinall Wolsey*, that powerfull favourite to king *Henry* the eight, accused and put from his Chancellorship and other Offices by the Parliament; (r) The Duke of *Somerset*, Lord protector to king *Edward* the sixth, accused and attainted of high Treason in Parliament, for which he lost his head; the great Earle of *Stratford* Lord Deputy of *Ireland*, who lost his head this Parliament for Treason, full sore against his Majesties and the Queenes wills, with infinite others mentioned in our stories and records: Nay *Queenes* themselves have undergone the censures of Parliament, (of which we have sundry precedents in (s) king *Henry* the eight his reigne) not onely to divorce, but losse of their very heads; and shall any Delinquent then thinke to be protected by any power against the parliaments justice now?

13. Not to mention the Parliaments power and jurisdiction even in reforming the excesses and abuses of the kings owne meniall servants, and of the extraordinary traine and expences of the Kings owne Court, and gifts; for which I finde these following Presidents, with others; collected by Mr. *William Noy* himselfe, (as is reported) his Majesties late Attorney General, *An. 1634* in a Manuscript, entituled, *A Declaration, &c.* passing under his name.

* *Anno. 3 Ed. 3.* the houshold was reformed by the petition of the people.

An. 1 R. 2. the houshold was brought to such moderation of expense as may be answerable to the revenue of the Crown, in and by Parliament.

Anno. 5 & 6 R. 2. the Commons petition was, that the excessive number of the Kings meniall servants may be remedied, or else the realme would be utterly undone, and that his houshold might not exceed the ordinary revenue of the realme.

Anno 4 H 4. the people crave a reformation of the Kings house; & *Anno 7.* that he would dismiss some number of the retinue, since it was now more chargeable and lesse honourable then his progenitors; and that the ancient Ordinances of the houshold, in case of the people might be kept, and the Officers of the houshold sworne to put the Ordinances and Statutes in due execution; and to consider the griefes of his Subjects by unjust purveyance, contrary to the Statute, that hereafter he might live OF HIS OWNE GOODS IN EASE OF HIS PEOPLE. Which the King willingly doth, as appeareth by an Ordinance in Council whereby the charge of the houshold is limited to 16000. markes.

Anno 12 & 18 H 6. the charge of the Kings house is reduced to a certainty, and lessened by petition and order in Parliament.

Anno 12 E 4. the King in Parliament promiseth to abate his houshold, and hereafter to live upon his owne, so settling a new forme of his Court, which is extant in many handes, and intituled, Ordinations for the Kings house.

Anno 3 E. 2. an Ordinance was made for the Kings houshold in ease of the Kings people oppressed with purveyance, by reason of the greatnesse thereof; and the motive of that Ordinance was, to the honour of God, and profit of holy Church, and to the honour and profit of the King, and the benefit of his people, according

(o) *Walsingham Holynsh. Speed, Grajton, Stow,* in 11 R. 2. c. 1. 6, 7. *Frolyards Chro part. 1. c. 57*
 (p) *Hall, Stow, Speed, Holynsh. Grajton, Fox, in H. 6.*
 (q) *Hall, Holin. Grajton, Stow,* in H. 8.
 (r) *Fox, Speed, Holynsh, Stow, Grajton in Ed. 6*
 (s) See *Fox, Hall, Speed, Holynsh, Grajton,* in his life, 28 H. 8. c. 7. & 35. H. 8. c. 1.

* *Rotulo Parli. 3 Ed. 3. n. 10, 11, 12, 13, 14, 15, 16, 17. Rotulo Parliamenti, 1 R. 2. Rotulo Parliamenti, An. 5 & 6. R. 2.*

Rotulo Parliam. 4 H. 4. & 11 H. 4.

Ex Rotulo & all Conc. Anno 7 H. 4.

Rotulo Parliamenti, An. 12 H. 6. & 18 H. 6.

Ex Rot. Parl. An. 12 E. 4.

Ex libro Ordinationum, An. 12 E. 4.

An. 3 E. 2. Ex liber dist. Aula Regis.

TO RIGHT AND REASON, AND THE OATH WHICH OUR LORD THE KING MADE AT THE BEGINNING OF HIS RAIGNE.

Ex Rot. Parl. Thus *R. 2.* did discard the *Bohemians*, Anno 10. by an act of Parliament, at the peoples petition surcharged by them.

7 & 12 H. 4. & 10. K. 2.
Ex Rot. Parl. Thus *H. 4.* did with the *Gascoignes* and *Welsh* in like sort, overburdening and impoverishing the King and Realme with perpetuall suits, so that in Court as the Record saith, there were no men almost of substance, or valiant persons, as there ought to be, but rascals for the greater part:

Rotulo Parliam. Hence was it, that the wisdome of former times foreseeing the mischief the open hand of the Sovereigne might bring the state into, made a Law *11 R 2.* that whatsoever commeth to the King by judgement, escheat, forfeiture, wardship, or in any other waies, shall not be given away, and that the proœurer of any such gift shall be punished.

A. 2. 4 5. H. 4. n. 9.
7 H. 3. Rot. Parliamenti. This Law the Parliament continued *7 H. 4.* untill the King was out of debt, making frustrate the grants of these, and ordaining a penalty of double value to every mover or procurer of such grants.

Rotulo Parliamenti, A. 11 H. 4. n. 293. The like in Anno *11 H. 4.* and that no Petition for any thing should be delivered to the King but in presence of the Councell, who might examine it, lest that the Kings wants should light upon the Commons.

20 & 25 H. 6. marked 24. And to keep the hand of *H. 6.* from wastfull giving, the Councell enduced him to convey to the *Archbishop of Canterbury* and others, all profits of wards, marriages, relieves, escheats and forfeitures, to detray the charge of his house.

Ex Rot. Parl. It is one of the greatestt accusations in Parliament against the Duke of *Sommerset* for suffering the King to give away the possessions and profits of the Crowne in manner of a spoile, for so are the words of the Record.

Ex Rotulo Parliamenti, 1 H. 4. And it was the first and chiefest Article to depose *R. 2* for wasting, and bestowing the Lands and the revenue of the Crowne upon unworthy persons, and thereby overcharging the Commons with exactions.

(1) *Math. Paris* Nor yet to mention the Parliaments Sovereigne Power and Jurisdiction (1) in making or proclaiming Warre or Peace, in which they have oft times not onely advised, but overswayed the King; in creating the highest Officers, in ordering the Militia of the Kingdome by Sea and Land by settled Lawes (of which more anon;) or in ordering the Coyne and Money of the Land, together with the Mint, or designing how the Subsidies and Aydes granted by them to the King, shall be disposed of to the Kingdomes use, of which there are sundry presidents. All which, together with the Acts concerning his *Purveyance, Pardons, Charters, Grants,* and a ll *Revenues Royall,* are strong (u) evidences of its Sovereigne Authority. Nor yet to remember that intallible Argument, to prove Kingdomes greater, and more valuable then Kings; that Kings as publique servants to their Realmes, ought to hazzard their lives for their Kingdomes safety and preservation (as many have done in warres against enemies) but never ought the whole Kingdome to be lost or hazzarded to preterve the Kings Prerogatives, that of *John 11. 48, 49, 50.* and *chap. 18 14.* being an undoubted rule in Divinity and Policy. * *That it is expedient that any one man, (though a King, yea Christ the King of Kings) should die for the poeple, that the whole Nation perish not; rather then the whole Nation die for him. Priorque mihi & potior ejus officii ratio est, quod humano generi, quam quod uni hominum debet, as Seneca de Benefic. l. 7*

Charlas. 575. to 579. * See *Mat. Par. p. 268. Legimus quod multi alii Reges, imo & Reguli, usque ad mortem dimicaverunt, &c.*

Gentilis de Jure Belli. l. c. 16. resolve, from the light of nature and common reason. I shall onely adde this important consideration to illustrate this obscured truth. It can hardly seeme probable, much lesse credible, that any free people whatsoever when they voluntarily at first incorporated themselves into a Kingdome, and set up an elective or hereditary King over them, would so absolutely resigne up their Sovereigne popular originall authority, power, and liberty to their Kings, their heires, and successors for ever, as to give them an absolute, irrevocable, uncontrollable Supremacy over them, superior to, irrestrainable, irresistible, or unalterable by their owne primitive inherent Nationall Sovereignty, out of which their regall power was derived. For this had been to make the Creator inferiour to the Creature, the Parent subordinate to the Child, the Derivative greater then the Primitive, the Servant (for Princes are but their Kingdomes publique Ministers) more potent then the Master; of Freeman, to have made themselves and their Posterity absolute slaves and vassals for ever; and in stead of a Principality, intended only for their greater safety and immunity; to have created a Tyranny, to their perpetuall irremediable Oppression and slavery: A most brutish, foolish, inconsiderate rash action; not once to be imagined of any people; quite contrary to the practice of the Lacedaemonians, Romans, Germans, Aragonians, and most other Nations, who still reserved the Sovereigne power to themselves, and never transferred it to their kings or Emperours: who were ever subject to their jurisdictions, and censures too, as I shall manifest at large in the Appendix: no absolute Monarchy being ever set up in the world but by direct Tyranny and Conquest, as Cassaneus in his *Catalogus Gloria Mundi pars 5. Consid. 1.* manifests at large, not by the peoples free election and consents. And had our Ancestors or any other Nations, when they first erected Kings, and instituted Kingly government, been demanded these few questions: Whether they meant thereby to transferre all their Nationall authority, power, and priviledges so farre over unto their Kings, their heires, and successors for ever, as not still to reserve the supremest power and jurisdiction to themselves, to direct, limit, restrain their Princes supremacy & the exorbitant abuses of it, when they should see just cause? or so as not to be able ever after to alter or diminish this form of government upon any occasion whatsoever? Or if their King should turne professed tyrants, endeavouring to deprive them (against all right and justice) of their Lives, Goods, Liberties, Religion, Lawes, or make open warres upon them to destroy them, or bring in forraigne enemies upon them, to conquer or subiect them to a forraigne power without their free consents, that yet they should patiently submit themselves to these their unnaturall, tyrannicall, destructive proceedings without any the least resistance of them by necessary defensive Armes, or calling thẽ to account for these grosse irregularities? I make no question that they would have joyntly answered (as I doubt not but our Parliaments, Kingdomes, and all other Nations, were they at this day to institute their preerected Principalities and Kings, would answer to) that they had never any imagination to erect such an absolute, eternall, unlimited, uncontrollable, irresistible Monarchy, and plaine tyranny over them; and that they ever intended to reserve the absolute originall Sovereigne Jurisdiction in themselves, as their native hereditary priviledge, which they never meant to divest themselves of: that so by means thereof, if their Princes should degenerate into Tyrants, they might have a just authority, power, and remedy residing in them, whereby to preserve themselves, the Nation, Kingdome, from utter desolation, ruine, and vassalage. An impregnable evidence, that the whole Kingdom and Parliament representing it, are the most Sovereaign power; and above the King himselfe, because having the suprem Jurisdiction

* See *Johannis Mariana de Rege & Regis Institutio* l. 1. c. 8. *Marius Salaminius de Principatu* l. 23. 6. *10 de Civ. c. 9.* *10 15. Aristot Polit.* l. 3. c. 9, 10, 11. *15 c. 10.* *11. Hugo Grotius, de Jure Belli*, l. 1 c. 4. sect. 7. p. 85, 86.

*In Melch. Gol-
dasti Monar-
chia, Tom. 1.
p. 128.

tion in them at first, they never totally transferred it to our Kings, but reserved it in themselves, which is likewise further confirmed by that notable passage of * *Philochens Archilacus* in his *Somnium Viridarii*, c. 171. Royall power is instituted three manner of wayes: First, by the will and pleasure of the people, because every people wanting a King of their own (not being subject to the Emperour, or some other King) MAY BY THE LAW OF NATIONS MAKE THEMSELVES A KING, 94. Dist. c. *Legitima*. If a Royall Principality be thus instituted, as it is in the proper pleasure and power of the people to ordaine, that the King shall be either Successive or Elective; so it is in their pleasure to ordaine, That Kings succeeding hereditarily shall enjoy their power due unto them either immediately before any Coronation, or any other solemnity, or that they shall receive this power onely by their Coronation or any other solemnity about him. The reason whereof is, Because as every one in the delivery of the gift of his owne goods, may impose what covenant or condition he pleaseth, and every man is moderator and disposer of his owne estate; so in the voluntary institution of a King and Royall Power IT IS LAWFULL FOR THE PEOPLE, SUBMITTING THEMSELVES, TO PRESCRIBE THE KING AND HIS SUCCESSORS WHAT LAW THEY PLEASE: so as it be not unreasonable and unjust, and directly against the rights of a Superiour: Therefore lawfull to reserve the Sovereigne Power in and to themselves, and not to transfer it wholly to their Kings.

(x) See Sir Tho-
mas Smiths
Coronacion wealt,
l. 2. c. 1. 2.
Holinsheeds de-
scription of
England, c. 8.
p. 173. and
Chronicles of
Ireland, p. 127.
to 130.
Cromptons Ju-
risdiction.
(y) 1 H. 7.
1 Br. Parlia-
ment. 92. 98.
Error 65, 88.
137.
See Assh. Error
66, 67, 68, 70
* See 22. E.
3. 3. Error 8.
8 Hen. 4. 12, 13.
(z) 21 R. 2.
cap. 1. to 15.
1 Hen. 4. cap.
2, 3, 4.
8 Hen. 4. 12, 13.
See Mart. c. 1.
1 Eliz. cap. 1, 3, 21. Jac. c. 28. And all Acts for restitution in blood of persons attainted, and Acts of repealing Sta-
tutes; *Bracton. lib. 1. cap. 2.*

14 There is one cleare Demonstration yet remaining, to prove the supreme power of Parliaments above Kings themselves, which is this: That the Parliament is the highest Court and power, to which all (x) Appeales are finally to be made from all other Courts and Judges whatsoever, yea from the Kings own personall resolution, in, or out of any other his Courts: and such a transcendent Tribunall from whence there is no appeale to any other Court or person, no not to the King himselfe, but onely to another Parliament. If any erroneous Judgement be given in the Kings Bench, Exchequer-Chamber, Chancery, Court of Wards, or any other Court within the Realm, or in the Parliament in Ireland, it is finally to be reversed, or determined in Parliament by a *Writ of (y) Error*, or upon a *Petition or Bill*: If any sentence be unjustly given in any Ecclesiasticall Courts, or before the Delegates, the finall Appeale for redresse must be to the Parliament. Illegall sentences in the (now exploded extravagant) Courts of *Star-Chamber*, or *High Commission*; Injuries done by the King and his privy Councell at the *Councell Table*, are examinable and remediable in this high Court. Nay, if the King himselfe should sit in person in the Kings Bench, or any other Court (as sometimes our Kings have done) and there give any Judgement, it is not so obligatory or finall, but that the party against whom Judgement is pronounced, may appeale to the Parliament for reliefe, (as *Seneca* epist. 100. out of *Tully de Repub. & Fenestella*, *Hugo Grotius de jure Belli*, l. 1. c. 4. f. 20. p. 65. record; that among the Romanes in certain causes they might appeale from the King to the people.) But if the Parliament give any Judgement, There * can be no appeale to any higher Tribunall, Court, or person, no not to the King, but onely to the next or some other Parliament, as is evident by experience, by all (z) *Attainders of Treason*, by or in Parliament, by all inconvenient and unjust Acts passed in Parliament, which concerne either King or Subject; which cannot be reversed nor repealed, though erroneous, nor the right heire restored in blood by any Charter from

the King, but onely by an act of repeale or restitution in another Parliament. Now this is an infallible Maxime, both in the Common, Civill, and Canon Law, that *The Court or person to whom the last appeale is to be made, is the Supreamist power*; as the (a) *Kings Bench* is above the *Common Pleas*, the *Eschequer Chamber* above the *Kings Bench*, and the *Parliament* above them all, because a *Writ of Error* to reverse erroneous judgements given in the *Common Pleas*, lyeth in the *Kings Bench*: *Errors in the Kings Bench may be reversed in the Eschequer Chamber*; and errors in all or either of them, may be redressed finally in *Parliament*, from whence there is no further appeale. Hence the Canonills conclude, a (b) *Generall Councell* above the *Pope*, the *Pope* above the *Archbishop*, the *Archbishop* above the *Ordinary*, because men may *Appeale from the Ordinary to the Archbishop*, from him to the *Pope* (but now with us to the *Kings Delegates*.) If there be any difference betweene (c) *King or Subject*, touching any inheritances, *Priviledges or Prerogatives belonging to the Crowne it selfe*, or any points of misgovernment; yea, which is more, if there be any suite, quarrell, or difference betweene our *Kings in Act*, and any other their *Competitors*, (d) *for the Crowne it selfe*, which of them hath best title to it, who of them shall enjoy it, and how, or in what manner it shall be settled, the *Lords and Commons in Parliament* are and ought to be the sole and final Judges of it.

Not to give you any instances of this kinde betweene *King and Subjects*, which I have formerly touched; nor to relate how our *King John* (e) *condemned to death by a Parliament in France, by French Peers, for slaying his Nephew Arthur treachrously with his own hands, and likewise to lose the crown of England: or how* (f) *Henry the third, K. Edward the first and other our Kings have Appealed to the Parliaments of France and England, upon differences betweene the Peeres and Kings of France and them, concerning their Lands and Honours in France.* Or how *King Edward the third, and Philip of France* submitted both their *Titles to the Kingdome of France*, to the determination in a *French Parliament*, where they were both personally present, which adjudged the *Crowne to Philip*. Nor yet to mention how the *Parliaments and generall assembly of the estates of France* have frequently disposed of the *Crowne of that Kingdome*, determined the controversies of the *right and titles pretended to it*; and elected *Protectors or Regents of the Realme during their Kings minorities, or distractions*; of which I shall cite divers precedents in the *Appendix*, to which I shall referre you. Nor yet to trouble you with *Spanish Precedents* of this nature, where the severall claimes and titles of the pretenders to the *Crownes* have bene oft referred to, debated in, and finally resolved by their *Parliaments and generall assemblies of the States, the proper Judges of such controversies*, as * *Joannes Mariana*, * *Euardus Nonius*, and other *Spanish* writers determined; as *Philip the second the 18. King of Portugall* his title to that *Crowne and his competitors*, together with the rights and claimes of *Alfonso the 1. 3. 5. John the 1. Emanuel and other Kings of Portugall*, and their *Corivals* were solemnly debated and determined in the assembly of the *States of that Realme, and of divers Kings and Quenes of Arragou, Castile, Navarre*: A pregnant argument, that their assemblies of *States* are the *soveraigne Tribunal*, since they have power and right to determine and settle the descent, right

(a) See *Aspas Tables*, Error 65, 66, 67, 68, 69, 70.

(b) *B'din*, l. c. 10. *Summa Angelica*, & *Rossella* Tit. *Appellatio*. *Lindwood*, lib. 2. de *Appellationibus*, *Ex Actis et Monumentis*, Vol. 1. p. 448, 449.

452. 506. 24. H. 8. c. 12. All *Papists and Protestants*, in their *Controversies* of the *Popes Supremacy*, & of *generall Councils*

(c) See *Grafton* p. 512, 513. 161. *Mathew Paris*, p. 954. *Ex old Edition*, p. 508.

(d) See *Hoveden*, p. 724, 725. (e) *Mathew Paris*, p. 273. 274, 275.

(f) *Mathew Paris*, p. 892. 925. 930. 948. 954. 955. *Grafton*, p. 188, 189. *Speed*, p. 687, 688. 785. 786.

Andrew Favine Theater of Honour, l. 2. c. 12.

(g) *Walsingham Hist.* p. 514. *Speed*, p. 647. 648

* See *Andrew Favine* his *Theater of Honour*, l. 2. c. 12. *Fabian*, the generall *History of France*, with others in the *Appendix*. * *Censura Duardi Nonii*, In *Josephi Teixeira* a *libellum*, c. 76. to 83. & de *Vera Reipon Portugali*. *Genealogia*, c. 17. 18. + *Manstieri Cosmogr.* l. 2. c. 20, 21. *Joan Mariana* de *Rege & Regis Instit.* l. 1. c. 3. 4. 5. *Mikhael Rjium* de *Regibus Hispania* and others.

(i) *Pag. 9.*
 * See *Matthew Westm. Fabian. Grafion, Holin. Polychron. l. 6 c. 18. Speed, p. 399.* See *Grafion and Holinshed* accordingly.

* *Matthew Westminster & Malmesbury, Anno 1036. Holinshed, l. 17. c. 13 p. 398.*

Speed, p. 404. Huntingdon, Walsingham. Anno 1036. 1040.

+ *Huntingdon, l. 6. Polychron, l. 6. c. 18. Speed, p. 410. Matthew Westm. Anno. 1042 p. 415.*

(k) *Hoveden, Huntingdon, Matthew Westm. Matthew Paris, Walsingham, Polychronicon, Fabian, An. 1126. Speed p. 477. See Holinshed, Grafion, Stow, Anno 1126.*

(l) *Walsingham, Tpod, An. 1113. Matthew Westm. An. 1153, p. 42.*

Matthew Paris, p. 82, 83. Speed p. 497. Hoveden, p. 490. Huntingdon, Hist. l. 8. p. 398. Fox Vol. 1. p. 261.

(m) 25. E. Par. 2. in the Statuts at large

and succession of the Crowne betweene those who pretend titles thereunto : I shall confine my selfe to domesticke precedents. Not to repeate the (i) forementioned precedents, how the Lords and commons when the Title to the Crowne hath been in dispute have transferred it from the rightfull Heires to others; I shall give you some other pregnant evidences, where the Parliament hath finally determined the Title to the Crowne, when it hath bene in competition, and settled it in a legall manner to avoid debates (by way of Appeale to them by competitors, or reference from the Kings themselves) as the onely proper Judges of such a superlative controversie. Not to mention any stories of our British Kings to this purpose, where the * *Kingdome, Lords and Commons then, disposed of the Crowne in cases of minority, want of Heires, misgovernment, and controversies about the Title to the Crowne.*

* *Canutus* after the death of King *Edmund, Anno 1017.* claying the whole Realme against *Edmunds* Brethren and Sonnes, referred his Title upon the agreement made betweene *Edmund* and him for this purpose, to the Parliament, who resolved for *Canutus* Title, and thereupon tooke an Oath of fealty to him, *Offering to defend his right with their swords against all others claimes.* After his decease, the * *Title to the Crowne being controverted* betweene *Hardicanute* the right Heire, and *Harold* his elder, but base Brother; it was referred to a Parliament at *Oxford*, who gave their voyces to *Harold*, (there present) and presently proclaimed and consecrated him King; *Anno 1036.* After whose death, the States of *England* sent and adjudged the Crowne to *Hardicanute*, then in *Denmarke.* He dying, * *Edward the Confessor*, by a generall consent of the Nobles, Clergy, and People (who presently upon *Harolds* death, enacted by Parliament,) *That none of the Danish blood should any more Reigne over them* was elected King, and declared right Heire to the Crowne, *Anno 1126.* (k) King *Henry* the first having no issue male, but onely one Daughter *Maude*, to succeed him, summoned a Parliament in the presence of himselfe and *David* King of *Scotland*, wherein the Crowne was settled upon *Maude* after his decease, being of the ancient Royall English blood; whereupon *Stephen*, his Silters Sonne, and all the Nobles presently swore fealty to her, *As much as in them lay, after King Henries death (if hee died without issue male) to establish her Queene of the Monarchy of great Britaine.* But *Stephen* after his decease, usurped the Crowne against his Oath, *By the unanimous consent and election of the Lords and Commons:* And after seventeene yeares civill wars, to the devastation of the Realme (l) King *Stephen* and *Henry* the Sonne of *Maude* came to a Treaty at *Wallingford*, where by the advise of the Lords, they made this accord; *That Stephen if he would, should peaceably hold the kingdome during his life, and that Henry should be his adopted Sonne and Successor, enjoy the Crowne as right Heire to it after his death; and that the King and all the Bishops and Nobles should sweare, that Henry after the Kings death, if he survived him, should possesse the Kingdome without any contradiction:* Which done the civill warres ceased, and a blessed peace ensued: and then comming to *Oxford*, in a Parliament all the Nobles did fealty to *Henry*, who was made chiefe Justiciar of *England*, and determined all the affaires of the kingdome. In the 8. and 25. of E. 3. there was a (m) doubt moved in Parliament, whether the children of the King, or others borne beyond the Seas within his Allegiance, should inherit lands in *England*? The King, to cleare all doubts and ambiguities in this case, and to have the Law herein reduced to certainty; charged the Prelates, Earles, Barons, and other wise men of his Councell assembled in Parliament in the 25. yeare of his Raigne,

to deliberate of this point; who with one assent resolved, That the Law of the Realme of England is, and alwayes hath bene such, that the children of the Kings of England in whatsoever parts they be borne, in England or elsewhere, be able and owe to beare inheritance after the death of their Ancestors: Which when they had declared, the King, Lords and Commons by a speciall Act, did approve and affirme this Law for ever, the onely Act passed in that Parliament. And in a *Parliament, 11. E. 3. this Kings eldest sonne was created Duke of Cornwall by Parliament, which then also entailed the Dutchy of Cornwall upon the eldest sonnes of the Kings of England. So, 21. R. 2. c. 9. the Principality of Chester was created and setled on the Prince by Act of Parliament.

* Coke l. 8. The Princes ca. c.

* King Henry the fourth, the better to assure the inheritance of the Crownes and Realmes of England and France to him and his posterity, caused them by a speciall Act of Parliament, in the first yeare of his raigne, to be entailed and setled on himselfe and the heires of his body begotten; and Prince Henry his eldest sonne to be established, pronounced, ordained, and decreed heire apparant to him, and to succeed him in the said Crownes and Realmes, to have them with their appurtenances after the Kings death, to him and the heires of his body begotten; And if hee should die without heire of his body begotten, then to remaine to the Lord Thomas, the Kings second sonne, with successiue remainders to Lord John the third, and Lord Humfry the Kings fourth sonne, and the heires of their bodies begotten. After which Act passed (for the avoyding of all claimes, titles, and ambiguities, to be made unto the Crowne) he thought never by any of his Subjects to be molested or troubled: the rather, because in this Parliament it was first concluded; that deposed King Richard should continue in a large prison, and be plenteously served of all things necessary both for viande and apparell, and if any persons should presume to reare warre or congregate a multitude to deliver him out of prison, that then he should be the first that should die for that seditious commotion: Which King Richard (as * Sir John Bagot by his Bill exhibited to this Parliament averied) had divers times, at sundry Parliaments in his time holden, said; that hee would have his intent and pleasure concerning his owne matters, whatsoever betide of the residue; and if any withstood his will or minde, he would by one meanes or other bring him out of his life; And further said to him at Lichfield in the one and twentieth yeare of his raigne, that he desired no longer for to live then to see his Lords and Commons have him in as great awe and dread, as ever they had of any his Progenitors, so that it might bee chronicled of him, that none passed him of honour and dignity, with condition that he were deposed, and put from his said dignity the next morrow after. So wilfull was hee, as to preferre his will before his Crowne or safety.

* 7. H. 4. c. 2
Hail Chronicle,
1. H. 4. f. 10. 15.
Fabian, part. 7.
p. 376 Speed
p. 763.

* Fabian, part.
7. p. 373.

(n) In the yeares 1440. and 1441. Richard Duke of Yorke came into the Parliament House, and there, in a large Oration laid claime, and set forth his Title to the Crowne of England, which King Henry the sixth had long enjoyed, desiring the Parliament to determine the right of the Title betweene them, both sides submitting to their resolution as the proper Judges of this weighty royall controversie: After long debate and consideration of the case among the Peeres, Prelates, and Commons of the Realme, it was finally agreed and resolved by them: That in as much as Henry the sixth had bene taken as King for 38. yeares and more, that he should enjoy the name and title of King,

(n) Hail, Anno
38. for 39. H. 6.
f. 176. to 183.
Fabian, Anno
1441. p. 470.
Grafton p. 643.
to 645. Holin-
shed, Hen,
Howes, Anno
1440. 1441.

and have possession of the Realme during his naturall life. And if he either died, or resigned, or FORFAITED THE SAME for breaking any part of this concord, then the said Crowne & authority royall should immediately descend to the Duke of Yorke (King Edward the 4. his Faiber) if he then lived; or else to the next heire of his line. And that the said Duke from thenceforth should be Protector and Regent of the Kingdome. Provided alway, that if the King did closely or apertly, study or goe about to breake or alter this agreement, or to compass or imagine the death of the said Duke or his bloud; then he TO FORFEIT THE CROWNE: and the Duke TO TAKE IT: These Articles made by the Parliament betweene them, they both subscribed, sealed, and swore to, and then caused them to be enacted. Loe here we have these two Kings submitting their Titles to the Crowne and Kingdome it selfe to the Resolution of both houses of Parliament, as the Sovereigne Judge betweene them; who settled the Crowne in this order, under paine of forfeiting it by King Henry, if he violated their Decree herein; and appointing a Lord Protector over the Kingdome in his full age, as (o) *Walsingham* informes us, a Parliament constituted Duke Humfry to bee Protector of him and his Kingdome of England, and the Duke of Bedford to bee Regent of France, during his minority; who exercised all regall power, by vertue of that authority which the Parliament derived to them. After this, in these two Kings reignes, (p) the Crowne and its descent were variously settled by Parliament (as I have formerly manifested) yet so, as that which one Parliament settled in this kinde, continued firme till it was altered or reversed by another Parliament. King (q) *Richard* the third comming to the Crowne by usurpation, to strengthen his Title, procured the Lords and Commons to passe an Act of Parliament, wherein they declare him to bee their lawfull King, both by election and succession, entaile the Crowne upon him and the beires of his body lawfully begotten, create his Sonne Edward, Prince of Wales, and declare him heire to succeed him in the royall Crowne and dignity after his decease.

In which Act of Parliament (recited at large by *Speed*). there is this memorable passage: That the Court of Parliament is of such Authority, and the people of this land of such a nature and disposition, as experience teacheth; that manifestation or declaration of any Truth or Right made by the three Estates of this Realme Assembled in Parliament, and by the Authority of the same, makes before all other things most faith and certainty, and quieting of mens mindes, removeth the occasion of all doubts, and seditious language: (r) *Henry* the seventh afterwards slaying this usurping *Richard* at *Boswell-field*, to avoyd all ambiguities and questions of his Title to the Crowne, in his first Parliament procured the Lords and Commons by a speciall Act, to settie the inheritance of the Crownes of England and France, on him and the beires of his body lawfully begotten, perpetually by the grace of God, so to endure, and on none other, and all attainders and Acts against him, by *Edward* the fourth, and King *Richard* (s) this Parliament annihilated. After him King *Henry* the eighth, to ratifie his divorce from *Queen Katherine*, caused it to be confirmed, and his (t) marriage with her to be utterly dissolved by Act of Parliament: and by (u) sundry Acts, ratified his subsequent Marriages, and settled the descent of the Crowne to his posterity, somewhat different from the course of the Common Law; which Statutes were afterwards altered and the descent of the Crowne settled by other speciall Bills in Parliament, both in (x) *Queene Maries*, and *Queene Elizabeths* Reignes, whose Titles to the Crowne were settled, and in some sort created by the Parliament.

(o) *Historia Anglia* p. 458. Parliamentum fuit convocatum in quo Parlamento ex assensu omnium Statutum, idem Dux, Defensor seu Protector Anglia fuerat nominatus & ordinatus, omniaque Regni officia & beneficia ejus dispositioni sunt commissa.

(p) See *Grafton* p. 691, 692. *Speed* p. 859. 878. 859. 886.

1. E. 4. c. 1. 17. E 4. c. 7.

(q) *Speeds* *Hist.* p. 928. 931.

(r) *Hals* *Chro.* 1 H. 7. f. 855.

(s) *Grafton* p. 856.

(t) *Sp.* p. 1028.

(u) 29 H. 8. c.

22. 26 H. 8. c.

13. 28 H. 8. c.

7. 35 H. 8. c. 5.

See *Hall*.

(x) 1 Mar. c. 1.

& Parliament 2.

c. 1. 2. 1. *Eli.* c. 3

13 *Eli.* c. 1.

By the notable Sta. of 13. *Eli. c. 1.* worthy reading for this purpose, it is made no lesse then high Treason, to affirme; *That the Queene, WITH, and BY THE AUTHORITY OF THE PARLIAMENT of England, is not able to make Lawes and Statutes of sufficient force and validity to BINDE, LIMIT, RESTRAINE and governe all PERSONS, THEIR RIGHTS AND TITLES THAT IN ANY WISE may or might claime any interest or possibilitie IN OR TO THE CROWNE OF ENGLAND in POSSESSION, REMAINDER, INHERITANCE, SUCCESSION, or OTHERWISE HOWSOEVER; and all other persons whatsoever. King Edward the sixt, Queene Elizabeth, and other our Princes holding their Crownes by a Parliamentary Title, rather then by the course of the * Common Law, which this Statute affirms the Parliament hath power to alter, even in case of descent of the Crowne.*

+ See *Cocks In-
stitur. Lintel. f.
15. 16.*

It is observable that the Statutes of 25 *H. 8. c. 22.* 28 *H. 8. c. 7.* and 35 *H. 8. c. 1.* doe not onely Nullifie some of this Kings marriages, and raise others of them, declaring some of his issues legitimate and hereditable to the Crowne, others not, and appoint the Queene, if living, to be Protector of the infant King or Queene, that should inherit the Crowne; or such of the Lords as the King by his last will should designe; But likewise prescribe strict Oathes for every Subject to take, to maintaine the Succession of the Crowne, as it is limited by those Acts, which Oathes for any to refuse, is made high Treason, or to write or speake any thing against the succession of the Crowne as it is therein limited: And withall they derive a plenary authority to the King (who thereupon * acknowledge the great trust and confidence his loving Subjects had in him, in putting in his hands wholly the Order and Declaration of the Succession of this Realme) by his Letters Patents under his Seale, or his last will in writing signed with his hand, for lacke of issue lawfully begotten of his body, to * give, limit, assigne, appoint or dispose the imperiall Crowne of the Realme, to what person or persons, and for such estate in the same, and under such conditions as it should please his Majesty. The Parliament therein promising by one common assent to accept, take, love, dread, and obey, as their Legall Governours, and Supream heads, such person or persons onely, as the King by authority of those Acts should give the Crowne unto, and wholly to sticke to them as true faithfull Subjects. Provided, that if any of his Children or Heires, afterward did usurpe one upon the other in the Crowne of this Realme, or claime, or challenge the said imperiall Crowne, otherwise, or in any other course, forme, degree or condition, then the same should be given, disposed, or limited unto them, by the King, by vertue of those Acts. Or if any person or persons to whom it should please the King, by authority of those Acts to dispose the said Crowne and Dignity of this Realme, or the Heires of any of them, should at any time hereafter demand, challenge, or claime the Crowne of this Realme, otherwise, or in any other course, forme, degree or condition, then the same should be given, disposed, and limited unto them by the King, by vertue and authority of these Acts; That then all, and singular offenders, in any of the premises contrary to these Acts, and all their Abettors, Maintainers, Factors, Counsellours, and Aiders therein, shall bee deemed, and adjudged HIGH TRAYTORS TO THE REALME; and that every such offence shall be accepted, reputed, and taken TO BE HIGH TREASON, and the offenders therein, their ayders, &c. for every such offence shall suffer such judgement, paines of death, losses and forfeitures of Lands, Goods, and Priviledges of sanctuary, as in any cases of high Treason.

* 35 *H. 8. c. 1.*

* 28 *H. 8. c. 7.*
35 *H. 8. c. 1.*

And over, *that as well* THE KINGS SAID HEIRES AND CHILDREN, *as* EVERY SUCH PERSON & PERSONS TO WHOM THE CROWNE SHOULD BE LIMITED AS AFORESAID, *and every of their Heires, for every such offence above specified, by them to be committed,* SHALL LOSE AND FORFEITE AS WELL ALL SUCH RIGHT, TITLE, AND INTEREST, THAT THEY MAY CLAME OR CHALLENGE, IN OR TO THE CROWNE OF THIS REALME, AS HEIRES BY DESCENT, OR BY REASON OF ANY GIFT OR ACT DONE BY THE KING, *for his or their advancement, by authority of those Acts, or by any manner of meanes or pretence whatsoever.*

And the Statute of 35 H.8. c. 1. which entailed the Crowne upon Queene Mary, after Edward the sixt his decease without issue, hath this proviso; "That if the said Lady Mary doe not keepe and performe such conditions as King Henry by his Letters Patents or last Will in writing, should hereafter declare and limit to her said estate in the Imperiall Crowne; That then and from thenceforth, the said Imperiall Crowne shall be and come to the Lady Elizabeth, and the Heires of her body lawfully begotten, in such like manner and forme, as though the said Lady Mary were then dead, without any Heires of her body begotten, any thing in this Act contained to the contrary notwithstanding. *And the like proviso there is for* Queene Elizabeth, That if she performe not the like conditions, limited as aforesaid, to her estate in the Crowne, That then the said Imperiall Crowne shall be and come to such person or persons as the King by his Letters patents or last Will shall appoint. By all which Acts, (worthy reading and consideration) the Parliaments Supream power of setting and disposing the descent and inheritance of the Crowne, and giving Authority even to the King himselfe, to dispose of it upon condition, on paine of forfeiture as aforesaid (which the King alone had no power at all to doe) will easily appeare to the most malignant Spirits.

In the first (y) Parliament of our late King James, the first Bill then passed, was an acknowledgement, and confirmation of his immediate, lawfull, and undoubted succession and right to the Crowne of England, as the next and onely Heire of the blood Royall, to whom of right it descended; which *Dolman* the Priest, and some Jesuites opposed in Printed seditious Bookes: So the (z) Articles of *Qu. Maries* marriage with *K. Philip*, were appointed, and ratified by Parliament: And the Imperiall Ecclesiasticall Jurisdiction usurped by the Pope and Prelates, hath likewise by (a) sundry Statutes bene restored and united to the Crowne, and the Title of *Supream* head, and *Supream Governour in all causes, and over all persons, Spirituall, Ecclesiasticall and Temporall*, settled upon our Kings and Queenes; Who during their minorities have had Guardians and Protectors, appointed to them by (b) Parliament, to summon Parliaments, assent to Bills, and execute all Royall Jurisdiction in their names and steads. And as the Title and Right to the Crowne of England, and the Jurisdiction thereof hath thus from time to time bene decided and settled in and by our Parliaments, so hath the Title and jurisdiction of the Crowne of Scotland, bene (c) frequently discussed and settled in our Parliaments, upon appeales made to them by the Kings of Scotland, and their Corrivalls to that Crowne; Witnesse the famous case,

(y) 1 Jac. c. 1.

(z) 1 Maria, Parl. 2. c. 2.

(a) 25 H. 8. c.

19, 21. 26 H. 8.

c. 1, 3. 27 H. 8.

c. 10. 28 H. 8. c.

p. 16. 32 H. 8. c.

22, 24, 29. 31

H. 8. c. 10, 14.

33 H. 8. c. 29.

34 & 35 H. 8. c.

17, 19. 35 H. 8

c. 1, 3. 1 Eli. c. 1

1 E. 6. c. 2, 1 Ma.

c. 1. & Parl. 2. c.

1. 8 Eli. c. 1.

(b) *Walsingham*

Hist. Angl. H. 5

p. 458. *Speed p.*

1108. 28 H. 8.

c. 7, 17. 1 E. 6. c.

11. *Hals Chron.*

1 H. 6.

(c) *Hist. Angl.*

p. 16 to 26. 31

to 33, 42, 46 to

56 See *Holm.*

Grafson, Stone, &

Speed in the life

of *Edw. the first.*

Polig. Newst. p.

72 to 96.

case and competition for that Crowne long agitated and resolved in Parliament betweene the King of *Norway*, *Bailiol*, and *Bruce*, (to omit others) in the Reigne of King *Edward* the first; And this King *Edwards* Title to the Crowne of *Scotland*, declared and resolved by our Parliament here; All which are Recorded at large by *Thomas Walsingham*, and *Matthew Westminster*, in the life of King *Edward* the first, and in the Parliament Rolls, and Pleas of his Reigne, with (d) sundry other instances of this nature (frequent in our Historians) which for brevity I pretermit.

It is a (e) cleare case without dispute, that if the King should dye without any Heire, the Crowne would escheate to the whole Kingdome and Parliament, who might dispose of it in such a case, to what person they pleased, or quite change that forme of Government, if they saw good cause; no particular kinde of rule being so simply necessary by any divine Right or Law to any State or Kingdome, but that as it was at first instituted, so it may in such a case be changed by the whole Kingdomes generall consent, upon sufficient grounds. This appears by the case of **Charles the Groesse*, who being deposed from the Empire and his Kingdomes, for a mad man, and dying without any Heire, the Kingdomes which before were subje& to him, Destitute of a right Heire, began to fall in sunder on every side, and to chuse Kings of themselves of another Family. France elected *Charles*, a childe, surnamed *Simple*, for their King; and after his simplicity displeas'd them, they Crowned *Otho* Sonne of *Robert* Duke of *Saxony*, in his place: At the same time the people of *Italy* meaning to have a King of their owne, could not agree on the matter, but some chose *Beringarius*, others *Guido*, and so had two Kings in *Italy*, both calling and bearing themselves as Emperours; And the *Germanes* elected *Arnolph* Duke of *Bavaria* for their Emperour. Thus **Zeno* the Emperour dying without any Heire that might succeed him, *Anastasius* a man of great reputation, yet of no Noble Family, was chosen his Successor, by the Senate and Legions. The like we reade of divers other Emperours deceasing without Heire; of some of our *Saxon* and *Brittish* Kings, before the Conquest; and of other in *Castile*, *Aragon*, & other Kingdomes, where the Crowne hath bene translated from one Family to another, by the Kingdomes consent for want of Heires.

Duardus **Nonius Leo*, a learned *Portugall* Lawyer, informes us; That *Ferdinand* King of *Portugall*, dying without any lawfull Heire, lineall or collaterall, as they beleev'd; the Estates of that Kingdome assembling at *Coimbre*, elected *John* a bastard for their King upon this very ground, (specified in their decree of his Election) That King *Ferdinand* dyed without any lawfull issue or kindred; UNDE JUR GENTIUM, Whence BY THE LAW OF NATIONS, they affirmed it to BE LAWFULL FOR THE PEOPLE TO CHUSE A KING OR GOVERNOUR, WHOM THEY PLEASED. Beleeving therefore, that they had returned to that state WHEREIN BY THE LAW OF ALL NATIONS THEY MIGHT CREATE THEM A KING, namely the kingdome being voyd without an Heire; They said they might lawfully elect *John*, a most valiant man, and one who best deserved of the Common-wealth to be their King, he being begotten of the stocke of the Kings of *Portugall*. Thus this whole Parliament at *Coimbre*; and this Lawyer there, and elsewhere * affirms; THAT BY THE LAW OF ALL NATIONS, if the King in an Hereditary Kingdome die without Heire, THE PEOPLE

(d) 1 Jar. 1.
(e) 35 H. 8. c. 1.

* *Blondus Decad. 2 l. 2. Regin*
1. 2. An. 800. Bishop *Bilson* of *Christian Subjection*, &c. par. 3. p. 423.

* *Zona. Annal. Tom. 3. f. 126.*
Grimston Imperiall hist. p. 303

* *Censu. in Joseph. Tri. Libel. c. 78. in lean. Piffertius hispan. illust. Tom. 16. n. 2. p. 1250.*

* *Id. ca 76. p. 1248.*

MAY

MAY LAWFULLY ELECT WHOM THEY PLEASE FOR THEIR KING; as they do in all elective Realms: Which *Johne Mariana, de Rege & Regis Instit.* l. 1. c. 3, 4. doth likewise averre: The reason is, * Because the whole kingdome and people are the originall Supreme Soveraigne power, by whose common consent and Authority all lawfull Kings, kingdomes, and Royalties were at first created and instituted, and from whom they derived all their regall Jurisdiction: And therefore as all Mesnalties, Tenancies, and Fees, by the deaths of their Tenants without heire, returne by way of Escheate to those Lords and Serignories, by whom they were originaly created; and all politique Corporation Lands, (as Abbies, Prioies, Bishopricks, Hospitals, and the like,) by the dissolution of those Corporations by death or otherwise, returne to the first founders of them; (as * all Rivers run into the Sea, out of which they primitively issue:) So all successive kingdomes by the selfe same reason, upon the Kings decease without any lawfull heires to inherit or succeed them, must by all Law, right, equity, revert to the dispose and dominion of all the People of the Realme, or to the representative Body thereof the Parliament as to the Supreme Lords and Founders of it; from and of whom the King himselfe doth hold the Crowne, (if I may so speake) by those regall duties and services expressed in generall in his Coronation Oath, which he takes to all his people; and if he die his Heire to the Crowne being within age, the Parliament and kingdome as the Soveraigne Lord and power may and usually doth appoint a * Guardian and Lord Protector over him (as I have * elsewhere proved) till his maturity, to discharge his regall Trust and duty to his people in his name and stead. Hence *Hugo Grotius* in his Booke *de Jure Belli & Pacis*, l. 2. c. 9. sect. 8, 9, 10, 11, concludes: That if an elective King dye, or a successive King decease without any knowne heire to succeed him, the Empire or Soveraignty which was in the King as Head, returnes unto, and remaines in the people as in the intire body, which continues the same it was before: And therefore in such cases they may either create a new King if they please, as in elective kingdomes, or divide the kingdome into parts, and erect a new Empire, as the Romans, Germans and Persians did; or change the Government; the people in this case being *Sui juris*, having the raines of Government in their owne hands, as at first before they erected an hereditary Monarchy, to order and dispose of the government as they shall thinke meete: it being a thing which in its owne nature is not capable of an Occupancy, nor seisable by any, unlesse the people will voluntarily desert their owne liberty, none having authority to usurpe a regency over them in such a case, but by their free assents. Upon which ground he holds with *Cynus*, and *Raynorius*, That if the Roman Emperour (or any other King by like reason) be sicke, or taken prisoner, so as he cannot administer the government, the people of Rome may create and appoint him a Vice-roy to governe them; the power of the Emperour, and the most absolute Monarch, being onely a power of Administration for the peoples good and service, not of dominion for his owne profit; of which none but the people can dispose; as * *Abberius Gentilis* proves at large.

Yea, *Bishop Bilson* (f) himselfe (though a great Royalist,) positively affirmes; That if a King, or right Heire to any Crowne be borne, or becomes a naturall Foole, or starke mad, or run besides himselfe, so that he is not able to governe himselfe, much lesse his Realme; in these two cases, ANY REALME BY PUBLICKE CONSENT and ADVICE MAY CHUSE ANOTHER KING: (for what should he doe with a Royall Office, or by what divine or humane right can he enjoy a Crowne, who is utterly unable to manage it?) Upon this ground (g) King *Childeric* was deposed by his French and German Subjects generall consents, because he was a foole,

* See *Marius Salomonius de principatu*, l. 1, 2, 3, 6. p. 19, 20, 27, 41, 120, 126.

* See *Fitz. Ash. Tab. III. Escheat*
* *Eccles.* l. 7.

* See *Leges Edwardi Confess.* 17. Br. l. 3. c. 9.

* See *Par.* 2. p. 48 to 65.

* *De Jure Belli* l. 3. c. 15.

(f) The true difference betweene Christian-subjection & unchristian rebellion, part. 3. p. 418. to 422.

(g) See the generall history of France in his life, *Sabellicus Ennead.* 8. l. 8. p. 245. *Nauclerus* vol. 3. Gen. 16.

Blondus, Decad. 1. l. 10 *Aventinus*, l. 3. p. 293, to 300. *Gaguinus* l. 3. in *Car. Mari. Herman. Schedel, Chron. Ann.* 6. f. 185.

fool, a Sot, a Beast, unable to govern his Kingdom, and Pepin of another race, elected and crowned King in his stead; which act by Pope Zacharies resolution, was adjudged both just and lawfull, even in point of conscience, before it was put in execution. So (3) Charles the third, the last Emperour of Pepins race, was deposed from the Empire, by the Princes, Dukes, and Governours of the Provinces of Germany and France, for that he became foolish and unfit to govern, being bereaved of his senses; and by common consent, Arnolph was elected Emperour in his stead: Thus (4) Justinus the second, falling into a frenzie and madnesse, so that he had no sense nor understanding of any thing that was done, was removed, and Tiberius placed in the Empire; at his Coronation, Justinus used this notable speech; *Let not the glory of these Imperiall robes, lead thee into error, neither be thou deceived with the glorious shew of such things as are subject unto the senses, wherewith I my self now (alas) being snared, have brought my self foolishly into grievous torments. Wherefore in governing the Empire with great moderation and mildnesse of spirit, redresse what is amisse, and correct what I have lewdly committed.* And pointing at his ill Counsellors with his finger, he said; * *Thou must in no wise be ruled by these men, for these be those which brought me into this lamentable plight and the misery thou seest me in.* A memorable strange speech of a distracted Prince. And thus the Emperour (5) *Wenceslaus*, was likewise deposed by the Princes electors of the Empire, *For besotting himself so with pleasures, &c. as that he became altogether unfit for the government, and a man unprofitable for the Empire and Christian Common-wealth;* and *Rupert* Count Palatine of Rhine, and Duke of Bavaria, was elected Emperour in his stead. The like (no doubt) might be lawfully done here in England, by the whole Kingdom and Parliament, if any such cases of incurable folly or frenzy should befall any of our Kings, who might then either create a Lord Protector to govern both King or Kingdom, during such disabilities of Government in the King (as (6) *Childricke* for a time, before his deposition, was governed and over-ruled in all things by the Marshall of the Palace) or else Crown the next Heir King, if he be capable to Govern. Yea, in the time of our Saxon Kings, when the right Heir was an Infant, unable to govern, the Crown usually descended to the next Heir of full age: Hence * *Wibba* King of *Mercia* deceasing, *Penda* his son being an Infant, the Crown descended to his Nephew *Coarl* of full age, after whose death *Penda* being of ripe age inherited the Kingdom. So King *Wulfcher* deceasing, leaving his son *Kenred* within age, his Brother *Ethelred* succeeded him; who resigning his Crown and turning Monke after he had Reigned 30. yeers, *Kenred* then of full age enjoyed the Crown. So *Ethelfred* King of *Northumberland* dying, *Edwald* his Brother entred the Government and Reigned, *Aldulfe*, *Ethelberds* son, being then a minor, who enjoyed not the Crown till after *Edwalds* death. So * *Cassibelan* succeeded *Lud* his Brother in the Kingdom of *Britain*, *Luds* sons being too young and insufficient to Reign: The like was very usuall in *Scotland*, of which there are divers presidents in *Grafton*, *Hector Boetius*, and *Buchanan*, which I pretermitt. All which particulars laid together, are a most clear unanswerable demonstration, that the Sovereignest power and Jurisdiction of all others, resides in the whole Kingdom and Parliament, not in the King himself, since they may thus dispose of the very Crown it self, and are the sole and onely supream Judges to determine all controversies, all titles which concern it; The King alone having no power to transfer it to any other without the Lords and Commons free consents, as was resolved

3 *Gosfredus* p. 17. col. 468.
Regino l. 3. Ar.
 887. *H. Mutius*,
Germ. Cbrl. l. 12.
Grimons Imperiall History
 p. 404.
 4 *Enagrina* Eod.
 Hist. l. 5. c. 11. l. 3.
Zozaras Annal.
 Tom. 3. f. 150.
 151. *Eutropius*
 l. 16. p. 211.
 * *Nora*.
 5 *Grimons* Imperiall History
 p. 581, 582. *Sen-*
tenia Exaulto-
rationis & Depo-
sitionis *Wenceslai*,
Ar. 1400. in
Germ. Hist. Tom.
 2. p. 180. 181.
Idem. *Crespin.* L.
estate de *Leslise*
 p. 465.
 6 *Avenine* l. 1.
 f. 293. *Erst* g.
 l. 3. c. 13. *Nauch.*
 vol. 3. Gen. 26.
 * *Speeds* Hist. p.
 252. 253. 262.
 364. 365 See
Matthew West.
Polychr. Floren.
Wigo 7. *Helia-*
shed, *Huzindon*,
 and others.
 * *Gauscedus*
Mon. l. 3. c. 20.
Grafton p. 67.
 7 *Grafton* l. 1.
 112.

in the case of King *John*, who resigned and granted his Crown to the Pope, without the Kingdoms consent; and therefore the resignation and grant were adjudged void not onely by the * French King and his Lords, but by our own Parliament, as you may read in 40. Ed. 3. Nu. 8. and in Doctor *Crakenhorpe*, Of the Popes temporall Monarchy, Cap. 2. p. 251. to 255. I shall conclude this point with the words of this memorable Record; * *The Prelates, Dukes, Counts, and Barons, being in the white Chamber, and the Commons in the Painted Chamber; it was shewed unto them by the Chancellour, how they had understood the cause of the Summons of Parliament in generall; but the will of the King was, that the causes should be shewed unto them in speciall, telling them how the King had understood that the Pope by vertue of a Deed, which he said that King John had made to the Pope to do him homage for the Kingdom of England and the land of Ireland, and that by reason of the said homage that he ought to pay him every year perpetually one thousand Marks; and that he purposeth to make out Proceffe against the King and his Realm, for the said Service and Rent, concerning which the King prayed the advice and counsell of the Prelates, Dukes, Earls, and Barons: and what he should do in case the Pope would proceed against him for this cause, or against the said Realm: And the Prelates prayed the King that they might thereupon advise alone by themselves, and return their answer the next morning: Which Prelates by themselves the next morning, and after the said Dukes, Earls, Barons, and great men, answered and said; That the said King John, NOR NO OTHER, MIGHT PUT HIMSELF, NOR HIS REALM, NOR HIS PEOPLE IN SUCH SUBJECTION, WITHOUT THE ASSENT AND ACCORD OF THEM: And the Commons being advised and consulted with thereupon, answered in the same manner. Whereupon it was ordained and assented BY COMMON CONSENT in manner following; In this present Parliament held at Westminster, the Munday next after the Invention of holy Crosse, in the year of the reign of King Edward, the 40. as well to maintain the estates of holy Church, as the rights of his Realm and his Crown, it hath been shewed amongst other things; how it hath been reported and said, that the Pope by vertue of a Deed which he said that the said John, late King of England, had made to the Pope in perpetuity, to do him homage for the realm of England and land of Ireland, and by reason of the said homage to render to him an Annuall rent, and hath purposed to make Proceffe against the King for to recover the said Services and rent; The which thing being shewed to the Prelates, Dukes, Earls, Barons, and the Commons, to have their advice and counsell thereupon, and to demand of them, what the King should do in case that the Pope should proceed or attempt any thing against him or his Realm for this cause: Which Prelates, Dukes, Earls, Barons, and Commons having taken full deliberation thereupon, answered and said, OF ONE ACCORD; That the said King John, NOR NO OTHER MIGHT PUT THEMSELVES, NOR HIS REALM NOR HIS PEOPLE IN SUCH SUBJECTION WITHOUT THEIR ASSENT. And as it appears by many evidences, that if it were done, it was done WITHOUT THEIR ASSENT, AND AGAINST HIS OATH IN HIS CORONATION. And moreover that the Dukes, Earls, Barons, great men, and Commons accorded and granted, That in case the Pope would endeavour or attempt any thing by Proceffe or any other act, to constrain the King or his Subjects to perform what is said*

said

said he will claim in this behalf; That THEY WILL RESIST AND OPPOSE HIM WITH ALL THEIR MIGHT. And before this in the great * *Councell of Lyons*, the Proxies and Procurator of the Church and realm of England, in the name of the whole Realm, complained and protested against this grant of King John as a meer Nullity, BECAUSE IT WAS MADE WITHOUT THE CONSENT OF THE REALM AND LORDS, which neither did, do, nor ever after would consent thereto, as I have elsewhere proved: This being the common received opinion of all Civilians and Statists, That no King or Emperour can alien, or engage all or any part of his Kingdom to another without his Subjects generall consents, and that such an alienation or Mortgage is meerly void in Law to all intents, as *Alberic. Gent. De jure Belli*, l. 3. r. 15. and *Hugo Grotius* proves at large, *De jure Belli & Pacis*, l. 2. c. 6. 7. & lib. 1. cap. 4. sect. 10. where he affirms, That a King who aliens and would actually deliver up possession of all or any part of his Realm to another forraign power without the peoples consents, may lawfully be resisted with force of Arms by his Subjects; concluding with this Sentence out of * *Seneca*, with which I shall close up this Discourse; *Etsi parendum in omnibus Patri* (naturall or political) **IN EO NON PARENDUM QUO EFFICITUR NE PATER SIT.**

This point I have thus copiously debated, not out of any the least intention to derogate from his Majesties just *Supremacie* and *Prerogatives royall*, which I have oft solemnly sworn to maintain to the utmost of my power, and shall (God willing) perform; but out of a serious desire to rectifie the generall mistakes of men, touching a pretended Prerogative, which their fantasies onely (not the Law) have unduely attributed unto Kings: and to vindicate the just *Liberties*, *Priviledges*, and *Prerogatives* of Parliaments (so much decryed, declaimed against of late by a company of ignorant Papists, Malignants, Royalists, who know not what the jurisdiction of Parliaments is) according to the *Protestation*, the clearing of which points (in my weak apprehension) is the onely high and ready way to compose our present differences, to settle all our distractions, which the ignorance, the mistakes of the Kings and Parliaments just Prerogatives and Powers, (next to the treacherous malice of Papists) have principally raised among us, almost to the ruine of the Kingdom. For my part, I profess sincerely, I love and honour both King and Parliament alike, and in the controversies now between them concerning their Jurisdictions, stand as a man indifferent to do right to both, without prejudice to either; and the King being the Principall Member of the Parliament, the elevating of its now disdained Power to its due altitude, can be no depression, but advancement of the Kings Prerogative, which shines most perspicuously in Parliaments, whiles King and Parliament are united, and is most eclipsed onely when they are divided, as the precedents in all ages manifest. And this I dare confidently averre, That there are no such enemies to the Kings Prerogative, as those who advancing it beyond due bounds, do necessarily draw it into dispute, in which it commonly comes off with losse and diminution in the end, as in the late cases of *Leases*, *Ship-money*, and the like. It was a notable true Speech of our King * *Henry the 8.* in the 34. yeer of his reign in the case of one *Georges Ferrers*, a member of the Commons house, arrested contrary to their Priviledge, of which the King being informed, used these words among other to the *Speaker* and House of Commons,

* *Matthew West.*
ch. 1245. p. 191
to. 197. *Walsing.*
Ypodig. p. 60
Math. Paris.
p. 646. Here
part. 2 p. 13.

* *Coner. l. 11.*
contr. p.

* *Holinshed.* p.
1584. *Cromp-*
tons Jurisdic.
of Courts s. 10.

We are informed by our Judges, That we at no time stand so highly in our estate Royall, as in the time of Parliament; wherein we as Head, and you as Members, are knit together into one Body poliitick; so as whatsoever offence and injury (during that time) is offered to the meanest of the House, is to be judged, as done against Our Person, and the whole Court of Parliament; which Prerogative of the Court is so great, as all Acts and Processes coming out of Inferiour Courts, must for the time cease, and give place to the highest; which being so, My Vindication of the Parliaments Sovereign Power and

Object.

(f) 1 Eliz. c. 1.

(g) Lib. 1. c. 8.

f. 5, 6. l. 3. c. 3.

f. 107.

(h) L. 1. c. 5. 17.

(i) 3 Ed. 3. 19.

Corone 161. 22.

E. 3. 3. b Dyer,

297. a. Stamsf.

(k) 22 E. 3. 2 b.

(l) Bracton. l. 2.

Ans^r.

c. 16. f. 134. a.

Fletal. l. 1. c. 17.

(m) Paramourum

habere non debet,

neq; multo fortius

superiorem, nisi

in iustitia

exhibenda, licet

in iustitia recipi-

eatis, minime de

regno suo compa-

rentur, lib. 3. c. 9.

f. 167. a.

(n) See Bodias

Common-wealth.

l. 2. c. 1. p. 192.

the like of the

Parliaments in

France.

(o) See Modus

tenendi Parlia-

mentum Camb.

Brit. pag 177.

Group. Jus. of

Courts, f. 1. to 6.

Sir Tho. Smiths

Common-wealth.

l. 2. c. 2. 3. Hol.

Descrip. of En

g^d and c. 8. Covert

premiss^t Sovereign Power, though not Governour.

& Minst. Tit.

Parl. Mr. Hutch

manner of pas

sing Bills, sect. 8.

Right, can be no impeachment, nor diminution of the Kings just Authority, though

many Sycophants and Malignants falsely repute it so.

If any here object against the premis^s, (f) That the King is the only Supreme Governour of this Realm, That (g) Bracton, (h) Fleta, and our (i) Law Books

resolve: That the King hath no Peer in His Kingdom, for so He should lose His Em-

pire, since Peers (or Equals) have no command over one another; much more then ought

He not to have a Superiour, or mightier, for so He should be inferiour to those who are

subject to Him; and inferiours cannot be equal to Superiours. The King ought not to

be under man, but under God and the Law. If then Justice be demand^d of Him by

Way of Petition, (because no Writ runs against Him (though (k) anciently some Writs

did) if He do not justice, this punishment may be sufficient to Him, that He may expect

God will revenge it. Nemo quidem de factis suis præsumat disputare, multo fortius

contra factum suum venire, &c. Therefore the King is above the Parliament, and

Whole Kingdom, not they above Him.

I answer, First, That the meaning of all these Books is, That the King is above

every one of His Subjects, and hath no Peer nor Superiour, if they be taken parti-

cularly and dist. ibutively, as single men; as the words Param, Superiorum, in the

singular number, and the like, explain the meaning of the Books to be. But if we

take them collectively in Parliament, as they are one body and represent the whole

Kingdom; then these very Authors resolve (in their fore-quoted words) That they

(l) are above the King, and may, yea, ought to restrain and question his actions, his

Mal-Administrations, if there be just cause.

Secondly, Bracton explains himself, how He is highest and without a Peer, to

wit, In (m) distributing Justice, that is, He is the highest Iusticiar in the Kingdom,

but as low as any in receiving Justice.

Thirdly, Even in Parliament it self, the King is the Supreme Member, and in

that regard the Parliament in most publike Acts, in all their Petitions or Addresses,

usual stiles him, (n) Their Sovereign Lord: Besides, The Parliament it self is ever

(o) summoned, dissolved by his Writ, in his name, by his Authority: And in passing all

Acts and Bills of Grace, or such as are not simply necessary for the publike safety

and utility of his people, He hath an absolute negative voyce, and his Royall assent is

in some sense simply necessary for the passing of all ordinary lasting binding Laws: In

which respects he is, and may be truly said in some sense, To be above the Parlia-

ment it self, and the only Supreme Governour; but yet in the forenamed regards, the

Parliament really is, and may be justly averred to be Paramount hix, and the Su-

premiss^t Sovereign Power, though not Governour.

Fourthly, The Oath of Supremacy, That the King is the only Supreme Governour, relates only, and at least principally to the Popes forraign Princes Authorities;

formerly usurped in this Realm, as the Title, Words, scope of the Statute of 1 Eliz.

cap. 1. and the very next words in the Oath it self undenyably manifest, (And that NO FORRAIGN Power, Person, Prelate, State or Potestate hath or ought to have any Jurisdiction, Power, SUPERIORITY, PREHEMINENCE, or Authority, Ecclesiasticall or Spirituall within this Realm; and therefore I do utterly renounce and forsake ALL FORRAIGN Jurisdicions, &c.) Therefore it refers not at all to Parliaments, or their Jurisdiction, Power, Superiority, Preheminence, or Authority; not so much as once thought of by the prescribers of this Oath, which had its creation and Authority from the Parliament, and made some addition to the Kings Prerogative.

Fifthly, (p) Bodin with others (as I shall hereafter manifest) assure us, That ^{(p) Commonw.} the Sovereign Power, and Jurisdiction both in the Roman and German Empires, and in ^{l. 1. c. 9. l. 2. c. 8.} most forraign Christian Kingdoms, was, and yet is, in the Senate, People, Parliaments, States, Dyets; yet this is no impeachment at all to their royall Supremacies, or Titles of Supreme Heads, and Governours, within their own Dominions, no more then the asserting of generall Councils to be above Popes themselves, by the learnedst Papists, is any derogation (as they hold it is not now) to the Popes most absolute pretended Sovereignty ^{(q) See p. 2. 3.} above all Emperours, Kings, Princes, Prelates, Subjects, and the world it self, of which they affirm him sole Monarch: Therefore by the self-same reason, this asserting of the whole Kingdoms, and Parliaments power to be above the Kings, is no diminution at all, much lesse a denyall of his Supremacy, and just Prerogative Royall.

If then the Parliaments Power be thus higher and greater then the Kings Personall Power and Jurisdiction out of Parliament, it will necessarily follow from hence:

First, That in these unhappy times of division and separation of the Kings Personall presence (not legall which cannot be severed) from the Parliament: The Lords and Commons Orders, Votes, Ordinances, made legally in Parliament it self, are to be preferred, obeyed by all the Kingdom, before any His Majesties Proclamations, Declarations, Commissions, Warrants, or Mandates, made illegally out of Parliament in affront of both Houses proceedings and Decrees, since when ever two distinct powers command different things, that are lawfull, or of the same nature, the higher Power ought still to be obeyed; As if a Master commands his Servant one thing, and the King another; or the King one thing, God another; the King is to be obeyed before the Master, because the Superiour Power; but God before the King, because the highest Power, as the ^{(r) See Gratian} Fathers and Canonists resolve most fully: And* Doctor Ferne with other asserters of the Kings Prerogative, not only ^{causa 11. qu. 3.} grant, but prove; And therefore presse an absolute Obedience to all the Kings commands against the Parliament, on this false ground; Because the King (say they) ^{where he quotes August. Hier. & Isidor.} is the highest Sovereign Power, and above the Parliament it self: The contrary ^{to this purpose.} whereunto being now made evident to all men; The Argument falls fatally on them that urge it. The Parliament, not the King, is the most Sovereign Power: ^{* Resolving of Conscience, sect. 1, 2, 3.} Ergo, Its Votes, and Ordinances must be preferred and obeyed before the Kings. ^{An appeal to thy conscience, and others.}

Yes, The Parliament being the highest Power, the King Himself ought to submit thereto, and to be ruled and advised thereby. This conclusion (though it may seem a Paradox to most men) is an undubitable verity both in point of Divinity and Policy, as is most apparent, by the 1 Sam. 14 38. to 46. and c. 29. 1, to 11. 2 Sam. 18.

2,3,4. c.19.1. to 9. 1 K.12.1. to 25. 2^d K.20.7,8,9. 1 Chr.13.1. to 6. 2 Chr.10. & 11. c.30.2,3,5,23. c.32.3. Esth.1.13. to 22. c.9.23. to 23. Jer.38.4. to 28. Dan.6.4. to 20. Jonah 3.7. Ezra 10. 3.8. Eccles. 4.13. Prov.11. 14. c.15.22. c.25.5. compared together, and with *Iosb.* 22.11. to 34. *Judg.* 20.1. to 20. (where we finde the Princes, and people alwayes overruling their Kings, who submitted their judgement wholly to them, not the Kings overruling their Princes and people;). who as *Iosephus* records, *Antiqu. Iudeorum*, l.4. c.18. Ought to do nothing besides, against, or Without the sentence of the Senate, or Congregation; Whence King *Zedechiah* said unto his Princes, *Jer.* 38.4.5. The King is not he that can do any thing against you: And in point of Law and Conscience, even in our own Kings and Kingdom, as is clear by 20 E. 3. the Preface, and c. 1. 25 E.3. Parliament 6. the Statute against Provifors, 38 E. 3. Stat. 2. c.1,2,3. 3 E.1. c.17. and 48, with other Statutes which I shall hereafter cite at large, in answer to the fourth Objection, concerning the Kings negative voice; which Texts and Statutes those who will, may peruse at leisure for their better satisfaction. And in *Pauls* time, the highest Powers in *Rome*, were not the *Roman* Emperours, as ignorant Doctors make the unlearned world beleeve, but the *Roman* Senate, who had full power, not only to elect and command, but censure, and depose their Emperours, and adjudge them unto death, as * *Iohns Bodin* acknowledgeth, and I shall hereafter abundantly manifest in the *Appendix*.

* Commonwealth
l. 2. c. 5.

Secondly, That the Parliaments resisting of the Kings personall Commands (especially such as are illegall and destructive to the Kingdom) or any private Subjects resisting them by vertue of a publike Ordinance or Countermand from the Parliament, is no resisting of the higher Power, against *Pauls* injunction, *Rom.* 13.1.

(f) Resolution to 7. as (f) Doctor *Ferne*, and other illiterate Doctors vainly fancy, but a direct of Conscience, submission and obedience to the highest Powers (the Parliament;) and those who resist the Parliaments Ordinances and Commands (especially such as tend to the preservation of Religion, Laws, Liberties, Priviledges of Parliament, and the Kingdom, or bringing Delinquents to condign punishment) though they do it by vertue of any extrajudiciall countermand from the King or His ill Counsellors, do both in point of Law, Divinity, Conscience, resist the higher Powers, because they resist the Parliament (which is in truth, the highest Power, as I have manifested, not the King;) and so shall receive damnation to themselves for it, either here, or hereafter, if they repent not; which I seriously desire all those Delinquents, Papists, Malignants, ill Counsellors, and Cavaliers, to consider, who contrary to severall Orders, and Declarations of Parliament, yea contrary to the Law of God, of Nature, of the Realm, have like unnaturall Vipers, taken up offensive Arms against the Parliament and Kingdom, to ruine them, Religion, Laws, and Liberties at once.

(f) Resolution
of Conscience,
1. 2. &c.
And Revindication
of Psalm
105. 15. Printed
at Cambridge,
1643.

Thirdly, Hence it follows, That the Resolutions and Declarations of the Lords and Commons in Parliament, the supreme Court, against the Commission of Array, Arming of Papists, raising of Forces, imposing Taxes to maintain Warre against the Parliament, Plundering, and the like, ought to be obeyed, and submitted to, as lawfull and binding, both by the King Himself, the Kingdom, and every private Subject whatsoever; and that the Kings extrajudiciall and illegall Declarations out of Parliament in direct opposition and contradiction to these Resolutions and Votes of both Houses in Parliament, ought not to be obeyed, the King himself as our Law Books

Books resolve, *Being no (1) competent Judge* (especially out of his Courts) *what is (1) 3 H. 4. 3. 6. Law, or What not in those Cases, but the Parliament only.* Which extrajudiciall new device of controlling, affronting the Resolutions and Declarations of both Houses, by opposite Proclamations, and Declarations published in his Majesties name; is such a transcendent violation of, and contempt against the known priviledges, the sacred venerable Authority, and power of Parliaments, as (I am confident) no age can Paralell; and if not severely vindicated by exemplary punishments of the highest nature, upon those ill Counsellors, and corrupt Lawyers, who contrive and pen them, will bring this *highest, greatest and most honourable Court* (wherein the (u) whole Kingdom, and every Member of it are represented) into greater contempt and lesse estimation with all men, (whether Natives or Forraigners) then the basest Court of Pipouders is. No King nor Subject ever yet attempted such affronts against the Resolutions of any Judges in inferiour Courts; Let no person whatsoever then presume by pen or tongue, any longer to arraign or traduce the Resolutions and Ordinances of this highest Tribunall. If Kings or Counsellors of State, will instruct or excite the Subjects, peremptorily to disobey and contemne the Ordinances, the Judgements of the Parliament, let them never expect the least obedience or submission to any of their own commands, which are of lesser credit and Authority; which all former Ages have most revered and submitted to.

(1) 3 H. 4. 3. 6.
24 H. 8. c. 12. 52
H. 3. c. 1. 25 H.
8. c. 2. 1. Caske.
Institutes on
Mag. Charia, f.
103. 25 Ed. 3.
Puhl. 2.

(u) 31 H. 8. c. 1.
1 Jac. c. 1. Di. &
Student, 44. 9.

Fourthly, That the Parliament and whole Kingdom, being the highest Power, or any Member of the Parliament, cannot by any publike Acts or Votes of theirs consented to in Parliament, become *Traitors*, or guilty of *high Treason*, against the King, either by the Common Law, or the Statute of 25 Echr. 3. chap. 2. of *Treasons*, which running in the singular number; *If A M A N, &c.* (That is, any private man or men, by their own private authority) *shall levy warre against the King, &c.* it ought to be judged *high Treason*; extends not to the whole Kingdom, or Court of Parliament representing it, (of which no treason was ever yet presumed,) the rather, because the Parliament by this very act is *made the Iudge of all Treasons that are doubtfull*, and was never yet included within the words or meaning of any Law concerning *Treason*, and therefore cannot be guilty of it. Hence the depositions of (a) *Archigallo* and *Emerian*, two ancient *British Kings*, by the unanimous assent of the *Lords and Commons*, for their rapines, oppressions, and Tyranny, with other forenamed Saxon Kings; and of *Edward the second*, *Richard the second*, *Henry the sixth*, *Edward the fourth*, by Acts of Parliament; the creating of *Richard the third*, King; with the frequent translations of the Crown from the right Heir at Common Law, to others who had no good Title, by the whole Kingdom or Parliament, (no lesse then () *high Treason in private persons*) was never yet reputed, much lesse questioned for, or adjudged *high Treason* in the whole Kingdom or Parliament, or any chief active Members in those Parliaments; which by the Law, are incapable of *Treason*, for any their judiciall actions and resolutions in such cases, being only *Tortious* and *Erroneous*, reversible by other Acts in Parliament, not *Traiterous* and *Rebellions*, as appears by all the forequoted Statutes; and by 13 *Eliz. cha. 1.* which makes it *high Treason for any person to affirm, That the Queen by Authority of the Parliament of England, is not able to make Laws and Statutes of sufficient force to alter, limit, and binde the Crown of this Realm, and the Descent, Limitation, Inheritance, and Government thereof, and any mans Title, or right thereto.*

(a) *Grasp* part 6.
f. 62, 63. *Gal-*
fredus, Monum.
Fabian, Polycba,
and others.
(b) *Fag* 5 to 10.
(c) *Bracton* l. 2.
Glan. l. 2. f. 11 2.
Mirror, c. 1 f. 3.
4. *Britton*. c. 8.
f. 16. c. 22 f. 39.
25 E. 3. c. 2. See
Ralal, Broke,
Stamf. Crompt.
Dalton, in their
Titles and
Chapters of
Treason.

And

(c) *Walsingham* And for direct Authorities in this very point, (c) *Robert Trisylvian* and *Belknap* (then chief Justices) *Holt*, *Fulthorp*, and *Burgh*, Judges, *Lofton* Kings Sergeant, and *Blake* the Kings Counsell, in the Parliament of 11 *Rich. 2.* Were condemned, executed, and banished the Realm, as guilty of high Treason, only for affirming under their Hands and Seals. (f) That the Duke of Gloucester, the Earls of Arundel and Warwick were; and that other Lords and Commons might be guilty of high Treason, for procuring a Commission, and other proceedings Voted in Parliament, and be punished for it as Traytors. Which opinion of theirs, being after wards affirmed for Law, in a packed Parliament, 21 *Rich. 1.* was the very next Parliament in 1 *Hen. 4. c. 2, 3, 4.* repealed, and the judgement given against those Judges for this Trayterous opinion (tending to the utter subversion of Parliaments) resolved, and enacted to be just. This (g) Judge (h) *Belknap* foresaw, and therefore was unwilling to put his Seal to this opinion, saying; There wanted but a burdle, a horse, and halter, to carry him where he might suffer the death HE HAD DESERVED: For if I had not done this, I should have dyed for it, and because I have done it, I DESERVE DEATH for betraying the Lords. Which makes me wonder at a passage in (i) *Speed* (who records it) now frequent in Malignants mouths. That the very shop where the Barons originall Treasons were forged, was THE PARLIAMENT-HOUSE, whercin from time to time they forced on the King (Edward the second) presumptuous and TREASONOUS ORDINATIONS, not only to reform the Kings House and Counsell, and to place, and displace all great Officers at their pleasure; but even claimed a joynt interest in the Regiment of the Kingdom, together with the King, which *William Inge* (a Judge of the Common Law) with other like sticklers, trayterously perswaded them, was according to Law: Which grosse slander of the Parliament House, would have been capitall at least in former ages, and may now indanger the necks of those who speak or write the same of the present Parliament. Never did any of our Kings, charge any Parliament with high Treason hitherto; much lesse indict or wage warre against their Parliaments, as Traytors, though they have questioned and deposed Kings for offences against, and being Enemies or Traytors to the Kingdom: Let none then dare affirm, That the Houses of Parliament are, or can be Traytors now, for providing for their own, and the Kingdoms safety, by a necessary defensive Warre, which I shall in the third part fully clear to be neither Treason, nor Rebellion against the King in point of Law, or Conscience, either in the Houses of Parliament, or any that bear Arms by their command.

Fifthly, That to conspire or levy warre against the Parliament, or Kingdom, to dissolve, or destroy it, or the Members of it, is no lesse than High Treason; as hath been solemnly adjudged in Parliament, 15 *E. 2.* in the Act entituled, *Exilium Hugonis le de Spenser*, in 1 *E. 3.* the Preface, and *cap. 1.* in 11 *Rich. 2. c. 2, 3, 4.* and in the Parliament Roll, Printed by Order of both Houses, August 27. 1642. And before both these, in (k) *Glanvil*, who declares it to be Treason, even at the Common Law, *Si quis machinatus fuerit vel aliquid fecerit in SEDITIIONEM REGNI*: Agreeable to (l) *Vlpian*, and the (m) *Saxon Laws*, which inform us of Treasons against the Common-wealth and Kingdom, (the case of (n) *Cateline* and (o) others) as well as against the King; and to the Statute of 13 *Eliz. c. 1.* which makes it High Treason for any person to stirre up any Forraiguers or strangers with

(h) *Lib. 14. sect. 112*
St. an. fl. 1 c. 2. f. 1. b. and
Cromptons, Jurisdic. f. 73.
 (i) *Instit. l. ult. Tit. 8.*

(k) *Tit. 3.*
 (n) *Cicero Orat. in Catil.*
 (o) *Liv. hist. l. 23. sect. 17.*

with force to invade this Realm or Ireland. And if it be no lesse then high Treason against the King to slay the Chancellour, Treasurer or any of the Judges, or Iustices of either Bench, Eyre, Assizes, or Oyer and Terminer, being in their places doing their Offices (though by the Kings command; as is clear by 25 E. 3. c. 2. and all our Law Books;) then much more must it be high Treason against the King and Kingdom, to warre against the highest Court of Parliament, or slay any Member of it, for doing their Offices and executing the Houses just Commands. It bare mis-Councelling the King to the prejudice of the Kingdom, hath so frequently been adjudged high Treason against the King and Realm in severall Parliaments, as appears by the forcited Histories of *Caedwalla*, the two *Spensers*, *Alexander Nevill*, *De la Pole*, *Trysilian*, and others; then what is it to miscoucell, and assist him to make an offensive War against his Parliament, Kingdom, people, for to ruine them? certainly this must be high Treason against King and Realm in the superlative degree. If the Parliament and Kingdom be destroyed, or their hearts blood shed, their vitall spirits let out by an unnaturall War against them; the King himself (at least in his royall Capacity as King) and his royall posterity too, must necessarily be unkinged, and overwhelmed in their ruines; but if the Kingdom stand and flourish (for whose Peace and safety Kings themselves ought not onely to lay down their Crowns, but * lives, as Christ, the * King of Kings hath resolved, and the High Priest too,) though the King should die or perish (as all * Kings ever were and will be mortall) yet their posterity may enjoy the Crown, and reign in honour, in prosperity after their death, which they cannot do if the Kingdom perish. Therefore all those Malignants, Papists, Delinquents, and others, who have most unnaturally taken up arms against the Parliament and Kingdom to dissolve and ruine them, though by the Kings own illegall Commission or Command, are not onely Arch-traytors to the Parliament and Realm alone, but likewise to the King himself and his Posterity too, in the very judgement of Law; whose blood is shed, whose Crown and Royalty subverted, ruined, in the bloodshed, ruine, destruction of his Parliament, Kingdom, people. As it is in the naturall, so likewise in the politick Body; a mortall wound in any part of the body, kills both body and head; the body naturall or politicke cannot die or miscarry, but the head must do so like wise; therefore this War against the Parliament and Kingdom, must in point of Law and Conscience too, be a War against the King himself the chief politick head and member of them both, from which he cannot legally be severed, and high Treason at least against them both, as the Parliament, the sole Judge of Treasons hath resolved long since in their * Declaration of August 18. 1642. in these positive words; *The Lords and Commons do declare, That all such persons as shall, upon any pretence whatsoever, assist his Majesty in this war, with Horse, Arms, ² Lite, or Money, ARE TRAYTORS TO HIS MAJESTIE, THE PARLIAMENT AND THE KINGDOM, and shall be brought to condigne punishment for so high an offence: which they have since seconded in sundry other Declarations and Impeachments.*

In brief, the Gunpowder plot in 3. *Jacobi* to blow up the *Parliament House*, was then adjudged, resolved by the *Parliament*, * King and Judges, to be high Treason, not onely against the King, but *Parliament and Kingdom too*: and to blow up, or assault the *Parliament* now, in the Kings absence, is questionlesse High Treason, both against the King, *Parliament*, and Kingdom. Yea, the Statute of 28. *H. 8.*

* John 10. 10,
11. 17. & 11.
50 & 18 14.
* Rev 17. 14.
& 19. 16.
* *Pal. 86. 6, 7.*

* An exact collation, see p. 576.

² 3 *It. c. 1, 2,*
4, 5 and in his
Proclamations
for apprehending
those Traytors.
The proceeding
against
Traytors, *17. d*
117 p 1248 to
1257.

c. 7. declares those, who shall claim the Crown even of right, in any ocher manner then is limited by vertue and authority of that Act, after the Kings death; with all their Counsellors and abettors, to be deemed and adjudged HIGH TRAITOURS TO THE REALM, (not the King) and such their offence to be reputed HIGH TREASON; and they for it, to suffer such pains of death and forfeiture of Lands and Goods, as in any cases of high Treason is used, onely because it might in common probability ingender a Civil war and Dissentions in the Kingdom, to the destruction of the people and their posterities; much more then must it be high Treason against the Realm, and those High Traitors who now actually wage War against the Parliament, the Kingdom, and destroy the Subjects and their estates in divers places, which they have burned, sacked, ruined. I read in * Fabian, that Eguiran, chief Councellour to Philip the third of France, was judged to death, and hanged on the Gibbet at Paris, for Treason against King Philip and the REALM OF FRANCE, as our Powder Traitors were executed for high Treason against the King and Realm of England of late, and Gaveston with the Spensers heretofore.

* Par. 7. p. 186.

By the Stat. of 1 E. 3. c. 1. 5. R. 2. c. 6. 11. R. 2. c. 1. 3. 17. R. 2. c. 8. 21. R. 2. c. 2. 4. 20. 3. H. 5. Stat. 2. c. 6. & 1. Maria c. 6. certain offences are declared, and made high Treason, and the committers of them, Traitors and enemies, not onely, to, and against the King, but likewise, TO, AND AGAINST THE REALM: and in parricular; the illegall indicting of some Lords to destroy them, as guilty of high Treason, for procuring a Commission in Parliament supposed prejudiciall to the King and his Crown, in 10 R. 2. c. 1. and the opposing and annulling of that Commission, and of some Proesse, Judgements, Executions, made, given, and affirmed in some of these Parliaments, raising forces, and leavying war against the Parliament, and Members of it to destroy them, were then * adjudged high Treason both against the King and THE REALM (though done by the Kings expresse Commission and command:) The reason is, because the King himself and the whole Realm in judgement of Law, * are ever legallly present in and with his Parliament when they sit, (as I have already proved) where ever the Kings person is; and his royall legall will (of which alone the Law takes notice) is ever presumed to concur with his greatest Council the Parliament, against whose Priviledges, safety, and protection he neither can nor ought by Law or right to attempt any thing; and if any personall Commands or Commissions of the King, under his great Seal, to do ought against Magna Charta, the Subjects liberty, safety, property, the Parliaments Priviledges, the Common or Statute Laws of the Realm (all which, together with the Kings Coronation Oath, and the Prologues of most old Parliaments expressly prohibit the levyng of war, killing, wounding, murdering, imprisoning, disinberiting, robbing, or plundering of the Subjects, without legall trial or conviction, as do the Statutes of 2 R. 2. c. 7. 1 H. 5. c. 6. 1 H. 5. c. 6. which prescribe exemplary punishments against such Plunderers and Robbers, especially the Welchmen;) issue out to any person or persons whatsoever, especially to raise forces or levie war against the Parliament or Subjects, they are meerly void in Law, and will rather aggravate then extenuate the guilt of those who obey or execute them: as is clearly resolved, not onely by 42. Aff. p. 5. 12. Brooke Commissions: 15. 16. Cooke l. 5. f. 50. 51. l. 7. f. 36. 37. l. 8. f. 125. to 129. but likewise expressly, and judged and enacted by the Statutes of 15 E. 3. St. 1. c. 1. 3. 42 E. 3. c. 1. 3. 11 R. 2. c. 1. to 6. 21 Jac. c. 3. the Petition of Right, 3 Caroli. 28. E. 2. Artic. Super Charta c. 2. 4 E. 3. c. 4. 5 E. 3. c. 2. 25 E. 3. c. 1. 15. 34 E. 3. c. 2. and generally by

* See i Waltingb. Holinsb. Fabian, Grafton, Stow, Sped, in 10. & 11. R. 2. 21 R. 2. c. 12.

* See here f.

30 21 22.

by all Statutes concerning * Parveyors: by the memorable old Statute of 15 E.3. * See *Rafist*
 Stat. 1, If any Minister of the King, or any other person of what condition soever be he, do or *Abridgment,*
 come against any point of the great Charter, or other Statutes, or the Laws of the Land, he shall *tit. Parveyors.*
 answer to the Parliament, as well as the SUITE OF THE KING, as at the
 suite of the partie, AS FAR FORTH WHERE IT WAS DONE
 BY COMMISSION OR COMMANDMENT OF THE
 KING, as of his own authority: And by that parallel good Law recorded by * *Fabian,*
 made in Parliament in the first yeer of King Henry the fourth; That no Lord, nor other *Part 7. p. 376.*
 person of no degree, should after that day lay for his excuse (as some then did) any constraint
 or coaſing of his Prince in executing of any wrong judgement, or other criminous or unlaw-
 full deeds, saying; That for fear they durst not otherwise do; for such excuse after this day
 SHALL STAND HIM IN NO STEAD. And in this Parliament,
 * Hill was judged to be drawn from the Tower of London unto Tibarne, and there to be * *Fabian, part.*
 hanged and quartered (which was accordingly executed) onely because he was one of those *7. p. 342 375.*
 who secretly murdered the Duke of Gloucester at Calice (illegally attainted of Treason *Hals Chron. 1.*
 in the Parliament of 21. R. 2. without due proceſſe of the Law by King Richard the second *H 4 f. 10 Gryf.*
 his command, for his good service done in Parliament in 10 & 11. of this King) and *tan, p. 408 Wal-*
 likewise the Dukes of Aumar, Surrey, Exeter, with other Noble-men, were deprived of *ſingham, Hiſt. p.*
 their Dukedoms, of most of their Lands, Castles, Honours, for having a finger in this Dukes *393. 402.*
 suffocation and death by King Richards instigation and command, (and had lost their
 heads too if the common people had been their Judges, who murmured against King
 Henry for sparing their lives) as you may read in * *Walsingham and Speed.*

If these then who murdered but one good Peer of the Realm by the Kings speciall com-
 mand, for his good service done in former Parliaments, after an illegall judgement of high
 Treason given against him, were thus hanged, quartered, degraded as Traytors by a solemn
 Judgement in Parliament; how severe a censure may they expect, who without, and before
 any such conviction or sentence, have taken up offensive Arms to murder and destroy the
 Parliament it self and chiefe Members of it as Traitors, and caused them or any of them ille-
 gally to be proclaimed Traitors, the more colourably to wage War against them? All
 which I would advise His Majesties Captains, Cavalliers, and ill Counsellors to consider.
 The rather, because all levying of War either against the King, or against the Kingdom and
 Parliament, (now made a matter of high Treason on both sides) must and ought to be deter-
 mined and resolved, which of them is high Treason and which not, and the parties guilty of
 it, must and ought to be tried, arraigned, judged, and condemned for it, onely in and by the Par-
 liament, and in and by no other Court or Judges, as is punctually resolved by the severall Statutes
 of 11 R. 2. c. 1. 2. 3. 4. 21 R. 2. c. 2. 3. 4. 12. 20. 8 H. 4. c. 10. and the very words of the Statute of
 25 E. 3. c. 2. of Treasons, especially being a new case. If then the Parliament are, and must be
 the onely judges of this question, Which of the two parties now in Arms are Traitors? and the
 onely Court wherein all must be tried on this point, they may easily judge who are and must be the
 Traitors in this case; and those who by the Kings meer personall command and presence
 (whom they have treacherously withdrawn from his Parliament) fight now both against
 Parliament and King in his legall and regall capacitee, when the time of triall comes, will be
 found reall Traytors both to King and Kingdom (what ever their own ignorance, temporizing
 Lawyers, or hopes of prevailing may now suggest unto them) as the Parliament hath already
 declared them in sundry Remonstrances. In the Parliament of 15 E. 2. the two *Speisers* were
 by a * speciall Act of Parliament adjudged Treitors, banished, and their lands and goods confiscated, for
 * *Exilium Hen-*
 counselling this King, and advising him to ride with armed Troops of horses and men into Gloucester-
 hire to assault the good people there, and to levie war within the Realm, to the destruction of the Church
 and people, contrary to the form of the great Charter, and breach of the peace of the Realm: What severe
 judgement then may those ill Counsellors and Cavalliers deserve, who have actually levied
 War,

(p) See the Relation of the taking of *Ciester*

* *Fitz. Coroc.*
192. 194. 246.
258. 261. 330.
Stamford f. 11,
12, 13. 22 H.
7. 39. 24 H. 8.
6. 5 *Cookel.* 5.
f. 51. 52. 53.

war, not onely against the County of *Glocester*, (which they have pitifully harrowed and spoiled, contrary to all Law, sacking (p) *Ciester* to its utter iuine, and leading away the good people thence captives to *Oxford* in triumph, for the most part barefooted, through dirt and mire, in the cold Winter season, chained together in ropes, more like to Turkish Gally-slaves then English Christian Subjects; onely for this new kinde of supposed Treason and Rebellion, the defence of their Liberties, lives, and goods, against theeving Cavalliers, (which they may defend by Law, * and justify the killing of all those who shall violently assault them or their houses, to rob them of them) denying them so much as a draught of cold water to quench their thirst by the way, and keeping off all who would give it to them, many of them being since dead at *Oxford* of famine and more then barbarous usage, but likewise against most Counties and many Towns of *England*, (miserably wasted, sacked, pillaged, and some in cold blood burned by them) and the whole Kingdom, Parliament, yea King himself in his politick Capacitie; and raised an Army of Papists against expresse late Acts of Parliament; who not onely now set up their long exploded Masse openly in *Yorke-shire*, *Reading*, and other places, but (which my very soul abhors to think of) have lately in a most impious manner, *Sbit* upon the English Bible in folio, defaced and burnt many Testaments, and godly English Books, in *John Hamonds* house (a Bookseller) in *Marleborough*, when they sacked it, in contempt of our Religion, setting the chimney on fire with their excessive flames; and it reports be credible, have since burned divers English Bibles; with other good Books, in the publike Market place at *Reading*, under the very Gallows, in detestation of our Protestant Faith, whose utter extirpation is their chief designe. Certainly, if these ill Councillers, or murdering Plundering Cavalliers once come to a legall triall, a Gallows will be too milde a punishment to expiate such a prodigious high Treason, which former ages can hardly parallel, especially if they persevere therein. But of this more hereafter.

Sixthly, Hence likewise it necessarily follows, that the Houses of Parliament being the Sovereign Power, ought of right to enjoy, and may when they see just cause for the Kingdoms safety and benefit, order the *Militia*, Navy, Ports, Forts, and Ammunition of the Realm, and dispose of them into such persons custodies as they may safely confide in; nominate and elect, both the great Counsellers, publike Officers, and Judges of the Kingdom; of right require, (if not enforce, if wilfully denied) the Kings Assent to all publike Bills of Right and Justice, necessary for the Common-weal and safety of his Subjects, in which the King hath no absolute Negative voice; take up defensive Arms to protect their Priviledges, Laws, Liberties, and established Religion; not onely against Malignants and Popish Reculants, but the King himself, if he raise Forces against them, make war upon them, against his Royall Oath and duty, declaring himself an open enemy to his Parliament and kingdom, That they may lawfully in case of present ruine and danger, without the Kings concurrence, when he shall separate himself wilfully from, or set himself against them, (which the *Estates of Aragon* held A WICKEDNESS in their King *Alonso* the third:) impose taxes on the Subject, and distrain their goods, imprison, confine, secure their persons for the publike safetie, when they deem it absolutely necessary. All which, with other particulars, I shall (God willing) fully prove, by such Demonstrations, Arguments, punctuall Authorities, and undeniable precedents in former ages, as shall, I trust, undeceive the blinded world; and convince, if not satisfie, the greatest Royallists, Papists, Malignants, both in point of Law and Conscience, in the next parts of this Discourse.

9 p. A CO.
MITIIS IN
TEMPESTI-
VE DISCE-
DERE ID
quidem d. c. b. n.
REGI NE-
FAS FUISSE;
neque tantam
j. illorum scilicet
Iuris eque susti-
nenda. Histon.
Blanca. Rerum
A. 13. Comment.
p. 662.

Errata and Omissions in some Copies.

Page 15. l. 43. for Lawes read Courts p. 40. l. 22. consents, may be dispols. by their consents. p. 49. l. 44. dele and p. 51. l. 20. Eleventhly, r. Eighthly.

THE
SOVERAIGNE POWVER
OF
PARLIAMENTS & KINGDOMES.

OR
Second Part of the Treachery and Disloyalty of
Papists to their Sovereignes.

Wherein the Parliaments and Kingdomes Right and Interest in, and Power over the Militia, Ports, Forts, Navy, Ammunition of the Realme, to dispose of them unto Confiding Officers hands, in these times of danger; Their Right and Interest to nominate and Elect all needfull Commanders, to exercise the Militia for the Kingdomes safety, and defence: As likewise, to Recommend and make choise of the Lord Chancellor, Keeper, Treasurer, Privy Seale, Privie Counsellors, Iudges, and Sheriffes of the Kingdomes, When they see just Cause: Together with the Parliaments late Assertion;

That the King hath no absolute Negative Voice in passing publicke Bills of Right and Justice, for the safety, peace, and common benefit of his People, when both Houses deeme them necessary and just: are fully vindicated and confirmed, by pregnant Reasons and variety of Authorities, for the satisfaction of all Malignants, Papists, Royallists, who unjustly Censure the Parliament proceedings, Claimes and Declarations, in these Particulars,

Judges 10. 1. 2. 8. 9. 10. 11.

Then all the Children of Israel went out, and the Congregation was gathered together, as one man, from Dan even to Beersheba, &c. And all the People arose as one man, saying; We will not any of us goe to his Tent; neither will we any of us turne into his House; But now, this shall be the thing, that we will doe to Gibeab; We will goe up by lot against it. And we will take ten men of an hundred, throughout all the Tribes of Israel; and an hundred of a thousand, and a thousand out of ten thousand, to fetch witnesses for the people, that they may doe to Gibeab, according to all the folly that they have wrought in Israel.

Judges 11. 5. 6. 11.

And it was so when the children of Ammon made warre against Israel, the Elders of Gilead said unto Jephthah; Come, and be our Captaine, that we may fight with the children of Ammon, &c. Then Jephthah went with the Elders of Gilead, and THE PEOPLE MADE HIM HEAD AND CAPTAINE OVER THEM.

2 Sam. 18. 3. 4.

And the King said unto the people, WHAT SEEMETH TOV BEST, I WILL DOE.

Jer. 38. 4. 5.

Then Zedechiah the King said unto the Princes; Behold, he is in your hand; FOR THE KING IS NOT HE THAT CAN DOE ANY THING AGAINST TOV.

It is this 28th. day of March, 1643. Ordered by the Committee of the House of Commons in Parliament concerning Printing, that this Booke intituled, *The Sovereigne power of Parliaments and Kingdomes*, be forthwith Printed by Michael Sparke, Senior.

John White.

GENERAL INSTRUCTIONS

TO THE MEMBERS OF THE BOARD

OF THE UNIVERSITY OF CALIFORNIA

FOR THE YEAR 1900

AND FOR THE YEAR 1901

AND FOR THE YEAR 1902

AND FOR THE YEAR 1903

AND FOR THE YEAR 1904

AND FOR THE YEAR 1905

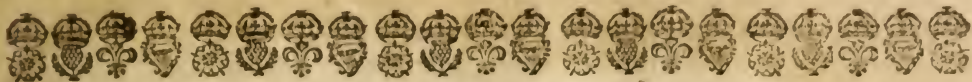
AND FOR THE YEAR 1906

AND FOR THE YEAR 1907

AND FOR THE YEAR 1908

AND FOR THE YEAR 1909

AND FOR THE YEAR 1910



To The Reader.



Ourteous Reader, our usuall Proverbe concerning Science; That it hath no enemies but Ignorants; is in a great measure now verified concerning the Proceedings of this present Parliament; that few or none malignantly clamor against them, but such who are in a great degree Ignorant of our Parliaments just Sovereigne Authority; though many of them in their own high-towring conceits deeme themselves almost Omnis-

cients, and wiser than an hundred Parliaments compacted into one. Among these Anti-parliamentall Momusses, there are none more outrageously violent (Papists onely excepted) in exorbitant Discourses, and violent Invectives, against this Parliaments Sovereigne power, Priviledges, Orders, Remonstrances, Resolutions; then a Company of seemingly Scient, though really * inscient, selfe-conceited Court-Doctors, Priests, and Lawyers; who have so long studied the Art of flattery, that they have quite forgot the very Rudiments of Divinity, Law, Policy, and found out such a Divine, Legall, unlimited absolute royall Prerogative in the King; and such a most despicable Impotencie, Inanity, yea Nullity in Parliaments, without his personall presence and concurrence with them; as was never heard of but in Utopia, if there; and may justly challenge a Speciall Scene in the next Edition of Ignoramus.

* Doctum genus indoctissimi morum Hominum, vix ad Doroberniam usque doctia. Erasmus.

What God himselfe long since complained off; * My people are destroyed for lacke of knowledge; may now be as truly averred of the people of England, (seduced by these blinde Guides, or over-reached by Iesuittically Policies,) they are destroyed for want of knowledge, even of the Kings just circumscribed Prerogative; of the Parliaments Supream unlimited Authority, and Unquestionable Priviledges; of their owne Hereditary Liberties, and Native Rights: of the Law of God, of Nature, of the Realme in the points now controverted betweene King and Parliament; of the Machivilian deepe Plots of Priests and Papists long since contrived, and their Confederacies with forraign States (now visibly appearing) by secret Practises, or open violence, to set up Popery and Tyranny, throughout our Realmes at once; and by false pretences, mixt with deceitfull Protestations, to make our selves the unhappie Instruments of our Kingdomes slavery, our Lawes and Religions utter ruine. The Ignorance, or Inadvertency of these particulars, coupled with a Popish blinde Obedience to all royall Commands though never so illegall; out of an implicit Faith, that what ever the King Commands (though against the expresse Lawes of God and the Realme and Resolutions of both Houses of Parliament) may and ought to be obeyed without contradiction or resistance; as some new Doctors teach: hath induced not

* Hosea 4. 1, 6.


* Cari sunt
parentes, cari
liberi, propin-
qui, familia-
res; sed omnes
omnium cari-
tates Patria
una complexa
est; pro qua
quibus du-
bitet mortem
et petere, si ei
sit profuturus?
Quis est deri-
sionibus ille-
rum miseranti-
um, qui lacrimant
quasi in ele-
phantum. Et in
ea iudicatus de-
lenda occupati
et sunt. Et
fuerunt, Ci-
cero de Offi-
ciis l. 1. p. 614.

onely many poore Ignorant *English* and *Welsh* silly soules, but likewise sun-
dry *Nobles* and *Gentlemen of quality*, very unworthily to engage themselves
in a most unnaturall destructive warre, against the *High Court of Parliament*,
and their * *Dearest Native Country*, to their eternall infamies, and (which is
almost a miracle to consider) to joyne with the Iesuiticall *Popish Party* now
in *Armes* both in *England* and *Ireland*, and some say under the *Popes owne*
Standard) not onely to subvert their owne *Lawes* and *Liberties*, but the
very *Protestant Religion* here established, which they professe they fight for.
In this deplorable warre many thousands have beene already destroyed,
and the whole Kingdome almost made a desolate wildernesse, or like to be
so ere this Spring passe over, and all onely for want of knowledge, in the pre-
mises, which would have prevented all those *Miseries* and *Distractiions* under
which we now languish almost to desperation, and death it selfe.

To dissipate these blacke Clouds of *Egyptian Darkenesse*, spread over all
the Land, distilling downe upon it in *showres of Blood* instead of *Aprill drops*
of raine, (and I pray God they make not all our *May-flowers* of a *Sanguine*
dye.) I have, (after a long *sad Contemplation*, of my deare *Countries bloody*
Tragedies) at the *speciall Request* of some *Members of Parliament*, (according
to my *weake Ability*, and *few Honours vacancy* from other distractin^r *Impley-*
ments) hastily compiled this undigested ensuing *Fragment*, with the pre-
ceding *Branch* thereof, and by *their Authority*, published that in *dismembered*
Parts, which by reason of its difficultie to the *Printers*, & urgencye of present
publike affaires now in agitation, I was disabled to put forth (together
with the *remaining member*) in one *intire Body*, as I desired. Be pleased there-
fore kindly to accept that in *Fractiions*, for the present, which time onely
must, and (God-willing) speedily shall compleat; which by Gods blessing
on it, may prove a likely meanes to *compramise* our *present Differences*; and
re-establish our *much-desired Peace*; together with our *Religion, Lawes, Liberties*
in their *Native purity* and *glory*; (the very *Crownes*, and *Garlands* of our
Peace;) *Peace* accompanied which *Slavery* and *Popery* (both which now me-
nace Us,) being *worse* then the *worst of Warres*; and an *honourable death* in
the *field* fighting against them, better by farre then a *disconsolate sordid*
slavish life, or a *wounded oppressea Conscience*, (though in a *royall Pallace*, under
them. From such a *disadvantageous, enslaving, enlating, unwelcome Peace*,
Good Lord Deliver Us.

All I shall adde, is but this request, *A Charitable Construction*, of this *meane*
Service for my *Countries Liberty, Tranquility, Felicity*: and if thou, or the
Republicke reap any benefit thereby, let *God onely* enjoy thy *Prayses*, the *Autho-*
thy Prayers. And because I have walked in an untrodden path, in all
the *Parts* of this *Discourse*.

— Si quid novisti rectius istis
Candidus imperti; si non, his uere mecum.



THE
SOVERAIGNE POWER
OF
PARLIAMENTS
AND
KINGDOMES.



HAVING answered in the former part, the Grand Objection against the Parliaments Sovereigne Power, I shall in this proceed to the particular crimes now objected against it. The second grand complaint of his (a) Majesty and others, against the Parliament is, That both Houses by a meere *Ordinance*, not onely without, but against the Kings assent, have unjustly usurped the power of the *Militia*, a chiefe flower of the Crowne, and in pursuit thereof, not onely appointed Lieutenants, and other Officers, to muster the Trained

Object. 2.
(a) See all his Majesties Declarations and Proclamations concerning the *Militia*, Commission of *Array*, *Hall*, The Complaint against the Parliament.

Bands in each County; but likewise seized the Ports, Forts, Navy, and Ammunition of the King, together with his Revenues; to regaine all which, his Majesty hath beene necessitated to raise an Army, and proceed against them in a Martiall way.

This unhappy difference about the *Militia*, being (next to the Introduction of Popery) the spring from whence our uncivill warres have issued, and the full discussion thereof, the most probable meanes to put a speedy period to them: I shall with as much impartiality and perspicuity, as I may, like a faithfull Advocate to my Country, and cordiall indifferent well-wisher both to King and Parliament, truely state and debate this controversie, beginning with the occasions which first set it on foote.

Answer.

In the late happily composed warres betweene *England* and *Scotland*, (occasioned by the Prelates) divers Counties of *England* were much oppressed by their Lieutenants with illegall Levies of Souldiers, Coat and Conduct money, taking away the Trained Bands Armes against their consents, and the like, for which many complaints were put up against them to this Parliament; many of them voted Delin-

(b) See the Parliaments Remo-
strances, & De-
clarations touch-
ing all these
particulars, spe-
cially Nov. 2.
1642

(c) See Dr. Jones
his Booke of
Examinations,
Printed by the
Houses Order.

quents, unfit for such a trust, and all their Commissions resolved to be against Law; so that the *Militia* of the Realme lay quite unsetled. (b) Not long after, our Northerne Army against the *Scots*, the pacification being concluded, was by some ill instruments laboured to march up to *London*, to over-awe or dissolve the Parliament, and quash the Bill against the Bishops sitting in the House: Which plot being discovered, and the chiefe Actors in it flying over-sea ere it tooke effect, made the Parliament jealous and fearefull of great dangers, if the Command of the Forces of the kingdome then vacant, should be continued in ill-affected, or untrusty Officers hands; which distrustes and feares of theirs were much augmented by the suddaine generall Rebellion of the *Papists* in *Ireland*, who (c) pretended his Majesties and the Queens Commissions for their warrant; by his Majesties unexpected accusation of, and personall comming (with an extraordinary Guard) into the house of Commons to demand the five Members of it, whom he charged with high Treason; by his entertaining of divers Captaines, as a supernumerary Guard at *White-hall*; and denying a Guard to the House; by the Earle of *New-castles* attempt to seize upon *Hull*, and the *Magazine* there, by command; by the Lord *Digbys* advice to the King, to retire from the Parliament, to some place of strength; by the reports of foraine Forces prepared for *England*, through the solicitation of those fugitives, who had a finger in the former plots; and by the Queens departure into the *Netherlands*, to raise a party there. Hereupon the Parliament for their owne and the kingdomes better security (in the midst of so many feares and dangers threatned to them) importuned his Majesty to settle the then unsetled *Militia* of the kingdome, by a Bill, for a convenient time, and seeing the King himselfe could not personally execute this great trust but by under-officers, by the same Bill, to intrust such persons of quality and sincerity (nominated by both Houses, and approved by the King) as both his Majesty, Parliament, and Kingdome might securely confide in, to exercise the *Militia*, and keepe the Forts, Magazine, and Ammunition of the kingdome under him onely (as before) till these blacke clouds were dissipated. Which his Majesty refusing to grant in so ample manner as was thought nicete for their security; by a Vote of both Houses (when they were full) the *Militia* was committed to divers Noble Lords and others; many of whom have since laid downe their Commissions, which they at first accepted from the Houses, and instead thereof, beene active instruments in executing the Commission of *Array*; (issued out by his Majesty, in direct opposition to the *Militia*) which the Houses by two severall Declarations have since Voted and manifested, *To be against the Law, and Liberty of the Subjects*. And to prevent the arrivalls of Foraine Forces, and a civill warre in the bowels of the kingdome, they first put the *Tower of London*, by the Kings consent, into a confiding hand, trusted by either party; then they secured *Hull* and the Magazine there; after this, when they were informed his Majesty had seised *Newcastle*, and was raising an Army, they possessed themselves of the *Navy*, *Portsmouth*, with other Ports and Forts; and sequestred his Revenues; (the Nerves with which he should support this unnaturall civill warre) which by degrees hath now overspread the whole kingdome, and threatens inevitable desolation to it, if not speedily determined, by an honourable safe accommodation.

This being the true State and progresse of the *Militia*, the sole question will be Whether all the former circumstances of danger, and his Majesties refusal to settle the

Militia, Ports, &c. by an act; in such trusty hands, as both King and Parliament might confide in; the Parliament by an Ordinance of both Houses onely, without the King, refusing to joyne with them, and wilfully absenting himselfe from the Parliament, might not in this case of necessity and extremity, (for their owne, and the kingdomes safety) lawfully settle and seise the premises, for the present, as they have done? and whether this be a just ground for the King to beginne or continue a desperate civill warre against his Subjects? For my part, I shall not undertake to justifie all passages on either side, in the managing of this businesse; it may be there have beene errors at least in both parties: which to reconcile, as neer as possible, I shall premise such propositions on either hand, as neither can in justice deny.

On the Kings part it is irrefragable :

First, That the Kings of *England*, (yea generally all Kings where ever) have usually enjoyed the chiefe Ministeriall Ordering of the *Militia* (in such sort as it hath bene settled by their Parliaments) for the defence of the kingdom by Land and Sea, against Foraine Enemies: A truth acknowledged, not onely by Judge *Crooke*, and *Hutton*, in their Arguments against Ship-money, but by the Parliament it selfe in their two *Declarations against the Commission of Array*; the (d) *Scripture* it selfe in sundry places, together with (e) *Aristotle*, (f) *Polybius*, (g) *Cicero*, (h) *Jacobus Valdesius*, the (i) *Histories* of all Kingdomes attesting, that the originall cause of erecting Kings was, and one principall part of their Royall Office is, to be their *Kingdomes Generals* in their Warres, and fight their Battailes for them; the Kings of *Sparta*, and others, yea, the ancient *Roman* Emperours, being (k) nothing but their Generalls to manage their Warres, and oft Elected Emperours by the *Roman* Legions, for their skill in Martiall affaires.

Secondly, That it is not onely (l) *expedient*, but in some respects necessary, that this chiefe ministeriall command of the *Militia*, *Forts*, and *Navy*, should conitantly continue in the Crown; unlesse it be in some speciall cases, as when the King is an Infant, or unable, or unwilling to discharge this trust; or intends to employ this power against his Subjects to infringe their Liberties, and erect a *Tyranny* instead of a *Royalty* over them: And that it is not meete nor honourable to deprive his Majesty of this part of his Sovereignty at this present, but onely to recommend unto him such persons of trust and quality to manage the *Militia*, *Forts*, and *Navy* under him, in these times of warre and danger, in whose fidelity the Parliament and whole kingdom may confide, and so be freed from their just jealousies, feares, and dangers. Thus farre the Houses have already condescended; and upon these indifferent termes (as they conceive them) have oft (m) profered to resigne up all the *Ports*, *Forts*, *Ships*, *Magazines*, and *Ammunition* they have seised on, into his Majesties hands, they never desiring, nor intending to develt him of this his Sovereigne power over them.

On the Parliaments part, it must necessarily be granted to them by the King:

First, That the whole power which either his Majesty hath or claimes, or his Predecessors enjoyed over the *Militia*, *Forts*, *Navy*, *Ammunition*, and *Revenues* of the *Crowne*; was originally derived and granted to his Ancestors, by the Parliaments and kingdomes free consents, * *And that onely upon trust and confidence for their protection, benefit, security, as the premises abundantly evidence.*

Secondly, That the King hath no other power over the *Militia*, to *Array*, *Arme*

(d) 1 Sam. 8. 11
12. 20. c. 13. 2.
10 17. 2 Sam. 8.
c. 11. 1. c. 12. 7. 9
30. c. 18. 1, 2.
(e) Poli. l. 3. & 5
(f) Hist. l. 6.
(g) De Offic. l. 2.
(h) De Dignitate Regum Hispania c. 18.
(i) See Munsters Cosmo. l. 2. c. 18, 19, 20. l. 4. c. 59.
(k) See Grimstons Imp. Hist. Eutropi. Zonar. Volater. Polyb. hist. l. 6.
(l) See the Bills for Tonnage & Poundage, and Subsidies of Temporakty & Clergy.
(m) See their Petitions to this effect, and their Remonstrance, Nov. 2. 1642.

* See the Remonstrance of the Lords and Commons Novemb. 2. 1642.

or Muster his Subjects in any case, then onely in such manner as the Parliament by speciall Acts hath prescribed, as Sir Edward Cooke in his *Institutes on Magna Charta*, f. 528, 529. this Parliament in the two Declarations against the Commission of Array; and Judge Crooke and Hutton in their Arguments against Ship-money, have largely proved.

Thirdly, That in ancient times, in and before Edward the Confessors dayes, and since, the *Heretoches* (or Lord Lieutenants of every Province and Country) who had the chiefe power of the Militia, and commanded them as their Generalls in the Warres, were elected by the Common Councell of the Kingdome (the Parliament) throughout all Provinces of the Realme, and in every County (by the Freeholders) in a full Folkmote, or County Court; as appears by the expresse words of King Edwards owne Lawes, Recorded in (n) Mr. Lambard; Recited and affirmed by Sir Edward Cooke in his *Institutes on Magna Charta*, f. 174, 175.

Fourthly, That the Sheriffe of every County (who both * then had, and now hath full power to raise the Militia, and Forces of the County upon any occasion, to apprehend Delinquents, execute Proces of the Law, suppress Riots, and preserve the peace of the County) were not elected by the King, but by the Freeholders of each County, as the (o) Conservators of the Peace, and all great Officers of trust, then were, and the (p) Coroners, Foresters, and other Officers, then and yet are elected by the Free-holders, (as well as (q) Knights, Citizens, and Burgesses of Parliament) even at this very day; This is evident by the expresse words of King Edward the Confessors Lawes, *Cap. de Heretochis* (Recorded by Mr. Lambard, *Archaion*, p. 135. and Sir * Edward Cooke) attesting; That the Sheriffes of every County were chosen by the Free-holders in the County Court: And by the Articles of deprivation against Richard the second, charging this upon him as an illegall encroachment, * *That he put out divers Sheriffes lawfully ELECTED* (to wit, by the Freeholders) and put in their roomes divers of his owne Minions, subverting the Law; contrary to his Oath and Honour.

(r) In the yeare 1261. The Barons, by vertue of an Ordinance of Parliament made at Oxford, in the 45. yeare of Henry the third, admitted and made Sheriffes of divers Counties in England, and named them Guardians and Keepers of those Counties, and discharged them whom the King had before admitted. After which, great tumults and seditions arose throughout the Countiees of England about the Sheriffes; for the * King making new Sheriffes in every County, and removing with regall indignation, those to whom the custody of the Counties was committed by the Barons and Commons of the Land; the inhabitants of the Counties animated with the assistance, and ayded with the Counsell of some great men of the Realme, by whom they were instructed; with great sagacity, Novos repulere viriliter Vicecomites, manfully repulsed the new Sheriffes; Neither would they answer, regard, or obey them in any thing.

Whereat the King being grievously troubled in minde, to gaine the peoples devotion and fidelity, directed his Letters to all the Inhabitants of the severall Counties of England, moving to piety and tending to regaine the Subjects Love. Whereupon, great discord increased betweene the King and his Barons; who comming to London with great Forces, the King finding himselfe too weake, ended the matter for the present with a fained Accommodation, which soone after was infringed by him; and so, *Conquievit tandem per internuncios ipsa perturbatio, SUB SPE PACIS reformanda, sine strepitu guerræ, quorundum Procerum ad hoc electorum considerationibus, parte utraque concorditer inclinata. Sicque Baronum omnis labor, atque omne studium præcogitatum din, QUORUNDAM*

(n) *Archaion* p.

135.

* 3 *Edwa.* 3. c.

17. 19. E. 2.

Fin. Execution

247. 8 H. 4. 19.

A. 3. H. 7. 10.

Cookes Institutes

on *Magna Char-*

ta f. 193. 13. E.

1. c. 38.

(o) *Cooke Ibid.*

p. 558. 559.

(p) *Cooke Ibid.*

No. Nat. Bre.

163. 164. *Re-*

gister, part. 1.

177. 178. 28 E.

3. c. 6. *Stamford*

L. 1. f. 51.

(q) 7. H. 4. c.

15. 8. H. 6. c. 7

(*) *Institutes on*

Magna Charta f.

174. 175.

(*) *Grafton p.*

401.

(r) *Math.*

Westm. Anno.

1261. p. 310.

311. *Fabian.*

part. 7. p. 30.

71. *Grafton p.*

137.

Speed p. 636.

(*) *Mau. West.*

hist Ibid.

DAM (ut putabatur) ASTUTIA INTERMIXTA cassatum est ad hoc tempus, & emarcuit; quia semper nocuit differre paratis; writes Matthew Westminster, Notwithstanding these contelts, the people still enjoyed the right of electing Sherifffes, which is evident by the Statute of *Articuli super Chartis*, in the 28. yeare of King Edward the 1. ch. 8. *The King granteth to the people* (not by way of grace but of Right) *that they shall have election of their Sheriffe IN EVERY SHIRE* (where the Shirevalty is not of Fee) *IF THEY LIST*, And ch. 13. *For as much as the King hath granted the election of Sheriffes to the COMMONS of the Shire, the King will, that THEY SHALL CHUSE such Sheriffes, that shall not charge them &c.* And Sir Edward Cooke in his Commentary on *Magna Charta*, f. 174, 175. 558. 559. 566. proves at large, the right of electing Sherifffes, to be antiently, of late, (and at this day in many places) in the Freeholders and people, as in London, Yorke, Bristol, Gloucester, Norwich, in all great Cities which are Counties, & in Middlesex. Seeing then the Parliament and Free-holders, in ancient times had a just right to elect their Generals, Captaines, Sherifffes, (who had the sole power of the *Militia*, and Counties in their hands next under the King himsele,) and there is no negative Law in being (that I can find) to exclude them from this power; I humbly conceive, that their setting the *Militia* by an Ordinance of both Houses, and electing of Commanders, Lieutenants, Captaines in each County to execute it, and defend the Counties from plundering and destruction, without his Majesties consent (especially after his refusall to settle it by an Act) can be no incroachment at all upon his Prerogative Royall, but onely a reviving and exercising of the old undoubted rightfull power enjoyed by their Predecessors, now necessary to be resumed by them (in these times of feare and danger) for the kingdomes safety.

Fifthly, The Mayors, Bayliffes, Sherifffes, chiefe Officers of Cities and Townes corporate throughout the Realme, (who under the King have the principall command of those Cities, Townes, Ports, and in many places of the *Militia*, and Trained Bands within them;) are alwayes chosen by the Corporations and Freemen, not the King, without any derogation to, or usurpation on his Prerogative. Why then may not those Corporations, (yea each County too by the like reason) and the Parliament, which represents them and the whole Kingdome, without any prejudice or dishonour to his Majesties Authority, by an Ordinance of both Houses of Parliament, without the King, dispose of the *Militia*, and these Military Officers, for the defence of those Corporations, and the Realme too, now, in times of such apparent danger?

Sixthly, all * Military Affaires of the kingdome heretofore, have usually, even of right, (for their originall determining, counselling, and disposing part) bene Ordered by the Parliament; the executive, or ministeriall part onely, by the King; and so hath bene the use in most other kingdomes: To instance in particulars.

First, the denouncing of warre against forraine enemies, hath been usually concluded and resolved on by the Parliament, before it was proclaimed by the King: as our Records of Parliament, and Histories of warres in the *Holy-Land*, *France*, *Scotland*, *Ireland*, abundantly evidence. (f) King Henry the fifth by the advife of his Prelates, Lords, & Commons in Parliament, and at their encouragement, twice denounced and undertooke his victorious warre against France, to which Crowne he then laid claime, for which they granted him Subsidies: King (t) Edward the 1. in the 21 yeare of his reign; calling

* See Cookes Institutes on *Magna Charta* f. 538.

(f) Speeds Hist. p. 788. to 790. See Walsingham Fabian, Holinshed, Hall, Stow, Grafson, in his life.

Anno 1. 6. 5. (t) Walsingham Hist. Angl. An. 1295. p. 25. See Holinshed, Speed, p. 653. Grafson, Fabian.

(u) *Grafion*, p.
227. 222, 223.

(x) *Math. Paris*, Anno. 1240.
p. 561, 562,
563.

calling a Parliament at *London, de Concilio Prælatorum & Procerum, &c.* by the advice of his Prelates, Lords and Parliament, denounced war against the King of *France*: to recover his right and lands there seized. Which to effect both the Clergy and Laity granted him large Subsidies. In the (u) fifth yeare of King *Edward the third*, the warre against *Scotland* was concluded and resolved on, in and by the Parliament; all the Nobles and Commons of *England* telling the King, they would gladly and willingly assist and goe with him in that expedition, which they vigorously prosecuted: Before this, Anno 1227. A peace (as well as warre) was concluded with the Scots in and by a Parliament at *Northampton*. (x) Anno 1242. King *Henry the third* summoning a Parliament, and demanding ayd of his Subjects to assist him in his warre against the King of *France* to recover his rights there, they gave him a resolute answer, that they would grant him no ayde, and that he should make no warre with *France* till the truce were expired: which *Matthew Paris* thus further expresth: *The Nobles answered him with great bitternesse of heart; that hee had conceived this warre and voyage into France without their advise: Et talia effrons impudenter postularat, exagitant & depauperant fideles suos tam frequenter, trahens exactiones in consequentiam quasi à servis ultimæ conditionis, & tantam pecuniam toties extorsit inutiliter dispensandam. Contradixerunt igitur Regi in faciem, nolentes amplius sic pecunia sua frustratorie spoliari.* The King hereupon put them off till the next day (*Romanorum usus versutis fallaciis*) and then they should heare his minde concerning this and other matters. The next day he calls them one by one into his Privie Chamber, now one, then another, like a Priest calling penitents to confession; and thus those whom hee could not altogether overcome, weakned by being every one apart, hee endeavoured more cunningly to enervate with his words; and demanding a pecuniary ayd of them he said; *See what this Abbot hath granted me towards my ayd; behold what another hath subscribed, producing a sayned roll, that such and such an Abbot or Peere had subscribed such a summe, when in truth not one of them had consented to it, neither came it into their thoughts.* The King therefore with such false copies, and ensnaring words cunningly inveigled many: *Notwithstanding most stood out, and would by no meanes recede from the common answer, which they had sworne not to recede from under paine of an Anathema.* To whom the King answered in anger, *Shall I be perjur'd? I have sworne with an inviolable oath, that passing over Sea, I will with a stretched out arme demand my rights of the King of France, which I cannot doe without store of treasure, which must proceed from your liberality, else I can by no meanes doe it.* Neither yet with these, or other words could he entrap any, albeit, he called every man single to conferre with. After this, he againe called others which were more familiar with him, and so talking to them said; *What a pernicious example give you to others? you who are Earles, Barons, and valiant Souldiers, ought not to tremble as others, to wit, Prelates of the Church doe. You ought to be more covetous to demand the Kings rights, and valiantly to fight against those who wrong me, &c. with what face then can you relinquish me poore and desolate now, being your Lord, in such a weighty businessse which concernes the Common-wealth, when I am bound by promises to passe the Seas, which I ratified with an oath? Which when it came to the knowledge of all, they answered:*

We admire beyond all that can be spoken, into what bottomlesse pit the innumerable summes of money are sunke, which thou Lord King hast cunningly gained, by divers wardships of great men, by various escheates, frequent extortions, as well from Churches void of a Pastor, as from the lands of Nobles: n, free granted Donatives, engendring amazement in the hearts of

be hearers, all which have never brought so much as the least increase to the kingdome. Moreover all the Nobles of England doe overmuch admire, **QUOD SINE EORVM CONSIPIO ET CONSENSV**, that without their counsell or consent you have undertaken so difficult and perilous a businesse, giving credit to those who want faith, and contemning the favour of thy naturall Subject, exposest thy selfe to cases of so doubtfull fortune: thou dishonestly and impudently, not with unjust perill of thy soule, and wounding of thy fame breakest the Articles of the truce betweene the King of France and thee, which thou hast sworne upon thy soule indissolubly and unviolably to keepe for three yeares space, &c. The King hearing these things, was exceeding angry, swearing by all the Saints, that he would be revoked by no error, nor perswaded by any circumstances of words, to retard his begun purpose, and taking ship on quindena Pasche, would undauntedly try the fortune of warre in forraine parts. And so the Parliament dissolving in discontent and secret heart-burning on both sides, the Lords and Barons for a perpetuall memory of their heroicke answer returned to the King, set it downe in a notable Remonstrance (too large to transcribe) which you may reade in * Matthew Paris. After this in the yeare 1248. this * King summoned a generall Parliament at London, wherein hee demanded an ayde from his Lords and Commons to recover his right in France; who instead of granting it, informed him very roundly and fully of his unkingly and base oppressions both of his Subjects and strangers, to his owne and the kingdomes dishonour, and of his tyranny and rapines: At which the King being confounded and ashamed in himselfe, promised a serious and speedy reformation; which because they thought to be but feigned, he answered they should shortly see it; whereupon they replied, they would patiently expect it till 15. dayes after Saint John Baptist, adjourning the House till then. But the King seduced, hardened and much exasperated by his bad Counsellors and Courtiers, giving then a very high displeasing answer to their demands; they all unanimously answered, that they would no more unprofitably impoverish themselves to enrich and strengthen the King and Kingdomes enemies; and that he had precipitately and indiscreetly, and **WITHOUT THEIR CONSENT** hastned into Poitiers and Gascoigne, and engaged himselfe in that warre; whence he returned ingloriously with losse of his honour and treasure, to his great reproach. And so this Parliament dissolving with discontent, the King grew very angry with his ill Counsellors, for putting him upon these courses which lost the hearts of his Nobles and people: who to pacifie his anger and supply his wants, advised him to sell all his Plate, Utensils and Jewels to the Londoners, and then to resume and seise them againe as belonging to the Crowne.

(y) Anno 1256. The same King Henry summoned a Parliament to assist him in his warres in Apulia; but because he had taken upon him that warre **WITHOUT HIS BARONS AND PARLIAMENTS CONSENT** they and his own brother, Richard Earle of Cornewall, refused to grant or lend him any ayde. And * because all the Barons and Commons were not summoned to this Parliament, as they ought to be, according to the tenor of Magna Charta, they refused to doe any thing, or grant any ayd without the rest of the Peeres were present; and so returned home discontented. After this, (z) Anno 1258. this King summoning a Parliament at London, demanded ayde of them towards his warres in Apulia; to which the Parliament gave this resolute answer, that they could no wayes supply him in this case without their owne undoing: And if he had unadvisedly, and unseemingly gotten from the Pope the Kingdome of Apulia for the use of his sonne Edward

* Pa. 562. 563
* Matthew Paris, An. 1248.
p. 718, 719.
725, 726, &c.

(y) Math. Paris, An. 1256.

* Nota.

(z) Math. Paris, An. 1258.
p. 933, 934,
935.

Edward, he should impute it to his owne simplicity, and that he had PRESUMED VNCIRCUMSPECTLY WITHOVT THE CONSENT OF HIS NOBLES TO UNDERTAKE THIS WARRE, as a contemner of deliberation and prudence, which is wont to forecast the end of things; therefore he should bring it to what issue he best could, and should take example from his brother Richard, who refused the Empire tendered to him, &c. In the second yeare of (a) King Edward the second, hee consented to this Act of Parliament, That he would begin no warre without common consent in Parliament, which he then confirmed with an oath. So (b) Anno 25. Edward 1. The Lords and Commons utterly refused to goe with the King to his warres in Flanders, though they were summoned to doe it; because this warre was proclaymed without their consents and good likings; and they were not bound by their Tenures to goe unto it; petitioning the King to desist from this warre; and at last caused the King in Parliament to release these services. And (c) Anno 1205. The Lords and Commons for this very reason, refused to goe with King John to his warres in France to recover his inheritance there. * In the sixt yeare of King Richard the second, in a Parliament holden at London, it was for many dayes together debated, whether the Bishop of Norwich (Henry Spenser) whom the Pope had made Generall of his forces against the Schismaticke of Flanders, giving great indulgences to those who should assist him in person or with monies in this warre, should undertake that warre or no? and after much opposition of the Captaines of the kingdome, alleadging, that it was not safe to commit the people of the King and kingdome to an unexpert Priest; it was at last resolved in Parliament (through the constancy and valour of the Knights and Commons) that he should undertake this warre, and goe Generall of the Army. Which office he valiantly managed with good successe; being a better Souldier then Preacher; And the same yeare in another * Parliament at London; it was decreed BY THE PARLIAMENT, that because the Scots had broken their faith with the English, faith should be broken with them. (Frangenti fidem, fides frangatur eidem:.) And that a select power should be sent into Scotland out of England, (to wit, a thousand Lances, and 2000. Archers) to curbe their attempts, under the conduct of the Lord Thomas of Woodstocke: which the Scots being informed of, were greatly afraid, and in the end of the Parliament sent humble supplicants to it, to treat with them about a peace or truce, which they desired. But the English having had such frequent experience of their falshood, would neither treat nor compound with them; but reviling their messengers, commanded them to returne home, wishing them to defend their beads and rights as well as they could. Who returning, the Northernne Lords undertooke the defence of their Country, untill Thomas of Woodstocke should be prepared to ayd them with greater Forces. Loe here both Generalls, Armies, Warres appointed by the Parliament, and Subsidies likewise granted to supply them; and the making of a peace or truce referred to them, it being agreed in a former Treaty, that if any damage or injury should be done by cyther Nation one to another, some speciall Committees should be sent to the Parliament of both kingdomes every yeare, who should publicly relate the injuries susteyned, and receive amends according to the damage suffered; by the judgement of the Lords.

In the Printed Statutes of 18. Ed. 3. Parliament 2. and in our (d) Historians too, (and I find this preamble, recited almost verbatim, the next Parliament the same yeare, chap. 1.) It is to be remembred, that at the Parliament holden at Westminster, the Monday next after the Utas of the Holy Trinity, in the Reigne of our Sovereigne Lord the King that now is, of England the 18. and of France the 5. many things were shewed in full Parliamen-

(a) Walsingham
An. 1311. Hist.
Angl. p. 71.

(b) Walsingham
Hist. Angl. p. 37
38, &c. Ipodig.
Neustria. Anno.
1297. p. 83.
to 87.

(c) Mar. th. Pa-
ri. Annos 1205.
p. 204.

* Walsingham,
Hist. p. 19,
320, 321, &c.

* Walsingham,
Hist. p. 332.

(d) Grafion, p.
255, 256.
Specul. p. 701.

liament, which were attempted by the adversary party, against our Sovereign Lord the King of France, against the Truce late taken in Brittain, betwixt our Sovereign Lord the King, and him. And how that he enforceth himselfe or much as he may, to destroy our said Sovereign Lord the King, and his Allies, Subjects, Lands and places and the tongue of England. And that was prayed by our said Sovereign Lord the King of the Prelates, great men and Commons, THAT THEY WOULD GIVE HIM SUCH COUNSELL and AIDE AS SHOULD BE EXPEDIENT IN SO GREAT NECESSITY. And the same Prelates, great men and Commons taking good deliberation and advice, and openly seeing the subversion of the Land of England, and Kings great businesse, which God defend, if hasty remedy be not provided, HAVE COUNSELLED JOYNTLY and SEVERALLY, and prayed with great instance our Sovereign Lord the King, that he would make him as strong as he might to passe the Sea, in assurance of the ayde of God and his good quarrell, effectually at this time, TO MAKE AN END OF HIS WARRES BY WAY OF PEACE OR ELSE BY FORCE. And that for Letters, words, nor faire promises, he shall not let his passage, till he see the effect of his businesse. And for this cause the said great men do grant, to passe and adventure them with him. And the said Commons doe grant to him for the same cause in a certaine forme, two Quinzimes of the Commonalty, and two Disnes of the Cities and Burroughes, to be leyed in manner as the last Quinzime granted to him, and not in other manner, &c. So that the money leyed of the same, be dispended in the businesse shewed to them this Parliament, BY ADVICE OF THE GREAT MEN THERETO ASSIGNED. And that the aydes beyond Trent, BE PUT IN DEFENCE OF THE NORTH. A pregnant Precedent of the Parliaments interest in concluding Warre and Peace, and disposing of the ayde contributed towards warres, to such persons and uses as they deeme meete to confide in. By these, with infinite other precedents, the Statute of 1 Jac. c. 2. and the Act of Pacification and oblivion betweene Scotland and England, made this very Parliament, enacting that no warre shall be leyed or made by any of either Nation against the other without consent of Parliament, under paine of High Treason; It is evident, that the principall right of concluding, denouncing Warre or peace, resides in the Parliament: and that the King without its previous advice and consent, ought not to proclaime any open warre, since the Subjects estates, and persons must support, wage it, and receive most disadvantage by it; a truth not onely implied but resolved by his Majesties owne royall assent this very Parliament in the Act of Pacification betwixt England and Scotland. Neither is this thing unusuall but common in other Kingdomes. (e) Livy, (f) Polybius, (g) Grimston, (h) Plutarch, (i) John Bodin expressly affirme and confirme by sundry examples; That in the Roman State, both under their Kings and Emperours, the chiefe power of denouncing warre and concluding peace, was in the Senate and people: And if any of their Emperours, Consuls or Generals concluded peace without their consents, it did not binde, but was meereley voyd, unlessse the Senate and people ratified it by a new decree: neither might any warre be decreed, but in the great assembly of the Senate and people together, and by a publike Law. And because Cæsar had, without command of the people, made warre in France, Cato Uticensis delivered his opinion in the Senate, that the Army was to be called home, and Cæsar for his presumption delivered up to the Enemy. So in the States and Kingdomes of the (*) Athenians, Aetolians, Polonians, Swedden, Denmarke and Norway, no Warre was begunne, nor Peace concluded by their

(e) L. I Rom. Hist. D. e. 2. 3. l. 5. Dec. 1. 8.
 Dec. 1. 9. D. I.
 (f) Hist. l. 6.
 (g) 1 periall Hist. p. 57. n.
 (h) Numa Pompilius.
 (i) Commonwealth l. 1 c. 10 p. 162, 163, 164.
 * Bodin. Ib. & l. 3. c. 1.

Kings but by the authority and preceding decree of their Senates, Parliaments and Diets, as (k) *Bodin* proves at large. Thelike (l) *Buchman* affirms of the Kings of *Scotland*; and we have divine authority concurring with it, *Josb.* 22. 11, 12, &c. *Judg.* 20. 1. to 48. compared with *Prov.* 20. 18. c. 24. 6. and *Judg.* 11.

(k) *Bodins*
Commonweale
l. 1. c. 10. p. 162
to 166.

(l) *Rerum Sto-*
ticarum. l. 9. p.
334. & l. 7. p.
234.

(m) 11 R. 2. c.
7. See *Rastall*,
Taxes, &c. 25.
E. 3. Stat. 9.

(n) Abridge-
ment of Stat.

(o) 1 E. 3. c. 7.
18 E. 3. c. 8. 25
E. 3. c. 8. 4 H.
4. c. 13. 11 H. 7.
c. 18. 19 H. 7. c.

1. 2. 5 R. 2. c.
10. 1 H. 5. c. 9.
2. & 3 E. 6. c. 2.
4. & 5. *Phil. &*
Mar. c. 3. 5 *Eliz.*

c. 5. *Littleton*
Chapter of *Es-*
cuage; & *Cooks*
Institutes on it
f. 68. to 77. *Fit.*

Nat. Bre. f. 83;
84. 7. H. 4.

Fit. Tenures,
44. 73. The
Ads for pres-
sing Mariner;

this Parliament
1 H. 6. c. 5. 18
H. 6. c. 18.

(p) 1 H. 4. c. 7.
2 H. 4. c. 21. 7
H. 4. c. 14 8 H.

4. c. 1. 6. & c. 2.
19 H. 7. c. 14.

(q) 9 H. 5. c. 3.
4 H. 6. c. 2. 14
E. 4. c. 2. 8 H. 6.

c. 13. *Fit.*

Brooke Tit. Protection, 1 E. 4. c. 1. 2. 1 H. 7. c. 6. 49 H. 7. c. 4. 7 H. 7. c. 1. (r) 1 H. 6. c. 5. 14 H. 7. c. 7. 2 R. 3. c. 4. 5 R. 2. Stat. 2. c. 3. (s) 13 R. 2. c. 20. 14 E. 4. c. 10. (t) 2 R. 2. c. 4. 13. c. 5. 15 R. 2. c. 3. 5 R. 2. c. 3. Stat. 2. 2 H. 4. c. 11. 2 H. 5. c. 6. 18 E. 3. c. 3. 14 H. 6. c. 6. 7. 8. 2 H. 5. c. 6. 29 H. 6. c. 2. 4 H. 5. c. 7. 14 E. 4. c. 4. 18 H. 6. c. 9. 28 H. 8. c. 15. 37 H. 8. c. 4. (u) 21 R. 2. c. 18. See *Spelmans* *Gloss.* *Admiral Cookes* *Instit.* on *Littleton*, 260. 10 H. 6. c. 5. 4 E. 4. c. 11. 37 H. 8. c. 1. 23 *Eliz.* c. 4. (x) 2 R. 2. c. 4. 18 H. 7. c. 18. 19. 7 H. 7. c. 1. 2 H. 8. c. 2. 2 E. 6. c. 2. *Phil. & Mary*, c. 3. 5 *Eliz.* c. 211. *Cooke* 6. r. f. 174. (y) 35 *Eliz.* c. 4. 39 *Eliz.* c. 21. 43 *Eliz.* c. 3.

Secondly, All preparations belonging to warre by Land or Sea, have in the grosse and generall, bene usuallly ordered, limited and settled by the Parliaments: as name-ly,

First, What proportions and summes of money should be raised for the manag- ing of the warre; in what manner and time it should be levyed; to what hands it should be paid; and how disbursed: which appears by all the Bills of Subsidies, Tenths, Taxes, Tonnage and Poundage in the Reignes of all our Kings.

Secondly, How every man should be Multered, Arrayed, Armed, according to his estate, as is cleare by all our Statutes of *Armour*, *Musters*, *Captaines*, *Ships*, *Horses*, *Warres*, reduced under heads by (n) *Rastall*; where you may peruse them: by Justice *Crookes* and *Huttons* Arguments against Ship-money; Sir *Edward Cookes* Institutes on *Magna Charta*, f. 528, 529. the Parliaments two late Declarations against the Commission of *Array*: and the Statute of *Winchester*, 13. E. 1. c. 6.

Thirdly, How farre every man shall March when he is *Arrayed*, (o) when he shall goe out of his owne County with his Armes, when not: who shall serve by Sea, who by Land; how long they shall continue in the Warres; when they shall be at their owne, when at the Kingdomes, when at the Kings costs or wages, and for how long time; as the Marginall Statutes, and next forecited Law Authorities manifest.

Fourthly, When, where, and by whom (p) *Liveries*, *Hats*, *Coates*, shall be gi- ven in Warres, when not, and what (q) *Protections* or *Priviledges* those who goe to Warres, or continue in them shall have allowed them.

Fifthly, What (r) shares or proportions of *Prisoners*, *Prises*, *Booties*, *Captaines* and *Souldiers* should be allowed in the Warres: And at what (s) *Ports* and rates they should be Shipped over Sea.

Sixthly, (t) How and by whom the Sea shall be guarded, and what Jurisdiction, Authority, and share of *Prises* the Admirals of *England* shall have; When the Sea shall be open; when shut to enemies and strangers; What punishments inflicted for *Mariners* abuses on the Sea; And what redresse for the Subjects there robbed by enemies or others.

Seventhly, What (u) *Castles*, *Forts*, *Bulwarkes*, shall be built or repaired for defence of the Realme, in what places, and by whose charges.

Eighthly, What (x) punishment shall be inflicted upon *Captaines*, who abuse their trust, detain the *Souldiers* wages, and on *Souldiers*, who sell their Armes, or desert their colours without speciall License.

Ninthly, What (y) provision there shall be made for, and maintenance allowed to *Souldiers* hurt or maimed in the Warres by Land, and for *Mariners* by Sea.

Tenthly,

Tenthly, That (z) no ayde, Armour, Horses, Victuals shall be conveyed to the enemies by way of Merchandise, or otherwise during the Warres; that all *Scots*, and other enemies should be banished the Kingdome and their goods seised whiles the warres continued betweene *England* and them.

Eleventhly, How (a) Frontier Castles and Townes toward *Wales*, and other places of hostility should be well manned and guarded, and no *Welchmen*, *Irish*, *Scots* or alien Enemies should be permitted to stay in *England* to give intelligence, or suffered to dwell or purchase Houses or Lands within those Townes; and that they shall all be disarmed.

Twelfthly, After what (b) manner Purveyances shall be made by the Captaines of Castles, and how they shall take up victuall. In one word, Warres have beene ended, Leagues, Truces made, confirmed, and punishments for breach of them, provisions for preservation of them enacted by the Parliament, as infinite Precedents in the Parliament Rols and * Printed Acts, demonstrate. So that our Parliaments in all * former ages, even in the Reignes of our most Martiall Kings, have had the Sovereigne power of ordering, settling, determining both the beginning, progresse, and conclusion of our Warres, and the chiefe ordering of * all things which concerned the managing of them by Sea and Land; being indeed the great Councell of Warre, elected by the Kingdome, to direct our Kings; who were and are in truth but the kingdomes chiefe Lord Generalis, (as the (d) *Roman* Emperours, and all Kings of old were their Senates, States and Peoples Generals, to manage their Warres and fight their battailes) the Sovereigne power of making and directing Warre or Peace, being not in the Emperours or Kings themselves, but in their Senates, States and Parliaments, as (e) *Bodin* proves at large. And being but the kingdomes Generals, who must support and maintaine the Warres, there is as great reason that they should direct and over-rule Kings in the Ordering of their Warres and *Militia* when they see cause, as that they should direct and rule their Lord General now, or the King his Generals in both his Armies. During the (g) minorities of King *Henry* the sixth, and *Edward* the sixth, the Parliament made the Duke of *Bedford* Regent of *France*, and the Dukes of *Glocester* and *Sommerset*, Lord Protectors of *England*; committing the trust of the *Militia*, and Warres to them: And (i) 39. H. 6. the Parliament made (b) *Richard* Duke of *Yorke*, Lord Protector of the Realme, and gave him like power, when the King was of full age. And in our present times: The King himselfe this very Parliament voluntarily committed the whole care and managing of the Warres in *Ireland* and the *Militia* there to this present Parliament; who appointed both the Commanders and al other Officers of the Forces sent hence into *Ireland*: and that without any injury, or eclipse, to his Majesties Royall Prerogative. If then the Subjects and Parliament in ancient times, have had the election of their *Generals*, *Captaines*, *Commanders*, *Sheriffes*, *Mayors*, and other Officers, having the chiefe ordering of the *Militia* under the King; if they have constantly Ordered all parts and matters concerning the Warres in all former Kings Reignes; appointed Regents and Protectors, committing to them the Kings owne Royall power over the *Militia*, during their Minorities; and his Majesty himselfe hath permitted this Parliament to Order the *Militia* of *Ireland*, to which they have no such right or Title as to that of *England*, without any prejudice to his Prerogative; I can see no just exception, why his Majesty should at first,

(z) 7 R. 2. c. 16
 15 R. 2. c. 7. 7
 H. 7. c. 6.
 (a) 2 H. 4. c. 12
 18. 20. 28. 30.
 31. 32. 33. 1 H.
 5. c. 6. 7. 3 H. 5
 c. 3. 4 H. 5. c. 6.
 7. 7 Jac. c. 1. 15
 R. 2. c. 7. 17 R.
 2. c. 7. 4 H. 5. c.
 6. 1 H. 1. c. 3.
 (b) 3 E. 1. c. 7.
 (c) 2 H. 5. c. 6. 4
 H. 5. c. 17. 14 H.
 6. c. 7. 7. 29 H. 6
 c. 2. 14 E. 4. c. 4
 15 R. 2. c. 7. 8
 H. 6. c. 3. 14 H.
 6. c. 8. 20 H. 6. c.
 12. 23 H. 6. c. 6
 27 H. 6. c. 2. 12
 E. 4. c. 3. 17 E.
 4. c. 1.
 * See 13 R. 2. c.
 2. 27 E. 3. c. 17
 1 H. 6. c. 5. 9 H.
 5. c. 3. 4 E. 3. c. 8
 (d) *Polib. hist.*
 1. 6. *Eutropius*,
Munster, *Grim-*
ston, *Zenarus* in
 the *Roman* Em-
 perours lives,
Seldens Tit. of
Honor.
 (e) *Arist. Polit.*
 1. 3. & 5. 1 *Sam.*
 8 11, 12. 22.
 (f) Common .
 wealth 1. 1. c. 10
 (g) *Walsingham*
hist. Ang. p. 458
Spe. hist. p. 1108
 1109. 1120.
 (i) *Grafi. p. 647*
Halls Chron. 39
 H. 6. f. 182. Sp.
 362. *Holmshed*,
Stew. Martyr,
 38. & 39 H. 6.

or now deny the Parliament such a power over the *Militia*, as they desired for a time; or why in point of Honour or Justice, their Bill for settling the *Militia* in safe under hands, in such persons as both sides may well confide in, should now be rejected, being for the Kings, Kingdomes, and Parliaments peace and security; much lesse, why a bloody intestine Warre should be raised or continued, upon such an unconsiderable point on his Majesties part: who seeing he cannot manage the *Militia* in proper person in all Counties, but onely by Substitutes; hath farre more cause to accept of such persons of Honour and quality as his Parliament shall nominate (in whom himselfe and his whole Kingdome in these times of Warre and danger may repose confidence) to execute this trust, then any whom his owne judgement alone, or some private Lords or Courtiers shall recommend, in whom the Kingdome and Parliament, in these jealous deceitfull times, dare not confide. The yeelding to the Parliament in this just request, will remove all feares and jealousies, restore our peace, re-gaine his Majesty the reall affections of his discontented Subjects; the persisting in the contrary course will but adde fuell to our flames, feares, doubts, dangers, and frustrate all hopes, all endeavours of Peace.

From the *Militia* it selfe, I descend to the consequences of its denyall, the Parliaments seising upon *Hull*, with other Ports and Forts, the Royall Navy, Ammunition, Armes, Revenues, and detaining them still from his Majesty, the grand difference now pretended, whence the present warre hath emerged; which these ensuing considerations will in a great measure qualifie, if not altogether satisfie.

First, his Majesty and all Royalists must necessarily yeeld, that the Ports, Forts, Navy, Ammunition, Armes, and Revenues thus seised on by the Parliament, though his (i) *Majesties* in point of possession, yet are not his, but the Kingdomes in point of right and interest; they being first transferred to, and placed on his Predecessors and himselfe by the Parliament and Kingdome: not in right of propriety, but (t) conditionally upon trust, (his Majesty being but a publike Officer) for the defence and safety of the Realme; and though his Majesty came to them by descent, yet it was but in nature of the Heire of a Feoffee in trust, for the use and service of the kingdome; as a King in his politicke, not as a man or Proprietor in his naturall capacity; as our (l) *Law Bookes*, *Terminus terminantibus* resolve. Hence it hath been oft adjudged; (m) that the King can neither by his will in writing, nor by his Letters Patents, Devise or alien the Lands, Revenues, Jewels, Ships, Forts, or Ammunition of the Crowne (unlesse it be by vertue of some speciall (n) Act of Parliament enabling him to doe it by the kingdomes generall consent;) and if any such alienations be made, they are voyd in Law, and may be, yea have bene (o) oft resumed, reversed by the Parliament; because they are not the Kings, but kingdomes, in point of interest and propriety: the Kings, but in possession and trust for the kingdomes use and defence. Hence it is, that if the King dye, all his (p) Ships, Armes, Ammunition, Jewels; Plate, Debts to the Crowne, Moneyes, Arrerages of Rents or Sub-

(i) See the Remonstrance of both Houses, Nov. 2. 1642.

(k) See Littleton, sect. 378, 379. and Cooke *ibid.* Fitz. Nar. f. 113. a. Cooke 7. f. 5. 14 E. 3. c. 1. 11 R. 2. c. 1 42 E. c. 4.

(l) *Plowd. Com.* f. 245. 221. 250 34 H. 6. f. 34. Cooke *Instit.* on Livery. f. 15. b.

(m) 35 H. 6. c. 7. Fitz. Devise. 5. 1 H. 5. Executors. 108. 21 E. 4. 45. b. 21 E. 3. 29. 24 E. 3. 42. 11 H. 4. 7. Fitz. *Quare Imp.* 35. 53. 54. 115. 118. 189. Presentment *ab Eselise*, 11 Livery. 23. Cooke, l. 9. f. 97. 16 R. 2. c. 1. 4 1 H. 6. c. 5. (n) 2 R. 2. c. 9. Cooke, l. 8. The Princes case. 28 H. 8. c. 7. 35 H. 8. c. 1. 1 H. 6. c. 5. 25 H. 8. c. 2. (o) 1 H. 5. c. 9. 31 H. 6. c. 7. 10 R. 2. c. 1. (p) 14 E. 3. Stat. 2. c. 1. 5 R. 2. c. 2. All Statutes that give Subsidies, Tenths, Tonnage or Poundage, See Rastall Taxes, &c.

fidies, Wards, and Rights of presentments to voyd Churches, goe onely to his Successors, not to his Executors, (as in case of a common person,) because he enjoys them not as a Proprietor (as other Subjects doe) but as a Trustee onely, for the (g) kingdomes benefit and defence; as a (h) Bishop, Abbot, Deane, Mayor, or such like Corporations, enjoy their Lands, not in their naturall but politicke capacities, for the use and in the right of their Churches, Houses, Corporations, not their owne. Upon this ground (i) King Harold pleaded his Oath and promise of the Crowne of England to William the Conquerour, and (k) King Philip, with all the Nobles of France, and our owne Parliament (40 E. 3. rot. Parl. nu. 8.) unanimously resolved, King John his resignation and grant of the Crowne and Kingdome of England, to the Pope, without the Nobles and Parliaments consents, to be a meere nullity, voyd in Law, binding neither King nor Subject; the Crowne and possessions of it, being not the Kings but kingdomes.

(g) See before Cooke 5. f. 15. & 14 E. 3. c. 1. 10 R. 2. c. 1.
 (h) See Fitz. & Brecke. Abbey Corporations, Deane & Chap. Parson.
 (i) Speed p. 419 Math. Paris p 2
 (k) Mat. Paris hist. minor, Dr. Crakenhorpe of the Popes temporall Monarchy, p. 252. to 255. Grast. 112. *Mat. West. An. 1245 p. 19 c. 10 1297. Walsingh. Ypodig. Neust. p 60. Mat. Paris p. 646.

And before this, * Anno Dom. 1245. in the great Councell of Lyons, under Pope Innocent, to which King Henry the third, sent foure Earles and Barons, together with the English Prelates, and one Master William Pomyke an Advocate, to complaine of the Popes exactions in the Councell, which they did; where they likewise openly protested against the annuall tribute extorted by the Pope, by grant from King John, (whose detestable Charter granting that annuall tribute, was reported to be burnt to ashes in the Popes closet, by a casuall fire during this Councell) as a meere nullity, and that in the behalfe of the whole kingdome of England; EO QUOD DE REGNI ASSENSU NON PROCESSERAT, because the kingdome consented not thereto; and because the King himselfe could make no such Charter to charge the kingdome. Which Matthew Paris thus expresseth. *W. De Poweric Anglicane Universitatis Procurator assurgens, gravamina Regni Anglie ex parte universitatis Anglie, proponens satis eleganter; conquestus est graviter, quod tempore Belli per curiam Romanam, extortum est tributum injuriose, in quod nunquam patres Nobilium regni, vel ipsi consenserunt, nec consentiunt, neque in futurum consentient, unde sibi petunt justitiam exhiberi cum remedio. Ad quod Papa, nec oculos elevans, nec vocem, verbum non respondit.*

Upon this reason (l) Matthew Paris speaking of King Henry the third his mortgaging his kingdome to the Pope, Anno 1251. for such monies as he should expend in the Warres: useth this expression. *Rex secus quam deceret, aut expediret, Se, suumque Regnum, sub pena exheredationis, QUOD TAMEN FACERE NEC POTUIT NEC DEBUI, Domino Papæ obligavit.* Hence King Edward the third, having the Title of the King and Crowne of France devolved to him, which made some of the English feare, that they should be put in subjection to the Realme of France, against the Law; the Parliament in the 14. yeare of his Reigne, Stat. 4. passed a speciall Act, declaring; That the Realme of England never was, nor ought to be in subjection, nor in the obeyfance of the Kings of France, nor of the Realme of France: and enacting; that the King of England or his Heires, by colour of his or their Titles to the Crowne, Seale, Armes, and Title of the King of France should not in any time to come put the Realme of England, or people of the same, of what estate or condition soever they be, in subjection or obeyfance, of him, nor his Heires nor his Successors, as Kings of France, nor be subject, nor obedient, but shall be free and quite of all manner subjection, and obeyfance as they were wont to

* Hist. p. 868.

be in the time of his Progenitors, Kings of *England* for ever. By the Statute of 10 R. 2. c. 1. it is resolved, That the King could not alien the Land, Castles, Ships, Revenues, Jewels, and Goods of the Crowne; and a Commission is thereby granted to inquire of, and resume all such alienations as illegall. Hence the Commons in the Parliament of 16 R. 2. c. 5. of *Præmunire*, in their Petition to the King, and the whole Parliament in and by that Law, declared; That the Crowne and Kingdome of *England*, hath beene so free at all times, that it hath been in subjection to no Realm, but immediately subject to God, and to none other; which (by the prosecution of suites in the Court of *Rome* for Benefices, provided against by this Act) should in all things touching the Regality thereof, be submitted to the Bishop of *Rome*, and the Lawes and Statutes of the Realme be by him defeated and frustrated at his will, to the destruction of the King, his Sovereignty, Crowne and Regality, and of all his Realme; in defence whereof in all points, they would live and dye.

Hence the Kings of *England* have alwayes settled, entailed, and disposed of the succession and Revenues of the Crowne by speciall Acts of Parliament, and consent of the whole Realme, because the whole kingdome hath an interelt therein, without whose concurring assent in Parliament, they had no power to dispose thereof: as the Statutes of 21 R. 2. c. 9. 7 H. 4. c. 2. 25 H. 8. c. 22. 26 H. 8. c. 13. 28 H. 8. c. 7. 35 H. 8. c. 1. 1 Mar. c. 1. and Part. 2. c. 1, 2. 1 Eliz. c. 3. 13 Eliz. c. 1. 1 Jac. c. 1. Hals Chron. f. 10. 15. 1 H. 4. Speeds Hist. p. 763. 928. to 932. Daniels hist. p. 122. 138, 139. abundantly manifest, and Cooke l. 8. the Princes case.

Hence in the Parliament Roll of 1 H. 6. Num. 18. The last Will and Testament of deceased *Henry* the fifth, and the Legacies therein bequeathed of 40000. Markes in Goods, Chattels, Jewels, Moneyes for payment of the Kings debts, are ratified by the Lords, Commons, and Protectors concurring assents by an Act of Parliament, as being otherwise invalid to binde the King or Kingdome. And Num. 40. *Queene Katherine*s Dower of 40000. Scutes per Annum, concluded on by Articles upon her Marriage, and by a Parliament held the second of *May* in the 9. yeare of King *Henry* the fifth, well approved, authorized and accepted, which Articles that King then swore unto, and the three Estates of the Realme of *England*, to wit, the Prelates, Nobles, and Commons of *England*, in that Parliament, and every one of them, for them, their Heires and Successors, promised well and truly to observe and fulfill for ever, as much as to them and every of them appertained: Was after her Husbands death, upon her petition, by a speciall Patent made by this Infant King her Son, WITH THE ASSENT OF THE LORDS SPIRITUALL AND TEMPORALL, AND COMMONS OF ENGLAND, IN THAT PRESENT PARLIAMENT ASSEMBLED, Assigned, settled, and confirmed, out of the Crowne Lands therein specified: else it had not beene binding to the Successor King or Realme: the Crowne Lands being the Kings but onely in the kingdomes right; whence all our *Queenes* Dowers and Joyntures have usually beene settled and confirmed in and by Parliaments, (whereas any other man may endow or make his Wife a good Joynture, without the Parliaments assent or privy;) And in * 2 E. 3. the *Queene* Dowagers great Joynture (which tooke up three parts of the Kings Revenues) by common consent in a Parliament, held at *Nottingham*, was all taken from her, (because not duely settled by Parliament, and too excessive, to the Kings and kingdomes prejudice) and she put to a pension of 1000. l. per annum, during her life. And

* *Walsingham*,
hist. p. 112. *Daniels*
hist. f. p. 220
Speed p 688.

And by the Statute of 1 H. 6. c. 5. it is expressly resolved, That King Henry the fifth could not alien or pledge the ancient Jewels or Goods of the Crowne, to main- taine his Warres, without a speciall Act of Parliament; and if he did, those to whom he pawned or sold them, were still accomptable to the Crowne for them, and the alienation voyd; whence, the carrying of the Jewels, Treasure, and Plate of the kingdome over Sea into Ireland without assent of the Nobility and Parliament, was one of the (m) Articles objected against Richard the second in Parliament, when he was deposed; the Jewels and Crowne Lands being not the Kings in right of pro- perty and interest, but the kingdomes onely; and to all alienations of them with- out the Parliaments consent voyd, and usually (n) resumed by the Parliament, wit- nesse the notable Act of Resumption in 8 H. 6. and 31 H. 6. c. 7. of all the Kings grants of any Honours, Castles, Townes, Villages, Manors, Lands, Rents, Reversions, An- nuities, &c. from the first yeare of his Reigne till then, with divers other precedents in the Margin, in King Stevens, Richard the first, and Henry the 2 & 3. their Reignes.

These resolutions of our Common and Statute Law, are seconded by many for- raigne Civilians, as Baldus in Proem. de Feud. n. 32. 33. Aretine in Rubric. Lucas de Pen- na. Cod. de omni agro deserto. l. Quicumque f. 184, 185. Albericus de Rosate: Quodcumque. prescrip. bene a Zenone. n. 4. f. 3. 1. 4. Boetius Epan. Heroic. quest. qu. 3. n. 23. qu. 5. n. 19. 27. 34. Didacus Cavarinus, Practic. qu. c. 4. n. 1. Martinus Laudensis, de Confed. Tract. 1. qu. 13. Joan. Andreas, in cap. dilect. de Maior. & Obed. Franciscus Vargas de Author. Pon- tif. Axiom. 1. n. 2. Concilium Toletanum 8. Surius Concil. Tom. 2. p. 865, 866. with sun- dry others (many of whose words you may reade in Doctor Crakenborps defence of Constantine, p. 169. to 175.) who affirme; That the Emperour or any other King can- not give away any Townes or Territories belonging to their Empire or Kingdomes, contrary to their Oathes and Trusts, they being the Kingdomes not theirs in right. Whence they conclude, Constantines pretended Donation of Rome, and Italy to the Pope, a meere Nullity. It is true, (o) our Law-books say; That the King cannot be seised of lands to any private Subjects use, by way of feofment, because it stands not with his honour to be any private man feoffee; because no Subpena lieth to force him to execute it, & he is a Corporation: yet he may have the possession of lands in others right, and for their uses (as of (p) Wards, Ideots, Lunaticks, Bishops during the va- cation, and the like) and if he alien these Lands in see to their prejudice, the (q) grant is voyd in Law, and shall be repealed, as hath bene frequently judged; because he possesseth these lands not in his owne, but others rights. So the King hath his Crowne Lands, revenues, Forts, Ships, Ammunition, Wards, Escheates, not in his owne but the kingdomes right, (r) for its defence and benefit; and though he can- not stand seised to a private mans use, yet he may and doth stand seised of the pre- mises to his whole kingdomes use, to whom he is but a publike servant; not onely in Law but Divinity too, 1 Sam. 8. 20. 2 Sam. 5. 12. 1 Sa. 49. 23. Psal. 78. 72, 73, 74. Rom. 13. 4. 1 Pet. 2. 13. 14. 2 Chron. 9. 8.

Secondly, All the Ships, Ammunition, Armes the Parliament hath seised, were purchased not with the Kings, but Kingdomes monies, for the defence and service of the Kingdome, as the Subsidy Bills and (s) Acts for Tunnage and Poundage, the Kings owne (t) Declaration, and (u) Writs for Shipmony attest. If then the repre- sentative Body of the kingdome, to prevent the arrivall of forraigne Forces, and that it will warre they then foresaw was like to ensue (and hath experimentally since fallen

(m) Graf. p. 401
(n) 1 H. 5 c. 9.
10 R. 2 c. 1.
Graf. p. 90, 149
Mat. Par. p. 306
308. Sp. p. 597
Daniels hist. pa.
78, 79, 80, 123

(o) 7 E. 4 17.
Dyer. f. 86. 283.
b. 1 R. 3. c. 5.
(p) See Rastal
Wards, Prærog.
Regis c. 9. 10.
32. H. 8. c. 46.
Br. Idect. 2. 3.
Cooke. 4 Rep. f.
126, 127.

(q) 7 H. 4. 17.
b. 21. E. 3. f. 47.
7 E. 4. 17.
(r) 14. E. 3. c.
1 Stat. 2. 5. R.
2. c. 3. 10. R. 2.
c. 1. 1. H. 5. c. 9.
31. H. 6. c. 7.

(s) 12. E. 4. c.
3. 6. H. 8. c. 14.
1 E. 6. c. 1. 3.
Mar. c. 18.
1 E. 2. c. 20.
1 Jac. c. 23.
and the ARS
this Parlia-
ment.

(t) Anno. 1629
p. 44.
(u) Judge
Croskes Argu-
ment, p. 1.
to 6.

out even beyond their feares, and overspread the whole kingdome, to which it threatens ruine,) hath seised, sequestred the kingdomes Ports, Forts, Navy, Ammunition into truely hands for the Kings and Kingdomes use, to no other end, but that they should not be employed against the King and Parliament by his Majesties Malignant Counsellors, and outrageous plundering Cavaliers, what indifferent sober man can justly tax them for it? (x) *Queene Elizabeth (and the (y) State of England heretofore) during the Warres with Spaine, inhibited the Haunse townes and other foraine Merchants (over whom she had no jurisdiction) to transport any materials for Warre through the narrow Seas to Spaine (though their usuall Merchandize to those parts, and the Sea, as they (z) alleadged, was free, for feare they should be turned against our Kingdome, and after notice given, made them prise) for any of her Subjects to seise on. And it is the common policy this day, and anciently of all States whatsoever, to seise on all provisions of Warre, that are passing by way of Merchandize onely towards their enemies, though they have no right or proprietie in them (and to grant letters of Mart to seise them, as we have (a) usually done) which they plead they may justly doe, by the Law of Nature, of Nations, to prevent their owne destruction.* Much more then may the Houses of Parliament, after the sodaine eruption of that horrid Popish rebellion in Ireland, and the feares of a like intestine warre from the Malignant Popish Prelaticall party in England, expecting Forces, supplies of mony and ammunition from foraine parts, seise upon Hull, other Ports, the Navy and Ammunition (the Kingdomes proper goods, provided onely for its defence in such times as these) when his Majesty refused to put them into such hands as the kingdome and they might justly confide in, and the contrary Malignant faction plotted to get possession of them to ruine Lawes, Liberties, Religion, Parliament, Kingdome: And what mischief thinke you would these have long since done to Parliament and Subjects, had they first gotten them, who have already wrought so much mischief without them, by the Kings owne encouragement and command? Doubtlesse the Parliament being the supream power, now specially met together and intrusted by the Subjects, to provide for the kingdomes safety, had forfeited not onely their discretion, but trust, and betrayed both themselves, their priviledges, the Subjects Liberties, Religion, Countrey, Kingdome; and not onely their friends, but enemies would have taxed them of infidelity, simplicity, (that I say not desperate folly) had they not seised what they did, in the season when they did it? which though some at first, imputed onely to their over-much jealousy, yet time hath since sufficiently discovered, that it was onely upon substantiall reasons of true Christian Policy. Had the Cavaliers and Papists (now it armes) gotten first possession of them, in all probability wee had lost our Liberties Lawes, Religion, Parliament long ere this: and those very persons (as wise men conceive) were designed to take possession of them at first (had they not bene prevented) without resistance, whom his Majesty now employes to regaine them by open warres and violence. It is knowne to all, that his Majesty had no actuall personall possession of Hull, nor any extraordinary officer for him there, before Sir *Job Hotbarn* seised it, but onely the *Maior of the Towne*, elected by the Townesmen, not nominated by the King; neither did Sir *John* enter it, by order from the House till the King had first commanded the Major and Townesmen (whom he had constantly intrusted before) to deliver Hull up to the *Earle of Newcastle*, now *General of the Popish Northerne Army*; The first breach then of trust, and cause of jealousy proceeding

(x) *Speeds Hi.*
P. 1213. 1219.
1220. *Camden*
Elizabeth, An.
1601. p. 205. 10
209.

(y) 15 H. 6. c.
3. See *Master*
Seldens Mare
Clausum.

(z) See *Master*
Seldens
Mare Clausum,
and *Pontanus*
answer there-
to, and *Grotius*
his *Mare libe-*
rurn.

(a) 4 H. 6. c. 7, 8
2 R. 2. c. 4.

27 E. 3. c. 17.

2 H. 5. c. 6. 4 H.
5. c. 7 18 H. 6.

c. 9. 20 H. 6. c.
1. 4 E. 4. c. 5.

Speeds Hist. p.
1195. *Martinus*

Laudensis de
Repræsaliis, &
de Bello, 18 E.

3 c. 8. 3 E. 4.
c. 2.

ceeding from the King himselfe in a very unhappy season; where the quarrell first began, and who is most blame-worthy, let all men judge. If I commit my sword in trust to anothers custody for my owne defence, and then feare or see that hee or some others will murder me with my owne weapon, it is neither injury nor disloyaltie in me for my owne preservation, to seise my owne Sword till the danger be past; it is madnesse or folly not to doe it, there being many ancient and late examples for to warrant it; I shall instance in some few. By the (b) *Common Law of the Land*, whiles *Abbies and Priories remained*, when we had any *Warres with foraine Nations*, it was lawfull and usuall to seise all the *Lands, goods, possessions of Abbots, of Priors aliens of those Countries*, during the warres (though they possessed them onely in right of their Houses) lest they should contribute any *ayd, intelligence, assistance to our enemies*. Yea it anciently hath beene, and now is the common custome of our owne and other kingdomes, as soone as any breaches and warres begin, after Proclamation made, to seise and confiscate all the *Ships, goods, and estates of those countries and kingdomes with whom they begin warre*, as are found within their dominions for the present, or shall arrive there afterwards, lest the enemies should be ayded by them in the Warres, (preventing Physicke being as lawfull, as usefull in politique as naturall bodies;) which act is warranted by (c) *Magna Charta*, with sundry other Statutes quoted in the Margin. And though these seisures were made by the King, in his name onely, yet it was by authority of Acts of Parliament, as the publike Minister of the Realme, for the kingdomes securitie, and benefit rather than his owne. But to come to more punctuall precedents warranted by the supreme Law of *Salus Populi*, the onely reason of the former.

(d) *Anno Dom. 1214.* upon the confirmation of the *Great Charter* and of the *Forest* by King *John*, it was agreed, granted and enacted in that Parliamentary assembly at *Running-meade*, that the *25. Barons then elected for the conservators of those Liberties and Charters, with the Commons of the Layd*, might distraine and enforce the King (if he violated those Charters, and made no redresse thereof within 40. dayes space after notice) by seising upon his *CASTLES, lands, possessions, and other goods, till amends should be made according to their arbitration. And for more certainty; the foure Chateलाines (or chiefe Captaines) of the Castles of Northampton, Kenelworth, Nottingham, and Scarborough, should be sworne to obey the commandment of the 25. Barons, or the major part of them in WHATSOEVER THEY THOUGHT GOOD CONCERNING THESE CASTLES. Wherein NONE SHOULD BE PLACED BUT SUCH AS WOULD BE FAITHFULL and OBEERVE THEIR OATH.* And upon this accord, *Rochester Castle* and others, whose custody, of antient right belonged to the Archbishop of *Canterbury*, with other *Castles appertaining to the Barons*, were restored to them by the King; who breaking all his vowes & Charters immediatly after, (through the Barons and peoples supine negligence, overmuch confiding to the Kings Oath and confirmations, and fond conceite of holding that by peace which they had recovered by violence from a perfidious King,) in halfe a yeares space recovers all the Castles againe even to the borders of *Scotland* by meanes of foraine Forces, and a malignant, despicable, domesticke party, (hee having scarce seven Knights faithfull to him, being generally forsaken of all) and made himselfe absolute Master of all *England*, except the Citie of *London*, the Suburbs whereof hee burned and sacked, and so tyrannified over his Subjects with fire, and Sword, pillaging them every where. * *Vastando omnes domos*

(b) 20 E. 3.
 Fitz. Ayd. 2. G.
 Ayde Le Roy.
 43. 65. 70. 57.
 71. 76. 93. 98.
 Ass. 20. 11 H.
 4. 26. 2. H. 4.
 10. 14 H. 4. 10.
 19. 36. 44 E. 3.
 16. 44. 21 E. 3.
 24. 44. Quare
 Imp. Fitz. 62.
 68. 152 195.
 Co. l. 5. 57. 58.
 1. 7. 19. 22 E. 4.
 44. 21. H. 1. 7.
 Ass. Alien. 7.
 (c) 19 E. 4. 6.
 Magna Cart. c.
 30. 14 E. 3. 6. 2.
 27. E. 3. c. 2. 17.
 2 R. 2. c. 1. 2 H.
 5. c. 6. 4 H. 5. c.
 7. 1 H. 6. 3. 18
 H. 6. c. 9. See
 Speeds History
 p. 1213. 1219.
 1220.
 * Cicero de
 Legibus.
 (d) Matthew
 Paris p. 251.
 252 Daniel,
 Hist. p. 143.
 144. 145.

* Matthew Paris, Hist. p. 264.
 265.

domus, & ædificia Baronum divisim agminibus succendebat, spolia cum animalibus rapiebat, & de rapina iniquitatis ministros quos habebat nequissimos saginabat. &c. sufficiebat ad causam mortis simplicibus incolis, si aliquid habere credebantur, & qui nihil habebant, fateri habere cogebantur; & qui non habebat, habere ut persolveret, penis exquisitis distringebatur. Discurrerant sicarii cæde humani cruentati, volitivagi, incendiarii, filii Belial strictis ensibus, ut delerent a facie terre, ab homine usque ad pecus, omnia humanis usibus necessaria, eductisque cultellis villas, domus, cæmeteria, ecclesiis perlastrabant, omnes spoliabant, ita quidem ut nec muliebri sexui, nec parvulorum vel decrepitorum parcerent ætati. Et quod consumere non valebant, incendio tradebant, vel dispergentes inutile humanis usibus reddebant. Et quos nulla nota premebant, **INIMICOS REGIS VOCANTES** (si inimici sui appellandi sunt, qui eum ad mansuetudinem & justitiam mansuetam introducere voluerunt) ubicunque reperiebantur, raptim traherentur in carcerem penalem, vinculis mancipati, & tandem ad gravissimam coacti redemptionem, &c. (A true Character of our times, and plundering barbarous Cavaliers:) which so farre exasperated the Barons and people, that they elected another King. But the end for which I cite this precedent is, to manifest, that the Lords and Commons in that age, did not thinke the Kings owne Charter, Promise, Protestations, Oathes, Proclamations, the Bishops and Popes solemne excommunications, and those 25. new Conservators, a sufficient securitie to preserve their Lawes and Liberties against the invasions of an, unconstant, wilfull & fœdifragous King, unlesse they had the Power and Command of his chiefe Castles and the Militia added to them; which wee see through overmuch securitie, and want of vigilancy, were all too little to preserve their Liberties against an unconstant oppressing Prince, whose oaths and protestations were but like

(e) *Judges 16. 8. 9. 11. 12.*
 (f) *Math. Paris p. 940. to 965.*
Grafton, p. 138.
154. Speed. p. 634. to 642.
Fabian Part. 7. f. 70. to 99.
Matthew Westminster, Holinshed, and Daniel in his life.

(e) *Sampsons cords*, broken all to peeces like a thread in a moment, by those who have *Sampsons strength*. King *Henry* the third was no whit inferiour to his father *John*, in unconstancy, and perfidiousnesse to his Subjects, with whom when he had oft broken his faith and solemne oathes, the (f) Lords and Barons (having no other meanes of securitie, left to preserve their Lawes, Liberties, kingdome from vassalage and destruction, or to enforce the King to keepe those ordinances which hee had made and sworne to observe in a Parliament at *Oxford* but few yeares before (all which he laboured to rescinde, having procured a dispensation of his Oath from the Pope to colour his perjury;) in the yeare 1260. appointed new Sheriffes and Gardians of Shires, discharging such as the King had before admitted, and raising a strong power in the Marches of *Wales*, sent a Letter to the King under the Scale of Sir *Roger Clifford*, beseeching him to have in remembrance the Oath and promises hee had made, for the observing of the Statutes enacted at *Oxford*, with other Ordinances made to the honour of God, for faith and allegiance to his person, and for the weale and profit of his Realme; willing him further to withstand and desie all such persons, as will be against the said acts; saving the *Queene* and her children. After which letter sent, and no answer to it received; the Barons with banners displayed, went against such Malignants as they knew held against those Acts. And first at *Hereford*, they tooke the Bishop and all his Chanons who were aliens borne, taking away their money and cattle, and plundering their houses and manors. And marching towards *London*, much people flocking to them, in their passage, ever as they found any that they knew to be against the maintenance of the said Acts, they imprisoned them and spoyled their houses, were they spirituall or temporall men: furnished the especial Fortreffes of the kingdome

kingdome with Gardians of their owne, and in DIVERS OF THE KINGS CASTLES THEY SET IN SUCH MEN AS THEY LIKED, and PUT OUT SUCH AS THE KING HAD PLACED THERE BEFORE; and gave them an Oath, that they would be true and faithfull to the King, and keepe those Castles TO HIS USE, and TO THE WEALE OF THE REALME. And when *William de Valens* denied with oathes to render up any Cattle which was given him, by the King (his brother) to keepe; the *Earle of Leycester* and the rest of the Barons answered; *they would either have his Castles or his head: which so terrified the Poictouines, that they left Oxford and their Castles to the Barons, and fled into France.* Which (g) Castles when the King and Lords were accorded, together with the Castles of *Dover* (*Nec Regi ablatum nec vetitum, sed tanquam clavis totius Regni, custodie esset diligentiori a Baronibus deputatum*) and the Cattle of *Rocheſter* and others were readily delivered up by the Barons to the King, *qui ubique liberum invenit introitum, & exitum juxta vota; & tunc primo Rex sensit se falsis deceptionibus circumventum, & Baronum suorum fidelitate, ubique licet ignoranter suffultum;* and then the King first found he was circumvented with false reports of the Barons disloyalty, who so willingly restored his Castles to him, when those stormes were blowne over; though he made but ill use of it, tooke occasion thence openly to recede from his Oath; whereupon they rescised these Castles for their safety. About Midsommer the Barons drawing neare to *London*, sent a Letter to the Mayor and Aldermen requiring to know of them, *Whether they would observe and maintaine the Statutes made at Oxford; or not? or aide and assist such persons as intended the breach of the same?* and sent unto them a Copy of the said Acts; with a proviso, that if there were any of them, that should seeme to be hurtfull to the Kealme or Commonweale of the same, that they then by discreet persons of the land should be altered and amended: Which Copy the Mayor bare unto the King then at the Tower of *London* with the *Queene* and other great persons. Then the King intending to know the minde of the City, asked the Mayor, *What he thought of those Acts?* who abashed with that question, besought the King, *That he might commune with his Brethren the Aldermen, and then he would declare unto him both his and their opinions.* But the King said, He would heare his advice without more Counsell. Then the Mayor boldly said, *That before times, he with his Brethren and commonalty of the City, by his commandement were sworne to maintaine all Acts made to the honour of God, to the faith of the King, and profit of the Realme; which Oath by his license and most gracious favour they intended to observe and keepe. And moreover, to avoid all occasions that might grow of grudge and variance betweene his Grace and the Barons in the City, they would avoyd all aliens and strangers out of it (as they soone after did) if his Grace were so contented.* With which Answer the King seemed to bee pleased, so that the Mayor with his favour departed, and he and the Citizens sent answer to the Barons, that they condescended to those acts, binding themselves thereunto under the publike Seale of *London*, their Liberties alwayes upheld and saved. Then the Barons entred the City, and shortly after the King with his *Queene* and other of his Counsaile, returned to *Westminster*.

* Anno 1264. (the 48. of Henry the third) the King made his peace with the Barons then in Armes, upon these termes: That ALL THE CASTLES OF THE KING, throughout *England*, should be delivered TO THE

(g) *Mat. Paris,*
p. 960. *Math.*
Westm. An. 1161
p. 306, 307.

* *Mat. Paris,* p.
961. *Dan. hist.*
p. 179. 180.
Mat. Westm. An.
1263. p. 311.
316.

KEEPING OF THE BARONS: *the Provisions of Oxford be inviolably observed; and all Strangers by a certaine tize avoyded the kingdome, except such as by a generall consent, should be held faithfull and profitable for the same:* Whereupon the Barons tooke possession of most of the Castles by agreement, or violence where they found resistance, as they did in many places. And by the **CONSENT** of **THE KING** and **BARONS**, Sir *Hugh le Spenser* was made Chiefe Justice and keeper of the *Tower*. This done at *London*; the Barons departed to *Windsor* to see the guiding of that Castle, where they put out those aliens, whom Sir *Edward* the Kings Sonne had before put in, and put other Officers in their places; spoyling them of such goods as they had. Who complaining thereof to the King, he put them off for that season. After which they re-seised *Dover Castle*, and made *Richard de Gray*, a valiant and faithfull man, Constable of it; who searching all passengers that came thither, very strictly, found great store of Treasure, which was to be secretly conveyed to the *Poictovines*, which he seised, and it was imployed by the Barons appointment, upon the profitable uses of the Realme. The yeare following, the Commons of *London* chose *Thomas Fitz-Thomas* for their Mayor, and without consent of the Aldermen, sware him at the *Guild-hall*, without presenting him the next day to the King or Barons of the Exchequer. For which the King was grievously discontented; and being advertised that the Citizens tooke part with the Barons, caused his Sonne *Edward* to take the Castle of *Windsor* by a traine; to which the King and Lords of his party repaired. And the other Lords and Knights with great Forces drew towards *London*; but by mediation of friends, there was a peace concluded, and the differences were referred to the *French King* to end. Who giving expresse sentence that all the Acts of *Oxford*, should from thenceforth be utterly forborne and annulled:

The Barons discontented with this partiall sentence, departed into the Marches of *Wales*; where raising Forces, they seised on many Townes and Castles of the Kings, and Prince *Edward* going against them, was sore distressed and almost taken. Hereupon to end these differences, a new Parliament was appointed at *Oxford*; which tooke no effect. *Because when the King had yielded the Statutes of Oxford should stand, the Queene was utterly against it;* whose opposition in this point being knowne to the *Londoners*, the baser sort of people were so enraged, that she being to shoot the Bridge from the Tower, towards *Windsor*, they with darts, stones, and villanous words, forced her to returne. After which, the Lords sending a Letter to the King, to beseech him not to beleve the ill reports of some evil Counsellors about him, touching their loyalty and honest intentions; were answered with two Letters of defiance. Upon which ensued the bloody battle of *Levin* in *Sussex*, in which the King and his Sonne, with 25. Barons and Baronets, were taken prisoners, & twenty thousand of the Commons slain. *Richard*, King of *Romans*, the Kings Brother was likewise taken prisoner in this Battle, (b) who a litle before comming over into *England* with some Forces to ayde his Brother, the Barons hearing thereof caused all the Ships and Gallies of the Cinqueports and other places to meet together armed, to resist him by Sea, and sent horse and foot to withstand him by Land if he arrived: Which *Richard* having intelligence of, disbanded his Forces, and sent word to the Barons, that he would take an Oath to observe the Articles and Statutes made at *Oxford*; whereupon he was permitted to land at *Dover* with a small Traine; whither

Nota.

(b) *Mat. Paris*,
p. 152, 153. Sp.
p. 636.

ther King *Henry* went to meet him. But the Barons would not suffer this King, nor any of his Train to enter into *Dover* Castle, because he had not taken his Oath to observe the fore-
 said Statutes; nor yet the King of England to go into it (for feare of surprisall) because
 it was the principall Bulwark of England; (the Barons then having both it and all the
 Cinqueports in their Custody to secure the kingdome from danger) Neither would
 they permit King *Richard* to goe on towards *London*, till he had taken the Oath
 * forementioned. After this battle all the prisoners were sent to severall prisons,
 except the two Kings and Prince *Edward*, whom the Barons brought with them to
London, where a new Grant was made by the King, that the said Statutes should stand in
 strength: and if any were thought unreasonable, they to be amended by foure Noblemen of the
 Realme: and if they could not agree, then the Earle of *Angioun*, and Duke of *Burgoin* to be Jud-
 ges of the matter: And this to be firmly holden and obeyed by both the Kings; who granted
 that both their Sonnes and Heires should remaine as Prisoners, and Hostages with
 the Barons, till all things were finished according to this agreement. Upon which
 a Peace was proclaimed in *London* betweene the King and his Barons. Then it was
 agreed by the King, that for his more surety and the weale of the Land, the Earle of *Ley-*
cester should be resident in his Court; Upon which agreement, many of the Prisoners
 were set at large. In the meane while, before the battaile of *Levis*, the Queene and
 King of *Romans*, had sent over-sea for Souldiers, to ayde the King againt the Ba-
 rons, which now were come in great number unto *Dover*, and there hovered on the
 Sea to have landed. Whereof the Barons hearing, they sent the King of *Romans*
 as Prisoner to *Barkhamsted*, untill the said *Almaines* were returned, and caused King
Henry with a great power to ride to *Dover*, and force the said Host of strangers to re-
 turne unto their Countries. After which by the counsell of the Lords, a Parlia-
 ment was agreed and held at *Westminster*, wherein a generall Pardon was granted
 to all the Lords and their adherents, for any matter of displeasure done to the King
 or his Sonne Prince *Edward* before that day; which to uphold, the King and he
 tooke a solemne Oath before the Lords; and it was further agreed, That the Prince
 should reside in the Kings Court, and not depart thence without license of the King,
 and of certaine Barons. Then were many instruments and bonds made by the King
 and Prince, for the performance of sundry Covenants betweene the King and Ba-
 rons; which shortly after tooke small effect, and begat new warres; this Kings
 fresh breaches of Oathes, and promises, procuring him alwayes new insurrections
 and forced Parliaments, which the Barons constrained him to call and hold, against
 his will. How the Lords and Parliament oft seised upon the Castles, Forts, Ar-
 munition in King *Edward* the second, and *Richard* the seconds Reignes, when differ-
 ences grew betweene them, I have already in part remembered, and you may read
 the residue in the Histories of their lives. In (1) the 33. yeare of King *Henry* the sixth
 this Reigne, the valiant Earle of *Warwicke*, was made Captaine of *Calice* by the Par-
 liament; a place of great honour and trust in those dayes; by vertue whereof, all
 the warlike affaires and businesse, relied principally in the Earle of *Warwicke*: After
 which the Queene (an ambitious stirring woman) to breake the peace newly made
 and ratified by oath, betweene the King, Lords, and Duke of *Torke*, (created Lord
 Protector by the Parliament) caused a fray to be made on the Earles men, which pro-
 duced a warre and bloody battle, wherein the Earle gained the field.

Part I. p. 8.

(1) *Hals Chron.*
An. 33. 39 *H. 6.*
f. 163. 10 176.
Stowes Histories
Chron. Ed. 1. ult.
p. 400. 404.
Grafton p. 627.
628. &c. Speed
p. 855. 856. 857.
Fabian part 7.
p. 493, 10 469.

Whereupon the King displeas'd with the Earle, by his Letters Patents, granted

the Captainship of *Caley* to *John Duke of Summerset*; who going over to *Caley*, in the 38. yeare of King *Henry*, to take possession of his place; shewed his Patent to the Earle, who refused to resigne his place, answering, *that he was put into it by the Parliament, and so could not be oured of it but by Parliament*; and kept the Duke forth of the Towne; who being thus expelled from his office, after some skirmishes with the Earles Garrison, (wherein the Duke had the worst) hee sent over to the King and Queene for ayde, in defence of this quarrell; whereupon they provided 400. warlike persons to passe the Seas for his ayde, and ships to transport them: who lying at *Sandwich* for a winde; the Earle of *Warwicke* being therewith acquainted, sent *John Dingham* a valiant Esquire, with a small number of men, but a multitude of couragious hearts to *Sandwich*; who suddainly entred the same, tooke the Lord *Rivers* and his Sonne (who commanded those Souldiers) in their beds, pillaged some houses and ships, and besides this, *tooke the principall ships of the Kings Navy then lying at the Port well furnished with ordnance and artillery* (through the favour of the Mariners, who favoured the Earle most) *and brought the royall ships loaden with booty and prisoners to Caley*; With these ships the Earle after passed to the Duke of *Torke* into *Ireland*, and afterwards into *Englund*, where the Duke of *Torke* in full Parliament laid claime to the Crowne, which his Sonne after obtained, deposing King *Henry*, as having no lawfull Title therunto. I recite not this Story to iustifie all particulars of it, but onely to prove, That the Parliament in those times, had the conferring of Captaines places of greatest truit, who had the command of the *Militia*; and that, as this Earle in policy onely, for his owne safety, seised on the Kings royall ships, and Ammunition, in which he had no right; so by the same reason, the Parliament may dispose of such places of Military truit in these times of danger, and of the Navy and Ammunition of the kingdome, in which they have a reall interest, for the kingdomes safety and their owne. (k) *A Sheriffe, Justice, Constable, and other Officers, by the Common and Statute Law of the Land, may and ought to disarme and seise any mans weapons whatsoever, and imprison his person for a time, when by act, or apparent intention onely, he shall but disturbe the peace, or make any Fray, Rout, or Riot, to the annoyance of the peop'e, till the tumult and danger be past, and the peace secured.* Much more then may the highest Sovereaign Court of Parliament, seise the Forts, Armes, Navy, Ammunition of the Realme, (in which they have reall interest) and secure them for a season, to preserve the whole kingdomes Peace, and prevent a civill Warre, without any injury to his Majesty, till all feares of warre and danger be removed. Not to trouble you long with forraine histories of this Nature; in the *Roman* state the (l) chiefe power of making warre or peace, of ordering of the *Militia* and disposing of the custody of Castles, Forts, Ammunition was in the Senate and people, not the King or Emperour; as it is in Germany, and most forraine States and kingdomes, at this day; without any diminution to those Kings and Princes just prerogatives. It is the determination of the prime Politician (m) *Aristotle* (seconded by (n) *John Mariana* and others) that in lawfull kingdoms the chiefe strength & power of the *Militia* ought to reside in the kingdomes hands; not Kings, who ought to have onely such a moderate power and guard of men, as may suffice to suppress riots, and maintaine the Authority of the Lawes; but not so great a force as may master all his kingdome, * lest he become a tyrant, and his Subjects slaves

In the kingdome of *Arragon* in *Spaine* (as I read in * *Hieronimus Blanca*) this is: fund. menta'l antient Law, (made about the yeare of Christ 842. by their *Superbiens*

(k) 5 H. 7. b. Bar.
141. 22. E. 4.
35. b. Bar. 202.
Br. Fitz. Im-
prisonment,
6. 12. & Hist.
3. Compro de
Pace, f. 97 98.
113. 114. 132.
1 c. 38. 7 R. 2.
c 6. 13 H. 4 c.
72. H. 5. c. 6. 8.
5 R. 2 c. 5. 17
R. 2. c. 8. 19 H.
A. 7. c. 13.
3 E. 6. c. 5.
1 Maria c. 12.
(l) Liv. Hist.
l. 1. 2. 4. Polybi-
us, Hist. l. 6.
Dionys. Hal. l.
2. c. 2. Bodius
Commonweale
l. 1. c. 10 l. 5.
See the Ap-
pendix.
(n) Polu. l. 3.
c. 11.
(n) De Rege
& Regis Instit.
l. 1. c. 8, 9.
* B. din. Com-
monweale, l. 5.
c. 5.
* Arragonen-
sum Rerum
Compendiar. p.
588, 589. 723.

Forum, now commonly stiled, *Justitia Arrogantia* during the *Interregnum*, to preserve their Countries Liberties, to keepe their Kings power within due bounds of royaltie, & prevent a tyranny, with divers others of this nature, which their Kings solemnly sweare to observe, before they are crowned: the words of the Law are these, *The King shall take heed that he neither undertake warre, nor conclude peace, nor make truce, nor handle any thing of great moment, but by the advise and consent of the Elders: to wit, the Justitia Arrogantia*, the standing Parliament of that kingdome, which hath power over and above the King. And at this day (as the same * Author writes) their *Rici-homines*, (or selected Peeres appointed by that kingdome, not the King) have all the charges and offices both of warre and peace lying on their neckes, and the command of the Militia of the kingdome; which they have power by their Lawes to raise, even against their King himselfe, in case he invade their Lawes or Liberties; as he there manifests at large. So in * Hungary, the great *Palatine* of Hungary, the greatest officer of that kingdome, and the Kings *Lieutenant* Generall, who commands the Militia of that Realme, is chosen by the Parliament and Estates of that country, not the King. It was provided by the Lawes of the * *Aetolians*, that nothing should be entreated of CONCERNING PEACE OR WARRE, but in their *Panetolio*, or great generall Councell of state: in which all Ambassadors were heard and answered; as they were likewise in the *Roman Senate*. And * Charles the fifth of France, having a purpose to drive all the Englishmen out of France and Aquitain, assembled a generall assembly of the estates in a Parliament at Paris, by their advise and wisdom to amend what by himselfe had not bene wisely done or considered of, and so undertooke that warre with the counsell and good liking of the Nobilitie and people whose helpe he was to use therein: which warre being in and by that Councell decreed, prospered in his hand, and tooke good successe as Bodin notes; because nothing giveth greater credit and authority to any publike undertakings of a Prince and people in any State or Commonweale, then to have them passe and ratified by publike advise and consent.

Tea the great *Constable* of France, who hath the government of the Kings Sword, the Army, and Militia of France, was anciently chosen by the great Councell of the three Estates and Parliament of that kingdome; as is manifest by their election of Arthur Duke of Britaine to that office, Anno 1324. before which, Anno 1253. they elected the * Earle of Leycester a valiant Souldier and experienced wise man, to be the grand *Seneschall* of France, *ad consulendum regno desolato, & multum desperato, quia strenuus fuit & fidelis*; which office he refused; lest he should seeme a Traytour to Henry the third of England, under whom he had bene governour of Gascoigne, which place he gave over for want of pay. In brieffe, the late examples of the (o) Protestant Princes in Germany, France, Bohemia, the Loiv countries, and of our brethren in Scotland within foure yeares last, who seized all the Kings Forts, Ports, Armes, Ammunition, Revenues in Scotland, and some Townes in England to preserve their Lawes, Liberties, Religion, Estates, and Country from destruction, by common consent, (without any Ordinance of both Houses in their Parliament) will both excuse, and justifie all the Acts of this nature; done by expresse Ordinances of this Parliament; which being the Sovereigne highest power in the Realme, intrusted with the kingdomes safety; may put the Ports, Forts, Navy, Ammunition (which the King himselfe cannot manage in person, but by substitutes) into such under Officers hands, as shall both preserve and rightly employ them for the King and kingdomes safety; and elect the Commanders of the Militia according

* Ibid. p. 724.

* Foris & in castris summum Imperium bellicarum administrationem obtinet, &c.

* Nicholas Istuanfus de Rebus Ungar. Hist. l. 6. f. 84, 85. Bodin Commonweale, l. 1. c. 10. p. 167.

* Livy, Rom. Hist. l. 31. 35. Bodin. Commonweale, l. 3. c. 1.

* Bodin Ibid.

* Bodin Ibid.

* Matthew Paris Hist. Anglie p. 835.

(o) Dinotii Historia, Spedan l. 8. 18. 12. Grimston Imperiall History, in Rodolph 2. and Ferdinand. the second.

according to the expresse letter of King Edward the Confessors Laws (which our Kings at their Coronations were still sworne to maintaine) wherewith I shall in a manner conclude, the Legall part of the Subjects right to elect the Commanders of the Militia, both by Sea and Land. * *Erant & alie potestates & dignitates per provincias & patrias universas & per singulos Comitatus totius regni constitutæ, qui Heretochii apud Anglos vocabantur; Scilicet, Barones, Nobiles, & insignes, sapientes & fideles, & animosi; Latine vero dicebantur Ductores exercitus; apud Gallos, Capitales Constabularij, vel Marschalli Exercitus. Illi vero ordinabant acies densissimas in preliis, & alas constituiebant, prout deceit, & prout iis melius visum fuit, ad Honorem Coronæ, ET AD UTILITATEM REGNI. Isti vero viri ELIGEBANTUR PER COMMUNE CONCILIUM PRO COMMUNI UTILITATE REGNI, PER PROVINCIAS ET PATRIAS UNIVERSAS, ET PER SINGULOS COMITATUS* (so as the King had the choyce of them in no Province or Countrey, but the Parliament and people onely) *in pleno Folcmote. SICUT ET VICECOMITES PROVINCICIARUM ET COMITATUUM ELEGI DEBENT. Itaquod in quolibet Comitatu sit unus Heretoch PER ELECTIONEM ELECTUS ad conducendum exercitum Comitatus sui, juxta præceptum Domini Regis, ad honorem Coronæ, & UTILITATEM REGNI prædicti, semper cum opus ad fuerit in Regno. Item qui fugiet a Domino vel socio suo pro timiditate Belli vel Mortis in conductione Heretochii sui IN EXPEDITI- ONE NAVALI, VEL TERRESTRI* (by which it is evident these popular Heretochs commanded the Militia of the Realme both by Sea and Land, and might execute Martiall Law in times of warre) *perdat omne quod suum est, & suam ipsius vitam, & manus mittat Dominus ad terram quam ei antea dederat. Et qui in bello ante Dominum suum ceciderit, sit hoc in terra, sit alibi, sint ei releuationes condonate; & habeant Heredes ejus pecuniam & terram ejus sine aliqua diminutione, & recte dividant inter se.* An unanswerable evidence to satisfie all men.

To which I shall onely adde that observation of the learned Antiquary Sir Henry Spelman in his * *Glossarium*; Title *Dux*, and *Heretochius*, (where he cites this Law of King Edward) That the Heretoch was *Magister Militiæ, Constabularius, Mariscallus, DUCTOR-EXERCITUS, SIVE NAVALIS, SIVE TERRESTRIS*; called in Saxon * *Heretoga*: *ab Here, Exercitus, & Togen, Ducere. Eligebantur in pleno Folcmote, hoc est, non in illo sub initio calendarum Martii, at in alio sub capite Calendarum Octobris. Aderant tunc ipsi Heretochii, & QUÆ VOLUERE, IMPERABANT EXEQUENDA, consulto tamen PROCERUM COETU, ET JUDICIO TOTIUS FOLCMOTI APPROBANTE.* Then he subjoynes *POPULARIS ISTA HERETOCHIORUM SEU DUCUM ELECTIO, nostris Saxonibus cum Germanis aliis COMMUNIS FUIT: Ut in Boiorum ll. videas, Tit. 2. cap. 1. S. 1. Siquis contra Ducem suum, quem Rex ordinavit, in Provincia illa AUT POPULUS SIBI ELEGERIT DUCEM, de morte Ducis consiliarius fuerit, in Ducis sit potestate, &c. Huc videtur pertinere quod apud Greg. Turon. leg. 1. 8. Sect. 18. Wintro Dux à Pagensibus suis depulsus Ducatu caruit, &c. sed postea pacato populo Ducatum recepit: Eligebantur enim interdum Provinciarum Duces AB IP SO POPULO.* In the * *Roman State, the Senate, and some times the people alone, without their advise, had power to appoint Lieutenants and Governours of Provinces; whence the * Senate commanded these Governours of Provinces whom the Emperour Maximinus*

* Lambard, Archæon. f. 135 De Heretochii.

* P. 232 348, 349.

* See Master Seldens Titles of Honour, p. 605.

* Bodins Commencaire, l. 3. c. 1. p. 273. * Græmnes Imperiali Hist. p. 171.

to be displaced, and others to be substituted in their roomes, which was accordingly
 ye^r * the Senate had power to dispose of the common Treasure, and publike revenue,
 one of the greatest points of Sovereignty. And so we read in Scripture, Judges 11.5. to 12.
 That when the children of Ammon made warre against Israel, the Elders of Gilead went to
 fetch Jephthah out of the land of Tob. And they said unto Jephthah, Come and be our Cap-
 taine, that we may fight with the Children of Ammon, &c. Then Jephthah went with the El-
 ders of Gilead, and THE PEOPLE MADE HIM HEAD and CAP-
 TAIN E OVER THEM: the Princes and people, even under Kings themselves,
 having the chiefe disposing power of the Militia and denouncing war, as is evident by Josh.
 22. 11. to 32. Judges 20. and 21. throughout 1 Sam. 14. 38. to 46. c. 29. 1. to 11.
 2 Sam. 18. 2, 3, 4. c. 19. 1. to 9. Prov. 20. 18. c. 24. 6. compared together.

And for a close of all, lest any should object, that no late direct precedent can be
 produced to prove the office of the Lord Admirall, and custody of the Seas disposed
 by Parliament, I shall conclude with one punctuall precedent of many. In 24. H. 6.
prima Pars Pat. m^a. 16. The King grants to John Duke of Exeter, the OFFICE
 OF ADMIRALL OF ENGLAND, IRELAND and AQUITAIN,
 with this subscription, *Per breve de privato sigillo, AVCTORITATE PAR-*
LIAMENT I, the former Patent of this office made joyntly to him and his sonne
 by the King alone, in the 14. yeare of his reigne, being surrendred in the Parliament
 of 24. and a new one granted them by its direction and authority. Yea most of the
 Admiralls Patents (which anciently were not universall for all England, but severall
 for such and such parts onely, and commonly but annuall or triennuall at most)
 as Sir Henry Spelman observes in his *Glossary*, in the word *Admirallus*, where you have
 an exact Kalender of all the Admiralls names, with the dates of their severall Patents
 and Commissions, are DE AVISAMENTO ET ASSENSU CON-
 SILII; which is almost as usually taken for the Kings * *great Counsell*, the *Parliam-*
ment, as for his privy Counsell. And if our Kings have constantly disposed of this
 Office by the advise or assent of their privy Counsell, there is more reason and equi-
 tie they should doe it by the advise of their great Counsell, of which his privy
 Counsell are but a part, and by whom they have frequently bene elected, as I shall
 plentifully manifest in the next objection.

Now, whereas some pretend, that the Parliaments seising and detaining of the
 Kings Castles, Ports, Ships, Armes and Ammunition is High Treason, within the
 Statute of 25 Ed. 3. c. 3. and a *levying of warre against the King*.

I answer, first; that the Parliament was never within the meaning, nor letter of
 that, or any other Act concerning Treasons, as I have formerly proved; the rather
 because the King is a member of it, and so should commit Treason against him-
 selfe, which were absurd.

Secondly, because both Houses are of greater authority then the King, (a mem-
 ber of them as they make one Court) & so cannot commit Treason against the lesse.

Thirdly, the Parliament is a *meere* (p) *Corporation and Court of justice*, and so not capa-
 ble of the guilt of Treason: A Judge, Maior, or particular persons of a Corporation
 may be culpable of high Treason, as private men, but not a Court of justice, or Cor-
 poration.

Fourthly, by the very Statutes of 25 E. 3. and of 11 R. 2. c. 3. 21 R. 2. c. 12. 1 H. 4. c. 10.
 21 R. 2. c. 3. the Parliament is the sole Judge of all new Treasons, not within the

* *Bolton Com.*
 l. 3. c. 1. p. 273.

* *Cookes Instit.*
 on Lit. f. 110.
Cambdens Brit.
 p. 177 *Holin-*
sheds Description
of England
 c. 8. p. 113. and
Annals of Ire-
land, p. 120. 110
 130. *Brooke,*
Crompton,
Cowel,
Mirshew Tit.
Parlem.
S. r. Thomas
Smiths Com-
monwealth.
 l. 2. c. 1. 2.

Object.

Ans^r.

(p) 14 H. 8.
 f. 3. b.

* See *Littleton*,
sect. 297. 314.
 323 *or Cooke*
Inst. biden.

very letter of that act; and if any other case supposed Treason, not there specified, happens before any Justices, the Justice shall tarry without any going to judgement of the Treason, till the cause bee shewen and declared before the King and his Parliament, whether it ought to be judged Treason. And if the Parliament be the sole Judge of all Treasons, it cannot be guilty of Treason, for then it should be both Judge and Delinquent, and if so, no doubt it would ever acquit it selfe of such a crime as High Treason, and never give judgement against it selfe. And no Judge or person else can arraigne or judge it, or the members of it, because it is the highest soveraigne Court, over which no other person or Court whatsoever hath any the least jurisdiction: So that if it were capable of the guilt of Treason, yet it could not be arraigned or judged for it, having no superiour or adequate Tribunal to arraigne it.

Fifthly, admit it might be guilty of High Treason in other cases, yet it cannot be so in this. For having a joynt interest with the King in the premises in the Kingdomes right, (the sole propriator of them) it cannot doubtles be guilty of treachery, much lesse of High Treason for taking the custody and possession onely of that which is their owne; especially when they both seise and detaine it for its owne proper use, the Kingdomes security and defence; without any malicious or traytorous intention against King or kingdome.

Secondly, I answer, that the seising or detaining of these from the King are no Treason, or *levying of Warre* within this Law, as is most evident by the Statutes of 6. Ed. 6. c. 11. which expressly distinguisheth, the seising and detaining of the Kings Forts, Ammunition, Ships, from the levying warre against the King in his Realme, and by an expresse new clause, enacts this seising and detayning to be High Treason from that time, because it was no Treason within 25. Ed. 3. before, which if it had bene in truth, this new clause had bene superfluous; which law of King Edward being repealed by primo Mariae, Rastal Treason, 20. this offence then ceased to be Treason: whereupon by a speciall act of Parliament in 14 Eliz. c. 1. it was made High Treason againe, (which had bene needlesse, if it had bene a levying of warre, or Treason within 25. Ed. 3. before.) And that with this proviso, *this Act to endure during the Queenes Majesties life that now is*, ONLY; and so by this Parliaments resolution, it is no Treason since her death, within 25 Ed. 3. for then this proviso had bene idle and repugnant too. And therefore being now no High Treason in any person, cannot without much calumny and injury be reputed Treason in both the Houses of Parliament, incapable of High Treason, as the premises demonstrate.

In brieffe, he that seised and detained the Forts and Ships of the kingdome, when it was Treason, was not a bare Traytor against the Kings person or Crowne onely, but against the King and his Realme too, like those Traytors, mentioned in the severall statutes of 11 R. 2. c. 4. and 21 R. 2. c. 2. 4. He shall be judged and have execution as a TRAITOR and ENEMY OF THE KING and TO THE REALME: and in 28 H. 8. c. 7. HIGH TRAITORS TO THE REALME, As the Gunpowder Traytors were to the Parliament and Realme in them, being the representative Body of the Realme: the Parliament then being the Realme representatively and authoritatively too, and so the party against whom this Treason is principally to bee committed, cannot bee a Traytor to it selfe, by the words or intendment of any expired Act which made such a seisure or detainer Treason. And therefore those Lawyers, who pronounce this Parliaments seising and detaining of the Ports, Forts, Navy, Armes, or Ammunition of the Realme to keepe them out of

worser hands, for the Kings and kingdomes right use and safetie, to be High Treason declare themselves Greater Malignants then Artists in their owne profession.

But some body (say Malignants and Royalists) must be trusted with the Militia, Ports, Navy, Armes, Ammunition; and who so fit to be confided in as the King himself, and those whom he shall appoint? Especially since hee and his owne substitutes, have formerly bene intrusted with them by the kingdome; and wee have now so many deepe* Protestations, yea publike printed Affeuerations and Promises from his Majesty, to maintaine the Protestant Religion, our Lawes, Liberties, Properties, Parliaments, with their just Priviledges; and shall we not beleewe and trust his Majesty after so many royall assurances, seconded with many Acts of grace for the publike safetie already passed by him in this Parliament? especially the Acts against Shipmoney, and all other unlawfull Taxes; with the Bills for the continuance of this, and calling of a Trienniall Parliament, when this shall be determined? Shall we yet be diffident of his Majesties sinceritie after so many Protestations, Promises, Imprecations; so many Pledges of his gracious affection to his people, and some publike acknowledgements of his former misgovernment and invasions on his Subjects Liberties? If all these Warrants will not content the Parliament, and perswade them to resigne up all the premises they have seized into his Majesties hand, to purchase the kingdome much desired necessary Peace, and put a period to our destructive warre (in which there is nought but certaine ruine) what other security can his Majesty give or they expect?

Object.

* See all his Majesties late Proclamations, Protestations, and printed Declarations of this nature.

To answer this plausible allegation, I shall, without prejudice to other mens judgements, crave liberty to discharge my owne and others thoughts in this particular, in which if I chance to erre (out of overmuch zeale to my countries safety) I shall upon the first discovery professe a recantation; though for the present,

Answer.

* *Maluerim veris offendere, quam placere adulando.*

* Seneca de Clemen. l. 2. c. 2.

I shall reduce the summe of the answer to these two heads;

First, that as the state of things now stands, it will be (as many wise men conceive) not onely inconvenient, but dangerous, to resigne up the Militia, Ports, Navy, Ammunition of the kingdome into his Majesties sole disposing power, and those hands which himsele alone shall appoint and confide in, till things bee thoroughly reformed and setled both here and in Ireland, and the Popish prevailing party in both kingdomes (now strongly up in armes) totally suppressed and secured.

Secondly, That till this be effected, it is more reasonable and safe, both for King and kingdome, that these should remaine in the Parliaments hands, then in the Kings alone.

For the first, there are these three generall reasons, generally alledged by many understanding men, equally affected to either party; and by most who are cordially inclined to the Parliament, why they deeme it not onely inconvenient, but perilous, to intrust the premises wholly with the King, and those of his appointment, as our condition now stands.

* Anno 1641, & 1642.

First, a more then probable long-since resolved designe in his Majesties evill Counsellors, to make him an absolute Sovereigne Monarch, and his Subjects as mere vassals, as those of France; which designe hath bene carried on with an high hand from the beginning of his Reigne till this present, as the Parliament in * sundry

See the Remonstrance of the Lords and Commons Novem. 2. 1642.

* Lord Faulkland, L. Seymour, L. Digbey, L. Savil, Sir Jo. Culpepper, Sir Edward Deering, Mr. Halborne, Mr. Hide, &c.

Declarations prove yea divers * Lords and Members of both Houses, though now with his Majesty, in their Parliamentary Speeches, have openly professed; which they thus demonstrate.

First, by his Majesties severall attempts against the Priviledges, Power, and very being of Parliaments; manifested by the proceedings against Sir John Eliot, Mr. Hollice, Mr. Strode, Mr. Long, and others, after the Parliament in 3. *Caroli*; and the Lord Say, Mr. Crew, with others after the last Parliament before this: By his Majesties sadominous breaking off in discontent, all Parliaments in his Reigne (unparalleled in any age or kingdom) till this present; which though perpetuated by a speciall Act, as long as *Both Houses please*, hath yet long since been attempted to be dissolved like the former, by his Majesties accusation, and personall comming into the Commons House with an extraordinary Guard of armed men attending him, to demand five principall members of it, to be delivered up to his hands as Traytors, in an unpatterned manner. By his wilfull departure from, and refusall to returne unto the Parliament, though oft petitioned and sollicitated to returne, which is so much the more observed and complained of, because his Majesty (if not his Royall Consort and the *Prin:esse* too) was constantly present in person every day this Parliament (for sundry weekes together) at the arraignment of the Earle of *Strafford* for high *Treason*, in a private manner, when by Law he ought not to be personally present in a publicke, to countenance and encourage a capitall Oppressor, and Trayterous Delinquent against all his three kingdomes, contrary to both Houses approbation; And yet now peremptorily denyeth to be present with or neare his Parliament, to countenance and assit it for the preservation of his kingdomes against such Traytors, Rebels, conspirators, who have contrived and attempted their utter desolation, in pursuance of his foreplotted designs; By his commanding divers Lords and Commons to desert the Houses, and attend his Person without the Houses consent, detaining them still * when the Houses have sent for them: and protecting those who refused to returne, against the common justice of the Parliament: by casting divers grosse aspersions on it, and naming it, *A faction of Malignant, ambitious spirits, no Parliament at all, &c.* By raising an Army of Delinquents, Malignants, Papists, Forainers, to conquer and suppress the Parliament, and deprive it of its Liberties; By proclaiming divers active Members of it, (specially imployed by Both Houses, for the defence of their severall Counties) *Traytors*, onely for executing the Houses commands, without any Indictment, Evidence, Conviction, against all Law, Justice, and the Priviledges of Parliament: By commanding, detaining the *Lord Keeper* of the Great Seale, (the Speaker of the Lords House) and some Judges from the House and City: By plundering divers Parliament mens houses, imprisoning their persons without Bayle, Mainepriise, or Redemption, and laying intolerable taxations on their estates: By Declaring both Houses *Traytors*, if not in positive, yet at least in equivalent words, and by necessary consequence: By divers unparalleled violations of the Parliaments Priviledges by extrajudiciall Declarations out of Parliament, penned by Malignants in his Majesties name, and avowed by him, published of purpose to oppose, annull, reverse the solemn legall Resolutions, Declarations, and Votes of both Houses in sundry cases, and by name that against the Commission of *Array*: And finally by the manifold investives in severall his Majesties Declarations, and Proclamations against the Parliaments Votes, Proceedings, Members; second-

* See the Parliaments Remonstrance, Nov. 2. 1642.

ed with expresse commands, and invitations to the People, to * *Contemne its authority, and disobey all its Orders made without his personall consent; which is indeed nought else, but to nullifie Parliaments, to make them a'together contemptible, ridiculous, and trample them under feete;* and hath wrought a strong malignity, disobedience, if not disaffection, in many people to Parliaments, to the end they may never desire or enjoy them hereafter, notwithstanding the Act for trienniall Parliaments, when this is once dissolved. All these unparalleld, apparent high attempts against the very honour, essence, of this, and all other future Parliaments, (transcending both for quantity and quality all the violations of Parliaments Priviledges, in all his Majesties Predecessors Reignes, since *England* was a kingdome, summed up in one;) together with the late *Oxford Propositions* for an Accommodation; wherein the Houses finall Resolutions, Declaring what is Law, are called illegall, and required to be reversed; the power of imprisoning and fining men denied, and prostituted to the censures, Writs, and Examinations of inferiour Courts, by way of *Habeas Corpus*; al high Violations and denials of the knowne priviledges of Parliament, contrary to his Majesties many former, and late Printed Protestations, and those Acts newly passed concerning Parliaments, (which will never recover their pristine dignity, honour, power, priviledges, if this should miscarry;) induce the most intelligent to opine, that his Majesty, long since weary of the yoke of all Parliaments, (the only *Remora* to his absolute intended Monarchy) and repenting of the Act for continuing this, since he hath gained his ends for which it was summoned, (more out of absolute necessity then love to Parliaments) to wit, peace with the *Scots*, for the present, by an Accommodation, wrought by this Parliament, & purchased with his Subjects mony, when as he saw no hopes of repelling them hence by force; & the paying of his then raised Army against them by the Parliaments free supply: is now resolved (in prosecution of his pristine Counsels) by force or policy to dissolve this Parliament in discontent, as he hath done all former, and that with such advantages of a generall ill opinion of Parliaments in the ignorant mis-informed vulgar on the one hand, and of a prevailing conquering power on his part on the other hand, as shall either utterly extinguish the hopes and Bill of summoning any future trienniall Parliamentary Assemblies, or at least so emasculate the vigour, and eclipse the power of them, if called; that they shall neither have courage, nor might, nor meanes to resist his foresaid grand designe, if he can now either by force or policy resume the *Militia, Forts, Navy, Ammunition* into his absolute dispose; the onely present obstacle (now his forces are so great) to gaine a compleate long-expected conquest over his peoples Liberties, Lawes, Estates, and all Parliaments Priviledges, if not beings too. And if our Parliaments (the onely Bulwarkes to protect our Lawes, Liberties, Estates, Lives, Religion, Peace, Kingdome, against the devastations of opprelling, lawlesse Princes, and Officers) be once conquered, or weakened in the least degree, we can expect no other issue, but that Tyranny, slavery, popery, shall be ere long entailed upon us and our Heires Soules and bodies for ever.

Secondly, By his Majesties frequent imposing of many unlawfull Taxes and Impositions on his Subjects, contrary to his Coronation Oath, the ancient Lawes of the Realme, yea his owne late Statutes, Declarations, Vowes, Promises; which designe hath bene carryed on with a strong hand all his Reigne till now; and at his present, with a farre higher hand then ever: which they exemplifie by the *Loanes*.

+ Quid potest ab eo quisquam nisi erare, quem non aliter esse decuit: Non diu parci nequitia, nec quantum jubetur, peccat. Sen. de Clem. l. 2. c. 26.

with other *Taxes, Impositions, Grievances*, complained of in the *Petition of Right*, in the third year of his Reigne; which Act when first passed, with this his Majesties solemne Oration and Protestation Printed with it; *I doe here declare, That these things which have beene done, whereby men had some cause to suspect the Liberty of the Subject to be trenched upon, shall not hereafter be drawne into example for your prejudice: And in time to come (IN THE WORD OF A KING) you shall not have the like cause to complaine:* (backed with his Royall Declaration to all his Subjects at the breach of that Parliament to like purpose) made most men thinke, they should never be grieved with illegall Taxes more; though the very annexing and Printing of his Majesties two *Answers*, & this Speech when he passed the *Petition*, at the end thereof (with the Scope and matter of this Speech and other then concurring circumstances) made the wisest men suspect, it was onely a baite to catch the **Temporalities* and *Clergies* (five a peece) extraordinary great *Subsidies*, then aymed at, (a greater ayd then was ever before granted at once to any of his Majesties Predecessors) and a policy then seemingly to content, but subsequently to delude the over-credulous impoliticke Vulgar; the verity whereof was at that instant much confirmed, by his Majesties clayming (even in his very speech when he passed the *Petition of Right*) *Tunnage and Poundage* as a meere right, and his taking it as a just duty *without grant by Parliament*, from his comming to the Crowne till then and since; by his extraordinary strange commission granted under the great Seale to divers Lords and others for the laying of an intolerable illegall excise, on all the Subjects throughout *England* and *Ireland*, seconded with the Commission to *Dalbere* and others, for the rayling and importing of *German Horse*, and the billeting of *Irish* foot in sundry places of *England* to joyne with those horse, to set on this excise, even at that very instant, when this *Petition of Right* was debated and passed; the breaking up of that Parliament as soone as these *Subsidies* were granted, and the unpatterned inundation of all kinde of unjust *Taxes* as soone as ever that Parliament was dissolved; as *finer for Knighthood, New-buildings, Inclosures, exalted Fees*, (not to redresse, but authorize them by compositions to get money) *Shipmony, Monopolies of Tobacco, Sope, Bricks, Pins*, and a world of other particulars upon which annuall rents were reserved: *Forrest-bounds*, and offences prosecuted with all Rigour; *Impositions upon Coale, Beare, Salt, Wines, Tobacco*, and all kinde of Merchandise; *Lieutenants rates, and wages, Coat and Conduct money, excessive high Fines in Star-chamber, High Commission and other Courts*, with sundry other Particulars complained off with open mouth in this and the preceding Parliament by most of the members of both Houses, and divers now present with his Majesty; who notwithstanding the many publike complaints against these oppressions, the Acts this very Session passed against them, and sundry duplicated deepe Affeuerations to maintaine the Subjects Property, Liberty, and governe onely according to Law; hath, and still daily doth in a farre higher degree then ever (through the ill advise of Malignant Counsellors) proceed to afflict and ruine his people in this very particular of Property and Taxes, by weekly or monethly assessments and contributions imposed on sundry Townes and Counties where his Forces now lie, exceeding many mens racked incomes; his seising of their *Ammunition, Armes, Horses, Carts, Goods, Provisions, Houses, Lands*, (yea husbandmens Teemes and Horses of their Ploughes, **priviledged from distresses by Law*, & by most Nations though enemies, in times of warre from spoyle to plunder,) so as they

See 3 Car. c. 6,
7.

* *Artic. Super Chartis, c. 12.*
See *Cookes* Institutes on it.
Agricola apud Indos sacri & a furto & praeda alieni Dixerunt sic.
Bib. Hist. l. 2.
n. 40.

they cannot till their ground, which must needs breed a famine: and stripping many thousands of his people in *Brainsford, Marleborough, Cicester*, and other places utterly sacked and ruined by his Cavaliers of all their livelyhoods, and estates, to their very naked skins; and carrying away those poore Subjects in triumph like Enemies and Traytors, who dare offer to defend their goods, houses, estates, or make any the least resistance, (though the *Lawes,* Common and Statute, allow them in such cases, not onely to resist, but kill all those who shall assault their houses, or persons to spoyle them of their goods*) or protect them or their Liberties, Lives, Properties, against his Army of theevill murdering Cavaliers. And which aggravates all the rest, his Majesty hath sent out such a *Commission of Array* to be executed in every County, as nulls up libertie and propertie by the rootes, which, though both Houses by a speciall printed Declaration, have *proved to be illegall, contrary to the fundamentall Lawes of the Realme, the *Petition of Right*, and some expresse Acts passed this present Session; yet his Majestie hath caused such an Answer to be published in his name to the first Declaration, as good Law, which *frustrates all Acts whatsoever made in this or former Parliaments for the Subjects Libertie, Propertie; and layes downe such grounds, which will not onely justifie, but revive all former pressures and grievances whatsoever, as warranted by Law. All which considered, together with the frequent endeavours formerly and of late to raise and keepe an Army on foote among us to enslave us, and raise what taxes shall bee arbitrarily imposed without a Parliament on the Realme by force of Armes, according to the late use of *France*, begun by *Strafford* in *Ireland*, and now set on foote in divers countries of *England*, makes wise moderate men feare, that if the *Militia, Forts* and *Navy* be yeilded up unto the King before the Subjects Propertie, and these violations of it in the highest degree (so that none at this day can truely say that any thing hee enjoys, no not his Lands or Life are his owne) bee better settled, all propertie will bee for ever lost, and *Turkish* Subjects as free as *English*, in common probability.

Thirdly, the constant designe against the Libertie of the Subjects person (the better to invade the property of his goods) prosecuted all his Majesties time, and more then ever since the *Petition of Right* and this Parliament. The which is evidenced, by infinite illegall commitments of men for not paying the *Loane, Knight-mony, Ship-mony*, with sundry other unlawfull Taxes, without baile or mainprize, of sundry members of both Houses during this, and after former Parliaments ended, for things done in and triable onely by Parliament; by the exorbitant censures in the *Star-Chamber* and *High Commission*, and judging free men against Law, to close imprisonments; And that (which now grieves the very Soules of all *English* Spirits, who have any remainders of common humanity, in them, and would rend an heart of adamant) not onely by the strict close hard imprisonments of divers persons at *Torke* and elsewhere, for executing the *Militia*, refusing the *Army*, or contribution Taxes, but by the more then barbarous, * yea beastly crueltie of his Majesties Cavaliers in chayning together in

* *Fitz. Corone.*
192. 194. 238.
276. 261.
21 *H 7. 39. 24.*
H 8. c. 5. Stamford.
ford, f. 13, 14.
Cooke l. 4. 91,
92. See Math.
Paris Hist. p.
264, 265, 266.
* See the Parliaments second Remonstrance concerning the Commission of Array.
* See this fully proved in the Parliaments second Declaration,

* *Qua alia vita esset, si Leones usque regnarent? Si serpentes in nos, ac necissimi cuique animali daretur praesens? Illa rationis expertia, & a nobis inmanita is crimine damnata abstinere his, & tua est etiam inter ferus similitudo: Apud Romanos tantum, nec a necessariis eisdem rabies temperat sibi, Seneca de Clem. l. 2. c. 26.*

Ropes sundry Prisoners taken at *Brainsford, Marleborough* and *Cicester*, (as the true printed Relations of these places facking testify) like a company of *Turkish Gally-slaves*, (though some of them were Gentlemen of worth and quality, others Ministers, others aged, sickly, and many who never bore armes in these present warres) and leading them chained (almost naked, and barefoot) through deepe filthy wayes in the cold winter season to *Oxford* in triumph (to his * *Majesties* great dishonour, and his Subjects grieffe,) denying them, not onely meat and drinke, but even *water it selfe* (the commonest Element) to quench their thirst, and keeping off, yea beating any such at *Cicester*, and *Oxford*, who offered to bring them any sustenance, though but a drop of *water to coole their tongues*: (O more then *Turkish Barbarousnesse*, that one man, one Christian, one *English Subject* even in, or neare the presence of his Sovereigne, should thus ill intreate another, without any punishment or checke, much more with approbation!) After which they have bene * *shut up in prisons and dungeons* lying on the cold ground, stones or boards without beds, straw, fire or any the least refreshment; allowed onely a poore pittance of *Adams Ale*, and scarce a penny bread a day to support their lives, though their friends would provide it for them; in which sad condition many of them are still detained close prisoners without bayle, mainprise, exchange, redemption, divers of them being dead of Famine and ill unaccustomed usage: Others have bene murdered without mercy, and their * *Carcasses left unburied for the fowles to prey on*; others maimed and left weltring in their blood without any reliefe; others forced to live exiles from their habitations; and all for this new point of *High Treason*; that they stood upon their guard, to defend the proprietie of their persons, goods, houses, possessions, from the robbery and plunder of theeving Cavaliers (*borne onely for the publike mischief of the Reame) who now live by the Countries spoyle and robbery, and must not be resisted. If this proceeding be the so oft protested preservation, the vowed defence of the *Subjects Liberties, Properties, Lives, the preserving of them in perfect and intire peace and safetie* according to his Majesties Coronation oath, the governing of them according to the *Law*, even whiles the Parliament sits, and hath such Forces in the field, the possession of the Ports, Navy, and other premises in their hands (which if the King should die without heire devolve wholly into the kingdomes hands and possession, not to his Executors, as to the true proprietors of them, a strong unanswerable argument, they are not now the Kings but kingdomes in point of right and interest;) wee cannot (say many men) but suspect the like and worse usages when these are all surrendered into his Majesties power, and that he with his ill Counsellors (who had lately such a bloody treacherous deligne against *Bristol* during the Treaty of Peace, and now plainly professe, * *that they never intended the Premises should be put into such persons hands, as the Parliament and kingdome might confide in*, but themselves alone,) will then a much over-awe the present and all future Parliaments, as they doe now the counter people where they quarter; and handle many active worthy members of both Houses (particularly proclaimed rebels by the King without conviction, who hath not so violently proceeded against any of the *Irish Rebels* in this kinde, as he hath done against the houses of Parliament, and the chiefe well deserving members of it) as rigorously, if not far worse, as any now imprisoned by them; notwithstanding that true rule of * *Seneca: Remissius imperanti melius paretur. Et non minus Principi turpia sunt multa supplicia, quam Aedi o multa funera.*

* *Nulli Regi gloria est ex sua animadversione. At contra maxima, si vim suam continet, si multos ira alieni eripuit, neminem suam impendit; Seneca de Clementia, l. 1. c. 17.*

* *Ista frequens vindicta paucorum odium reprimat, omnium iritat. Regia crudelitas auget inimicorum numerum tollendo. Seneca de Clementia, l. 1. c. 8.*

* The Relation of the taking of *Cicester*, and the Prisoners Relation.

* *Quanto autem non nasci melius fuit, quam numerari inter publico malo natos?*

Seneca de Clementia l. 1. c. 18.

* The Kings Letter on Saturday, April 8. 1643; to the houses,

* *De Clementia l. 1. c. 24.*

Their second generall reason is, an* ancient fore plotted confederacie between the Popish and Prelaticall Party in the Kingdome to change Religion, and re-establish Popery. Which designe hath been vigorously prosecuted long before his Majesties raigne, but more effectually since his marriage with one of that Religion; who in regard of her excellencie to, and continuall presence with him heretofore, and activitie to assist him now against his Parliament, hath such a meritorious interest in his affections, if not powerfull influence upon his will and Councells, as may induce his Majestie (as well as King Salomon) to grant, at least a speedy publike long-expected tolleration and free use of the Romish Religion (if not a suppression of the Protestant faith) throughout the Realme, if all the premises be put into his Majesties unlimited power. And that which backes this more then conjecturall feare, is: First, the large visible progresse made in this designe before this Parliament, as not onely the Houses joynt Declarations, but divers Malignant Members declamatory Orationes, (now with the King) assiste, together with our Prelates manifold Popish Innovations in Doctrines, Ceremonies, Ecclesiasticall proceedings; the Popes Nuncios Residence neere, and free access to Court; our Agents residence at Rome; the Cell of Capuchins, Chapples erected for Masse, the infinite swarmes of Seminary Priests and Jesuites every where, with freedom and impunity, the suspension of the Lawes against them and Popish Recusants; the late persecutions and suppressions of all godly Preaching Ministers and most zealous Protestants, with other particulars clearely demonstrate. Secondly, the present generall Rebellion and bloody proceedings of the *Papists in Ire'land*, to extirpate the Protestant Religion there; and the many prevayling Plots of the Irish Rebels party here, to delay, seize, or frustrate all ayde and opposition against them from hence: with his Majesties late Commissions to Papists and Protestants, and some who have bene an Act he passed this Parliament for *Irelands* releefe. Thirdly, his Majesties late letter to the Councell in Ireland to exclude the Parliaments agents and members there from all their Councells and meetings; and if reports be credible, his Majesties Commissions lately issued to most notorious convicted Papists in * *Wales, Lancashire, the North* and other parts, to arme themselves and raise forces under their Commands (who are now in severall bodies in the field) and his inter-raising of drovers *Papists and Irish Rebels* in his Army to fight against the Parliament, contrary to the expresse Lawes of the Realme; his owne frequent Proclamations and Protestations, to entertaine no *Papists* neare him and to defend the Protestant Religion: Which added to the intercepting of the Parliaments provisions for the releefe of the Protestants in Ireland, the entertaining of some of the Commanders sent to Ireland by the Parliament against the Rebels, if not sending for some of them out of Ireland from that Service to warre against the Parliament; with the passes under his Majesties hand for the transporting of some Popish Commanders (since joyned with the *Irish* Rebels) into *Ireland*; take many jealous heads suspect, the common vaunt, of the *Irish* Rebels, * that they have expresse Commissions both from the King and Queene to warrant their proceedings there, and that they fight but for them against the Parliament, Puritanes, and Parliament-men (the Language of the Cavaleeres too, learned from them) are not onely possible, but probable; and that there is a generall designe on foote (towards which the *Papists* from farraine parts, through the Priests and Queenes Negotiations, have made large contributions) by the Popish Armies now raised in both Kingdomes, to set up Popery in perfection every where, and extirpate the Protestant Religion in all our Kingdomes, which nothing but an absolute conquest of these blood-thirsty *Papists* can in

* See the Parliaments Declarations and Parliaments Speeches to this effect

* 1 Kings 11. 1 to 12.

* See the Parliaments Remonstrances & Declarations to this effect.

* See Doctor Jones his book of Examinations published by Order of both Houses.

probability prevent, they being already growne so insolent, as to say Matle openly in all the Northerne parts and Army, and in *Reading*, in affront of God and our Religion: If therefore the premises should now be wholly surrendered to his Majestic, it is much to be feared, that the Popish party (now most powerfull) would in recompence of their meritorious service and assistance in these warres, at leastwise challenge, if not gaine, the chiefe command of the Ports, Navie, Ammunition; the rather, because the Lord *Herbert* (a most notorious Papist) both before and since this Parliament, enjoyed the sole charge and custodie of all the Military Engines and Ammunition royall at *Foxes Hall*, designed for the Kings chiefest Magazine; and then farewell Religion, Lawes, Liberties; our Soules and bodies must become either *Slaves* or *Martyrs*.

Their third generall ground, is the constant practise of most of our Kings (as *John Henry the 3^d. Edward, and Richard the 2^d.* with others) who after warres and differences with their Parliaments, Lords, Commons, upon accommodations made betwene them, as soone as ever they got possession of their Castles, Ships, Ammunition, seised by their Subjects, brake all vowes, oathes, covenants made unto them, oppressing them more then ever; enlarging their owne prerogatives, and diminishing the Subjects Liberties, (yea taking away many of their lives against Law, Oathes, Promises, Pardons,) on purpose to enthrall them; which still occasioned new Commotions, as the premised Histories and others plentifully informe us. And that the King (considering all his fore-mentioned proceedings, and pertinacious adhearing to his former evill Councillours and their Councells) should degenerate from his predecessors Policies, in case the premises be yeilded wholly to him, before our Liberties and Religion be better settled, and the just causes of our feares experimentally removed, is hardly credible.

Objct.

But against these 3 Generall reasons, his Majesties many late solemn Protestations, and those Acts which he hath passed this Parliament, are objected, as sufficient security against all future feares: To which they answer.

Answer.

First, that if his Majesties Coronation Oath, to preserve his Peoples Liberties and Lawes of the Land inviolable, have beene no sufficient security to his subjects hitherto, against all the fore-mentioned grievances and illegall pressures: his verball Protestations and Promises are like to prove worse assurance: If solemn Oathes be most apparently violated, what trust can there be to unswore words?

Secondly, our Kings in former times (as I have plentifully proved and infinite examples more declare) seldome or never kept either Oathes or Promises made to their Subjects; but have broken oath after oath, agreement upon agreement, with all verball legall ties; reputed them onely lawfull policies to over-reach their people, and effect their owne designs with greater advantage to themselves, and prejudice to their Subjects. And shall we dreame of a new world, onely in this dissembling age; when Kingcraft is improved to the utmost?

* At the end of the Petition of Right.
* Concerning the breaking up of the Parliament, and before the 39. Articles of Religion.

Thirdly, we had his Majesties * solemn Protestation, in the *Word of a King*, in the 3^d yeare of his Raigne, backed with * *Two Printed Declarations* then, to all his *Loving Subjects*, to maintain the Petition of Right, their Lawes, Liberties, Properties, Religion in purity and perfection without the least violation, or any connivance at, or back-sliding to Popery: And what good warrants or securities these since proved to the Subjects to preserve them from severall inundations of oppressions, Taxes, grievances, Innovations and relapses to Popery (which have flowed in upon them ever since as if these had beene no banks to keepe them out, but sluices onely to let them in the faster) the

premise

promises manifest, and we all experimentally feele this day. And are the new Promises and Protestations (thinke you) better then the old? or those made this Parliament more obligatory to the King, or his evill Councillors, then those made the two last Parliaments, infringed in an high degree (even to the imprisoning, the searching of Peeres, of Commons Pockets, and studies against the Priviledges of Parliament) within few houres after they were published in Print? Are not the Subjects daily taxed, imprisoned, plundered, murdered; the Priviledges of Parliament daily infringed, many wayes? Protestants dis-armed, Papists armed, forraigne forces introduced, Irish Rebels privately countenanced, the greatest acts of hostility and cruelty exercised whiles treaties of peace are pretended? the best Iustices removed in all Counties, ill affected persons set up in their places; illegall Commissions of Array executed, justified, the best Protestant Ministers, people most robbed, pillaged, murdered, banished every where; Sheriffes illegally made, Subjects (even at *Oxford* where the king resides) more inhumanely handled under his Majesties view, than Gally-slaves in *Turkie*; and scarce one Declaration or Promise observed so much as the very day they are published? notwithstanding so many multiplications of them in Print; that people may the better take notice how they are broken, if they be observant? And shall the Parliament then take these so notoriously oft violated, never yet observed Protestations, for our Kingdome onely substantiall security, to put all into his Majesties hands forthwith, before they see some reall performances and change of Councillors? Certainly if they be so much over-seene, they are like to be so farre from mending our present condition, that they shall but make it worse, yea and betray themselves, with all that trust them, both for the present and posteritie.

But we have very good Lawes assented to by his Majestie this Parliament; for our security too. True! but are they not spiders Webbs, and already undermined in action or intention? Doe they secure us in any kinde for the present, and will they doe it for the future? will time (thinke you) make them binding to the King, if they oblige him not, as soon as made? Did the Petition of *Right* 3^o *Caroli*, (a most inviolable security as most then dreamed) secure the Subjects in the least degree against any publike wrong, so long as for one moneths space? Was it not turned into a kinde of wrong as soon as made, and ever since? Nay, were there not only sundry actions don, but Judgments too in the very greatest Courts of Iustice, given against it, yea against the very letter and unquestionable meaning of *Magna Charta*, and other fundamentall Lawes, by corrupted, or over-awed timorous Judges? yea, are not most good Acts made this Session for the Subjects benefit, and all the Subjects Liberties at one stroke quite hewen downe and undermined by a pretence of Law it selfe, in his *Majesties* * *Answer to both the Houses Declaration, concerning the Commission of Array? Quid verba ar diam, facti cum videntur?* The meanest Latin: Scholler knowes, that *verba dare*, signifies properly to deceive; and Subjects have beene oft deceived, even with Acts of Parliament. Now that all may see how invalid assurances Lawes are to secure the Subjects Liberties, though ratified with never so many confirmations, oathes, seals; I shall give you 2. or 3. ancient presidents. The first is that of * King *John*, who *Anno* 1214. confirmed *Magna Charta*, the Charter of the Forreist, and other Liberties with his hand, seal, oath, proclamations, the Popes Bull, solemne excommunications against the infringers of it, denounced by all the Bishops in his presence; by appointing 25. Barons, who by oath were to see and force him, and all others to observe it, by seising on his Castles, Lands; goods; and by resigning the custodie of his 4. chiefe Castles to the dispose of 25. Lords; whom all other Lords and Commons were bound to assist;

Object.
Answer.

* *Mat. Paris*
Hist p. 243. to
256 *Daniel* p.
143. 144. 845.

yet in lesse than on halfe yeares space, these strongest obligations are all cancelled, these Gordians cut in sunder with the sword of warre, and the Subjects reduced to greater Vassellage than ever, as the premises evidence. So King Henry the 3^d by oath sundry times successively ratified these Charters. & the Subjects Liberties in Parliament, which they oft dearly purchased wth the great Subsidies. And * An. 1237. this King to gain a Subsidie of his Subjects, in a Parliament then assembled at London; d^{yn}e. that he ever intended to revoke the great Charter, and oth^r Liberties, or laboured with the Pope to doe it, with which the Barons truly charged him; and that if any such thing had beene casuall^y suggested to him, he did utterly null and revoke it: and because he seemed not altogether free from the sentence of excommunication, which Steⁿ the Arch-bishop, with all the other Bishops of England had denounced against all the infringers of the great Charter, which he through ill Councell had in part infringed; he commanded them all in publike, to renew the said sentence against all contradictors of the sayd Charter, so that if he himselfe, through any conceived rancor, had not peradventure observed it, he might more grievously relapse into the said denounced sentence. By which meanes, and speech, he wonderfully reconciled to him the hearts of all that heard of these things, and suddenly causeth the Earles Warren, and Ferrers, and John Fitz-Jeffry, by the Parliaments appointment, to be sworne his Councillors; giving them this Oath; That by no meanes, neither for rewards, nor any other cause, they should swerve from the way of truth, but should give good and wholesome Councell both to the King and Kingdoms. Whereupon they freely gave the King the 30th part of all their movable goods, except their gold, silver, hories and armes, to be spent on the good of the Republicke, with this condition often annexed; that the King should leve the Councell of Aliens, and onely use the advise of his naturall Subjects: Which Subsidie was ordered, to be collected by 4 knights, and one clerke in every County, and there layd up in some religious house or Castle, that if the King should recede from his promise and condition, every one might faithfully receive backe his owne againe. But no sooner was the Parliament ended, but the King breakes all his promises; shewes more favour to, and is more ruled by strangers then ever before; levies the subsidie in a stricter and farre other manner then was prescribed, and bestowes most of it on strangers to be transported; marrieth his sister Eleanor to Simon Monfort, (a new come French Exile, of meane fortunes) *su. rurs. que naturalium hominum consiliis factus est extraneus & suis benevolis; Regnaque ac Republica in i^uibus factus est cervicosus, ita quod per eorum consilium parum aut nihil de negociis Regni tractaret aut operaretur.* Which courtes, with other, so incensed the Nobility, and generally all the subjects, as put them into a new commotion; which made him enter into new Articles and promises ratified with seales and Oathes, yet still infringed as soone as made. After this in the 37. yeare of his Raigne he ratified them in the most solemn and religious manner as Religion and State could ever devise to doe. * The King with all the great Nobility of England, all the Bishops and chiefe Prelates in their Pontificalibus, with burning Tapers in their hands assemble to heare the terrible sentence of Excommunication, and at the lighting of those candles, the King having one of them in his hand, gives it to a Prelate there by, saying: It becomes to me being no Priest, to hold this Candle, but my heart shall be a greater testimony; and withall layd his hand spread upon his breast, the whole time the sentence was read, in this forme. *We Bonifacio Arch. bishop. of Canerbury, &c. by the Authority of God Almighty, and of the Sonne, and of the Holy Ghost, and of all Apostles, Martyrs, Confessors, Virgins, and all the Saints of God. (many of them there specially named) doe excommunicate, anathematise and severate from the Church of God.*

* Mat. Par. Hist.
Angl. p. 240.
41. 430. Dan.
Hist. p. 157. 158

* Mat. Par. An.
1253. 1838.
839 The Star.
at large Dan.
Hist p 169.
Speed p. 128.
Mat. Westm.
Holmshead, Fab.
Stat. An. 1253.

God, all those who from henceforth, willingly and willingly shall deprive or spoyle the Church of her rights: likewise all those, who by any art or cunning shall rashly violate, diminish, or alter, privily or openly or by no dor deed or council, shall rashly come against all or any of the ancient Liberties or approved customes of the Realme, and especially the Liberties and free Customes which are contained in the Charters of the Common Liberties of England, and of the Forest, granted by our Lord the King of England, to the Arch-Bishops, Bishops Prelates, Earles, Barons, Knights and Free Tenants of England; likewise all them who shall make, or observe when made, any statutes, or introduce or keepe when introduced, any customes against the one or any of them, together with the writers, Counsellors, and executioners of such statutes, and those who shall presume to judge according to them. In sempeternall memory whereof, we have thought meete to set our scales. And then throwing downe all their Candles, which lay smoking on the ground, every one cryed out; So let every one who incurreth this sentence be extinct in hell. Then the Bell's ringing out, the King himself solemnly swore and protested with a lowd voyce, with his hand upon his brest: As God me helpe, I will faithfully and inviolably keep these things, as I am a Man, a Christian, a Knight, a KING CROWNED & ANOINTED. Which done, Robert Bishop of Lincolne fore-thinking, that the King would violate the foresaid Charters, presently caused the like excommunication to be made in all his innumerable Parish Churches; which sentence would make mens cares to tingle, and their hearts not a little to tremble. * Never were Lawes amongst men (except those holy Commandments from the Mount) established with more majestic of Ceremony, to make them reverend and respected then were these: they wanted but thunder and lightning from heaven. (which if prayers would have procured, they would likewise have had) to make the sentence ghastly, and hideous to the infringers thereof. The greatest security that could be given, was an oath, and that solemnly taken; the onely chain on earth, besides love, to tie the conscience of man and humane Society together; which should it not hold us, all the frame and government must needs fall quite asunder. Who would have once imagined, that a man, a Christian, a Knight, a King, after such a publicke oath and excommunication, would ever have violated his faith, especially to his loyall Subjects? yet loe almost a mirack: (though over-common among our Kings,) the very next words in my * Historian after this Oath and Excommunication, are these; *The Parliament being thus dissolved, the King PR ESENTLY using ill Counsell, studied how to infring. all the premises; these whisperers of Satan telling him; that he neede not care though he incurred this sentence, for the Pop: for one or two hundred pounds will absolve him, who out of the fulnesse of his power can loose and binde wha: soever he please, &c.* which the Pope soone after did; and the King returned to his former oppressive courses, more violently than before. Well then might the royall Prophet give us this divine caution, * *O put not your trust in Princes: Surely, men of high degree are a lye; to be layd in the ballance they are altogether lighter than vanity,* both in their oathes and promises. Hence * *Isable Countesse of Arundle,* a well spoken Lady, receiving a repulse from this Kings hands about a Ward, whereto she conceived she had right, the King giving her a harsh answer, and turning from her, sayd thus to his face: O my Lord King, why turne you away your face from justice, that we can obtaine no right in your Court! You are constituted in the midst betweene God and us, but you neither governe your selfe nor us discretely, as you ought. You shamefully vex both the Church and Nobles of the Kingdome by all wayes you may, which they have not only felt in present but often heretofore. The King fired at so free a speech, with a scornfull angry countenance, and lowd voyce answered: *

* Daniel, p^r 169.

* Math. Par. p. 819.

* Psal. 146. 3.
* Psal. 62. 9.
* Math. Par. p. 815. 816.
* Speca p. 627.
* 628. Daniel p. 167. 168.

' What, my Lady Countesse, have the Lords of England, because you have tongue at
 ' will, made you a Charter, and hired you to be their Orator and Advocate? Wherecun-
 ' to she replied: Not so my Lord, they have not made any Charter to me; but that
 ' Charter which your Father made, and which your selfe have oft confirmed, swearing
 ' to keepe the same inviolably and constantly, and often extorting money, upon pro-
 ' mise, that the liberties therein contained should be faithfully observed, you have not
 ' kept, but without regard to honour or conscience broken; Therefore are you found
 ' to be a manifest violater of your faith and Oath. Where are the liberties of England,
 ' so often fairely ingrossed? so often granted? so often bought? I, though a woman,
 ' and with me all the naturall and loyall people of the land, appeale you to the Tribu-
 ' nall of that high Iudge above, and heaven and earth shall be our witnesse, that you have
 ' most unjustly dealt with us, and the Lord God of revenge, avenge and right us.
 ' The King disturbed at these words asked her; If she expected not to obtaine her
 ' suite upon favour, seeing she was his kinswoman? Whereunto she answered. How
 ' shall I hope for grace, when you deny me right? Therefore I appeale before the face
 ' of Christ against those Councillours also of yours, who gaping onely after their own
 ' gaine, have bewitched and infatuated you. I wish none had cause at this very season
 ' to make the like appeales. As boldly, though in fewer words, is he reproved by the
 ' * Master of the Hospitall of Hierusalem, in *Clarken-well*, who comming to complaine
 ' of an injury committed against their Charter, the King told him; The Prelates, and
 ' especially the Templers and Hospitalers, had so many Liberties and Charters, that
 ' their riches made them proud, and their pride mad; and that those things which were
 ' unadvisedly granted, were with much discretion to be revoked; alleaging, that the Pope
 ' had often recalled his owne grants, with the clause, *Non obstante*; and why should not
 ' he cashiere those Charters inconsiderately granted by him, and his Predecessors? What
 ' say your Sir? (sayd the Prior) God forbid so ill a word should proceed out of your
 ' mouth: so long as you observe justice you may be a King, as soone as you violate the
 ' same, you shall cease to be a King. To which the King inconsiderately replied. O what
 ' means this! you Englishmen, will you cast me downe from the Kingdome as you
 ' did my Father, and kill me being præcipitated? I could instance in diverse like viola-
 ' tions of *Magna Charta* and other good Lawes immediately after their making and
 ' ratification with solemnest Oathes and * excommunications, both in King *Eward* the
 ' 1. and 2. and *Richard* the seconds raignes, which because elsewhere lightly touched I
 ' shall pretermit; concluding onely with one president more, in one of our best and
 ' justest Princes raignes, King * *Edward* the third, in whose reigne even then when by
 ' speciall Acts, there was not onely a triennial Parliament but an annuall to be held; and
 ' sometimes 4. or 5. Parliaments held every yeare, and *Magna Charta* usually first con-
 ' firmed by anew Law in every one of them, yet we shall finde not onely frequent
 ' complaints of the breaches of it, but * many new Lawes one after another, enacted,
 ' to prevent and punish the violations of it; and yet all to little purpose, as those Acts
 ' declare, and our late, yea present times attest: and which is very observable; when
 ' King *Edward* the 3^d in the first Parliament, in the 15. yeare of his Raigne, had ordain-
 ' ed and established divers good Statutes, which he willed and granted FOR HIM
 ' & HIS HEIRES that they should be FIRMELY KEPT & HOLDEN FOR
 ' EVER, for the ratification of *Magna Charta*, and better observing other good Lawes;
 ' and enacted, That the Chancellour, Treasurer, Barons of the Exchequor, Iudges, and
 ' all other great Officers of the Kingdome should then for the present in Parliament,
 ' and for ever after take a solemne Oath before their admission to their Offices, to keepe
 ' and

* *Mathew Paris*, p. 826.
 827. *Daniel*
 P. 168.

* See *Constit.*
Concil. de
Reding. cap. de
sentent. ex-
com. public. in
John de Aton.
f. 131.

* *Daniel's Hi-*
story p. 260.
 * 5 E. 3. c. 9.
 25. 15. E. 3.
Stat. 1. c. 23.
 25. E. 3. *Stat.*
 5. c. 4. 28. E. 3.
 6. 3. 37. E. 3. c. 6.
 8. 38. E. 3. c. 9.
 42 E. 3. c. 3.

and maintaine the points of the great Charter, and the Charter of the Forrest, and all other Statutes, without breaking any one point; No sooner was that Parliament dissolved, but the very same year, he publicly * revoked those Statutes: pretending, *That they were contra y to the Lawes and Customs of the Realme, and to his Prerogatives and Rights Royall, all which he by his Oath was bound to mixt a ne; Wherefore willing providently so revoke such things, which he so improvidently had done.* Becau'e (saith he, marke the dissimulation of Princes even in Parliaments) We never really consented to the making of such Statutes, but as then it beloved Vs, *WEE D I S-*

* The Revocation of this Statute made 25 Ed. 3. in the Statutes at large.

SEMBLED IN THE PREMISES: by Protestations of revocations, if in'eed they should proceed to secure the Dangers, which By the Denying of the same we feared to come, for as much as the said Parliament otherwise had bene without any expedition, in discord dissolved, and so our earnest business had li'ly beene, which God prohibis in vaine. And the said pretended Statute, we promised then to be sealed; But sithen'e the Statute did not of our owne free will proceed, it seemed to the Earls, Barons, and other wise men, with whom we have treated thereupon, The same should be void, and ought not to have the Name or Strength of a Statute: And therefore by their Counsell and Assent: We have Decreed the said Statute to be void, and the same in as much as it proceeded of deed we have brought to be annulled. And the same we doe onely to the conservation and redintegration of the Rights of our Crowne, as we be bound, and not that we should in any wise aggravate or oppresse our Subjects whom we desire to rule by lenity and gentlenesse. And thus his Stablishing of these Lawes, for Him and his Heires, firmly to be holden and kept for ever, was turned into an estate at will, determined as soone as granted. By which pretence of Dissimulation, of a consent to Acts, yet not free, but fained onely to accomplish his owne ends, and of preserving and redintegrating the Rights of the Crowne; how easily may any King, (and how oft have many Kings, actually, though not Legally) in vallid and nullifie all Acts they have passed for the Subjects benefit, as soone as they are made by Parliaments? What weake assurances then are Lawes alone, to binde Princes hands, or secure Subjects Liberties, let all wise men judge.

If then the ignorant vulgar will be deceived with these specious fruitlesse Protestations, and the bare grant only of some good Laws (already highly violated) without any apparent intention to observe them; yet most presume the great Counsell of the Kingdome (which in so many printed *Declarations* hath informed the Subjects of the premises, to make them cautious, and vigilant against all such circunventions) will not be so easily over-reached, and find better assurances before they trust too far.

Fourthly, admit (say some) His Majesties Protestations and Promises upon the hoped accommodatiou should be reall, (with the sending abroad of his Forces, West, South, North, at this very instant of Treating makes most doubt,) yet the sway of ill Counsellors about him, more prevalent with, more trusted by him, at this present then his grandest Counsell, the Parliament: the Potencie of the Queene, the great merits of her Grace & Papists (who will not be more modest with the King, then they are with God-himselfe, in challenging rewards *ex debito*, for service done unto him) the deserts of divers Malignants about the King, who will challenge all places of trust from his Majestie, as a just reward for their faithfull service; as they did in Henry. the 3^d. his raigne, when * *Mathew Paris* complained, and the whole Kingdome with him, in this manner, *Judicia committuntur injustis leges ex legibus, pax discordantibus, justitia injurijsis, &c.* Who when they have all power and offices shared among them, will be apt to meditate and act revenges on the primest of their

Parli-

* Hist. Angl. p. 371.

* Seneca De
Clemential. 1.

Parliamentary Opposites, to oppress and fleece the Subjects to repair their losses, their expences in this warre, or their poore decayed fortunes. All these with other such like probable subsequent considerations, may iustly plead the inconvenience, and great danger to Parliament and Kingdome, to make an absolute present surrender of the *Militia*, Ports, Navie, ammunition into such untrusty hands, as are likely to turne them all against them, and to prove mischeivous, if not pernicious, unto both, for the promised reasons; * *Pestifera vis est valere ad nocendum*; especially if it be in Malignant hands. And here, to avoyd all misinterpretations of this impartiall discourse, I seriously protest; that as I heartily desire and constantly endeavour a speedy, safe, cordiall union between King, Parliament, People; so have I most unwillingly been necessitated to repeat the promised objections, much feared designs, and experimentall contradictions betweene many late Protestations and actions, (frequent in Parliamentary Declarations, new printed Pamphlets, and most mens mouths;) not out of any disloyall seditious intention (as some will maliciously misconster it) to staine his Maiesties Reputation with his people, and make the breach betweene them incurable, that they may never trust one another more; but onely faithfully to demonstrate to his Highnesse and all about him, the great disservice and impoliticke pernicious advise of those ill Counsellors, who have most unhappily engaged him in such pernicious projects and frequent repugnances of workes and words, as have given both Parliament and people, a more then colourable, if not iust occasion to distrust his Maiesties gracious words and promises for the present, till they shall visibly discern them, more punctually observed, and realized for the future; and made them so unhappy on the one hand, that now they dare not trust his Majesty, so farre forth as they desire, out of a provident care of their owne future security; and His Highnesse so unfortunate on the other hand, as to grow jealous of their Loyalties, because they will not confide in his Royall Faith and Protestations, so farre as he expects, out of a care to preserve his owne Kingly Honour. In this unhappy diffidence (occasioned onely by His Majesties evill Counsell) betweene King and Kingdome, a reall future renouncing of all forenamed suspected designs, and a reall performance of all Regall promises, will be the onely means to cure all Jealousies, banish all feares, remove all diffidences; and beget an assured trust, firme peace, and lasting unity betw. en King and Subjects, to their mutuall unexpressible felicity; which I shall dayly imprecate the *God of Peace*, speedily to accomplish. But to returne to the matter in hand.

Secondly, It is conceived by many indifferent men, to be farre more reasonable and safe both for King and Kingdome (as things now stand) that the *Militia*, Ports, &c. till our feares and jealousies be quite removed, should remaine in the Parliaments hands, then in the Kings alone: which they thus demonstrate.

* See the Remonstrance of the Lord and Commons, May 26. 1642 and Novem. 2. 1642.

First, Because all these * *are the Kingdomes in right, property, use*; not the Kings; Who being but the Kingdomes Royall publicke Servant, may with Honour and better reason deliver up the Custody of them to the representative Body of the Kingdome for a season, then detain them from them, when they require it. Secondly, Because the Parliament is the Superiour Sovereigne power, the King but the Ministeriall; and it is more rationall and just, that the inferiour should condescend to the greater Power, the Ministeriall to those hee serves, then they to him. Thirdly, Many men of Honour and fidelity are more to be trusted and credited, then any one man whatsoever, because not so mutable, so subject to seduction, corruption, error, or selfe-ends as one, or very few. This is the true reason, there are many Judges in all

Courts of Justice ; most select Members in the highest Court of all, the Parliament, (as there * was in the Roman Senate, in Foraign Parliaments, in Nationall and General Councells; because Courts of greatest trust and power) many being more trusty and judicious then one, or a few; Whence *Solomon* doubles this resolution, * In the multitude of Counsellors there is safety; yea, * two (saith he) are better then one, in point of trust; whence wise men of great estates make many Executors, or Executors, and seldome doe confide in one alone. The Parliament therfore being many, and the King but one, are most to be confided in by the Kingdome. Fourthly, Kings have frequently broke their Faith and Trust with their Parliaments and Kingdomes; Parliaments seldome or never violated their trust to King or Kingdome; therefore its more just, lesse dangerous for King and Kingdome to trust the Parliament, then the King.

Fifthly, The Parliament is elective, consisting for the most part of the principall men in every County, City, Burrough, in whom the people who elected them, most confide; The King successive, not Elective. Therefore not so much confided in by the Kingdome, as the Parliament. Sixthly, The Parliament being the great Councell both of King and Kingdome, consisting of the ablest men of all Counties; is better able to judge and make choyce of fit persons to manage and keep the premises for the publike safety, then the King alone, without their advise. Seventhly, The Parliament heretofore hath elected the greatest Officers of the Kingdome, (yea the King himselfe, when the Title to the Crowne hath been doubtfull, the inheritance and discent whereof hath in all or most Princes raignes, * bene constantly guided and settled by the Parliament, as I have formerly proved) because it most concernes the weal or woe; the peace & safety of the Realme to have trusty Officers; Therefore by the selfe-same reason they should for the present appoint all Officers for the custody and ordering of the Premises. Eighthly, The King trusting the Parliament with these things for a convenient time, will be the only means to remove the peoples feares, prevent their dangers, quiet their mindes, beget a perfect unity and amity between King, Parliament, Subject, and prevent all future differences: whereas the present resigning of them to his Majesties trust and power, will but augment their jealousies, feares, dangers, discontents; and neither pacifie former differences, nor prevent future, but rather perpetuate and beget them; especially if any notorious Papists, Malignants (the likeliest men to be employed vnder his Majesty) be trusted with any of the premises, which will endanger both Liberties and Religion; of which there will be no feare at all, if the Parliament and such as they shall nominate be the onely Trustees. In fine, If neither King nor Parliament dare trust one the other alone with the premises, and it is neither Royall, nor Honourable as many believe for the King to trust the Parliament now alone, with these, who in their * Declarations never desired, but professed the contrary, that the chiefest command of the Militia when indifferent Officers were appointed, should still reside in his Majesty, in as ample manner as before; there is no other equal, honourable, just, impartiall, probable way left to secure or accord both parties in this particular, but onely to commit the premises for a convenient time, to the custody of such trusty persons, nominated by the Parliament to the King, or by the King to the Parliament, as both sides joyntly shall allow of, and by a speciall Bill to prescribe them such an Oath, as shall oblige them, to keep and employ them onely for the joynt use of King,

(*)

Kingdome.

* See P. 1. ar
Numa P. em:
Titus. Liv. 10,
l. 2. Bodin
Cim. W. cole
l. 3. c. 1.
* Prov. 1. 7.
14. c. 15. 23.
c. 24. 6.
* Eccles. 4. 9.
10. 13.

* See 7. H. 4.
c. 2. 26. H. 8. c.
22. 28. H. 8.
c. 7. 35. H. 8.
c. 1. 1. Eliz.
2. cap. 1.
Cooke 8. Re-
pert: The
Princes Case.

* Novem. 23.
1642, and
May 26.
1642.

Kingdome, and Parliament, by the joynt direction of King and Parliament, and not by the single warrant or command of either of them. whiles this Parliament continues ; Vnder paine of High Treason, both against the King and Kingdome.

I shall close up this obiection with the words of *Seneca*, * *Securitas securitase mutua paciscenda est: Errat enim si quis existimet tutum esse Regem, ubi nihil a rege tutum est. Vnum est inexpugnabile munimentum, Amor Ciuum* ; which the King shall then be sure of, when he takes up this resolution ; *Non rempublicam suam esse, sed se Reipublica* : and shall really trust the Kingdome and Parliament as much, as farre forth, as he expects or desires they should trust him,

* De Clementia l. 1. c. 29.

The

The Parliaments Right to Elect Privie Councillors, Great Officers, and Judges.

The third grand Complaint of the King and Royalists, against this Parliament is : ^a That they take upon them a power to recommend and nominate to the King his Privie Councillors, Judges, with other great Officers of State; demanding, that none of them may hereafter (especially during Parliaments, be ordained by his Majesty, but by their Nomination or advice. A great affront, an intollerable encroachment on the Prerogative Royall, as is pretended.

This loud clamor against the Parliament, if seriously examined, will speedily vanish into nothing. For; first, it is ^b already cleared, (^c and *Forrescue* so retelvs) That Kings themselves (the highest Officers and Iusticiars in their kingdomes) were both created and elected at first, by the free generall votes of their people; from whom ^a or ^b they received all their Royall Authoritie, having still no other, nor greater lawfull power then they conferred on them, (only for the defence of their Lawes, persons, Liberties, Estates, and the Republicques welfare:) which they may regulate, augment, or diminish, for the Common good as they see just cause. Therefore doubtlesse the people who thus created and elected their Kings at first, did likewise constitute, and elect all publike Councillors, Officers, Iudges, Ministers of the State, giving both being and bounds to their severall Offices and Jurisdictions by publicke Lawes; which is most apparent not only in the ^d Roman, ^e Lacedamonian and other Kingdomes, but our owne to, by infinite Acts of Parliament creating, regulating and limiting the power and proceedings not onely of our Kings, but of their Counsellours, Chauncellors, Treasurers, Keepers of the Great Seale and privie Seale, high Stewards, Admiralls, Marshalls, Masters of the Horse, Presidents of the Marches, and of York, Masters and other Officers of the Court of Wards, Iudges, and Iustices of all Courts, all kinds; Sheriffs, Coroners, Customers, Searchers, Escheators, and all other Temporall or Ecclesiasticall publicke Officers: the right of whose elections remaining originally in the kingdome, and Parliament representing it, was never yet irrevocably or totally transferred by them to the King, by any publicke acts that I have seene: and therefore when they see just cause, they may make use of this their primitive inherent right of Election, without any reall incroachment on the Kings Prerogative.

Secondly, I have already proved, that the ^f Heretochs, Leutenants Generall, and Sheriffs (as likewise the Conservators of the Peace) in every County through the Realme, were anciently elected onely by the Parliament and People, not the King, (though they had the custody, power, Command of the whole County,) without any impeachment to the Prerogative Royall; why then may not these other publicke Officers of the estate be thus nominated and chosen by the Parliament likewise, without any just exception or offence?

Thirdly, All ^g Coroners, Majors, Sheriffs, Bayliffs, Aldermen, Recorders of London, Yorke, Bristol, and generally of all Cities, Townes, and Burroughs throughout the Kingdome (which have the chiefe Government of these Corporations) Verderers of the Forrest, Constables and other officers, have ever anciently, and are still at this day elected onely by the People, not the King: Yea all Arch-bishops, Bishops, Abbots, Priors, with other Ecclesiasticall Officers, who were formerly Peers and members of the Parliament, and Rulers in the Church, were anciently chosen, not by the King

Object. 3.
See his Majesty's Answer to the first Propositions, with other Declarations and Treatises on his part.

Ar. sw. 1. Page 17. 18. 19.

De Laudibus Legum Anglie c. 13. 14.

Livy. Hist. l. 1. 2. 3. Dionys. Hal. Antiq. Rom. l. 1. c. 3.

Polybicus Hist. l. 6. Bodin, Commonwealth. l. 1. c. 10.

Arif. polit. l. 2. 3. Xenophon. de Lacedam. Republica; Dioacrus sic. Bib. Hist. l. 1. 2. 3.

Cookes Inst. on Magna Charta l. 174. 175. 558. 559.

Cooke Ibid. 284. 3. c. 6. No. Nar. Br. 163. 164. Register pari. l. f. 177. 178.

Stamford. l. 1. c. 51. f. 49.

^h See *Antiquit. Eccle. Brit. Godwins Cat. of Bishops and Antiquities, Eadmerus Hist. Nouvel. p. 34. 36. 50 71. 97. 109. 111. 112. 131. 132. Malmf. de Gestis, Pontif.*

ⁱ 25. E. 3. Par. 6. 9. H. 4. c. 8. 13. R. 2. stat. 2. c. 2.

^k 15 E. 3. c. 3. 4. 5. *Stamford Juris. of Courts, f. 1. 10 10. Rastal Parl and the Statuts there cited.*

^k *Stamford Ibid. Modus tenendi Parliamentum, Cambdens Brit. p. 175. 177. Sir Tho. Smiths Common-wealth,*

^l 2. c. 1. 2. *Holished & Voell Description of England, c. 8. f. 173. Chron. of Ireland, f. 217. 128.*

^m *Mishl Dist. Tit. Pauli. Cookes Asslit. on Lit. f. 109 114. Et 9. Report. Epist. Dedicatori.*

ⁿ *Mr Saint Johns Speech against Ship money, p. 33. Speed, p. 761.*

^o 763. *Halls Chron. f. 10. 11. 12. Fabian. part 7. p. 173. to 179. m 39. H. 6. c. 1. Hals Chron. 39. H. 6. f. 182. Grafton p. 647.*

himselfe, but onely by the Clergie and people, as sundry ^h *Presidents* and ⁱ *Statutes* manifest, and the *Coage des liers* at this day for the Election of new Bishops, more then intimate: and all this without the least violation of the Kings Prerogative: why then may not the Parliament nominate all those publike Officers to the King by Parallell Reason, without Ecclipsing his Prerogative?

Fourthly, The Knights, Citizens, and Burgeses of the Kings and Kingdomes greatest Court and Councell, the Parliament, (the ^k *supreamest* Counsellors and Judges of all others, to whom all other Courts, Counsellors, Officers, Judges, are responsible for their actions, Judgements, advice;) have alwayes of right bene, and yet are elected onely by the Free-holders and Commons of the Realme: yea all the members of the Lords house, though sommoned thither by the Kings Writ, and not elected; sit there of right (not of grace, or the Kings free choyse) by the fundamentall Lawes and Constitutions of the Realme; neither can the King by his absolute Prerogative, elect any member of the Commons House, or exclude any member of it, or Peere of the Upper House (who by vertue of his Peerage ought to sit there) without the Houses consents: for then, if he might elect, or exclude one, he might likewise chuse and seclude more, yea most of them, by like reason, at his pleasure; and so subvert the subjects Priviledges, and by a Packed Parliament impose what Lawes or Taxes he would on his people, to their slavery and ruine. Which freedom of the subjects Election, and all Lords Summons is so essentiall and necessary to Parliaments, that the Parliaments of 21 R. 2. at *Westminster*, and of 38. H. 6. at *Coventry*, were by the Parliaments of 1. H. 4. c. 3. 4. No. 21. 22. and 39. H. 6. c. 1. *adjudged and declared to be voyd and no Parliaments at all, but unlawfull, yea devillish Assemblies, and Ordinances, for this very Reason; because in the first of them, the Knights were not duly elected by the Commons according to Law and customs, but by the Kings pleasure; and the Lords onely of the Kings party, (contrary to right and reason) sommoned to it: (by meanes whereof, Will, therein ruled for reason, men alive were condemned without examination; men dead and put in execution for privie murder, were adjudged openly to dye, others banished without answer, an Earle arraigned, not suffred to plead his pardon, &c.) and because the latter of them by ^m *divers seditious evill-disposed persons about the King, was unduly sommoned, onely to destroy some of the great Nobles, faithfull and Lawfull Lords, and other faithfull leige people of the Realme out of hatred and malice, which the sayd seditious persons of long time had against them: and a great part of the Knights for divers Counties of the Realme, and many Burgeses and Citizens for divers Burroughs and Citiet appearing in the same, were named, returned, and accepted, some of them without due and free Election, some of them without any Election by meanes and labour of the sayd seditious persons, against the course of the Lawes, and Liberties of the Commons of the Realme whereb; many great Leopardies, Enormities, and Inconveniencies, wel-nigh to the ruine, decay, and subversion of the Realme, ensued. If then the grand Councillors and Judges of this highest Court are and ought to be elected onely by the Commons, not the King because they are to consult, and make Lawes for the Kingdomes welfare, safety, government, in which the Realme is more concerned then the King; and Bishops, Abbot. and Priors likewise, whiles members of the Lords House of Parliament were chosen by the Clergie, People, Commons not the King: by semblable, or better reason, the whole State in Parliament when they see just cause, may claime the nomination of all publike Officers of the Kingdome, (being as much or more the Kingdomes Officers as**

the Kings, and as ^a responsible to the Parliament as to the King, for their misdemeanors in their places) without any diminution of the Kings Prerogative.

Fifthly, the Parliament consisting of the most ^o Honorable, Wise, Grave, and discreetest persons of all parts of the Kingdome, are best able clearly and impartially to Judge, who are the fittest, ablest, faithfullest, most deserving men to manage all these publike Offices for the Kings, the Kingdomes honour and advantage, better then either the King himselfe, his Cabinet-Counsell, or any unconsiderable Privadoes, Courtiers, Favorites; (who now usually recommend men to these places more for their owne private ends and interests, then the Kings or Kingdomes benefit;) therefore it is but just and equitable that they should have the principall nomination and recommendation of them to the King, rather than any others whomsoever; and that the King should rather confide hereinto their unbiaised Indgements, then to his most powerfull trustiest Minions; who would out the Parliament of this just priviledge, that they might unjustly engrosse it to themselves; and none might mount to any places of publike trust, but by their deare-purchased private Recommendations; the cause of so many unworthy, untrusty, corrupt publicke Officers and Judges of late times, who have (as ^p much as in them lay) endeavoured to enslave both us and our posterities by publike illegall Resolutions against their oathes and Consciences.

Sixthly, Though our Kings have usually enjoyed the choyce of Judges and State Officers, especially out of Parliament time; yet this hath beene rather by the Parliaments and Peoples permissions, then concessions, and perchance by usurpation, as appears by Sherifes and Lieutenants of Counties Elections, now claimed by the King, though anciently the Subjects right, as I have proved. And if so, a Title gained onely by Connivance, or Vsurpation, can be no good plea in Barre against the Parliaments Interest, when there is cause to claime it: however; the Kings best Title to elect these publike Officers, is onely by an ancient trust reposed in his Predecessors and him, by the Parliament and kingdome, with this tacit condition in Law (which * Littleton himselfe resolves is annexed to all Officers of trust whatsoever) that he shall well and lawfully discharge this trust, in electing such Counsellors, Officers, and Judges as shall be faithfull to the Republicke and promote the subjects good and safety. If then the King at any time shall breake or pervert this trust, by electing such great Counsellors, Officers, and Judges as shall willingly betray his Subjects Liberties, Properties, subvert all Lawes, foment and prosecute many desperate oppressing Projects to ruine or intrall the Kingdome, undermine Religion, and the like (as many such have beene advanced of late yeares;) no doubt the Parliament in such cases as these, may justly regulate, or resume that trust so farre into their owne hands, as to recommend able, faithfull persons to these publike places, for the future, without any injury to the Kings Authority. It was a strange opinion of Hugh Spencers (great favoritts to King Edward the second) which they put into a Bill in writing ^a That homage and the Oath of Allegiance is more by reason of the Crowne, then by reason of the person of the King, and is more bound to the Crowne then to the person; which appears, because that before the descent of the Crowne, no Allegiance is due to the person. Therefore put case the King will not discharge his trust well, according to reason in right of his Crowne, his Subjects are bound by the Oath made to the Crowne, to reforme the King and state of the Crowne, because else they could not performe their Oath. Now it may (say they) be demanded, how the King ought to be reformed? By suite of Law, or by asperity? By suite at Law, a man can have no redresse at all, for a man can have no Judge, but those who are of the Kings party: In which case, if the will of the King be not according to reason,

^a 15.E.3. Stat. 3.4.5.
See the Prefaces of most ancient Statutes in Ed. 1. 2. 3. 4. Ricb. 2. H 4. 5. 6. & 7. reignes. *Cromptions Juris. of Courts. f. 1. to 7.* The Writ of Election, 15.E.3.c.3. 4.5.

See Mr. 5^t Johns speech concerning ship-money; 1640.

* Chapter of Estates upon Condition, *sect. 378 379.* and Cookes *Instit. f. 378. 379.*

^a See *Exilia Hugenis le Defenſer* old *Magna Charta* 12. part. 2. t. 50. 51. *Cooke* 1.7. *Calvins case* f. 11.

he shall have nothing but error maintained and confirmed. Therefore it behoveth for saving the Oath, when the King will not redresse a thing, and remove what is evill for the Common people, and prejudicall to the Crowne, that the thing ought to be reformed by force, because the King is bound by his oath to governe his Lieges and people, and his Leiges are bound to governe in ayde of him, and in default of him. Whereupon, these *Spencers*, of their owne private Authority, tooke upon them by Usurpation the sole government both of King and Kingdome, suffering none of the Peeres of the Realm; or the Kings good Counsellors, appointed by the State, to com:neere him to give him good counsell; not permitting the King so much as to speake to them but in their presence. But let this their opinion and private unlawfull practise, be what it will; yet no doubt it is lawfull for the whole State in Parliament, to take course, that this part of the Kings Royall trust (the chusing of good publike Counsellors, Officers, Judges; which much concerns the Republike) be faithfully discharged, by recommending such persons of quality, integrity, and ability to all publike places of trust and judicature, as both King and Kingdome may confide in; which will be so farre from depressing, that it will infinitely advance both the Kings Honour, Justice, profit, and the Kingdome to.

Seventhly, It is undeniable, that the Counsellors, Judges, & Officers of the Kingdome, are as well the Kingdomes, Counsellors, Officers, and Judges as the Kings, yea more the Kingdomes than the Kings, because the Kings but for the Kingdomes service and benefit. This is evident by the Statute of 14. E. 3. c. 5. which enacts; that as well the

(r) See *Hoveden*, Mat. Par. Mat. West.

Fabian, Polyc.

Graf, Speed,

Holinshed and

Nobrigensis in

the life of R.

the 1. and

Goodwin in

this Bishops

life.

Wals. Holin.

Speed, *Graft.*

in *Ed.* 1. and

Cookes Instit.

on *Littleton*.

i. 133. 2.

• See *Exilium*

Hugonis De-

spenser Wals.

Fabian Holin.

Graf. Speed

in the life of

Ed. 2.

M. s. Johns

Spech against

shipp-money

p. 22 23.

s. 12 R. 2. c.

1 to 7 *Wals.*

Fab. Graf.

Holin. Speed

in *Ed.* 1. c. 2.

Chauuncellor, Treasurer, Keeper of the Privie Seale, the Justices of the one Bench and of the other, the Chauuncellour and Barons of the Eschequer, as Justices assigned, and all they that doe meddle in the said places under them, shall make an Oath, well and lawfully to SERVE the King and HIS PEOPLE, in THEIR OFFICES: which Oath was after ward enlarged by 15. E. 3. c. 3. 18. E. 3. Stat 3. 20. E. 3. c. 1. 2. 3. 1 R. 2. c. 2. I swearing and injoyning them: To doe even Law, and execution of right to all the Subjects rich and poore, without having respect to any person, &c. And if any of them doe, or com: against any point of the great Charter, or other Statutes or the Lawes of the Land, by the Statute of 15. E. 3. c. 3. he shall answer to the Parliament, as well at the Kings suite, as at the suite of the party, Seeing then they are as well the Kingdomes Counsellors, Officers, Judges, as the Kings, and accountable responsible for their misdemeanors in their places, as well to the Parliament and Kingdome as to the King, great reason is there, that the Parliament, Kingdome (especially when they see just cause) should have a voyce in their elections, as well as the King. The rather, because when our Kings have bene negligent in punishing evill Counsellors, Officers Judges, our Parliaments out of their care of the publike good, have in most King raignes, both justly questioned, arraigned, displaced, and sometimes adjudged to death the Kings greatest Councillors, Officers, and Judges for their misdemeanors witnesse the displacing & banishing of *William Longsham* Bishop of *Ely*, Lord Chauuncellour, chiefe Justice, and Regent of the Realme in *Richard the 1* his Reigne; Of *Sir Thomas Wayland* chiefe Justice of the Common pleas, attained of Felony, and banished for bribery by the Parliament, 18. Ed. 1. the severall banishments of *Piers Gaveston* and the 3 *Spencers* (the Kings greatest favorites, Officers, Counsellors) for seducing miscounselling King *Edward the second*, oppressing the Subjects, and wasting the King revenues; the removall and condemnation of *Sir William Thorpe*, chiefe Justice of the Kings Bench, for Bribery, 25 E. 3. the fining and displacing of *Michael de Pole* Lord Chauuncellor, *Alexander Nevell*, and divers other great Officers, and Privi

Counsellors, with the condemning, executing, and banishing of *Trefilian, Belknap*, and other Iudges, in 10. & 11. *Rich. 2.* by Parliament, for ill Counsell, and giving their opinions at *Nottingham* against *Law. Of^h Empson, Dudley*, and that grand Cardinall *Wolfy*, Lord Chancellor, and the Kings chiefest Favorite and Counsellour, in *Henry* the eight his Raigne: Of the Duke of *Sommerfet* Lord Protector, and his Brother, Lord Admirall, for supposed Treasons in *Edward* the 6th. his Raigne; Of Sir *Francis Bacon* Lord Keeper, and *Cranfield* Lord Treasurer, in King *Jemes* his latter dayes; with infinite other presidents of former and latter ages; and one more remarkable then all the rest: In the Year 1371. (the 45. of King *Edward* the 3^d. his Raigne) and somewhat before, the Prelates and Clergy-men had ingrossed most of the Temporall Offices into their hands; *Simon Langham* Archbishop of *Canterbury*, being Lord Chancellour of England, *John B.ishop* of *Bath*, Lord Treasurer, *William Wickan* Archdeacon of *Lincolne*, Keeper of the Privie Seale, *David Wolley* Master of the Rolles, *John Troy* Treasurer of *Ireland*, *Robert Caldwell* Clerke of the Kings Household, *William Bugbrig* generall Receiver of the Dutchy of *Lancaster*, *William Abbey* Chancellour of the Exchequer, *John Newnham* and *William de Mulso* Chamberlaines of the Exchequer, and keepers of the Kings Treasury and Iewe's; *John Ro-ceby* Clerke and Comptroller of the Kings works and Buildings, *Roger Barnburgh*, and 7. Priests more, Clerkes of the Kings Chancery, *Richard Chesterfield* the Kings under-Treasurer, *Thomas Brantingham* Treasurer of *Guines*, *Merke*, and *Calis*; All these Clergiemen (who abounded with pluralities of rich Spirituall Livings, though they Monopolized all these temporall Offices;) in the Parliament of 45. *Edward* the 3^d. by a Petition and Complaint of the Lords, were displaced at once from these offices (no waies suitable with their functions) and Laymen substituted in their places: And a like^k president I find about 3. *Henry* 3^d. where the Clergy Lord Chancellor, Treasurer, with other Officers were removed, upon a Petition against them, and their Offices committed to Temporall men, whom they better besemed. If then the Parliament in all Ages hath thus displaced and censured the greatest Counsellours, State-Officers, Iudges for their misdemeanours, ill Counsell, insufficiency, and unfitnesse for these places, (contrary to that twice condemned false opinion, of the over-awed Iudges at *Nottingham* in 11. *R. 2.* * That the Lords and Commonns might not wish at the Kings will to preach the Kings Officers and Justices upon their Offences in Parliament, and let that did contrary was to be punished as a Traitor;) and that upon this very ground, that they are the Kingdome Counsellors, Officers and Justices, as well as the Kings, and so responsible to the Parliament and Kingdome for their faults. I see no cause why they may not by like reason and authority, nominate and place better Officers, Counsellours, Iudges in their steads, or recommend such to the King, when and where they see just cause.

Eightly. ¹ *John Bodin* a grand Politician, truly determines and proves at large, That it is not the right of election of great Officers, which declareth the right of Sovereignty, because this oft is, and may be in the Subjects; but the Princes approbation, and confirmation of them when they are chosen, without which they have no power at all. It can then be no usurpation at all in the Parliament upon the Kings Prerogative, to nominate or elect his Counsellors, great Officers, and Iudges, or recommend meet persons to him (which is all they require) so long as they leave him a Power to approve and ratifie them by Writs or special Patents, in case hee cannot justly except against them; Of which power they never attempted to divest his Majesty, though hee be no absolute, but onely a politike King, ^m as *Forrescue* demonstrates.

^h 1. H. 8. c. 15
Holl, Speed,
Grafton, Stow
Martin in H.
8. & Ed. 6.
ⁱ Aniq^{ue} Ec-
clesia Brit. pa
275. 281. 281
Walsing Hist.
p. 181 Tpo-
digna. Ncust. p.
132. Causton.
part. 7. 46. F.
3. Graft. p.
317.

^k Antiqu^{ae} Ec-
cles. Brit. page
21.

^{*} R. 2. c. 12.
Graft. p. 352.
353 Walsing.
Tpedg Ncust.
P. 146, 147.

^l Common-
wealib. lib. 7.
ca 10 p. 167.
168.

^m Deland. led.
gum Anglie
l. 90. 3. 304

Ninthly, It hath beene, and yet is usuall in most Forraigne Kingdoms, for the Senate and people to elect their publike Officers and Magistrates, without any diminution to their Kings Prerogative. In the Roman State, the people and Senate not onely constantly elected their Kings and Emperours, but all their other grand publike Officers and Magistrates, (as Consuls, Tribunes, Dictators, Senators, Decemviri, and the like) were elected by the people; who prescribed them Lawes, Oathes, and had power to question, to punish, remove and censure them when they offended. Solon and Aristotle, with other great Politicians, debating this Question; Whether the power of electing and censuring the Magistrates, and chiefe Officers ought to reside in the people? Conclude affirmatively, That it is most necessary and convenient, this power should rest in the people; because else the people shall become both the servants and enemies of their Princes, if they have not this power; and because all the people together are more considerable, and better able to judge of the goodnesse and fitnessse of Magistrates for them, then any few select particular men, which are more apt to be seduced with by-ends, then a great multitude. Whence, among the Lacedemonians, and in most Kingdoms and Republicks in Greece, the people had both the election, yea and correction of their Magistrates, and chiefe State officers, as they manifest. In the Kingdome of Aragon, in Spaine, their ancient Suparbiense Forum, their Justitia Aragonia, and Rici homines, (who are their principall Magistrates, Great Counsell of State, and Privie Counsellours to their King, both in Warre and Peace; having power over their Kings themselves, to examine and censure all their Actions, and remove them if there be cause;) with all their Members, Knights, and Burgeses, of their Parliaments; (held formerly once a yeare, but now once every second yeare, by fixed Lawes;) anciently were, and at this day are elected by the People, and not the King. In the Germane Empire, the Electorship, Chancelourship, and all great Offices of State, are hereditary and successive, not chosen by the Emperor: and the greatest part of inferiour Magistrates, are elected in most Provinces and Cities by the people. In Hungary, the great Palatine, the chiefe Officer of that Kingdome, next to the King himselfe, who at home determineth and judgeth all differences betweene the King and Subjects, according to the Lawes of that Realme: (est enim apud Pannonios in usu, Regem si quid contra Legem fecerit, legibus subyoci) and during the interregnum, hath right to summon Parliaments and generall assemblies of the Estates; yea, the chiefe hand and power in electing a new King; and the Sovereigne command in the Warres, Ad: out fontes punire, bene de republica meritis premia discernere, fundosque qui 20. vel 30. agriculturalum capaces sunt juris hereditarij nomine conferre possit; &c. (as Nicholas Lithuanus writes is elected by the States and Parliament of Hungary, not the King. * And in this manner Bethrins was elected Palatine in a full assembly of the States, Senatus, Nobilitatisq; consensu, Anno Dom 1517. and the Vayvod: put by. In * Venice, the Senate and people chuse all the great publike Officers, not the Duke. In * Poland (where the King is elective), by the Law of Sigismund Augustus, all the Magistrates of every Countrey were to be chosen, by the particular States of every Government, * and so they are now in Denmarke, and Sweden, and Bohemia, the Kings themselves are Elective by the States and people, and most of their publike Officers too. When Rome and Italy were under the Gothish Kings, they still elected their publike Officers, as is evident by King Theodoricus Letter of approbation of their Election, in these Words, O consent, Reverend Fathers, doth accompany your judgement. In * Scotland, Anno 1295. the Scots in King Iohn Baylials Raigne, considering his simplicitie and unapnessic, elected them 12. Peeres, after the manner of France: (to wit) 4. Bishops, 4. Earle

Bo. An. Com.
wealth, l. 1. ca.
10. Liuy hist.
l. 1. 2. 3. 4. 7.
Dionys Hal. l.
2. & 3. P. lib.
hist. l. 6. See
the Appen-
dix.

A. ist. Polit.
l. 2. c. 10. l. 3.
c. 7.
P. Hieronym.
Blanca Arago-
nensium rerum
Comment.
p. 588. 589.
590. 716. 10
724. 747. 10
762.

Munst. Cos.
l. 3. c. 22. 23.
&c.

Bodin. Com.
weal. l. 1. c. 10.
Nichol. Lithu-
anus de rebus
Vngar Hist. l.
6. p. 84. 85.
Anno 1517.

Bodin. l. 1.
c. 10 and the
generall Hi-
story of Ve-
nice.

See Munster
Pontanus, O-
laus Mag-
nus, and o-
thers.

Bodin. l. 1. c.
10. Cassiodor.
l. 1. Epist. 6.
Mar. West.
An. 1295. p.
399. Walsing.
Hist. Angl. p.
28. & Ipo-
digma, p. 79.

Earles, and 4. Lords, by whose counsell the King ought to Govern the Realme, and by whose ordination all the affaires of the Kingdome should be directed; which was principally done in affront of King *Edward* the first, by whom this *John* was made King of *Scotland*, in some sort against the *Scots* good liking; some of them secretly murmuring against it. In *France* it selfe, where the King (as * some thinke, and write, is an absolute Monarch,) the greatestt publicke Officers anciently, have sometimes beene Elect^d by the Three Eittates of Parliament. ¹ Anno 1253. The States of *France*, Elect^d the Earle of *Leicester* their Grand *Seneschall*, and chiefe Counsellour of State, to advise them, and their desolate estate, what to doe. ² In the Yeare 1324. *Arthur* Duke of *Britaine* was chosen *Constable* of *France*, by the voice of all the *Peeres*, of the *Great Counsell*, and *Parliament*; and thereupon was admitted to that *Grand Office*. ³ In the Yeare 1357. the 7th. of King *John* of *France*, the *Archbishop* of *Roan*, *Chancellor* of *France*, *Sir Simon de Bury*, chiefe Counsellour of the King, and of the *Parliament*, *Sir Robert de Lorize*, *Chamberlaine* to the King, *Sir Nicholas Brake*, master of the Kings *Pallace*, *Eguerrain*, *Burges* of *Paris*, and *Vnder-Treasurer* of *France*, *John Priest*, *Soveraigne-Master* of the Money, and *Master* of the *Accounts* of the King, and *John Chauceon*, *Treasurer* of the Kings *Warres*, were all complained of by the *Three Estates* of *France*, assembled in *Parliament*, for misguiding the King and *Realme*; their goods confiscated to th^e King, themselves removed from those *Offices*, and others elected in their places by the *States*. In ^b the Yeare 1408 by a *Law* made in the *Parliament* at *Paris*, it was Decreed, That the *Officers* of the *High Court* of *Parliament* should be made by the *Parliaments Election*, and those then vacant were so; which *Law* was againe revived by King *Lewis* the 11th. in the Yeare 1465. And after him, in the time of *Charles* the 8th. not onely the *Presidents*, the Kings *Counsellors* and *Advocates* were made by election, but even the Kings *Attorney Generall*. (the onely man of all the body of the *Court*, that oweth not *Oath* but to King onely) was chosen by the *suffrages* of the *Court*, in the Yeare 1496. though their *Letters* of *Provision* and confirmation of their *Election* then were, and yet are alwaies granted by the King. About the ^c Yeare 1380. the Earle of *Flanders* exacting new *Customes* and *Taxes* from his *Subjects*, contrary to their *Liberties*, they thereupon expelled him, with all his *Family* and *Counsellors* out of their *Countrey*, And refused upon any termes to submit to his *Government*, unlesse hee would remove all his *Will Counsellors* from him, and deliver them into their hands to be punished, Et recipere SOLVM VELIT CONSILIARIOS EX COMMUNIS VULGI DECRETO; and would receive such *Counsellors* onely as his people by common decree should assigne him; which he was constrained, sore against his will, to condescend too, ere they would restore him. Since then the election of the *Counsellors*, *Magistrates*, *Judges*, and *Prime Officers* of *State* in most other *Kingdomes*, have beene thus elected by the people and *Parliaments* without any *encroachments* upon their Kings just *Regalities*; Why our *Parliament* now may not claime and enjoy the like *Priviledge*, without any *impeachment* of the Kings just *Prerogative* transcends my understanding to conceive.

Finally, our owne *Parliaments* in most Kings *Raignes*, have both claimed and enjoyed this power of Electing *Privie Counsellors*, *Chancellors*, *Treasurers*, *Judges*, and other great *Officers* of *State*, and created some new *Officers* of farre higher qualitye and power (to governe both King and *Kingdome*) then any the *Parliament* desires, or are in truth fitting for them to create unlesse in cases of absolute necessitie, to prevent the *Kingdomes* utter ruine. To give you some few principall instances of many.

* *Bodl. l. c. 10*1. 2. c. 5. *Cassus Catal.*

gloria mundi

confid. 24.

y *Matb. Paris*

p 835.

z *Bodin. l. 1.*

c. 10.

a *Fabian part*

7. p 182. 10

190.

b *Bodin. l. 1.*

c. 10.

c *Walsh. list.*

p. 235. 236.

Fabian. part.

7. pag 317.

^d Math. Paris In the ^d Year 1214. the 16. Year of King Johns raigne, in a Parliament held at
 Hist. An. 1214. Running-Meade, near Windsor, for the settling and securing of Magna Charta, and
 1215. p. 243. other the Subjects Lawes and Liberties formerly granted by Henry the 1. it was a-
 to 286. Math. greed by King John, and Enacted, That there should be 25. Barons chosen, such as
 Westm. Wal: the Lords would, who should to their uttermost power cause the same to be held and ob-
 sing. Tpodig. served. And that if either the King or his Justiciar should transgresse in any Article of
 Fabian Cax- the Lawes, and the offences shewed, 4. Barons of the 25. should come to the King, or in
 ton. Grafton, his absence out of the Kingdome, to the chiefe Justiciar, and declare the excesse, requi-
 Stor. Hollin- ring without delay, redresse for the same; which if not made within 40. daies after such
 shed. Polydor. declaration, those 4. Barons should referre the cause to the rest of the 25. who with the
 Virg. A. 1. 1412 Commons of the Land, might distraine and inforce the King by all meanes they could (by
 Daniel p. 143 seising upon his Castles, Lands, and Possessions, or other goods; his Person excepted,
 144. speed p. and that of his Queene and Children,) till amends be made according to their Arbitration.
 578. 10. 567. And that whosoever would should take their Oath for the execution hereof, and obey the
 Commandement of the 25. Barons herein without prohibition. And if any of them dis-
 sented, or could not assemble; the Major part, to have the same power of proceeding:
 Hereupon there are 25. Barons chosen to be Conservators of Magna Charta, and
 the Subjects Priviledges (whose names you may read in Mathew Paris) who by the
 Kings Consent, tooke an Oath upon their soules; that they would keepe these Char-
 ters with all diligence, and Compell the King, if he should chance to repent (as he did
 soone after) to observe them: Which done, all the rest of the Lords, then likewise
 tooke another Oath, to assist and obey the Commands of these five and twenty Barons.
^e Fran. Thin In the Year 1221. ^e Hugh de Burgh, was made the Protector, or Guardian of the
 his Catalogue of Protectors. Realme, by a Parliament, held at Oxford. In the Year 1222. I read in ^f Ma-
 Holinshed vol. 3. Col. 1073. thew Paris, and others, that Ralph Nevill Bishop of Chichester, was made
^f Hist. Angl. Keeper of the Great Seale, and Chancellour of England, by assent of the whole
 p. 305. Godw. Kingdome (in Parliament,) to wit, in such sort, *Vi non deponeretur ab ejusdem si-*
 Catalogue of gilli custodia, *NISI TOTIVS REGNI ORDINANTE CON-*
 Bishops. p. 386. *SENSV & CONSILIO*, That he should not be deposed from the custo-
 Math. Westm. dy of the said Seale, but *BY THE ORDINANCE, CONSENT and*
 An. 1222. pa. *COVNSELL OF THE WHOLE REALME*. Loehere the greatest
 113. Officer of the Realme, not onely elected, but confirmed by Parliament, so as no
^g Math. Paris to be displaced but by the consent of the whole Realme, whose publicke Office
 p. 456. Franc. he was. Hereupon King Henry afterward, taking some distaste against Ralfe (because
 Thin, his Ca- the Monkes of Winchester elected him Bishop of that Sea against his good liking,
 talogue of Chan- cellores in Ho- he took away the Seale from him, and delivered it to Geffrey of the Temple, in the 22th
 llinshed volum. 3. c. fol. 1275. Year of his Raigne; but yet he helde his Chancellors place still, and tooke the profits of it
 3. c. fol. 1275. Math. West. during all his life; though he refused to take the Seale againe, when the King offered to
 An. 1238. pag. restore it him, the 23. of his Reigne, *Quod per Consilium predicto Cancellario commis-*
 149. *sam fuit TOTIVS REGNI*. ^h After which he being restored to the Seale
^h Math West. by the Parliament An. 1236. this King removed Ralph the Steward of his Household
 An. 1248. pag. 229. 233. with certaine other his Counsellors, and great Officers of his House, from his Coun-
 Math. Paris sell, and their Offices; and he likewise most instantly required his Seale from the
 An. 1248. pa. Bishop of Chichester his Chancellour, who executed his Office unblameably, being
 719. 720. 725. Math. Paris pillar of truth in the Court But the Chancellor refused to deliver it, seeing the vio-
 Hist. An. 1230. lence of the King to exceed the bounds of Modestie; and said, *That he could by no*
 p. 415. Daniel meanes doe it, *Cum illud COMMUNIO CONSILIO REGNI SVS*
 Hist. p. 157. *CEPISSET*, since he had received it by the common Counsell of the King
 Edus. 1634. done

dome; wherefore he could not resigne it to any one *WITHOUT THE COMMON COUNSEL OF THE REALME*; to wit, the Parliament. In the ^xYeare 1244. the 28. of Henry the 3rd. his Raigne (the Bishop of Chichester, that faithfull Stout Chancellour made by Parliament, dying, and the place continuing void for a space) in a Parliament at London, the Lords and Commons complained, *That for defect of a Chancellour, divers Writts were granted against Justice, and they demanded, that by THEIR ELECTION a Iusticiar and Chancellour might be made, by whom the State of the Kingdome might be settled, AS IT WAS ACCUSTOMED.* The King promised to reforme all things himselfe, left hee might seeme thereto compelled by them: which they gave him a convenient time to effect, and so adjourned; promising to give him an ayde at their next meeting, if in the meane time, he redressed things amisse, according to promise: Which he failing to doe. At their next meeting, *They demanded Magna Charta to be confirmed, which they had divers times dearely purchased, and a new Charter to be made for that purpose, That all the infringers thereof should be solemnly Excommunicated by the Bishops. And because the King had not hitherto observed the great Charter, notwithstanding his Oathes and promises, and Saint Edmonds Excommunication against him for infringing it, lest the like danger should happen in after times, and so the last error be worse then the first, By Common ASSSENT they Elected 4. of the most Politicke and discreetest men of all the Realme, Who Should Be Of The Kings Countell, and sweare, that they would faithfully mannage the affaires of the King and Kingdome, and would administer Justice to all men, without respect of persons: That these should alwaies follow the King; and if not all, yet two at the least, should be present with him, to heare every mans complaint, and speedily releve such as suffered wrong. That the Kings Treasury should be issued by their view and testimonie, and that the money specially granted by all, should be expended for the benefite of the King and Kingdome, in such sort, as should seeme best, and most profitable. And that those shall be Conservators of their Liberties. And that as they Are Chosen by the assent of all, so likewise not any of them should be removed, or deprived of his Office, without Common assent. That one of them being taken away, by the election and assent of the three, another should be substituted within two moneths. Neither without them, but when there shall be necessitie, and at their Election, may all meet again. That the Writts impetred against the Law and Customs of the Realme, should be utterly revoked and canceled. That Sentence should be given against the Contradictors. That they should oblige one another to execute all this by a mutuall Oath. That the Iusticiar and Chancellour should be chosen by the generall Voices of all the States assembled: and because they ought to be frequently with the King, may be of the number of the Conservators. And if the King by a y intervenient occasion shall take away his Seale from the Chancellour, whosoever shall be seald in the interim, shall be reputed void and frustrate, till restitution of it be made to the Chancellour. That None be substituted Chancellour, or Iusticiar, but by the Univerfall assembly and free assent of all. That Two Iustices may be chosen of the Bench; Two Barons of the Exchequer ordained: And at least One Iustice of the lawes accepted: That at this turne All the said Officers should be Made and Constituted by the Common Univerfall and Free Election of All, That like as they were to handle the Busineses of All Societians in eorum Electionem concurreat assensus singulorum; So likewise For their Election the Assent of all should Concur. And afterwards, when there shall be need to substitute another in any of the foresaid Places, his Substitution shall be made by the Provision and Authority of the Four Councillors aforesaid. That those which suspect, an' lesse*

necessary should be removed, from the kings side. But whiles these busineses, ever profitable to the Common-wealth, had beene diligently handled by the Lords for three weekes space; the enemis of mankind, the disturber of peace, the raiser of ledition the devill (as *Martlew Paris* writes) unhappily hindred all these things by the Popes avarice, through the coming of *Martin* a new Legate, with a larger power then any ever had before to exact upon the state; the interposition of which businesse in Parliament, where it received a peremptory repulse, took up so much time, that the former could not be fully concluded during that Parliament. Whereupon after this, in the year 1248. ^h king *Henry* calling a generall Parliament at *London*, to take an effectuall course for the settling of the distractions and grievances of the Realme; & therein demanding an ayde; he was grievously reprehended for this, That he was not ashamed then to demand such an ayd, especially because when he last before demanded such an exaction (to which the Nobles in *Eng'nd* would hardly assent) he granted by his Charter, that he would no more doe such an injury and grievance to his Nobles; they likewise blamed him for his profuse liberality to forraigners, on whom he wasted his Treasure; for marrying the Nobles of the land against their wills to strangers of base birth; for his base extortions on all sorts of people, his detaining the Lands of Bishops and Abbots long in his hands during vacancies, contrary to his coronation oath, &c. But the king was especially grievously blamed by all and every one; who complained not a little, for that Title, *as his magnificent Predecessors Kings have had; Jusliciarium nec Cancellarium habet, nec Thesaurarium, per commune consilium Regni prout decerte & expediret, he had neither a chiefe Justice, nor Chancellor, nor Treasurer made, by the Common Councell of the kingdome as it was fitting and expedient; but such who followed his pleasure whatsoever it was, so it were gainfull to him, and such as sought not the promotion of the Common-wealth, but their owne, by collecting money, and procuring Wardships, and Rents, first of all to themselves; (A cleare evidence; that these Officers of the kingdome were usually of right created by the Parliament, in this kings and his Ancestors times:)* When the king heard this he blushed, being confounded in himselfe; knowing all these things to be most true: he promised therefore most truly and certainly, that he would gladly reforme all these things, hoping by such a humiliation, though sained, more readily to incline the hearts of all to his request; To whom, taking counceill together, and having beene oft ensnared by such promises; they all gave this answer: This will be seene, and in a short time it will manifestly appeare to all men; therefore we will yet patiently expect; and as the king will carry himselfe towards us, so we will obey him in all things: Whereupon all things were put off and adjourned till 15, dayes after *Saint John Baptists* feast; But the king in the meane time, obdurated either by his owne spirit, or by his Courtiers, who would not have his power weakned; and being more exasperated against his people, regarded not to make the least reformation in the foresayd excesses, according as he had promised to his leige people; but instead thereof, when all the Nobles and Parliament met againe at the day prefixed, firmly beleeving that the king, according to promise would reforme his errors, and follow wholesome counceills, gave them this displeasing answer, by his ill Counsellours: (from whom his Majesties evill advisers lately borrowed it.) You would, all Ye Primates of *Eng'nd*, very uncivilly bind your Lord the king, to your will, and impose on him an over-sevile condition, whiles you would impudently deny to him, that which is lawfull to every one of your selves. Veril it is lawfull to every one, to use whose and what counceill he listeth. * Moreover it is lawfull to every householder to preferre to, put by, or depose from this or that office

* *Mat. West.*
An. 1248. p.
219. 233.
Mat. Paris,
An. 1248. p.
719. 720. 725.
See p. 419.
421.

* These ill Counsellours forgot, that there is a great vast difference betweene private Meniall servants of the king, and publike Officers of the kingdome; so that their Argument is but a fallacy.

any of his household, which yet you rashly presume to deny to your Lord the king; especially when the servants ought not at all to judge their Lord, nor the vassalls their Prince; nor to restrain him with their conditions; Yea verily, who ever are reputed * inferiours, ought rather to be directed by the pleasure of their Lord, and to be regulated by his will; for the servant is not above his Lord, nor yet the Disciple above his Master. Therefore he should not be as your king, but as your servant, if he should be thus inclined to your will. Wherefore he will neither remove Chancellor, nor Justice, nor Treasurer, as you have propounded to him to doe; neither will he substitute others in their places: He likewise gave a cavilling answer to the other Articles though wholesome enough to the king, & demanded an ayd to recover his right in forraigne parts. When the Barrons heard this answer, it appeared more cleere then the light, that these things sprung from those ill Councillours, whose weakened power would be utterly blowne up, if the Councell of all the Baronage should be harkened to; Wherefore they all gave this unanimous peremptory answer; That they would grant no ayde at all to impoverish themselves, and strengthen the enemies of the king and kingdome: and so the Parliament being dissolved with indignation, *nunquid spe fraudans à Parlamento frustra diu expectato, nihil nisi sannas, cum frivolis, amissis laboribus cum expensis, ut solent sapiens, repurcarunt.* Which when the king had scene he was put into a vehement anger, and said to his Councillours; Behold by you the hearts of my Nobles are turned from me; Behold I am like to lose *Gascogne, Picquiers* is spoyled; and I am destitute of Treasure; What shall I do. Whereupon to satisfie him they caused his Plate and Jewels to be sold, & invented sundry new projects to raise monies. The very * next yeare 1249. the Lords assembling againe at London at the end of Easter pressed the king with his promise made unto them, That the chiefe Iusticiar, Chauncellour, and Treasurer might BE CONSTITVTED BY THE GENERALL CONSENT OF THE KINGDOME; which they most certainly beleevd they should obtaine: but by reason of the absence of *Richard Earle of Cornwal*, which was thought to be of purpose, they returned frustrate of their desire for that time. * Anno 1254. in another Parliament summoned at London, in Easter Terme, the Lords and Commons require and claime againe their former Rights in electing the Iusticiar, Chauncellor, and Treasurer, but after much debate the Parliament is proroged, and nothing concluded. But the Lords and Commons would not be thus deuded of their right, which to regaine, they strained their Jurisdiction to an higher Note than ever they had done before. For in the 1st yeare 1258. the Barons seeing the Realme almost destroyed with Taxes, and exactiōs and *Poistouines*, to domineere, and rule all things in *England*, effectually to redresse these grievances, and reforme the State of the Realme, in a Parliament at *Oxford*, (to which they came very well armed) by advise of some Bishops; among other Articles, they demanded of the king, That such a one should be chiefe Iusticiar who would judge according to Right, &c. And that 24. (others write 12.) persons (whom *Fabian* stiles the *Doize* peeres) should there be chosen, to have the whole administration of the king and state (by reason of the kings former misgovernment) and the yearly appointing of all great Officers; reserving onely to the king the highest place at meetings, and salutations of honour in publike places. To which Articles the king, and his sonne Prince *Edward*, out of feare, not onely assented and subscribed, but likewise tooke a solemne oath to performe them; all the Lords and Bishops taking then the like oath, to hold and maintaine these Articles inviolably; and further they made all that would abide in the kingdome, to swear also to them; the *Archbishops* and *Bishops* solemnelly accursing all such as should Re-

* But the whole Parliament and kingdome which they represented were not inferiour but above the king himself who was but the kingdomes Officer and public-like servant; and so this reason made more against then for the king.

* Mat. Par. Hist. p. 740^t Dan. p. 165.

* Dan. p. 171: 172.

1 Mat. Par. p. 940. 941. 932. 960. Mat. West. An. 1258. to 1262 p. 277. 278. 300. 307. to 312. Fabian. part. 7. p. 64. to 73. Graf. p. 137. to 145. Speed p. 635. 636. &c. Ho. Unsted. Dan. Stow, and others;

bell against them Which Articles the king and his son labouring by force of Armes to annull, they were notwithstanding enforced to confirme in three or foure subsequent Parliaments. By vertue of these Articles enacted thus in Parliament, those Lords not onely removed old shirifes of Counties appointed by the king, and put in new of their owne chusing; but likewise displaced *Philip Lovell* the kings *Treasurer*, with divers Officers of the Exchequer, and sundry of the kings meniall servants, setting others whom they liked in their places; and made *Hugh Bygod*, Lord Chiefe Justice, who executed that Office valiantly and justly, *nulla enim per m. u. r. s. jus Regni vacillare*; creating likewise a new Chancellour and removing the old.

See Francis
Thin his Ca-
talogue of
Chancellors
of England,
Holinsbed, vol.
3. Col. 1276,
Daniels Hi-
story, p. 139.
1952;

After this in a Parliament at *London*, Anno 1260, they consulted about the electing of new Iustices, and of the Chancellour and Treasurer of England for the following yeare, (these places being made annuall by the former Parliament:) in pursuance whereof, *Hugh Bigod* his yeare expiring, *Hugh Spenser* was by the Lords and Parliament appointed to be his successor, and made *Lord Chiefe Justice: and likewise Keeper of the Tower of London*, by the consent of the King and Barons; and by authority of this Parliament the *Abbot of Burgh*, succeeded *John de Crakedale* in the *Treasurership*: and the *Great Seale of England* was by them committed to the custody of * *Richard the Bishop of Ely*. The very next yeare 1261. the Barons, with the consent of the selected Peeres, discharged *Hugh Spenser* of his chiefe Iusticeship, when his yeare was expired, and substituted *Sir Philip Bassett* in his roomes; In which yeere the King appointed Iustices of Eyre through England, without the Lords, contrary to the Provisions of the Parliament at *Oxford*: they comming to *Hereford* to keepe a Sessions there, and sommoning the County to appeare before them on *Hokeday*; divers chiefe men of those parts, who sided with the Barrons assembled together, and strictly commanded those Iudges not to presume to sit, against the Ordinances of *Oxford*; neither would any other of the people answer them in any thing: whereupon acquainting the King with this opposition, they departed thence without doing ought: and the King making this yeare new Shirieffs in every County, displacing those the Barons had made; the inhabitants of each County hereupon manfully repulsed them, and would not obey, nor regard, nor answer them in any thing; whereat the King was much vexed in minde: and upon a seeming shew of reconciliation to the Barons, going to *Dover*, and *Rochester Castles* (committed to the Barons custody for the Kingdomes safety) they permitted him to enter peaceably into them without any resistance: Upon which, minding to breake his former oathes for the keeping of the *Oxford Articles*, he first seisth upon these and other Castles, and then comming to *Winchester Castle* where he had free entrance permitted him by the Barons (who suspected no ill dealing) he tooke it into his owne custody; whether he called to him the *Chiefe Justice and Chancellour*, not long before made that yeare, by the Barons; commanding them to deliver up the Seale and Iustices Roles unto him; who answered, that they could by no meanes doe it, without the Barons consent and pleasure concurring with the Kings; with which answer the King being moved, presently without consulting with the Baronage, made *Walter Merton* Chancellour, and the Lord *Philip Bassett* Chiefe Iustice to him and the Kingdome; removing those the Barons had appointed from those and other places. Which the Barons hearing of, considering that this was contrary to their and their provisos, and fearing least if the King should thus presume, he would utterly subvert the statutes of *Oxford*; thereupon they posted to the King, guarded with armes and pover, and charged him with the breach of his oath; forcing him at last to come to an agreement with them; which the King soon violating, the Barrons ad-

he raised great Forces, met and fought a bloody battle at *Lewes* in *Sussex*; where after the losse of 20000. men, the King and his sonne *Prince Edward*, with sundry Lords of his party were taken and brought Prisoners to *London*: where all the Prelates, Earles, and Barons, meeting in Parliament (*Anno 1265* as *Matthew Westminster* computes it) made new Ordinances for the Government of the Realme; appointing among other things, that 2 Earles, and one Bishop elected by the Commoners should chuse 9 other persons, of which 3 should still assist the King; and by the Councell of those three and the other nine, all things should be ordered, as well in the Kings House as in the Kingdome, and that the King should have no power at all to doe any thing without their Councell and assent, or at least without the advise of 3. of them. To which Articles the King (*by reason of menaces to him, to elect another King*) and *Prince Edward* (*for feare of perpetuall Imprisonment if they consented not*) were enforced to assent; all the Bishops, Earles, and Barons consenting to them, and setting their seales to the instrument wherein these Articles were contained. After which the Earle of *Leicester* and his two sonnes, being 3. of the 12. divided all the Kings Castles and strong holds betweene them, and bestowed all the chiefe Offices in the Kings house, upon his Capitall enemies; which indiscreete disloyall carriage of theirs, much offended not onely the King and Prince, but the Earle of *Glocester* and other of the Barons; so that they fell off from the Earle to the King and Prince, and in a battle at *Evesham* slew the Earle, and most of his Partisans; after which victory the King calling a Parliament at *Winchester*, utterly repealed and vacated those former Ordinances: which had they onely demanded the Nomination of great Officers, Counsellours, and Judges to the King, and not entrenched so farre upon his Prerogative, as to wrest all his Royall power out of his hands, not onely over his Kingdome, but household to; I doubt not but they had been willingly condescended to by the King and Prince as reasonable, and not have occasioned such bloody warres, to repeale them by force.

In King *Edward* the second his Reigne, the Lords and Commons by an Ordinance of Parliament, having banished out of Court and Kingdome *Pierce Gaveston*, his vicious favorite, and pernicious grand Councillour) in a Parliament held at *Warwicke*, nominated and constituted *Hugh Spenser* the sonne, to be the Kings Chamberlaine; and in that Parliament further enacted; that certaine Prelates and other Grandees of the Realme should remaine neere the King by turnes, at set seasons of the yeare, to counsell the King better, without whom, no great businesse ought to be done: challenging (*writes Speed*) by sundry Ordinances made by them in Parliament, not onely a power to reforme the Kings house and Councell, and TO PLACE AND DISPLACE ALL GREAT OFFICERS AT THEIR PLEASURE, but even a joynt interest in the Regiment of the Kingdome. After which the *Spensers* engrossing the sole Regiment of the King and Kingdome to themselves, and excluding those Lords from the King, appointed by the Parliament to advise him, not suffering the King so much as to speake with them but in their presence; they were for this and other offences banished the Land by Act of Parliament. This King towards the end of his raigne, after the *Queenes* arrivall with her Armie, obscuring himselfe and not appearing; by advise and consent of the Lords, the Duke of *Aquitaine* was made High Keeper of England, and they as to the Custos of the same did swear him fealty; and by them *Robert Baldocke* Lord Chancellour was removed, the Bishop of *Norwich* made Chauncellour of the Realme, and the Bishop of *Winchester* Lord Treasurer, without the Kings assent.

In the 15. yeare of King *Edward* the 3. chap. 3. 4. there was this excellent Law enacted

(c) Exilium
Hugoris Dele
Spenser: Mag-
na Charta,
part. 2 f. 50;
Speed p. 764.
675. 680. See
Walsing. Feb.
Holinshead
Ed. 2.

(f) Speed. p. 680.

acted. Because the points of the great Charter be blemished in divers manners, and lesse well holden then they ought to be, to the great perill and slander of the King, and damage of the People; especially in as much as Clerkes, Peeres of the Land, and other freemen be arrested and imprisoned, and outed of their goods and Cattels, which were not appealed nor indighted, nor suite of the party against them, affirmed; It is accorded and assented, that henceforth such things shall not be done. And if any Minister of the Kings, or other person of what condition he be, do or come against any part of the great Charter, or other statutes, or the Lawes of the Land, he shall answer to the Parliament, as well at the suite of the King, as at the suite of the party, where no remedy nor punishment was ordained before this time, as farre forth **WHERE IT WAS DONE BY COMMISSION OF THE KING**, as of his owne Authority, notwithstanding the Ordinance made before this time at Northampton, which by assent of the King, the Prelates, Earles, and Barrons, and the Commonalty of the Land, in this present Parliament is repealed, and utterly disannulled. And that the Chaucellour, Treasurer, Barons and Chauceller of the Eschequer, the Justices of the one Bench and of the other, Justices assigned in the County, Steward and Chamberlaine of the Kings house, Keeper of the Privie Seale, Treasurer of the Wardrobe, Controulers, and they that be chiefe depued to abide nigh the Kings Sonne Duke of Cornewall, shall be now sworne in this Parliament, and so from henceforth at all times that they shall be put in Office, to keepe and maintaine the Priviledges and Franchises of holy Church, and the points of the great Charter and the Charter of the Forrest. and all other Statutes, without breaking any point. Item, it is assented, that if **ANY THE OFFICERS AFORESAID**, or chiefe Clerke to the Common Bench, or the Kings Bench, by death or other cause be out of his Office, that our Sovereigne Lord the King **BY THE ACCORD OF HIS GREAT MEN** which shall be found most nighest in the County, which he shall take towards him, and by good Councell which he shall have about him, shall put another convenient into the sayd Office, which shall be sworne after the forme aforesayd. And that in every Parliament at the third day of the same Parliament, the King shall take to his hands the Offices of all the Ministers aforesayd; and so shall they abide 4. or 5. dayes, except the Offices of Iustices of the one place and the other, Iustices assigned, Barons of the Eschequer; so alwayes that they and all other Ministers be put to answer to every complaint. And if default be found in any of the sayd Ministers by complaint or othe manner, and of that be attainted in the Parliament, he shall be punished by judgement of his Peeres out of his Office, and other convenient set in his place. And upon the same, our sayd Sovereigne Lord the King shall doe to be pronounced to make execution without delay, according to the judgement of the sayd Peeres in the Parliament. Lo here an expresse Act of Parliaments ordained and established by King Edward the third, by assent of the Prelates, Earles, Barons, and other great men, and of all the Commonalty of the Realm, which this king did give and grant for him and his heires firmly to be kept and holden for ever; that all great Officers, Barons, Iudges and Iustices of the kingdome, and chiefe attendants about the king and Prince, should not onely take the fore-mentioned Oath, but be elected alwayes by the accord of the great men, and good Councell neare and about the king, out of Parliament; and by the Peeres in Parliament, and the king bound to make execution according to the Iudgement. This Law (as I conceive) was never legally repealed by Parliament, but onely by this kings Proclamation, by the ill advice and forced consents of some few Lords and Councellours about him; upon pretence, that he never freely assented to it, but by dissimulation onely to obtaine his owne ends, that Parliament, which el-

* Note th's.
And the like
Law was enacted in. 1. H.
4. Fabian,
part. 7. p. 376.

§ See the Preamble of this statute accordingly in the Statutes at large.

† See the revocation of the Statute the same yeare by Proclamation; in the Statutes at large;

would have miscarried and broken up in discontent had not this Law beene granted in manner aforesaid. Which consideration makes me confident, that the Parliament being so eager to obtaine this Law, would never so soone yeeld wholly to repeale it, and so for ought I know it stands yet in force, to justifie the present Parliaments claime in this particular. In 2. E. 3. c. 8. 14. E. 3. c. 5. 18. E. 3. Stat. 3. 20. E. 3. c. 1. 2. 3; divers notable Oathes are prescribed to Judges, Iustices and other Officers, and that they shall not delay nor forbear to doe right for the kings great or little Seale, or any letters from him or any other, but goe forth to doe the Law, notwithstanding them: In the yeare 1375. the 50. of Edward the 3. his raigne, a Parliament, (commonly called the good Parliament by our Historians) being assembled, the king required a Subsidie by reason of his warres; to which the Commons answered; that they could no longer beare such charges, considering the manifold most grievous burdens they had from time to time borne before: and that they knew full well, that the king was rich enough to defend him and his land, if his Land and the Treasure were well guided and governed; but it had beene long evill ruled by evill Officers, so that the Land could not be plenteous neither with Merchandize, chaffer, nor riches. By reason whereof, and of their importunate charges the Commonalty was generally impoverished. Moreover, the Commons complained upon divers Officers that were the causers of this mis-order, whereof the Lord Latimer, then Lord Chamberlaine was principall, and Dame Alice Fiers the kings concubine, (who would usually in most impudent manner come in person into all Courts of Justice, and sitting by the Judges and Doctors, perswade or dissuade them to judge against the Law for her owne advantage, on that side for which she was engaged; to the great scandall and dishonour of the king, both in his own and other Realmes:) and Sir Richard Scurry Knight, by whose Counsell and sinister means the king was mis-guided, and the government of the Land disordered. Wherefore they prayed by the mouth of their Speaker, Sir Piers de la Mare, that the said persons with others, might be removed from the king, and others to be set in authority about his person, as should serve for his honour and for the weale of his Realme. Which request of the Commons by meanes of the Noble Prince Edward was accepted; so that the said persons, with the Duke of Lancaster and others, were removed from the king; and other Lords by advise of the sayd Prince, and other wise Lords of the Realme; & per Parliamentum predictum, writes Walsingham, were put in their places, such as the Prince and Peers thought fittest. Moreover in this Parliament, at the Petition of the Commons it was Ordained, that certaine Bishops, Earls, and other Lords should from thence forth governe both the king and kingdom (the king being then in his dotage unable to governe himselfe or the kingdom) because the king was growne old and wanted such governours. This passage is thus expressed in the Parliament Roll of 50. E. 3. numb. 10. Also the Commons considering the mischiefs of the Land shewed to King and Lords of the Parliament; that it shall be for the honour of the King and profit of all the Realme, which is now grieved in divers manners by many adversities, as well by the warres of France, Spaine, Ireland, Guyen, Beretaigne, and elsewhere, as likewise by the Officers who have bene accustomed to be about the King, who are not sufficient at all without other assistance for so great a government; wherefore they pray that the Councell of our Lord the King, be enforced (or made up) of the Lords of the Land, Prelates and others, to the number of 10. or 12. (which the King shall please) to remaine continually which the King in such manner, that no great businesse shall passe or be there decreed without all their assents and advise; and that other lesser busineses shall be ordered by the assent of 6. or 4. of them at least, according as the

Walsl. Hist.
Arg. p. 185.
186. 187. Fabian. part. 7. p. 260. Graff. p. 320. 321. Speed. p. 722. Hol. T. podig. Neust. p. 134. 135.

case shall require; so that at least 6. or 4. of such Counsellors sha'l be continually resident to counsell the King. And our Lord the King, considering the said request to be honourable and very profitable to him, and to all his Realme, hath thereto assented: provided alwayes that the Chan'celour, Treasurer, or Keeper of the Privy seale, and all other Officers of the King, may execute, and dispatch the busineses belonging to their Offices, without the presence of the sayd Counsellours, the which the King hath assign'd, &c. But this Ordinance lasted scarce three moneths, for after the Commons had granted a Subsidie of 4 pence the pole of all above 14 yeares old except beggers, Prince Edward dying, & the Parliament determining, these removed-ill-officers got into the Court, and their offices againe; and by the instance and power of *Alice Piers*, the Speaker, *D. la Mare* was adjudged to perpetuall prison in *Nottingham* Castle, (an act without example in former times, and which did no good in this) where he remained prisoner two yeares space, though his friends very oft petitioned for his libertie: and *John a Gaunt* Duke of *Lancaſter* (made Regent of the Realme because of the Kings irrecoverable infirmity) summoning a Parliament the yeare following, repealed the Statutes made in this good Parliament, to the Subjects great discontent, who were earnest suiters to the Duke for *D. la Mare*: his enlargement and legall triall, which being denyed, the Londoners upon this and other discontents tooke armes, assaulted the Duke, spoyled his house at the Savoy, and hung up his armes reversed, in signe of Treason in all the chief streets of *London*. But in the first yeare of *Richard* the second, in a Parliament at *London*, *Peter De la Mare* and almost all the Knights (which playd their parts so well in the good Parliament for the increase of their Countrey and benefit of the Realme) refusing their Petitions, caused *Alice Piers* (who contemning the Act of Parliament, and the oathes wherewith she had bound her selfe, presumed to enter the Kings Court, to perswade and impetrate from him whatsoever she pleased) to be banished, and all her movables and immovables to be confiscated to the King, notwithstanding she had corrupted with money, divers of the Lords and Lawyers of *England*, to speake not onely privately, but publickly in her behalfe.

* *Ann. Dom. 1237.* King *Henry* the 3^d. summoning a Parliament at *London*, because it seemed somewhat hard to sequester all his present Counsell from him sodenly as reprobate, it was concluded, that the Earle *Warran*, *William de Ferraris*, and *John Fitz-Geoffrey* should be added to his Privie Counsell; whom the King caused to swear That by no meanes neither through gifts, nor any other manner they should deviate from the way of truth, but should give good and wholesome counsell both to the King himself and the Kingdome. Whereupon they granted him a Subsidie of the thirtieth part of their goods, upon condition; that from thenceforth, and ever after forsaking the Counsell of strangers and all unnaturall ones (*qui semper sui & non Regni amice consuevit ut, & Regis bona d' strahere, non aduna e*) he should adhere to the counsel of his faithfull and naturall subjects. *Et sic soluto consilio non sine interiori mururatione & multis concepta indignatione, eo quod cum difficultate tanta Regis enim ad salubre consilium contorquerent; & consilium eo um, a quibus omnem honorem terrenum habere obsecundarent, ad propria quisque reuavit.* But this perfidious King, & Regni delapidator, as the Barons and Historians stile him, contrary to his solemne oath and promise would not be weaned from his evill Counsellors but retained them still, till by force of Armes they were removed and banished.

¶ In the 1. yeare of *Richard* the 2^d. *William Courtney* Bishop of *London*, *Edmond Mortimer* Earle of *March*, and many others of whom the Common people had the best opinion, being good, wise, and famous men, were by publicke consent appointed

Cour

(a) *Walſing.*
Hist. Angl. An.
1277. p. 187.
Frans. Thin his
Catalogue of
Protectors.
Holinsh. vol. 3.
Col. 1076.
1077. *Walſi.*
Typodigni
Neust. p. 134.
135. 1. 6.
Dan. Hist. p.
257. 258. 259.

¶ *Walſing. Hist.*
Angl. An. 1.
R. 2 p. 198.
199. *Speed. p.*
728.

* *Mit Paris*
Hist. p. 420.
421. *Daniel.*
p. 157.

¶ *Walſing. Hist.*
Angl. p. 196.
197.

In (1) the 1. yeare of King Henry the 6. (being but 9. months old when the Crowne descended) the Parliament summoned by his Father Henry the 5. (as *Walsingham* Hist. Ang. p. 453. *Hall's* *Grass.* *Fabian.* Sp. ced. *Trussel.* 1. H. 6. writes) was continued; in which By ASSENT OF ALL THE STATES, HUMFRED DUKE OF GLOUCESTER, WAS ELECTED AND ORDAINED DEFENDER AND PROTECTOR OF ENGLAND in the absence of his elder Brother the Duke of Bedford; and all the Offices and Benefices of the Realm were committed to his disposal. In this Parliament (a strange sight never before seen in England) this Infant King, sitting in his Queen mothers lap, passed in Majestick manner to Westminster, and there took state among all his Lords, before he could tell what English meant, to exercise the place of Sovereign direction in open Parliament then assembled, to establish the Crowne upon him. In the Parliament Rolls of the 1. yeare of this King, I find many notable Passages pertinent to the present Theme, of which (for their rarity) I shall give you the larger account. Numb. 1. There is a Commission in this Infant Kings name directed to his Uncle Humfrey Duke of Gloucester, to summon and hold this Parliament in the Kings Name and steed, and commanding all the Members of it, to attend the said Duke therein: Which Commission being first read; the Arch-bishop of Canterbury taking this Theame; The Princes of the People are assembled with God; declares, 4. Causes for which the Parliament was principally summoned. 1. For the good governance of the person of the most excellent Prince the King. 2. For the good conservation of the peace, and the due execution and accomplishment of the Lawes of the Land. 3. For the good and safe defence of the Realme against Enemies. 4. To provide honourable and discreet persons of every Estate, for the good governance of the Realme, according to Iethro his Counsell given to Moses, &c. Which Speech ended, Numb. 7, 8, 9, 10, 11. The receivers of all sorts of Petitions to the Parliament are designed, and the Speaker of the House of Commons presented, and accepted. Numb. 12. The Lords and Commons authorize, consent to, and confirme the Commission made to the Duke in the Infant Kings Name, to summon and hold this Parliament, (so that they authorize and confirme that very power by which they late:) With other Commissions made under the Great Seale to Iustices, Sheriffes, Escheators, and other Officers, for the necessary execution of Iustice. Numb. 13. and 14. The Bishop of Durham, late Chancelour of England to Henry the 5. deceased; and the Bishop of London Chancelour of the Duchy of Normandy, severally shew, that upon King Henry the 5. his decease they delivered up their severall Seales, after their homage and fealty first made, to King Henry the 6. in the presence of divers honourable persons (whom they name particularly) desiring the Lords to attest their surrender of the said Seales at the time and place specified, which they did; and thereupon they pray, that a speciall act and entry thereof may be made in the Parliament Rolls for their indemnity; which is granted and entered accordingly.

Numb. 15. It was enacted and provided by the said Lord Commissioner, Lords and Commons; that in as much as the Inheritance of the Kingdomes and Crowns of France, England, and Ireland, were now lawfully descended to the King, which title was not expressed in the Inscriptions of the Kings Seales, whereby great perill might accrue to the King, if the said inscriptions were not reformed according to his Title of Inheritance, that therefore in all the Kings Seals, as well in England as in Ireland, Guyen, and Wales, this new stile should be engraven, Henricus Dei Gratia, Rex Franciæ & Angliæ, & Dominus Hiberniæ, according to the effect of his inheritances; blotting out of them

whatever was before in them superfluous or contrary to the said stile; and that command should be given to all the keepers of the said Seales of the King to reforme them without delay, according to the forme and effect of the new Seale aforesaid.

Numb. 16. Duke Humfrey the Kings Commissary, and the other spirituall and temporall Lords being sate in Parliament, certaine Knights sent by the Speaker and whole House of Commons came before them, and in the name and behalfe of the said Commonalty requested the said Duke, that by the advise of the said spirituall and Temporall Lords, for the good government of the Realme of England, he would be pleased to certifie the said Commons, to their greater consolation, what persons it would please the King to cause to be ordained for the Offices of Chancellor and Treasurer of England, and Keeper of his Privie Seale: Upon which request so made, due consideration being had, and full advise taken; and the sufficiencie of those persons considered, which deceased King Henry the Kings Father now, had in his discretion assigned to those Offices as fitting enough: the King following his Fathers example and advise, by the assent of the Lord Duke his Commissary, and of all and every one of the Lords spirituall and temporall, hath nominated and ordained a new, the Reverend Father, Thomas Bishop of Durham to the Office of his Chancellour of England, William Kinwolmarth Clerk to the Office of Treasurer of England, and Mr. Iohn Stafford to the Office of the Keeper of the Privy Seale. And hereupon the King our Lord wilketh By THE ASSENT AND ADVISE aforesaid, that as well to the said Chancellor of England, as to the said Treasurer of England, and to the said Keeper of his Privy Seale for the exercise of the said Offices, severall letters patents should be made in this forme: Henticus Dei gracia Rex Anglia & Francia & Dominus Hibernia, omnibus ad quos presentes litera pervenerint salutem. Sciatis quod De AVISAMENTO ET ASSENSV TOTIVS CONSILII NOSTRI IN PRÆSENTI PARLIAMENTO NOSTRO EXISTENTES, constituimus venerabilem patrem Thomam Episcopum Dunelmensem, CANCELLARIVM nostrum ANGLIÆ; dantes & concedentes DE AVISAMENTO ET ASSENSV PRÆDICTIS, eidem Cancellario nostro, omnes & omnimodas auctoritatem & potestatem ad omnia ea & singula qua ad officium Cancellarii Anglia, de iure sine consuetudine pertinent, seu quovis tempore pertinere consueverunt, &c. The like Patents verbatim, are in the same role (mutatis mutandis) made to the said Treasurer of England and keeper of the privy seale. After which, the said Duke, by advice and assent of the Lords spirituall and temporall sent the Arch-bishop of Caeterbury, the Bishops of Winchester and Worcester, the Duke of Excester, the Earle of Warwick, the Lords of Ferrers and Talbot to the Commons, then being in the Commons House, and notified to the Commonalty by the said Lords, these Officers to be nominated and ordained to the foresaid Offices in form aforesaid. Upon which notice so given THE SAID COMMONS WERE WELL CONTENTED with the nomination and ordination of the foresaid Officers so made, rendring many thanks for this cause to our Lord the King, and all the said Lords, as was reported by the said Lords in the behalfe of the Commons in the said Parliament.

Numb. 17. The Liberties, Annuities and Offices granted by King Henry the 5 and his Ancestors to Souldiers in forraigne parts, are confirmed by Parliament, and the grants ordered to be Sealed with the Kings new Seales without paying any Fine.

Numb. 18. Henry the 5. his last Will and the Legacies therein given, are confirmed

med by the Kings Letters Patents, with the assent of the Lords and Commons in Parliament.

Numb. 19. A subsidy is granted to be employed for the defence of the Realme of England, to which end the Lord Protector promiseth it shall be diligently employed.

Numb. 21. and 23. The King by assent of all the Lords spirituall and temporall, wills and grants, that his deare Uncle the Duke of Gloucester shall have and enjoy the Office of the Chamberlaine of England, and of the Constableness of the Castle of Gloucester from the death of the Kings father, so long as it shall please the King, with all the fees, profits and wages thereunto belonging, in the same manner as they were granted to him by his Father.

Numb. 24. The 27. day of this Parliament, the tender age of the King being considered, that he could not personally attend in these dayes the defence and protection of his Kingdome of England, and the English Church; the same King fully confident of the circumspection and industry of his most deare Uncles, John Duke of Bedford, and Humfrey Duke of Gloucester, By **ASSENT AND ADVISE OF THE LORDS** as well Spirituall as Temporall, and **LIKEWISE OF THE COMMONS** in this present Parliament, hath ordained and constituted his said uncle Duke of Bedford, now being in forraigne parts, **PROTECTOR** and **DEFENDER OF HIS KINGDOM**, and of the Church of England, and **PRINCIPAL COUNSELLOR** of our Lord the King; and that he shall both be and called Protector and defendor of the Kingdom, and the Principal Councillor of the King him selfe after he shall come into England, and repaire into the Kings presence; from thenceforth, as long as he shall stay in the Kingdom; and it shall please the King. And further our Lord the King **BY THE FORESAID ASSENT** and **ADVISE**, hath ordained and appointed in the absence of his said Uncle the D. of Bedford, his foresaid uncle the Duke of Gloucester now being in the Realm of England, **PROTECTOR** of his said Realme and the Church of England, and **PRINCIPAL COUNSELLOR** of our said Lord the King; and that the said Duke shall be, and be called **PROTECTOR** and **DEFENDOR OF THE SAID REALM AND CHURCH OF ENGLAND**; and that letters patents of the Lord the King shall be made in this form following: *Henricus Dei gratia &c. Scitatis quod adeo tenera aetate constituti sumus, quod circa Protectionem & Defensionem Regni nostri Anglia & Ecclesia personaliter attendere non possumus in presenti- Nos de circumspectione & industria charissimi avunculi nostri Iohannis Ducis Bedfordiae, plenam fiduciam reportantes; DE ASSENSU ET AVISAMENTO TAM DOMINORVM, QUAM DE ASSENSU COMMUNITATIS DICTI REGNI ANGLIAE IN INSTANTI PARLIAMENTO existentium, ordinavimus & constituvimus ipsum avunculum nostrum, dicti Regni nostri Anglia & Ecclesia Anglicana **PROTECTOREM ET DEFENSOREM, AC CONSILIARIVM NOSTRVM PRINCIPALEM**; & quod ipse dicti Regni nostri Anglia & Ecclesia Anglicana Protector & Defensor, ac principalis consiliarius noster sit, & nuncietur, in & iuxta vim formam & effectum cuiusdam articuli **IN DICTO PARLIAMENTO** die datus presentium habiti **ET CONCORDATI**: Proviso semper, quod praefatus Avunculus noster, nullum habeat*

aut gerat vigore presentium potestatem, nec sicut prafatur nominetur, nisi pro tempore quo prafens hic in regno nostro Anglia fuerit, & PROVT IN PRÆDICTO ACTO CONTINETVR. Quodque carissimus Avunculus noster Dux Glocestriae, nobis in agendis dicti Regni negotiis post ipsam Avunculium nostrum Ducem Bedfordiae PRINCIPALIS CONSILIARIUS EXISTAT ET NOMINETVR, quociens & quando prafatum Avunculium nostrum Ducem Bedfordiae infra Regnum nostrum Angliae morari contingat. Confidentes insuper ad plenum de circumspessione & industria pradiicti Avunculi nostri Ducis Glocestriae DE ASSENSU ET AVISAMENTO PRÆDICTIS, ordinavimus & constituimus ipsum Avunculium nostrum Ducem Glocestriae, dicto Regno nostro Anglia jam presentem, dicti Regni nostri Anglia & Ecclesia Anglicana PROTECTOREM ET DEFENSOREM, necnon CONSILIARIUM NOSTRUM PRINCIPALEM, quociens & quando dictum avunculium nostrum Ducem Bedfordiae, extra Regnum nostrum Angliae morari & abesse contingat. Et quod ipse avunculus noster Dux Glocestriae Protector & Defensor Regni nostri Angliae, & Ecclesia Anglicana, & Principalis Consiliarius noster SIT ET NOMINETUR, IVXTA VIM FORMAM & EFFECTUM ARTICVLI PRÆDICTI. Proviso semper, quod prafatus avunculus & Dux Glocest. nullum gerat aut habeat vigore presentium potestatem, vel ut prafertur nominetur, nisi pro tempore quo prafens hic in Regno nostro Angliae fuerit in absentia dicti avunculi nostri Ducis Bedford. & prout in pradiicto articulo continetur. Damus autem universis & singulis Archiepiscopis, Episcopis, Abbatibus, Prioribus, Ducibus, Comitibus, Baronibus, Militibus, & omnibus aliis fidelibus nostris dicti Regni nostri Anglia quorum interest, tenore presentium firmiter in mandati, quod tam prafato avunculo nostro Duci Bedford. quociens & quando protectionem & defensionem huiusmodi sic habuerit & occupaverit, quam prafato avunculo nostro Duci Glocestriae, quociens & quando ipse consimiles Protectionem & Defensionem habuerit & occupaverit in pramissis faciendis, pareant obediunt & intendant prout decet. In casu rei testimonium &c. which Act and Commission thus made, and the tenour of them being recited before the said Duke of Gloster, and spirituall and temporall Lords; the said Duke having deliberated thereupon, undertook, at the request of the said Lords, the burthen and exercise of his occupation, to the honour of God, and profit of the King and Kingdome. Protesting notwithstanding, that this his assumption or consent in this part should not any wayes prejudice his foresaid Brother, but that his said Brother at his pleasure might assume his barthen of this kinde, and deliberate and advise himselfe.

Numb. 25. It is ordered by this Parliament, what under Offices and Benefices the Lords Protectors should conferre, and in what manner. Numb. 26. After the Lords and Commons in Parliament had settled and ordained the Protectors in forme aforesaid, AT THE REQUEST OF THE SAID COMMONS, therewere, BY ADVISE AND ASSENT OF ALL THE LORDS certaine persons of estate, as well spirituall as temporall, NAMED AND ELECTED TO COUNSELL AND ASSIST THE GOVERNANCE; whose names written in a small scedule, and read openly, were these; the Duke of Glocester, the Archbishop of Canterbury, the Bishops of London, Winchester, Norwich, Worcester; the Duke of Excester, the Earles of March, Warwick, Marshall, Northumberland.

humberland, Westmerland; the Lord Fitz-hugh, Mr Hugh Crambwell, Mr Walter Hungerford, Mr Iohn Tiptoft, Mr Walter Beauchamp. Numb 25 These persons thus NAMED and CHOSEN COVNSELLORS and ASSISTANTS, after this nomination and election, condescended to take such assistance to the government in manner and forme contained in a paper scedule written in English, with their names thereto, containing five speciall articles, delivered in Parliament by the said persons chiefe Counsellors assistants, of which scedule this is the tenure.

The Lords abovesaid, been condescended to take it upon hem, in manner and forme that sueth: First, for as much as execution of Law and keeping of peace start much in Justice of peace, Sheriffs and Escheators, the profits of the King, and revenues of the Realme been yearly encreased, and augmented by Customers, Controulers, priuers, Seachers, and all such other Offices; therefore the same Lords woll and desireth, that such Officers, and all other be made, by advise and denomination of the said Lords, saved alwayes and reserved to my Lords of Bedford, and of Gloucester, all that longeth unto them, by a speciall Act made in Parliament; and to the Bishop of Winchester that he hath granted him by our Sovereaign Lord that last was, and by authoruy of Parliament confirmed.

Numb. 29. Item, that all manner Wards, Mariages, Farmes, and other casualties that longeth to the Crowne, when they fall, be letten, sold, and disposed by the said Lords of the Counsell; and that indifferently at dearest, without favour, or any manner partialtie or fraud.

Numb. 30. Item, that if any thing should be enact done by Counsell, that six or foure at the least, without Officers, of the said Counsell be present; and in all great matters that shall passe by Counsell, that all be present, or else the more party. And if it be such matter as the King hath be accustomed to be counselled of, that then the said Lords proceed not therein without the advise of my Lord of Bedford, or of Gloucester.

Numb. 31. Item, for as much as the two Chamberlaines of the Exchequer be ordained of old time to controule the receipts and payments in any manner wise maed; the Lordys desireth, that the Tresurer of England being for the time, and either of the Chamberlaines have a key of that that should come into the receipt, and that they be sworne to fore my Lord of Gloucester, and all the Lords of the Counsell; that for no friendship they shall make no man privy, but the Lords of the Counsell, what the King hath in his Treasorie.

Numb. 32. Item, that the Clerk of the Counsell be charged and sworne to truly enact and write daily the names of all the Lords that shall be present from time to time, to see what, how, and by whom any thing passeth.

Numb. 33. And after that all the Lords aforesaid had read before them the said Articles in Parliament, and had well considered of them, and fully assented and accorded to them; the scedule of paper, by certaine of the Honourable Lords of Parliament on behalfe of the King and all the Lords in Parliament, was sent and delivered to the Commons to be ascertained of their intent: whereupon after the said Commons had advised, the said Lords repeated in the said Parliament, that the Commons thanked all the Lords, and that THEY WERE WELL CONTENTED with all there contained in the said scedule, WITH THIS, that to the first of the said Articles there should be added one clause of parveiu, which the said Lords repeated on the behalfe of the said Commons, who delivered it to them in

Parliament in one parchment scedule written in French, the tenour whereof ensueth.

Provided alwayes that the Lords, and other persons, and Officers, which have estate, and authority, some of inheritance, some for terme of life, and otherwise, to make and institute, by verine of their offices, deputy Officers, and Ministers, which appertaine to them to make of right; and as annexed to them, and to their offices of anciere time accustomed and used; shall not be restrained nor prejudiced, of that which appertaines to them by colour of this Ordinance or appointment. To which parchment scedule, and the contents thereof, read before the Lords in Parliament, the said Lords well agreed, and fully consented.

Numb. 44. The Queen Mothers dower formerly agreed, appointed, and sworne to by all the three estates in Parliament in 9. H. 5. was now againe, upon her Petition, confirmed and settled by the Parliament, after her husbands decease. And Numb. 41. Pet. 2. The Commons petitioned, that it might then be enacted, that no man nor woman should thenceforth be compelled, nor bound to answer before the Counsell or Chancery of the King, nor elsewhere, at the suit or complaint of any person for any matter; for which remedy by way of Action was provided by the Common law; and that no privy Seale, nor subpoena should issue thence, before a Bill were first there exhibited, and also fully allowed by two Judges of the one Bench and other, that the complainant for matters and grievances in the said Bill could have no action, nor remedy at all by the common law, &c. A good Law to prevent the Arbitrary proceedings of these Courts which are now too frequent, in subversion of the Common law. Lo here in this Parliament, we have a Lord Protector, Chancellor, Tresurer, Keeper of the privy Seale, Chamberlaine, Privy Counsellors, Constables of Castles, and most other Officers of the King elected by Parliament; yea, a Commission for calling and holding this Parliament, confirmed by this Parliament when met; the Kings owne publike seales altered and new made; a new stile conferred on the King, a Kings last will, and a Queens Dower, when fallen, confirmed by the Parliament, and the privy Councell, Court of Request, and Chancery limited by it, without any diminution of the Kings prerogative royall: what injury or disparagement then can it be to his Majesties royalties, to have his great Officers, Counsellors, and Judges, thus nominated and regulated in and by Parliament at this present? surely none at all.

In the Parliament Rolls of 4. H. 6. num. 8. I finde a Commission granted to John Earle of Bedford, under the great seale (which was read in Parliament) to supply the Kings place, and power in this Parliament, and to doe all that the King himselfe, either might or ought to doe therein; because the King (by reason of his minority) could not there personally attend to doe it. Numb. 10. The Commons, by a Petition, lamentably complained of the great discords and divisions betweene certaine great Lords, and privy Counsellors of the Kingdome; and more especially, betweene the Duke of Gloucester Lord Protector, and the Bishop of Winchester Lord Chancellor, by which divers inconveniences might happen to the Realme, if not speedily accommodated: desiring the Duke of Bedford, and other Lords to accord them; Vpon which the Lords tooke a solemne Oath to reconcile them, and made an accord betwene them; which you may read at large in (m) Hall, (n) Holinshed, and (o) other our Historians, and in the Parliament Rolls, Numb. 12. 13. On the 13. day of March, Numb. 14. The Bishop of Winchester, Lord Chancellor of England, for certaine causes declared before the

(m) 4. H. 6. f. 94. to 100
(n) vol. 3, 4, H. 6, p. 590, to 600.

(o) Fox vol. 1, p. 922, to 925, Speed, Fabian, Grafton, 1033, Truffel, in 4, H. 6.

Lords in Parliament, instantly desired to be discharged of his Office, which causes they considering of and allowing, he was by the Lords discharged from his said Office: and the same day in like manner the Bishop of Bath, Treasurer of England, requested to be freed from his Office, which was that day done accordingly. Numb. 14. On the eighteenth day of March, John Bishop of Bath and Wells, late Treasurer of England, by vertue of a privy seale directed to him, brought the Kings great golden seale, sealed up in a leather Bagge, into the Parliament, and really delivered it to the Earle of Bedford, the Kings Commissary; who receiving it of the said Bishop, caused it to be taken out of the Bagge, and to be seene of all, and then to be put into the Bagge againe; who sealing the Bagge with his signet, he delivered it to be kept, to the Bishop of London, then CHANCELLOR OF ENGLAND, BY ADVISE and ASSENT of the Lords spirituall and temporall, in that Parliament. Numb. 18. The King by the advise of the Lords spirituall and temporall, and by the assent of the Commons in Parliament, makes an exchange of Lewes de Burbon, Earle of Vandosme taken prisoner at the battell of Agencourt, for the Earle of Huntingdon, taken prisoner by the French; releasing the said Earle Vandosme of his Ransome, and Oath. Numb. 19. The Duke of Bedford, Constable of the Castle of Berwick, petitioned, that the King, BY AUTHORITY OF PARLIAMENT (in regard of his absence from that charge, by reason of his continuall employments in the Kings service in France, and elsewhere) might license him, to make a Lieutenant under him to guard that Castle safely: Upon which Petition, the Lords spirituall and temporall granted him power to make a sufficient Lieutenant, such as the Kings Counsell should allow of; so as the said Lieutenant should finde such reasonable sureties for the safe keeping of the said Castle, as the Kings Counsell should approve. And in this Parliament, (p) BY ASSENT OF THE THREE ESTATES OF ENGLAND, Richard Beauchamp Earle of Warwick was ordained to be Governour of the young King, in like manner as the Noble Duke of Excester was before appointed and designed; to execute which charge he was sent for out of France the yeare following. In the three and thirtieth yeare of this Kings reign * Richard Duke of York was made Protector of the Realme, the Earle of Salisbury was appointed to be Chancellor, and had the great seale delivered to him; and the Earle of Warwick was elected to the Captainship of Calice, and the territories of the same, in and BY THE PARLIAMENT: by which the rule and Regiment of the whole Realme consisted only in the heads, and orders of the Duke, and Chancellor; and all the warlike affaires and businesse rested principally in the Earle of Warwick. From which Offices the Duke and Earle of Salisbury being after displaced, by emulation, envy and jealousie of the Dukes of Somerset, Buckingham, and the Queene, a bloody civill warre thereupon entued: after which (q) Anno 39. H. 6. this Duke, by a solemne award made in Parliament betweene Henry the sixth and him, was againe made PROTECTOR AND REGENT OF THE KINGDOM. By the Statutes of 25 H. 8. c. 22. 28. H. 8. c. 7. and 35. H. 8. c. 1. it is evident, that the power and Right of nominating a Protector and Regent, during the Kings minority, belongs to the Parliament and Kingdome; which by these Acts authorized Henry the eighth, by his last Will in writing, or Commission under his seale, to nominate a Lord Protector, in case he died, during the minority of his heire to the Crowne; and the (r) Duke of Somerset was made Lord Protector of the King and Realme, during King Edward the sixth his nonage,

(p) Hals Chron: 4, H. 6. f. 100, Grafton, p. 523. Holinshed, vol. 3, p. 1079: and Francis Thin, ibid, Howes, and Stowes Chron: p. 400, 404.

(*) Hall, Grafton, How, Speed Az. 33. H. 6. & 34.

(q) Hall, An. 38, and 39. H: 6, f. 176, to 183, Fabian, p. 470. Grafton, p. 643, to 648.

(r) Speed hist. ry, p. 1108.

BY PARLIAMENT; And not to trouble you with any more examples of this kinde, Mr *Lambard* in his *Archaion*, p. 135. *Cowell* in his *Interpreter*, title *Parliament*, *St Henry Spelman* in his *Glossarium*, tit. *Cancellarius* (out of *Matthew Westminster*, An. 1260. 1265.) *Francis Thin*, and *Holinsbed*, vol. 3. col. 1073. to 1080. 1275. to 1286. and *Sir Edward Cooke* in his *Institutes on Magna Charta*, f. 174. 175. 558. 559. 566. acknowledge and manifest, That the Lord Chancellor, Treasurer, Privy Seale, Lord chiefe Justice, * Privy Counsellors, Hicerochs, Sheriffs, with other Officers of the Kingdome of England, and Constables of Castles, were usually elected by the Parliament, to whom OF ANCIENT RIGHT THEIR ELECTION BELONGED: who being commonly stiled, Lord Chancellor, Treasurer, and chiefe Justice, &c. OF ENGLAND, nor of the King, were of right elected by the representative Body of the Realme of England, to whom they were accomptable for their misdemeanors. Seeing then it is most apparent by the premises, that the Parliaments of England have so frequently challenged and enjoyed this right and power of electing, nominating, recommending, or approving all publike Officers of the Kingdome in most former ages, when they saw just cause; and never denuded themselves wholly of this their interest by any negative Act of Parliament that can be produced: I humbly conceive, it can be no offence at all in them (considering our present dangers, and the manifold mischiefs the Kingdome hath of late yeares sustained by evill Counsellors, Chancellors, Treasurers, Judges, Sheriffs, with other corrupt publike Officers) to make but a modest claime (by way of petition) of this their undoubted ancient right, nor any dishonour for his Majesty, nor disparagement to his royall prerogative, to condescend to their request herein, it being both an honour, and benefit to the King to be furnished with such faithfull Counsellors, Officers, Judges, who shall cordially promote the publike good, maintaine the Lawes, and subiects Liberties, and doe equall justice unto all his people, according to their oathes and duties; unfaithfull and corrupt officers being dangerous, and dishonourable, as well to the King as Kingdom, as all now see and feele by wofull experience. In few words; If the (s) Chancellors, Judges, and other Officers power to nominate three persons to be Sheriffe in every County annually (of which his Majesty by law is bound to pricke one, else the election is void, as all the * Judges of England long since resolved) and their authority to appoint (t) Justices of the Peace, Escheators, with other under Officers in each shire, be no impeachment at all of the Kings prerogative, as none ever reputed it; or if both Houses ancient priviledge, to (v) make publike Bills for the publike weale, without the Kings appointment, and when they have voted them for lawes, to tender them to the King for his royall assent, be no diminution to his Sovereignty: then by the selfsame reason, the Parliaments nomination, or recommendation of Counsellors, State-officers, and Judges, to his Majesty, with a liberty to disallow of them if there be iust cause assigned, can be no encroachment nor iniury at all to his Majesties royalties; it being all one in effect, to recommend new lawes to the King for his royall assent, when there is need, as to nominate meet Officers, Counsellors, Judges, to him, to see these Lawes put in due execution. So that upon the whole matter, the finall result will be; That the Parliaments claime of this their ancient right, is no just ground at all on his Majesties part, to sever himselfe from his Parliament, or to be offended with them, much lesse to raise or continue a bloody warre against them.

* See Matth.
Paris, p. 421.

(s) 14. E. 3. c. 57.
28. E. 3. c. 7.
42. E. 3. c. 9.
(*) 12. R. 2. c.
2. 1. R. 2. c. 1
*Cookes Instit. on
Mag. Chart.
f. 558; 559.
566.*
(t) 1 E. 3. c. 16
14. E. 3. c. 7.
and 12. R. 2. c.
2. 34. E. 3. c. 1
38. E. 3. stat 2.
6. 3. 4 H. 4. c.
18. 2 H. 5. stat.
2. c. 15. 8. R. 2.
c. 9. see *Rastals
Abridgment,
Title, Justices
of Peace, Cu-
stomers, &c.
(v) Moduste-
nendi Parlia-
mentum; Ho-
linsbeds descrip-
tion of England
c. 2. p. 173.
and *Annals, of
Ireland, p. 127.
&c. 1 Jac. c. 1.
Mr. Hackwells
manner of
passing Bills.**

That the King hath no absolute Negative voyce in the passing of Bills of Common Right and Iustice, for the publike good.

THe fourth great Objection or Complaint of the King, Malignants, Royallists against the Parliament is; *That they deny the King a negative Voyce in Parliament; affirming in (y) some Declarations; That the King by his Coronation Oath and duty, is bound to give his royall assent to such publike Bills of Right and Iustice, as both howses have voted necessary for the common wealth, or safety of the Realme, and ought not to reject them: Which is (say they) an absolute deniall of his royall Prerogative, not ever questioned or doubted of in former ages.*

To this I answer first in generall. That in most proceedings and transactions of Parliament the King hath no casting, nor absolute negative voyce at all; as namely in (z) *reversing erroneous Iudgments given in inferiour Courts; damning illegall Patents, Monopolies, Impositions, Exactions, redressing, removing all publike grievances or particular wrongs complained of; censuring or judging Delinquents of all sort; punishing the Members of either house for offences against the Houses; declaring what is Law in cases of difficulty referred to the Parliament (of which there are (a) sundry presidents.)* In these, and such like particulars, the King hath no swaying negative voice at all, but the houses may proceed and give Iudgement, not only without the Kings personall presence or assent (as the highest Court of Iustice, but even against his personall Negative vote or dissent, in case he be present, as infinite examples of present and former times experimentally manifest beyond all contradiction. Nay, not only the Parliament, but Kings Bench, Common Pleas, Chancery, and every inferior Court of Iustice whatsoever, hath such a Priviledge by the Common law and (b) *Statutes of the Realm, that the King himself hath no negative voice at all so much as to stay, or delay for the smallest moment by his great or privy seale any legall proceedings in it, much lesse to countermand, controle, or reverse by word of mouth or proclamation, any resolution or judgement of the Judges given in it: If then the King hath no absolute Negative overruling voice in any of his inferiour Courts; doubtlesse he hath none in the supremeest greatest Court of all the Parliament; which otherwise should be of lesse authority, and in farre worse condition then every petty sessions, or Court Baron in the Kingdome.*

The sole question then in debate must be; *Whether the King hath any absolute Negative overruling voice in the passing of publike or private Bills?*

For resolving which doubt, we must thus distinguish: That publike or private Bills are of two sorts. First, Bills only of meere grace and favour; not of common right: such are all generall pardons, Bills of naturalization, indenization, confirmation, or concession of new Franchises, and Priviledges to Corporations, or private persons, and the like; in all which the King, no doubt, hath an absolute negative voice to assent or not to passe them; because they are *acts of meere grace (which delights to be ever free and arbitrary,)* because the king by his oath and duty, is no way obliged to assent hereto; neither can any subjects of justice or right require them at his hands, it being in the Kings free power, to dispence his favours freely when and where he pleaseth, and (c) *contrary to the very nature of free grace, to be either merited or constrained.* Secodly Bills of common right and justice, which the King by duty and oath is bound to ad-

(x) See his Majesties Answer to the Lords and Commons Re-

monstrance May 26, 1642.

(y) The Remonstrance of the Lords and Commons

May 26, and Nov. 2, 1642.

(z) See *Atthes Tables, errour* 65, to 70.

21, *1ac. c. 13; Cromptons Iurisdiction of Courts, f. 1, to 20. Smiths*

Common wealth. 1. 2, c.

1, 2. 15. E. 3. c. 2. 3.

(a) *braffon, l. 1. c. 2. 2 E. 3. f. 7. Register.*

Fol. 271.

Westm. 2. c. 28. 14. E. 3. c. 5.

25 E. 3. *stat. 2. of these that*

are borne beyond the seas.

(b) *Magna Charta. c. 29. and Cookes In-*

stitutes *ibid.*

2 E. 3. c. 8. 14 E. 3. c. 14. 15

E. 3. c. 2. 3.

18 E. 3. *stat. 3. 20 E. 3. c. 1. 2.*

1 R. 2. c. 2. 11 R. 2. c. 19.

(c) *Rom. 9. 15, 16. c. 11. 6. Nisi gratuita non est gratia*

Auguſt. De Natura & gratia.

1. 1. c. 31. 36 E. 3. the Pardon.

acts of Pardon:

E. 3. c. 4. 5. E. 3. c. 3. 1 R. 2. c. 10. 2 R. 2. c. 7. 1 H. 4. c. 20. 4 H. 4. c. 1. 6 R. 2. c. 13. *Stat. 2. c. 1.* and all generall

minister to his whole Kingdome in generall, and every subject whatsoever in particular without denyall or delay: Such are all Bills for the preservation of the publike peace and safety of the Kingdome; the Liberties, Properties, and Priviledges of the Subject; the prevention, removeall, or punishment of all publike or private grievances mischiefs, wrongs, offences, frauds in persons or callings; the redresse of the defects or inconveniences of the Common Law; the advancing or regulating of all sorts of Trades; the speedy or better execution of Justice, the Reformation of Religion, and Ecclesiasticall abuses, with sundry other Lawes, enacted in every Parliament as occasion and necessity require. In all such Bills as these, which the whole state in Parliament shall hold expedient or necessary to be passed, I conceive it very cleare, that the King hath no absolute negative voyce at all, but is bound in point of Office, duty, Oath, Law, Justice, conscience, to give his royall assent unto them when they have passed both houses, unlesse he can render such substantiall reasons against the passing of them, as shall satisfie both Houses. This being the onely point in controversie, my reasons against the Kings absolute over-swaying negative Voyce to such kinde of Bills as these, are;

(d) 2 Sam. 3. First, because being Bills of comon right and Justice to the Subjects, the denial of the
 3. 2 Chron. 9. 8, Royal assent unto them is directly contrary to the Law of God, which (d) commandeth
 Ezek. 45. 8 9. Kings to be just, to doe judgement and justice to all their Subjects, especially to the
 Est. 1. 13, 10 22, oppressed, and not to deny them any just request for their reliefe, protection or
 Dan. 3. 29 welfare.
 2 Chron. 30. 1, 308. 13.

Secondly, because it is point-blanke against the very letter of *Magna Charta* (the
 1 Chron. 13. 1, ancient fundamentall Law of the Realme, confirmed in at least 60. Parliaments) *ch.*
 29. WE SHALL DENY, WE SHALL DEFERRE (both in the future tense)
 107. Est. 9. 27. TO NO MAN. (much lesse to the whole Parliament and Kingdome, in denying
 3032. or deferring to passe such necessary publike Bills) JUSTICE OR RIGHT. A Law
 which in *terminis* takes cleane away, the Kings pretended absolute negative Voyce
 to these Bills we now dispute of.

(e) see d before. Thirdly, Because such a disassenting Voyce to Bills of this nature, is inconsistent
 Bracton. l. 1. c. 2. with the very (e) office, duty of the King, and the end for which he was instituted: to wit, the
 2. 1. 3. c. 9. For- equal and speedy administration of common right, justice, and assent to all good Lawes for
 rescue. c. 9. 10. protection, safety, ease, and benefit of his Subjects.

Fourthly, Because it is repugnant to the very Letter and meaning of the Kings Co-
 f. 5. 1. Colvins ronation Oath solemnly made to all his Subjects; TO GRANT, FULFILL, and
 safe, Defend ALL RIGHTFULL LAWES which THE COMMONS OF THE
 REALME SHALL CHUSE, AND TO STRENGTHEN AND MAIN-
 TAINE THEM after his power. Which Clause of the Oath (as I formerly mani-
 fested at large, and the Lords and Commons in their Remonstrances of *May 26.* and

(f) Page 29. (f) *Nov. 2.* prove most fully) extends only, or most principally to the Kings Royall
 12. 10. assent to such new rightfull and necessary Lawes as the Lords and Commons in Parlia-
 ment, (not the King himselfe) shall make choise of. This is infallibly evident, not onely
 by the practise of most of our Kings in all former Parliaments, (especially in King
 Edward the 1, 2, 3, 4. Rich. 2. Hen. 4, 5, and 6. reignes) whereof the first Act
 commonly in every Parliament was, the confirmation of *Magna Charta*, the Charter of
 the Forest, and all other former unrepealed Lawes; and then follow sundry new Acts
 which the Lords and Commons made choise of as there was occasion, and our Kings
 readily

ented to, (confessing they were bound to doe it by their Coronation oath and duty, as I shall manifest presently :) but likewise by the words of the Coronation Oaths of our Ancienter Kings, already cited in the first part of this Discourse; and of our Kings Oaths of latter times: The (g) Coronation Oaths of King Edward the 2. and 3. remaining of Record in French, are in the future tense. *Sire, grantez vous a tenir et garder LES LEYES et les Costumes DROITURELES les quels LA COMMUNANTE de vostre Royaume AUR ESLEU, & les defenderer et affercerer al honneur de Dieu a vostre poare?*

(g) See, the Remonstrance of the Lords and Commons Nov. 2. 1642. p. 35, 36, 37, 38.

Respons. Je le FERAY, in the future, too.

The close Roll of An. 1. R. 2. M. 44. recites this clause of the Oath which King Richard took in these words; *Et etiam de tuendo & custodiendo JUSTAS LEGES & consuetudines ecclesie, ac de faciendop per ipsum Dominum Regem, eas esse protegendas, & ad honorem Dei CORROBORANDAS quas VVLGVS JUSTE ET RATIONABILITER ELEGERIT juxta vires ejusdem Domini Regis, in the future tense. And Rot: Parliament, 1 H. 4. n. 17. expresseth the clause in King Henry his Oath, thus: Concedis JUSTAS LEGES & consuetudines esse tenendas, & promittis pte eas esse protegendas & ad honorem Dei CORROBORANDAS QUAS VVLGVS ELEGERIT secundum vires suas. Respondabit; Concedo & Promitto.*

(h) See, *Wal-singham. Hist. Angl 1 R. 2. p. 192, 193, 194.* where the whole manner of his Coronation is expressed as large.

In the Booke of Clarencieux Hanley, who lived in King Henry the 8. his reign, this clause of the Oath (which this King is said to take at his Coronation) is thus rendered in English: *Will you GRANT, FULFILL, defend ALL RIGHTFULL LAWES and Customes, the which THE COMMONS OF YOUR REALME SHALL CHUSE* (in the future, and where but in the Parliament House when and where they meet together to make good Lawe:?) *and shall strengthen and maintaine to the worship of God, after your power?* The King shall answer, *I grant and bechete.* But that which puts this past all doubt, is the Coronation Oath of King Edward the 6. thus altered by the Lord Protector and Kings Counsell in words, but not sense. *Doe you grant to make NO NEW LAWES, but such as SHALL BE to the honour and glory of God, and to the good of the Common-wealth, and that the same SHALL BE MADE BY CONSENT OF YOUR PEOPLE, AS HATH BEEN ACCYSTOMED?* Where this clause of the Oath, referres wholly and onely to future new LAWES, to be chosen and made by the Peoples consent, not to Lawes formerly enacted. And certainly it must do so, else there would be much Tautology in this short solemne Oath, unfitable to the grave wisdom and judgement of an whole Kingom to prescribe and continue for so many ages, and for our Kings in discretion to take: For the first clause of the Oath both in the Latin, French, and English Copies of ancient and present times, is this *Sir will you grant and keep, and by your Oath conforme to the people of England; THE LAWES AND CUSTOMES GRANTED TO THEM BY ANCIENT KINGS OF ENGLAND, rightfull men, and devout to God; and namely the Lawes and Customes, and Franchises granted to the Clergy and to the people by the glorious King Edward, to your power?* Which Clause relating to all Lawes and Customes granted by former Kings to the people; if this latter clause should be in the preference too, HATH CHOSEN (as the King and his mistaken Counsel object) it would be a meer Surplusage, or Battology, yea the same in substance with the first part of the Oath, and our Kings should be onely bound by their

their oathes to observe their Ancestors Lawes, not their owne as they now argue, (the reason perchance why the *Petition of Right*, and our other new Lawes are so ill observed) which is ridiculous to imagine. And where's they object, that the word **CVSTOMS** joyned to lawes in the last clause, cannot be meant of such Customes as the people shall chuse after the Oath made, because all Customes are, and must be time out of minde. The Answer is very easie; For Customes here are not taken strictly for ancient usages time out of minde; but for Statutes, Franchises, just Liberties, or Taxes for the Kingdoms defence, chosen & freely granted by the Commons or people, and to be confirmed by the King in Parliament; as appears by the first clause of the oath, the laws & customs granted to them by the ancient Kings of England. And by (i) *Bracton* himself, who expounds this clause of the oath to relate to future Lawes, newly made by our Kings after their Coronations, in this observable passage. *Hujusmodi vero leges Anglicanae & CONSVETVDINES, regum autoritate jubent quandoque, quandoq; vetant, & quandoque vindicant, & puniunt transgressores; quas quidem cum FVERINT APPROBATÆ CONSENSV VTIENTIVM ET SACRAMENTO REGVM CONFIRMATÆ, mutari non poterunt nec destrui, SINE COMMVNI CONSENSV EORVM OMNIVM, quorum CONSILIO ET CONSENSV FVERVNT PROMVLGATÆ.* Now no Customes properly so called, can commence by way of grant, especially of the King alone; but only by the people and common usage for a good space of time (as the Customes of Gavelkinde, Burrough English, and such like, never granted nor commenced by Charter or Act of Parliament, did;) and if the King by Charter or Act of Parliament, should grant a new Custom, before it were a Custom in this sense, it would be utterly void in law, because there was no such custome then in being, and no grant or act can make or create a custome or prescription that had no former being. I therefore Custome in this oath, coupled with just and reasonable, must needs be meant only of such just and reasonable statutes, liberties, penalties, immunities, aides, taxes, or services for the subjects ease and benefit, and the publike service, as they upon emergent occasions shall make choice of in Parliament; of whose iudgement and reasonableness not the King alone, but the grand Councell of the Kingdom (assembled in the Parliament, to this very end, to iudge of, make, and assent to just and profitable Lawes) are and ought to be the proper Iudges, as I have elsewhere manifested; and the very words of the oath, *QUAS VULGUS ELIGERIT*, to which *justas leges & consuetudines* relates, relolve beyond contradiction. And King *David* and *Achish* both were of this opinion, 1 Chron. 13. 1. to 6. 2 Sam. 18. 2, 3, 4. 1 Sam. 29. 2. to 11. and King *Hezekiah* too 2 Chron. 30. 1. to 7. 23. yea God himselfe, and *Saanel* too: 1 Sam. 8 4 to the end.

Fifthly, Because it is directly contrary to the preambles and recitals of sundry Acts of Parliament in most of our Kings reignes comprising the two last reasons. To instance in some few of many: the ancient statutes of * *Marlbridge* begin thus. The yeare of grace 1267. for the better estate of the Realme of England, and for the more speedy ministracion of Iustice, AS BELONGETH TO THE OFFICE OF A KING, the more discreet man of the Realme being called together, as well of the higher as of the lower estate: It was provided, agreed, and ordained, that whereas the Realme of late had bene disquieted with manifold troubles and distractions, for reformation whereof statutes and lawes BE RIGHT NECESSARY; whereby the peace and tranquility of the people may be conserved, wherein the King intending to de-

vise

(i) lib. 1. c. 2.
f. 1. b.

(k) see *Brook*
and *Fitz. Her-*
bert. and *Asb.*
Title *Custom.*
& *Prescription.*
Cookes Instit.
on *Littleton*, f.
110. b. 113. b.
175. b.

(l) *Cookes Instit*
on *Littleton* f.
58. b. and the
Bookes there
cited, *Register*.
f. 151. *Briefe de*
CONSVETV-
DINIBVS &
servicis.

Now *Mal-*
wrough.

*wise convenient remedy, hath made these Acts underwritten. The Statutes of 3 Edw. I. have this Prologue. These be the Acts of King Edward, &c. at his first Parliament generall after his Coronation. Because our Sovereigne Lord the King hath great zeal in desyre to redresse the state of the Realm in such things AS REQUIRED AMENDMENT for the common profit of the holy Church, and of the Realme &c. the King hath ordained and established these Acts underwritten, which he intendeth TO BE NECESSARY AND PROFITABLE unto the whole Realme. And cap. 17. in the Marches of Wales, and elsewhere, where the Kings Writs be not currant, the King which is chiefe and soveraigne Lord there, SHALL DOE RIGHT THERE unto such as will complaine. And cap. 48. * The King hath ordained these things unto the honour of God, and holy Church, and for the commonwealth, and for the remedy of such as be grieved; and for as much as it is great charity (which is oftimes put for Iustice, as here) TO DOE RIGHT VNTO ALL MEN AT ALL TIMES WHEN NEED SHALL BE by assent of all &c. it was provided. The statute of Glocester in the 6. year of King Edw. I. is thus prefaced. For the great mischiefs and disinherisons that the people of the Realme of England have heretofore suffered, through default of the law that failed in divers cases within the said Realm; our soveraigne Lord the King for the amendement of the land; for the reliefe of his people; and to eschew much mischiefs, damages and dis-inherisons, hath provided established these Acts underwritten, willing and commanding that from henceforth they be firmly kept within this Realme. The Statutes of Westminster, 2. in his 13. year begin thus: Whereas of late our soveraigne Lord the King, &c. calling his Counsell at Glocester, and considering that divers of this Realm were disherited, by reason that in many cases, where remedy should have been had, there was none provided by him nor his Predecessors, ordained certaine statutes, right necessary and profitable for his Realm, whereby the people of England and Ireland have obtained more speedy Iustice in their oppressions then they had before, and certaine cases (where in the law failed) did remaine undetermined, and some remained to be enacted that were for the reformation of the oppressions of the people; our soveraigne Lord the King in his Parliament holden &c. the 13. year of his reign at Westminster, caused many oppressions of the people, and defaults of the lawes, for the accomplishment of the said statutes of Glocest. to be rehearsed, and thereupon did provide certaine Acts here following. The Statute of Quo Warranto, An. 1278. (the 6. year of this King, made at Glocest.) hath this exordium. The King himself providing for the wealth of his Realm, and the more full administration of Iustice, AS TO THE OFFICE OF A KING BELONGETH; the more discreet men of the Realm, as well of high as of low degree being called thither, it was provided &c. The Stat. of York 12 E. 2 hath this Prologue. Forasmuch as people of the Realm of England and Ireland have heretofore suffered many times great mischiefs, damage and disinherison by reason that in divers cases where the law failed, no remedy was purveyed &c. our soveraigne Lord the King desiring THAT RIGHT BE DONE TO HIS PEOPLE at his Parl. holden at York &c. hath made these Acts & statutes here following, the which he willeth to be straitly observed in his said Realm. In 9. Ed. 3. in a Parliament held at York, * the Commons desired the King in the said Parliament by their Petition, that for the profit and commodity of his Prelates, Earls, Barons, and Commons of his Realm, it may please him, WITHOUT FURTHER DELAY, upon the said grievances and outrages to provide remedy: our soveraigne L. the K. desiring the profit of his people by the assent of his Prelates &c. upon the said things disclosed to him, & found true, to the*

* It estm. the first.

* In the Statutes at large it is c. 48. but 51. in Mag. Chartas.

* The Prologue an d c. 1.

great hurt of the said Prelates &c. and oppression of his Commons, hath ordained and established &c. In 10. E. 3. stat. 1. there is this introduction. Because our Sovereign Lord the King Edw. 3. WHICH SOVERAIGNLY DESIRETH the maintenance of his peace, and safeguard of his people, hath perceived at the complaint of the Prelates, Earls, Barons, and also at the shewing of the Knights of the shires, and the Commons in their Petition put in his Parliament &c. divers oppressions and grievances done to his people &c. COVERTING to obviate the malice of such felons, and to see a covenable remedy, hath ordained &c. for the quietnesse & peace of his people that the articles underneath written be kept and maintained in all points 14 E. 3. stat. 1. To the honour of God &c. the King for peace and quietnesse of his people, as well great as small, doth grant and establish the things underwritten. The like we have in 15. E. 3. Stat. 1. and in this Kings Proclamation for revoking it, there is this passage; *Wee considering, how BY THE BOND OF OUR OATH WE BE BOUND TO THE OBSERVANCE AND DEFENCE OF THE LAWES AND CUSTOMES OF THE REALME, &c.* So in 20. E. 3. Because that by divers complaints made to us, we perceived that the Law of the land which *WE BY OVR OATH BE BOVND TO MAINTAINE* is the lesse well kept, and the execution of the same disturbed many times, &c. *WE GREATLY MOVED OF CONSCIENGE IN THIS MATTER*, and for this cause desiring as much for the pleasure of God and ease and quietnesse of our Subjects AS TO SAVE OUR CONSCIENGE AND TO KEEP OUR SAID OATH, by the assent of the great men and other wise men of our Counsell, we have ordained these things following. 25. E. 3. c. 8. That in no wise ye omit the same, as ye love us and the Common wealth of this Realme. 25. E. 3. stat. 2. Because that Statutes made and ordained before this time have not been holden and kept as they ought to be, the King willing to provide quietnesse and common profit of his people, by the assent, &c. hath ordained and established these things underwritten. The passage in the Statute of Provisors, 25. E. 3. Parliam. 6. is notable. Whereupon the said Commons have prayed our Sovereign Lord the King, that *SITH THE RIGHT OF THE CROWNE OF ENGLAND, AND THE LAW OF THE SAID REALME IS SUCH*, that upon the mischiefes and dammages which hapneth to his Realme, HE OUGHT AND IS BOUNDEN OF THE ACCORD OF HIS SAID PEOPLE IN PARLIAMENT THEREOF TO MAKE REMEDY, AND THE LAW OF VOIDING THE MISCHIEFS and dammages which thereof cometh, that it may please him thereupon to ordaine remedy. Our Sovereign Lord the King seeing the mischiefes and dammages before named, and having regard to the Statute, made in the time of his Grand-father, and to the cause contained in the same; which statute alwayes holdeth his force, and was never defeated, nor annulled in any point; and by so much AS HE IS BOUNDEN BY HIS OATH TO DOE THE SAME TO BE KEPT AS THE LAW OF THIS REALME though that by sufferance and negligence it hath been attempted to the contrary; also having regard to the grievous complaints made to him by his people in divers his Parliaments holden heretofore, willing to ordaine remedy for the great damage and mischiefes which have hapned and daily doe happen to the Church of England by the said cause; By assent of the great men and Commonalty of the said Realme, so the honour of God and profit of the said Church of England, and of all his Realme, hath ordered and established, &c. 28. E. 3. The King for the common profit of him and his people, &c. hath ordained. 36. E. 3. To the honour and pleasure of God, and the amendment of the outrageous grievances

and oppressions done to the people, and in reliefe of their estate, King Edward, &c. granted for him and his Heires for ever these Articles underwritten. 1. R. 2. To the honour of God and reverence of holy Church, for to nourish peace, unity, and concord, in all the parts within our Realme of England, which we doe much desire; wee have ordained, &c.

2. R. 2. For the honour of God, and of holy Church, and for the common profit of the Realme of England, our Sovereigne Lord the King hath ordained, &c. for the quietnesse of his said people the Statutes and Ordinances following, &c. cap. 2. (with 2. H. 4. c. 1.) Our sovereigne Lord the King greatly desiring the tranquility and quietnesse of his peop'e, willeth and straitly commandeth, that the peace within his Realme of England be surely observed and kept, so that all his lawfull subiects may from henceforth safely and peaceably goe, come, and dwell after the Law and usage of the Realme, and that Iustice and right be indifferently ministred to every of his said subiects, as well to the poore as to the rich in his Courts. 1. H. 4. Henry by the Grace of God, &c. to the honour of God and reverence of holy Church, for to nourish peace, unity, and concord of all parties within the Realm of England, and for the reliefe and recovery of the said Realme, which now late hath been mischievously put to great ruine, mischiefe and desolation, of the assent, &c. hath made and established, &c. 6 H. 4. c. 1. For the grievous complaints made to our sovereigne Lord the King by his Commons of the Parliament of the horrible mischiefs and damnable custome which is introduced of new, &c. Our sovereigne Lord the King to the Honour of God, as well to eschew the dammage of this Realme, as the perils of their soules which are to be advanced to any Archbishoppricks or Bishoppricks, &c. hath ordained. Divers such recitalls are frequent in most of our statutes in all Kings raignes, viz. 37. E. 3. c. 2, 3, 4, 5. 3. R. 2. c. 3. 5. R. 2. Stat. 1. 2. 6. R. 2. Stat. 1. 7. R. 2. 8. R. 2. (For the common profit of the said Realme and especially for the good and iust government and due execution of the common Law, it is ordained, &c.) 10. R. 2. Prologue & c. 1. 11. R. 2. c. 1. 12 R. . 13. R. 2. Prologue & c. 3, 5, 6. 14. R. 2. 21. R. 2. 1. H. 4. & 5. c. 7. 1. H. 6. 8. H. 6. Prologue & c. 25. 10. H. 6. c. 3. 12 H. 6, c. 12. 39. H. 6. Prologue 1. R. 3. c. 2. 6. 8. 3. H 7. c. 5. 11. H. 7. c. 18. But I shall conclude with some more punctuall ones. 38 E. 3. Stat. c. 1. 2. To nourish love, peace, and concord between holy Church and the Realme and to appease and cease the great hurt and perils and importable losses and grievances that have been done and happened in times past, and shall happen hereafter, if the thing from henceforth be suffered to passe &c. for which causes, and dispensing whereof, the ancient lawes, usages, customes, and franchises of the Realme, have beene and be greatly appaired, blemished, and confounded, the Crown of the King minished, and his person falsly defrauded, the treasure and riches of his Realme carried away, the inhabitants and subjects of the Realme impoverished, troubled &c. the King at his Parliament, &c. having regard to the quietnesse of his people, which he chiefly desireth to sustaine in tranquility and peace, to governe according to the Lawes, Usages, and Franchises of this Land, as HE IS BOUND BY HIS OATH MADE AT HIS CORONATION; following the wayes of his Progenitors, which for their time made certaine good Ordinances and provisions against the said grievances &c. by the assent &c. hath approved, accepted, and confirmed &c. 2 R. 2. c. 7. Because the King hath perceived, as well by many complaints made to him, as by the perfect knowledge of the thing &c. the King desiring sovereignly, the peace and quietnesse of his Realme, and his good Lawes and Customes of the same, and the Rigthes of his Crowne to be maintained and kept in all points; and the offenders duly to be chastised and punished, AS HE IS SWORNE AT HIS CORONATION,

by the assent of all the Lords &c. hath defended &c. And moreover it is ordained and established &c. 3 R. 2. Rot. Parl. Num. 38. & 40. The Commons desiring a grant of new power to Iustices of Peace, to enquire into extortions; the Bishops conceiving it might extend to them, made their protestation against this new grant; yet protested, that if it were restrained only to what was law already, they would condescend to it, but not if it gave any new or further power. The King answers, that notwithstanding their protestation, or any words contained therein, he would not forbear to passe this new grant, and that **BY HIS OATH AT HIS CORONATION HE WAS OBLIGED TO DO IT.** And 6 H. 6. c. 5. *We, for as much as by reason of our Regality, WE BE BOVNDEN TO THE SAFEGVARD OF OVR REALM round about, willing in this behalfe convenient hasty remeay to be adtribute, have assigned, &c.* By these, with infinite such like recitalls in our ancient and late statutes in the Kings owne Proclamations, Commissions, yea and in writs of law (wherein wee find these expressions; (a) *Nos qui singulis de regno nostro in EXHIBITIONE IVSTITIÆ SVMVS DEBITORES; planam & celerem justitiam exhibere facias.* (b) *Nos volentes quoscunque legios nostros in curiis nostris &c. justitiam sibi &c. nullatenus differri. Ad justitiam inde reddendum cum omni celeritate procedatis* (c) *Nos oppressiones, duritias, damna excessus, & gravamina predicta nolentes relinquere impunita; volentesque SALVATIONI & QUIETI POPVLI NOSTRI hac parte PROSPICERE VT TENEMVR; eidem celeris justitia commentam, & debitum & festinum iustitia complementum fieri facies,* (d) *Nos huiusmodi prauidicio precavere volentes, prout ASTRINGIMVR IVRAMENTI VINCVLO. Quia iudicia in curia nostra citoreddita in suis roboribus manuteneri volumus & defendi prout AD HOC IVRAMENTI VINCVLO ASTRINGIMVR & TENEMVR.* &c. It is most apparent, that the Kings of England both by their oath, duty, and common right, even in point of justice and conscience, are bound to assent to all publike Acts as are really necessary for the peace, safety, ease, weale, benefit, prevention of mischiefs and redresse of greivances of all, or any of their subjects, without any tergiversation, or unnecessary delays, when they are passed and tendered to them by both Houses, and that in such acts as these they have no absolute Negative voice at all, but ought to give their speedy, free, and full consents thereto, unless they can give satisfactory reasons to the contrary.

Sixthly, All our ancient Kings of England, as the premises, with all publike usefull statutes enacted in their reigns evidence) have alwayes usually given their free and full consents in Parliament to such publike acts as these, without deniall or protraction, conceiving they were bound by oath and duty so to doe; and if they ever denied their royall assents to any Petitions or Bills of the Lords and Commons of this nature, they alwayes gave such good reasons for it as satisfied both Houses: witness their answers to infinite Petitions yet extant among the Parliament records. Therefore the King now is as much obliged thereto as they.

Seventhly, If the King in point of law, should have an absolute negative voice in denying his assent to publike Bills of meere right, and justice; then he should have power by law to deny justice and right, and to doe wrong and iniustice to his people; a prerogative which neither God himselfe, nor any lawfull Monarch ever yet challenged; but renounced with greatest detestation. I read in *Plutarch that when a flatterer said to king *Antigonus*, that all things were honest and iust to Kings, he answered:

(a) Register, part 2, f. 76. 15. a.

(b) *ibid* f. 10. 38. b. 127. b. 180. a.

(c) *ibid* f. 125. b, 126. 129.

(d) *ibid* f. 42. a, 43. b, secf. 60. to 65.

ly indeed to Kings of Barbarians but to us honest things are to be accounted for honest, only iust things for iust: And that ** Acrotatus* gave the like answer to his parent, when they pressed him to doe an uniuist thing: *Quoniam vultis me optima agere, optimum utem est cum privato, tum multo eis immagis Principi id quod est iustum, agam que vultis, que v rō dicitis deirellabo.* Yea our law expressly denies the King any such uniuist prerogative, by these unquestionable maximis: (f) the King neither can, nor ought by Law to doe any wrong. seeing he is Gods Vicar, and the fountaine of Iustice. *Et hoc solum Rex non potest facere, quod non potest iuste agere:* which our (g) law-books make no defect of power, but one of the highest branches of the Kings Prerogative: For confirmation whereof, I shall only cite one notable Record, 7. H. 4. Rot. Parl. Numb. 59. *The Commons complained, that by the favour of Ordinaries, diuers incumbents were outed of their benefices by superinstitutions upon presentations of the King, contrary to the statute in that case provided; and were denied a Scire facias, without a speciall license or command of the King first obtained, to the great offence of God, and against reason and law * BECAUSE SUCH AN ACT CANNOT BE ANY PREROGATIVE AT AL IN OUR LORD THE KING, WHICH IS DEROGATIVE TO THE EXECUTION OF RIGHT AND IVTICE.* Wherefore they petitioned the King, that he would be pleased to grant and command the Chancellor, to deliver a Writ of scire facias to every of his Lieges who are outed of their benefices or possessions by the foresaid title of the King, and that thenceforth the Chaneollors shall bee bound to deliver by authority of their Offices this Writ of scire facias at the sute of the parties; and further, to doe right to the parties, without suing to the King, and without other warrant from him. To which the King gives this answer. *The King wills, that the said statute be firmly held and kept; and farther willeth and granteib, that if he presents to any benefice which shall bee full of any Incumbent, that the Presentee of the King shall not be received by the Ordinary to such a benefice, untill the King hath recovered his presentment by processe of Law in his owne Court: and if any Presentee of the King bee otherwise received, and the Incumbent outed without due Processe, as foresaid, the said Incumbent may commence his sute within one yeare after the Induction of the Kings Presentee, or later. And further, the King wills, that no ratification granted for the Incumbent, after that the King hath presented and taken his sute, shall bee allowed pending the plea, nor after the judgement given for the King; but that such judgement shall bee fully executed, as reason demands. Loc here the Commons and Parliament affirme, and the King himselfe subscribes thereto: That the King neither hath, nor yet can have any Prerogative at all, which is derogative, or any impediment at all in the execution of Right and Justice; and disclaime a negative voyce, or power, in him, in granting a scire facias to particular Incumbents, unduly outed of their Living by a pretended prerogative power, against Reason and Law: Therefore forever, the King, by his prerogative, neither hath, nor can have any absolute Negative voice at all to hinder the passing of publike Bills presented to him by both Houses, for the due execution of right and iustice, and the weale, peace, or safety of the whole Kingdome. That speech of (b) King Zedekiah to his Princes (though in a bad case) is an undoubted verity here: Behold bee is in our hands; FOR THE KING IS NOT HE THAT CAN DOE*

** Plutarch. Apo. tbeq. Laion. p. 458.*

(f) *Bract. l. 1. c. 8. l. 2. c. 16. l. 3. c. 9. Flet. l. 3. c. 3. 17. & f. 5. 7. Cooke l. 11. f. 72. 74. l. 7. Fortesc. c. 9. 10. 15. Ploud. 246. 247. 487. 21 E.*

(g) *Plouden, f. 246. 247. & Ashes Table, Prerog. 60. Iudge Crooks Argu. against ship-money, p. 58. to 65.*

** Pur ceo que tiel fait ne peut mye estre Prerogative en nostre Seigneur le Roy que est derogatif al execution de droit et iustice.*

(b) *Ier. 38. 5.*

- (ii) Tit. 1. 2. Heb 6. 18 ANY THING AGAINST YOU: and likewise of King *David* to his people: (k) 2 Tim. 2. 13 (l) Mal 3. 6. (m) 1. 17. (n) 13. 25. (o) 1. 3. 8. (p) 1. 3. 8. (q) 1. 3. 8. (r) 1. 3. 8. (s) 1. 3. 8. (t) 1. 3. 8. (u) 1. 3. 8. (v) 1. 3. 8. (w) 1. 3. 8. (x) 1. 3. 8. (y) 1. 3. 8. (z) 1. 3. 8.
- WHAT SEEMETH TO YOU BEST I WILL DO. In one word, as it no impotency in God, but a part of his owne divine prerogative; (i) that he cannot possibly ly, that he cannot deny himself; (l) that he is immutable and changeth not, that he (m) cannot do injustice: And as it was the Apostles highest priviledge, (n) that we can do nothing against the truth, but for the truth. So it no note of impotency but of highest Sovereignty in our Kings, that in all Bills of publike Right and Common Justice, they have no Negative voice or power at all to withstand or deny their passing; for then they should have a prerogative to deny common Right and Justice, and to doe publike injustice, which God himselfe (whose viseregents they are) is incapable of, and never derived to them. I will close this reason with that memorable speech of that great heathen Emperour *Julius Caesar*, which he somtimes used at *Rome* in the Councill-house; *Touching all other affaires that are to be taken in hand for your sake, I am both your Consul, and your Dictator; but as touching any wrong to be done to any man, I am as a private man without office.*
- Eighthly, Our Kings have ever claimed this as an absolute duty from their subjects in Parliament, to grant them such speedy, free, and competent ayds, subsidies, customes for the necessary defence of themselves, and the Kingdome, and support of their royall estates, as the urgency of their publike warrs, and affaires required; and the subjects (though they have somtimes denied subsidies to their Princes upon reasonable causes, and excuses alleadged by them, expressed in our (n) *Historians*) yet have always held it their (o) BOUNDEN DUTY to grant such ayds in Parliament, when (and sometimes before) they have been required, and have really done it without refusal, when they saw just cause to grant them; as all the old and new Acts for the grant of *Customes, Subsidies, Dismes, Quindismes, Tonnage and Poundage, Polemoney*, with other such aides in all our Kings Reignes, abundantly evident. Therefore the King (who is as much obliged by oath and duty to aid his subjects, and provide for their common protection, weale, peace, ease, as they are to provide for His, and the Kingdomes safety) is by like reason as much obliged in duty not to deny them such publike Acts; as they are not to deny him publike aides.
- Ninthly, Kingdomes and Commonweales were existent before Kings, for there must be a Kingdome, and society of men to governe (as (p) *Aristotle*, (q) *Cicero*, (r) *Polybius*, (s) *Augustine*, (t) *Fortescue*, and all other Politicians accord) before there could be a King elected by them, for to governe them: And those Kingdomes and societies of men had (for the most part) some common lawes of their owne free choice by which they were governed, before they had Kings; which lawes they (u) swore their Kings to observe before they would crowne or admit them to the government; and likewise gave them a further oath, to passe and confirme all such subsequent lawes as they should make choice of for their publike benefit and protection; as is evident by the Coronation oath of all our owne (yea of other *Christian*, and most *Pagan Kings*) continuing to this very day; and these words in the Kings oath *QUAS VULGUS ELEGERIT* (which intimates the choice of Lawes to be wholly and fully in the people free elections) prove beyond Contradiction: Yea those ancient law-givers (x) *Solon*, *Selenechus*, *Lycurgus*, *Numa*, with others, who tooke paines to compile Lawes for severall Kingdomes and Republikes, did only recommend them to the people, whose voluntary assent and shew made them binding; Which lawes they either altered or re-
- peale

called as they saw cause. Besides, during *Interregnums* in forraigne elective Kingdomes, the Estates in Parliament have power to make new binding Lawes, repeale and alter old, as they did in (y) Aragon after Sanchus his decease before they elected a new King (whom they swore to observe the Lawes then made, before they would admit him) without any Kings assent at all, who yet give their royall assent to Lawes made in their reignes: And in our owne and other successive Kingdomes during the Kings infancy, dotage, absence, the Kingdomes and Parliaments have an absolute power (as I have already manifested) to create Regents or Lord-Proteectors to execute royall authority and give royall assents to publike Acts in the Kings name and steads, without their actuall personall assents; which lawes being necessary for the Subject, shall be as firme and obligatory to King and Kingdome, as those to which they actually assent: Yea, if Kings chance to die without any heire, the Kingdome in such a case may assemble of themselves, and make binding necessary lawes without a King, and alter the very frame of government, by publike consent. Therefore the royall assent to just, necessary, publike Bills, is in truth but a formall Ceremony or complement (much like a Kings Coronation) (z) without which he may be, and is a lawfull King, bestowed by the people upon Kings for their greater honour, with this limitation, that they must not deny it when they of right require it; not simply to make, but declare and confirme a law already made and passed by both houses (much like a Tenants (a) attornment to the grant of a Reversion) And therefore Kings may neither in law, nor conscience deny it when it is necessarily demanded to any just publike Bills, unlesse they can shew good reason to the contrary, so farre as to satisfie the people why such lawes should not passe.

Tenthly, Our very lawes in many cases deny the King an absolute negative voice or power, even in matters of Prerogative, because they are contrary to his oath, and mischeivous to the Republike. This appeares most clearly in matters of Pardons, the Statute of 2 E. 3. c. 2. 14 E. 3. c. 15. 13 R. 2. c. 1. 16 R. 2. c. 6. enact. That Charters of pardon shall not be granted for manslaughter, Roberies, Fellonies, and other Trespasse, but ONLY WHERE THE KING MAY DOE IT BY HIS OATH; that is to say, where a man slayeth another in his owne defence, or by misadventure, or in case, where he may doe it KEEPING AND SAVING THE OATH OF HIS CROWNE. So the King (b) cannot pardon nor release the repairing of a Bridge or Highway, or any such like publike charges, or any publike Nusances or offences against panall Lawes pro bono publico, because it is contrary to the trust and confidence reposed in him for the publike good, because the republike hath an interest herein: and the pardoning of them would be mischeivous for the common good: In like manner the King (c) cannot deny, delay, nor deferre Justice, nor stay the Judges from doing present right and justice to any of his Subjects by his Letters under his great or privy seale, because it is contrary to his oath and duty: Neither (d) can he by his absolute Prerogative, impose any the least tax or imposition on his subjects without their common consent in Parliament; nor (e) yet authorize any other to kill, beat, wound, imprison any mans person, or take away his goods, without due processe of law; Yea the very lawes and custome of the Realme deny the King any absolute negative voice even in the Parliament House in reversing erroneous Iudgments, Charters, Patents, declaring what is law in difficult cases, or in proceedings and sentences against Delinquents, or in any one particular whatsoever which concernes the administration of

(y) Hieron. Blanca, Aragon. f. Retin. i. comm. p. 588, 589. Ioannis Mariana De Rebus Hisp. l. 8. c. 1. Hier Pauli Regum Aragonen: script. cs. Ioannes Pistorius Hispani. illustr: Tom 2 p. 849
(z) Cooke's Report, Calvin's case f. 10, 11. Cooke 7, Report f. 36, 37.
(a) See Littleton's chap. of Attornment, and Cooke's Instit. i. d.
(b) Cooke l. 7. f. 36, 7. 37, H. 6. 34. Brooke's charter de Pardon. 14. 5, report f. 50. 51.
(c) Mag. Chart. 29. E. 3. c. 2. 14 E. 3. c. 14. 1 R. 2. c. 53.
(d) See Iudge Crookes and Hutton's argument against Shipmoney, & the Bookes and Statutes therein cited.
(e) 1 R. 7. f. 12. Er. Charter de Pardon, 76. 42. Aff. 5. 12. Er. Com. 15, 16.

right or common Iustice. Therefore by the selfesame reason, the very law denies him any such negative voice in refusing his royall assent to Bills of common right and Iustice; And as both Houses doe allwayes over-rule the King, nor He both Houses in the one; so, by parity and congruity of reason, they ought to over-sway him in the other; there being the same reason in both cases, and the one no greater an entrenchment upon his Prerogative then the other.

(b) *M. Mack-*
nels passing
Bills, p 78 with
others for. ci-
ted. A Remem-
brance of both
houses, Nov 2.
1642. p. 17.

Eleventhly, This is infallibly proved by the usuall forme of our Kings answers to such Bills as they assent not to, (b) *Le Roy soit avisé; The King will be advised, or take further consideration: which is no absolute denyall, but a craving of longer time to advise upon them, and thereupon to assent to them if he can see no just cause to the contrary, or else to give satisfactory reasons why he cannot assent:* Which answer were not proper, nor formall, had the King an absolute negative voyce. to reject Bills, without rendring a sufficient reason of his refusall of them.

(c) *Polit. l. 3. c.*
7.

Twelfthly, Publike Bills for the Subjects common good, are formed for the most part, by the Lords and Commons themselves, who in truth (as I have elsewhere proved) are the chiefe Law-makers, & who (as (c) *Aristotle defines*) know better what is good and necessary for their owne benefit, then the King, their publike Minister for their good; *Itaque maiorum rerum potestas iure populo tribuitur*, is *Aristotles* resolution. Therefore in passing such Bills, there is greater reason, that both Houses should over-rule the King, then the King them. It is usuall in all inferiour Counsels of State, Law, Warre, of the Kings owne choise, for the Counsell to over-rule the King in matters of State, Law, Warre, unlesse the King can give better reasons against, then they doe for their conclusive advise; and Kings in such cases doe usuallly submit to their Counsels determinations, without contradiction; of which we have sundry Presidents, not onely in profane, but (d) *Sacred Story*. Physicians in points of Physicke, Lawyers of Law, Divines of Divinity, Souldiers of Warre, Pilots of Navigation; and so all Artists in their severall Arts, not only instruct, but over-sway their Princes, without finall contradiction: This being a knowne received Maxime in Law; *Vnicuique in sua arte perito est credendum*: And shall not then the Grand Counsell of the Realme in all publike State-affaires, & Bills of Consequence, much more over-rule the King, then his Privie-Counsell? Especially since in the Statutes of *H. 4. c. 6. 4. H. 4. c. 1.* it is enacted to the end that the King may not be deceived in his Grants and Gifts, annuall or in fee, or in any offices by him to be made, given, or granted, **HE WILL by the assent of the Lords spirituall and temporall, and at the request of the Commons BE COUNSELLED BY THE WISE MEN OF HIS COUNSELL IN THINGS TOUCHING THE ESTATE OF HIM AND HIS REALME; and that he will make no such gifts nor grants, saving to such persons as the same deserveth, and as best shall seem to the King AND HIS COUNSELL.** And sith it is THE DESIRE OF ALL THE ESTATES OF THE REALME, that nothing should be so demanded of the King; he wills that all those that make any such demand contrary to this Statute shall be punished by advise of him and his Counsell, and that he that maketh such demand, shall never have the thing so demanded. A law now meet to be put in execution.

(d) *1 Sam. 4.*
38. 24. c. 29. 7.
20 11. 2 Sam. 14.
2. 3. 4. c. 19. 1. 10
9. 1 Chron. 13. 1
10 6. 2 Chron. 30
1. 35. 23. F. 10. 1
13. 10. 2. Jer. 38
4. 10. 2. Dan. 6.
4. 10. 20.

Thirteenthly, If the King should have an absolute Negative Voyce, in refusing such publike Bills as are necessary and expedient for the common good and safety of his people, it would rest in the meere power and pleasure of a wilfull or misadvised King, seduced by evil Counsellours, to deprive the Kingdome of the principall use, benefit,

and priviledges of Parliaments, (the making of good and wholesome Lawes, for the good government of the Realme, the removal or prevention of emergent grievances or dangers, and execution of publike Justice on Delinquents; to the great perill, prejudice, if not ruine of the Realme.) And our (f) Annuall or Trienniall Parliaments should serve then to no other purpose, but to supply the King with Subsidies, or keep the Wool sacks and Benefices from growing mouldy, whilst the Lords and Commons sat upon the rather like so many Cyphers without a figure, then a Court of Parliament; if the Lawes of the Realme were in the Kings hand or breast alone, as Richard the 2. sometimes said they were (a) (g) Article objected against him at his deposing,) contrary to that approved resolution of (b) Aristotle whatsoever seemes good to the maior part of the Governours of the common-wealth that is established for a Law; which holds good in the Kingdome of (i) Aegon at this day; where the King in making publike Lawes hath no absolute negative voice, nor yet in summoning of Parliaments, which are constantly held at their first times every year or two at furthest, whether the King will or not.

Fourthly, God himselfe (the King of Kings, and Lord of Lords) held this a principall part of his soveraigne divine Prerogative; to give his people from heaven when they needed and required it) right Judgments, and Lawes of truth, good Statutes and Commandements for their good and wellfare: Neh. 9. 14. Exod. c. 19. and 20 and 21. Deut. 4. 8. to 41. and chap. 5. throughout: Neither doth, will or can he deny any just or necessary suite, prayer or petition that his poor servants and creatures (though not dust and ashes) jointly, or severally put up unto him; but most willingly grants without the least deniall, or unnecessary delay, what ever good and needfull things they require at his hands. And can or dare Kings then claime a greater, an higher Prerogative over their Kingdomes, and subjects, then God himselfe, the King of Kings, doth over his creatures? or arrogate to themselves an absolute Negative voice, where God himselfe (whose servants and vicegerents only Kings are) neither hath nor will have any, but utterly disclaimes it? God forbid, that any such arrogant thought should ever enter into the hearts of any christian Kings, who being in truth but servants to, not absolute Lords over their Kingdomes, in whom the soveraigne legislative power and authority resides, must, and ought by the Lawes of God and man, rather condescend to their Parliaments and Kingdomes just requests, in assenting to necessary wholesome Lawes, then their Parliaments and Kingdomes quietly submit to their unjust dissent unto them to the publike prejudice, as is clear by 2 Sam. 8. 4. to the end.

Finally, our Ancestours have been so farre from beleeving, that our Kings have an absolute negative voice in such Bills as these, that they have not onely constrained our Kings by threats, yea force of Armes, to summon and continue Parliaments, but likewise compelled them to give their Royall Assents to Magna Charta, Charta de Foresta, (confirmatio Chartarum, Articuli super Chartas; with sundry other publike Statutes of Right and Justice for the common good and Subjects safety, and to ratifie them with their hands, Seales, Oathes, Proclamations, the Bishops solemne excommunications, yea and the Popes leaden Bulls, against their will and liking, as I have plentifully manifested in the former part: Which forced assents have been held good in Law, to binde these Kings and their successours, with this distinction; where the Lawes to which this assent was forced are convenient, necessary, or essentiall for the Kingdome wellfare, the Subjects just Liberty, and such as the King by duty and oath is bound to assent to; there, if they compell the King to give his assent in case of wilful denyall

Sir Tho. Smiths
Commonwealth
l. 2. c. 12, Brook
M. Shaw, Co.
well, Title Par-
liament Vowels,
Holl. Sh. Camb.
in their Dis-
courses of Par-
liaments.
(f) 4. E. 3. c. 4.
36. E. 2. c. 1. &
the Bill for Tri-
enniall Parl.
(g) Grafton,
p. 401, 402,
Crucci. 7. p. 16.
(h) Polit. 14.
c. 8.
(i) Hieron. in
Eusebia Arago-
rens Recum.
Com. p. 768. 16
172.
* Dent. 10, 17.
* Tim. 6, 15.
Rev. 17, 4, and
19, 16.
* Pf. 34, 9, 10.
1f 84, 11,
1im. 1, 5, 17,
Mat. 7, 7, 8, 23, 0
1. c. 21, 22,
1o. 16, 23, 24,
1 John 5, 14, 15,
1sa. 65, 24,
Dan. 9, 20, 10 25,
* Bracon 1, 3,
c. 2.

the assent is binding, and shall not be avoided by Dureffe, because the King doth no more then he is obliged by Law, Oath, and Duty to condescend to : Upon which ground, a (l) *Tenant enforced to attorne to a grant of a reversion by imprisonment, upon a Quid juris clamat, shall never avoid this attornment by Dureffe ; nor an (k) Obligation made by one taken in execution for payment of a just debt ; nor the just judgment of a Judge given by menaces shall not be avoided :*) This is cleere by *Magna Charta*, and other Law gotten at first by (m) *Dureffe and Menaces from our Kings, and yet firme and binding when even thus assented to, because just and necessary ; as King Henry the 3. Anno 1222 confessed ; (n) Who when the Barons demanded of him the confirmation of the great Charter and their Liberties according to his Oath upon the conclusion of the peace with Lewis ; Will. Brewer, one of the Kings Connsell answering, that the Liberties they demanded must not be observed because they were violently extorted, and words hereupon growing between the Barons and him, and the Arch-bishop of Canterbury kindling at it ; the young King prudently closed up the whole strife with this speech ; All of us have sworne to these Liberties, and that which we have sworne ALL OF US ARE BOUND TO OBSERVE.* But where the Acts to which the assent is gained, are unjust or illegal, such to which the King was not bound by Oath or duty to consent, but meerey out of necessity to avoid imminent danger of death, or other mischief, and where the whole Parliament was enforced as well as the King ; *there the acts may be avoided by Dureffe, as is evident by the Statutes of 11. and 21. of R. 2. c. 12. by the Statute of 31 H. 6. c. 1, (which makes voyd all the Petitions granted by this King in a former Parliament the 29. of his Reigne, and all indictments made by Dureffe, through the Rebellion, Tyranny, and Menaces of Iack Cade and his rebellious rout of Traytors) and by 39. H. 6. c. 1. 15. E. 3. stat. 2. and 17. E. 4. c. 7. Yet these enforced unjust Bills, being publike Acts, done in a legall forme, are not meerey void, but good in Law till they be repealed, and nullified by a subsequent Parliament ; (as is evident by the next forecited Statutes ;) even as a (o) *Marriage, Bond, or deed made by Dureffe or Menace, are good in Law, and not meerey void, but voidable only upon a Plea and Tryall.* And if subsequent Parliaments refuse to repeal these forced Laws, and to declare the Royall assent thereto by coercion, void or illegal, the King cannot avoid them by Dureffe (because his Royall assent is a judicall Act in open Parliament, which his oath and duty obliged him to give, and the Lawes are rather the Parliaments Act which was not forced then his owne,) but they remaine in full vigour as if he had freely assented to them ; which is most evident by the Statutes made in 10. and 11. R. 2. which though extorted from the King by Dureffe, *against the will and liberty of the King, and right of his Crowne, as is pretended and declared in the Statute of 21. R. 2. c. 12. yet they continued in full strength for ten yeares space or more, (during which time there were no lesse then 8. Parliaments held under this King) because these Parliaments refused to reverse them upon this pretext of Dureffe.**

From all which premises, I humbly conceive, I may infallibly conclude, *That the King in passing the fore-mentioned kinde of Bills, of Common Right and Justice for the Kingdomes, and the Subjects weale and safety, hath no absolute negative voyce, but must and ought of common right and Justice, by vertue of his Royall oath and duty, to give his ready and free assent unto them without any tergiversation.* And so the Parliament in their Declarations to this purpose, hath no wayes invaded nor injured his Majesties just Prerogative royall in this particular.

(k) 13. E. 1.
Perquis servitia
23. 37. H. 6. 14.
Br. Attornment.
27.

(l) 15. E. 1. 17. 2
E. 4. 7. 8. Aff. 25
43. E. 3. 12. Brook
Dures. 1. 4. 10
15. 7. 6. 22.
Tit. Dures. 3.

3. 11. 12. 1. 7
18.
(m) See Math.
Paris, p. 2. 4. 10
257.

(n) Speed, p.
597 Mat. Fav.
p. 305. Daniel,
p. 151.

(o) 31. H. 6. c. 3.
3. H. 7. c. 2. 1 E.
3. c. 15. Stat. 2.
& Stat. 1. c. 7.
1 R. 2. c. 13.
5 R. 2. c. 6. See
Brooke & Affr.
Title Dureffe.

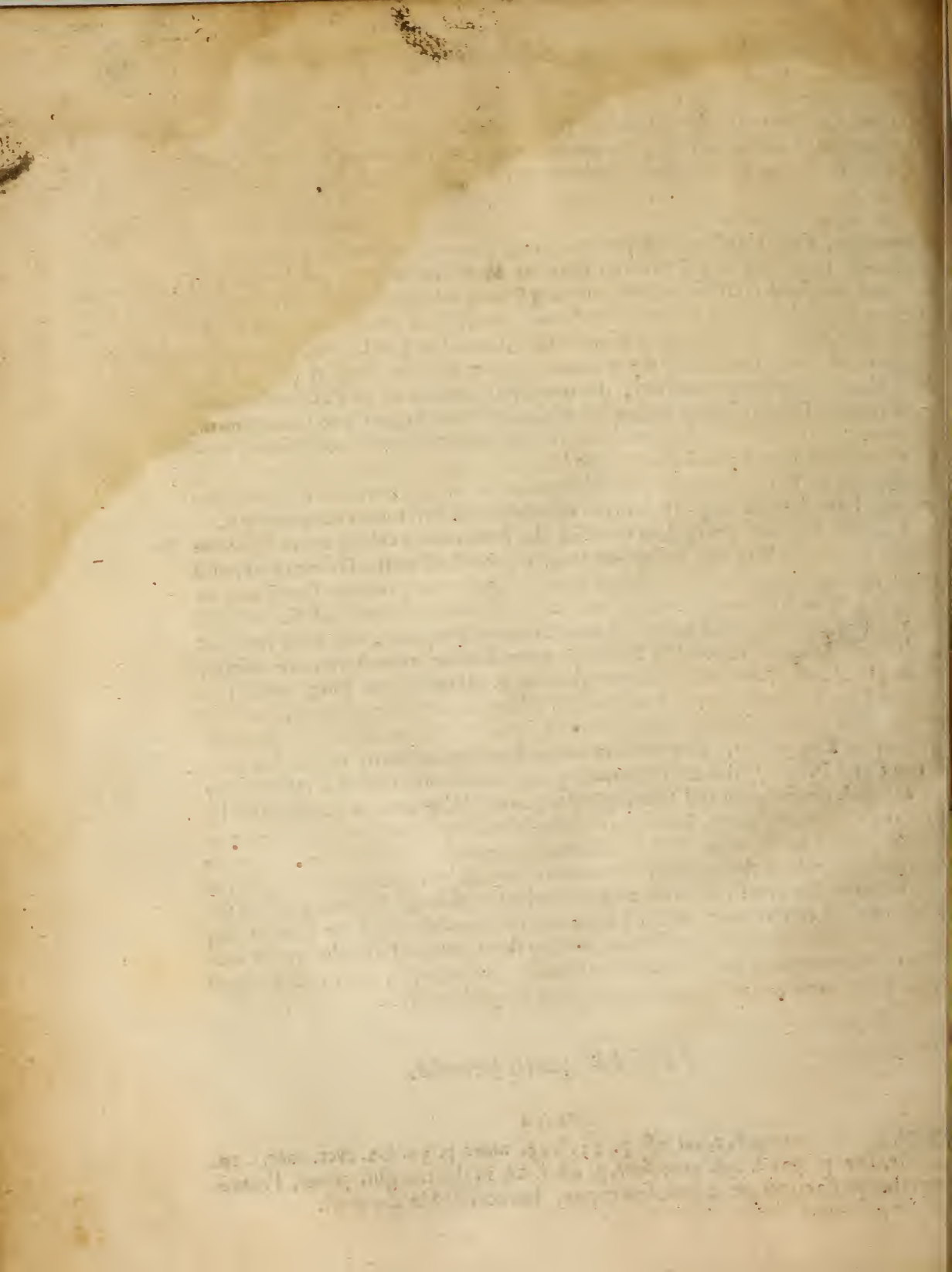
Not those members in it eclipsed his Royall grace, who have upon occasion given affirmed, the *Petition of Right*, the *Bills for Trienniall Parliaments* (which before by Law were to be annuall at least;) the *continuance of this Parliament without adjournment*, for the Kingdomes necessary preservation; the acts against *Shipmoney*, *Forest-Bounds &c.* (illegall new invented grievances, and oppressions not heard of in former Kings Reigns) and the Statutes for the suppression of the *Star-Chamber*, *High Commission*, *Knighthood*, and *Bishops votes*, (lately growen intollerable grivances and mischeifes to the Realme; Especially since his Majesties Reigne;) to bee no acts of *most transcendent Grace*, such as never any Prince before vouchsafed to his people, as they are daily cried up in *Presse* and *Pulpet*; but Bills of meere Common Right and Iustice, which the King by his Royall Office, Oath, Duty, in Law and Conscience ought to assent unto, and could not without apparent injustice deny to passe, when both Houses urged him thereunto; the unhappy fractions of all Parliaments, and Grievances of these Natures under his Majesties owne Reigne and Government, occasioned by his evill Councillers, being the sole grounds and just occasions of enacting these necessary Laws for the Subjects future security; if the sword now drawn to suppress the Parliament, and cut these *Gordians* (or rather *Cobwebs*, as *Diogenes* once termed Laws) asunder, deprive them not of their benefit, before they scarce enjoy it.

I should now here proceed, to manifest the Parliaments taking up of defensive Armes against his Majesties Malignant Army of professed Papists, Delinquents, and pillaging murdering Cavaliers, (whose grand designe is onely to set up *Popery* and an absolute tyrannical Government over our consciences, bodies, estates) in defense of their own persons, priviledges, the Subjects Laws, Liberties, Properties, and our Protestant established Religion (devoted by Papists to eternall ruine, as we have cause to feare) to be just, lawfull, and not treason nor rebellion at all against the King, neither in point of Law nor conscience; And that the Parliaments assessing of men towards the maintenance of this necessary defensive warre, by an Ordinance of both Houses onely without the Kings assent, (now wilfully absent from, and in armes against his Parliament and People) with their distraining and imprisoning of such as refuse to pay; and their confinement and securing of dangerous Malignants, to be justifiable by Law and ancient presidents. But this part being already growne somewhat large, and having lingred much longer at the Presse then I expected; I have thought it more convenient, to reserve the remainder for a future Treatise by it selfe, then to hinder the state of the present benefit, which it may receive by this, through Gods blessing, ere the other can bee compleated; which I hope will fully un-blindfold the hood-winked world, and either satisfie the consciences, or stop the mouths of all who are not wilfully malicious against the Truth and Parliaments proceedings; and the *Souvraine Power* of Parliaments and Kingdoms, over their Kings themselves.

FINIS partis secundæ.

Errata

Page, 5, l. 6. for unjust, r, *not just*. p. 15, l. 29. *mans*. p. 50. l. 2. ever: *over*. l. 20. l. title, *like*. p. 52. l. 46. *provisions*. p. 48. l. 26. in the margin, James, Francis, some other presse errors are in some few copies. but corrected in the most.



THE
THIRD PART OF
THE
SOVERAIGNE POWER
OF
PARLIAMENTS and KINGDOMES.

Wherein the Parliaments present *Necessary Defensive* Warre against the Kings offensive Malignant, Popish forces; and Subjects taking up *Defensive Armes* against their Soveraignes, and their Armies in some Cases, is copiously manifested, to be *Just, Lawfull, both in point of Law and Conscience*; and neither *Treason nor Rebellion* in either; by *inpregnable Reasons and Authorities* of all kindes.

Together

With a *Satisfactory Answer* to all *Objections*, from *Law, Scripture, Fathers, Reason*, hitherto alledged by *Dr. Ferne*, or any other late opposite Pamphleters, whose grosse *Mistakes* in true *Statings* of the present *Controversie*, in sundry points of *Divinity, Antiquity, History*, with their absurd irrational *Logicke* and *Theorie*, are here more fully *discovered, refused*, than hitherto they have been by any:
Besides other particulars of great concernment.

By WILLIAM PRYNNE, *Utter-Barrester, of Lincolnes Inne.*

2 Sam. 10. 12.

Be of good courage, and let us play the men for our People, and for the City of our God, and the Lord doe what seemeth him good.

Either 9. 1, 2, 5, 10.

In the day that the enemies of the Jewes hoped to have power over them, the Jewes gathered themselves together into their Cities, throughout all the Provinces of King Ahasuerus, to lay hand on those that sought their lives, and no man could withstand them; for the feare of them fell upon all people. Thus the Jewes smote all their enemies with the stroke of the sword, and slaughter and destruction; and did what they would with these that hated them; but on the spoile laid they not their hand.

It is this eighth day of *May, 1643.* Ordered by the Committee of the House of Commons in Parliament for Printing, that this Booke, Intituled, *The third Part of the Soveraign Power of Parliaments and Kingdomes*, be Printed by *Michael Sparke, senior.*

John White.

Printed at London for *Michael Sparke, Senior.* 1643.

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TO HIS
EVER-HONOVRED, NOBLE,
KINDE FRIENDS,

THE
Right Honourable Lord *Ferdinando Fairfax*, the
Right Worshipfull, Sir *William Waller*, and Sir *William*
Bruerton, Knights, Commanders in Chiefe, of
the *Parliaments Forces*, in severall Counties.

Deservedly Renowned Worthies,



O V R Incomparable Valour, Zeale, A&ti-
vity, Industry for the preservation of Your Dea-
rest Country, Religion, Lawes, Liberties,
and the very being of Parliaments, all now
endangered by an unnaturall generation of
Popish and Malignant Vipers, lately risen up
in Armes against them in diverse parts of this
Realme; and those many miraculous Victo-
ries with which God hath beene lately pleased to Crowne your cordi-
all endeavours, to promote his glory and the Publicke safety, as
they have justly demerited some gratefull generall Acknowledge-
ments from the whole Representative Body of the State; so they
may in some sort challenge a private gratulatory Retribution from
Me, who have formerly had the happinesse to participate in your Chri-

lian Affections, and now reape much Consolation by your Heroick Actions.

Having therefore seasonably finished this Third part, Of the Sovereign Power of Parliaments and Kingdoms; copiously Vindicating, the Lawfulness, Iustness of the Parliaments present Necessary Defensive Warre (in which you have had the Honour to be employd, not onely as Chiefe, but which is more, as most successfull Commanders, in your severall Countries,) in point both of Law and Conscience; and fully wiping off those blacke Aspersions, of **TREASON** and **REBELLION**, which the opposite party (really guilty of these crimes against both King and Kingdome, as I have* elsewhere manifested, and here lightly touched) have out of Malice, Ignorance, or both conjoyned, most injuriously cast upon your Loyall, honourable proceedings, which rejoyce the soules of all true Philopaters, who cordially affect their Country or Religion; I could not, without much ingratitude, yea injustice, have published it to the world, but under the Patronage of your ever-honored resplendent names, who have so valorously, so successfully pleaded this Cause already in the Field, that it needs the lesse assistance from the Presse.

*Part 1. Edit. 2
p. 103, to 112.

My many inevitable interruptions and straites of time in its texture, which may happily detract something from its perfection; shall I hope, derogate nothing from your Honourable, Friendly acceptance; whom I have thus conjoyned in the Dedication; because the Parliament hath united you in their present Warlike employments, and God himselfe joyntly honoured you with success, even to admiration among the Good, indignation amidst Malignants, envy with the Malicious, and, I trust, to an active sedulous emulation in all your Fellow-Commanders, employd in other Quarters in the selfesame Cause.

Your present busie publike, and mine owne private Employments, prohibite me to expatiate; Wherefore earnestly beseeching the Glori-

The Epistle Dedicatory.

our Lord of Hosts to be ever mightily present with your severall Noble Persons, Forces, and to make you alwayes eminently, active, Valorous, Victorious, as hitherto be bath done, till Peace and Truth, Tranquillity and Piety, by your severall triumphant Proceedings, shall once more lovingly embrace and kisse each other in our divided and reformed, sinfull Kingdomes; And till the effect of these just warres you manage, shall be quietnesse and assurance to us and our Posterities after us for ever; I humbly recommend your Persons, Proceedings to his protection who can secure you in and from all dangers of warre, and rest,

Your Honours, Worships

most affectionate Friend

and Servant,

WILLIAM PRYNNE.

A 3

To



To the Reader.

Christian Reader,



Who have beene alwayes hitherto a *Cordiall Desirer, endeavourer of Peace*, am here necessitated to present Thee with a *Discourse of Warre*; to justify *The Lawfulness of the Parliaments* present taking up of *necessary Defensive Armes*. Which neither their *Endeavours*, nor my, with many others *Prayers* could (with any safety to our *Priviledges, Persons, Religion, Liberty, Realmes*, now forcibly invaded by his *Majesties Popish and Malignant Cavallieres*) hitherto prevent, or conjure downe.

To plead the Justnesse of a *Warre*, of an unnaturall *Civill warre*, (the worst of any) of a *Warre* betweene the *Head and Members*, may seeme not onely a *Paradox*, but a *Prodigie*, in a Land heretofore blessed with an aged, uninterrupted Peace: And (a) *Lucans*

(a) *Civilia Belli*, l. 1. p. 1.

Bella per Amathios plusquam civilia Campos, &c.

(now most unhappily revived among us) being but *Historicall*, and *Poeticall*; may passe the world with lesse *admiration and censure*, than this *barbarous Peece*, which is both *Legally & Theologically* (like the Subject matter) *Polemicall*. But as the (b) *ayme, the end of all just War, is and ought to be onely future settled Peace*; so is the whole drift of this *Military Dissertation*: not to *form* or *protract*, but *end our bloody Warres*; which nothing hath more excited, animated, lengthened in the *Adverse party*, than a strong *conceit*, (if not serious believe,) that *The Parliaments Forces, neither would nor lawfully might in point of Law or Conscience forcibly resist or repulse their invasive Armes, without danger of High Treason and Rebellion*, (which *Bugbear* I have here refuted, removed) and the *In-activity*, the much admired *slownesse* of many of our *Forces*, in resisting, in preventing their *vigorous Proceedings*, which a little timely *vigilance and diligence* had easily controlled.

(b) *Apud veros Dei cultores etiam ipsa bella pacata sunt; quae non cupiditate aut crudelitate, sed pacis studio geruntur* Aug. de divers. Eccl. obser. 7. *Gratian Caus. 23. qu. 2. cap. Apud Alberticus Genilis de iure belli. l. 1. c. 5.*

(c) *Parva desesse quoad vira suppetat nisi est Livius, Rō. Hist. l. 5.*

It is a more than (c) *Barbarous Inhumanity* for any person, not to put to his uttermost strength, speedily to close up the *mortall wounds* of his *bleeding*

The Epistle to the Reader.

ing, dying Native Country; but to *protract its cure*, to enlarge, encrease
 s deadly Ulcers, Stabs, Sores, and make a *lasting trade of Warre*, out of a sor-
 id, (d) *sinfull desire of Gaine*, of Plunder, to raise a private fortune by the
 republicks ruines, (a sinne, of which some perchance are guilty) is an
 unparalleled, most unnaturall *prodigious Impiety*.

It was thought a *great dishonour* heretofore, for men of Honour and E-
 states, not to serve and defend their Country gratis, as our own (e) *Lawbooks &*
Histories plentifully manifest: and shall such *Persons* now turne sordid
mercenaries; stirre neither hand nor foot without their Pay; and be more
 diligent to get their wages, than discharge their *Service*? God forbid.

It is (f) *Recorded of the Children of Gad and Reuben*, after they had
 covered their inheritance on this side Jordan, that they went all up armed be-
 fore the Lord over Jordan, at their owne free cost, untill they had driven out all
 the enemies in it before them, subdued the Land, and settled their brethren of the
 other Tribes peaceably in it. And shall not *Englishmen* of Estates doe the
 like for their Brethren now, in these times of need, when money (the
 newes of Warre) is almost quite shrunked up, by reason of former *Dis-*
bursements and want of Trade? We read, (g) *That the very Heathen Kings*

Canaan when they came and fought in Taanach by the waters of Megiddo,
against the Israelites, THEY TOOK NO GAIN OF MO-
NEY, for their paines: Such was their Noble generosity, which *Debo-*
rah registers in her Song for their eternall Glory. And we heare of di-
 vers *Lords and Gentlemen* in the *Kings Army*, which servè against their
 Country gratis; yea furnish out sundry Horse and Foote, of their proper
 cost; of few or none such there who receive any Pay. And shall these be
 more free, generous, active in serving, fighting against God, Religion, Lawes,
 Liberties, Parliament and their Country; than those of like Rank and qua-
 lity on the *Parliaments party* are in warring for them? O (h) *let not* such
 a ignoble, unchristian Report be ever once justly told in Gath, or publish-
 ed in the streets of Askelon, lest the daughters of the *Philistines* rejoyce, lest the
 wives and daughters of the *uncircumcised* triumph.

I know there are some *Heroicke Worthies* in the *Parliaments Armies*, of
 whom I may truly sing with *Deborah*, (i) *My heart is toward the Governours*
of Israel, that offered themselves willingly among the people; and who like *Ze-*
bulon and Nephthali, have freely jeopardated their lives unto the death, in the high
 places of the field. Blessed be their Endeavours, and their Names for ever
 honourable: I shall now onely wish that others would imitate their lau-
 dable examples; that so our long-lingring warres, may be speedily and
 happily determined in a blessed, pure, proud, secure, honourable, lasting Peace.

They.

(d) *Militare non est delictum sed propter praedam militare peccatum est.* August. de Verbis Dom. Tract. 19. & Gratian. caus. 23. qu. 1.

(e) See Littleton in his Chapter of Gran-serjanty, Knight-service, Escuage, & Cook ibi. (f) Num. 32. Josh. 1. 12, to 18.

(g) Judg. 5. 19

(h) 2 Sam. 1. 20

(i) Judg. 5. 9. 18.

The Epistle to the Reader.

They are *Tormentors*, not *Chirurgions*, *Executioners*, not true *Souldiers*, who desire, endeavour not speedily to close up and heale their dearest *Countries* bleeding, festring *wounds*, for which I have prepared this *Treatise*, as a *Soveraigne Balme*, to incarne and cicatrize them, not ulcerate, or inflame them.

(k) Jcr. 8. 20.
22.

It was the *Prophets* Patheticke expostulation, (k) *The harvest is past, the Summer is ended, and we are not healed: Is there no balme in Gilead? Is there no Physitian there? why then is not the health of the Daughter of my people recovered?* It may be *Englands* and *Irelands* expostulation now: The *Lord* put it into the hearts of our great *Physitians* (the *King*, *Parliament*, and *Grandees* of both *Armies*) that they may now at last with bleeding, melting hearts and spirits, speedily poure forth such effectuall healing *Balmes* into these two dying *Kingdomes* deadly *wounds*, as may effectually cure and restore them to more perfect health and vigor than they ever formerly enjoyed, that so they may lose nothing but their *putrid blood*, their *proud dead flesh*, their *filthy sanies* and *corrupt humours*, by their *unnatural stabs* already received: Towards the advancement of which much desired cure, if these my undigested rude *Collections* (interrupted with sundry inevitable interloping *Distractions*, which may justly excuse their many defects) may adde any contribution, or satisfie any *seduced*, or *scrupulous Consciences* touching this present *Warre*; I shall deeme my labours highly recompensed; And so recommending them to *Gods blessing*, and thy *charitable acceptation*, I shall detaine thee with no further *Prologue*.

Farewell.



THE
SOVERAIGNE POWER
 OF
PARLIAMENTS & KINGDOMES:
 PROVING IT.

*That the Parliaments present necessary Defensivve Warre, is Iust and Law-
 full both in point of Law and Conscience, and no Treason nor Rebellion.*



AVING in the two former Parts of this *Discourse* dissipated
 foure chiefe Complaints against the Parliaments proceed-
 ings; I come now in order (in point of time and sequell)
 to the 5th Grand Objection of the King, Royalists, and
 Papiests against the Parliament. To wit: * *That they have*
traiterously taken up Armes, and levied warre against the
King himselfe in his Kingdome; and would have taken away
his life at Keinton battell, which is no lesse than Rebellion
and High Treason, by the Statute of 25. E. 3. c. 2. with
other obsolete Acts; and by the Common Law. Which

Object. 5th
 * See many
 Printed De-
 clarations,
 Proclama-
 tions to this
 effect; with
 other Pam-
 phlets.

Objection, though last in time, is yet of greatest weight and difficulty, now most
 ryled up and insisted on, of all the rest, in many of his Majesties late *Proclamations,*
Declarations, and in *Anti-Parliamentary Pamphlets.*

To give a punctuall Answer to this capitall Complaint, not out of any desire to fo-
 ment, but cease this most unnaturall bloody warre, which threatens utter desolation
 o us if proceeded in, or not determined with a just, honourable, secure, lasting
 peace; now lately rejected by his Majesties party. I say,

Answer,

First, that it is apparent to all the world, who are not willfully or maliciously blind-
 ed; That this Majesty first began this warre, not onely by his endeavors to bring up
 the Northerne Army to force the Parliament, confessed by the flight, letters, examinati-
 ons of those who were chiefe Actors in it; but by raising sundry forces under colour of
 guard before the Parliament levied any.

Secondly, that the ^a Parliament in raising their forces had no intention at all to offer
 the least violence to his Majesties person, Crowne, dignity, nor to draw any English
 blood; but onely to defend themselves and the Kingdome against his Majesties Ma-
 gnant invasive plundering Forces, to rescue his Majesty out of the hands, the power
 of those ill Councillers and Malignants who withdrew him from his Parliament, to
 bring him backe with honour, peace, safety, to his great Councell; (their Generall
 and

2.
^a See the
 Houses sever-
 rall Declara-
 tions to this
 effect.

and Army Marching with a Petition to this purpose,) and to bring those Delinquents to condigne punishment who most contemptuously deserted the Houses, contrary to Order, Law, the Priviledges of Parliament, their owne Protestation taken in both Houses, sheltering themselves, under the power of his Majesties presence and Forces, from the justice of the Houses, and apprehension of their Officers, contrary to all precedents in former ages, in High affront of the priviledges, honour, power of the Parliament, and * *Fundamentall knowne Lawe* of the Realme: Since which time, his Majestie having (contrary to his former *Proclamations* and frequent *Printed soleame Declarations*) entertained, not onely divers *Irish Popish Rebels*, but likewise *English* and *Outlandish Papiests* in his Army, and given Commissions to sundry * *Arch. Popish Recusants*, to *Acqne* themselves, and raise Forces against the Parliament, and Kingdom, now in the field in all the Northerne parts, Wales, and other places, (and that under the Popes owne consecrated Banner as many report) in defiance of our Protestant Religion, (designed by the *Popish Party* both at home and abroad, to no lesse then utter extirpation in *England*, as well as in *Ireland*, if not in *Scotland* too, (as some of them openly profess;) the Parliament are hereupon necessitated to augment and recrate their forces; as for the precedent ends at first, so now more especially, for the necessary defence of the Protestant Religion established among us by law; against which they (and all others who are not wilfully blinded) visibly discern a most apparant desperate conspiracie; which though not cleerely perceived, but onely *justly suspected* at first, doth now appeare (all circumstances and agents considered) to be the very *Embrio* and primitive cause of this deplorable warre; agninst which the Parliament and subjects are now more necessitated and engaged to defend themselves then ever. seeing they have by all possible meanes endeavored to prevent this warre at first, and since to accommodate it, though in vaine, upon just, reasonable, and honorable safe termes for King and Kingdome. The sole Question then in this case thus truly stated will be.

Whether his Majestie, having contrary to his Oath, Duty, the fundamentall Lawes of God and the Realme, raised an Armie of Malignants, Papiests, Forraigners; against his Parliament, Kingdome, People, to make an Offensive warre upon them, to murder, rob, spoyle, deprive them of their peace, liberties, properties, estates; to impose unlawfull taxes by force upon them; protect Delinquents and evill Councellers against the Parliaments Justice, and violently to undermine our established Protestant Religion; the Common-wealth of *England* legally assembled in Parliament; and all Subjects in such cases, by Command and direction from both House of Parliament, may not lawfully and justly without any Treason or Rebellion, in point of Law and Conscience, take up defensive Armes to preserve the Priviledges of Parliament, their Lawes, lives, liberties, estates, properties, Religion, to bring Delinquents and ill Councellours to condigne punishment, and rescue his seduced Majesty out of their hands and power, though he be personally present with them, to assist and countenance them in this unnaturall destructive warre?

And under correction (notwithstanding any thing I ever yet heard or read to the contrary) I conceive affirmatively, that they may justly do it, both in point of Law and Conscience. I shall begin with Law, because in this unhappie controversie, it must direct the conscience.

First, I have already proved in Judgement of Law, the Parliament and Kingdome assembled in it, to be the Sovereigne power, and of greater authority then the King, who is but their publike Minister in point of civill Justice, and Generall matters of warre, as the Roman Kings and Emperours were; and other forraign

* 13 E 1 c. 38

31 H. 6, c. 1.

See *Asbes Table*, *Contemp.*

6, 7 the Law

bookes there

quoted, 6 H.

8. c. 16, 3 E.

3. 19.

Coron. 161.

Dyer, 60.

Stamford:

Pleas. 1. c. 29.

f. 38. l. 3, 6, 63,

f. 153.

* The De-

claration of

the Lords &

Commons in

Answer to his

Majesties,

concerning

Keinton Bar-

tle.

* Part 1. & 2.
throughout.

Kings of old and at this day are. The Parliament then being the highest power, and having principall right and authority to denounce, conclude and proclaim warre, (as I have manifested in the debate of the *Militia*;) may not onely lawfully resist, but oppose, suppress all Forces raised against it, and the Kingdomes peace or welfare.

Secondly, the principall end of the Kingdomes, originall erecting Parliaments, and investing them with supreme power at first, was, to defend not onely with good Lawes and Councell, but when absolute necessitie requires (as now it doth,) with open force of Armes; the Subjects Liberties, Persons, Estates, Religion, Lawes, Lives, Rights, from the encroachments and violence of their Kings, and to keepe Kings within due bounds of Law and Justice; the end of instituting the ^c Senate and *Ephori* among the *Lacedemonians*, the Senate and Dictators among the *Romans*, the ^d *Ferum Suprarbiense*, and *Iustitia Aragonia* among the *Aragonians*; of Parliaments, Dietts, and Assemblies of the estates in other forraigne Kingdomes, and in *Scotland*, as I shall prove at large in its ^e proper place. This is cleare by the proceedings of all our Parliaments in former ages; Especially in King *Johns*, *Henry* the third, *Edward* the 1. 2. 3. and *Richard* the seconds Raignes; by the latter Parliaments in King *James* his raigne, yea of 3. *Caroli*, the last dissolved Parliament, and this now sitting, whose principall care and employment hath beene to vindicate the Subjects Liberties, properties, lawes, and Religion, from all illegall encroachments on them by the Crown and its ill Instruments: by the ^f forecited resolutions of *Bracton*, *Fleta*, the *Myrror of Iustices*, *Vowell*, *Holinshead*, the *Councell of Basill*, and others, that the Parliament ought to restrain and bridle the king when he casts off the bridle of the Law, and invades the Subjects Liberties, especially with open force of Armes in an Hostile manner: and by the constant practise of our Ancestors and the Barons Warres, in maintenance of *Magna Charta*, with other good Lawes and Priviledges, confirmed by Parliament. If then the Parliament be intrusted by the Kingdomes with this Superlative power, thus to protect the Subjects Liberties, properties, Lawes, persons, Religion, &c. against the kings invasions on them by policie or violence: they should both betray their trust, yea the whole kingdomes too, if they should not with open Force of Armes, (when Policy, Councell, and Petitions will not doe it) defend their owne and the Subjects Liberties, persons, priviledges, &c. against his Majesties offensive Armies which invade them, intending to make the whole kingdomes a present booty to their insatiable rapine, and a future vassall to his Majesties absolute arbitrary power, by way of conquest.

I reade in ^g *Bodin* that the Roman Senate being no way able to restrain *Cesar*, tooke their refuge to that ancient Decree of the Senate, which was commonly made but in dangerous times of the Common-weale. *Videant Consules & ceteri Magistratus ne quid detrimenti capiat Respublica*: Let the Consulls and other Majestrates foresee that the Common-weale take no harme. With which decree of the Senate, the Consulls being armed, sodainely raised their power, commanding *Pompey* to take up Armes and raise an Army against *Cesar* to oppose his violent proceedings by force who after his conquest of *Pompey* refusing to rise up to the Consulls, Pretors, and whole Senate, out of his pride, through his ill Councillors advise, and talking with them, as if they had beene but private men, he so farre offended both the Senate and people, that to free the Republicke from his Tyranny, and preserve their hereditary Liberties, they conspired his death, and soone after murdered him in the Senate-house, where they gave him lesse than 23. wounds. And ^h *Hieronimus Blanca* assures us, that the *Suprarbiens'e Forum*, *Iustitia Aragonis*, or States of *Aragon*, (erected to withstand the tyrannie and encroachments of their kings) may by the Lawes of their Realme assemble together, and

^c See Polybias Hist. l. 6. Arist Polit. l. 3. c. 10. 11. 1. 5. c. 10. l. 2. c. 5. Bodin l. 1. c. 10. l. 2. c. 5. ^d Hieron. Blanca Aragonens. Rerum Comment. p. 583. 589. 716. to 725. 747. to 760. Joan. Mariana de Rege & Regie Instit. l. 1. c. 5. to 10. ^e In the Appendix. ^f Part. 3.

^g Commonweal. l. 3. c. 1 See Plut. Caf. & Pompeius.

^h Aragonensium Rerum Comment. p. 714.

RESIST THEIR KING WITH FORCE OF ARMES, as oft as there shall be
 neede to repulse his, or his Officers violence against the Lawes; For when they erected
 this Court, they said, It would be little worth to have good Lawes enacted, and
 a middle Court of Justice betweene the King and people appointed, if it might not
 be lawfull to take up *Armes* for their Defence when it was needfull; (being agree-
 able to the very Law of nature and reason;) Because then it will not be sufficient
 to fight with Counsell: For if this were not so, and the State and Subjects in such cases
 might not lawfully take up armes, all things had long ere this been in the power of
 Kings. Therefore, no doubt, our Parliament and State, as well as others, may by the
 very Law of Nature, and fundamentall institution of Parliaments, now justly take
 up Defensive armes to preserve their Liberties, Lawes, Lives, Estates, Religion,
 from vassallage and ruine.

Thirdly, Our owne Parliaments, Prelates, Nobles, and Commons in all ages (espe-
 cially in times of Popery) as well in Parliament, as out, have by open force of armes
 resisted, suppressed the oppressions, rapines, unjust violence, and armies of their
 Princes raised against them; Yea, incountred their Kings in open Battells, taken
 their persons Prisoners, and sometimes expelled, nay deposed them from their Roy-
 all authority, when they became incorrigible open professed enemies to their king-
 domes, their Subjects, seeking the ruine, slavery, and desolation of those, whom by
 Office, Duty, Oath, and common Justice, they were bound inviolably to pro-
 tect in Liberty and peace, as the * premised Histories of *Archigallo, Emerian, Vorti-*
gera, Segebert, Osred, Ethelred, Bernard, Edwin, Ceolwulfe, King John, Henry the
3^d. Edward 1. and 2. Richard the 2, Henry the 6th. (our *British, Saxon, English*
Kings,) and other examples common in our owne Annals, plentifully manifest. Nei-
 ther are their examples singular, but all Kingdomes generally throughout the world in
 all ages have done the like, when their Kings degenerated into Tyrants, of which
 there are infinite precedens in History: which actions all ages, all Kingdomes have
 alwaies reputed lawfull both in point of Policy, Law, Religion, as warranted by
 the very Lawes of Nature, Reason, State, Nations, God; which instruct, not only
 particular persons, but whole Cities and Kingdomes for their owne necessary defence
 preservation, the supportation of humane Societie and Libertie, to protect themselves
 against all unlawfull violence and Tyranny, even of their Kings themselves, or their
 Ministers, to whom neither the Lawes of God, Nature, Man, nor any civill Nation
 ever yet gave the least authority to Murther, Spoile, Oppresse, enslave their Subjects
 or deprive them of their lawfull Liberties or Estates; which resistance were it unlaw-
 full or unjust (as many ignorant Royallists and Parasites now teach) some few op-
 pressing tyrannizing wilfull Princes, might without the least resistance, ruine, mur-
 ther, enslave the whole world of men; overthrow all settled formes of civill govern-
 ment, extirpate Christian Religion, and destroy all humane Society at their pleasures
 all which had bene effected, yea, all States and Kingdomes totally subverted lon-
 agoe, by ambitious Tyrannizing lawlesse Princes, had not this Lawfull, Naturall, He-
 reditary power of resisting and opposing their illegall violence (inherent in their Pa-
 rliaments; States, Kingdomes) restrained and suppressed their exorbitances of th-
 kinde. Now that this necessary Defensive opposition and resistance against open Rege-
 Hostile violence, which hath bene ever held lawfull, and frequently practised in
 Kingdomes, all ages heretofore, as just and necessary; should become suddenly un-
 lawfull to our Parliament, and Kingdome onely, at this instant, seemes very unrea-
 sonable unto me.

* Part 1. p. 6,
 7, 8, &c.

See *Arist.*
Polit. 1. 5 c. 10
D. Beards
Theatre of
Gods Judge-
ments. 1. 2. c.
 9. to 43. *Ad*
generum Cere-
ris pauci sine
sanguine fuso
Descendunt
Reges, & sicca
moerte Tyranni
Interunt. See
 the Appen-
 dix.

Fourthly, It is the expresse resolution of ^k Aristotle, ^l Xenophor, ^m Polibius, ⁿ Pulu. l. 5. c. 9 Pope *Elutherius*, (in his Epistle to our first Christian King, *Lucius*) King ^o Edward the Confessor in his established Lawes, c. 17. the ^p Courcell of Paris, Anno. 829. and *Isidor* cited by it; ^q *John Bodin*, ^r *Ibn Mariana*, and generally of all foraign Divines and Politicians, Pagan or Christian; yea of ^s *Bracton*, ^t *Fleta*, ^u *Forrescusc*, and ^x King *James* himselfe; that a King governing in a seild Kingdome, aseth to be a King, and degenerates into a Tyrant, so soon as hee leaves to rule by his Lawes; much more, when he begins to invade his Subjects, Persons, Rights, Liberties, to set up an Arbitrary power; impose unlawfull Taxes; raise Forces, and make Warre upon his Subjects, whom he should Protect, and rule in peace; to pillage, plunder, waste, and boile his Kingdome; imprison, murder, and destroy his people in an hostile manner, to private them to his pleasure; the very highest degree of Tyranny, condemned and detested by God, and all good men. The whole State and Kingdome therefore in such cases as these, for their owne just necessary preservation, may lawfully with force of Armes, when no other courle can secure them, not onely passively; but actively resist their Prince, in such his violent, exorbitant, tyrannicall proceedings; without assisting any kingly, lawfull royall Authority Vested in the Kings person for the Kingdomes preservation onely, nor destruction; because in, and as to these illegall oppressions, tyrannicall actions, not warranted, but prohibited by the Lawes of God, and the Realme, (to whom he is ^z accountable, and by whom he is justly censurable for them) he is no lawfull King, nor Majestrate, but an unjust oppressing Tyrant, and a meece private man, who (as to these proceedings) hath quite denuded himselfe of his just Regall authority. So that all those wholsome Lawes made by the whole State in Parliament, for the necessary preservation and defence, of their Kings Royall Person, and lawfull Sovereigne power; the suppression of all Insurrections, Treasons, Conspiracies and open Warres against them, whiles they governe their people justly according to Law, (as all good Princes are ^a obliged to doe by oath and duty;) or the open violent resisting of their Lawfull authority and Command's; to which all Subjects both in point of Law and ^b Conscience, ought cheerfully and readily to Submit; will yeeld no publike Countenance, Encouragement, or Protection at all to Kings, in their irregall, tyrannicall oppressions, or violent courses; especially when they turne professed publike enemies to their people, proclaime open Warre against them, invade their Lawes, Liberties, Goods, Houses, Persons, and exercise all acts of Hostilitie against them, as satre forth as the most barbarous Forraigne Enemies would doe: It being against all common fence and reason to conceive, that our Parliaments, Lawes which strictly inhibit and punish the very smallest violations of the publike peace, with all kinds of Oppressions, Robberies, Trespass's, Barreries, Assaults, Bloodsheds, Fraies, Murthers, Routs, Riots, Insurrections, Burglaries, Rapes, Plunderings, Force-able Entries, Invasions of the Subjects Liberties or Properties, in all other persons, and great publike Officers whatsoever (whose ^c Delinquences are so much the more heinous, detestable and censurable, as their persons, honours, and places are more eminent) should so satre countenance, justifie, or patronize them onely in the King, the Supreme fountaine of Justice (*ad ius' am Legis corporum & bonorum creditus*, as *Forrescusc*, and Sir ^e *Edward Coke* resolve, *Cujus Potestas Iuris est. & non Injuria*; & *non sit author Iuris, non debet inde injuriarum nasci occasio, unde Iura nascuntur*, as ^f *Bracton*, and ^g *Fleta* determine;) as not to permit the Subjects, under paine of Rebellion. ² Chr. 33. See *Marian. de Reg. & Reg. Inst. l. 2. c. 9.* ^d *De Leg. Arg. c. 9. 10. 11. 13. 14.* ^e *Lib. 7. f. 5.* ^f *Calvins Case.* ^g *ib. 3. c. 9. f. 107.* ^h *Lib. 1. c. 17.*

h Lib 3. c. 9.
 i De Laud. legum Angl. c. 9. to 15.
 k De Rege & Regis Instit. l. 1. c. 9.
 l Deut. 10. 17
 Prov. 28. 21
 Rom. 2. 11.
 Ephes. 6. 11.
 1 Pet. 1. 17.

bellion and high Treason, by force of Armes, upon expresse command and direction of the whole Kingdome in Parliament, so much as to defend their Persons, Goods, Estates, Houses, Wives, Children, Liberties, Lives, Religion, against the open violence of the King himselfe, or his Malignant plundring, murdering Papists, Cavellers: When as Kings of all others (as^h *Bracton*,ⁱ *For. escue*, and^k *Mariana* prove at large) both by Oath and Duty, ought to be more observant of, and obedient to the Laws of God and their Realmes (which are^l no respectors of Persons) then the very meanest of their Subjects. That Precept then of *Paul*, Rom. 13. 1. 2. 3. *Let every Soule be subject to the higher Powers, &c.* And the Statute of 25. E. 3. c. 2. with other obsolete Acts, which declare it High Treason, to levy Warre against the King in his Realme, must needs be intended of, and quallified with these subsequent just limitations, suitable to their genuine sense and meaning; to wit, That as long, and so farre forth, as Kings justly and uprightly doe execute their just Royall power, conferred on them by God and their people, according to the Law of God, and their Realmes, to the Protection, encouragement and praise of all their good Subjects, and the deserved punishment onely of Malefactors; they must and ought to be cheerefully obeyed, and quietly submitted to, as Gods owne Ministers, without the least resistance, private or publike; neither ought any private men upon any private injuries, of their owne authority to raise up in Armes against them, seeing they are publike Magistrates in whom all the Kingdome have an interest, without the general assent and authority of the whole State and Kingdome, or of both Houses of Parliament which represents it. But if Kings degenerate into Tyrants, and turne professed enemies to their Kingdomes, Parliaments, People, by making open Warre against them; by spoyling, murdering, imprisoning, maiming, sacking, destroying, or putting them out of their Protections, without any just or lawfull grounds, endeavouring by force of Armes to subvert their Lawes, Liberties, Religion, and exposing them as a prey to their merciless blood-thirsty Souldiers; or bring in Forraigne Forces to conquer them, (our present case;) I dare confidently averre, it was never thought nor intention of *Paul*, or the Holy Ghost, much lesse of our Nobles, Prelats, and Commons in Parliament, which enacted these Lawes (who so oft took up Armes, aswell offensive, as defensive, against our Kings, in such like cases heretofore) to inhibit Subjects, Kingdomes, Parliaments (especially, by direct Votes and Ordinances of both Houses) under paine of damnation, high Treason, or Rebellion, by defensive Armes to resist Kings themselves, or any of their Cavalliers: and if this question had beene put to *Paul*, *Peter*, or any of those Parliaments, which enacted these objected Lawes; Whether they ever meant by these Precepts or Statutes, totally to prohibite all Subjects, by generall assent in Parliament, to take up defensive Armes, or make any forceable resistance, against their Kings or their Armies in such cases of extremity and necessity as these, under the foresaid penalties? I make little question, but they would have clearly resolved; that it was never so much within the compasse of their thoughts, much lesse their plaine intention, to prohibite such a resistance, in this or such like cases, but onely according to the precedent exposition of their words; and that they never imagined to establish in the world a Vnresistable Lawlesse Tyranny, or any such spoile or butchery of Kingdomes, of Subjects, execrable to God and man, in all persons, all ages, which have * resisted them even unto blood; but rather totally to suppress them; There being scarce any more pregnant

* See Doctor
 Beards The-
 ater of Gods
 Judgements,
 l. 2. c. 13. to
 42.

next, against the Tyranny, the boundlesse Prerogatives, the illegall proceedings of Kings, and Higher Powers in all the Scripture, then that of *Romans* 13. 1. to 7. if rightly scanned, as *Pareus*, and others on it manifest. Therefore the Parliaments and peoples present defensive Warre, and resistance against their seduced King, and his Malignant Popish Cavalliers, is no violation of any Law of God, of the Realme; but a just necessary Warre, which they have to the uttermost endeavoured to prevent: and no Treason, no Rebellion at all within the meaning of any Law, or Statute, unless we should thinke our Parliaments so mad, as to declare it high Treason, or Rebellion, even for the Parliament and Kingdome it selfe, so much as to take up Armes for their owne necessary preservation, to prevent their inevitable ruine, when they are openly assaulted by Royall armies; which none can ever presume they could doe, being the very high way to their owne, and the whole Kingdomes preservation.

Fiftly, admit the King should bring in Forraigne forces (*French, Spanish, Danes, Dutch, or Irish*) to destroy, or Conquer his Subjects, Parliament, Kingdome, (as if some such forces are already landed, and more expected dayly,) and should join himselfe personally with them in such a service, I thinke there is no *Divine, Lawyer*, or true hearted *Englishman*, so void of reason, or common understanding, as to affirme high Treason, or Rebellion in point of *Law*, and a matter of *Damnation* in *Conscience*, for the true *Divinity*, for the Parliaments, Subjects, Kingdome, to take up necessary defensive armes for their owne preservation in such a case, even against the King himselfe, and his army of *Aliens*; but would rather deeme it a just, honourable, necessary action; yea, a duty, for every *Englishman* to venture his life, and all his fortunes, in the defence of his owne dearest Native Countrey, Posterity, Liberty, Religion; and no lesse then a glorious *Martyrdome*, to dye manfully in the Field, in such a publique quarrell: the very Heathens generally resolving; that *Dulce & decorum est pro Patria mori. Et mortes pro Patria appetita, Non solum gloriosa Rhetorice, sed etiam beate videri solent*: In a case of this quality. Whence that noble Roman *Camillus*, professed to all the Romanes in a publique Oration; *Patria deesse non potest, si non sit, non potest, si non sit, non potest, si non sit*. And is not there the same equity, and reason, when the King shall raise an Army of Popish English, or Irish Rebels, Malignants, Delinquents, and bring in Forraigners (though yet in no great proportion) to effect the like designe. If armed force, and resistance be no Treason, no Rebellion in Law or Conscience, in the first, it can be no such crime in our present case.

Sixtly, I would demand of any *Lawyer*, or *Divine*: What is the true genuine reason, that the taking up of offensive armes against, or offering violence to the person, or life of the King, is High Treason, in point of Law and Divinitie? Is it not onely because *and as he is, the head and chiefe member of the Kingdome, which hath a Common interest in him*; and because *the Kingdome it selfe sustaines a publique prejudice and losse by his War against, and violence to his Person*? Doubtlesse, every man must acknowledge this, to be the onely reason; for if he were not such a publique person, the taking up of armes against, or murdering of him, could be no High Treason at all. And this is the reason, why the elsewhere cited Statutes of our Realme, together with our Historians, make levying of Warre, deposing, or killing the King by private persons, High Treason; not onely against the King, but the **REALME**, and King-

Gratian. Causa 23 qu. 1. 2. 3. Calvin. Lexicon. Luvit Tit Bellum. Cicero Tusc. quest. 1. 2. Liv Rom. Hist. l. 5. sect. 51. p. 219.

dom; to; Witness: the Statutes of 5. R. 2. c. 6. 11. R. 2. c. 1. 3. 6. 17. R. 2. c. 8. 21. R. 2. c. 2. 4. 20. 3. H. 5. Parli. 2. c. 6. 28. H. 8. c. 7. 1. Mar. c. 6. 13. Eliz. c. 1. 3. Iaco. 1. 2. 3. 4. and the Act of Pacification this present Parliament, (declaring those persons of England and Scotland TRAITORS TO EITHER REALME, who shall take up Armes against either Realme, without common consent of Parliament) which Enact, *The levying of Warre against the Kingdome and Parliament, invading of England or Ireland, treachery against the Parliament, repealing of certaine Acts of Parliament, ill Counselling the King, coyning false Money, and offering violence to the Kings person, to take away his Life, to be high Treason, not onely against the King and his Crowne, but THE REALME TO;* and those who are guilty of such crimes, to bee High Traitors [and Enemies TO THE REALME, as well as to the King. Hence John of Gaunt, Duke of Lancaster, being accused in a Parliament held in 7. R. 2. by a Carmelite Frier, of High Treason, for practising seditiously to surprize the KING, and seize upon his Kingdom; the Duke denied it, as a thing incredible upon this very ground; *If I should thus* (said he) *affect th: Kingdome: Is it credible after your murder (which God forbid) that the Lords of this Kingdom, could patiently endure me, Domini mei ET PATRIÆ PRODITOREM, being a Traitor both of my LORD and COUNTRY?* Hence in the same Parliament of 7. R. 2. John Walsh Esquire Captaine of Cherburg in France, was accused by one of Navarre, *DE PRODITIONE REGIS & REGNI, Of Treason against the King and Kingdom;* for delivering up that Castle to the Enemies; And in the Parliament of 3. R. 2. Sir John Annesley Knight, accused Thomas Kerrington Esquire, of Treason against the King and Realms, for betraying and selling the Castle of Saint Sarvaux within the Isle of Constantine in France, to the French, for a great summe of money; when as he neither wanted Victuals, nor meanes to defend it: both which Accusations (being of Treasons beyond the Sea) were determined by Battle, and Duels fought to decide them. Hence the great Favourite, *Pierce Gaveston, Tanquam Legum subversor, Host Terræ Publicus, & Publicus Regni Proditor, capite indignus est:* and the two Spencers after him, were in Edward the second his Raigne likewise banished, condemned, and executed, as Traitors to the King and Realms, *ET REGNI PRODITORES, for miscounselling and seducing the King, and moving him to make War upon his people:* Hence both the Pierces, and the Archbishop of Yorke, in the Articles against King Henry the fourth, accused him, as guilty of High Treason, a Traitor both to the King, Realme and Kingdom of England, for Deposing and murthering Richard the second. And hence the Gunpowder Conspirators, were declared adjudged, and executed as Traitors both to the KING & REALME, for attempting to blow up the Parliament House, when the King, Nobles, and Commons were therein assembled: If then the King shall become an open enemy to his Kingdom, and Subjects, to waste or ruine them; or shall seeke to betray them to a Foreign Enemy (which hath bene held no lesse then Treason in a King to doe, when by the expresse resolution of 28. H. 8. cap. 7. may become a Traitor to the REALME, and thereupon forfeit his very right and title to the Crowne;) it can be no Treason or Rebellion in Law or Theologie, for the Parliament, Kingdom, Subjects, to take arms against the King and his Forces, in such a case, when he shall wilfully and maliciously rent himselfe from, and set himselfe in direct opposition against his Kingdome;

Walsingh. Hist. Ang. p. 334-335:

Walsing. hist. Ang. p. 337.

Walsing. hist. Ang. p. 245. 246.

Walsing. hist. Ang. p. 72. 76. 91, 92. 105, 106.

Hulls Chro. 1 & 3 H. 4. f. 17, 22. Fox Acts & Mon. vol. 1. Edit. ult. Col. 676, 677. 3 Iac. c. 1, 2 3, 4. The Kings Proclamations. 3 Iacob. Against them, and the Arraignement of Traitors.

nd by his owne voluntary actions turne their common interelt in him for their good
 nd protection, into a publicke engagement against him, as a common Enemy, who
 rekes their generall ruine. And it Kings may lawfully take up armes against their
 Subjects, as all Royallists plead, after they reject their lawfull power, and become open
 Rebels or Traitors, because then as to this, they cease to be Subjects any longer, and so
 forfeit the benefit of their Royal protection: By the self-same reason (the bond and sti-
 tulation being mutuall; Kings being *their Subjects * Liege Lords*, by Oath and <sup>* Cooke 7. Re-
 port, Calvins
 case.</sup> Duty, as well as *they their Liege people*;) When Kings turne open professed Foes to
 their Subjects in an Hostile Warrelike way, they presently both in Law and Con-
 science, cease to be their Kings *de jure*, as to this particular, and their Subjects allea-
 ciance thereby is as to this discharged, and suspended towards them, as appears by the
 Kings Coronation Oath, and the <sup>* Lords and Prelats condition. ll Fealty to King
 * Math. Paris
 p. 73. Speed
 p 483 484.</sup> *teven*, so that they may justly in Law and Conscience resist their unlawfull at-
 tacks, as enemies; for which they must onely censure their owne rash unjust proceed-
 ings, and breach of Faith to their People, not their Peoples just defensive opposition
 which themselves alone occasioned.

Seventhly, It must of necessity be granted; that for any King to levie warre a-
 gainst his Subjects, unlesse upon very good grounds of Law and conscience, and in case
 of absolute necessity, when there is no other remedy left, is directly contrary to
 his very Oath and duty, witness the *Law of King Edward the Confessor*, cap. 17.
 and Coronation Oathes of all our Kings forementioned; *To keepe PEACE and god-
 ly agreement INTIRELY, ACCORDING TO THEIR POWER to their peo-
 ple*; Contrary to all the fundamentall Lawes of the Realme, and the Prologues of
 most Statutes, intirely to preserve, and earnestly to *indeavour the peace and welfare
 their peoples persons, goods, estates, lawes, liberties*; Contrary to the main tenor
 of all *Sacred Scriptures*, which have relation unto Kings; but more especially to
 the ^{1 Kings 12. 21. 23. 24. and 2 Chron. 11. 1. 2.} Where when King Rehoboam
 had gathered a very great army to fight against the ten Tribes, (which revolted from
 him for following his younz Counsellors advice, and denying their just request, and crow-
 ned Ieroboam for their King) intending to reduce them to his obedience by force of armes;
 God by his Prophet SHEMAIAB expressly prohibited him and his army, to goe up, or fight
 against them; and made them all to returne to their owne houses without fighting; and
^{Isay 14. 4. 19. to 22.} where God threatens, to cast the King of Babylon out of his
 grave, as an abominable branch, as a carcasse trodden under foot, (marke the reason)
 Because thou hast destroyed thy Land, and slaine thy People, to cut off from Ba-
 bylon his name and remembrance, and Sonnes and Nephewes: as he had cut off his
 peoples, though heathens. Yea, contrary to that memorable Speech of that noble
 Roman <sup>* Livy Romi
 Hist. 1. 7 Dic.
 40. p. 285.</sup> *Valerius Corinius* when he was chosen Dictator; and went to fight against
 the Roman conspirators, who toke up armes against their Country. *Fugeris etiam
 tenessius, tergumque civi dederis, quam pugnaveris contra patriam; nunc ad pacifican-
 dum bene atque honeste inter primos stabis: postulate aqua et ferte; quanquam vel ini-
 quis standus est potius, quam impias inter nos conseramus manus, &c.* If then a Kings
 offensive warre upon his Subjects, without very just grounds and unavoidable oc-
 casions be thus utterly sinfull, and unlawfull in law and Conscience; and most dia-
 metrally contrary to the Oath, Office, trust and duty of a King, (who by this strange
 metamorphosis (*) becomes a Wolfe instead of a Shepheard, a destroyer in lieu of a

B

Protector

Protector; a publike Enemy in place of a Common friend; an unnaturall Tyrant, instead of a naturall King) it followes inevitably; that the Subjects or Kingdomes resistance and defensive warre in such a case, both by the law of God, of nature, of the Realme, must be lawfull, and just; because directly opposite to, the only preservative against that warre, which is unlawfull and unjust: and so no Treason, nor Rebellion (by any Law of God or man,) which are illegall and criminall too.

Eightly, It is the received resolution of all ^b Canonists, Schoolemen, and Civill Lawyers; That a defensive warre undertaken onely for necessary defence, doth not properly deserve the name of warre, but onely of Defence: That it is no Levying of warre at all, (which implies an active offensive, not passive defensive raising of forces, and so no Treason nor offence within the statute of 25. E. 3. c. 2, as the Parliament, the onely proper Iudge of Treasons, hath already resolved in point of Law; but a faculty onely of defence Cuilibet Omni Iure, ipsoque Rationis Ductu Permissa; &c. permitted to every one By all Law, (or right) and by the very conduct of reason, since to propulse violence and injury, is permitted by the very Law of Nations. Hence of all the seven sorts of warre which they make, they define the last to be, A just and Necessary War *quod fit se et sua defendendo*; and that those who die in such a war (*ceteris paribus*) are safe (*Causa 23. qu. 1.*) and if they be slaine for defence of the Common-wealth, their memory shall live in perpetuall glory. And hence they give this Definition of a just Warre. *c* Warre is a Lawfull Defence against an imminent or preceeding offence upon a publike or private cause, concluding: That if Defence be severed from Warre, it is a Sedition, not Warre; Although the Emperour himselfe denounce it; Yea, although the whole World combined together, Proclaime it: For the Emperour, or King, can no more lawfully hurt another in Warre, then he can take away his goods or life without cause. Therefore let Commentators brayle, *eternally* about Warre, yet they shall never justifie nor prove it lawfull, Nisi ex Defensio- nis Legitima; but when it proceeds from Lawfull defence, all Warres being rash and unjust, against those who justly defend themselves. This Warre then being undertaken by the Parliament, onely for their owne, and the Kingdomes necessary defence, against the Kings invasive Armies and Cavalliers (especially, now after the Kings rejection of all Honourable and safe termes of Peace and accommodation tendered to him by the Parliament;) must needs be just and lawfull; and so no Treason, nor Rebellion, in point of Law or Conscience; Since no Law of God, nor of the Realme, hath given the King any Authority or Commission at all to make this unnaturall Warre upon his Parliament, his people, to enslave their Soules and Bodies, or any inhibition to them, not to defend themselves in such a case.

These generall Considerations thus premised, wherein Law and Conscience walke hand in hand; I shall in the next place lay downe such particular grounds for the justification of this Warre, which are meereley Legall; extracted out of the bowels of our knowne Lawes; which no professors of them can contradict.

First, It is unquestionable, that by the Common and Statute Law of the Land, the King himselfe, who cannot lawfully proclaime Warre against a Forraigne Enemy, much lesse against his people, without his Parliaments previous assent, as I have elsewhere proveyd; cannot by his absolute Sovereignes Prerogative, either by verball Commands, or Commissions under the great Seale of England, derive any lawfull or just Authority to any Generall, Captaine, Cavalliers, or person whatsoever, without

Legali

Legall Triall and Conviction, to seize the Goods or Chattels of any his Subjects, much lesse forcibly to Rob, Spoile, Plunder, Wound, Beat, Kill, Imprison, or make open War upon them, without a most just and inevitable occasion, and that after open hostilitie denounced against them. And if any by vertue of such illegal Commissions or Mandats, Assault, Plunder, Spoile, Rob, Beat, Wound, Slay, Imprison, the Goods, Chattels, Houses, Persons of any Subject not lawfully convicted; They may, and ought to be proceeded against, resisted, apprehended, indicted, condemned for it, notwithstanding such Commissions, as Trespassers, Theeves, Burglars, Felons, Murderers, both by Statute, and Common Law; As is clearely enacted and resolved; by *Magna Charta*, cap. 29. 15. E. 3. Stat. 1. cap. 1. 2. 3. 42. E. 3. cap. 1. 3. 28. E. 1. *Artic. super Chartas*, cap. 2. 4 E. 3. c. 4. 5. E. 3. cap. 2. 24. E. 3. cap. 1. 2 R. 2. cap. 7. 5. R. 2. ca 5. 1. H. 5. cap. 6. 11. R. 2. cap. 1. to 6. 24 H. 8. cap. 5. 21. *Jacob. c. 3.* Against Monopolies. The Petition of Right. 3. *Caroli 2. E. 3. c. 8. 14. E. 3. ca. 14. 18. E. 3. Stat. 3. 20. E. 3. cap. 1. 2. 3. 1. R. 2. cap. 2.* And generally all Statutes against Purveyers 42. *Aff. Pl. 5. 12. Brooke Commissions*, 15. 16. *Fortescue*, cap. 8. 9. 10. 13. 14. 26. 1. E. 3. 2. 2. H. 4. 24. *Br. Faux Imprisonment*, 30. 28. 22. E. 4. 45. a *Tr. 16. H. 6. Munstrans de Faits* 182. *Stamford lib. 1. fol. 13. a. 37. a.* The Conference at the Committies of both Houses, 30. *Aprilis*, 40. *Caroli*, concerning the Right and Priviledge of the Subject: newly Printed. *Cooke lib. 5. fol. 50. 51. lib. 7. fol. 36. 37. lib. 8. fol. 125. to 129.* Judge *Crooks* and *Hutons* Arguments, against *Shp money*, with divers other Law-Bookes. Therefore the Cavalliers can no waies justify, nor excuse their Wounding, Murthring, Imprisoning, Assaulting, Robbing, Pillaging, and spoiling of his Majesties people and Subjects, and making Warre upon them, by vertue of any Warrant or Commission from the King; but may justly and legally be apprehended, resisted, and proceeded against, as Murthers, Rebels, Robbers, Felons, notwithstanding any pretended Royall Authority to countenance their execrable unnaturall proceedings.

Secondly, It is irrefragable, that the Subjects in defence of their own Persons, Houses, Goods, Wives, Families, against such as violently assault them by open force of Armes, to wound, slay, beat, imprison, robbe, or plunder them (though by the Kings own illegal Commission) may not onely lawfully arme themselves, and fortifie their houses (their Castles in Judgement of Law,) against them; but resist, apprehend, disarm, beat, wound, repulse, kill them in their just necessary defence; not onely without guilt of Treason, or Rebellion, but of Trespas, or the very least offence; And Servants in such Cases may lawfully justify, not onely the beating, but killing of such persons, who assault their Masters persons, goods, or houses; as is expressly resolved by the Statute of 21. E. 1. *De malefactoribus in Parciis*; By 24. H. 8. cap. 5. *Fitzherbert, Corone*, 192. 194. 246. 25. 261. 330. 21. H. 7. 39. *Trespas*, 246. *Stamford*, lib. 1. cap. 5. 6. 7. 22. *Aff.* 46. 11. H. 6. 16. a. 14. H. 6. 24. b. 35. H. 6. 51. a. 9. E. 4. 48. b. 12. E. 4. 6. a. 12. H. 8. 2. b. *Brooke. Coron* 63. & *Trespas* 217. Therefore they may justly defend themselves, resist, oppose, apprehend, and kill his Majesties Cavalliers, notwithstanding any Commissions, and make a defensive Warre against them; when as they assault their persons, houses, goods, or habitations, without any Treason, Rebellion, or Crime all against the King or Law.

Thirdly, It is past dispute, That the Sherifes Justices of Peace, Mayors, Constables

' and all other Officers of the Realme, may and ought by our Lawes and Statutes to
 ' raise the power of the Counties and places where they live, and command all
 ' persons to arme themselves to assist them upon their Command; when they see
 ' just cause (which commands they are all bound to obey under paine of imprisonment
 ' and fines, for their contemptuous disobedience herein :) to suppress and withstand all,
 ' publicke breaches of the Peace, Riots, Routs, Robberies, Fraies, Tumults, Forci-
 ' ble Entries, and to apprehend, disarm, imprison, and bring to condigne punish-
 ' ment all Peace-breakers, Riotors, Trespassers, Robbers, Plunderers, Quarrellers,
 ' Murderers, and Forces met together, to doe any unlawfull Hostile act, (though by
 ' the Kings owne precept :) and in case they make resistance of their power,
 ' they may lawfully kill and slay them without crime or guilt, if they cannot other-
 ' wise suppress or apprehend them : yea, the Sheriffes, and all other Officers may
 ' lawfully raise and arme the power of the County, to apprehend Delinquents, by
 ' lawfull Warrants from the Parliament, or Processe out of other inferiour Courts
 ' of Iustice, when they contemptuously stand out against their Iustice, and will not
 ' render themselves to a Legall triall; in which service all are bound by Law to assist
 ' these Officers, who may lawfully slay such contemptuous Offenders, in case they can-
 ' not otherwise apprehend them. All which is Enacted and Resolved by 19. E. 3.
 cap. 38. 3. Ed. 1. cap. 5. 2. R. 2. cap. 6. 5. R. 2. cap. 5 6. 7. R. 2. cap. 6. 17.
 R. 2. cap. 8. 13. H. 4. cap. 7. 1. H. 5. cap. 6. 2. H. 5. cap. 6. 8. 19. H. 7. cap. 13.
 3. E. 6. cap. 5. 1. Mar. cap. 12. 31. H. 6. cap. 2. 19. E. 2. Fitz Execution,
 247. 8. H. 4. 19. a 22. Ass. 55. 3. H. 7. fol. 1. 10. 5. H. 7. fol. 4. Register, f.
 59. 60. 61. Fi z. Coron. 261. 288. 289. 328. 346. Stamford. lib. 1. cap. 5. 6.
 Cooke lib. 5. fol. 92. 93. with sundry other Bookes, and Acts of Parliament, and
 Walsingham Hist. Angliae. pag. 283. 284. Yea, the Statute of 13. Ed. 1. cap. 38.
 recites; That such resistance of Processe out of any the Kings Courts: (much more
 then out of the Highest Court of Parliament) redounds much to the dishonour of the King
 and his Crowne; and that such resisters shall be imprisoned and fined, because they are
 disturbers of the Kings Peace, and of his Realme. And the expired Statute of 31. H.
 6. cap. 2. Enacted: That if any Duke, Marquesse, Earle, Viscount, or Baron, com-
 plained of for any great Riots, Extortions, Oppressions, or any offence by them done a-
 gainst the Peace and Lawes, to any of the Kings Liege people, should refuse to obey
 the Processe of his Kings Court, under his Great or privie Seale, to him directed, to
 answer his said offences; either by refusing to receive the said Processe, or despising it,
 or withdrawing himselfe fr that cause, and not appearing after Proclamation made by
 the Sheriffe in the County, at the day prescribed by the Proclamation; that then hee
 should for this his contempt, forfeit and lose all his Offices, Fees, Annuities, and other
 possessions that he, or any man to his use, hath of the gift or grant of the King, or any
 of his Progenitors, made to him or any of his Ancestors: And in case he appears not
 upon the second Proclamation on the day therein to him limited; that then he shall lose
 and forfeit his Estate and place in Parliament, and also All the Lands and Tenements
 which he hath, or any other to his use for terms of his life, and all other persons having
 no Lands nor appearing after Proclamation, were to be put out of the Kings Protection
 by this Act. Such a heinous offence was it then reputed, to disobey the Processe of
 Chancery, and other inferiour Courts of Iustice even in the greatest Peeres; how
 much greater crime then is, and must it be, contemptuously to disobey the Summons
 Pro

Processe, and Officers of the Parliament it selfe, the supremest Court of Judicature, specially in those who are Members of it, and stand engaged by their Protestations, oaths, and Places in it, to maintaine its honour, power, and priviledges to the uttermost? which many of them now exceedingly vilifie, and trample under feete: and therefore deserve a severer censure then this statute inflictis; even such as the Act of 21. R. 2. c. 6. prescribed to those Nobles unjustly fore judged in that Parliament; *That be'r issues males now begotten shall not come to the Parliaments, nor to the Councells of the King nor his heires; nor be of the Kings Counsell nor of his heires;* Therefore it is undubitable, that the Sherifes, Iustices of Peace, Majors, Constables, Leivtenantes, Captaines, and other Officers in every County through the Realme, may by their owne Authority (much more by an Ordinance and Act of association of both houses) raise all the power of the County, & all the people by vertue of such commands may lawfully meete together in Armes to suppress the riots, burglaries, rapines, plunders, butcheries, spoyling, robberies, and armed violence of his Majesties Cavaleers; and apprehend, imprison, slay, arraigne, execute them as common enemies to the kingdomes peace and welfare, even by the knowne Common Law, and Statutes of the Realme, and seize Delinquents notwithstanding any royall Commission or personal commar ds they may or can produce.

Fourthly, it is most certaine, that every Subject by the very *Common Law of the Realm*, (yea Law of Nature) as he is a member of the State and Church of *England*, is bound not in duty and conscience, when there is necessary occasion, to Array and Arme himselfe to resist the invasions, and assaun's of o enemies of the Realme, (specially of Forraigners) as is cleare by infinite * *Presidents*, cited by the Kings owne Councell, and recited by Judge Croke in his Argument concerning Ship-morrey; in both the Houses two Resolutions and Declarations against the Commission of Array; and the Answer of the Earl of them in the Kings name; all newly Printed (to which I shall referre the Reader for fuller Satisfaction) and by the expresse statutes of 1. E. 3. c. 5. 25. E. 3. c. 8. and 4. H. 4. c. 13. The reason is from the Original compact and mutuall stipulation of every member of any Republicke, State or Society of men for mutuall defence one of another upon all occasions of invasion, made at their first association and incorporation into a Republicke, state, kingdome, Nation, of which we have a pregnant example, *Iulz. 20. 1. to 48.* If then the King himselfe shall introduce forraigne Forces and enemies into his Realme to levie war against it, or shall himself become an open enemy to it; the Subjects are obliged, by the self-same reason, law, equity, especially upon the Parliaments command, to Arm themselves to defend their Native Country, Kingdome against these forraigne and domesticke Forces, and the King himselfe to be joyne with them; as farre forth as they are bound to doe it upon the Kings own Vow and Commission, in case he joyned with the Parliament and Kingdome against them; the necessary defence and preservation of the Kingdome and themselves (and of the King onely so farre forth as he shewes himselfe a King and Patron, not an enemy of his Kingdome, and Subjects.) being the sole ground of their engagement in such defensive warres: according to this notable resolution of Cicero, *Omnium Societatum non a est gratia, nulla cario: quam ea qua cum Republica est unicusque nostrum* *De Officiis* 1. 2. p. 626. *Carum sunt parentis, ea liberis, propinqui, familiares, SED OMNES OMNIVM CARITATES PATRIA UNA COMPLEXA EST, pro qua quis bonus cum tunc tunc morietur, si ei sit profuturus? Quo est detestabilior illorum immunitas,*

See Principally 48. H. 3. Rot. Pat Mem. 7. & Mem. 11 Do. 15.

See Aristot. Pol. 1. 1. c. 1, 2, & 1. 2. 3 Politic. lib. 1. c. 1. Forcscue. c. 9. 10 15.

De Officiis 1. 2. p. 626.

qui lacerant omni scelere Patriam, & in ea funditus delenda occupati & sunt & fuerunt.

Exod. 32.9. and seeing kings themselves as well as Subjects are bound to hazard their lives for
to 15. 32. the preservation of their Kingdomes, and peoples safetie; and not to endanger the
Num. 14. 11. the ruine of the Kingdome and people to preserve their owne lives and prerogatives
to 15. 2 Sam. as I have elsewhere manifested; it cannot be denied, but that every Subject, when
8.9. 17. 1 Chr. the King is unjustly divided against his Kingdome, Parliament, and People, is more
21. 17. Iohn obliged to joyne with the kingdome, Parliament, and his Native dearest Countrey
10. 11. 15. c. (who are most considerable) against the King; than with the king against them; and ra-
21. 48. 49. 50. ther in such a case than any other, becaus: there is lesse neede of helpe, and no such
danger of ruine to the whole Realme and Nation, when the King joynes with them
against forraigne invading enemies; as there is when the king himselfe becomes an
open intestine Foe unto them, against his Oath and Duty: and the ^h Peoples safetie
being the Supreme Law, & the Houses of Parliament the most Sovereigne Authoritie
they ought in such unhappie cases of extremitie and division to oversway all Subjects
to contribute their best assistance for their necessary just defence, even against the king
himself and all his Partisans, who take up Hostile Armes against them, and not to assist
them to ruine their owne Countrey, Kingdome, Nation, as many as now over-rashly do

*h Cicero de
Legibus,*

*Resolution of
Conscience.*

Sect. 2.

*See Stam-
fords Pleas:*

f. 14. 15. 16.

*See Andrew
Favine his*

*Theatre of
Honour 1. 10.*

*c. 5. 6. 7. Halls
Chron. H. 8. f.*

6. 7. 9. 11. 12.

58. 63. 68. 73.

85. 91. 95.

146. 154.

Hall An. 16.

H. 8. f. 122.

123.

*(n) Fox: Acts
and Monu-
ments, vol. 3*

Edit ult. p

*969. 970. Fe-
an Crespin.*

*Estate de Les-
glise. An.*

1559. p. 615:

*The generall
History of
France in his
life. p. 677.*

Fifthly, I conceive it cleare Law, that if the King himselfe, or his Courtiers with
him, shall wrongfully assault any of his Subjects to wound, rob, or murder them
without just cause, that the subjects, without any guilt of Treason or Rebellion, ma-
not onely in their owne defense resist the King and his Courtiers assaults in such a case
and hold their hands (as ⁱ Doctor *Ferne* himselfe accords) but likewise close with, and
disarme them; and if the King or his Courtiers receive any blowes, wounds, in suc-
a case, or be casuall slain, it is neither Treason nor Murder, in the Defendants, who
had no Treasonable nor murderous intention at all in them, but onely endeavour
their own just defence, attempting nothing at all against the kings lawful Royall auth-
rity: as is cleare by all Law ^k Cases, of man slaughter, *se defendens*, and to put this out
question, I shall cite but two or three cases of like Nature. It hath bene *very* frequen-
with the Kings of England, France, and other Princes, for triall of their man hood,
runne at Iousts, and fight at Barriers, not onely with forraigners, but with their own
valiantest Lrds and Knights, of which there are various Examples. In these Martia-
disports, by the very Law of *Armes*, these Subjects have not onely defended them-
selves against their kings assaults and blowes; but *retorted lance for lance, stroke for*
stroke, and sometimes unhorsed, disarmed, and wounded their Kings, our m King Henry
the eight, being like to be slaine by the Earle of Suffolke, at a Tilting in the 16. yeare
his reigne: and no longer since then the yeare 1559. Henry the 2^d. King of *France*
was casuall slain in a Ioust by the Earle of *Montgommery*, his Subject, (whom he
commanded to Iust one-bout more with him against his will) whose Speare in the
counter-blow ran so right into one of the Kings eyes, that the shivers of it peirced into
his head, perished his braine and slew him: yet this was Iudged no Treason, Felony,
nor offence at all in the Earle, who had no ill intention. If then it hath ever bene re-
puted lawfull and honourable, for Subjects in such militarie exercises, upon the chal-
lenges of their kings, to defend themselves couragiously against their assaults, and thus
fight with and encounter them in a martiall manner, though there were no necessi-
for them to answer such a challenge; and the casuall wounding or slaying of the King
by a Subject in such a case, be neither Treason nor Felony: then much more must it be
law

full by the Law of Armes, Nature, and the kingdome, for the Parliament and sub-
 s in a necessary, just, unavoydable warre, to defend, resist, repulse the kings and
 Cavaleers personall assaults, and returne them blow for blow, shot for shot, if they
 wilfully invade them; and if the king or any of his Forces miscarry in this action,
 y must (like King ° Henry the 8th when endangered by tilting) blame *themselves*
 me, and have no other just legall remedie but patience, it being neither Treason,
 rebellion, nor Murther in the defensive party, and most desperate folly and frenzie
 any Prince, to engage himselfe in such a danger, when he neede nor doe it. I reade
 ° Charles the first of France; that he fell sodainely *distracted upon a message he recei-*
ved from an old poore man, as he was marching in the head of his Army; and thereupon
striking himselfe betwixt his owne men, and slew two or three of them ere they
were aware of him, wounding others. Whereupon they closing with him, disarmed and led
him away forcibly, keeping him close shut up like a Bedlam, till he recovered his senses. I
 take no man in his right wits, will deeme this their action Treasonable or unlawfull;
 whether did the king or any in that age thus repute it. If then a King in an angry
 inticke passion (for *¶ Ira brevis furor est:*) shall take up Armes against his loyall
 objects, and assault their persons to murther them and spoyle their goods; if they (by
 common consent in Parliament especially) shall forcibly resist, disarme or restrain
 a person, till his fury be appeased, and his judgement rectified by better counsell;
 shall this be Treason, Rebellion, or Disloyaltie? God forbid: I thinke none but mad
 men can or will averre it. It was a great doubt in Law, till the statute of 33. H. 8.
 20. settled it, *If a party that had committed any high Treasons when he was of perfect*
memory; after accusation, examination, and confession thereof be. am: madd or Lunaticke;
whether he should be tried and condemned for it during this distemper? And some from
that very act (and 21. H. 7. 31. 36. Ass 27. 12. H. 3. Forfeiture 33. and Dower 183.
it. Nat. Br. 202. D. Stamford Pleas, 16. b. and Cooke. l. 4. f. 124. Beverlyes case,
which resolve, that a Lunaticke or Non Compos cannot be guilty of murther, felony, or
high Treason, because having no understanding, and knowing not what he doth, he can have
no felonious intention) conceive, that a reall mad-man cannot be guilty of high Treason
 though Sir Edward Cooke in *Beverlyes case*, be of a contrary opinion) if he should as-
 sault or kill his king. And I suppose few will deeme *Walser Terrils* casuall killing
 King *William Rufus* with the glance of his arrow from a tree, shot at a Deere, high
 treason; neither was it then reputed so, or he prosecuted as a Traytor for it, because
 he had no malicious intention (as most thinke) against the King, or any thought to
 hurt him. But I conceive it out of question, if a king in a distracted furious passion with-
 out just cause, shall invade his subjects persons in an open hostile manner to destroy
 them; it neither is, nor can be Treason nor Rebellion in them, if in their owne neces-
 sary defence alone they shall either casuall wound or slay him contrary to their loyall
 intentions; and those *Statutes and Law-bookes* which judge it high Treason, for
 any one maliciously and trayterously to imagine, compassse or conspire the death of
 the King; will not at all extend to such a case of meeke just defence; since a conspi-
 racy or imagination to compassse or procure the Kings death, can neither be justly
 imagined nor presumed, in those who are but meeke defensive, no more then in o-
 ther common cases of one mans killing another in his owne inevitable defence with-
 out any precedent malice; in which a *Pardon by Law*, is granted of course: however,
 unquestionlesse it is no Treason nor murther at all to slay any of the kings souldiers and
 Cavaliers who are no kings, in such a defensive warre.

° Hall's Chron;
f. 123, 16. H. 8

¶ General
History of
France p. 227.
228. Fabians
Chron part.

7. in his life;
with others.

¶ Seneca de
Ira.

Edinerus,
Malmes Hunt.
Hoveden,
Mat. West.

Mat. Par Pe-
lytonian,
Fab. Caxton,
Holins. Graf.

Speed, Daniel,
and others in
the life of
Wil. Rufus.

see Stamford
Braffon, Fitz-
herbert, Brook,
Crompt. Tit.

Treason &
Cere.

Sixthly,

Sixthly, suppose the King should be captivated, or violently led away by any forraign or domesticke enemies to him and the kingdome, and carried along with them in the field, to countenance their warres and invasions upon his loyallett Subjects, by illegall warrants or Commissions fraudulently procured, or extorted from him. If the Parliament and Kingdome in such a case, should raise an Army to rescue the King out of their hands, and to that end encountering the enemies, should casually wound the King whiles they out of loyalty fought onely to rescue him; I would demand of any Lawyer or Divine, whether this Act should be deemed Treason, Rebellion or Disloyalty in the Parliament or army? Or which of the two Armies should in point of Law or Conscience be reputed Rebels or Traytors in this case? those that come onely to rescue the King, and so fight really for him indeed, though against him in shew; and wound him in the rescue? Or those who in shew onely fought for him, that they might still detain him captive to their wills? Doubtlesse there is no Lawyer, nor Theologue but would presently resolve in such a case, that the Parliaments Army which fought onely to rescue the King were the loyall Subjects; and the Malignants army who held him captive with them, the onely Rebels and traytors; and that the casuall wounding of him (proceeding not out of any malicious intention, but love and loyalty to redeeme him from captivity,) were no trespasse nor offence at all, being quite besides their thoughts: and for a direct president; It was the very case of King ^e Hen^{ry} the third; who (together with his sonne Prince *Edward*) being taken Prisoner by the Earle of *Leycester* in the battle of *Lewis*, and the Earle afterwards carrying him about in his Company in nature of a Prisoner, to countenance his actions, to the great discontent of the *Prince*, the Earle of *Glocester* and other Nobles; hereupon the *Prince* and they raising an Army, encountred the Earle, and his Forces in a battle at *Evesham* where the King was personally present, slew the Earle, Routed his Army, and rescued the king; in this cruell battell, theⁿ king himselfe (being wounded unawares with Iavelin, by those who rescued him) was almost slaine, and lost much of his blood: yet in a Parliament soone after sommoned at *Winchester*, Anno 1266. the Earle and his Army were disinherited as Traytors and Rebels; but those who rescued them though with danger to his person, rewarded as his loyall subjects. And is not this the present case? A company of malignant ill Councillors, Delinquents, Prelates, Papists, have withdrawne his Majestie from his Parliament, raised an Army of Papists, Forraigner Delinquents and Malecontents, to ruin the Parliament, Kingdome, Religion, Lawe Liberties; to countenance this their designe, they detain his Majestie with them, and engage him all they can on their side; the Parliament out of no disloyall intention but onely to rescue his Majesties person out of their hands, to apprehend delinquents preserve the Kingdome from spoyle, and defend their Priviledges, Persons, Liberties, estates, religion, from unjust invasions, have raised a defensive Army, which encountred these Forces at *Edgehill* (where they say the King was present) slew the Lord General (Earle of *Lincolne*) with many others; and as they never intended, so they offered no kind of hurt or violence at all to his Majesties person then or since; and now full against their wils, Petitions, endeavours for peace, they are necessitated to continue this offensive warre, for their owne and the Kingdomes necessary preservation. The question is; *Whether this Act, this Defensive Warre of the Parliament and their Forces be high Treason or Rebellion? and who are the Traytors and Rebels in this case?* Certainly, if I understand any Law or Reason, the Parliament and their Forces are and n

^e Mat. Par. An. 1266. p. 967. Speed. p. 640. Dan. p. 180. 181. Holinsb. Graft. Stow, and others.

^a In presenti bello, Dominus Rex extitit vulneratus & morti pene vicinus, jaculo in eum ex improviso dejecto, Mat. Par. ibid.

de innocent from these crimes; and their opposite Popish Malignant Cavaliers, the
 onely Rebels and Traytors; as this Parliament (the onely proper Judge of Treasons)
 hath * already voted and declared them in point of Law.

Seventhly, it is * *Littletons* and other Law-bookes expresse resolutions; That if
 a man grant to another the Office of a Parkership, of a Parke for life, the estate which
 he hath is upon condition in Law (though not expresse) that he shall well and law-
 fully keepe the Parke, and doe that which to his Office belongeth to doe, or other-
 wise it shall be lawfull for the grantor and his heires to remove him, and grant it to ano-
 ther if he will: and if the Parker negligently suffer the Deere to be killed, or kill the
 Deere himselfe without sufficient warrant from his Lord, it is a direct forfeiture of his
 Office. If then a Keeper or Forrester cannot kill or negligently suffer his Deere to be
 killed (no nor yet destroy the vert on which they should feed, or suffer it to be destroy-
 ed) without forfeiture of his Office, even by a condition annexed to his Office by the
 very Common Law; shall a King, thinke you, lawfully murder, plunder and destroy
 his Subjects, his kingdome, without any forfeiture or resistance at all? or will the
 Common Law of the Land in such a case which provides and annexeth a condition
 to the Office of a Parker, not much more unite it to the royall Office of a King, (who
 is but a regall Keeper, or * *sheepheard of men*, of Christians, of free men, not of slaves)
 for the Subjects preservation and security? Doth the Common-Law thus provide
 for the safety, the Liberty, welfare of our beasts, yea our wilde beasts, are our Deere so
 leave unto it, and will it not much more provide for the security of our owne persons,
 Lives, Liberties, estates? shall not these be dearer to it than our Deere? How many
 * *riged Lawes* have bene anciently, and of late yeares made, against the killing, the de-
 stroying of the kings, the Subjects Deere in Forrests and Parkes, for which some have
 lost their Liberties, Lives, members? And shall not the Lawes for the preservation
 of the Subjects Lives, Liberties, estates be more inviolably observed, more severely
 prosecuted? May a Forrester, Warrener, or Keeper of a Parke lawfully beate and
 kill another in defence of his Deere and other game, without any penalty or forfeiture
 at all, enjoying the Kings Peace as before this fact, by the expresse statute of 21. E. 1.
Rastall Forrests 19. and *Stamfords Pleas*, l. 1. c. 5. 6. And cannot a poore subject
 defend his owne person, family, house, goods, Libertie, life, against the kings Forces,
 or Cavaliers without the danger of Treason or Rebellion, if the king himselfe be
 present with them, or they come armed with his unjust Commission? Certainly this
 is a too absur'd, irrational, bestiall opinion for any to beleeve. It is our Saviours own
 doubled argument, *Mat. 6. 26. Luke 12. 24. Behold the fowles of the ayre, and consider*
the Ravens, for they neither sow nor reape, neither have store-house, nor barn; yet your
heavenly Father feedeth them: ARE NOT YEE MUCH BETTER THEN
THEY? THEN FOWLES? And *Luke 12. 6. 7. Mat. 10. 29. 30. 31. Are not*
two sparrows sold for a farthing? and not one of them shall fall to the ground without
our Father: But the very haire of your head are all numbered: Feare ye not therefore; YE
ARE OF MORE VALUE THEN MANY SPARROWES And the Apostle hath
 the like argument, *1 Cor. 9. 9. 10. Doth God take care for Oxen? Or saith he it not altoge-*
ther for our sakes? for our sakes, NO DOUBT THIS IS WRITTEN, &c.

* *Men are the Sovereaign Lords of all the Creatures, of farre more excellencie and dis-*
tinguishedness then all, or any of them; especially Christian men; whence the Apostle Paul gives
 this strict charge to the Elders of *Ephesus* (belonging as well to kings as Ministers)
Act. 20. 28: Take heed therefore unto all the flocke over which the holy Ghost hath made

* See the Re-
 monstrance
 of both
 Houses Nov.
 2. 1642.
 * *Littleton*
sect. 378. Cook,
1rst. 1b j. 233.
l. 5 E. 4. 26.
27. 1. E. 4. 1.
b. 15. E. 4. 3 6.
Plowden p.
379. 380. 43.
E. 3. c. 4. 4. H.
7. c. 6. 7. Cooke
1. 9 f. 50. 95.
96. 99.

* *Ifi. 78. 70.*
 71. 72.

* See *Charta*
de Forresta.
Rastals Abridg-
ment, Title
Forrests. 3.
Faci. c. 13. Pe-
trus Bieser fis
de Instit. Epif-
copi. Bibl. Pa-
trum Tom 12.
pars 2. p. 944.
Illud nitilo.
minnis absur-
dum, &c.

* *Gen. 1. 28.*
29. 30. c. 9 2.
Pla. 8. 4. 10. 9.

you over-seers to feed the Church of God which he hath purchased with his owne blood: and God himselfe hath given this expresse inhibition even to * Kings themselves, concerning his and their peoples safety (most strangely inverted by flattering Divines, quite contrary to the words and meaning:) *Touch not mine anointed, and do my Prophets no harm.* And shall not men then *made after Gods owne Image; men redeemed and purchased by the blood of Christ; men made * Kings and Priests to God their Father,* whom God himselfe hath expressely prohibited *Kings themselves to touch or harme;* not be allowed liberty to defend their persons, houses, lives, liberties, without offence or Treason, against Kings or any their Cavaliers assaults, by the Law of God, the Common or Statute Law of the Realme; when as their very Keepers, Warreners, Forresters may lawfully resist, and slay them to without crime or punishment, if they should offer but to kill, *to steale their Decree or Conies?* Are they not much better, much dearer to God, to Kings, then fowles? then Sparrowes? then Oxen? then Deere? and their lives, their blood more precious then theirs? surely the Scripture is expresse: *that * precious in the sight of the Lord is the blood, the death of his Saints;* and therefore ** he that sheddeth mans blood (be he whom he will in an unlawfull way) by man shall his blood be shed;* if not in a judicial way, yet by way of just defence, as Christ himselfe expounds it, *Mat. 26, 52. ALL they that take the sword, shall perish with the sword:* and *Rev. 10. 10. He that killeth with the sword, MUST BE KILLED WITH THE SWORD;* (no doubt he may be killed by way of necessary defence;) then it immediately followes; *here is the patience and faith of the Saints:* that is, Saints will and must patiently endure many pressures and wrongs from Tyrants and oppressors without resistance, but if they once come to make warre with them, as the seven headed beast there did *v. 7.* then both the faith and patience of the Saints themselves will binde their hands no longer, but give them free liberty in such an extreminity (for their owne and the Churches preservation, in their just defence) to slay those seven headed beasts that shall assault them; the very faith of Christ then teacheth them no other lesson but this: *he that leadeth into captivity shall goe in captivity, and he that killeth with the sword must be killed with the sword:* and in such a case, God saith, *Psal. 149, 6, 7, 8, 9. Let a two-edged sword be in their hands, to execute vengeance upon the heathen, and punishment upon the people: to binde their Kings with chains and their Nobles with fetters of Iron; to execute upon them the judgement written: This honour (this priviledge in such cases) HAVE ALL THE SAINTS, Praise ye the Lord* And very good reason is there for it. For as Nature it selfe hath instructed Lyons Beares, Wolves, Boares, Stagges, Buckes, and most other beasts, not onely to defend themselves against the violence of one another, but even of Men their supream Lords, when they assault and hunt them to take away their lives, over which God hath given men a lawfull power: much more then may men by natures dictate, defend their persons, lives against the unlawfull violence of their kings or Armies (over which God hath given them no power at all but in a legall way of justice for capitall offences when they assault or make warre upon them to destroy them. Not to trouble you wth Histories of Stagges and other beasts which have killed men that chased them, in the owne defence, of which there are infinite examples in the * Roman and Spanish Histories, in those Amphitheatricall sports and spectacles wherein men encountered and fought with Lyons, Tygers, Beares, Buls and other savage Beasts; I shall onely recite some few examples even of Kings themselves, who have bene slaine and devoured by such beasts as they have chased: * Madar King of Brittain (as Polyconion, Fo

* Psal. 105.
14 15. 1 Chr.
26. 20 21. See
the Vindica-
tion and Re-
vindicacion
of this Text.
3 Rev. 1. 6. c.
5: 10. c. 20. 6.

* Psal. 71. 14.
Pl. 116. 15.
* Gen. 9. 6.
Mat. 26. 52.

* See Tertul.
de Cyprian de
spectaculis
Onnibrius,
Balergerus,
Lysius, and
others, De
Thearris, Lu-
dis Circensibus
and Joannes
Maxiana de-
spectaculis.
* Gr. 47. part.
1 p. 40. part.
1 f. 42 part. 6.
p. 2.

bian, Grafton and others record) being in his disport of hunting, was slain of the wilde beasts he pursued, when he had reigned 40. yeares: so was his sonne King *Memprius* slaine and destroyed in hunting in the same manner. *Merindus* King of Brittain, was devoured by a Sea monster which he encountered: and * *Basilus* the 35. Emperour of *Constantinople* hunting a Stag, of an extraordinary greatnesse, and the king to cut off his necke with his sword; the Stagge ran fiercely at him, gored him with his hornes on which he tossed him, bruised his entralls, whereof he dyed some few dayes after, and had bene slaine immediately, on the beasts hornes, had not one there present drawne his sword and cut off his girdle, by which he hung on the hornes, to whom he gave a very ill requitall for this loyall service: other stories of kings slaine by beasts in their owne defence occure in history, and examples of kings slaine by men in and for their preservation, are almost innumerable: that of our king * *Edmond* is observable among others, who as our Historians write being at a feast at *Pulkers Church* on *Saint Augustines* day, espied a theefe named *Leof*, whom he had formerly banished, sitting in the Hall, whereupon he leapt over the Table, assaulted *Leof*, and plucked him by the haire of the head to the ground; who in his owne defence, wounded the king to death with a knife, hurt many of his servants, and at length was himselfe hewen all in peeces. But that of our King * *Richard* the 1. is more remarkable, who being shot in the arme at the siege of *Chaluz* Castle in *Aquitain* which rebelled against him; the Castle being taken, and the king ready to dye of the wound, commanded the person that shot him to be brought into his presence, of whom he demanded, *What hurt he had done him that provoked him to this mischief?* To whom he boldly replied: *Thou hast killed my father and my two Brothers, with thine own hand; and now wouldest have slain me: take what revenge thou wilt; I shall willingly endure what ever torture thou canst inflict upon me, in respect I have slaine thee, who hast done such and so great mischief to the world.* The king hearing this his magnanimous answer, released him from his bonds, (though he slew the rest) and not onely forgave him his death, but commanded an hundred shillings to be given him. If then brutes by the very law of Nature have thus defended themselves against kings, who have violently assaulted them, even to the casuall death of the assailants: Why men by the selfesame Law, may not justly defend themselves against the unjust assailing warres of their Princes, and Armies, without Treason or Rebellion, exceeds my shallow understanding to apprehend: and I doubt those very persons who now plead most against it, onely to accomplish their owne pernicious designs, would make no scruple of such a necessary defensive wars and resistances lawfulnessse, were the case but really their own; and those Papists and Cavaliers who now take up armes against the Parliament, the supremest lawfull power in the Realme, and their owne native Country, without checke of Conscience, would doubtlesse make no bones at all forcibly to resist or fight against the King himselfe, should he but really joyne with the Parliaments Army, against them and their designs; there being never any Souldier or Polititian, but those onely who were truly sanctified and religious, that made any conscience of fighting against, yea murdering of his naturall king, not onely in a lawfull defensive warre, but in a Trayterous and Rebellionous manner too, if he might thereby advantage or promote his owne particular interests, as is evident by the counsell and speech of *Dauids* souldiers, and King *Saul* himselfe. *1 Sam.* 24. 4. 5. 6. 7. 18. 19. 21. by the words of *Abisbai*, to *David*, *1 Sam.* 28. 8. 9. 23. 24. by the Coun-

* *Zenar*
Annal. Tom.
3. f. 15. *Mann-*
steri Colmg.
l. 4. c. 59. p.

1104.
* *Mat. West.*
An 946. p.
946 *Malmis.*
Hunting. Fab.
Groft. Holinf.
Speed, and o-
thers in his
life.

* *Hoved. Ant.*
pars posterior
p. 791. *Mat.*
Paris, Mat.
Westm. Polyc.
Fab. Walsing.
Holinsh Grof.
Speed, Daniel
in the life of
Rich. 2.

¹ See Bishop *Bilson*, of *Christiā* Subjection, &c. part 3. p. 411. to 422. and the Authors there cited.

² *Specul. hist. l. 6. c. 54. l. 7. c. 1. q. Camb. Brit. p. 107. 108 &c* See *Holinsh. Poly. Graf.*

³ *Jacobus Val. de fute de Dignitate Regum. Regu.*

Hisp. c. 18. Franciscus Tarabba de Regibus Hispanie, Michael Rinus de Regibus Hisp. l. 2. Munst. Cosm. l. 2. c. 20.

^b See Bishop *Bilson*'s true difference, &c. p. 3. 411. to 416. and the Appendix here p 8 9.

^c *Aventinus Anil. l. 3. The generall hist. of France in his life. See the Appendix.*

^d See *Grinsons* Imperiall history in their lives, & and the Appendix.

^e The Generall History of Spaine. p. 455.

^f *G. sfr. p. 11. 7 p 85. Buchanan. Re- mor Scot. l. 4. p. 21.*

^g Theatre of Honour l. 2. c. 13. p. 182.

cell of *Abi:ophell*, which pleased *Abolon*, and all the Elders of *Israel* well, 2 Sam 17. 1. 2. 3. 4. and the infinite number of Emperours, of Kings, which have bene trayterously and rebelliously slaine, without any just occasion by their own Souldiers, and that in a meere offensive, not defensive way; above halfe the Roman, Grecian, and German Emperours dying of such assassinations, or poysonings, very few of them of meere naturall deaths, as the Histories of their lives declare.

Eighthly, It is in a manner agreed by ^v Historians, Politicians, and Divines, that if a King will desert the defence and Protection of his people in times of warre and danger, and neither ayde nor protect them against their enemies according to his Oath and Duty, they may in such a case of extremity, for their owne necessary defence and preservation, desert him, who deserteth them, and elect another King, who can and will protect them from utter ruin. Vpon this very ground the ² Brittons of this Nation after many hundred yeares subjection to the Roman Emperors, rejected their yoake and government, when they refused and neglected to defend them against the barbarous *Picts* and others, who invaded them, when they had oft craved their assistance; electing them other *Patrits*: So the ² Spaniards being deserted by the Roman Emperors and left as a prey to their enemies, abandoned their government, and elected them Kings of their owne to protect them, which they justified to be lawfull for them to doe. And in like manner the Romans and Italians being forsaken of the Emperour *Constantine*, when they were invaded by ^b *Aistulfus* King of the *Lombards*; Elected *Charles* the Great for their Emperour, and created a new Empire in the West, distinct from that of *Constantinople* in the East, which Bishop *Bilson* himselfe concludes they might lawfully doe, in point of conscience. So ^c *Childerick* being unfit to governe, and unable to repulse the enemies of the *French* which invaded his territories; thereupon by the advise of Pope *Zachary*, and of a whole Synod and Parliament in *France*, they deposed *Childericke*, and elected *Pipin* for their King, who was both able and willing to protect them; Vpon this very ground the ^d Emperours *Charles* the third, and *Wenceslus* were deposed, as being unable and unfit to defend and governe the Empire, and others elected Emperours in their steads, Thus ^e *Mahomet* the blinde, King of *Granado*, was in the yeare 1309. deposed by his owne Brother, Nobles, and Subjects, who were discontented to be governed by a blinde King, who could not lead them to the warres in person. And ^f *Erbodius* the 2^d king of *Scotland*, being dull of wit, given to avarice, and nothing meete to governe the Realme; thereupon the Nobles tooke upon them the governmēt, appointing Rulers in every Province, & so continued them all his reigne, leaving him nothing but the bare title of a King, (not depriving him thereof, out of the respect they gave to the family of *Fergusus*) but yet taking away all his regall power. And not to multiply cases or examples of this nature: ^g *Andren Favins* in his Theatre of Honour, out of the Chronicle of *Lawreshe. m.* and *Aimonius* in his 4th Booke of the History of *France*, relates a notable resolution given by the Parliament & Estates of *France* in this very point. In the yeare 803. *Lewes* the *Debonnaire* King of *France* holding his Parliament in *May*, there came thither from strange Province two Brethren, kings of *Vuil'es*, who with frank & free good will submitted themselves to the judgement of the said Parliament, to which of them the kingdom should be long. The elder of these two brethren was named *Meligastus*, and the yonger *Celeadraeus*, Now albeit the custome of the said kingdom, adjudged the Crowne to the eldest, according to the right of *Primogeniture*, allowed and practised by the Lawe

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Nature, and of later memory, in the person of the last dead King *Linbus*, rather to the two contendants; yet notwithstanding in regard that the Subjects by universall consent of the kingdom, had rejected the elder brother FOR HIS COWARDISE AND EVILL GOVERNMENT (*cura secundam ritum ejus gentis commissum sibi Regnum eorum digne administraret*) and had given the Crowne to the younger brother FOR HIS VALOUR & DISCREETE CARRIAGE; after full hearing of both parties, BY SENTENCE of PARLIAMENT, the Kingdome was adjudged to the younger Brother, (*statuisset junior frater delatam sibi à Populo suo pot statem haberet, &c*) and thereupon the eldest did him homage, with oath of Allegiance in the said Parliament; and submitted to this sentence. And upon this very ground in some of our ancient British and Saxons Kings Reignes when the right heire to the Crowne was an infant, unable to defend his kingdom and people against invading enemies, the Crowne hath commonly descended to the Vncle or next heire of full age, who was able to protect them and repulse their enemies, till the right heire accomplished his compleat age, as I have elsewhere manifested. If then a Kingdome by generall consent; may elect a new King to defend and preserve it, in case of invasion and eminent danger of ruine by forraigne enemies, when their present King either cannot, or will not doe his duty in protecting them from their enemies, and exposeth them for a prey to their devastations, as these examples and authorities conclude they may, though I will not positively determine so. Then certainly by equall, semblable and greater reason, subjects may lawfully take up necessary defensive Armes against their Kings, when they shall not onely desert, but actually invade and wage warre against them, destroy and wast them in an open Hostile manner, and handle them as cruelly as the worst of enemies: such a wilfull unnaturall Hostile invasion, being farre worse than any cowardly or bare desertion of the when they are invaded by a forraigne enemy. And if Kings in case of sottishnesse or Lunacy may be lawfully deposed from their kingdomes by common consent of their Realmes, when they are altogether unfit or unable to governe, as B shop *Bilson* asserts, and I have manifested elsewhere: then much more may they be lawfully resisted by force without guilt of Treason or Rebellion, when they wilfully and maliciously, contrary to their oath and duty, cast off their Royall governments, the protection of their subjects, and wage open warre against them, to enslave or ruine them. If a Father shall violently and unjustly assault his Sonne, a husband his wife, a master his servant, a Major or other inferior Officer, a Citizen to murder, maim, or ruine them; *They may in such a case by the Law of Nature, God,* resist, repulse them in their owne defence without any crime at all, as dayly practise experimentally manifests; yea they may sweare the peace against them, and have a Writ *de securitate Pacis* in such cases. Therefore by the selfesame reason they may resist the King and his Army in like cases; there being no more humane nor divine Law against resistance in the one case, than in the other.

Finally, it is the resolution of *John Bodin* and others, who deny the lawfulness of Subjects taking up Armes against their Sovereigne Prince, or offering violence to his person, though he become a Tyrant: *That if a Sovereigne Prince or King by lawfull election or succession turne a Tyrant, he may lawfully (at his Subjects request) be invaded, resisted, condemned or slaine by a forraigne Prince.* For as of all Noble acts, none is more honourable or glorious, then by way of fact to defend the honour, goods, and lives of such as are unjustly oppressed by the power of the more mighty, especially the gate

See Garc.
nere the
end.

See Summa
Rosella Tit.
Belum.

Fitz Nat.
Brevium f. 80.
81.

Common.
weale l. 2. c.
5. 120. 121.

of Iulic being shut against them: thus did *Moses* seeing his brother the *Israelite* beaten and wronged by the *Egyptian*, and no means to have redresse of his wrongs: So it is a most faire and magnificall thing for a Prince to take up Armes to receive a whole Nation and people, unjustly oppressed by the cruelty of a Tyrant: as did the great *Hercules* who travelling over a great part of the world with wonderfull power and valour destroyed many most horrible monsters, that is to say, Tyrants; and so delivered people, for which he was numbred among the gods, his posterity for many worlds of yeares after, holding most great Kingdomes. And other imitators of his vertue as *Dio*, *Timolion*, *Aratus*, *Harmadius*, *Aristogiton*, with other such honourable Princes, bearing Titles of chastisers, and correctors of Tyrants. And for that onely cause *Tamerlain* Emperour of the *Tartars*, denounced warre unto *Bajazet* King of the *Turkes*, who then besieged *Constantinople*, saying, That he was coming to chastise his Tyrannie, and to deliver the afflicted people; and vanquishing him in battle, routed his Army, and taking the Tyrant prisoner, he kept him in chains in an Iron Cage till he dyed. Neither in this case is it materiall that such a vertuous Prince being a stranger, proceede against a Tyrant by open force, or fiercenesse, or else by way of justice. True it is that a valient and worthy Prince, having the Tyrant in his power, shall gaine more honour by bringing him unto his tryall, to chastise him as a murderer a manqueller, and a robber, rather than to use the Law of Armes against him. Wherefore let us resolve on this, that it is lawfull for any stranger (Prince) to kill a Tyrant, that is to say, a man of all men infamed, and notorious for the oppression, murder, and slaughter of his subjects and people. And in this sort, our *Queene Elizabeth* ayded the *Low-Countries* against the Tyrannie and oppressions of the King of *Spain*: and the King of *Sweden* of late yeares the Princes of *Germany* against the Tyranny and usurpations of the *Emperor*, upon their sollicitation. If then it be thus lawfull for Subjects to call in forraigne Princes to relieve them against the Tyrannie and oppressions of their kings (as the Barons in *King Johns* time prayed in ayde from *Philip* and *Lewis* of *France* against his tyrannie) and those Princes in such cases, may justly kill, depose, or judicially condemne these oppressing Kings and put them to death. I conceive these whole kingdomes and Parliaments may with farre better reason, lesse danger and greater safety to themselves, their Kings and Realmes take up defensive Armes of their owne to repulse their violence. For if they may lawfully helpe themselves and vindicate their Liberties from their Kings encroachments by the assistance and Armes of forraigne Princes who have no relation to them, nor particular interest in the differences betweene their kings and them, which can hardly be effected without subjecting themselves to a forraigne power; the death or deposition of the oppressing King: much more may they defend and relieve themselves against him by their owne domesticke Forces, if they be able, by generall consent of the Realme; because they have a particular interest and ingagement to defend their owne persons, estates liberties, which forraigners want; and by such domesticke Forces may prevent a forraigne subjection, preserve the life of the oppressing Prince, and succession of the Crowne in the hereditary line, which *forraigne Armies* most commonly endanger. And certainly it is all one in point of Reason, State, Law, Conscience, for Subjects to relieve themselves, and make a defensive warre against their Sovereigne by forraigne Princes Armes, as by their owne: and if the first be just and lawfull, as all are generally grant without contradiction; and *Bracton* to l. 2. c. 16. I see no colour but

* See Knols
Turkish Hist.
in his life.

* Speede Hist.
p. 1193. 1194
The History of
the Nether-
lands, and the
Swedish In-
telligencer.

* Mat. Par.
Mat. West.
Hoved. Speed,
Hollish. Fab.
Grafr. Daniel
in his life.

* See Knols
Turkish Hist.
of the calling
in the Turke
into *Gracia*
and *Cambden*
& Speed of
the Brittaines
calling in the
Saxons which
proved their
ruin and con-
quest.

the latter must bee just and lawfull too, yea then the first rather, because lesse dangerous, lesse inconvenient to King and Kingdome.

From Reasons, I shall next proceed to punctuall Authorities. Not to mention our ancient ^b Brittons taking up of armes by joint consent, against their oppressing, tyrannizing Kings *Archigallo, Emerian, and Vortigern*, whom they both expelled and deposed, for their tyranny and mis-government; nor our Saxons raising defensive Forces against King *Sigebert, Ofred, Ethelred, Beornard, Ccolwulfe, and Edwyn*, who were forcibly expelled, and deprived by their Subjects for their bloody cruelties and oppressions; which actions the whole Kingdome then, and those Historians who recorded them since, reputed just and honourable, and no Treason nor Rebellion in Law or Conscience, being for the Kingdome necessary preservation, and the peoples just defence; which Histories I have elswhere more largely related. Nor yet to insult long on the fore-mentioned Barons warre, against King *John, and Henry the 3^d*. for regaining, establishing, preserving *Magna Charta*, and other Liberties of the Realme, which our Kings had almost utterly deprived them off; I shall onely give you some few bricse observations touching these warres, to cleare them from those blacke aspersions of *Rebellion, Treason*, and the like, which some late Historians (especially *John Speed*) to flatter those Kings to whom they Dedicated their Histories, have cast upon them, contrary to the judgement of our ancienter Choniclers, and *Matthew Paris*; who generally repute them lawfull and honourable.

First then consider, what opinion the Prelates, Barons, and Kingdome in generall had of these Warres at first, Anno 1414. in a Parliament held at *Pauls* the 18. daye of King *Johns* raigne; *Steven Langton* Archbishop of *Canterbury*, produced Charter of King *Henry the First*, whereby he granted the *Ancient Liberties of the Kingdome of England* (which had by his Predecessors bene oppressed with unjust exactions, according to the Lawes of King *Edward*, with those emendations, which his Father, by the counsell of his Barons, did ratifie; which Charter being read before the Barons, they much rejoyced; and swore in the presence of the Archbishop; that for these Liberties they would, if need required, spend their blood: which being openly done in Parliament, they would never have taken such a publike sollemne Oath, had they deemed a Warre against the King, for recovery, or defence of these their Liberties unlawfull, and no lesse then Treason and Rebellion in point of Law or Conscience. After this the Barons assembling at *Saint Edmondsbury*, conferred about the said Charter, and swore upon the high Altar, That if King *John* refused to confirme and restore unto them those Liberties (the Rights of the Kingdome) they would make Warre upon him, and withdraw themselves from his Allegiance, untill he had ratified them all with his Charter under his great Seale. And further agreed, after Christmas to Petition him for the same, and in the meane time to provide themselves of Horse and Furniture to be ready, if the King should start from his Oath made at *Wincchestre*, at the time of his absolution, for confirmation of these Liberties, and compell him to satisfie their demand. After Christmas they repaire in a Military manner to the King, lying in the *New Temple*, urging their desires with great vehemencie: the King seeing their resolution and inclination to warre, made answer, That for the matter they required, he would take consideration till after *Easter next*. In the meane time, he tooke up a him the Cross, rather through feare, then devotion, supposing himselfe to bee

more :

^b See *Math. Westm. Huntingdon, Galfridus Monemetenfis, Florentius Wigornierfis, Polychronicon, Fabian, Caxton, Graffton, Holmshed, Speed*, and others, in their severall lives.

¹ *Math. Paris Hist. Angl. p. 234 to 240. Holmshed, Graffton, Speed, Fabian, and Daniel, p. 140 141, 142, 143.*

more safe under that Protection : And to shew his desperate malice and wilfulness (who rather then not to have an absolute domination over his people, to doe what he listeth, would be any thing himselfe under any other that would but support him in his violences) he sent an Embassage (the most base and impious that ever yet was sent by any free and Christian Prince) unto *Miramumalim* the Moore, intituled the great King of *Affrica*, *Morocco*, and *Spaine*; wherein he offered to render unto him his Kingdome, and to hold the same by tribute from him as his Sovereigne Lord; to forgoe the *Christian Faith*, as vaine, and to receive that of *Mahomet*, employing *Thomas Hardington* and *Ralph Fitz-Nicholas*, Knights, and *Robert of London* Clerke, Commissioners in this negotiation; whose manner of accessse to this great King, with the delivery of their Message, and King *Johns* Charter to that effect, are at large recited in *Matthew Paris*, who heard the whole relation from *Robert* one of the Commissioners, *Miramumalim* having heard at large their Message, and the Description of the King and Kingdome, (governed by an annointed and Crowned King, knowne of old to be free and ingenuous; *ad nullius, præterquam Dei spectans dominationem*) with the nature and disposition of the people, so much disdaind the balenesse and impiety of the Offerer, that fetching a deepe sigh from his heart, he answered, I have never read nor heard, of any King possessing so prosperous a Kingdome, subject and obedient to him, who would thus willingly ruin his Principality, as of free to make it tributary, of his owne to make it anothers, or happy to make it miserable, and to submit himselfe to anothers pleasure, as one conquered without a wound. But I have heard and read of many, who with effusion and losse of much blood (which was laudable) have procured liberty to themselves; *modo autem autis, quod Dominus vester miser, deses & imbellis, qui nullo nullior est, de libero servus fieri desiderat, qui omnium mortalium miserimus est.* After which he said *That the King was unworthy of his Confederacie*; and looking on the two Knights with a sterne countenance, he commanded them to depart instantly out of his presence and to see his face no more; whereupon they departing with shame; hee charge *Robert* the Clerke, to informe him truely what manner of person King *John* was: who replied, That he was rather a Tyrant then a King; rather a Subverter then a Governour; a Subverter of his owne Subjects, and a Fosterer of Strangers; a Lyon to his owne Subjects, a Lambe to Aliens and Rebels; who by his sloathfulness had lost the Duchy of *Normandy*, and many other Lands, and moreover thirsteth to lose and destroy the Kingdome of *England*: An unsatiabie Extortioner of money; an invader and destroyer of the possessions of his naturall people, &c. When *Miramumalim* heard this, he not onely despised, as at first, but detested and accursed him and said: Why doe the miserable *English* permit such a one to raigne and domineer over them? Truely, they are effeminate and slavish: To which *Robert* answered: the *English* are the most patient of all men, until they are offended and damned beyond measure. But now they are angry, like a Lion or Elephant, when he perceives himselfe hurt or bloody; and though late, they purpose and endeavour to shake the yoke of the Oppressor from their necks which lie under it: Whereupon he reprehended the overmuch patience and fearefulness of the *English*; and dismissed these Messengers; who returning, and relating his Answer to King *John*, he was exceedingly sorrowfull, and in much bitterness of Spirit, that he was thus concerned and disapointed of his purpose. Yet persisting in his pre-conceived wicked designe.

ruine his Kingdome and people, and hating all the Nobility and Gentry of *England*, with a viperous Venom, he sets upon another course; and knowing * *Pope Inno* * A true Character of a Pope, cent to be the most ambitious, proud, and covetous of all men, who by gifts and promises would be wrought upon, to act any wickednesse: Thereupon he hastily dispatcheth messengers to him with great summes of Money, and a re-assurance of his tributary Subjection, (which shortly after he confirmed by a new Oath and Charter,) to procure him to Excommunicate the *Archbishop of Canterbury*, and the Barons, whom he had formerly favoured; which things he greedily desired. *that he might wrecke his malice on them by Disinheriting, Imprisoning, and Spoiling them being Excommunicated*: Which things when he had wickedly plotted, he more wickedly executed afterwards. In the meane time, the Barons foreseeing that nothing was to be obtained but by strong hand, assemble an Army at *Stamford*, wherein were said to be *two thousand Knights*, besides Esquires, and marched from thence towards *Oxford*, where the King expected their coming to answer their demands. And being come to *Brackley* with their Army, the King sends the *Earle of Pembroke* Mariscall, and the *Archbishop of Canterbury*, with others, to demand of them, *what were those Lawes and Liberties they required?* to whom they shewed a Schedule of them, which the Commissioners delivered to the King: who having heard them read, in great indignation asked; *Why be Barons did not likewise demand the Kingdome? and swore he would never grant those Articles, whereby himselfe should be made a Servant.* So harsh a thing is it to a power, that is onc gotten out into the wide libertie of his will, to heare againe of any reducing within his Circle. Vpon this answer, the Barons resolve to seize the Kings Castles; constitute *Robert Fitz-walter* their Generall, entituling him, *Mariscall of the ARMY of GOD, and of HOLY CHVRCH*: A Title they would never have given their Generall, or Army, had they deemed this Warre unlawfull in Law or Conscience. After which they tooke divers of the Kings Castles, and are admitted into *London*; where their number daily increasing, they make this Protestation; *Never to give over the prosecution of their desire, till they had constrained the King (whom they held perjured) to grant them their Rights.* Which questionlesse, they would not have done, had they not beleevved this Warre to be just and lawfull. *King John seeing himselfe in a manner generally forsaken of all his people, and Nobles, having scarce 7. Knights faithfull to him* (another strong argument, that the people and Kingdome generally apprehended, this taking up armes against the King to regaine, to preserve their hereditary Rights and Liberties, to be lawfull) counterfeits the Seales of the Bishops, and writes in their Names to all Nations, *That the English were all Apostates, and whosoever would come to invade them, hee, by the popes consent, would conferre upon them all their Lands and Possessions.* But this device working no effect, in regard they gave no credit to it, and found it apparantly false; the King seeing himselfe deserted of all, and that those of the Barons part were innumerable, (*cum tota Anglia Nobilitas in unum collecta, quasi sub numero non cadebat*, writes *Mathew Paris*, another argument of the justice of this cause) and warre, in their believes and consciences; at last condescended to grant and confirme their Liberties, which he did at *Running-Meade*, in such sort as I have formerly related. And though the Pope afterwards for his owne private ends and interest, bribed by *King John*, who resigned his Kingdome to him, and became his Vassall, without his peoples consent, which resignation was judged voide,) excommunicated

the Barons withall their assistance; *Qui Iohannem illustrem Regem Anglorum Cruce signatum, ET VASALLVM ROMANÆ ECCLESIAE* (an honourable Title indeed for a King) *persequuntur, molientes ei Regnum auferre* (which this Pope him selfe did but few yeares before, giving his Crown and Kingdome it selfe to King Phillip of France, which to save, he fordidly resigned up to the Pope) *quoad Romanam Ecclesiam dignoscitur pertinere*. Yet this Excommunication thus procured by bribery, proceeding not out of Conscience to preserve the Kings due Rights, but selfe-respects to support the Popes usurped interest and Title to the Realme; and being a wicked plot of the King, more wickedly executed by the Pope, (who as *Matthew Paris* writes, was *AD OMNIA SCELERA pro premys datis vel promissis ceruus & proclivis*) and the 'London'rs, Barons, with 'divers Prelates then contemning it, as pronounced upon false suggestions, and especially for this cause, that the ordering of temporall affaires belonged not to the Pope, *Cum Petro Apostolo & ejus Successoribus non nisi Ecclesiasticarum dispositio rituum a Domino sit collata potestas*. And using likewise these memorable Speeches in those blind daies against the Pope and his usurped Supremacy, with liberty. *Vt quid ad nos se extendit Romanorum insatiata cupiditas? Quid Episcopis Apostolicis & Militibus nostra? Ecce successores Constantini & non Petri, non imitantur Petrum in meritis vel operibus; nos assimilandi sunt in Potestate. Proh pudor, marci ribaldi, qui de armis vel liberalitate minime norunt, jam toti mundo propter excommunicatione suas volunt dominari; ignobiles usurarii & Simoniales. O quantum dissimules Petro qui sibi Petri usurpant partem? &c.* I conceive this Excommunication rather justifies then disproves the lawfulness of this their taking up of armes, and the warring insuing it being but for their owne just defence, when the King afterwards with fire sword, and bloody barbarous Forraigne Forces wasted his Realme in a most inhumane, tyrannicall maner, *Factus de Rege Tyrannus; imo in bestialem prorumpens feritatem, &c.* which necessitated the Barons for their own preservation and the Kingdom (devoted by this unnaturall Prince to Vassallage and utter desolation) to elect *Lewis of France* for their King: Who, together with the Peeres and Estates of France, assembled at *Lions* concerning this Election; resolved it to be just and lawfull, and the Barons Defensiv Warres against, and rejection of King *Iohn* for his Tyranny and oppressions, to be just and honourable, since they did but flee to these extraordinary remedies, and seeke for justice abroad, when they were denied it by him that should give it them in an ordinary way at home, choosing a King, in place of Tyrant, as *m Matthew Paris*, with the *n generall History of France* (written by *John de Serres*, and Englished by *Edward Grimston*) m re largely manifest.

• Pag. 235.
267.268.

• Hist. Angl.
pag. 270. 271

• Pag. 121.
122.

• See part 1.
p. 19. 20.

• Confirm.
Chartarum.
25. E. 1. c. 4.

Secondly, the Lawfulness and justnesse of the Barons Warres in Defence of *Magna Charta*, with other their Hereditary Rights and Liberties, appears most evidently, by the resolution of all those Parliaments summoned by King *Henry* the 3^d. *Eward* the 1^o. 2. 3. *Richard* the 2^d. and other our succeeding Kings; which have many times, even by force of Armes, or Menaces; and sometimes by faire termes caused these Kings by new Acts of Parliament to ratifie *Magna Charta*, the *Charter of the Forest*, with other Fundamentall Liberties, thus forcibly extorted from King *Iohn* at first; and constrained them to confirme them with their Oathes, and solemn publicke Excommunications, to be published by the Bishops in their Diocesse twice every yeare: oft solemnly vowing, and protesting, both in and out of Parliament, 100

Send these Lawes and Liberties, with their estates, armes, lives, blood; which their ancestors had purchased with their blood; as I have manifested in the two first parts of this Discourse: All which they would no doubt have forborne, had they deemed it high Treason or Rebellion in point of Law, to take up armes against their Kings in defence of these Lawes and Priviledges; neither would our Kings and Parliaments in times of Peace, have so frequently confirmed these Lawes and Immunities, as just and necessary for the peoples welfare, had they reputed their former purchases and confirmations by warre and armes, no lesse then Treason, or Rebellion. And if it were neither Treason nor Rebellion in the judgements of our Ancestors and those Parliaments which procured, and ratified *Magna Charta*, to take up armes in defence thereof; much lesse can it be Treason or Rebellion in the Parliament and Subjects now (by Votes, by Ordinances of both Houses) with force of armes to preserve, not only these their hereditarie Charters, Lawes, Priviledges, but their very Lives, Estates; yea, the Priviledges and being of Parliaments themselves, which are now invaded, endangered.

What opinion the world had of the lawfulnessse of most of the Barons Warres in King *Henry* the 3^d. his Raigne, against this troublesome perfidious King, in defence of their Lawes, Liberties, Estates, appears first, by the Dialogue betweene *Agnelus*, a Frier minorite, one of King *Henry* his Counsell, (purposely sent to the Earle *Marshall*, then in armes against the King) and this Martiall Earle, in the Abbey of *Morgan*. Anno 1233. I will first relate the true state of that Warre, and then their Dialogue concerning it: A King *Henry* by the ill counsell of *Peter* Bishop of *Winchester*, removed all his English Officers, Counsellors, and Servants from his Court, and put *Poictovines*, and Forraigners in their places, being ruled wholly by them; and put *Poictovines*, and Forraigners in their places, being ruled wholly by them; withall he puts the English Garisons out of all his Castles, and substitutes Forraigners in them, which dayly arived both with Horse and armes in great multitudes, and much oppressed the people, calling them Traitors; so that the power and wealth of the Realme was wholly under their Command. The Earle Marshall seeing the Noble and Ignoble thus oppressed, and the rights of the Kingdome like utterly to be lost; provoked with a zeale of Justice, associating to himselfe other Noble men, goes boldly to the King, reproves him in the hearing of many, 'For calling in those *Poictovines*, by evil Counsell, to the oppression of the Kingdome, and of his naturall Subjects, and likewise of Lawes and Liberties; Humbly beseeching him, hastily to correct these excesses, which threatned the imminent subversion both of His Crowne and Kingdome, which if he refused to doe, he and the other Nobles of the Realme, would withdraw themselves from his Counsell, as long as he harboured those Strangers. To which *Peter* of *Winchester* replied: That the King might lawfully call in what Strangers he would, for the Defence of his Kingdome and Crowne, and likewise so many, and such, as might compell his proud and rebellious Subjects to due Obedience. Whereupon the Earle Marshall and other Nobles, departing discontented from the Court, when they could get no other answer, promised firmly one to another; That for his cause which concerned them all, they would manfully fight, even to the separation of Soule and Body. After which, they seeing more Strangers arrive with Horse and armes every day, sent word to the King; That hee should forthwith remove Bishop *Peter*, and all his Strangers from his Court, which if he refused, they all would

BY THE COMMON CONSENT OF THE WHOLE REALM
drive him, with his wicked Counsellors, out of the Realm; and consult of closing them

9 Math. Paris
Hist. p. 371 to
385. Daniel,
P. 153. 154.
See Holinsh.
Grafr. Speed.
Math. West.
Anno 1233.

a new King. After these, and some other like passages, the King raising an Army, besiegeth one of the Earles Castles; and not being able to winne it, and ashamed to raise his Siege without gaining it, he sent certaine Bishops to the Earle, and requested him; that since he had besieged his Castle, and hee could not with Honour depart without winning it, which he could not doe by force, that the Earle to save his Honour would cause it to be surrendered to him, upon this condition, *That hee would restore it certainly to him within 15. dayes; and that by advise of the Bishops he would amend all things amisse in his Kingdome;* for performance of which the Bishops became his Pledges, and the King appointed a meeting at *Westminster*, on a set day betweene Him and the Lords: whereupon the Earle surrendered the Castle to the King, upon Oath made by the Bishops that it should be restored at the day. But the King refusing to deliver the Earle the Castle, according to promise, and threatening to subdue his other Castles; the Earle hereupon raiseth his Forces, winnes his Castle againe, routs divers of the Kings Forraigne Forces, at *Gorsewold*, *Monmouth*, and other places; and invaded the lands of his Enemies. Vpon this occasion, *Frier Agnellus* (or *Lambe*) acquaints the Earle, what the King, together with his Countsell and Court, thought of his proceedings; to wit, that the King said, he had proceeded over traiterously, and unjustly against him, yet he was willing to receive him into favour, if he would wholly submit himselfe to his mercy; and that others held it not just, safe, and profitable for him to doe it; because he had done wrong to the King, in that before the King had invaded his Lands or Person, he invaded and destroyed the Kings Lands, and slew his men; and if he should say, he did this in defence of his body and inheritance; they answered, no, because there was never any plot against either of them; and that were it true, yet he ought not thus to breake forth against the King his Lord, untill hee had certaine knowledge, that the King had such intensions against him: *ET EX TUNC LICERET TALIA ATTEMPTARE*; and from thenceforth he might lawfully attempt such things (by the Courtiers and Friers owne Confessions:) Vpon which the Marshall said to *Frier Lambe*: To the first they say, that I ought to submit my selfe, because I have invaded the King: it is not true, because the King himselfe, (though I have beene ever ready to stand to the Law and judgement of my Peeres in his Court, and have oft times requested it by many messengers betweene us, which he alwaies denied to grant) violently entred my Land, and invaded it against all justice: whom hoping in huaility to please, I freely entred into a forme of peace with him, which was very prejudiciall to me: wherein he granted, that if on his part all things were punctually performed toward me, I should be in my pristine state before that peace concluded; namely, that I should be without this homage, and absolved from my allegiance to him, as I was at first by the Bishop of *Saint Davids*; Seeing then he hath violated all the Articles of the Peace, *IT WAS LAWFULL FOR ME*, According to my agreement, to recover what was mine owne; and to debilitate his power by all means; especially seeing he endeavoured my destruction, disinheritance, and seizing of my Body, of which I have certaine intelligence, and am able to prove it if neede be. And which is more, after the 15. daies truce, before I entred *Wales*, or made any defence, he deprived me of the Office of Marshall without judgement, which belongs to me, and I have enjoyed by Inheritance, neither would he by any means restore mee to it, though required. Whence I have

mainely learned, that he will keepe no peace with me, seeing since the Peace he handles me worse then before. *Wherby I ceased to bee his Subj: Et, and was absolved from his homage by him. Wherefore it was, and is lawfull for me to defend my selfe, and to withstand the malice of his Counsellors by all meanes.* And whereas the Kings Counsellors say, it is profitable for me to submit to the Kings mercy, because he is more rich and powerfull then I am. It is true, the King is richer and more potent then I, but yet he is not more powerfull then God, who is Justice it selfe, in whom I trust, in the confirmation and prosecution of my right, and of the Kingdomes. And whereas they say, the King can bring in Strangers of his kinred, who are neither Scots, nor French, nor Welsh, who shall make all his foes his Foot-stoole, and come in such multitudes, as they shall cover the face of the earth, and that he can raise seven men to my one: I neither trust in Strangers, nor desire their confederacie, nor will I invoke their aide, *Unlesse, which God forbid, inopinata & immutabili vero compulsus necessitate;* I shall be compelled by a sudden and immutable necessity; and I beleeve by his Counsellors ill advise he will quickly bring in such multitudes of Strangers, that he will not be able to free the Kingdome of them againe; nor I have learned from credible men, that the Bishop of *Winchester* is bound to the Emperour, that he will make the Kingdome of *England* subject to him; which God in his providence avert. And whereas they say, That I may confide in the King and his Counsell, because the King is mercifull, credible, &c. It may well be that the King is mercifull; but he is seduced by the Counsell of those, by whom we feele ourselves much hurt; and he is Noble and credible (whom God long preserve so) as much as in him lies; but as for his Counsell, I say, that no one promise made to me, was ever yet kept, and they have violated many corporall Oathes made to me, and the Oathes they tooke for observing *Magna Charta*, for which they remaine excommunicate and perjured. Yea, they are perjured concerning the faithfull Counsell which they have sworne to give to our Lord the King, when as they have wilfully given him the Counsell of *Achitophel*, against justice; and corrupted the just Lawes they have sworne to keepe, and introduced usuall ones: for which, and for many other things, for which neither God nor man ought to trust them, or their complices, are they not every one excommunicated?

Rumor de veteri facies ventura timeri:

Cras poterunt fieri turpia sicut heri.

Felix quem faciunt aliena pericula cautum.

Whereas the said Counsellors of the King say, that I invaded the Kings body at *Worsmund* Castle, before the King had entred my Land; and so I did injurie to the King, for which I ought to implore his mercie, least others should take example thence to raise up Armes against the King. I answer, that I was not there in person; and if any of my Family were thereby chance, they invaded onely the Family of the King, not the person of the King: which yet if they had done, it were no wonder, seeing the king came with his Army into my Land, that he might invade me, and oppresse me by all the meanes he could, which may appeare to all by the tenor of his Letters, by which hee made a generall assembly throughout *England* against my Army. And since the premises objected against mee are false,

and it is true, that the King hath treated me worse since the time I expected his mercy, then any time before, and doth yet use the same Counsell as then; and since he endeavours precisely to follow their Counsels in all things, by whom I advise I suffer all the premised grievances; I ought not to prostitute my selfe to his mercy. Neither would this be for the Kings honour, that I should consent unto his will, which is not grounded upon reason. Yea, I should doe an injury to him, and to Iustice, which he ought to use towards his Subjects, and to maintain And I should give an ill example to all, by deserting Iustice, and the prosecution of right, for an erroneous will against all Iustice, and the injury of the Subjects: For by this it would appeare, that we loved our worldly possessions, more then Iustice selfe. And whereas the Kings Counsellours object, that wee have combined with the Kings capitall enemies, namely, the *French, Scots, Welsh*, out of hatred and damage to king and kingdome: That of the *French* is altogether false, and that of the *Scots* and *Welsh* too; excepting the king of *Scots*, and *Leoline* Prince of *North wales*; who were not the kings enemies, but faithfull friends, untill by injuries offered them by the King and his Counsell, they were by coercion against their wills, alienated from their fidelitie, as I am. And for this cause I am confederated with them, that we may the better being united, then separated, regaine and defend our rights, which we are unjustly deprived, and in a great part spoiled. Whereas the Kings Counsell propose, that I ought not to confide in my Confederates, because the King, without any great hurt to his Land, can easily separate them from my friendship: Of this I make no great doubt, but by this the iniquity of his Counsell doth most of all appeare: that in some sort they would cause the King to sustain losse, by those whom he specially calls, capitall enemies, to injure mee who have alwaies bene his faithfull Subject, whiles I remained with him, and yet would be so, if he would restore to me and my friends our right. Whereas the said Counsellours say, that the Pope and Church of *Rome*, doe specially love the King and kingdome, and will Excommunicate all his adversaries, which thing is even at times, because they have already sent for a Legate: It pleaseth mee well, said the Marshall; because the more they love the King and kingdome, by so much the more will they desire that the King should treat his Realme and Subjects, according to justice: And I am well pleased they should excommunicate the adversaries of the Kingdome, because they are those who give Counsell against Iustice, whom workes will manifest; because Iustice and Peace have kissed each other; and because of this, where Iustice is corrupted, Peace is likewise violated. Also I am pleased that a Legate is coming, because the more discreet men shall hear our sentence, by so much the more vilely shall the adversaries of Iustice be confounded. which notable discourse we see the lawfulnessse of a necessary defensive Warre yielded and justified both by the King, his Counsell, and the Earle Marshall, as was against the King himselfe, if he invade his Subjects first, and any of his Forces withstand him. After which the Marshall slew many of his Enemies by an Ambuscade while they thought to surprize him, and wasted and spoiled their goods, houles; observing this generall laudable rule which they made, to doe no hurt, not to any one, but to the Kings evill Counsellours by whom they were banished, whose goods, houles, woods, Orchards, they spoiled, burnt, and rooted up. The King remaining at *Gloester*, heard of these proceedings of the Marshall, but his forces

g too weake, he durst not encounter him, but retired to *Winchester* with Bishop
 eter, confounded with over much shame, leaving that Country to be wasted by his
 lvefaries; where innumerable carcases of those there flaine lay naked and unburied in
 he wayes, being food to the beasts and birds of prey: a sad spectacle to passengers,
 hich so corrupted the ayre, that it infected and killed many who were healthy. Yet
 e Kings heart was so hardened, by the wicked councill he followed, against the Mar.
 all, that the Bishops admonishing him to make peace with him, WHO FOUGHT
 OR JUSTISE: he answered, that he would never make peace with him, unlesse
 mming with an halter about his necke and acknowledging himselfe to be a
 raytor, he would implore his mercy. The Marshall both in *England* and *Ireland*;
 oessed that he was no Traytor; that his warre being but defensive, was just; immu-
 biliter affirmant, quod licuit sibi de jure quod suum erat repetere, & posse Regis &
 usulorum suorum, modis omnibus quibus poterat, infirmare.

William Rishanger in his continuation of *Matthew Paris*, speaking of the death of
 mon Monfors Earle of *Leycester*, flaine in the Battle of *Evesham*, the greatest Pillar
 the Barrons warres; useth this expression. Thus this magnificent Earle Symon, en-
 d his labors, who not onely bestowed his estate but his person also, for reliefe of
 oppression of the poore; for the asserting of Justice, and the right of the Realme: he
 as commendably skilfull in learning, a dayly frequenter of divine Offices, constant
 word, severe in countenance, most confiding in the prayers of Religious persons,
 wayes very respectfull to Ecclesiasticall petions. He earnestly adheared to *Robert*
 of the head Bishop of *Lincolse*, and committed his children to his education. By his
 wife he handled difficult things, attempted doubtfull things, concluded things be-
 specially such things whereby he thought he might gaine desert. Which Bishop
 is said to have enjoyned him, as he would obtaine remission of his sinnes, that he should
 undertake this cause for which he contended even unto death, affirming, that the peace of
 Church of *England* could never be established, but by the materiall sword; and constant-
 averring; THAT ALL WHO DIED FOR IT WERE CROWNED
 WITH MARTYRDOME. Some say that this Bishop on a time, laying his hand
 the head of the Earles eldest sonne, said unto him. O most deare sonne, thou and
 father shall both dye on one day, and with one hand of death; YET FOR JUSTICE
 ND TRUTH. Fame reports that *Symon* after his death grew famous by many
 racles, which for feare of the King came not in publicke. Thus this Historian, thus
 bert Grosthead the most devout and learned Bishop of that age, (who most of any
 posed the Popes Vsurpations and exactions) determine of the justice and lawfulness
 the Barons Warres; *Walter* Bishop of *Worcester* concurring in the same opinion
 th Grosthead. The same author *Rishanger* records; that the Earle of *Glocester*, a
 at stickler in these warres against the king, with whom at last he accorded; signified
 the King by his Letters Patents under his scale, that he would never beare Armes a-
 gainst the King his Lord, nor against his Sonne Prince Edward, NISI DEFENDO;
 onely in his Defence: which the King and Prince accepting of, clearly proves;
 defensive Armes against King or Prince were in that age generally reputed Law-
 ful, by King, Prince, Prelates, Nobles, People. I may likewise adde to this what
 read in *Matthew Westminster*, that *Richard* Bishop of *Chichester* the day before
 the battle of *Lewis* against King *Henry* and his sonne (who were taken prisoners in
 by the Barons and 30000. of their Souldiers flaine;) absolved all that went to fight
 against

Page 966.

967. Daniel

p. 178;

Page 970;

An. 1265. p.

336.

against the King their Lord from all their sinnes. Such confidence had he of the goodnesse of the cause and justnesse of the warre.

* Mut. Par. p. 952 953. Speed, p 646. Dan. p. 178.

In one word, the oath of association prescribed by the Barons to the King of Romans, brother to King Henry the third, in the 43. yeare of his Raigne; Heare all men, that I Richard Earle of Cornewall, doe here swear upon the holy Evangelists, that I shall be faithfull, and diligent to reforme with you the Kingdome of England, both rto by the councell of wic'ed persons overmuch disordered: and be an effectuall Coadjutor TO EXPELL THE REBELLS, and disturbers of the same. And this Oath I will inviolably ob'erve, under paine of losing all the lands I have in England: So helpe me God. Which Oath all the Barrons and their associates tooke, (by vertue whereof they tooke up armes against the Kings ill Councillors, and himselfe when he joined with them,) sufficiently demonstrates their publicke opinions and judgements of the lawfulnessse, the justnesse of their warres; and of all other necessarie defensive armes, taken up by the Kingdome generall assent for preservation of its Lawes, Liberties, and suppression of those Rebels, and ill Councillors who fight against, or labour to subvert them by their policies.

* Walsing. Hist. Argl. p. 70 to 75. Typodigma Neustr. An. 1309. 1310 Dan. Holinsh. Graf. Spe. 1, Feb. Stow, and others in his life: Fox Acts and Monuments, Edit. ult. vol. 1. p. 480. 481.

* In the third yeare of King Edward the 2^d, this king revoking his great Mynion Piers Gaveston, newly banished by the Parliament into Ireland, and admitting him into as great favour as before, contrary to his oath and promise: the Barrons hereupon by common consent sent the King word; that he should banish Piers from his company according to his agreement, or else they would certainly rise up against him as a perjurer. Vpon which the King much terrified suffers Piers to abjure the Realme; whereturning againe soone after to the Court at Yorke; where the king entertained him the Lords spirituall and temporall, to preserve the liberties of the Church and Realm sent an honourable message to the King, to deliver Piers into their hands, or banish him, for the preservatio: of the peace, Treasure and weale of the Kingdome; this wilfull King denies their just request; whereupon the Lords thus contemned and deluded: raised an army, and march with all speed towards New-Castle, NOT TO OFFER INJURIE OR MOLESTATION TO THE KING, but to apprehend Peirs, a judge him according to Law: upon this the King fleeth together with Peirs to Tynemouth, and from hence to Scarborough Castle, where Peirs is forced to render himselfe to the Barrons, who at Warwick Castle. (without any legall triall by meere martial Law) beheaded him, as a subvertor of the Lawes, and an OPEN TRAITOR TO THE KINGDOME. For which facts this King afterwards reprehending an accusing the Lords in Parliament, in the 7th yeare of his Raigne; they stoutly answered THAT THEY HAD NOT OFFENDED IN ANY ONE POINT, BUT DESERVED HIS ROYALL FAVOUR, for they HAD NOT GATHERED FORCE AGAINST HIM (though he were in Piers his company, assisted, countenanced, and fled with him) BUT AGAINST THE PVBLICKE ENEMIE OF THE REALME: Whereupon there were two acts of oblivion passed by the King, Lords and Commons assembled in that Parliament, (Printed in the 7th Part of Magna Charta:) The first, that no person (on the Kings part) should be questioned, moved, fled, impeached, imprisoned, and brought to judgement, for causing Pierce to returne from Exile, or harboring, counselling or ayding him here after his returne: The second on Barons part, in these words: It is provided by the King, and by the Archbishops, Bishops, Abbots, Priors, Earles, Barons and Commons, of the Realme, assembled according

[F. 43. 44:

our Command, and unanimously assented and accorded, that none of what estate or conditionsoever he be. shall in time to come be appealed or challenged, for the apprehending, detaining or death of Piers de Gaveston, nor shall for the said death be apprehended, nor imprisoned, impeached, molested, nor grieved, nor judgement given against him by us, nor by others at our suite, nor at the suite of any other, either in the Kings Court or elsewhere. Which act the King by his Writ. sent to the Judges of the Kings Bench, commanding that it should be granted and concord shall be firme and stable in all its points, and that every of them should be held, and kept in perpetuities; to which end he commands them to cause this Act to be there enrolled, and firmly kept for ever. A pregnant evidence that the Barons taking up Armes then against this Traytor and enemy of the Realme, in pursuance of the Act and sentence of Parliament for his banishment, though the King were in his company, and assisted him all he might, was then both by King and Parliament, adjudged no Treason, nor Rebellion at all in point of Law, but a just & honorable action: therefore their taking up Armes is not mentioned in this Act of oblivion, seeing they held it just, but their putting Piers to death, without legall trial; which in strictness of Law, could not be justified. Now whether this be not the Parliaments and Kingdomes present case in point of Law (who tooke up armes principally at first, for defence of their owne Priviledges of Parliament, and apprehension of delinquents who seducing the king withdrew him from the Parliament, and caused him to raise an Army to shelter themselves under its power against the Parliament) let every reasonable man determine: and if it be so, we see this ancient Act of Parliament resolves it, to be no high Treason, nor Rebellion, nor offence against the King; but a just, lawfull Act, for the kings, the kingdomes honour and safety.

Not long after this, the two ² Spencers getting into the kings favour, and seducing, and counselling him as much as Gaveston did; the Lords and Barrons hereupon in the 4th and 15th yeares of his raigne, confederated together, to live and dye for justice, and to their power to destroy the TRAITORS OF THE REALME, Especially the two Spencers: after which they raised an Army, whereof they made Thomas Earl of Lancaster Generall; and meeting at Sherborne, they plunder and destroy the Spencers castles, Mannors, Houses, Friends, Servants, and marching to Saint Albanes with insignes displayed, sent Messengers to the King then at London, admonishing him to rid his Court but Kingdome, of the TRAITORS TO THE REALME, the Spencers. (condemned by the Commons in many Articles) to preserve the peace of the Realme; and to grant them and all their followers Letters Patent of indemnity, for what they had formerly done. Which the King at first denied but afterwards this Archiebischop marching up to London, where they were received by the City, he yielded to it, and in the 15th yeare of his Raigne by a speciall Act of Parliament the said Spencers were banished and banished the Realme (for mis-counselling the king, oppressing the people by unjustice, a rising him to leve warre upon his Subjects, making evill Judges and other Officers to the hurt of the King and Kingdome, encroaching the Kings care, and usurping his Royall authority) as ENEMIES of the King and OF HIS PEOPLE: and by another Act of Parliament, it was then provided, that no man should be questioned for any felonies or trespasses committed in the prosecution of Hugh de Spencers the father and sonne; which Act runnes thus? 'Whereas of late many great men of the Realme surmised to Sir Hugh de Despenser the sonne and Father, many misdemeanors by them committed against the estate of our Lord the King and of his Crowne, and to the

² Walsing. H. 2.
lin. sh. Feb.
Graf. Stow,
Speed. Danic.
in his life.

• disinheritatione of the great men and destruction of the people, and pursued those
 • misdemeanors and attainer of them by force, because they could not be attained by
 • proceffe of Law, because that the said Sir *Hughes* had accroached to them the royall
 • power in divers manner: the said *Grandees* having mutually bound themselves by
 • oath in writing, without the advise of our Lord the King; and after in pursuing the
 • said *Hugh* and *Hugh*, and their alies and adherents, the said great men and others, ri-
 • ding with banners displaid, having in them the Armes of the king and their owne; did
 • take and occupie the Chattels, Villages, Mannors, Lands, Tenements, Goods, and
 • likewise take and imprison some of the Kings leige people and others, tooke some
 • and slew others, and did many other things, in destroying the said *Hugh* and *Hugh*,
 • and their alies, and others in *England, Wales*, and in the *Marches*, whereof some things
 • may be said *Trespaffes*, and others felonies: and the said *Hugh* and *Hugh*, in the Par-
 • liament of our Lord the King, sommoned at *Westminster* three weekes after the Nati-
 • vitie of *Saint John Baptist* the 15. yeare of his Raigne, for the said misdemeanors
 • were fore judged and banished the Realme, by a vote of the *Peeres* of the Land; and
 • the foresaid great men in the said Parliament, shewed to our Lord the King, that the
 • things done in the pursuite of the said *Hugh* and *Hugh*, by reason of such causes of ne-
 • cessity, cannot be legally redressed or punished without causing great trouble, or per-
 • chance warre in the land, which shall be worse, and prayed our Lord, that of all alli-
 • ances, trespaffes and felonies they might be for ever acquitted, for the preservation
 • of peace, the avoyding of warre, and asswaging of angers and rancors, and to make
 • unitie in the land; and that our Lord the King may more intirely have the hearts and
 • Wills of the great men and of his people, to maintaine and defend his Lands, and to
 • make warre upon and grieve his enemies. It is accorded and agreed in the said Parlia-
 • ment by our Lord the King, and by the *Prelates, Earles, Barrons, and Commons* of
 • the Realme there assembled by command of our Lord the King, that none of what e-
 • state or condition soever he be for alliance, at what time soever made, by deed, oath, wri-
 • ting, or in other manner, nor for the taking, occupying, or detainer of Chattels, to wns
 • Mannors, Lands, Tenements, and goods taken, imprisoning or ransoming the King
 • leige People, or of other homicides, robberies, felonies, or other things which may
 • be noted as trespaffes or felonies committed against the peace of the king by the sai-
 • great men, their allies, or adherents in the pursuite aforesaid, since the first day of
 • March last past, till the thursday next after the feast of the assumption of our Ladie, the
 • wit, the 19. day of *August* next ensuing, be appealed, nor challenged, taken nor im-
 • prisoned, nor grieved, nor drawne into judgement by the King, nor any other at the
 • suite of any other which shall be in the Kings Court or in any place else; but that
 • such trespaffes and Felonies shall be discharged by this accord and assent: saving alway
 • to all men, but to the said *Hugh* and *Hugh*, action and reason to have and recover the
 • Chattels, Farmes, mannors, Lands, tenements, wards and marriages according
 • to the Lawes and customes used in the Realme, without punishment against the king,
 • damages recovered against the party for the time aforesaid. For which end they pr-
 • scribed likewise a Charter of Pardon annexed to this Act according to the purport
 • of it, which every one that would might sue out, which Charter you may read in
 • *Magna Charta.*

From which Act of Parliament I shall observe these three things. First, that
 their taking up Armes to apprehend the *Spensers* as enemies to the King and kingdo-

and marching with banners displayd, was not then reputed high Treason or Rebellion against the King, though it were by way of offence, not of defence, and without any authority of Parliament: for there is not one word of Treason or Rebellion in this Act, or in the Charter of pardon pursuing it: and if it had beene high Treason, this Act and Charters on it extending onely to *Fellovie and Trespasses* not to *Treasons and rebellions*, would ^b not have pardoned these transcendent Capital crimes. Secondly, that the unlawfull outrages, robberies, and murders committed by the souldiers on the kings leige people, and not on the two *Spensers* the sole delinquents, were the occasion of this Act of oblivion and pardon, not the Armed pursuing of them, when they had gotten above the reach of Law. Thirdly, that though this were an offensive not defensive warre, made without common assent of Parliament, and many murders, robberies, and misdemeanors committed in the prosecution of it upon the kings leige people who were no Delinquents; yet being for the common good to suppress and banish these ill Councillors, enemies, Traytors to King and Kingdome, the King and Parliament thought it such a publicke service as merited a pardon of these misdemeanors in the carriage of it, and acquitted all who were parties to it, from all suites and punishments. All which considered, is a cleare demonstration, that they would have resolved our present defensive warre, by Authoritic of both Houses, accompanied with no such outrages as these; for the apprehension of such as have beene voted Traytors and Delinquents by Parliament, and stand out in contempt against its justice, for the defence of the Priviledges and Members of Parliament, the Liberties and properties of the subject, the fundamentall lawes of the Realme, the Protestant Religion now endangered by Papists up in Armes in *England and Ireland* to extirpate it, and the removing ill Counsellors from his Majestic; to be no high Treason, Rebellion or offence at all against the king, but a just and lawful Act, the very miscarriages whereof in the generall (except in such disorderly Souldiers for whom martiall Law hath provided due punishments) deserve a publicke pardon both from King and Kingdome: and to put this out of Question; as no fancie of mine owne, we have an expresse Act of Parliament, resolving the taking up of Armes by the Queene, Prince, (both but subjects and capable of High Treason in such a case as well as others) the Nobles and people of the Realme against these two *Spensers* and other ill Counsellors about this king in the last yeare of his raigne, (though the King himself were in their Company, and taken prisoner by the Forces raised against them,) for the necessary preservation, reliefe, and safety of the Queene, Prince, Nobles, Kingdome, to be no high Treason or offence at all: namely, the statute of 1 E. 3. c. 1. 2. 3. which I shall recite at large. Whereas *Hugh Spenser* the Father, and *Hugh Spenser* the Sonne, late at the suite of *Thomas* then Earle of *Lancaster* and *Leycester*, and Steward of *England*, by the common assent and vote of the Peers and Commons of the Realme, and by the assent of King *Edward* Father to our Sovereigne Lord the King, that now is, AS TRAITORS & ENEMIES OF THE KING, & OF THE REALME, were Exiled, disinherited and banished out of the Realme for ever. And afterward the same *Hugh* by evil Councill, which the king had about him, without the assent of the Peeres and Commons of the Realme, came againe into the Realme: and they with other procured the said king to pursue the said Earle of *Lancaster*, and other great men and people of the Realme, in which pursuite the said Earle of *Lancaster* and other great men and people of the Realme, were willingly dead and disinherited, and soine outlawed,

outlawed, banished, and disinherited; and some disinherited and imprisoned, and
 some ransomed and disinherited: and after such mischief the said *Hugh* and *Hugh*
 Master *Robert Baldicke* and *Edmond* Earle of *Arundell* usurped to them the Royall
 power, so that the king nothing did, nor would doe, but as the said *Hugh* and *Hugh*,
Robert and *Edmond* Earle of *Arundell* did counsell him, were it never so great wrong:
 during which usurpation, by duresse and force against the Will of the Commons, they
 purchased Lands, as well by fines levied in the Court of the said *Edward*, as otherwise:
 and whereas after the death of the said Earle of *Lancaster*, and other great men,
 our Sovereigne Lord the King that now is, and Dame *Isabel* Queene of *England*,
 his Mother, by the Kings will and Common Councell of the Realme, went over to
France, to treat of peace betweene the two Realmes of *England* and *France*, upon
 certaine debates then moved. The said *Hugh* and *Hugh*, *Robert* and *Edmond* Earle
 of *Arundell* continuing in their mischief, encouraged the king against our Sovereigne
 Lord the king that now is, his sonne, and the said Queene his wife, and by royall po-
 wer which they had to them encroached, as afore is said, procured so much grievance
 by the assent of the said King *Edward*, to our Sovereigne Lord the King that now is,
 and the Queene his mother, being in so great jeopardy of themselves in a strange
 Country, and seeing the Destruction, Dammage, Oppressions, and Distractions which
 were notoriously done in the Realme of *England*, upon holy Church, Prelates, Earles, Ba-
 rons, and other great men, and the Commonalty by the said *Hugh* and *Hugh*, *Robert*
 and *Edmond* Earle of *Arundell* by the encroaching of the said royall power to them,
 to take as good Councell therein as they might. And seeing they might not remedie the
 same unlesse they came into *England*, with an Army of men of warre, and by the Grace
 of God with such puissance, and with the helpe of great men and Commons of the
 Realme, they have vanquished and destroyed the sayd *Hugh* and *Hugh*, *Robert* and
Edmond: Wherefore our Sovereigne Lord King *Edward* that now is, at his Parlia-
 ment holden at *Westminster*, at the time of his Coronation, the morrow after *Candle-*
mas, in the first yeare of his reigne, upon certaine Petitions and requests made unto
 him in the said Parliament upon such Articles above rehearsed, by the common coun-
 cell of the Prelates, Earles, Barons, and other great men, and by the Commonalty of
 the Realme, therebeing by his Commandment, hath provided, ordained and stabli-
 shed in forme following. First, that no great man, or other of what estate, dignity, or
 condition he be, that came with the said king that now is, and with the Queene his
 mother into the Realme of *England*, and none other dwelling in *England*, who came
 with the said king that now is, and with the Queene, In ayde of them to pursue their
 said enemies, in which pursuite the King his Father was taken and put in ward, and yet
 remaineth in ward, shall not be molested, impeached or grieved in person or goods, in the
 kings Court, or other Court, for the pursuite of the said king, taking and with holding
 of his body, nor pursuite of any other, nor taking of their persons, goods, nor death of
 any man, or any other things perpetrate or committed in the said pursuite, from the
 day the said king and Queene did arme, till the day of the Coronation of the said
 king: and it is not the kings minde, that such offenders that committed any trespass
 or other offence out of the pursuites should goe quit, or have advantage of this sta-
 tute, but they shall be at their answer for the same at the Law. Item, that the repeale
 of the said Exile which was made by Duress and force be aduiled for evermore, at
 the said Exile made by award of the Peeres and Commons, by the kings assent as be-

Nota.

fore is said, shall stand in his strength in all points, after the tenure of every particular therein contained. Item, that the Executors of the Testament of all those that were of the same quarrell dead, shall have Actions and recover the Goods and Chattels of them, being of the said quarrell, whose executors they be; as they of the same quarrell should, &c.

Certainly here was an higher pursuite and levying warre against the King and his evill Councillors, then any yet attempted by this Parliament; and a warre rather offensive, then defensive, in which the king himself was both taken and detained Prisoner, and then forced to resigne his Crowne to his sonne; yet this is here justified, as a necessary, just and lawfull warre by an Act of Parliament, never yet repealed; and all that bare Armes against the king and his ill Councillors, yea they who pursued, apprehended, and imprisoned the king himselfe, are, as to this particular, discharged by the king, and whole Parliament from all manner of guilt, of punishment, or prosecution whatsoever against them. Which consideration makes me somewhat confident, that this King and the Parliament held in the 25. yeare of his Raigne, *ch. 2. Which declares it high Treason, to levie warre against the King in his Realme,* did never intend it of a necessary defensive warre against a seduced King and his evill Councillors (especially by the Votes of both Houses of Parliament, who doubtlesse would never passe any Act to make themselves, or their Posteritie in succeeding Parliaments, Traytors, for taking up meere necessary defensive Armes for their owne, and the Kingdomes preservation) for that had bene diametra-ly contrary to this statute, made in the very first yeare and Parliament of this King; and would have layd an aspercion of High Treason upon the king himself, the Queene his Mother, their own Fathers, and many of themselves; who thus tooke up Armes and made a defensive kinde of warre upon King Edward the 2^d, taking him prisoner: but onely to Rebellious insurrections, of private persons, without any publick authority of Parliament, or the whole Kingdome in general; and of meere offensive warres against the King without any just occasion, hostilitie or violence on the Kings part, necessitating them to take up defensive Armes: which I humbly submit to the judgement of those grand Rabbies and Sages of the Law, and the Honorable Houses of Parliament, who are best able to resolve, and are the onely Iudges to determine this point in controversie, by the expresse letter and provision of 25. *Ed. 3. ch. 2. of Treasons.*

In the first yeare of king Richard the 2^d. John Mercer a Scot, with a Navie of Spanish, Scottish & French ships much infested the Marchants and Coasts of England taking many prizes without any care taken by the king, Lords, or Councill to resist them. Whereupon John Philpot a rich Merchant of London, diligently considering the defect, that I say not treachery of the Duke of Lancaster, and other Lords who ought to defend the Realme, and grieving to see the oppressions of the people, did at his proper charge hire a thousand souldiers and set out a Heete, to take the said Mercers ships, with the goods he had gotten by Pyracie, and defend the Realme of England from such incur- sions: who in a short time took Mercer prisoner, with 15. Spanish ships, and all the Booties he had gained from the English: wherewith all the people rejoyced exceedingly, commending and extolling Philpot for the great love he shewed to his Countrey, and casting out some reproachfull words against the Nobles and Kings councill who had the rule of the kingdome and neglected its defence: Whereupon the Nobility, Earles and Barons of the Realme, conscious of this their negligence, and envying Philpot

for this his Noble praise-worthy action, began not onely secretly to lay snares for him, but openly to reproach him, saying: *That it was not lawfull for him to doe such things Without the advise or counsell of the King and Kingdome: quasi non licuisset benefacere Regi VEL REGNO sine consilio Comitum & Baronum:* (writes *Walsingham*) as if it were not lawfull to doe good to the King or Kingdome, without the advise of the Earles and Barons, or Lords of the Privie Councell. To whom objecting these things, and especially to *Hugh Earle of Stafford*, who was the chiefe Prolocutor and spake most against it, *John Philpot* gave this answer: ' Know for certaine, that I have deflinated my money, ships, and men to sea to this end, not that I might deprive you of the good name and honour of your *Militia*, or warlike actions, and engrosse it to my selfe, but pittying the misery of my Nation and Country, which now by your sloathfulness, of a most Noble kingdome, and Lady of Nations, is devolved into so great misery, that it lyeth open to the pillage of every one of the vilest Nations, seeing there is none of you, who will put your hand to its defence. *I have exposed me and mine therefore for the Salvation of my proper Nation, and freeing of my Country.* To which the Earle and others had not a word to reply. From this memorable history and discourse (which I have translated *verbatim* out of *Walsingham*,) I conceive it most evident, that in the default of king and Nobles, it is lawfull for the Commons and every particular subject without any Commission from the king or his Councell, in times of imminent danger, to take up Armes and raise Forces by Sea or Land to defend the king and his Native Country against invading enemies; as *Philpot* did, without offence or crime. Then much more may the Houses of Parliament, the representative body of the whole kingdome, and all private Subjects by their Command, take up necessary defensive Armes against the kings Popish and Malignant Forces to preserve the king, Kingdome, Parliament, People from spoyle, and ruine.

In the 8. yeare of King *Richard the 2^d*. there arose a great difference betweene the Duke of *Lancaster*, & the king & his young complices, who conspired the Dukes death; agreeing sodainely to arrest and arraigne him before *Robert Trisilian* Chiefe Justice, who boldly promised to passe sentence against him, according to the quality of the crimes objected to him. Vpon this the Duke having private intelligence of their treachery, to provide for his owne safety, wisely withdrew himselfe, and posted to his Castle at *Ponfract*, storing it with Armes and *Vidualls*. Hereupon not onely a private but publicke discord was like to ensue; but by the great mediation and paines of *Ione* the kings mother, an accord and peace was made betweene them: and this defence of the Duke by fortifying his Castle with Armes against the King and his ill instruments for his owne just preservation, held no crime. If such a defence then were held just and lawfull in one particular Subject and Peere of the land onely, much more must it be so in both Houses of Parliament, and the Kingdome, in case the Kings Forces invade them.

In the 10th yeare of King *Richard the second* this unconstant king being instigated by *Michael de la Pole*, *Robert Vere* Duke of *Ireland*, *Alexander Nevill* Archbishop of *York*, *Robert Trisilian*. and other ill Councillors and Traytors to the kingdome, endeavoured to seize upon the Duke of *Glocester*, the Earles of *Arundell*, *Warwicke*, *Derby*, *Nottingham*, and others who were faithfull to the kingdome, and to put them to death having caused them first to be indighted of High Treason at *Nottingham* Castle, and hired many Souldiers to surprise them: Hereupon these Lords for their owne just defence

Walsin. hist.
Angl. p. 341.

Walsing.
Hist. Ang. p.
358, to 367.
Polyc. Fab.
Speed, Graft.
Holin. Howes,
Trussel. in 10.
& 11. R. 2. 11
R. 2. c. 1. 107.

defence, raised Forces and met at *Harynggje Parke* with a numerous Army: whereat the King being much perplexed, advised what was best for him to do. *The Archbishop of Yorke* and others of his ill Councell, advised him to goe forth and give them battle; but his wisest counsellors dissuaded him, affirming, that the King should gaine no benefit if hee vanquished them, and should sustaine great dishonour and losse if he were conquered by them. In the meane time *Hugh Linne* an old Souldier, who had lost his senses, and was reputed a foole, coming in to the Councell, the King demanded of him in jest, what hee should doe against the Nobles met together in the said Parke? who answered; Let us goe forth and assault them, and slay every mothers soune of them, and by the eyes of God, this being finished, **THOU HAST SLAINE ALL THE FAITHFVLL FRIENDS THOU HAST IN THE KINGDOME.** Which answer, though uttered foolishly; yet wise men did most of all consider. At last is was resolved by the mediators of Peace, that the Lords should meete the King at *Westminster*, and there receive an answer to the things for which they tooke Armes; thither they came strongly Armed with a great guard, for feare of ambuscadoes to intrap them: where the Chauncellour in the Kings name spake thus to them. *My Lords, our Lord the King bearing that you were lately assembled at Harenggje Parke in an unusuall manner; would not rush upon you as he might have easily done, had he not had care of you, and those who were with you: because no man can doubt, if he had raised an Army, he would have had many more men than you, and perchance much blood of men had beene spilt, which the King doth most of all abhorre, and therefore assuming to himselfe patience and mildnesse, he hath made choise to convent you peaceably, and to tell him the reason why you have assembled so many men.* To which the Lords answered, **That THEY HAD MET TOGETHER FOR THE GOOD OF THE KING AND KINGDOME; AND THAT THEY MIGHT PVLL AWAY THOSE TRAITORS FROM HIM, WHICH HE CONTINVALLY DETAINED WITH HIM.** The Traytors they appealed were the foresaid ill Councellors, and *Nicholas Brambre* the wise London Knight: and to prove this appeale of them true, casting down their gloves they said they would prosecute it by Duell: The King answered; *This shall not be done now, but in the next Parliament, which we appoint to be the morrow after the Purification of the blessed Virgin, to which as well you as they comming, shall receive satisfaction in all things according to Law.* The Lords for their owne safety kept together till the Parliament, and in the meane time defeated the Forces of the Duke of Ireland, raised privately by the Kings Command to surprize them. The Parliament comming on in the 11. yeare of *Richard the second*: these ill counsellors were therein, by speciall Acts attainted, and condemned of High Treason, and some of them executed; and these defensive Armes of the Lords, for their owne and the Kingdomes safety, adjudged and declared to be no Treason: but a thing done to the honour of God, and Salvation of the King and his Realm: witness the expresse words of the Printed Act of 11 R. 2. c. 1. which I shall transcribe. Our Sovereigne Lord the King amongst other Petitions and requests to him made by the Commons of his said Realme in the said Parliament, hath received one Petition in the forme following. The Commons prayed, that whereas the last Parliament for cause of the great and horrible mischiefes and perills which another time were fallen BY EVILL GOVERNANCE WHICH WAS ABOUT THE KINGS PERSON, by all his time before by *Alexander* late Archbishop of *Yorke*, *Robert de Veere* late Duke of Ireland, *Michael de la Pole* late Earle of *Suffolk*,

Robert Trisilian late Justice, and Nicholas Bumble Knight, with other their adherents, and others. Whereby the King and all his Realme, were very nigh to have bene wholly undone and destroyed; and for this cause, and to eschew such perils and mischiefs for the time to come, a certaine statute was made in the same Parliament, with a Commission to divert the Lords, for the weale, honour and safeguard of the King, his regalty and of all the Realme, the tenour of which Commission hereafter followeth: *Richard, &c.* as in the Act. And thereupon the said *Alexander, Robert, Mighill, Robert, and Nicholas* and their said adherents, seeing that their said evill governance should be perceived, and they by the same cause more likely to be punished by good justice to be done, and also their evill deedes and purposes before used to be disturbed by the sayd Lords assigned by commission as afore; made, conspired, & purposed divers horrible Treasons, and evils against the King, and the said Lords so assigned, and against all the other Lords and Commons, which were assenting to the making of the said Ordinance and Commission, in destruction of the king, his Regalty, and all his Realme. Whereupon *Thomas Duke of Glocester* the kings Vncle, *Richard Earle of Arundle*, and *Thomas Earle of Warwicke*, perceiving the evill purpose of the sayd Traytors, did assemble themselves in forcible manner for the safety of their persons, to shew and declare the said Treasons and evill purposes, and thereof to set remedie; as God would, and came to the Kings presence, affirming against the said 5. Traytors appealed of High Treason, by them done to the King, and to his Realme: upon which appeale the king our Sovereigne Lord, adourned the said parties till this present Parliament, and did take them into his safe protection, as in the record made upon the same appeale fully appeareth. And afterwards in great Rebellion, and against the said protection, the said Traytors, with their said adherents and others aforesaid, continuing their evill purpose, some of them assembled a great power (by letters and Commission from the King himselfe, as *Walsingham* and others write) to have destroyed the said Duke and Earles appellants, and other the kings lawfull leige people, and to accomplish the Treasons and evill purposes aforesaid. Whereupon the said *Duke of Glocester, Henrie Earle of Darby*, the sayd *Earles of Arundell and Warwicke*, and *Thomas Earle Marshall*, seeing the open Destruction of the King and all his Realme, if the said evill purposes Traytors and their adherents, were not disturbed, which might not otherwise have bene done, but with strong hand; for the weale and safeguard of the King our Sovereigne Lord, and of all his Realme, did assemble them forcibly, and rode and pursued till they had disturbed the said power gathered by the said Traytors, and their adherents aforesaid, which five Traytors be attainted this present Parliament of the Treasons and evils aforesaid. at the suite and appeale of the said *Duke of Glocester Earles of Darby, Arundle, Warwicke, and Marshall*. That it would please our redoubled Sovereigne Lord the King to accept, approve, and affirme, in this present Parliament, all that was done in the last as afore, and as much as hath bene done since the last Parliament by force of the statute, Ordinance, or Commission aforesaid; and that *All that the said Duke of Glocester Earles of Arundell and Warwicke* did; and that the same *Duke and Earles*, and the said *Earles of Derby, and Marshall* or any of them did. Or any other of their company or of their ayde, or of their adherents, or of any of them, or touching the Assemblies, Ridings, Appeales, and Pursuies aforesaid. As a thing made to the Honour of God, Salvation of the King, maintenance of the Crowne, and also of the Salvation of all his Realme (therefore doubtlesse no Treason)

Rebellion, nor any offence in point of Law:) and also to Ordaine and Stablissh, that the said Duke of *Gloster*, Earles of *Darby*, *Arundell*, *Warwicke* and *Marshall*, nor none of them, nor none of such as have beene of their returne, or company, force, ayde or counsell, or any of them in the things aforesaid, nor none other person for any thing aforesaid shall be impeached, molested, or grieved at the suite of the king, nor of the party, nor in other manner, because of any assembly, riding, beating, levying of Penons, or of Banners, discomfiture, death of a man, imprisonment of any person, taking, leading away, or detinue of any horses or of any other beasts, taking or carriage of goods, harness, armour, cattle, and other movable goods, breaking of houses, or of other possessions or goods, assault, battery, robberies, thefts, comming or tarrying with force and armes, or armed in the Kings presence at the Parliament, or Councell, or else where. Raising of people, or exciting the people to rise forcibly against the peace by letters, commissions, or any other deeds, or of any other thing that may be furnished by them, or any of them, or ought or purposed to have beene done from the beginning of the world, touching any of the said matters before the end of this present Parliament by any imagination, interpretation, or other colour, but shall be quit and discharged for ever: except that the King be answered of all the goods, and cattels that were to them which be attainted in this present Parliament, or to any of them, and which goods and things were taken by any person the first day of *January* last past, or after hitherto. We considering the matter of the said Petition to be true, and the request of the said Commons in this party * to be to the honour of God, and the profit of us and our Realme, of the assent of the Prelates, Dukes, Earles, Barons and all others of this present Parliament, doe grant the requests of the said Commons in all points, after the forme of the said Petition. And moreover of the assent aforesayd, we will and grant for the greater quietnesse of our said Realme, though that the said Duke or Earles appellants, or any other of their company, retinue, force, ayde, counsell or adherents, or any of them have taken, led away, or withholden any of our Justicers, or any other of our ministers, in disturbance of execution of the Law of our Realme of *England*, or in other manner, or that they have taken any manner of person as Traitors to Us, or to our Realme, or other person, and the same have voluntarily suffered to goe at large, or escape beyond the sea from the 14th day of *Novemb.* last past, till the end of this present Parliament; that they nor any of them be for this cause impeached, molested, nor grieved any manner of way at the suite of us, our heires, nor none other party, but thereof they shall be quit, and discharged for ever; nor that they nor any of them be in any wise molested, grieved, nor impeached at the suite of us, our heires, or other party for any thing done at any time for to a taine to their purpose against the said appellants or any of them, or against any other person for this cause, nor for any other thing or deed to affirme the same purposes, till the end of this present Parliament but thereof shall be acquitted.

* Nota.

This Act with others made the same Parliament continued inviolable without dispute for 10 years space, during wch there were 8. more Parliaments held wch approved it: but in 21 R. 2. the King having violently seised upon the Duke of *Gloster* & the Earles of *Warwicke* and *Arundell*, and packed a Parliament to his minde, by not summoning any Lords thereto but those of his party, by causing divers Knights and Burgesses of his own nomination, never chosen by the people, to be returned in divers places, and overawing the rest with a guard or 4000. *Cheeshire* Archers, caused these Lords to be illegally attainted of Treason upon fained prerences, out of this old grudge, and the

See *Wal-
singh*, *Holinsh.
Gract. Speed,
Stow, Trussell,
in 21. R. 2. &
21 R. c. 16: 17
18. 19* But
especially ca.
20. will ma-
nifest the un-
justnesse of
this unlawfull
packed con-
venticle if I
Acts may so call it;

Acts of this Parliament to be reversed; yet not this Act, as I conceive, which is part of it, being specially saved by 21. R. 2. c. 13. But however by the statute of 1 H. 4. c. 3. 4. the Parliament of 21. was wholly repealed, reversed, revoked, voyded, undone and annulled for ever, with all the Acts, circumstances, and dependants thereof: and this Parliament of 11. R. 2. *Enacted to be firmly holden and kept after the purport and effect of the same; as a thing made for the great Honour and common profit of the Realme, and ch. 5. It is ordained and assented, that the Lords and other which were forejudged in the Parliament holden the said 21. yeare, or by Authority of the same, which now be in life, and the heires of the Lords and others that be dead, shall be wholly restitute and restored to their names, all manner of inheritaments and possessions, reversions, fees, reversions, offices, liberties, and franchises as intirely as the said Lords and others which be in life, or the Lords and other which be dead, ancestors of the heires, or the feoffees of the said Lords or other aforesaid, or other feoffees to their use, were at the time of the judgement given against them, the said 21 yeare, by entrie, without other suite thereof to be made, or livery to be had of the same. And all the goods and chattels which were the said Lords, or the other persons aforesaid, so forejudged, whereof the king is not answered, and be in the hands of the Sheriffes, Escheators, or other Officers, Ministers, or any other and concealed by them, the king wills and granteth, that the same Lords and other which now be in life, and the Executors, and administrators of them that be dead; shall have thereof delivery and restitution; and that the Sheriffes, Escheators, Officers and Ministers for occupying the said goods and chattels by such concealment, bee punished for the same concealment.*

So that by the expresse resolution of these two severall Parliaments, these Lords and Commons taking up defensive Armes and making war against those wicked Councillours of this King which sought their ruine, and endeavoured the destruction of the Realme (though they had the kings presence and commissions to countenance all their actions and proceedings of this nature, and the Lords wanted the Ordinances of both houses to authorize this their arming, and war) was solemnly declared and adjudged, to be no Treason nor Rebellion at all, nor levying of warre against the king, within the statute of 25. E. 3; but contrarywise; *a thing done to the honour of God, the Salvation of the King, (for if the Kingdome perish or miscarry, the king as king must needs perish with it) the maintenance of his Crowne, (supported onely by the maintenance of the kingdomes welfare) and the Salvation and common profit of all the Realme;* and this being one of the first solempne judgements (if not the very first) given in Parliament after the making of the statute of 25 E. 3. which hath relation to its clause of *levying war*, must certainly be the best exposition of that Law: which the Parliament onely ought to interpret, as is evident by the statute of 21. R. 2. c. 3. (*It is ordained and stablished, that every man which, &c. or he that raiseth the people and riseth against the King to make warre within his Realme; and of that be duly attainted and judged in the Parliament shall be judged as a Traytor of High Treason against the Crowne,*) and other forecited Acts: and if this were no Treason, nor Rebellion, nor Trespasse in the Barons against the king or kingdome; but a warre for the honour of God, the salvation of the king, the maintenance of his Crowne, the safety and common profit of all the Realme; much more must our Parliaments present defensive warre against his Majesties in Councillors, Papists, Malignants, Delinquents; and men of desperate fortunes, risen

up in Armes against the Parliament, Lawes, Religion, Liberties, the whole Kingdomes peace and welfare, be so too; being backed with the very same, and farre better, greater authority, and more publike reasons then their warre was, in which the safety of Religion was no great ingredient, nor the preservation of a Parliament from a forced dissolution, though established and perpetuated by a publike Law.

King Henry the 4th. taking up Armes against King Richard, and causing him to be Articled against, and judicially deposed in and by Parliament for his Male-administration; It was Enacted by the Statute of 1. Hen 4. cap. 2. *That no Lord Spiritual nor Temporall nor other, of what estate or condition that he be, which came with King Henry into the Realme of England, nor none other persons whatsoever they be, then dwelling within the same Realms, and which came to this King in aide of him, to pursue them which were against the Kings good intent, and the COMMON PROFIT OF THE REALME, in which pursuite Richard late King of England, the second after the Conquest, was pursued taken and put in Ward, and yet remaineth in Ward, be impeached, grieved, nor vexed in person, nor in goods, in the Kings Court, nor in none other Court, for the pursuities of the said King, taking and with-holding of his body, nor for the pursuities of any other, taking of persons and cattells, or of the death of a man, or any other thing done in the said pursuite, from the day of the said King that now is arived, till the day of the Coronation of Our said Sovereigne Lord Henry. And the intent of the King is not, that offenders which committed Trespasses, or other offences out of the said pursuities, without speciall warrant, should be ayded, nor have any advantage of this Statute, but that they be thereof answerable as the Law.* If those then who in this offensive Warre assisted Henry the 4th. to apprehend, and depose this perfidious, oppressing tyrannicall king, seduced by evill Counsellors and his owne innate dis-affection to his naturall people, deserved such an immunity of persons and goods, from all kinds of penalties, because though it tended to this ill kings deposition, yet in their intentions it was really for the common profit of the Realme, as this Act defines it. No doubt this present defensive Warre alone against Papists, Delinquents, and evill Counsellors, (who have miserably wasted, spoiled, sacked many places of the Realme, and fired others in a most barbarous maner, * contrary to the Law of Armes and Nations, and labour to subvert Religion, Laws, Liberties, Parliaments, and make the Realm a common Prey) without any ill intention against his Majesties Person, or lawfull Royall Authority, deserves a greater immunity; and can in no reasonable mans judgement, be interpreted any Treason, or Rebellion against the king, or his Crowne, in Law or Conscience.

In the 33. yeare of king Henry the 6th. (a weak Prince wholly guided by the Queene and Duke of Sommerset, who ruled all things at their wills, under whose Government, the greatest part of France was lost;) all things went to ruine both abroad and at home; and the Queene (much against the Lords and Peoples mindes) preferring the Duke of Sommerset to the Captainship of Calice, the Commons and Nobility were greatly offended thereat, saying, *That he had lost Normandy, and so would be do: Calice.* Hereupon the Duke of Yorke, the Earles of Warwicke and Salisbury, with other their adherents, raised an Army in the Marches of Wales, and Marched with it towards London, to suppress the Duke of Sommerset with his Faction, and reforme the Governement. The king being credibly informed hercof, assembled his Host, and marching towards the Duke of Yorke and his Forces, was encountered

* See *Alb-ricus Genitiles de Jure Ecclie lib. 1. cap. 18. 20. 21. 22. 23*

† *Grafton, p. 625. 626 627 628. Hall. 32. & 33. H 6 t. 167. 168. Holinshed, Stow Sped, Fabian.*

in Hall, Grift.
Fabian, Cax-
ton, Holinshed
stow, speed,
Anno 37. 38.
& 39. R 6.

by them at Saint *Albanes*, notwithstanding the kings Proclamation to keepe the Peace; where in a set Battell, the *Duke of Somerset*, with divers Earles, and 8000. others were slaine on the kings part, by the *Duke of Yorke*, and his companions, and the king in a manner defeated. The Duke after this Victory obtained, remembering that he had oftentimes declared and published abroad; *The onely cause of this War to be, THE ADVANCEMENT OF THE PUBLIKE WEALE, and TO SET THE REALME IN A MORE COMMODOVS STATE and BETTER CONDITION*; Vsing all lenity, mercy, and bounteousnesse, would not once touch or apprehend the body of King *Henry*, whom he might have slaine, and utterly destroyed, considering that hee had him in his Ward, and Governance; but with great honour and due reverence, conveyed him to *London*; and so to *Westminster*: where a Parliament being summoned and assembled soone after; It was therein Enacted, *That no person should either judge or report any point of untruth of the Duke of Yorke, the Earles of Salisbury and Warwicke, for conning in Warlike manner against the King at Saint Albanes, Considering that their attempt and enterprise, Was onely to see the Kings Person in Safeguard and Sure-keeping, and to put and Alien from Him the publike Oppressors of the Common wealth; by whose misgovernance, his life might be in hazard, and his Authority hang on a very small Thred.* After this, the Duke, and these Earles raised another Army, for like purpose, and their owne defence in the 27 and 38 yeares of *H. 6.* for which they were afterwards, by a packed Parliament at *Coventree*, by their Enemies procurement, *Attainted of high Treason, and their Lands and Goods confiscated.* But in the Parliament of 39. *H. 6. cap. 1.* *The said attainder, Parliament, with all Acts and Statutes therein made, were wholly Reversed Repealed, annulled; as being made by the excitation and procurement of seditious ill disposed Persons, for the accomplishment of their owne Rancor and Covetousnesse, that they might injoy the Lands, Offices, Possessions, and Goods of the lawfull Lords and liege People of the King; and that they might finally destroy the said lawfull Lords, and Liege People, and their Issues and Heires for ever (as now the Kings all Counsellors, and hungry Cavalleers seek to destroy the Kings faithfull Liege Lords and People, that they may gaine their Lands and Estates; witnesse the late intercepted Letter of Sir John B ooks, giving advise to this purpose to his Majestie :) and this Assembly was declared; to be no lawfull Parliament, but a devillish Counsell, which desired more the destruction then advancement of the Publike weale; and the Duke, Earles, with their assistants were restored, and declared to be faithfull and Lawfull Lords, and faithfull liege People of the Realme of England, who alwaies had great and faithfull Love to the Preferment and Surety of the Kings Person, according to their Duty.*

If then these two Parliaments acquitted these Lords and their companions, thus taking up Armes, from any the least guilt of Treason and rebellion against the King, because they did it onely for the advancement of the publike weale, the setting the Realme in a better condition the removing ill Counsellors, and publike oppressors of the Realme from about the King, and to rescue his person out of their hands: then questionlesse by their resolutions, our present Parliaments taking up defensive armes, upon the selfe-same grounds, and other important causes (and that by consent of both Houses, which they wanted) can be reputed no high Treason nor Rebellion against the King in point of Law; and no just, nor rationally Judge or Lawyer can justly averre the contrary,

against

against so many forecited resolutions in Parliament, even in printed Acts.

The Earle of *Richmond*, afterward King *Henry the seventh*, taking up armes against *Richard the third*, (a lawfull King, *de facto*, being crowned by Parliament; but an Usurper and bloody Tyrant in Verity;) to recover his Inheritance, and Title to the Crowne, and ease the Kingdome of this unnaturall blood-thirsty Oppressor, before his fight at *Boswell Field*, used this Oration to his Souldiers, pertinent to our purpose. 'If ever God gave victory to men fighting in a just quarrell; or if he ever aided such as made warre for the wealth and tuition of their owne naturall and nutritive Countrey: or if he ever succoured them which adventured their lives for the reliefe of Innocents, suppression of malefactors, and apparent Offenders; No doubt, my Fellowes and Friends, but he of his bountifull goodnesse will this day send us triumphant victory, and a lucky revenge over our proud Enemies, and arrogant adversaries; for if you remember and consider the very cause of our just quarrel, you shall apparently perceive the same to be true, godly, and vertuous. In the which I doubt not but God will rather ayde us, (yea, and fight for us) then see us vanquished, and prostrate by such as neither feare him, nor his Lawes, nor yet regard Iustice and honesty. Our cause is so just, that no enterprise can be of more vertue, both by the Lawes Divine and Civill, &c. If this cause be not just, and this quarrell godly, let God, the giver of victory judge and determine, &c. Let us therefore fight like invincible Gyants, and set on our enemies like untimorous Tygers, and banish all feare like ramping Lyons. March forth like strong and robustious Champions, and begin the battaile like hardy Conquerors; the Battell is at hand, and the Victory approacheth, and if wee shamefully recule, or cowardly fly, we and all our sequele be destroyed, and dishonoured for ever. This is the day of gaine, and this is the time of losse; get this dayes victory, and be Conquerours; and lose this dayes battell, and bee villains. And therefore in the name of God, and Saint *George*, let every man courageously advance his standard: They did so, slew the Tyrannicall Usurper, wonne the Field; And in the first Parliament of his Raigne, there was this Act of indemnity passed, That all and singular persons comming with him from beyond the Seas into the Realme of *England*, taking his party and quarrell, in recovering his just Title and Right to the Realme of *England*, shall be utterly discharged, quit, and unpunishable for ever, by way of action, or otherwise, of or for any murder, slaying of men, or of taking and disporting of goods, or any other trespasses done by them, or any of them, to any person or persons of this his Realme against his most Royall Person, his Banner displayed in the said field, and in the day of the said field, &c.

Which battell though it were just, and no Treason nor Rebellion in point of Law in those that assisted King *Henry the 7th*. against this Usurper; yet because the killing of men, and seising their goods in the time of warre, is against the very fundamentall Lawes of the Realme, they needed an Act of Parliament to discharge them from suits and prosecutions at the Law for the same: the true reason of all the forecited Acts of this nature, which make no mention of pardoning any Rebelions or Treasons against the King, (for they deemed their forementioned taking up of Armes no such offences) but onely discharge the Subjects from all suites, actions, and prosecutions at Law for any killing or slaying of men, batteries, imprisonments, robberies, and trespasses, in seising of Persons, Goods, Chattels.

What our Princes and State have thought of the lawfulnessse of necessary Defen-

¹ *Grafton*, p. 847. 848 *Hals.*
3. R. 3. f. 55.
56 See *Hals.*
Speed, & *Barons Henry 7.*

¹ Speeds Hist. p. 1192. to 1197 1. 36. 1237. Grimston. Hist. of the Netherlands, l. 10. p 611. 612. &c. and Imperiall Hist. p. 730. to 856.

five Warres of Subjects against their oppressing Kings and Princes, appears by those aides and succours which our Kings in former ages have sent to the *French, Flemings, Almaines*, and others, when their Kings and Princes have injuriously made Warres upon them, and more especially, by the publike ayde and assistance which our ¹ *Queene Elizabeth* and *King James* by the publike advise and content of the Realme, gave to the Protestants in *France, Germany, Bohemia, and the Netherlands* against the *King of France, the Emperour, and King of Spaine*, who oppressed and made Warre upon them, to deprive them of their just Liberties and Religion, of which more hereafter. Certainly, had their Defensiv Warres against their Sovereigne Princes to preserve their Religion, Liberties, Priviledges, beene deemed Treason, Rebellion, in point of Law; *Queene Elizabeth, King James*, and our English State, would never have so much dishonoured themselves, nor given so ill an example to the world, to Patronize Rebels or Traitours; or enter into any solemne Leagues and Covenants with them as then they did, which have been frequently renewed and continued to this present.

* See the acts of Pacification and Oblivion in both these Kingdomes.

And to descend to our present times; our *King Charles* himself hath not onely (in shew at least) openly aided the *French* Protestants at *Ree* and *Roche* against their King who warred on them; the *Germane Princes* against the Emperour; the *Hollanders*, and *Prince of Orange*, (to whose Sonne hee hath married his eldest Daughter) against the *Spaniard*, and entred into a solemne League with them, (which hee could not have done in point of Law, Justice, Honour, Conscience, had they beene Rebels or Traytors, for standing on their guards, and making defensive Warres onely for their owne and their Religions preservation;) but likewise by two severall publike ^k *Acts of Parliament*, the one in *England*, the other in *Scotland*, declaring, the *Scots* late taking up *Armes* against him and his evil Counsellors, in defence of their Religion, Lawes, Priviledges, to be no Treason, nor Rebellion; and them to bee his true and loyall Subjects (notwithstanding all aspersions cast upon them by the Prelatical and Popish Party) because they had no ill or disloyall intention at all against his Majesties Person, Crowne, and Dignity, but onely a care of their owne preservation, and the redresse of those Enormities, Pressures, grievances in Church and State, which threatned desolation unto both. If then their seizing of the Kings Fortes, Ammunition, Revenues, and raising an Army for the foresaid ends, hath by his Majesty himselfe, and his two Parliaments of *England* and *Scotland*, beene resolved and declared to be no Treason, no Rebellion at all against the King; by the very same, (or better reason, all circumstances duly pondered) our Parliaments present taking up Armes and making a Defensiv Warre for the ends aforesaid, neither is, nor can be adjudged Treason or Rebellion, in point of Law or Justice.

¹ An exact Collection of all Remonstrances, &c. p. 329. 331.

In fine, the King himself in his ¹ *Answer to the 19. Propositions* of both Houses, *June 3. 1642.* Confesseth, and calleth God to witnesse: That all the Rights of his Crowne are vested in him for his Subjects sake: That the Prince may not make use of his high and perpetuall power to the hurt of those, for whose good he hath it; nor make use of the name of publike Necessity, for the gaine of his private Favourites and Followers, to the detriment of his people; That the House of Commons may impeach those, who for their owne ends, though countenanced with any surreptitious gotten Command of the King, have violated that Law, which he is bound (when he knows it) to protect, and to protection of which they were bound to advise him, at least, not to serbe him in the

Contra

Contrary (let the Cavalleers and others consider this;) and the Lords being trusted with a Iudiciary power, are an excellent screen and banke betwene the King and people, to assist each against any Ineroachments of the other; and by just Iudgements to reserve that Law, which ought to be the Rule of every one of the three. Therefore the power Legally placed in both Houses, Being more then sufficient to prevent and re-
 traine the power of Tyranny; by his Majesties owne Confession; it must needs be such a power as may legally inable both Houses, (when Armes are taken up against them, by the King or any other, to subvert Lawes, Liberties, Religion, and introduce an Arbitrary government;) not onely to make Lawes, Ordinances, and Assessments, but likewise to take up Armes to defend and preserve themselves, their Lawes, Liberties, religion, and to prevent, restraints all forces rayfed against them, to set up Tyranny; else should they want not onely a more then sufficient, but even a sufficient necessary power, to prevent and restraints the power of Tyranny; which being done in armes cannot bee restrained, prevented, repulsed, with Petitions, Declarations, Lawes, Ordinances, or any Paper Bulwarkes and Fortifications, or other such probable or possible meanes within the Parliaments power, ^m but onely by Armes and Militarie Forces, as reason and experience in all Ages manifest.

From all which pregnant punctuall domestick Authorities and resolutions of Ancient, Moderne, and present times, I presume I may infallibly conclude; That the Parliaments present taking up necessary Defensive Armes, is neither, Treason, nor Rebellion, in judgement of Law; but a just and lawfull Act, for the publicke benefit and preservation of King, Kingdome, Parliament, Lawes, Liberties, Religion; and so neither their Generall, Souldiers, nor any person whatsoever impl. yed by them in this War, or contributing any thing towards its maintenance, are or can be Legally indicted, prosecuted, or in any manner proceeded against as Traitors, Rebels, Delinquents against the King or Kingdome; and that all Proclamations, Declarations, Indictments, or proceedings against them, or any of them, as Traitors, Rebels, or Delinquents, are utterly unlawfull, unjust, and ought to be reverled as mere Nullities.

It would be an infinite tedious labour for me to relate, what Civilians and Canonists have written concerning Warre, and what Warre is just and lawfull, what not: in brieft, they all generally accord; ⁿ That no Warre may or ought to be undertaken out of covetousnesse, lust, ambition, cruelty, malice, desire of hurt, revenge, or filthy booty: propter preadam enim militare peccatum est; Whence Joh: Baptist, Luke 3. 14 have this answer to the Souldiers who demanded of him, what shall we doe? Doe violence to no man: neither accuse any man falsly; and be content with your wages. Ne dum impius queritur, predo grassetur. Which proves the Warres of our plundering, pillaging Cavalleers altogether sinnefull and unjust: And that such a Warre onely is just, which is waged for the good and necessary defence of the Common-wealth, by publicke Edict or consent; or to regaine some thing, which is unjustly detained or taken away, and cannot otherwise be acquired: or to repell or punish some injury; or to curbe the insolency of wicked men, or preserve good men from their unjust oppressions; which Warres ought onely to be undertaken out of a desire of Peace; as they prove out of Augustine, Gregory, Isidor Hispalensis, and others. In one word, they all accord; That a necessary defensive Warre to repulse an Injury, and to preserve the State, Church, Liberty, Freedomes, Lives, Chastities, Estates, Lawes, Liberties, Religion, from unjust

^m Alber. Gen-
 til. de Jure
 Belli, li. 1. ca.
 13. 14. 15.

^a Gratian cau-
 sa 23. qu. 1. 2.
 3 and the Ca-
 nonists in their
 Glossis on
 that Text.

Summa Ange-
 lica & Kessel.
 Tit. Bel. Ar. 10.

Conse. Reper.
 in Abstem. tit.
 Bellum; Jacob.

Spitzg. & Io.
 Calum. Lexi.
 Jurid. Tit. Bel.

Mart. Linden.
 de Bell. Tract.
 Alber. Gent.

de jure belli.
 Petrinus Belli.
 de Re milita.

& bel. tract.
 De Jure belli.
 B. g. Hugæ.

1599. Hugo
 Grot. de Jure
 Belli et Pacis.

unjust violence, is, and ever hath bene lawfull by the Law of Nature, of Nation; yea, By all Lawes whatsoever, and the very dictate of Reason: And that a necessary defensive Warre, is not properly a Warre, but a meere Defence, against an unlawfull Violence; And therefore must of necessitie be acknowledged lawfull; because directly opposite to, and the onely remedy which God and Nature have given men against Tyrannicall and unjust invasions, which are both sinfull and unlawfull. And so can be no Treason, no Rebellion, no crime at all, though our Princes or Parents be the unjust assai-
l'nts. Of which see more in Hugo Grotius, de Jure Belli, l. 2. c. 1.

I shall close up the Civillians and Canonists Opinions touching the lawfulnessse of a Defensive Warre, with the words of Albericus Gentilis, Professor of Civill Law in the Vniversitie of Oxford, in *Queene Elizabeths Raigne*, Who in his learned Booke, *De Jure Belli & Pacis*, Dedicated to the most illustrious Robert Devoreux Earle of Essex; (Father to the Parliaments present Lord Generall:) determines thus, *Lib. 1. ca. 13 pag. 92. &c.*

Although, I say, there be no cause of warre from nature, yet there are causes for which we undertake warre by the conduct of nature; as is the cause of Defence, and when warre is undertaken, because something is denied to be granted, which nature it selfe affords, and therefore because the Law of nature is violated, Warre is undertaken. We say there is a three-fold Defence, one Necessary, another Profitable, a third Honest; yet wee shall deeme them all Necessary!

He who defends himselfe, is said to be necessitated, neither will *Baldus* have us

distinguish, whether he defend himselfe, his goods, or those under his charge, whether neere, or remote; His defence is necessary, and done for necessary defence, against whom an armed enemy comes, and his against whom an enemy prepares him-

selves: and to such a one the same *Baldus* truly teacheth, ayde is due by compact,

whom others likewise approve. This warre we may say, was anciently undertaken against *Mithridates*, and against his great preparations. Neither ought wise

men to expect, till he had professed himselfe an enemy, but to looke more into his deeds, then words: Thus whiles we say necessity, we speake not properly, but we

understand, that necessity which is not rare in humane affaires, and hath wont to be

called neede: which yet precisely is not that true necessity, &c. It is a most unjust

conflict, where the one side being agent, the other is onely patient. There is a just defence, and slaying, although the slayer might flee without danger, and so save him-

selfe, whether the slayer who defends himselfe be of that condition, that it would be a disgrace to him to flee, or whether it would be no disgrace. Which opini-

ons are received in the causes of private men; and to mee are much more approved in publike causes. Defence even in Brutes is a Law of nature: it is perswa-

ded and constituted in us, not by opinion, but by a certaine imbred faculty: and it is a necessary Law; for what is there (saith *Cicero*) that can be done against

force, without force? This is the most approved above all Lawes. All Lawes, all

Rights permit to repell force with force. There is one Law and that perpetuall, to defend safety by all means. All means are honest preserving safety: this, rea-

son to the Learned necessity to Barbarians, cust me to Nations, nature it selfe to wilde Beasts, hath prescribed; and this is no written, but borne, or native Law. Like-

wise, to defend our Estates, is a necessary defence, and this is a just cause of defend-

ing, if wee bee assaulted by warre, though wee our selves have demerited the warre: which things others, and *Paulus Castrensis* have taught. And it will fol-

low,

^a Cle. 2. de Sent.

^b Bal. 3. conf. 4. 8. & S. conf. 405

^c Clar. §. Homicidium.

^d Bal. ad. d. l. 32. loc. Inf.

^e Decl. ut Vin. Ap. Mitr.

^f Phil. de Principe.

^g Clar. §. Homicidium.

^h L. 3. de Inst. l. 4. adle. Aq.

ⁱ Ceph. conf. 711

^j Cic. 2. Tuci.

^k 12. fi. 3. c. 3. de se exc. c. 18 de Homicid.

^l Ammia 23

^m Cic. pro Milo.

low and adde this reason; because the Law or Force of warre is not ended by obtaining the things first demanded; but walke according to the conquerers pleasure.

Who is content to repay so much revenge onely as he hath received wrong? saith *Augustine*, and all know it. This arbitrary power all not subdued may justly decline, and therefore defend themselves against it with Armes. Witnesses, Judges who are enemies are repelled, although they against whom they proceed gave the cause of the enmity. *To one in Armes he gives all things. w^o denies just things*: said *Cesar*. Neither doe we heare make question of that blamelesse moderation; where there is no superior. These things therefore are avoyded: and therefore the cause of *Romulus* shall be said right to me, who defended himselfe by war against the invading *Sabines*, albeit he had given them cause of warre and offence, by the rape of their women. *The force of necessity is so great, when men are pressed with Armes, that those things which are unjust may seeme most just*; as *Bodin* well, *warre is just, to whom it is necessary*; & *pia arma, quibus nulla nisi in armis relinquitur spes*: and Armes are pious to thole to whom no hope is left but in Armes. Extreame necessity is exempted from all Law. And yet I restraints not this present definition, to extreame necessity, or take extreame according to the condition of mens affaires: for be it so, let it be no necessity, which may be no necessity; *Romulus* might have avoyded warre by restoring the ravished women; yet he might likewise defend himselfe against the enemies even soone after marching against him. I stay not in this definition: for that is a question belonging to Citizens. He who being banished may be hurt without danger, yet he may defend himselfe.

ⁿ Aug. 19.
 coa. Fav.

^o Jason. l. 15.
 l. de in re.

^p Con. reg. peccatum. P. 2.
 S. 9.

^q Bodin. 5. de
 Rep. 5.

^r Livie l. 8.

^s Cass. l. 1. de
 Iust.

CHAP. XIII. De utili Defensione: He proceedes thus,

Call that a profitable defence, when we move warre, fearing lest we our selves should be warred upon: no man is sooner oppressed then he which feares nothing, and security is the most frequent beginning of calamity. This first. Next, we ought not to expect present force, it is more safe if we meete that which is Future. There is more hope and more courage in him that inferres force, then in him who repels it: he hath more courage who inferres danger, then he who repulseth it, *Livy* and *Vergilius*: if the enemy should once prevent, all things are disturbed with feare; it behoves them therefore (saith *Nicephorus*, an historian of no contemptible authority) who would live without danger, to meete with, and prevent impendent evils, and not to delay or expect, that thou mayst revenge the received injury with danger, if for the present thou maist cut out the root of the growing plant, and suppress the endeavours of an enemy who thinkes ill. And *Suidas*, yea *Demosthenes*; warre is not to be delayed but urged, least being first injured, we be compelled to repulse force. This (as the Latin *Demosthenes Cicero* saith) is likewise a disgrace, that if thou mayst prevent future, thou wouldest rather redresse Present evils. That rude youth likewise (so bath nature it selfe prescribed this Law) I would rather looke to our selves, then I would be revenged having received injury: But *Philo* most excellently, that we presently slay a serpent at the first sight, although he hath not hurt us; nor perchance will hurt us; so carefull are we of our selves before he move himselfe. Am I not over-tedious to thee in naming these Authors, which yet are none of ours? But the consent of various and many authors is great reason, &c. Neither yet omit I,

^t Pat. l. 2.

^u Liv. 2. 1. 28.

^v Verg. l. 3.

^w Hist. l. 5.

^y Dem. 1. ad
 Aristog.

^z Dio. l. 45.

^a Terent. 4.

^b Eunu. 6.

^c Philo. de spe.
 Leg.

things held in lieu of proverbes, and therefore prove much what they signifie.
^b *Perf. Sat. 3.* ^b Meete the approaching disease. Withstand beginnings; else medicines are provided over-
^c *Ovid. 2. de late.* Neglected fires are worst to get strength. Behold something out of the Au-
^c *Art. Horat.* thors of Law: ^c It is better to keepe Lawes unviolated, then afterwards to seeke remedy.
^c *ad Loll. Ep. 1.* ^d It is lawfull to prevent: One providing to offend, I offend lawfully; and others of this
^c *C. lib. 2. Tit. nature,* which are more defined to humanity, and approved by mens judgements.
^c *41. l. ul. l. Tit. 27. l. 1. & C.* ^e No man ought to expose himselfe to danger: no man ought to expect himselfe to
^c *T. de Sica. l. 1.* be smitten or slaine unless he be a foole. We ought to meete the offence not onely
^c *Bald. 4. conf. which* is in act, but that likewise which is in possibility to act. Force is to be repelled
^c *111 Fesl. 3. de and* propulsed with force; therefore not to be expected; in which expectation there
^c *Iust. are* also both other the foresaid certaine evils, and that likewise which is mentioned
^c *Bal. 1. Conf. 369. 4. 312.* in the causes of private men, least perchance by giving the first stroke we be slaine; or
^c *Alex. 2. 144.* lest we yeeld by flying, and be oppressed lying downe. But not to flye is to repell
^c *Cl. 8. Homici- force:* all these things are cleare, and tried, and most apt to warlike tractates.
^c *dium, 2. l. ut What* followes, hath some doubt, when the thing may seeme to come to that passe,
^c *vim. that* we must now run to this profitable defence. ^f A just cause of feare is required, suf-
^c *f Dec. Conf. 603.* ^f *pitio* is not sufficient. Now ^g a just feare is defined, a feare of a greater evill, and
^c *p. l. 5. 6. quod such* as may deservedly happen unto a constant man. But here in this great cause of
^c *met. can. Kingdomes,* a feare that no dammage should happen although not very great, or if
^c *De damn. there* be an evident cause of feare although the danger be not true, but the cause one-
^c *Ans. l. 27. loc. ly* of feare just, is sufficient: but not when a man feares that he ought not, &c. But
^c *Gell. l. 7. c. 3. concerning* prevention there are notable things in ⁱ *Gellius.* In all things to be taken
^c heed of, there is not the same cause; neither in the affaires and actions and Offices of
^c humane life; or of taking, or deferring, or revenging, or bereaving. To a gladiator,
^c ready to fight this lot of fight is propounded; either to slay, if he shall prevaile, or
^c to be slaine if he shall give over. But the life of man is not circumscribed with such
^c unjust untamed necessities, that therefore thou oughtest first to doe the injury, which
^c unless thou shalt doe, thou mayest suffer. And ^k *Cicero,* who hath ever enacted this,
^c ^l *or* to whom can it be granted without the greatest perill of all men, that he might
^c lawfully slay him, of whom he might say he hath beene afraid, lest he himselfe might
^c be slaine after ward by him? yet rightly, notwithstanding, the *Mitileins* against the
^c ^m *Albenians.* ¹ *If we seeme injurious to any, if we have first failed, not tarrying till we*
^c *might plainly know, if they would doe us any hurt: he doth not rightly consider: for if we*
^c *had beene of equall power, we might safely lay ambushes for them againe, and we might*
^c *delay: then he should speake truth: but since they have alwayes with them a power of*
^c *hurting, it beseeched us to have this power, that we might anticipate a defence. Why*
^c *againe doe we aske for Bartolusses, or Baldusses with whose bare names we might*
^c *rest satisfied? and yet doe not more esteeme the defence of a most noble Republick,*
^c *yea of Thucidides, a most noble man, and the sentence of a most wise man fortified*
^c *with reason? And seeing there may not be one probable cause of feare, and generally*
^c *nothing can be defined concerning it, here we shall onely say, that it hath alwayes*
^c *been very considerable, and at this day, and hereafter it isto be considered, that po-*
^c *tent and ambitious Princes may be resisted, for they being contented with no bounds*
^c *will at last sometime or other invade the fortunes of all men. Thus the Romans*
^c *move warre against Philip, lest Greece being subdued, he should first make warre*
^c *upon them. Thus* ⁿ *Lysimachus, when Demetrius had gotten the Kingdome, fearing*
^c *least*

ⁿ *Zonarus.*
ⁿ *Pausanias,*
^{l. 3.}

least he should provoke him, first moved warre, for he knew that *Demetrius* had
 it from his father, alwayes to thinke of promoting the Empire. Thus the *Lacedemonian* Embassadors, move the King of *Sicily* to warre, because all the rest of the
Gracians being overcome by *Persa*, he might in like manner stirre up warre against
 the *Siculi*: Men say, *by helping us thou maist defend thy selfe*. Thus the *Lacedemonians* themselves, perswaded by the *Acanthii* tooke up warre against the *Olynthii*:
 whoby conquering their neighbours every where, and proceeding alwayes to further
 parts, they made no end of warres and of encreasing their dominion. Thus the
Campani for the *Fidicini* against the *Samnites*, and they say. *We have fought in word*
for the Fidicini, in deed for our selves: when we saw a neighboring people, to be set upon
by the wicked plundering of the Samnites: and when the Fidicini had bene inflamed,
that fire would hereafter be transferred upon us: which also *Hermocrates* a just man
 of *Syracuse* doth any of us thinke, that a neighbour further off being already overcome
 the calamity will not come upon him also? Thus *Persus*, thus *Metridates* did move
 and call in others against the power of the *Romans*: for neither are occasions of
 warre wanting to those that aspire to the Empire, and now they are hated for their
 power. Which thing *Appius* somewhere saith to those his *Romans*; and it appeares
 most true; for by ayding their confederates and friends, presently they got the
 Empire of the whole world. But to omit these manifold examples, which even
 others have thus noted, and which do thus declare to us the Law of Nations, which
 we seeke; might not all men most justly withstand the *Turke* on that side, and the
Spaniard on this, meditating dominion every where and plotting it? for indeed
 the *Turke* wrongs not many, nor yet the *Spaniard*, neither can the one or other doe
 it; but they both doe injury to some, and he that doth wrong to one, threatens many:
 shall warres themselves be expected? we have heard of the *Turkes* before, and we
 all see it: if any one discernes it not of the *Spaniards*; he may heare of *P. Jovius*,
 that the nature of these are both impotent and greedy of bearing rule; and when they have
 once crept in, endeavour alwayes by all meanes to attaine the highest power. Therefore
 we ought to resist; and it is better to beware that men encrease not too much in power,
 then to seeke remedy afterward against the mighty. While the enemy is little, kill him.
 Wickednesse, lest Tares grow, is to be crushed in the seed. Why are not these say-
 ings of *Hierome* pertinent even here? We cannot joyntly resist a common danger:
 a common feare unites even those that are most divided and furthest off: and that
 by the instinct of nature, and our *Baldus* teacheth out of *Aristotle*; This is the rea-
 son of *Empyres*, that they may not hurt; as he, whosoever he was, said wel in *Dionysius*,
 and nothing more true, and uttered as it were from an Oracle, In the judgement of
Bodin: It is sufficient to have power to hurt, and that which can destroy others, doe thou
 destroy first: as aptly here the witty Poet; and truly it is very grievous, that we may pos-
 sibly suffer an injury although we doe not suffer it: as *Plutarch* speaketh: and
Baldus, that it is lawfull to use meanes for resistance: nor ought it to be in the pow-
 er of an adversary to hurt us if he would: and that we ought to consider, that which
 hurteth, and that which can hurt. Even the continuing of concord among the ele-
 ments is this, by equall proportion, and while in none, one is subdued of the other:
 And this is that, which that most wise, most desirous of peace, and father of peace,
Laurencius Medices procured alwayes, that the affaires of the *Italian Princes* should
 be balanced with equall weights, whence both *Italy* might have peace, which both

' it had while he lived, and was the preserver of this temper; and which peace ceased
 ' when he deceased, and that temper. The great off-spring of *Medices*, was a
 ' great safegard both to his owne City and the rest of *Italy*: doth he not as yet indea-
 ' vour this, that one should not be able to doe all things, and all *Europe* come under the
 ' command of one? unlesse some be able to resist the *Spaniard*, *Europe* will certainly
 ' fall. If any will pull a middle stone out of the wall, upon which all relies, the rest
 ' being carried together will follow. ^hNo, this must never be permitted, that the
 ' dominion of any should grow so great, as neither to doubt before so much as of most
 ' manifest injustice, which *Polybius* saith, and saith againe: whence *Hero* therefore
 ' ayded the *Carthaginians* against the *Mercenaries*, lest the *Carthaginians* being op-
 ' pressed, the *Romans* should be able to doe all things. Thus ⁱ*Livie* of the diverse
 ' conceits of men upon the war of the *Romans*, and *Perseus*, that some favored him;
 ' some them, but there was a third part, the best and most prudent, who would have
 ' neither part to become more powerfull, the other oppressed, for so themselves should
 ' be in the best condition, alwayes protecting them from the injuries of the other.
 ' And these things ingeniously, *Marcus Cato* for the *Rhodians*: who thorow hatred to
 ' the *Romans*, by their good will at least, or wishes had favoured *Perseus*, They would
 ' not that we should have conquered the King: but also in any other people, and many Na-
 ' tions; and partly not for reproch sake, but because they feared, that if there were no man
 ' whom we stood in awe of we might doe what we list, and every one of us if any thinke any
 ' thing to be attempted against his owne estate, doth even with his strength contrarily endea-
 ' vour that it be not attempted against him. This the Embassa dor of *Perseus* had thus dis-
 ' cussed before the *Rhodians*, that they ought to endeavour, that the right and power
 ' of all things be not devolved to one people. *Cato* adds, that their will ought not
 ' to be punished so much, because it ought to be discerned more certainly. ⁱ*Caesar*
 ' doth not contradict, who thus disputes of raising of warre against King *Ariovistus*,
 ' that he ought to be punished before he became great, or should doe any evill, even
 ' because he had a thought to doe them hurt. Neither ought this to be understood of
 ' the naked thought, and bare will; but of that which hath assumed the Act, declared
 ' in another* place; that King was now fearefull to the *Romans* in *France*, and his Armes
 ' threatened danger: *Caesar* therefore wisely and justly thought that there was no further
 ' delay to be made, but that he might restrain Armes with Armes. The ⁿ*Switzers* late-
 ' ly very wisely, that they will favour neither the *French* nor Emperor, but would
 ' keepe a league with them both, until their Armies should not be hurtful to the *Helve-*
 ' *ti* n Common-wealth. But I conclude, the defence is just which prevents dangers
 ' already meditated of, already prepared; and also not thought upon, but very likely,
 ' possible: yet neither this last simply; or would I call it just, to endeavour this war,
 ' as soone as ever any should be made too potent; which I doe not affirme. For what
 ' if any Princes power should be increased by successions, by elections; wilt thou
 ' trouble him with warre, because his power may be dangerous to thee? Another
 ' thing therefore must be added concerning Justice. We will adde to others, what
 ' they have thought of a just war, attend.

CHAP. XV. Of Honest Defence.

It remains to speake of honest defence, which is undertaken without any feare of danger to us, fought for no want of our owne, for no profit, but onely for other mens takes, and it reflecteth upon this foundation, that (as Marcus Tullius saith) nature hath ordained among men affinity, and love, and good will, and the bond of good will, and that the law of nations is placed in the society of men, which therefore is called by Cicero also, ^b *Civill*. Thus *Verilie* the *Stoickes* would have the City of the whole world to be one, and all men to be commoners, and townesmen; and like one heard feeding together in a Common ground. All this that thou beholdest, wherein heavenly and earthly things are contained, is one; and we are members of one great body, and the world it selfe is one body. But Nature hath made us allyed, seeing she hath begotten us of the same, and in the same, also endewed us with mutuall love, and hath made us sociable. And this our societie is most like the joyning of stones, in a wall; which would fall, if the stones did not withstand, and uphold one another, as *Seneca* excellently; and which as ^f *Gellius*, consisteth, upholden as it were, with a mutuall contrariety and support. This is the disagreeing concord of things, as *Horace* speakes, and we also before. And now thou hearest that all the world is one body, and all men are members of this one body, and thou hearest the world to be an house, and to be a City; which heare againe, for they are beautifull. *The world is the greatest house of things*, thus *Varro*. ^h *Man is a sociable creature, and being borne for the good of all, looks upon the world as one house*: thus *Seneca*: againe *Lactantius* saith, the world is a Common-wealth, having one forme of government, and one Law; ^k *Philo*, there is one Commonwealth of all and a common City of all. ^l *Tertullian*, *Minutius*, and also in *Aristotle*, There is one great City: what an harmony is here of wise men? Adde touching Society that of *Cicero*; *Society in the largest extent, (which though it be often sayd we must respect more often is of men towards men, more inward, of those that are of the same Countrey; nearer of those that are of the same City: and in another place: We are so borne that there may be a civill Societie betweene all; but greater as any one is nearer: Citizens are better than strangers; kindred than Forrainers.* And thus doth ^o *Augustine* note there societies; the first of the household, the second of the City, the third of the world, and saith, all the Nations in the world are joyned together by humane societie. But what is this societie and conjunction? Among the good there is as it were a necessary benevolence, which spring of friendship, is constituted of nature; but that same goodnesse belongs also to the multitude; for vertue is not inhumane, nor cruell, nor proud, which will not looke upon all people, writeth *Cicero*; and ^p *Ambrose*, the law of nature bindes us to all charity; that one should beare with another, as members of one body: and so also ^q *Babylus*, we are borne for our own and for strangers by the bond of Charity: those that say, care ought to be had of Citizens, deny it of strangers, these men take away community and societie of mankinde, Also *Cicero*: 6. which ^r *Lactantius* both citeth and hath approved. And the same *Cicero*. ^s *It is a filthy opinion of them, who referre all things to themselves, filthy indeede, for man is borne*

borne for society, and it is his^a duty to helpe others, and not live to himselfe onely :
 and for this cause *Cicero* condemned the *Philosophers*, because while they lacked one
 kinde of justice, and (as^x another holy man writes) fulfilled indeede the greatest
 part of equity, not to hurt any, they offended against the other, because they for-
 sooke the society of life, and so forsooke this part of justice, to profit when thou
 canst; ^y Dost thou not see how the world it selfe, the most beautifull of all workes
 doth binde it selfe with love? we are^z bound by the Law of nature (so sayes the in-
 terpreter of the Law) to be profitable every way: and the^a same men deliver an
 equall defence of their owne and of strangers, but specially of confederates, from
 whom we must keepe off an injury; and that this defence is both of divine and hu-
 mane law. ^b *Plato* thinks, he ought to be punished that keeps not back an injury of-
 fered to another. Now that which *Plato* and these Interpreters say of private Citizens
 we may very well apply to Princes and people: for what reason there is of a private
 man in a private City, there is the same in the publicke and universall City of the
 world, of a publique Citizen, that is, of a Prince, of the people of a Prince: ^c As a
 private man hath relation to a private man, so a Prince to a Prince, saith *Baldus*, ^d A
 man is a Citizen to a man in the greater City, and borne for mutuall succour saith
Seneca. And because we are one body, if one member will hurt another member, it
 is meete the others should helpe that which is hurt, because it concerneth the whole,
 even that which hurteth, that the whole be preserved. So men should helpe men,
 for society cannot be preserved, but by the love and safety of the people. ^e *Vespa-*
tian cannot be approved who denies ayde, I know not to whom, upon this pretence,
 because the care of other mens affaires appertained not to him: for what good man
 is there who doth nothing but for his owne sake? ^f *Cicero* againe, even to ^g *Laxius*
 King of *Persia*, that he is not therefore just, because he doth nothing unjustly, unlesse
 also he defended the unjustly oppressed; and by that meanes they obtained helpe, and
 bands of Souldiers against the *Romans*: for it is not a strange thing amongst men
 for a man to defend the cities and safety of men. ^h *Cicero* had said the same; he should
 have respect if not of the man, yet of humanity, which is due to every one from every
 one, for this very cause, because they are equally men: and humane nature the com-
 mon mother of all men commends one man to another, ⁱ It is a noble example of
 the barbarous King of *Mauritania*: who, when he heard that his enemy *Alfonso*
 king of *Castile*, was pressed and almost oppressed by the Armies of his sonne, hee
 sent a hughe masse of gold unto *Alfonso*, he himselfe went over with a great Armie
 of Souldiers into *Spaine*, judging it a most unworthy thing that his Sonne should ex-
 pell his Father from his Kingdome; adding withall, that the victory obtained, he would
 be an enemy againe unto the same *Alfonso*. What? doe I feare the *Barbarians*,
 enemies also, and bringing gifts? That the deed of an enemy should be taken in the
 worst sense? doth ^k *Guiccardine* say truth; that these things are not done of any but
 in hope of some profit? The saying of *Guiccardine* is dispraised by noble *Moun-*
tayne in those his Noble examples? I demand of what right it is? It is a question,
 if any be bound by Law to defend another, when he can? and they seeme commonly
 to deny this, and the^l Law sometimes saith, that we may without offence neglect o-
 ther mens affaires: but our proper question is; if any can thus justly defend another?
^m wherein no man denieth just defence, even for the defence of a stranger it is law-
 full to kill another, by the opinion which is approved of all Doctors: ⁿ yea, the de-
 fence

^a Gal. 6. & 1. pet. 4.

^x Hier. Ep. 14

^y Claud. 4. conf. He.

^z Rom. conf. 420.

^a Dec. conf. 469 not 1. 3.

^b Plat. 9. de leg.

^c Bal. 2. conf. 195.

^d Sen. 1. 2. de Ira.

^e Xiphil.

^f Cic. 7. 12. 12.

^g Procop. 2. pers.

^h Cicer. pro Quin.

ⁱ Just. Ge. an. 31.

^k L. 6. de Ex Lib. 21. de he. vel. ac. ve.

^l Castr. 1. 2. de just. Al. 7. 17.

^m Clar. f. q 87. & Hom. cidium;

ⁿ De conf. 678.

^o Lib. 6. de app. Ias. 1. 3. de in. Dec. conf. 691. Ceph.

^p 712 Cui. 20.

^q obs. 20.

fence of him is approved, that neglects to defend himselfe, yea that refuseth to be defended by another; whether a friend defend him or another, even an enemy: and thus it is called the rule of humanity, and so a benefit to be conferred often times upon the unwilling. So also there be many other definitions. Also they conclude by an argument, not firme enough that way, in another question: that a man may take money for defending another, which he should receive dishonestly, if he were bound to defend him by law: for may not a servant get a reward from him whom yet notwithstanding he might not neglect without punishment? neither is it dishonestly given nor dishonestly taken, in way of thankfulness. *So it is not ill taken of a Citizen from a Citie, nor by a Sonne from a father: for truly it is manifest, that many things cannot be done without offence; and th'efore if done they are worthy of rewards, yet not of punishment, if they be not done. Again, some things on the contrary neglected, indeed contract offence, but reformed they merit not glory, so Bernard: to which I adde a meane; that there be some things which being neglected contract offence, and fulfilled, deserve reward.*

But also even in the Court of conscience they will have a man to be bound to defend a man. But conscience is the will of a good man, yea of the best: but they deliver this also even in the way of honesty: and we follow honesty here, and that arbitrement: but both in Civill and Canon Law, against the rest *Barrolus* inclines thus: *Albericus, Igenus, Decius, Alciatus, Molinus*, so teach: and *Baldus* elegantly, that it is a fault to omit the defence of another; of himselfe, a treachery: which also in another place he determines. *Plato* is also of this mind: and thus also *Sira-*

sides: free him to whom injury is done, out of the hazard of the injurious. I also am of the same minde, especially, if, which the forenamed interpreters adde, defence be not made with the danger of the defender. For no man is bound to put himselfe in danger; no man is bound so to assist against a fire. Otherwise thou hearest *Constantine* say, that they which live by the rule of Gods Law, account an injury done to another, to be their owne. Behold that thus also he ayded the *Romans* against *Mavensius*. Heare againe *Baldus* his Lawyer, he that defends not, nor resists an injury, is as well in fault, as he that forsakes his parents, or friends, or Country: and if these be true in private men, how much more will they be in Princes? These mutually call themselves Cousins, Cousen-germans, Brothers. They are so much the more true in Princes, by how much if a private man defend not a private man, the majestrate remains, that can both revenge the wrongs, and repaire the losses of private men, but there is none can peerce upon the injuries and hurts of Princes, but the same Prince, who after had rather apply a medicine to the evill, than hinder at the first that evill be not done. These things are true, but that also you may hold with *Baldus*

that although these were not true out of Philosophie of judgements, which is of things necessary: they are certainly true from Philosophie of manners: which consists of things perswaded, which Philosophie also we follow in this whole Treatise. The Philosophie of Judgements, permits a man to neglect even himselfe, as *Baldus* writes, and if besides, as it falls out almost alwayes, another speciall cause be joyned to this general rule of honesty, it may come neerer to justice. Let the opinion verily be true for me, that this cause of honesty alone, perchance hath never moved any man to that honest defence. *Guicciardines* mouth sayd truly, no Prince will make warre for Peasants, unlesse perswaded with desire of his owne gaine: yet that is ignominious to Princes and favours not of justice: but I had rather concurre with *Leo* the Philosopher, We know

L. 39. denc.
 36. 1. seq.

L. 5. quif.
 ma ad li per.
 Pla. 9. de leg.

Jaf. d.l. 3.
 Eug. conf. 86.
 Bal. 1. ulc.
 de ju. de imp.

Alc. 1. conf.
 27. Mol. ad
 Dec. l. 3. de
 reg.

Bal. 4. conf.
 111. l. 1. C. de
 ser. fug.

Eccle. 4.
 Bal. l. 1. de
 of. pr. vi.
 Nic. Cal. 7.
 hif. 19.

Cic. 2. de off.

Bal l. 10. 10.
 c. de op. le.

Guic. lib. 2.

very.

very few to keepe true love, for its sake alone to be stirred up to succour those that are
 intangled in misery, but on the contrary side, that the number is very great of those
 that for hope of getting any thing, come to helpe the unworthy: which is a more
 mild saying, and I thinke more true. But I seeke another thing, it is compleate ju-
 stice which defends the weak: so ^d *Ambrose*, and the Canon Law, and I seeke for
 that Iustice. The *Romans* also joynd this cause with others by which they were
 moved often times to make warre: ^e the defence of the *Lucans* (saith *Dionysius*) was
 the manifest cause of the *Samniticall* warre, which might have a shew of honesty, as
 common, and a Nationall custome of the *Romans* to ayde those that fled unto them;
 but the secret cause which did more urge, was, the power of the *Samnites* was great,
 and greater would it have beene, if the *Lucans* had beene subdued, so the reason of
 profit lyes hid: and therefore seemes not so good, as it is honest: and yet we call
 profitable also, good and just, and the one is made just by the other: therefore what
 if they be deare unto us whom we should defend? ^f *Ulpianus* saith, that for love and
 friendship, for no other reason defence ought not to be omitted. The defence of those
 that ought to be deare unto us, is from nature, witnesse *M. Tullius*. What, if our
 allies and confederates? ^g He that keepes not of an injurie from his fellow when he
 can, is as well in fault, as he that doth it. *Ambrose*, and ^h even we our selves are hurt
 when our fellowes are hurt: as in *Livie*. ⁱ *Iohn Bodin* judgeth amisse, that an ally and
 a confederate is not bound to helpe his fellow, if there be no caution of helpe in the
 league; and the contrary is now shewed by us, and also shall be shewed in the third
 booke. What if they be of the same stocke and blood? *Agessilans* made warre against
 the *Persians*, that he might bring the Greekes of *Asia* into liberty. And the pettie
 Kings of ^l *Germanie* by an old custome of the Nation, thinke it an haynous offence,
 not to be assistant to those that implore mutuall helpe: although there is there besides
 a certaine body of a Common-wealth: as it is reported long since, that there was of
 the *Achai*. What if of the same Religion? ^m Nations are joynd together by the tye
 of Religion, more than either by the communion of another law, or contract of a
 league: and therefore if we implore nature by communion, the law of Nations by
 covenant, the Common-wealth by lawes, by common Religion (the most powerfull
 thing of all) we implore the bowels of men and of the holy One, who is the head
 of that communion. ⁿ So there was warre with the *Persians*, because their fugitives
 were not delivered them, and they were not delivered by the *Romans*, who would
 not dispise the humble professors with them of the same religion, who fled from the
Persians cruelty. Thus *Iustinus* answered the *Persian*, that he could not but receive those
 of the Christian Religion, falling away to him from the *Persian*, who compelled them
 to forsake Christian Religion. And our writers doe thus resolve, that warre may be
 made if any converted to Christian Religion, should be oppressed by their Lords
 and that for the right of society contracted from conversion. What if neighbours
 for what? had I not very many, very just tyes of familiarity, of neighbourhoo
 of country, of friendship to defend *Plancus*? saith *Cicero*. And here is our case
 We are in danger if our neighbours house be on fire, for if fire have fiercely take
 hold of some houses, they will hardly be defended but that the next houses will b
 burnt, which was else where in *Salust*, and now in *Ovid*. ^o *Fire that is neere is hardl*
kept off from houses: it is good that we abstaine from neere adjoynd places: which verse
 are proverbiall in this thing; and proverbes adde some credit. This notes somethin
 th

^d *Abr. 1 de*
^e *of. 27. c. 5.*
^f *23. q. 3.*
^g *Dion. fol. de*
^h *legis.*

ⁱ *l. 5. qui ex*
^j *ca. in po. ca.*

^k *Ambr. de off.*
^l *Liv. 31. 34.*
^m *e. de Repub.*
ⁿ *ult. l. 1. c. 1.*

^o *Plur. Apoph.*

^p *Iov. l. 23.*

^q *Oros. l. 5. c. 2.*

^r *Procop. 1:*
^s *Pers. & Call.*
^t *l. 17. c. 57.*

^u *Alc. l. 38. S.*
^v *Sacra. de V. O.*

^w *Cic. pro*
^x *Planc.*

that as it is lawfull to pull our neighbours house downe, least the fire should come to us: and that question of a house infected is the same, although touching this it is answered contrary: ^x Yet the House infected with Leprosie was pull'd downe. ^{Decia. Conf. 651.}
^y And in many cases it is so, that we may doe ill to others, that it be not ill with us. We must beware of all contagion, especially of our neighbours: the ill contagions of a neighbouring People are hurtfull. ^{Levit. 14. 2}
^z The *Romans* (saith *Florus*) as a certaine infection ranne over all, and taking in all the neere people, brought all *Italy* under them, and whatsoever Dominion they had. ^{L. 29. ubi gl. de l. 1. 1. 1.}
^a Before fire is the vapour and smoake of the Chimney, *Syracides* also. So we see smoake from our neighbours fire, and will we not runne and put out the fire where it is? ^{Ibo. l. 1. Eccl. 22. 1}
^c It is written againe, that it is lawfull for any to helpe his neighbour against an injury, yea, he seemes to be partaker of a fault, who doth not ayde his deadly foe, even speaking against help, nor yet desiring it. Concerning which I have noted before, and will note further in the Chapter following. ^{c. 6. de dese. ecc. 6. Eug. con. 90}

CHAP. XVI. Of ayding Subjects that are Strangers against their Lord.

I Demand, if wee may justly defend Subjects also that are Strangers against their Lord? What if their cause also be unjust? ^a *Ambrose* noteth those three gods, *Jupiter*, *Neptune*, and *Pluto*, have thus Articulated, lest upon their intrenching on one anothers jurisdiction, they might make Warre among themselves: they should not usurpe the rule of the Sea, &c. ^{Lib. 1. de Off. 13.}
^b They say likewise, that we gods have this Law, none of us will crosse the desire of him that willeth, but wee yeeld alwaies one to another. Which being the fictions of very wise men, are applyed unto Princes of the earth. But even without any circumstance at all, the *Corinthians* speake thus to the *Athenians*: ^c We doe plainly deny that any is forbidden to punish his owne: for if thou shalt defend those that have offended, even your owne Subjects will defend themselves from you. Yet I thinke not Subjects of other men are altogether strangers from that neerenesse of nature, and union of Society, you doe also cut off the unity of mankind, whereby life is sustained, as excellently ^d *Seneca*. And if we make not Princes lawlesse, tyed to no Lawes nor Conditions: It is necessary, that there be some to admonish them of their duty, and may hold them fast bound; which reason I expounded in the second Booke of Embassies. Neither will I heere infer any confusion of kingdomes, or any inspection of one Prince over another Prince: neither doe I suffer those things to be distinguished, which are most firmly glued together by nature, I meane, that kindred with all, among all. Neither here otherwise may one Prince have inspection over another Prince, but such as may happen by every other Warre, wherein one Prince carries himselfe as a judge both of himselfe, and of another. If a question were among private men, it were most unjust to goe to a Forraigne Prince about it. Also if there arise a difference betweene a private man and his Sovereigne, there are Magistrates appointed which may be sought unto. But when the controversie is touching the Common-wealth, there neither are, nor can be any judges in the City. I call that a publike matter, when such, and so great a part of

the Subjects is moved, that now there is need of Warre against those that defend themselves by Warre. And as if those should come into part of the Principality of the publike, and are Peeres to the Prince, who can doe so much as hee. ^c Even as one King is said to be equall to another, who can resist another offering wrong, however greater, and more powerfull; although I say not these things of the Subject themselves, unless it be in respect of Forraigne Princes, which will ayde the Subject against their Sovereigne, and who can ayde them no otherwise then in a controversie, as I have expounded, of the Common-wealth. ^f And indeede, if the Subjects be used more cruelly and unjustly, this opinion of defending is approved even of others, who both bring that laudable example of *Hercules*, the Lord of Tyrants and Moniters. There is also the example of *Constantine*, who ayded the *Romans* against *Maxentius*, as I noted before. ^g We defend Sonnes against unjust Fathers. Adde now those golden Sayings of ^h *Seneca*. That being cut off, whatsoever it was, whereby he did cleave unto me, the Society of humane right is cut off. If he doe not impugne my Countrey, but is burdensome to his owne, and being banished my Countrey doth vexe his owne, yet so great naughtinesse of minde hath cut him off: although it maketh him not an enemy, yet hatefull unto mee. And the reason of the duty which I owe unto *mankinde*, is both more precious, and more powerfull with me, then that which I owne to one single man. Thus verily; or else we make all men forreigners to all Princes, if we determine that they can doe according to their pleasure and lust. Now what if the cause of the Subject be unjust? The foresaid Authors deny, that men ought to ayde unjust Forraigne Subjects, least any by so ayding introduce the same Law into his owne Kingdome, which the *Corinthians* did before. Yea, ⁱ *Aristotle* thinks, that neither a wicked Father is to be loved nor assited with helpe. But this is false of a Father, as I taught in a certaine Disputation, perhaps it is more true, that those may be defended of us by war, who are unjust. For if it be a just warre which is to repulse a wrong, although they that repulse an injury, have given occasion to the warre: the same it seemes may be determined in the defence of others, even of Subjects, for the same reason. Surely there is that iniquity in Warre, that it will make the same man to pronounce law to himselfe in his owne cause, or verily willing to pronounce it. Upon which pretence another Prince may bring ayde on the contrary side, that thing may more civelly be composed without warre. And this is that which ^k *Pyrrhus* did when he came to ayde the *Tarentines* against the *Romans*; he admonished them first, that they would by their owne endeavour put an end to the Controversie; although neither the *Romans* would not unjustly hearken unto the King; or because they might deservedly suspect him, as being sent for by enemies, armed with enemies ready to fight for enemies, and of kinne to enemies. ^l Hee that stands armed with another, is said to bring helpe and ayde unto him; neither is there neede to prove any thing against that at all. Even he that armes himselfe, is beleaved to thinke upon warre. And ^m if he that is the friend of an enemy bee excluded from being a witnessse, much more from being a Iudge. ⁿ For it is easier, if any be receive for a witnessse then a Iudge; ^o The friend of my enemy is not presently my enemy, as neither my friends friend is my friend; but there is a great suspition of them both, and of the friend of an enemy the more. But I returne to the question. ^p We are bound both to defend justly unjust Sonnes against the cruelty of Each

Father, or Servants against the cruelty of a Master; and we laudably endeavour that by fury (here is Warre) no not wicked men should be chastened and punished, for fury and warre have no measure. ⁹ And he that led by humanity or pitty, or any other approved and just cause, hath received another mans Servant, is not bound by the Statute of a corrupt Servant, and that reception is accompted in the nature of good, &c. ^r Even he is commended, who being angry with his servants committed them to be punished by another, this commendation being added, because he himselfe was angry. Therefore a good Prince will have the Liberty of rage against his own Subjects to be taken from him, being angry, as a good Father, as a good Master, and he will alwaies judge, *That Kingdomes were not made for Kings, but Kings for Kingdomes*, which is most true. This also of *Plato* availeth, that we ought to use Eloquence, chiefly to accuse our friends, to whom it is the best, thus to be drawn from future evils. And so I thinke that we may defend unjust Forreigne Subjects, yet to this end onely, for the keeping off immoderate cruelty and too severe punishment: ^f *Seeing it is not inhumane to doe good to those that have offended*. Yet I dare affirme, that this reason of bringing helpe doth seldome stand alone, but that another of necessity and profit may be pretended, or truly shewn, as is said before. Behold now is the greatestt question: *If the English have justly ayde the Hollanders because their cause was unjust, & the Hollanders were even now Subjects to the Spaniards? both which notwithstanding are false*. It was said, that a Warre was to bee undertaken upon that occasion, that a good Peace might be obtained of the Spaniard, which otherwise, as is thought, could not have beene had: ^r *And so truly Warre is lawfully undertaken, as our men alledge*: And the most wise reason of the Physicians maketh for it, That if any Feaver be slow which holds the body, and which yeelds to no cure, then the Disease is to be changed, yea, to bee augmented and heightned. For when it doth not receive cure for the present as it is, it may receive that cure which is future. But even Warre might have beene undertaken without that evill of an unfaithfull Peace. As there be many bonds of neerenesse between the *English* and the *Hollander*: the ancient friendship with the *Dukes of Burgondy*, the familiarity of these people, and the old Consanguinity; all the rest, which are noted at the end of the former Chapter. And therefore with *Cicero*, ^y *They thinke not that the nocent are not to be defended, if they be the friends of a good man*. Adde one thing of great moment, that the *Hollanders* overcome in Warre, should altogether change their condition, and we see it in the conquered part, being for the most part, cast downe from their ancient Liberty, and for the most part oppressed with Garrisons, are governed now onely at the pleasure of the Prince. But this our Neighbours cannot endure. ^y Neither is any other forbidden to favour Libertie. But ^z it much behoveth Neighbours to have a Neighbour. ^a For if one man hath neede of another man. what shall we say that one Neighbour is to another, saith ^a *Pindarus*, and ^b *Callimachus*: *Ill Neighbour are odious to mee*, and ^c some wise *Hebrew*, *The worst of all diseases is an ill Neighbour*: And another of the same Nation, *Woe to the wicked, and woe to his Neighbour*. And where may ^d *Morail Fables* be silent? ^e *An evill neighbourhood is like a misfortune*; *The vicinity of great Men is alwaies to bee shunned of the weaker*; ^f *Good men receive good things from good Neighbours, and evill Men, evill things*. & ^g *So Plato*, and so *Th. miscules*; *When hee sold a piece of ground, hee*

(q) L. 5. Bal l.
4. C. de ser.
Cor.
(r) Plur. quo
nutr. li. Hiero.
ep. 9.

^r Alex l. 10.
Sol. mu.

^r Cels. l. 5. de
iust.
^u Cels. 3. c. 9
Hyp. d. loc.
in hom.

^y Cic. proso
(y) l. 3. de bo.
li. ex.
^z L. 54. de Leg.
^a Nat. ad Alex
cor. f. 197.
Bal l. 9. C. de
Pa. in q. 7.
^b Hel. Apoph.
1. c. 3.
(d) Hes. 1. op.
ep.
(e) Faer. 1. c. 7
^f Alc. Emb.
164. Plur.
Euth.
^g Plu. Apoph.
L. 33. de
con. em.
Com. Pi. 2.
li. 10.

^l L. 33. de
60n. ena.

ⁱ Com. Pii. 2.
li. 10.

^k 26. de da. inf.
li. 2. 174.

^l L. 1. de ag. pl.
L. 8. si se. ui.
Bal. 4. conf.
396.

^m Arist. 3. pol.

ⁿ Bal. 5. Conf.
409.

^o Bal. 6. Conf.
396.

^p Esp.

commanded the Crier to Proclaime, that it had a good Neighbour: Which^h Interpreters note, to the Law. And there bee many things of the same kinde. Wherefore neither if these neighbouring Subjects would change their condition, neither if by reason of a fault committed against their owne King, they be compelled to alter it, is another Neighbouring Prince compelled to suffer it, to whom neither another mans will nor offence ought to bring damage. The^l Venetian Embassadors when they interceded for *Sigismund* of *Malesta*, to Pope *Pius* the second, they spake even this, that Neighbouring Princes would not have another Neighbour, whom furthermore they knew not, what he might hereafter be. And you may note, that *Sigismund* held Townes from the Church, and for his committed offences, he ought worthily to lose them. Perhaps some will doubt, whether these things be true in private mens causes. ^k For a private man seemes to have power to doe with his owne what he list, if it bee profitable to himselfe, and hurt not another. Yet these things bee true thus in the causes of Empires, For Princes ought to take heed for the future, that another if he will, may not yet be able to hurt another, which is expounded in the Treatise of *Profitable defence*. ^l But even that rule, that it is lawfull for any to doe what he list with his owne, holds not otherwise; then if the condition of a Neighbour bee made neither worse nor more grievous thereby: although it be true that no man may take care of the gaine, which his Neighbour made, and which was owing to him by no obligation. But even security, and a certaine singular conjunction of love from a Neighbour, is due to Empires: Now this we know, what things are taken away when Neighbours are changed. ^m And the same people is not the same that they were, if the Common-wealth be not the same that it was. For it is not lawfull (I say againe) to doe all things with the Subjects; for that is not lawfull with the Subjects which would be a hurt, and a danger to those that are no Subjects. It is not lawfull to make Fortes in his owne Land, which may be terrible to those that are not his, as you shall heare in the third Booke. Therefore neither is it lawfull to doe with his owne, that which may be a terrour to others. ⁿ How ever these are called equivalent, to doe in his own place, and towards his own Subjects. Whether if my Neighbour should place in his House Gunes, and other things against my House, may I neither be carefull for my selfe, nor stirre against my Neighbour? Thus, thus were Preparations made in *Holland*; and that great Noble man, *Leicester*, very wisely foresaw, that the defence of the *Hollanders*, was very wholesome and necessary for the Common-wealth, and he perswaded it to be undertaken, ^p least if the *Spaniards* should break through that Pale of *Europe*, as then very wisely *Iustus Lipsius*, called it there should remaine no obstacle at all to their cruelty. And thus farre of Warre Defensive.

Thus, and much more this our learned Professor of the Civill Law, *Albericus Gentilis*, whose words I have thus largely transcribed; because they not onely abundantly justify the lawfulnessse of the Parliaments present Defensive Warre in point of Law, and their Ordinances of Association and mutuall Defence, but likewise fully answer all the cavils and pretences of Royalists and Malignants against the progresse and managing of this warre, from principles of *Nature, Law, Humane Reason, Equity, and humane Authorities.*



THE LAWFVLNES OF THE PARLIAMENTS present Defensive Warre in Point of *Divinity* and *Conscience*.

THe lawfulness and justnesse of the Parliaments present necessary Defensive Warre, in point of *Common, Civill, Canon Law, and Policy*, having been largely debated in the premises, because not hitherto discussed in that kinde by any, to my knowledge; I shall in the next place proceed to justify it in point of *Divinity and Conscience*; Wherein, though I shall be more concise then I intended, because sundry *Learned * Divines*, in many late *Printed Bookes*, common in all mens hands have professedly handled it at large, and given good satisfaction unto many unresolv'd scrupulous Consciences; yet because this Treatise may come into diverse hands, which have not perused their discourses; and those whose judgements may be convinc'd by the *Legall*, may still have some scruples of Conscience resting in them, in regard of the *Theologicall Part*, and because some things (perchance) in Point of *Theology*, which others have wholly omitted, may seasonably be here supplied, to satisfie Consciences yet unresolv'd of the justnesse of the present, and all other necessary Defensive Warres, I shall not over-sparingly or cursorily passe through it, without a competent debate:

(a) Master Goodwine his *Anti-cavallar.* and *Bone for a Bishop.* Master Barroughs his Lord of Hosts. The severall Answers & Replies to Doctor Ferne. The honest Broker, Scripture & Reason, pleading for Defensive Armes (the best and acuteest of this kind) with many others.

Now lest the Consciences of any should bee seduced, ensnared with generalities, or cleere mistakes through the mis-stating of the points in question, with which devise, many have beene hitherto deluded by the Opposites, who cumbate onely with their owne mishapen fancies, discharging all their Gushot against such Tenets as are not in question, and no waies comming neere the *White* in Controversie, I shal for my own orderly proceeding, and the better satisfaction of ignorant, scrupulous, seduced consciences, more punctually state the Question, then formerly in the *Legall Part*; first, *Negatively*, next, *Positively*; and then proceede to its debate. Take notice therefore.

First, that this is no part of the question in dispute. *Whether the Parliament, or any Subjects wha' soever, may actually disobey, or violently with force of Armes resist the Kings, or any other lawfull Magistrates just commands, warranted either by Gods word, or the Lawes of England?* it being out of controversie, readily subscribed by all of both sides; that *Such commands ought not so much as to be disobeyed, much lesse forcibly resisted but cheerefully submitted to, and readily executed for Conscience sake,* Rom. 13. 1. to 6. 1 Pet. 2. 13, 14. Tit. 3. 1. Hebr. 13. 17. Iosh. 1. 16, 17, 18. Ezra. 7. 26. Eccles. 8. 2, 3, 4, 5. the onely thing these objected Scriptures prove, which come not neere the thing in question, though our Opposites most rely upon them.

Secondly, Neither is this any branch of the dispute: *Whether Subjects may lawfully rise up, or rebell against their Prince, by way of Mutiny, Faction, or Sedition, without any just, or lawfull publicke ground; or for every trifling injury, or provocation offered them by their Prince? Or whether private men, for personall wrongs (especially where their lives, chastities, livelihoods are not immediatly endangered, by aetually violent, unjust assaults) may in point of Conscience, lawfully resist, or rise up against their Kings, or any other lawfull Magistrates? Since all disavow such tumultuous Insurrections and Rebellions in such cases: yet this is all which the oft objected Examples of ^b Korah, Dathan, and Abiram, with other Scriptures of this Nature, doe or can evince.*

^b Num. 16.

Thirdly, nor is this any parcell of the Conroversie. *Whether Subjects may lay violent hands upon the persons of their Princes, wittingly or willingly to deprive them of their Lives or Liberties, especially, for private Injuries; or in cold blood when they doe not actually nor personally assault their lives or chastities; or for any publicke misdemeanours, without a precedent sentence of Imprisonment, or death against them given judicially, by the whole States or Realmes, where they have such Authority to arraigne and judge them? For all unanimously disclaime, yea abominate such Traitorous practices and Jesuiticall Positions, as execrable and unchristian: yet this is all which the example of Davids not offering violence to King Saul: the 1 Sam. 24. 3. to 22. cap. 26. 2. to 25. 2 Sam. 1. 2. to 17. or that perverted Text of Psal. 105. 15. (the best Artillery in our Adverlaries Magazines) truly prove.*

Fourthly, Neither is this the thing in difference, as most mistake it. *Whether the Parliament may lawfully raise an Army to goe immediatly and directly against the very person of the King, to apprehend or offer violence to him, much lesse intentionally to destroy him, or to resist his owne personall attempts against them, even to the hazard of his life? For the Parliament, and their Army too, have in sundry ^c Remonstrances, Declarations, Protestations, and Petitions, renounced any such disloyal intention or designe at all; for which there is no colour to charge them; and were his Majestie now alone, or attended onely with his Ordinary Courtly Guard, there needed no Army nor Forces to resist his personall assaults: Yet this is made the principall matter in question by Doctor Ferne, by *An appeal to thy Conscience*, and other Anti-parliamentary Pamphlets; who make this the sole Theame of their Discourses: *That Subjects may not take up Armes Against their Lawfull Sovereigne, because he is wicked and unjust; no, though he be an Idolater and Oppressor: That, Suppose the King will not discharge his trust, but is bent, or seduced to subvert Religion, Lawes, Liberties, yet Subjects may not take up Armes, and resist the King, it being unwarrantable, and according to the Apostle, damnable, Rom. 13: Yea, this is all the questions the C. vallerers and Malignants demand of their Opposites in this cause. What? will you take up Armes; will you fight against, or resist the King? &c. Never stating the question of his Forces, his Army of Papiits, Malignants, Delinquents, but onely of the King himselve abstracted from his invading, depopulating Forces, against whom, in this sence of theirs, the Parliament never yet raised any Forces, nor made the least resistance hitherto.**

These soure particulars then being not in question, I shall here appeal to the most Malignant Conscience: *Whether Doctor Ferne, and all other our Opposites, pretenders of Conscience, haue not ignorantly, if not maliciously, made shipwracke of their*

See an exact
Collection of
of all Remon-
strances, &c.

(d) The Re-
solving of
Conscience.
The Necessity
of Christian
Subjection,
&c. A Re-
vindication.
The Grand
Rebellion, &c.

their good Consciences (had they ever any) by a wilfull mistating of the Controversie, concerning the present Defensive Warre, in the foure preceding particulars, which they make the onely *Questions*; when not so much as one of them comes within the Verge of that which is the reall Controversie; and never once naming that in all, or any of their Writings, which is the point indeed? Secondly, Whether there bee any one Text or Reason in all their Pamphlets, particularly applied to any thing which concerns the present Warre, but onely to these foure particulars, which are not in debate? And if so, (as no Conscience can gaine-say it) then there is nought in all the wast Papers they have published, which may either resolve or scruple any Conscience, *That the Parliaments Defensive Armes and resistance are unlawfull in point of Divinity, or Conscience, which is fleered by the Scriptures Compassse.*

But if these particulars be not in question; you may now demand, what the knot and true state of the present Controversie, in point of Conscience, is? In few words, take it thus.

Whether both Houses of Parliament, and the Subjects by their Authority, for the preservation of their owne Persons, Priviledges, Lawes, Lives, Liberties, Estates, Religion; the apprehension of Voted contumacious Traitors, and Delinquents, the rescuing his seduced Majestie out of the power of Popish pernicious Counsellours and Forces, who endeavour the Kingdoms subversion, by withdrawing him from, and incensing him against his Parliament, may not lawfully with a good Conscience, take up necessary defensive Armes, and make actuall Warlike resistance against his Majesties Malignant ill Counsellors, and invading Popish Forces (who now Murther, Rob, Spoile, Sacke, Depopulate the Kingdome in a most Hostile manner, to set up Tyranny, Popery, and an Arbitrary lawlesse Government,) in case they come armed with his personall presence, or commission, to execute these their Wicked illegall designs; Especially, when neither the Parliament nor their forces in this their resistance, have the leas thought at all, to offer any violence, to the Kings owne person, or to oppose his Legall, iust Sovereigne Authority?

Or shorter, *Whether the Kings Captaines and Souldiers invading the Parliament, and Subiects, as aforesaid, the Parliament or Subiects (especially when authorized by an Ordinance of both Houses) may not with a safe Conscience forcibly resist these Malignants though armed with the Kings illegall Commissions, without his personall presence, or with his presence and Commissions too? And for my part, I thinke it most evident, that they may lawfully resist, repulse them, even by Divine Authority.* For the better clearing whereof, I shall premise these three undeniable Conclusions.

First, That no lawfull King or Monarch whatsoever, (much lesse the Kings of Eng'ard, who are no absolute Princes) have any the least Authority from the Lawes of God or man, personally by themselves, or instruments, to doe any injurie or iniustice to their Subiects; how much lesse then by open Force to Murther, Rob, Plunder, Ravish, Ruine, or Spoile them of their Lawes, Liberties, Estates, Religion, all which is plentifully proved by Law Authorities, in the premises; and punctually confirmed by these ensuing Texts. *Ezech. 44. 15, 16, 17. cap. 45. 8, 9. Psalm. 105. 14 15. Isay 14. 15. to 23. 2 Sam. 23. 3. Isay 1. 23. cap. 3. 12. 14. 15. Prov. 28. 15. 16. Eze h. 22. 6. 7. 27. Zeph. 3. 3. Mich. 3. 1. to 12. 1 Sam. 12. 3. 4 5. 1 King. cap. 21. & 22. Zeph. 2. 8. Is. 7. 9. 7. cap. 16. 5. cap. 32. 1. 2. cap. 49. 23. 2 Chron. 9. 8. Ier. 22. 3. to 32. Obad. 2. 10. to 16. Rom. 13. 3. 4. 5. 6. 1 Pet. 2. 13, 16. and infinite Scriptures more.*

Secondly,

2. Secondly, That all Subjects and persons whatsoever, are obliged both in point of Law and Conscience to disobey, resist, and not execute, the uniuersall illegall Commissions, Mandates of their Kings, and other Magistrates. This is evident by the *Midwives* refusall to murder the *Hebrewes Male-children* at King Pharaohs command, for which God blessed them, and built them houses. *Exod. 1. 15. to 20.* By *Balaams* deniall to curse or defie the *Israelites*, at King *Balacks* intreaty. *Numb. 22. & 23. & 24.* By the refusall of *Sauls* Guard and Footmen to slay or fall on the *Priests at Nob*, by King *Sauls* personall command, though present, and not onely their King but Master too: *1 Sam. 22. 17. 18.* By *Ionathans* denyall to kill, or consent to the death of *David* upon *Sauls* mandate, though not onely his Sovereigne, but Father, although he might have gained the Crowne by it, and indangered his owne life by refusing it, *1 Sam. 20. 27. to 42.* By *Sauls* Armour-bearers forbearance to runne him thorow with his Sword, when he fled before the *Philistines*, though he as his King and Master enjoyned him to doe it; lest the *uncircumcised* should come and thrust him through and abuse him. *1 Sam. 31. 4.* By *Mordechai* his denyall to bend the knee to *Haman*, the great Favourite, though the King had so commanded. *Esther 3. 1. 2. 3. 4. 5.* By *Shadrach, Meshach, Abednego*, and *Daniels* refusall, to eat of the Kings portion of meat and wine assigned them, lest they should be defiled, *Dan. 1. 5. to 12.* By their preemptory resolution, not to fall downe and worship King *Nebuchadnezzars* golden Image, though twice strictly commanded by the King to doe it, and threatened to be cast into the fiery Furnace (as they were) for refusing it, *Dan. 3. 4 to 30.* By *Daniels* disobeying the Kings and Lords *Idolatrous* Decree, not to offer a Petition to any God or man for 30. dayes, save of King *Darius*, under paine of being cast into the *Lions Denne*, *Dan. 6. 5. to 24.* By the *Pharises* and chiefe *Priests* Officers neglect to apprehend our Saviour for his Preaching, though enjoyned so to doe by their Masters, *Iohn 7. 32. to 48.* By the *Apostles* refusall to give over Preaching, and perseverance in Preaching, notwithstanding the *High Priests* and *Councels* expresse Inhibitions and doubled Commands, seconded with *Apprehensions*, *Imprisonments*, *Scourgings*; and their direct resolutions in this very case, ^d That we ought to obey God rather then men, *Acts 4. 12. Cause. 11. 4. 3. to 22 cap. 5. 17. to the end.* By *Peters* Preaching to, and conversing with the *Uncircumcised Gentiles*, notwithstanding the *Christian Jewes* dislike, *Acts 11. 1. to 19.* with infinite Presidents of this nature in *Ecclesiasticall Histories*; the very sufferings of all the ^e *Martyrs* depending on this ground alone: which is backed by *Matth. 10. 28. 32. 33. Luc. 12. 4. 8. cap. 9. 23. 24. 25. 26. Ezech. 2. 3. to 9. Rev. 13. 3. to the end. Rom. 12. 1. 2. Iohn 16. 2. 3. 1 Thess. 2. 14. 15. 16. Exod. 32. 2. Iosh. 24. 15. Psalm. 44. 15. to 23.*

^d See Gratian
Caus. 11. 4. 3.

(e) See Fox
Acts & Mo-
num. French
Book of Mar-
tyrs, with o-
thers.

3

^f Pag. 10. 11.
&c.

Thirdly, That as all Kings illegall uniuersall commands are void in Law, and will no waies extenuate the guilt, or justify the actions of those instruments who execute them in point of Law, as I have ^f form'rly cleared; so are they likewise meer nullities, and insufficient to excuse the executioners of them in point of Conscience; as is evident by, *Psal. 52. 5.* where God threatens to destroy *Doeg the Edomite*, for ever, to take him away, plucke him out of his dwelling place, and root him out of the land of the Living, for executing King *Sauls* bloody command upon the *Priests at Nob*, *1 Sam. 22.* By Gods exemplary punishment upon those *Souldiers* who by King *Nebuchadnezzars* speciall command, bound the three *Children* and cast them into the fiery Furnace; who were slaine by the flames of the Furnace, though these three *Martyrs* had no harm

harmes in the Furnace it selfe, Dan. 3. 20. to 28. By Gods consuming the two Captaines and their fifties with fire from heaven, who came violently to apprehend the Prophet *Elijah* by King *Ahaziah* his commission, and unjust command, 2 King. 1. 9 to 16. By the Precept of *Iohn Baptist* given to Souldiers themselves, Luke 3. 14. Doe violence to no man: (neither by the Kings, nor Generalls Command) neither accuse any falsely. By 1 Tim. 5. 22. Lay hands sodainly on no man, (no more in a violent, Military, then an Ecclesiasticall sense) neither be partakers of other mens sinnes: Compared with the next forecited Scriptures; with Rom. 1. 32. Math. 15. 14. Psal. 50. 18. 21. Prov. 1. 10, to 16. Obal. ver. 10. to 16. Isay 1. 23. with Isay 9 16. The leaders of this people cause them to erre, and those that are led of them are destroyed. What therefore Saint *Iohn* writes in another case, 2 Iohn 10. 11. If there come any unto you (be he an Archbilhop, Bishop, Archdeacon, Ferne himselfe, or any Court Chapaine whatsoever,) and bring not this Doctrin; receive him not into your house; neither bid him God speed; for he that biddeth him God speed, is partaker of his evill Deeds: I shall apply to this particular of executing Kings unjust Commands against their people; they are partakers of their Kings wickednesse, if they do but intertaine their unjust Commissions into their Houses, or bid them God speed; much more if they execute them either voluntarily, or against their wills, out of an unworthy feate, or base respects.

These three Conclusions being irrefragable, My first Argument to justify resistance from them shall be this. That violence against the Subjects persons, Consciences, Families, Estates, Properties, Priviledges, or Religion, which neither the King himselfe in proper person, nor any his Officers, nor Souldiers by command from him, have any Autoritie by the Lawes of God or man, in Law or Conscience to inflict: and which in Conscience ought not to be obeyed, but rejected as a meere nullity, even by the instruments enjoin'd for to execute it; may justly with a safe Conscience be resisted by the Parliament and Subjects; there being not one syllable in Gods Word to contradict it. But the violence now offered by the Kings Forces to the Parliament and Subjects every where, is such. Therefore it may justly with a safe Conscience be resisted; especially in the Kings Commanders and Souldiers, who are neither the King himselfe, nor the Higher Powers ordained by God; and no other then plain Theeves and Murtherers in Law and Conscience, if they plunder, kill, spoile; their Commissions being but Nullities in both; and they in this particular meere private men, without any Authority to iustifie their actions, as I have already proved.

Secondly, That resistance which is warranted by direct Precedents recorded, approved in Scripture even by God himselfe, must questionlesse be lawfull in case of conscience: But the resistance even of Kings, their highest Magistrates, officers, in the execution of their unjust Commands is thus warranted. Therefore, doubtles, it must be lawfull in point of Conscience. The *Minor* (only questionable) is thus confirmed. First, by the notable example of the Prophet *Elijah*, 2 Kings 1. 2. to 16. who sending backe King *Ahaziah* his Messengers (sent by him to enquire of *Baalzebub* the God of *Ekron*, whether hee should recover of his disease) with an harsh Message to the King, contrary to his Command, which they disobeyed; thereupon this King, in an angry fume, sent two Captaines with 50. men apeece, one after another, to apprehend the Prophet for this affront; (as *Josephus*, with other Interpreters accord,) who comming with their forces to him, said; Thou min of God, the King hath said,

2
 § Antiq. Iud.
 lib. 9. cap. 1.
 Ipse Propheta
 cum minatus
 vim esset, ut
 ni sponte sua
 faciat, vi co-
 actum eo per-
 trahat, &c.

come downe quickly. To whom he successively answered : If I be a man of God, then let fire come downe from Heaven, and consume thee and thy fifty ; And there came fire from heaven thereupon, and consumed two Captaines and their fifties : but the third Captaine and his fifty, who humbled themselves to the Prophet, and begged the sparing of their lives, were spared ; the Angel of the Lord bidding the Prophet to goe downe with them to the King, and not be afraid. From which Text it is infallible, even by a divine Miracle from heaven, doubled by God himselfe ; That it is lawfull for Subjects in some cases, to resist the unjust violence of the Souldiers and Captaines of their Kings though armed with their Regall Commands. Secondly, by the History of the Prophet *Elisha*, 2 Kings 6. 31, 32, 33. Who when King *Ioram* (his Sovereigne) had sworne unjustly in his fury ; God doe so to me and more also, if the head of *Elisha* shall stand on him this day ; and thereupon sent a Messenger before him to *Elisha* his house to take away his head ; the Prophet was so farre from submitting to this Instrument of his ; that he Commanded the Elders sitting then with him in the house, to looke when the Messenger came, and shut the doore, and hold him fast at the Dooze, though the sound of his Masters feet (the King) were behind him ; whom he stiles, the sonne of a Murderer. Might these two eminentest Prophets thus openly resist the Captaines, Souldiers, and unjust Executioners of their Princes, with a good Conscience ; and may not others lawfully doe the like ? No doubt they may. Thirdly, (If I be not much mistaken) this kind of resistance is warranted even by Christ himselfe, and his Apostles : For a little before his Apprehention, Christ uttered this speech unto his Disciples, *Luke* 22. 36, 37, 38. But now, he that hath no sword, let him sell his garment and buy one, &c. — And they said, Lord, behold, here are two swords. And he said unto them, it is enough. Why would Christ have his Disciples buy Swords now, unless it were for his and their owne better Defence, being the time when he was to be apprehended. ^h Soone after this Judas and his Band of men sent from the High Priests, with Swords and Staves came to seize upon Christ. Which when they who were about him saw what would follow : They said unto him ; Lord, shall we smite with the sword ? His commanding them to buy Swords now, was sufficient ground for this question, and intimation enough, that they might now use them : whereupon Christ giving no negative answer ; One of them which were with Iesus (and *John* directly saith it was *Peter*) smote a servant of the High Priest (whose name was *Malchus*) and cut off his right eare. Herenpon Iesus answered and said, Suffer yee Thus farre : So ⁱ *Luke* ; Marke relates no answer at all reprehending this fact : ^k *John* records his speech to *Peter* thus. Then, said Iesus unto *Peter*, Put up thy sword into the sheath. The Cup which my Father hath given me, shall I not drinke ? To which *Matthew* addes, ^l I thinke if thou that I cannot pray to my Father, and he shall presently give me more then twelve Legions of Angels ? But how then shall the Scriptures be fulfilled, that thus it must be ? So that the reason why Christ bade *Peter* thus to put up his sword ; was not because he thought defence of himselfe, and *Peters* smiting now altogether unlawfull in it selfe ; but onely inconsistent with Gods present providence, which it should seeme to crosse. Christ was now by ^m Gods eternall decree, and the Scriptures prediction, (which must be necessarily fulfilled) to suffer death upon the Crosse for our iniquities : should *Peter* then, with the other Disciples have totally resisted his apprehention at this time, and proceeded still to smite with the sword as they began, all they had rescued our Saviour, he could not then have suffered, nor the Scriptures

^h *Matth.* 26.

ⁱ *Mar.* 14. *Luce.*

^k *Iohn* 18.

^l *Luce.* 22. 50.

^m 51.

ⁿ *Iohn* 18. 10.

^o *Matth.* 26. 52

^p 53.

^q *Acts* 2. 23.

^r *Cap.* 4. 27. 18.

^s *Luke.* 24. 23.

^t 26. 27.

^u *Iay* 52.

be fulfilled: had it not bene for this speciall reason (rendred by Christ himselfe, to cleare all scruples against the Lawfulnesse of selfe-defence in such cases,) Peter might still have used his sword to rescue his Master from these Catchpoles violence; and if he and his fellowes had bene too weake to withstand them, Christ was so farre from imagining that hee might not have lawfully defended himselfe; that hee informes them, *he could* (and would no doubt) *have presently commanded whole Legions of Angels from heaven, by his Fathers approbation, to rescue him from unjust violence.* And his Speech to Pilate, after his taking, plainly, iustifies the lawfulnessse of such a forcible defence with Armes to preserve a mans life from unjust execution: *John 18. 36 If my Kingdoms were of this world, Then would my Servants fight (in my Defence and Rescue) that I should not be delivered to the Jewes: but now my kingdom is not from hence.* All which considered, clearly justifies, the Lawfulnesse of resisting the Kings, or higher Powers Officers, in cases of apparant unjust open violence or assaults; and withall answers one grand argument against resistance from our Saviours present Example: namely, * *Christ himselfe made no resistance when hee was unjustly apprehended; Ergo, Christians his Followers (Ergo, no Kings, no Magistrates too, as well as Christ the King of Kings, and Lord of Lords, for they are Christians as well as subjects;) ought not to make any forcible resistance of open violence: Which argument is a meere inconsequent; because the reason why Christ resisted not these Purteivants, and High Priests Officers, was onely, that his Fathers decree, and the Scriptures foretelling his Passion might be fulfilled, as himselfe resolves; not because hee deemed resistance Vnlawfull, which he even then approved, though hee practised it not, as these Texts doe fully prove.*

* See Doct. Fernes resolving of Conscience. An Appeal to the Conscience, with others who much rely on this ill foundation!

4

Fourthly, The lawfulnessse of a defensive Warre, against the invading Forces of a Sovereigne, is warranted by the example of the City *Abel*; which stood out and defended it selfe against *Ioab*, *Dauids* Generall, and his Forces, when they besieged and battered it; till they had made their peace, with the head of *Sheba* who fled into it for shelter, *2 Sam. 20. 14. to 23.* And by that of *Ester*, Ch. 8. 8. to 17. chap: 9. 1. to 17. pertinent to this purpose. Where *Haman* having gotten the Kings Decree, to be sent unto all Provinces for the utter extirpation of the whole Nation of the *Iewes*, the King after *Hamans* Execution (through Gods great mercy, and *Mordocais* and *Queene Esters* diligence) to prevent this bloody massacre by their Enemies, granted to the *Iewes* in every City, by Letters under his Seale, ' To gather themselves together, and to stand for their lives, to destroy, to slay, and to cause to perish ' all the power of the people and Province That would Assault them, both litle ones ' and women, and to take the spoile of them for a prey; and that the *Iewes* should ' be ready against the day, to avenge themselves of their enemies. *Hercup n* when ' the day, that the Kings Commandment and Decree (for their extirpation) drew neere ' to be put in execution, in the day that the enemies of the *Iewes* hoped to have ' power over them; the *Iewes* gathered themselves together in their Cities, through- ' out all the Provinces of King *Abasuerus*, to lay hand on such as sought their hurt; ' and no man could withstand them, for the feare of them fell upon all people: And ' all the Rulers of the Provinces, and the Lieutenants, Deputies, and Officers of the ' King helped the *Iewes*, because the feare of *Mordocai* fell upon them: So the *Iewes* ' smote all their enemies with the stroake of the Sword, and slaughter, and destructi- ' on, and did what they would unto those that hated them. In the Palace, they slew

' eight hundred men, and *Hamans* tenne sonnes, on severall dayes. And the other
 ' Iewes that were in the Provinces, gathered themselves together, and *Stood for*
 ' their Lives, and had rest from their enemies, and slew of their foes seventy and
 ' five thousand, but they laid not their hands on the prey. Loe here a Defensive war,
 justified, and granted lawfull, by the Kings owne Letters to the Iewes, against their
 enemies, who by former Charters from him, had Commission wholly to extirpate
 them. Neither had this licence of the King in point of Conscience, been lawfull, had
 their defence and resistance of the Kings former Commission been wholly unlawfull.
 And the reason of the Kings grant to them, to resist and slay their Enemies, that
 would assault them; was not simply, because their resistance without it, and standing for
 their lives, had beene unlawfull, by reason of the Kings first unjust Decree, which
 they ought not in Conscience to submit to, without repugnancy; But onely to enable
 the Iewes, then Captives, and scattered abroad one from another in every Province,
 with more convenience, securitie, boldnesse, and courage now to joyne their forces
 together; to resist their malicious potent enemies; to daunt them the more thereby;
 Nature it selfe, yea, and all Lawes in such a bloody Nationall Butchery as this, without
 any just cause at all, both taught and enabled every one of the Iewes, to *stand for his life*,
 his Nations, Religions, preservation, even to the last drop of blood. Therefore the Let-
 ters of the King did not simply enable them to resist their enemies, which they might
 have done without them; but give them Authority to *destroy, and slay the Wives and*
little children of their Enemies, and to take the Spoile of them for a prey; which they
 refused to doe, because they deemed it unjust, notwithstanding the Kings permission
 and concession, which as to these particulars, was illegal, and more then hee could
 justly grant. This generall Nationall resistance of Gods own people then of their
 assaulting cruell Enemies, even among Strangers, in the land of their Captivity under
 a forraigne Enemy, with the former and other following precedents, will question-
 lesse more then conjecturally prove, if not infallibly resolve, The lawfulness of a ne-
 cessary Defensive Warre, and opposition by free Subiects, against their Kings assailing
 Forces which seekes their ruine, though armed with their Kings Commission, and
 that without any Ordinance of Parliament authorising them to resist, much more then,
 when enabled to oppose them by Ordinances of both Houses, as the Iewes were to
 resist and slay their enemies by this Kings Letters and Authority.

33

Thirdly, That kind of resistance which hath no one Text, nor Example in Scripture
 to impeach its lawfulness, but many Texts and precedents to countenance it, must
 doubtlesse be lawfull in point of Conscience. But the resisting of Kings invading pil-
 laging, destructive Forces (who have nothing to plead, to justify all their Villanies but
 a void illegal Warrant) hath no one Text nor example in Scripture to impeach its law-
 fulnesse, for ought I can finde; (and if there be any such, I wish the Opposites would
 object it, for *Rom. 13.* as I shall shew hereafter, doth no waies contradict, but ap-
 prove it:) But it hath many Texts and precedents to countenance it, as the pre-
 mises and sequell attest; Therefore it must doubtlesse bee lawfull in point of Con-
 science.

43.
 See Luc. O.
 funder. En-
 chind Contr.
 c. 9. 10.
 De Magistr.
 Phil. 2. 13.

Fourthly, it is confessed by all men, (yea those who are most intoxicated with an
 • Anabaptistick spirit, condemning all kind of warre, refusing to carry Armes to
 defend themselves against any Enemies, Theeves, or Pirates) that it is lawfull not
 onely passively to resist their Kings unlawfull Commands, and invading Forces, but
 likewise:

likewise by flight, hiding, or other pollicies, to evade and prevent their violence; which is warranted not onely by ^p *Moses*, ^q *Davids*, and ^r *Elijabs*, their severall flights from the violence of the *Egyptians*, *Sau'*, and *Iezabel*, who sought their lives; but likewise by ^s *Joseph, Mary*, and *Christ himselfe*, who fled into *Egypt* to escape the hands and butchery of King *Herod* ; by *Christs* own direction to his Disciples *Matth. 10. 23.* But when they persecute you in this City, flee ye into another; and that Prediction of his *Matth. 23. 34.* Behold, I send unto you Prophets, and wise men, and Scribes, and some of them ye shall kill and crucifie, and some of them shall you scourge in your Synagogues, and persecute them from City to City; which was really fulfilled. *Acts 8. 3. 4. c. 9. 1. 2. c. 11. 19. c. 13. 50, 51. c. 14. 1. to 24. c. 17. 1. to 16. c. 22. 42. c. 26. 11. 12. c. 9. 24, 25, 26. 2 Cor. 11. 32. 33. Rev. 12. 6.* Of which reade more in *Tertullian* his booke *De Fuga in persecutione.* Hence then I argue thus. That unjust violence of Princes and their Armies, which Subjects with a safe conscience may decline and flee from, when as they want power, meanes, or convenience to resist it, they may no doubt lawfully resist even with force of Armes, when they have sufficient meanes and conveniences to resist, and cannot flee or submit thereto, without the publicke ruine: since the same justice and equity, which enables them by flight or stratagem to decline unjust assaults of a superior power, or its judgements, doth likewise enable them to escape and prevent it with resistance, when they cannot doe it by flight or other policie: If then they may lawfully with a safe conscience hide, flee, or use lawfull pollicies, to prevent the open unjust violence of their kings and their Officers, when not guilty of any capitall crime deserving censures; because by the very light of nature, and Law of Charity they are obliged to preserve themselves from unjust tyrannie, and are no wayes bound to subject themselves to the cruelty, the unjust assaults, or oppressions of others: then by the selfesame reason, they may lawfully with force of Armes defend themselves against such violent unjust attempts which they are no way obliged to submit unto, when as they cannot conveniently secure themselves and the publicke, but by such resistance, and should both betray their owne, the publicke safety, and Religion (as the Subjects and Parliament should now do) in case they did not resist by force of Armes to the utmost of their power: and become ^t *worse than Infidels,* who have even thus oft provided for their owne and the Republickes security.

Fifly, God himselfe, the fountain of justice; the ^u *God of Order*, the ^v *preserver of human society who detests of all tyranny, cruelty, oppression, injustice*, out of his ^a *Philanthropie* (which brought the Sonne of his bosome from heaven to earth) would never certainly in point of policy or conscience prohibit that, which is the onely probable meanes and apparent remedy, to prevent, suppress disorder, tyranny, cruelty, oppression, injustice, yea confusion in the world; and to preserve good order and humane society: a truth so apparent, that no rationally man can contradict it. Therefore questionesse he never prohibited forcible necessary resistance of the highest powers and their instruments in cases of open unjust violence, and hostile invasion made upon their people to ruine them, or subvert their established government, Laws, Liberties, Justice, Religion: There being no other probable ordinary meanes left to any Kingdome, Nation, People, to preserve their government, lives, Lawes, Liberties, Religion, and to prevent, suppress, or redresse tyrannie, cruelty, disorder, confusion, yea utter ruine, when their Kings and Governors degenerate into Tyrants, invading them.

^p Exod. 2. 15.
&c.
^q 1 Sam. 19 to 31.
^r 1 King. 19.
^s Mat. 2. 13.
^t 14 15.

^u 1 Tim. 5. 8.

^v Zeph 2. 5.
Esay 45. 21.
^a 1 Cor. 14. 23 40.
^y Job 7. 20.
^z Psal. 5. 6.
Esal 11. 5.
^z John 3. 16.
^z John 4 9.

b 1. Lat. 2. 12.
 10 42. *Alfon-*
sià Cartage-
na Regum,
Hisp. Acopbel.
 c. 44.

them with open force, but onely defensive Armes : prayers and teares alone, without military opposition by force of Armes, being no more able to defend a person, City or Kingdome against Oppressing Princes and their Armies, then against theeves, Pyrates or common enemies; whom they must and ought to resist, as well with Armes as Orisons, with Speares as well as Teares, else they should but tempt the Lord and destroy themselves (like those *c Iewes and Gothes who would not fight upon the Sabbath, and so were slaine by their enemies without resistance:*) yea wilfully suffer the Commonweale to be subverted, Religion extirpated; Lawes trampled under feete, their own posterities to be enslaved, ruined without any opposition, even in a moment. For were it utterly unlawfull, and nolesse than Treason or Rebellion, in point of conscience for any subjects to take up Defensive Armes to resist the Kings army, or forces, consisting for the most part of Papists, Delinquents, deboist Atheisticall persons of broken fortunes, seared consciences and most irreligious lives, I appeale to every mans conscience, how soone these unresisted Instruments of cruelty would utterly extirpate our protestant Religion, and common faith, for which we are enjoyned earnestly to contend and strive: *John 3. Phil. 1. 27, 28.* And shall we then yeeld it up and betray it to our adversaries without strife or resistance? how sodainely would they ruin our Parliament, Lawes, Liberties; subvert all civill order, government; erect an arbitrary Lawlesse tyrannicall Regency regulated by no lawes but will and lust? how soone would they murder, imprison, execute our Noblest Lords, Knights, Burgeses, best Ministers, and Commonwealths-men for their fidelity to God, their King and Country? how many Noble families would they disinherite? how many wives, widdowes, Virgins would they force and ravish; what Cities, what Countries, would they not totally pillage, plunder, sack, ruine, consume with fire and sword? how soone would our whole Kingdome become an *Acheldama*, a wilderneffe, a desolation, and the surviving inhabitants either slaves or beasts, if not devils incarnate? Yea how speedy might any private Officers, Captaines, Commanders, by colour of illegall Commissions and commands from the King, or of their Offices, and all the notorious rogues and theeves of *England*, under colour of being listed in the Kings Army, if the people might not in point of Law or Conscience resist them with Armes who came armed for to a^t their villainies, maliciously rob, spoyle, plunder, murder all the Kings leige people, without any remedy or prevention, and by this pretext, that they are the Kings Souldiers, sodainely seise and gaine all the armes, treasure, forts, ammunition, power of the Realme, into their possessions in a moment; and having thus strengthened themselves, and slaine the Kings faithfull subjects, usurpe the crown it selfe if they be ambitious, as many private Captaines and Commanders have anciently slaine divers Roman and Grecian Emperours, yea sundry *Spanish, Gothish* and *Moorish* Kings in *Spain* by such practises and aspired to their Crowns, (of which there are sundry such like presidents in most other Realmes:) to prevent, redres, which severall destructive mischiefes to People, Kingdome, Kings themselves, God himselte hath left us no other certaine, proper, sufficient remedy but a forcible resistance, which all Kingdomes, Nations throughout the world, haue constantly used in such cases, as I shall manifest more largely in the *Appendix*. Therefore certainly it must needs be lawfull, being Gods and Natures speciall Ordinance to secure innocent persons, Cities, Nations, Kingdomes, Lawes, Liberties, Lives, Estates, Religion, and mankinde it selfe, against the hurtfull Lusts of unnaturall Tyrants, and their accursed instruments,

ments, against ambitious, treacherous, male-contented Spirits, maliciously bent against the publicke weale, and peace. There are two things onely which usually restraine inferiour persons from murdering, robbing, disseising, injuring one another; the one is, feare of punishment by the Magistrate; the other, feare and danger of being resisted, repulsed with shame and losse of limbe or life by those they violently assault, injure; and were this once beleaved, received for Law or Divinity in the world, that it were unlawful to resist, repulse a theefe, murderer, riotor, or disseisor comming in the Kings name, long enjoy his life, goods, liberty, lands, but some or other would deprive him of them notwithstanding all restraints of Lawes; of penalties, and maintaine suites against him with his owne estate violently seised on; the right of lawfull defence, being every mans best security, to preserve his life, estate, in peace against the violence of another, whence the wisdom of the Common Law, makes every mans house his Castle, in the necessary defence wherof, and of his person, goods from the violence, rape of others, it gives him libertie to beate, repulse, yea kill injurious assailants: which right of defence if once denied, would open a wide gap to all wickednesse, injustice, disorders whatsoever, and speedily bring in absolute confusion, subversion of all property, Law, Order. As for Emperors, Kings, great Officers, and other ungodly instruments, armed with Princes unjust commissions, who deeme themselves above the reach of humane Lawes, censures, and accountable for their unjust actions to none but God himselfe, there is no other knowne barre or obstacle to hinder or restraine their armed violence, Tyrannie, oppressions, but onely the feare of the oppressed assaulted subjects armed resistance; which if once denied to be lawfull, all Royalties would soone be transformed into professed Tyrannies, all Kings & Magistrates into Tyrants, all Liberty into slavery, property into communitie, and every one would thereby be exposed as a voluntary prey to the arbitrary cruelty covetousnesse, avarice, lusts, of the greatest men. Therefore doubtlesse this armed resistance cannot but be lawfull, necessary, just, in point of Law and Conscience, to eschew these generall mischiefes.

Sixtly, all will readily grant it lawfull in case of Conscience, for subjects to resist a forraigne enemy which invades them with force of Armes, though animated by the King himselfe to such invasion; and why so, but because they are their enemies, who would wrongfully deprive them of their native inheritance, Liberties, estates, and worke them harme; upon which ground, we read in the 2 Kings 3.21. *That when the Moabites heard that the Kings of Israel, Judah and Edom came up to fight against them with a great Army, they gathered all that were able to put on armour, and upward to withstand them, and stood in the border;* and when ever the *Midianites, Philistines, Syrians, Babylonians, Egyptians, Cananites* or other enemies came to assault the *Israelites*, they presently assembled together in Armes to encounter and repulse them, as the Histories of *Joshua, Judges, Samuel, the Kings, Chronicles, and Nehemiah* abundantly evidence, almost in every Chapter. If then Subjects may with a good Conscience resist forraigin enemies on this ground alone; then likewise domestick foes and their Kings own Forces, when they become open enemies, to rob, kill, plunder, destroy them as inhumanely, as injuriously as the worst Forraigne foes, there being the selfe same ground for the lawfulness of resistance of the one as the other, and if the ballance encline to one side more than other, an intestine enemy being more unnatural, unjust, hurtfull, dangerous, and transgressing more Lawes of the Realme (which

(which oblige not strangers) than a Forraigner, and a Civill warre being far worse, and more destructive than a Forraigne; the resistance of an homebred enemy, must be the more just and lawfull of the two, even in point of Conscience.

Seventhly, The very Law of God both alloweth and commands all men, to resist their spirituall enemies, with spirituall Armes: *Jam 4. 7. Resist the Devill and he will flee from you, otherwise he would easily subdue and destroy us. 1 Pet 5. 8. 9. Be sober and vigilant, because your adversarie the devill as a rearing Lyon walreth about seeking whom he may devoure: whom resist steadfast in the faith, Ephes. 5. 10. to 19. Finally my brethren be strong in the Lord, and in the power of his might: Put on the whole Armour of God, that ye may be able to stand against the wiles of the devill. For we wrestle (or warre) not against flesh and blood, but against Principalities, against powers, against the Rulers of the darkenesse of this world, against Spirituall wickednesse (or wicked spirits) in high places. Wherefore take unto you the whole Armour of God, that ye may be able to withstand in the evill day, and having done all, to stand: Stand therefore having your loynes girded about with truth, &c. Above all taking the sheild of faith, where with ye shall be able to quench all the fiery darts of the wicked; And take the helmet of Salvation, and the sword of the spirit, which is the Word of God: Praying alwayes with all prayer and supplication. Hence Christians are termed, Souldiers of Iesus Christ, and Christianity a warfare, against the world, the flesh, and Prince of the world, the Devill; 2 Tim. 2. 3, 4. 2 Cor. 10. 3. 1 Tim. 1. 18. Iam. 4. 1. 1 Pet. 2. 11. Rom. 7. 23. 2 Cor. 10. 4. 1 Cor. 9. 7. Isay 41. 2. Rev. 12. 7. 17. In which warfare, we must fight and resist even unto blood striving against sinne, Heb. 12. 4. Using not onely prayers and teares, but other spirituall weapons of warre, mighty through God, able to cast downe every high thing that exalteth it selfe, to bring into Captivitie every thought to the obedience of Christ, and to revenge all disobedience, 2 Cor. 10. 4. 5. 6. If then we may and must manfully resist, and fight against our Spirituall enemies, though Principalities, Powers, Rulers, wicked spirits in high Places, and the Prince of this world himself, the Devill, when they assault and seeke to devoure our soules: then by the selfesame reason, we lawfully with a safe conscience may, yea ought to resist, repulse our corporall enemies when they maliciously, unjustly, forcibly assault us, against all rules of Law, of Conscience, to murder, enslave, destroy our bodies, Soules, Religion, the Republicke, which must be dearest to us, though they be Principalities, Powers, Rulers, wicked Spirits in high Places, yea Princes of this world; with all their under Officers and Instruments of cruelty, not onely with prayers and teares, but corporall Armes and force, because they unnaturally, tyrannically, seeke the destruction of our bodies, estates, Liberties, Republicke, Religion, there being no inhibition in Scripture, not to resist the one or other, but infinite Texts authorising men, not onely to resist, but warre against, yea slay their malicious open enemies, untill they be subdued or destroyed, Exod. 23. 22. 27. Levi. 26. 7. 8. Num. 24. 8. Deut. 20. throughout. Iosh. c. 8. to c. 13. 2 Sam. 22. 38. to 42. 1 Chron. 17. 8. 10. Esth. 9. 5. Neither doe the Texts of Mat. 5. 39. Luk. 6. 29. But I say unto you, that ye resist not evill, but whosoever shall smite thee on the right cheek; turne to him the other also, and him that taketh away thy cloake, forbid not to take thy coat also; prohibit all actuall resistance of publick violence offered by enemies to our persons, goods, or lawfull defensive warres; which precept (as is cleare by the context, and resolved by ^d Augustine, ^e Gratias, ^f Alensis, and ^g others) extends onely to some private injuries and revenges, and to the inward patient preparation*

^c John 14.
30. c. 12. 31.
c. 16. 11.

^d Gratian.
Caus. 23. Qu.
1.

^e Sum Theolog.
pars. 3. qu. 47.
m. 3. ^f Oslander
Enchirid. c. 9.
^g De Magist.
fol.

preparation of the mind to suffer two injuries, rather than maliciously to revenge a single one, especially in cases where we want ability to resist; not to an actual bearing of all grosse outward injuries to our persons or estates, without resistance: which precept being given generally to all Christians; to Kings and Magistrates as well as Subjects, if it be strictly urged, prohibits Kings and Magistrates to resist the violence and injuries of the people, as much as the people, not to repulse the Armed violence and oppressions of their Princes and Governours: and that Text of *James 5. 6. Ye have condemned and killed the just, and he doth not resist you,* (which some thinke is meant of Christ alone) proves onely, that some just men, and many Martyrs have bene condemned and killed without resistance, as our Savicour was; not that it is unlawfull to resist an open enemy, thefeor murderer, who comes to kill, rob, or plunder us against Law and Conscience. I read of *Saint Andrew*, that when the people ran together in multitudes to rescue him out of the hands of a wicked man, and defend him from the injury of death, he teaching them both by word and example, exhorted them, not to hinder his martyrdom; yet the people lawfully rescued innocent *Ionathan*, from that unjust death which his Father King *Saul* twice vowed he should undergoe: Some mens patient suffering death and injuries without resistance, is no better an argument, that all therefore must so suffer without opposition, then that all men ought to yeeld their purses up to high-way theeves, or their persons, goods, ships, to Turkes and Pyrates, without fight or resistance, because some, yea many have shamefully done it for want of courage when they were able to resist, and so have deservedly lost their purses, shippes, goods, liberties, and become Turkish Gally-slaves, to the ruine of their estates, bodies, soules, which miseries by a manfull just defence, they might have easily prevented. All which considered; I see no ground in Scripture, nor reason, but that temporall enemies of all kindes which wrongfully invade our persons or estates by open force of Armes in a warlike manner, may be resisted with temporall weapons, as well as spirituall enemies with spirituall Armes.

Eighthly, That which all Nations in all ages by the very light of nature have constantly practised, as just and lawfull, must doubtlesse be lawfull in point of conscience, if there be no Law of God to the contrary. But selfe-defence against invading Tyrants and their instruments hath by the very light of Nature bene constantly practised, by all Nations in all ages, as just and lawfull, which the Appendix, the Histories of all ages evidence; there being never any one Nation or Kingdom for ought I finde, that ever yet reputed it a thing unlawfull in point of Conscience; to resist the open malicious destructive tyranny, violence, hostility of their unnaturall Princes, or that desisted from any such resistance, giving themselves up willingly to their outrageous lusts and butcheries, without any opposition (though some private men and Martyres have sometimes done it, upon particular reasons, as to avoid the scandall of Religion; to beare witnesse to the truth, for the confirmation and conversion of others; or for want of power or opportunity to resist; or to avoyd a generall massacre of their fellow Christians, or because they were onely a few private men; and their religion directly opposite to the Lawes and government under which they lived, or the like, not because they judged all resistance simply unlawfull, as blinde Doctors falsely informe us, which I shall prove hereafter;) and there is no Law of God at all to prohibite such resistance: therefore doubtlesse it must be lawfull, even in point of conscience.

Gratian Cause
23. qu. 1. les
Fleurs des vies
des sanctes
part. 2. P. 470.
21 Sam. 14.
15. 38. 10 46.

8.

Rom. 2. 15.
159

Dr. Ferris re-
solving of
Conscience;
An appeal
to thy Con-
science.

9. Ninthly, that which is directly opposite to what is absolutely illegal, and unjust in point of conscience, and the chiefe lawfull obstacle and remedy, to prevent or redresse it, must certainly be just, be lawfull in the court of Conscience, since that which is directly opposite to that which is simply ill, and unjust, must necessarily be good and just. But necessary just defence by force of Armes, is directly opposite to that open Armed violence, and tyranny which is absolutely illegal and unjust in point of Conscience, and the chiefe lawfull remedy and obstacle to prevent or redresse it: as reason, experience and the premises evidence, Therefore it must necessarily be just and lawfull, even in the Court of Conscience.

10. Tenthly, That resistance which doth neither oppose the Kings royal person, nor lawfull Authority; must certainly be lawfull in point of conscience: But the resistance of the Kings Forces not accompanied with his person, in the execution of his unjust commands; is neither a resistance of his Royall person, (for that is absent, and his Cavaliers I hope are no Kings, nor yet invested with the priviledges of Kings; nor yet of his lawfull Authority;) his illegal Commissions and Commands, being meere nullities in Law, transferring no particle of his just Authority to those who execute them. Therefore it must certainly be lawfull in point of conscience.

11. Eleventhly, That resistance which is the onely remedy to keepe not onely Kings themselves, but every one of their Officers and Souldiers from being absolute Tyrants, Monarchs; and the denyall whereof, equalizeth every souldier, and particular Officer to Kings, yea God himselfe (whose prerogative only it is to have an * absolute unresistable wil;) must doubtlesse be lawfull in the Court of Conscience. But this necessary defensive resistance now used by the Parliament and Subjects, is such: For if they may not resist any of the Kings Officers or Souldiers in their plunderings, rapines, fierings, lackings of Townes, beating, wounding, murdering the Kings leige people and the like; will not every common Souldier and Officer be an absolute Tyrant, equall in Monarchie to the great Turke himself, and paramount the King, who hath no absolute irresistable Sovereignty in these particulars? Either therefore this resistance must be granted, not onely as lawfull, but simply necessary, else every officer and common Souldier wil be more than an absolute King and Monarch, every subject worse than a Turkish slave, and exposed to as many uncontrolable Sovereignes, as there are Souldiers in the Kings Army, be their conditions never so vile, their qualitie never so mean, and the greatest Peeres on the Parliaments party, must be irresistably subject to these new absolute Sovereignes lusts and wills.

12. Twelfthly, if all these will not yet satisfie Conscience in the Lawfulnessse, the justnesse of the Parliaments and peoples present forcible resistance of the Kings Captaines and Forces, though Armed with an illegal Commission (which makes nothing at all in the case, because voyd in Law) there is this one Argument yet remaining which will satisfie the most scrupulous, malignant, opposite Conscience: That necessary forcible resistance which is Authorized, and Commanded by the Supreamest lawfull power and highest Sovereigne Authority in the Realme, must infallibly be just and lawfull, even in point of Conscience, by the expresse Resolution of Rom. 13. and our opposites owne confession; *who have^k no other Argument to prove the Offensive warre on the Kings part Lawfull, but because it is commanded; and the Parliaments and Subjects Defensive Armes Unlawfull, but because prohibited by the King, whom they falsly affirm, to be the highest Sovereigne power in the Kingdome, above the Parliaments*

* See Doctor Fernes Ap-
peale to thy
Consciences
The Grand
Rebellion; The
Necessity of
Christian
Subjection,
and others.

and whole Realme collectively considered. But this resistance of the Kings Popish malignant, invading Forces; is Authoriz'd and Commanded by the expresse Votes and Ordinances of both Houses of Parliament, which I have already undeniably manifested, to be the Supreamest Lawfull Power, and Sovereignest Authority in the Realme, Paramount the King himselve, who is but the Parliaments and Kingdomes Publicke Royall Servant for their good: therefore this Resistance must infallibly be just and Lawfull, even in Point of Conscience.

Thus much for the Lawfulness in Court of Conscience of resisting the Kings unjustly assaulting Forces, armed with his Commission: I now proceede to the justnesse of opposing them by way of forcible resistance when accompanied with his personall presence.

That the Kings Army of Papists and Malignants, invading the Parliaments or Subjects persons, goods, Lawes, Liberties, Religion, may even in Conscience bee justly resisted with force, though accompanied with his person, seemes most apparently cleare to me, not only by the preceeding Reasons, but also by many expresse Authorities recorded, and approved in Scripture, not commonly taken notice of: as,

First, By the ancientest precedent of a defensive warre that we read of in the world, *Gen. 14. 1. to 24.* where the five Kings of *Sodom, Gomorrah, Admah, Zeboim, and Zoar*, rebelling against *Chedorlaomer* King of Nations, after they had served him twelve yeeres, defended themselves by armes and battle against his assaults, and the Kings joyned with him: who discomfiting these five Kings, pillaging *Sodom* and *Gomorrah*, and taking *Lot*, and his goods along with them as a prey: hereupon *Abraham himselve, the Father of the faithfull*, in defence of his Nephew *Lot*, to rescue him and his substance from the enemy, taking with him 318. trained men of his owne family, pursued *Chedorlaomer*, and the Kings with him, to *Dan*, assaulted them in the night, smote and pursued them unto *Hoba*, regained all the goods and prisoners, with his Nephew *Lot*, and restored both goods and persons freely to the King of *Sodom*, thereby justifying his and his peoples forcible defence, against their invading enemies, in the behalfe of his captivated plundred Nephew and Neighbors.

Secondly, by the Example of the Israelites, who were not onely King *Pharaoh* his Subjects but Bondmen too, as is evident by *Exod. ch. 1. to 12. Deut. 6. 21. c. 7. 8. c. 15. 15. c. 16. 12. c. 24. 18. 22. Ezra. 9. 9.* Now *Moses* and *Aaron* being sent by God to deliver them from their *Egyptian* bondage, after 430. yeares captivity, under colour of demanding but three dayes liberty to goe into the wilderness to serve the Lord, and *Pharaoh*, (notwithstanding all Gods Miracles and Plagues,) refusing still to let them depart, till enforced to it by the slaughter of the *Egyptians* first borne; as soone as the *Israelites* were marching away, *Pharaoh* and the *Egyptians*, repenting of their departure, pursued them with their Chariots and Horses, and a great army even to the red Sea, to reduce them; hereupon the *Israelites* being astonished and murmuring against *Moses*, giving themselves all for dead men; *Moses sayd unto the people feare ye not, stand still, and see the Salvation of the Lord, which he will shew to you this day: for the Egyptians whom you have seene to day, ye shall see them againe no more for ever, the Lord shall fight for you, &c. And hereupon God himselve discomfised, routed, and drowned them all in the red Sea:* I would demaund in this case, whether the *Israelites* might not here lawfully (for their owne redemption from unjust bondage) have fought against and resisted their Lord, King *Pharaoh*, and his invading Host, accom-

panied with his presence, had they had power and hearts to doe it, as well as God himselfe, who fought against and destroyed them on their behalfe; If so, (as all men I thinke must grant, unlesse they will censure God himselfe) then a defensive warre in respect of life and liberty onely, is just and Lawfull even in conscience, by this most memorable story.

37 Thirdly, by that example recorded *Judges 3. 8. 9. 10.* where God growing angry with the *Israelites* for their Apostacie and Idolatry, sold them (here was a divine title) into the hands of *Cushan-Rishathaim* King of *Mesopotamia*, and the children of *Israel* served him 8. yeeres. Here was a lawfull title by conquest and 8 yeeres submission seconding it. But when the children of *Israel* cryed unto the Lord, the Lord raised up a deliverer to them even *Othniel*, the sonne of *Kenaz*: and the Spirit of the Lord came upon him, and he went out to warre, and the Lord delivered *Cushan-rishathaim* King of *Mesopotamia* into his hands, and his hand prevailed against him, so the land had rest 40. yeeres. Loe here a just defensive warre approved and raised up by God and his Spirit (in an ordinary manner only, as I take it, by encouraging the Instruments) wherein a conquering King, for Redemption of former libertics, is not onely resisted but conquered, taken prisoner, and his former dominion abrogated, by those that served him, as conquered subjects.

4. Fourthly, by the example of *Ehud*, and the *Israelites*, *Judges* chap. 3. 11. to 31. where we finde, God himselfe strengthening *Eglon* King of *Moab* against the *Israelites* for their sinnes, who thereupon gathering an Army smote *Israel*, possessed their Cities, so as the *Israelites* served this King 18. yeeres. Here was a title by conquest, approved by God, submitted to by the *Israelites*: yet after all this, when the children of *Israel* cryed unto the Lord, he raised them up a deliverer, namely *Ehud*, who stabbing *Eglon* the King in the belly, under pretext of private conference with him, and escaping; he thereupon blew the trumpet, commanded the *Israelites* to follow him to the warre, slew ten thousand valiant men of *Moab*, which he subdued, and procured rest to his Country 40. yeeres. God, his Spirit, Word, approving this his action.

5. Fifthly, by the example of *Barack* and *Deborah*, *Judges* ch: 4. and 5. Where God selling the children of *Israel* for their sinnes into the hand of *Jabin* King of *Canaan*, and his Captaine *Sisera*, for 20. yeeres space, during which he mightily oppressed them, hereupon *Barack*, at the instigation of the Prophetesse *Deborah*, by the command of the Lord God of *Israel*, gathered an Army of ten thousand men; which *Sisera*, and the King of *Canaan* hearing of, assembled all their Chariots and Army together, at the River of *Kisbon*, where the Lord discomfited *Sisera* and all his Host, with the edge of the sword before *Barack* his Army, and subdued *Jabin* the King of *Canaan*, before the children of *Israel*: which warre is by a speciall Song of *Deborah* and *Barack* highly extolled, and God in it, as most just and honorable: and this curse denounced against those that refused to assist in it, *Judges 4. 23.* Curse ye *Meroz*. (saith the Angel of the Lord) curse ye bitterly the inhabitants thereof, because they came not out to the helpe of the Lord, to the helpe of the Lord, against the mighty; with this Corollary; so let all thine enemies perish O Lord: but let them that love thee be as the sunne when it goeth forth in his might. What more can conscience desire to justify the lawfulness of a just defensive warre?

6. Sixthly, by the Example of *Gideon* and the *Israelites*, *Judges* c. 6. Who being delivered

livered by God into the hands of the Prince of *Midian* for seven yeares, *Gideon* by speciall encouragement and direction from God himselfe, with a poore despicable Army of 300. men, defeated the great Hoast of the *Midianites*, and tooke and slew their Princes. By these 4 last pregnant presidents, it is most evident, that a forraigne King who hath gained a Title onely by conquest (though with divine concurrence, by way of punishment for that peoples sinne) may lawfully be resisted, repulsed, even after some yeares forced subjection and submission to him, by the people conquered, to regaine their former liberties.

Seventhly, by the precedent of *Abimelech* King of *Shechem*, who being elected King by the voluntary assents of the people, God afterwards sending an evill spirit of division between *Abimelech* and the men of *Shechem*; thereupon they revolted from him, and chusing *Gael* for their Captaine, fortified the City against him; and when *Abimelech* came with an Army to take in the Towne, they in their defence, went forth and fought with him; resisted his seige; and they of the Tower of *Shechem* standing upon their guard refused to surrender it after the Towne was surpris'd, and so were burnt. After which comming too neare the wals, at the Tower of *Thebez* assaulted by *Abimelech* he had his braines and head so bruised with the peece of a millstone cast downe upon him by a woman, that he called hastily to his Armour-bearer, and said unto him, draw thy sword and slay me, that men say not of me; a woman slew him; whereupon he thrust him through, that he dyed: and so every man departed to his place. Thus God rendred the wickednesse of *Abimelech*, and all the evill of the men of *Shechem* upon their own heads, *Judges* 9. So the Text.

Eighthly, by the example of *Iepthab*, who after that God had sold the *Israelites* for their Idolatry into the hands of the children of *Ammon* 18. yeeres space, *Iepthab* being made head and Captaine by the Elders and people of *Gilead*, first argued the case with the King of *Ammon* touching the unjustnesse of his warre upon them, desiring God to be Iudge betweene them; and then by Gods assistance, smote and subdued the *Ammonites* and their Cities, *Judg.* c. 11. And so cast off their yoake.

Ninthly, By the practise of *Sampson*, who after God had delivered the *Israelites* into the hands of the *Philistines* who ruled over them forty yeares space, did by Gods extraordinary assistance oft encounter, slay and resist the *Philistines*, rescuing the oppressed *Israelites* from their vassalage; and at his death slew more of them then in his life, *Judg.* c. 13. to 17. which deliverance was afterwards perfected by *Samuel*, 1 *Sam* 7. and approved, nay, wrought by God.

Tenthly, by the Example of *David*, who being persecuted by fedifragous dissembling King *Saul* his father-in-law (a notable patterne of the inconstancie and invaliditie of Kings solemnest oathes and Protestations:) who contrary to many solemne vowes and feigned reconciliations, sought unjustly to deprive him of his life; thereupon *David* retired from the Court, entertained a guard of foure hundred men, and became a Captaine over them. 1 *Sam.* 22. 2. After which *Abiathar* escaping to him from *Nob* when the Priests there were slaine by *Doeg*, upon *Sauls* command, for *Dauids* sake, *David* used these words to him. *Abide thou with me, feare not, for he that seeketh thy life seeketh my life, but with mee thou shalt be in safeguard.* 1 *Sam.* 22. 23. Soone after the *Philistines* beseiging *Keilah*, *David* by Gods encouragement, smote them and saved *Keilah*; intending there to secure himselfe and his men: which *Saul* hearing of, said; *God hath delivered him into my hands, for he is soun in by entering into is*

Towne which hath gates and barres, whereupon he called all the people together to besiege David and his men: (which he needed not doe, did he or any else beleve, that they would not, ought not to have made any forcible resistance:) David informed hereof; enquired seriously of God, whether Saul would certainly come downe? and demanded twice of him: *will the men of Keilah deliver me and my men up into his hand?* And the Lord said, *they will deliver thee up.* Had not David and his men resolved to fortifie and defend themselves there, if the men of Keilah would have beene faithfull to them, and beleved they might have resisted Saul with his Forces, certainly he would never have presumed to aske such a question twice together of God himselfe, to receive his resolution therein, neither would God have vouchsafed an answer thereto: but his double inquirie, and Gods resolution, infallibly demonstrate his intention to resist, and the lawfulness of his defensive resistance, would the Keilites have adhered to him. This the very next words fully cleare, *1 Sam. 23. 13. Then David and his men, about six hundred arose, and departed out of Keilah, and went wheresoever they could goe, and it was told Saul, that David was escaped from Keilah:* Gods prediction of the Keilites treachery was the onely cause of their departure thence, where they had resolved to defend themselves, of which hope being disappointed beyond expectation, they went whithersoever they could goe. After which David and his men being but few in number, not able in humane probability, without tempting God, to encounter Sauls great Forces, retired themselves into woods, mountaines, rockes, strong holds, wildernesses; where Saul pursuing them, they still declined him: but had he and his army ever assaulted them, no doubt they would and might lawfully have defended themselves, else why did they joyn themselves in a body? why retire to strong holds, and places of advantage? why * twice urge David to kill Saul in cold blood, when he did not actually assault him, but came casually unawares within his danger? Why did David himselfe say, even when he spared his life when he was a sleepe, *1 Sam. 26. 10. As the Lord liveth, the Lord shall smite him, or his day shall come to dye, or he shall descend into battell and perish?* but that if he had given him battle, he might have defended himselfe against him, though Saul should casually or wilfully perish in the fight? And why was David so importunate to goe up against him with King Achish to the battle wherein he perished, *1 Sam. 29.* were resistance of him, in case he assaulted him, and his Forces, utterly unlawful? This precedent of David then, if rightly weighed, is very punctuall, to prove the justnesse of a defensive warre, (of which more anon) and no evidence at all against it.

* 1 Sam. 23. 13
to 29. c. 24. 1.
to 20. &c. 26.

II.

Eleventhly, by the practise of the 10. Tribes: who after their revolt from Rehoboam for giving them an harsh indiscreet answer to their just demands, setting up another King and Kingdome, even by divine approbation; Rehoboam thereupon raising a great Army to fight against and reduce them to his obedience; God himselfe by Semiah the Prophet, sent this expresse inhibition to Rehoboam and his Army: *Thus saith the Lord, ye shall not go up, nor fight against your brethren: returne every man to his house, FOR THIS IS DONE OF ME: Whereupon they obeyed the Word of the Lord and returned:* *1 Kings 12. 2 Chron. c. 10. and 11.* After which long warres continued betwene these Kingdomes by reason of this revolt, wherein the ten Tribes and Kings of Israel still defended themselves with open force, and that justly, as the Scripture intimates *2 Chron. 12. 14. 15.* though that Jeroboam and the Israelites falling to Idolatry, were afterwards (for their Idolatry, not revolt) defeated by Abiah and the men of Judah, who relied upon God, *2 Chron. 13.*

Twelfth-

Twelfthly, by the example of the King of *Moab* and his people, who Rebelling against *Iehoram* King of *Israel*, and refusing to pay the annuall Tribute of Lambes and Rammes, formerly rendred to him; hereupon *Iehoram*, *Iehoshaphat*, and the King of *Edom*, raising a great Army to invade them, the *Moabites* hearing of it, gathered all that were able to put on Armour, and upward, and stood in the border to resist them. 2 *King*. 3. 4. to 27. And by the practise of the *Edmites*, who revolting from under the hand of *Iudab*, made a King over themselves: Whereupon *Ioram* King of *Iud* going up with his Forces against them to *Zair*, they encompassed him, in their owne defence; and though they fled into their Tents, yet they revolted from *Iudab* till this day, and *Libnah* too, 2 *Kings* 8. 20 21. 22.

12.

Thirteenthly, by the example of *Samaria*, which held out 3. yeeres siege against *Salsmander* King of *Assyria*, notwithstanding their King *Hoshea* had by force submitted himselfe and his Kingdome to him, and became his servant. 2 *Kings* 17. 3. to 10. c. 18. 9. 10.

13.

Fourteenthly, by the practise of godly *Hezechiah*, who after the Lord was with him and prospered him whithersoever he went, REBELLED against the King of *Assyria*, and served him not (as some of his predecessors had done) 2 *Kings* 18. 7. whereupon the King of *Assyria*, and his Captaines comming up against him with great Forces, and invading his Country, he not only fortified his Cities, and encouraged his people manfully to withstand them to the uttermost, but actually resisted the *Assyrians* even by divine direction and encouragement; and upon his prayer, God himselfe by his Angel for his and *Jerusalem*s preservation, miraculously slew in the Campe of the King of *Assyria* in one night, an hundred fourescore and five thousand mighty men of valour, Captaines and Leaders; so as he returned with shame of face to his owne Land, 2 *King*. c. 18. and 19. 2 *Chron*. c. 32. *Isay* c. 36. and 37. An Example doubtlesse lawfull beyond exception, ratified by God himselfe and his Angel too.

14.

Fifteenthly, by the examples of King *Iehoiakim*, and *Iehoiakin*, who successively rebelling against the King of *Babylon* who subdued and put them to a tribute, did likewise successively defend themselves against his invasions, seiges though with ill success, by reason of their grosse Idolatries and other sins, (not of this their revolt and defence to regaine their freedoms, condemned only in *Zerubba*, for breach of his oath;) whereby they provoked God to give them up to the will of their enemies, and to remove them out of his sight, 2 *King*. c. 24. & 25. 2 *Chr*. 36. *Ier*. c. 37. & 38 & 39.

15.

Finally, by the History of the *Maccabees* and whole state of the *Jews* defensive wars under them, which though but Apochryphall in regard of the compiler, yet no doubt they had a divine Spirit concurring with them in respect of the managing and Actors in them. I shall give you the summe thereof, very succinctly. *Antiochus Epiphanes* conquering *Terusalem*, spoiled it and the Temple, set up Heathenish customes and Idolatry in it, subverted Gods worship, destroyed the Bookes of Gods Law, forced the people to forsake God, to sacrifice to Idols, slew and persecuted all that opposed, and exercised all manner of Tyranny against them. Hereupon *Mattathias* a Priest and his Sonnes, moved with a godly zeale, refusing to obey the Kings Command in falling away from the Religion of his Fathers, slew a Jew that sacrificed to an Idoll in his presence, together with the Kings Commissary, who compelled men to sacrifice, and pulled downe their Idolatrous Altar, which done they fled into the mountains, whither all the well-affected *Jewes* repaired to them. Whereupon the

* 2 *Chron*.
36. 13. *Ezek*.
17. 16. 18. 19.

Kings

Kings Forces hearing the premises pursued them, and warred against them on the Sabbath day; whereupon they out of an over-nice superstition, least they should profane the Sabbath by fighting on it when assaulted, answered them not, neither cast a stone at them, nor stopped the places where they were hid, but said, let us dye all in our innocencie; heaven and earth shall testifie for us, that you put us to death wrongfully, whereupon they slew both them, their wives, and children, without resistance, to the number of a thousand persons. Which *Matathias* and the rest of their friends hearing of, mourned for them right sore, and said one to another (marke their speech) if we all doe as our brethren have done, and fight not for our lives, and Lawes against the Heathen, they will now quickly roote us out of the earth; therefore they decreed, saying; whosoever shall come to make battle with us on the Sabbath day, we will fight against him, neither will we doe all as our brethren, that were murdered in their secret places. Whereupon they presently gathered and united their Forces, assaulted their enemies, recovered their Cities, Lawes, Liberties; defended themselves manfully, and fought many battles with good successe against the severall kings who invaded and layd claime to their Country, as you may reade at large in the bookes of Maccabees. All these examples, (most of them managed by the most pious, religious persons of those dayes, prescribed and assisted by God himselfe, whose Spirit specially encouraged, strengthened the hands and Spirits of the undertakers of them (as *P. Osander* well observes,) and therefore cannot be condemned as unjust, without blasphemy and impiety;) in my opinion are a most cleare demonstration of the lawfulnessse of a defensive warre (in point of Divinity and Conscience) against Kings and their Armies who wrongfully invade or assault their Subjects, though themselves be personally present in their armies, to countenance their unlawfull warres; and likewise evidence, that a Royall title gotten forcibly by conquest onely, though continued sundry yeares, is not so valid in point of conscience, but that it may be safely questioned, yea rejected; there being no true lawfull Title of Sovereignty over any people, but that which originally depends upon their owne free election, and unconstrained subjection simply considered, or which is subsequently seconded therewith after a possession got by force or conquest.

Now that the kings personall presence cannot justify the unjust actions, or protect the persons of those that assist him in any unlawfull action contrary to the Lawes of God, or the Realme, is a truth so evident, that it needes no prooffe, it being no part of the kings Royall prerogative or Office, but diametrically repugnant to it, either to doe injury himselfe, or to authorize, or protect others in committing it, as I have elsewhere proved at large. Therefore it can administer no patronage nor defence at all to those who accompany his person in the unjust invasions of his Subjects, nor disable them to defend or repulse their unjust assaults and rapines. For suppose a King should so farre degenerate and dishonour himselfe, as personally to accompany a packe of cheeves who should rob his subjects on the high way, break up their houses in the night, or practise Piracie on the Sea, or commit Rapes or murders on his people every where; I thinke no man so voyd of Reason, Law, Conscience, but would readily grant, that the Subjects in all these cases might lawfully defend themselves by force against these Robbers, Theeves, Murthurers, notwithstanding the Kings presence or association with them, whose personall Prerogatives, and immunity from assaults or violence being incommunicable, underivable to any other, and peculiar to himself alone, he can transfer

1 Mac. 2. 32.
10. 42.

Enchirid.
Controvers. c.
9. De Magi-
strat. Polit.

transfere no such protection to others who accompany him in their injurious practices; and that these Acts of theirs are direct felonie and murder, for which they might be justly apprehended, condemned, executed, though thus countenanced by the Kings owne presence. And if this be truth (as our Law-bookes resolve, and the Scripture to in places forecited) the kings presence can no more deprive the subjects of their necessary just defence against his Popish Forces assaults, nor justify their proceedings, or the present unjust offensive warre, then in the former cases, there being the selfe-same reason in both; warres being in truth, but greater and more detestable Murders, and Robberies, when they are unjust, as ^q Cyprian, ^r Augustine, with ^r others rightly define.

Thirdly, personall unjust assaults and violence even of Kings themselves may in some cases lawfully be resisted by subjects; This Doctor Ferne himselfe acknowledgeth, *Sect. 2. p. 9. Personall defence is lawfull against the sudden (much more then against the premeditated) and illegall assaults of such Messengers of the King; yea, OF THE PRINCE HIMSELFE THUS FARRE, to ward his blowes, to hold his hands and the like: not to endanger his person, not to returne blowes; no: for though it be naturall to defend a mans selfe, yet the whole common-wealth is concerned in his person: the king therefore himselfe, (much more in his Cavalliers) may thus farre at least safely be resisted in point of conscience. And that he may be so indeed is manifest by two pregnant Scripture examples, The first is that of King Saul, 1 Sam. 14. 38. to 46. where Ionathan and his Armour-bearer, routing the Philistines whole Army, violated his Father Sauls command, of which he was wholly ignorant in taking a little honey one the end of his sticke in the pursuite; hereupon king Saul, most rashly and unjustly vowed twice one after another, to put him to death: whereupon the people much discontented with this injustice, were so farre from submitting to the Kings pleasure in it, that they presently said to the king: *shall Jonathan dye, who hath wrought so great Salvation in Israel? God forbid: As the Lord liveth there shall not one haire of his head fall to the ground, So the people RESCUED JONATHAN that he dyed not*; though he were not onely King Sauls Subject, but Sonne too. In deepe it appears not in the Text, that Saul offered any violence to Ionathans person, or the people to Sauls: and it may be the peoples peremptory vow and unanimous resolution to defend Jonathan, from this unjust sentence of death against him, made Saul desist from his vowed bloody intendment: but the word *rescued*, with other circumstances in the story, seeme to intimate, that Ionathan was in hold to be put to death, and that the people forcibly rescued him, out of the executioners hands. However, certainly their vow and speeches declare, that if Saul himselfe or any other by his command had assaulted Ionathan to take away his life, they * would have forcibly resisted them and preserved his life, though with lesse of their owne, beleeving they might lawfully doe it, else they would not have made this resolute vow; nor could they have performed it, had Saul wilfully proceeded, but by a forcible rescue and resistance of his personall violence. The other is that of king Uzziab, 2 Chron. 27. 16. to 22. who presumptuously going into the Temple against Gods Law, to burne incense on the Altar, Azariah the high Priest, and with him fourescore Priests of the Lord, that were valiant men went in after him, and WITHSTOOD (or resisted) Uzziab the king; and said unto him; *It appertaineth not unto thee Uzziab to burne incense unto the Lord, but to the Priests the sonnes of Aaron, that are consecrated to burne**

q Epist. l. 2.
Ep. 2. Donato.
De Civ. Dei.
l. 4. c. 4.
r Osiander;
Enchirid. Cont
c. 9: De Po-
lit. Magistr. qu.
3. p. 203. Ab-
ber. Gentilis de
Iure Belli. l. 7.
c. 5. Hugo
Grotius, de Tu-
re Belli l. 2. c.
1. S. 2.

* Josephus
Antiq. Jude
l. 4. c. 8, p. 104

incense: goe out of the Sanctuary for thou hast trespassed, neither shall i be for thine honour from the Lord God. Then Vzziah was wroth, and had a censor in his hand to burne incense, and whiles he was wroth with the Priests, the Leprosie rose up in his forehead: And Azariah, and all the Priests looked upon him, and behold he was Leprous in his forehead: **AND THEY THRUST HIM OVT FROM THENCE**; yea himselfe hasted also to goe out, because the Lord had smitten him. If then these Priests thus actually resisted king Vzziah in this sinfull Act, thrusting him perforce out of the Temple when he would but offer incense; much more might they, would they have done it, had he violently assaulted their persons. If any king shall unjustly assault the persons of any private Subjects, men or women, to violate their lives or chastities (over which they have no power) I make no doubt, that they may and ought to be resisted, repulsed, even in point of conscience, but not slaine; though many kings have lost their lives, upon such occasions: as ^rRodoaldus the 8. king of *Lumbardey Anno 659.* being taken in the very act of adultery by the adulteresses husband, was slaine by him without delay; and how kings attempting to murder private Subjects unjustly, have themselves beene sometimes wounded, and casuallly slaine, is so rife in stories, that I shall forbear examples: concluding this with the words of ^rIosephus, who expressly writes. That the king of the Israelites (by Gods expresse Law, *Deut. 17.*) was to doe nothing without the consent of the high Priest and Senate, nor to multiply money and horses over much, which might easily make him a contemner of the Lawes; and if he addicted himselfe to these things more than was fitting. **HE WAS TO BE RESISTED**, least he became more powerfull then was expedient for their affaires.

To these Authorities, I shall onely subjoyne these 5. undeniable arguments to justify Subjects necessary defensive wars, to be lawful in point of conscience against the persons and Forces of their injuriously invading Sovereignes.

First, it is granted by all as a truth irrefragable, that kings by Force of Armes may justly with safe conscience, resist, repulse, suppress the unlawfull warlike invasive assaults, the Rebellious armed Insurrections of their Subjects, upon the se two grounds, because they are ^aunlawfull by the Edicts of God and man, and because kings in such cases, have no other means left to preserve their Royall persons, and just authoritie against offensive armed Rebellions, but offensive armes: Therefore Subjects by the selfe-same grounds, may justly with safe consciences resist, repulse, suppress the unjust assailing military Forces of their kings in the case fore-stated, though the king himselfe be personally present and assistant, because ^asuch a war is unlawfull by the resolution of God and man, and against the oath, the duty of kings: and because the subjects in such cases have no other means left to preserve their persons, lives, liberties, estates, religion, established government from certaine ruin, but defensive Armes. There is the selfesame reason in both cases, being relatives, therefore the selfesame Law and Conscience in both.

Secondly, It must be admitted without debate; that this office of highest and greatest trust, hath a condition in Law annexed to it (by *Littletons* owne resolution) to wit, *that the King shall well and truly preserve the Realme, and do that which to such Office belongeth*; which condition our king by an expresse oath to all his people solemnly taken at their Coronation, with other Articles expressed in their oath (formerly recited) is really bound both in Law and Conscience exactly to performe, being admitted

^rPhilip. de
Melanct. Chr.
l. 4. De Beardis
Theatre of
Gods Judgements. l. 2. c.
29. p. 400.

^rNumb. 16.
Rom. 13. 1. to
6. 1 Pet. 2.
13. 14.

^rEsay 14. 19.
to 23. Ezech. 1.
44. 15. 16. 17.
Zech. 11. 4. 5
1 King. 25.
2 King. 24. 4.

^rEstates upon
Credit. 1.
Sect. 378.
379.
^rPart. 1. p.
11. to 74.

ted and elected king by the peoples suffrages upon solemne promise, to observe the same condition to the uttermost of his power, as I have elsewhere cleared. Now it is a cleare case resolved by ^c *Marius Salamonius*, confirmed at large by *Rebuffus* by 12. unanswerable reasons, the Authorities of sundry Civill Lawyers, and Canonists quoted by him.; agreed by ^d *Albericus Gentilis*, and *Hugo Grotius*, who both largely dispute it; *That Kings as well as Subjects are really bound to performe their Covenants, Contracts, Conditions, especially those they make to all their Subjects, and ratifie with an Oath; since God himselfe who is most absolute, is yet most firmly obliged by his Oathes and Covenants made to his despicable vile creatures, sinfull men; and never violates them in the least degree.* If then these conditions and Oathes be firme and obligatory to our kings; if they will obstinately breake them, by violating their Subjects Lawes, Liberties, Properties, and making actuall warre upon them; the condition and Oath too would be meereley voyde, ridiculous, absurd, an high taking of the Name of God in vaine, yea a plaine delusion of the people, if the whole State or people in their owne defence might not justly take up Armes, to resist their kings and their malignant Forces in these perfidious violations of trust, conditions, oaths; and force them to make good their oaths and covenants, when no other meanes will induce them to it. Even as the Subjects oath of homage and allegiance would be meereley frivolous, if kings had no meanes nor coercive power to cause them to observe these oathes, when they are apparently broken: and many whole kingdomes had been much overseene in point of Politie, or prudence, in prescribing such conditions and oaths unto their kings, had they reserved no lawfull power at all which they might lawfully exercise in point of conscience, to see them really performed, and duely redressed, when notoriously transgressed, through wilfulnesse, negligence, or ill pernicious advice.

Thirdly, when any common or publick trust is committed to three or more, though of subordinate and different quality, if the trust be either violated or betrayed, the inferiour trustees, may and ought in point of Conscience to resist the other. For instance; if the custody of a City or Cattle be committed to a Captaine, Lieutenant, and common Souldiers: or of a ship to the Master, Captaine, and ordinary Mariners: If the Captaine or Master will betray the City, Castle, or ship to the enemy or Pirates; or dismantle the City wals and fortifications to expose it unto danger, or will wilfully run the ship against a rocke to split, wrecke it, and indanger all their lives, freedoms, contrary to the trust reposed in them; or fire or blow up the City, Fort, ship: not onely the Lieutenant, Masters Mate, and other inferiour Officers, though subject to their commands, but even the Common Souldiers and Marriners may withstand and forcibly resist them, and are bound in Conscience so to doe, because else they should betray their trust, and destroy the City, Fort, ship, and themselves too, which they are bound by duty and compact to preserve. This case of Law and conscience is so cleare, so common in daily experience that no man doubts it: The care and safety of our Realme by the originall politicke constitution of it, alwayes hath bene and now is, committed joyntly to the king, the Lords, and Commons in Parliament, by the unanimous consent of the whole kingdome. The king the supream member of it, contrary to the trust and duty reposed in him, through the advise of evill Councillors wilfully betrays the trust and safety of this great City and ship of the Republicke; invades the inferiour Commanders, Souldiours, Citizens, with an Army: assaults, wounds, slayes, spoyles, plunders, sackes, imprisons his fellow trustees, Souldiers,

^a Part. 1 p. 51
^b De Princip.
 l. 1. 2. 3. 6.
^c Prefat. ad
 Rub. de colla-
 tionibus, p.
 583 584.
^d De Jure Belli.
 l. 2. c. 12, 13, 1.
 3 c. 14, 15, 16
^e De Jure Belli
 et Pacis l. 2.
 c. 11, 12, 13.
 24.
^f Gen. 9. 9. 16
 c. 17. 13.
 Pl. 89. 28. 34.
 Pl. 105 10.
 Pl. 111. 9.
 Esay 55. 3.
 Esay 33. 20.
 21. Iosh. 21.
 45. c. 23. 14.
 Heb 6. 17. 18
^g Grotius De
 Jure Belli l. 2.
 c. 4. Sect. 3.

* *Caus. 23. quest. 8. Suri. concil. Tom. 3 p. 520.* Marriners, Citizens, undermines the walls, fires the City, ship, delivers it up to theeves, Pyrates, murderers, as a common prey, and wilfully runnes this ship upon a rocke of ruin. If the Lords and Commons joyntly intrusted with him, should not in this case by force of Armes resist him, and his unnaturall instruments, (there being no other meanes else of safety left them) they should sinfully and wilfully betray their trust, and be so farre from keeping a good Christian Conscience in not resisting by force, that they should highly sinne against Conscience, against their trust and duty, against their naturall Country, yea and their very Allegiance to the king himselfe, by encouraging him in, and consenting unto these proceedings, which would make him not to be a king, but Tyrant, and destroy him as a king, in the spoyle and ruine of his Kingdome, thereby endangered to be consumed) and tempt God himselfe: as *Pope Nicholas*, and * *Gratian* resolve in these words. *If there be no necessity we ought at all times to abstaine from warres, but if inevitable necessity urge us, we ought not to abstaine from warres, and warlike preparations for the defence of our selves, of our Country, and paternall Lawes, no not in Lent, least man should seeme to tempt God, if when he hath meanes, he provide not for his owne and others safety, and prevents not the Detriments of holy religion.*

Fourthly, those injuries which Allies and other neighbour States or Princes may with good Conscience repulse with Armes from Subjects wrongfully oppressed, invaded tyrannically by their Sovereignes, or their wicked Instruments, at, or without the Subjects intreaty, when they are unable to relieve themselves; no doubt the Subjects themselves, if able, may with better reason, and as good Conscience resist and repell; because every man is nearer, and more obliged to defend and preserve himselfe and those of his owne Nation, Religion, blood, then strangers are, and may with lesse publick danger, inconvenience, and more speede effect it, then Forraigners: but Allies and Forraigne Neighbour States and Princes, as * *Gratian* (out of the 5. Councill of Carthage; *Augustine*, *Ambrose*, *Hierom*, *Anastatinus*, *Cicistinus* and other) y *Albericus Gentilis*, *John Bodin*, *Hugo Grotius*, and Generally all *Canonists*, *Casuists*, *Schoolemen* accord, may in many cases with good conscience, by force of Arms repulse from Subjects wrongfully oppressed, invaded, and tyrannically abused, the injuries offered them by their Sovereignes; and that either at, and in some cases without the Subjects intreaty: Which they prove by *Moses* his slaying the *Egyptian* that oppressed the *Hebrew*, *Exod. 2. 11. to 15.* by *Joshua* his ayding of the *Gibeonites* against the five Kings that made war against them, *Josh. 10.* by the example of *Jehoshaphat*, *1 Kin. 22.* *2 Kings 3.* Of the chiefe Captaines securing *Paul* with a gard of Souldiers against the *Jews* who had vowed his death, *Acts 23.* by *Abrahams* rescuing *Lot*, *Gen. 14.* by sundry ancient and late Examples in story. Therefore Subjects themselves no doubt if able, may with good reason and conscience, lawfully resist, and repell their Princes invading Forces, though accompanied, assisted with his personall presence.

Fifthly, It is yielded by all Divines, Lawyers, Canonists, Schoolemen; as *Gratian*, *Barrus*, *Soto*, *Lessius*, *Valquius*, *Covaruvius*, *Aquinas*, *Sylvester*, *Bartolus*, *Baldus*, *Navarre*, *Albericus Gentilis*, *Grotius* and others, that private men by the Law of God, and nature, may in defence of their lives, chastities, principall members, and estates, lawfully resist all those who forcibly assault them, to deprive them thereof; yea and slay them too, unless they be publicke persons of eminentie, by whose slaughter the Commonweale should sustaine much pre-judice, whose lives in such

cases

cases must not be willingly hazzarded, though their violence be resisted: which is cleerly proved by *Judges* 11. 8. 15. to 18. *I Sam.* 17. 41. to 53. *Deut.* 22. 26. 27. since therefore all these are apparently indangered by an invasive warre and Army, more then by any private assaults; and no ayde, no assistance or protection against the losse of life, chastic, estate, and other violences, injuries which accompany wars can be expected from the Lawes, or Prince himself (the fountaine of this injustice,) or legall punishments inflicted on the malefactors, whose armed power being above the reach of common justice, and injuries countenanced, abetted, authorized by the Sovereigne who should avenge and punish them, every subject in particular, and the whole state in Parliament assembled in generall, may and ought in point of conscience joyntly and severally to defend themselves, their neighbours, brethren, but especially their native Countrey, Kingdome, whose generall safety is to be preferred before the lives of any particular persons, how great or considerable soever, which may be casuallly hazzarded by their owne wilfulnesse, though not purposely endangered or cut off in the defensive incounter, by those who make resistance. And if (according to *9 Cajetan* and other Schoolemen,) Innocents which onely casuallly hinder ones flight from a mortall enemy may be lawfully with good conscience slaine by the party pursued, in case where he cannot else possibly escape the losse of his owne life, because every mans owne life is dearer to him then anothers, which he here takes away onely to preserve his owne life, without any malicious murtherous intent, though others doubt of this case: or if innocent persons set perforce in the front of unjust assailants (as by the Cavalleires at *Brainford* and elsewhere,) to prevent defence, and wrong others with more securitie and lesse resistance, may casuallly be slaine, (though not intentionally) by the defensive party (as I thinke they may) for prevention of greater danger and the publicke safety; then certainly those of publicke place and Note; who wilfully and unnaturally set themselves to ruine their Country, Liberty, Religion, Innocent brethren (who onely act the defensive part,) and voluntarily intrude themselves into danger, may questionlesse with safe conscience be resisted, repulsed: in which if they casuallly chance to lose their lives without any malice or ill intention in the defendants, it being onely through their owne default, such a casuall accident when it happens, or the remote possibility of it in the combat before it begins, cannot make the resistance either unjust or unlawfull in point of conscience; for then such a possibility of danger to a publike person should make all resistance unlawfull, deprive the Republicke wholly of this onely remedy against tyrannicall violence, and expose the whole common-weale to ruine, whose weale and safety, is to be preferred before the life or safety of any one member of it whatsoever.

92. 2. Ar. 6. 7.
92. Card. 90.
33. li. 1. Pet. 7.
Nau. 1. 11. c.
3. n. 147. Gio-
tius. de Jure
Bell. l. 2. c. 1.
Sec. 4.

See the Re-
 lation of
Brainford.

Having thus at large evinced the lawfulness of Subjects necessary forcible resistance, & defensive wars against the unjust offensive Forces of their Sovereignes; I shall in the next place answer the principall arguments made against it, some whereof (for ought I finde) are yet unanswered.

These Objections are of foure sorts, out of the Old Testament, the New; from reason; from the example of the primitive Christians, backed with the words of some Fathers; I shall propound and answer them in order.

The first out of the Old Testament, is that of *Numb.* 16. *Korah, Dathan, and Abiram* for their insurrection against that very divine Authority which God himselfe had delegated to *Moses and Aaron*, without any injury or injustice at all once

Objct. 7.
Dr. Ferne
seff. 2. p. 20.

offered to them or any assault upon them. Ergo (marke the Non-sence of this argumentation) no Subjects may lawfully take up meere necessary defensive Armes in any case to resist the bloody Tyrannie, Oppression, and outrages of wicked Princes, or their Cavalleires, when they make warre upon them to destroy or enslave them.

Ans. w.

An Argument much like this in substance. No man ought to rise up against an honest Officer or Captaine in the due execution of his Office, when he offers him no injury at all. Therefore he ought not in conscience to resist him when he turnes a theefe or murtherer, and feloniously assaults him, to rob him of his purse, or cut his throate. Or, private men must not causelssly mutinie against a lawfull Magistrate for doing justice and performing his duty: Ergo the whole Kingdome in Parliament may not in Conscience resist the Kings Captaines and Cavalleeres, when they most unnaturally and impiously assault them to take away their Lives, Liberties, Priviledges, Estates, Religion, oppose and resist justice, and bring the whole Kingdome to utter desolation. The very recitall of this argument is an ample satisfactory refutation of it, with this addition. These seditious Levites Rebelled against *Moses* and *Aaron*, onely because God himselfe had restrained them from meddling with the Priests Office which they would contemptuously usurpe, and therefore were most severely punished by God himselfe, against whose expresse Ordinance they Rebelled: Ergo, the Parliament and Kingdome may in no case whatsoever, though the King be bent to subvert Gods Ordinances, Religion, Lawes, Liberties, make the least resistance against the king or his invading forces, under paine of Rebellion, High Treason, and eternall condemnation, This is Doctor *Fernes* and some others, Bedlam Logicke, & Divinity.

Object. 2.

• An appeal
to thy Con-
science. p. 3.
4. 5.

The next is this, *Thou shalt not revile the Gods, nor curse the Ruler of thy people, Ex. 22. 28. Eccl. 10. 20. Curse not the King no not in thy thought, and curse not the rich in thy bed-chamber;* (which is well explained by *Prov. 17. 26. It is not good to strike Princes for equitie.*) Ergo it is unlawfull for the Subjects to defend themselves against the Kings Popish depopulating Cavaleers.

Ans. w.

I answer, the first text pertaines properly to Judges and other sorts of Rulers, not to Kings, not then in being among the Israelites: the second, to *rich men as well as Kings*. They may as well argue then from these texts: that no Judges nor under-rulers, nor rich men whatsoever, though never so unjust or wicked, may or ought in conscience to be resisted in their unjust assaults, Riots, Robberies, no though they be bent to subvert Religion, Lawes, Liberties: as that the King and his Souldiers joyntly or severally considered, may not be resisted: yea, these acute disputants may argue further by this new kinde of Logicke: Christians are expressly prohibited to curse or revile any man whatsoever, under paine of damnation, *Rom. 12. 14. Mat. 5. 44. Levit. 19. 14. Numb. 23. 7. 8. 2 Sam. 16. 9. Levit. 20. 9. c. 24 Pt. 14. 23. Levit. 20. 9: Prov. 20. 10. 1 Cor. 6. 10. 1 Cor. 4. 12. 1 Pet. 2. 23. Jude 9.* Ergo, we ought to resist no man whatsoever, (no not a theefe that would rob us, cut-throate Cavaleers that would murther us, lechers that would ravish us) under paine of damnation. What pious profitable Doctrine, thinke you, is this: All cursings and railings are simply unlawfull in themselves: all resistance is not so, especially that necessary we now discourse of, against unlawfull violence to ruine Church and State. To argue therefore, all resistance is simply unlawfull, because cursing and reviling (of a different nature) are so, is ill Logicke, and worse Divinity. If the objectors will limit their resistance, (to make the Argument sensible,) and propose it thus: All cursing and reviling

viling of Kings and Rulers for executing justice impartially (for so is the chiefe intendment of the place objected, delinquents being apt to clamour against those who justly censure them) is unlawfull; Ergo the forcible resisting of them in the execution of justice and their lawfull authority is unlawfull; the sequell I shall grant, but the Argument will be wholly impertinent, which I leave to the Objectors to refine.

The third Argument is this: *That which peculiarly belongs to God, no man without his speciall authoritie ought to meddle with: But taking up Armes peculiarly belongeth to be Lord.* Deut 32 35. Where the Lord saith, *vengeance is mine: specially the sword, which of all tem, or all vengeance is the greatest.*

Object. 3.
An Appeale to thy Conscience. p. 2.

The Objector puts no Ergo, or conclusion to it, because it concludes nothing at all to purpose, but onely this. *Ergo*, The King and Cavalleeres must lay downe their Armes and swords, because God never gave them any speciall commission to take them up. Or, *Ergo*, no man but God must weare a sword, at least of revenge; and whether the kings and Cavalleers Offensive, or the Parliaments meere Defensive sword, be the sword of vengeance and malice, let the world determine, to the Objectors shame.

Answe.

The fourth is, from *1 Eccles. 8. 2. 3. 4. I counsell thee to keepe the Kings Commandment and that in regard of the Oath of God: Be not hasty to goe out of his sight, stand not in an evill thing; for he doth whatsoever pleaseth him: where the word of a king is there is power; and who may say unto him, what dost thou?*

Object. 4.
An Appeale to thy Conscience. p. 3.

This Text administers the Opposites a double Argument, The first is this; All the Kings Commands are to be kept of all his Subjects, by vertue of the Oathes of Supremacy, alleigance, and the late protestation including them both: *Ergo*, by vertue of these Oathes we must not resist his Cavalleeres, but yeeld our throates to their swords, our purses and estates to their rapines, our chastities to their Lecheries, our Liberties to their Tyrannies, our Lawes to their lusts, our Religion to their Popish Superstition and Blasphemies, without any opposition, because the king hath oft commanded us not to resist them. But seeing the Oath and Law of God, and those oathes of ours, oblige us onely, to obey the Kings just legall commands and no other, nor the Commands and lusts of evill Councillors and Souldiers, this first Argument must be better pointed ere it will wound our cause.

Answe.

The second, this: The king may lawfully do whatsoever pleaseth him *Ergo*, neither He, or his Forces to be resisted. To which I answer, that this verse relates onely unto God, the next antecedent; *who onely doth and may doe what he pleaseth, and that both in heav'n and earth*, Psal. 135 6. Psal. 115. 3. Esay 46: 10. not to Kings who neither may nor can doe what they please in either, being bound both by the Lawes of God, man, and their Coronation Oathes (perchance the oath of God here meant, rather then that of supremacie or alleigance) to do: *onely what is lawfull and just*, not what themselves shall please. But admit it meant of Kings, not God: First the text saith not, that a king may lawfully doe what he pleaseth: but he doth whatsoever pleaseth him: *Solomon* himselfe committed idolatry, built Temples for Idolatrous worship, served his idolatrous wives Gods, married with many idolatrous wives, greivously oppressed his people, &c. for which God threatned to rent the kingdome from himself, as he did the ten Tribes from his son, for those sinnes of his: *David* committed adultery, and wilfully numbred the people; and what King *Jeroboam*, *Manasseh*, *Ahab*,

1 Sam. 23. 33.
Esay 32. 1. 6.
16. 5. c. 9. 7.
2 Chron. 9. 8.
1 King. c. 11.
& 12. 2 Chr. c. 9. & 10. & 11. Neh. 13. 7. 26.
2 Sam. c. 11.
Ahab, &c. 12. & 34.

^u In the
bookes of
Kings, Chro-
nicles, Jeremi-
ah, and Da-
niel.

Abab, other wicked Kings have done, out of the pleasure and freedome of their lawlesse wills, to the infinite dishonour of God, the ruine of themselves, their posterities, Kingdomes, is sufficiently apparent in *Scripture*: was all therefore just, lawfull, unblameable, because they did herein whatsoever they pleased, not what was pleasing to God? If not, as all must grant: then your foundation failes; that Kings may lawfully doe whatsoever they will; and *Solomons* words must be taken all together not by fragments; and these latter words coupled with the next preceeding; *Stand not in an evill matter*: and then *Pauls* words will well interpret his, *Rom. 13. 4.* *But if thou doe that which is evill be afraid, for he beareth not the sword in vaine, for he is the minister of God, a revenger to execute wrath upon them that doe evill.* So that the genuine sence of the place is, and must be this. *Stand not in an evill matter*, for the king hath an absolute power to doe whatsoever he pleaseth, in way of justice to punish thee, if thou continue obstinate in thy evill courses; to pardon thee, if thou confesse, submit, and crave pardon for them. *Ergo*, the king and his Cavalleeres have an absolute power to murther, plunder, destroy his Subjects, subvert Religion, and he and his Forces must not herein be resisted, is an ill consequent from such good premises.

* See *Cassanews. Catal. Glorie Murdi, pars 5. consid. 24. sect. 62. p. 222.*

The third is this: *Where the word of a King is, there is power,* and who may say unto him what dost thou?* (that is, *expostulate with, censure him for doing justly*, as *Iob 34. 17. 18. 19.* expound it,) *Ergo* the king or his Forces may not be resisted in any case: they might rather conclude. Therefore neither Kingdome nor Parliament, nor any Subject or person whatsoever ought to demand of the king, to what end, or why he hath raised Forces and Armed Papists against the Parliament, and Protestant Religion? These Court-Doctors might as truly conclude from hence: If the king should command us to say Masse in his Chappell, or our Parishes, to adorne Images, to turne professed Masse-priests, &c. to vent any Erronious Popish Doctrines; to pervert the Scriptures to support Tyrannie and lawlesse cruelty: we must and will (as some of us doe) cheerefully obey; for *where the word of a King is, there is power, and we may not say unto him, what dost thou?* If a King should violently ravish matrons, deflowre virgins; unnaturally abuse youth, cut all his Subjects throates, fire their houses, sacke their Cities, subvert their liberties; and (as *Bellarmino* puts the case of the Popes absolute irresistible authority) send millions of soules to hell; yet no man under paine of damnation, may or ought to demande of him, *Domine cur ita facis?* Sir, what doe you? But was this the ho'y Ghosts meaning thinke you, in this place? If so, then *Nathan* was much to blame for reprehending king *Dauids* Adultery.² *Azariah* and the 40. Priests who withstood King *Vzziah* when he would have offered incense, on the incense Altar, and thrust him out of the Temple, telling him, it pertaineth not to thee *Vzziah*, to burne incense to the Lord, &c.² *Were no lesse then Traytors.* *John Baptist* was much over-seene to tell King *Herod*, *It is not lawfull for thee to have thy brothers wife.* The Prophet who sharply reprehended *Amaziah* for his Idolatry and new altar, *2 Chron. 25. 15. 16.* was justly checked by the king. *Eliiah* was to be rebuked, for telling *Abab* so plainly of his faults, and sending such a harsh message to King *Ahaziab*; *Elisha* much to be shent for using such harsh language to King *Jehoram*, *2 Kings 3. 13. 14.* yea *Samuel* and *Hanani* deserved the strappado for telling King *Saul*, and *Asa*, *That they had done foolishly*, *1 Sam. 13. 3. 2 Chron. 15. 9.* The meaning therefore of this Text, so much mistaken, (unlesse we will censure all these Prophets, and have Kings not onely irresistible but irreprehensible for their wickednesse) is onely this: No man may presume to question the kings just actions, warranted by his lawfull royall power: (this text being parallel with *Rom. 13. 1. 2. 3. 4.*) What then? *Ergo*, None must question or resist his, or his Cavalleers unjust violence and proceedings, (not the Parliament the supremest Iudicature and Sovereigne Power in the Kingdome) is a ridiculous consequence: yet this is all this Text doth contribute to their present dying bad cause.

The 5. is that usually objected Text of (c) *Psal.* 105. 14, 15. *Touch not mine anointed.* Ergo the King and his Cavaliers must not be so much as touched nor resisted, I wonder they did not as well argue, Ergo none must henceforth kiss his Majesties hand (since it cannot be done without touching him,) neither must his Barber trim him, nor his Bedchamber-men attire him, for feare of high Treason in touching him: And the Cavaliers must not henceforth be arrested for their debts, apprehended for their robberies and murders; neither must the Chyrurgion dresse their wounds, or pock-soars, or otherwise touch them, (so dangerous is it to touch them, not out of fear of infection, but) for fear of transgressing this sacred Text, scarce meant of such unhalloved God-damners. Such conclusions had been more literall and genuine then the first.

But to answer this long since exploded triviall Objection, not named by Dr Ferne, though revived by others since him. I say first, that this Text concerne not kings at all, but the true anointed Sain'ts of God their Subjects, whom kings have been alwayes apt to oppresse and persecute, witnesse *Psal.* 2. 2. &c. *Act.* 4. 26, 27. *Act.* 12. 1, 2, 3 with all sacred and Ecclesiasticall Histories, ancient or moderne. This is most apparent; first, because these words were spoken by God to Kings themselves, as the Text is expresse, *Psal.* 105 14, 15. *1 Chron.* 16. 20, 21. *He suffered no man to do them wrong, but reprov'd even KINGS for their sakes* saying, (even to king themselves, namely to king Pharaoh, an king Abimelech, *Gen.* 12. 10. to 20. *Chap.* 20. and 26 1. to 17. 29) *Touch not mine Anointed, and do my Prophets no harm:* Therefore not meant of kings. Secondly, because these words were spoken directly and immediately of *Abraham, Isaac, Jacob,* their wives and families, as it is evident by Verse 6. the whole series of the *Psalme*, which is Historically; the forecited Texts of *Genesis* to which the words relate, the punctuall confession of *Augustine*, and all other *Expositors* on this *Psalme*; Now neither they, nor their wives, nor their children clearly, were usually, much lesse anointed Kings; For first, they lived long before the government of kings was erected among the Israelues, of whom (a) *Saul was the first.* 2. They had no kingdom nor territories of their own when these words were uttered, but were strangers in the Land, going from one Nation and Kingdom to another, sojourning obscurely like Pilgrims and Strangers upon earth, in *Egypt, and Gerar, under King Pharaoh, Abimelech, and other Princes,* not as kings, but subjects and private men, as Verse 12. 13. *Gen.* 12. and 20. and 26 *Chap.* 36. 7. *Chap.* 37. 1. *Deut.* 23. 7. *Hebr.* 11. 13. resolve. Thirdly, They were but very few men in number, Verse 12. *Genesis* 34. 30. they were Masters onely of their own small families, and that under foreign Kings; therefore doubtlesse no kings at all. Fourthly, this was spoken of these Patriarchs Wives and Families, as well as of themselves, (and they certainly were no kings, unless you will have kingdoms consisting onely of kings, and no subjects at all) Verse 12. 14. *Gen.* 12. 15. to 20. *Chap.* 20. 2. to 17. *Chap.* 25. 11. *Chap.* 34. 30. *Chap.* 35. 6. Fifthly, the Scripture no where calls them kings, much lesse the Text, which terms them expressly Prophets, *Touch not mine Anointed, and do MY PROPHETS* (not properly so taken, but largely, that is, *My servants, my chosen people,* as Verse 6. expounds it) no harm: The later Clause, *Do my Prophets no harm,* being an exact interpretation of the former, *Touch not mine Anointed,* that is, *My Prophets and Servants,* so far forth as to do (e) them harm; For in a common sense, no doubt, they (f) might be touched without offence to God or them, by way of imbracement, assistance, and the like.

Object. 5.
(c) An Appeal
to the Con-
science, p. 4.
c. A sinner of
the Vindication
of Psal. 105. 14, 15
and the Revindication
printed
at Cambridge,
1643.

Answer.
(d) 1 Sam. 8. 2
& 10. see
1 Chron. 1. 43.

(e) See Zeph. 2.
8. Gen. 20. 6.
Iob 1. 11. c. 2. 5.
c. 19. c. 5. 19. c.
12. 14. Gen. 26.
11. 29. Ier. 12.
14. I Iob. 5. 18.
(f) Matth. 8. 3.
15. c. 17. 7.
Mar. 6. 56.
Luk. 8. 45. 46. 47

Sixty, Though there were kings in *Abrabams* dayes or before, as is evident by *Gen.* 14. 1, 2, &c. yet there were no anointed kings, nor were kings ever called *Gods* anointed till *Sauls* dayes, who was the first anointed King I read of, *1 Sam.* 10. 1. and the first king ever titled, *The Lords Anointed*, *1 Sam.* 12. 3, 5. whereas Priests were anointed long before, *Exodus* 30. 30. *Chap.* 40. 13, 15. Therefore *Anointed* in the Text cannot be meant of kings, or of persons actually anointed, but onely of those Saints of God, who were metaphorically and spiritually anointed, having the gifts and graces of Gods Spirit, *Psal.* 28. 8, 9. *Hab.* 3. 13. *2 Cor.* 1. 21. *1 Iohn* 2. 27. *Exc.* 16. 9. *Isay* 20. 27. This Text then being not meant of kings which are actually, but of Christians onely spiritually anointed, in regard of which anointing (as I have (g) elsewhere largely manifested) they are in Scripture, not onely stiled *Christians* (which in plain English is annoyned) *Acts* 11. 26. c. 26. 26. *1 Pet.* 4. 16. but *Christ* (in the abstract) *1 Cor.* 12. 12. *Ephes.* 4. 12, 13. the *Members, Body, Flesh and Bones of Christ.* *1 Cor.* 12. 12, 7. *Ephes.* 1. 22. 23. c. 5. 29, 30, 31. *Col.* 1. 24. Yea, *Kings and Priests* unto God the Father: *Exod.* 19. 6. *1 Pet.* 2. 5. *Revel.* 1. 6. c. 5. 10. c. 20. 6. for whom God hath prepared a heavenly Kingdom, (wherein they shall reign with Christ for ever) with an everlasting Crown of glory too, *Matth.* 5. 3. c. 25. 34. *Luke* 6. 20. c. 12. 32. c. 22. 29. 30. *Col.* 1. 13. *2 Thess.* 2. 12. *1 Corinth.* 9. 25. *2 Tim.* 2. 12. c. 4. 8. *Heb.* 12. 28. *2 Pet.* 5. 4. *2 Pet.* 1. 11. *Iam.* 2. 5. *Revel.* 22. 5. The proper argument then that can be thence deduced by our Opposites, is but this *Non sequitur*.

Kings then selves must not touch Gods spiritually anointed Saints and servants to do them harm; Ergo, if Kings do violently and unjustly make warre upon them, not onely to harm, but plunder, murder, destroy them utterly, extirpate that Religion they professe and are bound to maintain, they are obliged in point of conscience, under pain of damnation, not to resist; Whereas the conclusion should be directly contrary. Therefore they may lawfully with good conscience resist them to the uttermost, in such cases: For since God hath thus directly enjoyned Kings, *Not to touch, or do them harm*; if Kings will wilfully violate this injunction, they may with safe conscience, by force of Arms withstand, repulse, their unjust violence, and hinder Kings or their instruments from doing them that injury which God himself prohibits; else they should be accessories to their kings iniustice, and authors of their own wrongs, according to these received Maximes; (h) *Qui non prohibet malum quod potest, jubet; Qui potest obviare & perturbare perverfos & non facit, nibilest aliud quam favere eorum impietati: Nec caret scrupulo societatis occulte, qui manifesto facinori desinit obviare. Qui desinit obviare cum potest, consentit:* used by *Ambrose, Hierome, Augustine, Isidor, Anastatus,* and *Gratian,* who recites, applies them to defensive wars. And if our Opposites (who pervert this Text by translating it from *Subjeets* and *Saints,* to *Kings*) may in their erroneous sence safely argue thence, That if subieets take up Arms against their Princes, contrary to this Text, their Princes may by vertue of this precept, iustly resist them with force, and repulse their injuries; then by the true genuine sence thereof (being meant of Subieets, Saints, not Kings) if Kings will violently assault and make war upon Saints, their Subieets, to harm them, they may with as good reason and conscience defend themselves against their Kings and ill Instruments, as their Kings protect themselves in this sort against them, and that by authoritie of this Text, by our Opposites own argumentation.

Thirdly, admit this Scripture meant of Kings, yet what strength is there in it to privilege

(g) The Vindication and Re-vindication of *Psal.* 105. 14, 15

(h) *Gratian.* *causa.* 23. qu. 3. 4, 5, 6. where many Fathers are cited to this purpose.

viledge them from iust necessary resistance? If any, it must rest in the word *annointed*; but this will afford kings no such corporall priviledges as many fancie, neither from lawfull resistance, nor deposition, nor sentence of death it self, which I shall undeniably evidence to refute a commonly received error: For, first, it is apparent, that the annointed here meant, are such onely who are spirituallly annointed, either with the externall profession and ceremonies of Gods true religion, or with the internall graces of the Spirit; for neither *Abraham, Isaac, Jacob*, nor their families (nor any kings or Priests in their dayes) for ought we finde, were corporally annointed: Besides, the annointing here intended, is that which is *common* to (i) *Priests* and *Prophets* (as *Touch not mine annointed, and do my Prophets no harm*, infallibly proves) rather then that which is peculiar to kings. Whence I thus argue, That annointing which is common to subiects as well as kings, and cannot secure any subiects, who in the genuinenesse of the Text, are *Gods annointed*, from iust resistance, corporall violence, legall censures, or death, cannot in or of it self alone secure kings from any of these, no further then it secures subiects: for the annointing being the same in both, must have the self-same operation and immunities in both. But this annointing in subiects can neither exempt their persons from necessary iust resistance, if they unlawfully assault or war upon their Superiours, equals, interiours; nor free them from arrests, imprisonments, arraignments, deprivations, or capital censures, if they offend and demerit them, as we all know by (k) *Scripture* and *experience*: Therefore it can transfer no such corporall immunities or exemptions from all or any of these, to kings; but onely, exempt them from unlawfull violence and injuries, in point of right, so far forth, as it doth other Subiects. In a word, this annointing being common to all Christians, can give no speciall Prerogative to Kings, but onely such as are common to all Subiects, as they are Christians. Secondly, admit it be meant of an actuall externall annoynting, yet that of it self affords Kings no greater priviledge then the inward uncti- on, of which it is a type, neither can it priviledge them from iust resistance, or iust corporall censures of all sorts. First, it cannot priviledge them from the iust assaults, invasions, resistance, corporall punishments of other forraign kings, Princes, States, Subiects not subordinate to them, who upon any iust cause or quarrell may lawfully resist, assault, wound, apprehend, impriton, slay, depose, iudge, censure forraigne kings, even to death; as is apparent by (l) *Sihon King of the Amrites*, and *Og the king of Basban*, slain, the King of (m) *Ai* hanged by *Iosbua*, the (n) five kings of *Canaan* that besieged *Gibeon*, on whole necks *Iosbua* made his men of war to put their feet, then sinote, slew, and hanged them upon five trees. Who also assaulted, resisted, imprisoned, condemned slew, executed divers other (o) kings of *Canaan*, to the number of thirty one in all; by king (p) *Adonibeack*, (q) *Eglon*, (r) *Agag*, with other Heathen Kings, imprisoned, stabbed, hewen in pieces by the Israelites. If any obiect, These kings were not actuallly annoynted, which they cannot prove, since (s) *Cyrus* an Heathen King, is stiled *Gods annoynted*; no doubt *Saul* was an annoynted King, if not the first in the world, 1 *Sam.* 10. 1. yet he was justly resisted, wounded, pursued by the *Philistines*, 1 *Sam.* 31. 3. * *Iosiah* an annoynted good King, was slain by *Pharaoh Necho King of Egypt*, whom he rashly encountred; (t) *King Ahab* was slain by an Archer of the King of *Assyria*, (u) *King Ioram* and *Abaziah* were both slain by *Iehu*, by Gods command; (x) *Iehoaz* was deposed by the King of *Egypt*, (y) *Iehoiakim* and *Iehoiakin* both deposed, fettered and kept prisoners by the King of *Ba-*

(i) *Exod.* 30. 38
6. 4. 23. 15.
Levit. 4. 3. 16.
1 *King.* 19. 16.

(k) *Eccles.* 9. 7.
6. 8. 14. *Exccb.*
18. 24. 26.
1 *ob.* 16. 2.

(l) *Psal.* 136. 193
20. *Num.* 21. 29
33. 34. 35.
(m) 10. 6. 8. 29
(n) 1 *osb.* 10. 22.
23. 24. 25. 26.
(o) 1 *osb.* 10. 42.
6. 11. 12. 7. 16
24.
(p) *Iudg.* 1. 26.
10. 76.
(q) *Iudg.* 3. 10. 26.
(r) 1 *Sam.* 15.
32. 33.
(s) 1 *osy.* 45. 2.
(t) 1 *King.* 22.
34. 35.
2 *Chro.* 35.
(u) 2 *King.* 9. 27.
(x) 2 *Chr.* 31. 1.
6. 7.
(y) 2 *Ki.* 23. 6. 7

bylon; who also (y) apprehended, disposed, judicially condemned King Zedechiah, put out his eyes, and sent him prisoner to Babylon bound with fetters of brass. So (z) Manasses was deposed, bound with fetters of brass, and carried captive by the Captains of the King of Assyria. (a) Amaziah King of Judah was taken prisoner by Jehoash King of Israel. Infinite are the precedents in stories, where kings of one Nation in just wars, have been assaulted, invaded, imprisoned, deposed, slain, by Princes and Subjects of another Nation; and that justly, as all grant without exception; neither their anointing, nor Kingship being any exemption or privilege to them at all in respect of forraigners, in cases of hostility, to whom they are no Sovereigns, no more then to any of their Subjects. Whereas if this royall anointing did make their persons absolutely sacred and inviolable, no forraign Princes or Subjects could justly apprehend, imprison, finite, wound, slay, depole, or execute them. Secondly, Kings who are subordinate (b) Homagers and Subjects to other Kings or Emperours, though anointed, may for Treasons and Rebellions against them, be lawfully resisted, assaulted, imprisoned, deposed, judged to death and executed, because as to them they are but Subjects, notwithstanding their anointing, as appears by sundry precedents in our own and forraign Histories; and is generally confessed by the learned. Thirdly, the Roman, Greek and German Emperours, though anointed, the ancient Kings of France, Spain, Arragon, Britain, Hungary, Poland, Denmarke, Bohemia, India, Sparta, and other places (who were not absolute Monarchs) have in former ages been lawfully resisted, imprisoned, deposed, and some of them judicially adjudged to death and executed by their owne Senates, Parliaments, Courts, States, for their oppression, mis-administration, tyranny, and that justly, as c) Bedin, (d) Grotius, with others affirm, notwithstanding any pretence that they were anointed Sovereigns. Fourthly, Popes, Bishops and Priests anciently were, and at this present in the Romish Churches are actually anointed as well as Kings; and we know the (e) Popish Clergy and Canonists have frequently alledged this Text, *Touch not mine anointed and doe my Prophets no harme*, in Councils, Decretals and solemn debates in Parliament, to prove their exemption from the arrests, judgements, capitall censures and proceedings of Kings and secular Judges for any crimes whatsoever, because (forsooth) they were Gods anointed, intended in this Text, not Kings; therefore Kings and Seculars must not touch, nor offer any the least violence to their persons, no not in a way of justice. By colour of this Text they exceedingly deluded the world in this particular for hundreds of yeeres. But in the seventh year of Hen. the 8. in (f) Dr. Standish his case debated before a Committee of both Houses of Parliament, and all the Judges of England, this Text being chiefly insisted on to prove the Clergies exemption, *Jure Divino*, was wholly exploded in England, and since that in Germany, France, other Realms; and notwithstanding its protection, many (g) Popes, Bishops, and Clergy-men in all Kingdomes, ages, for all their anointing, have for their misdemeanors not only been resisted, apprehended, imprisoned, but deprived, degraded, hanged, quartered, burned, as well as other men (Yea (h) Athar the High Priest was deposed by Salomon for his Treason against him, notwithstanding his Anointing;) their anointing giving them not the smallest immunity to doe ill, or not to suffer all kinds of corporall, capitall punishments for their misdemeanors. If this actuall anointing then, cannot lawfully exempt or secure Priests and Prelates persons, nor the Pope himselfe from the premises, how then can it justly privilege the persons of Kings? Fifthly, among the Papists all infants, either in their

baptisme, or confirmation are actually annointed with their consecrated (i) Chrisme, and with (k) extreame unction to boot at last east, which they make (l) a Sacrament, and so a thing of more divine soveraign Nature then the very annointing of Kings at their inauguration, which they repute no Sacrament, as being no where commanded by God: But neither of these actuall unctions, exempt all or any of those annointed with it from resistance, or any corporall punishments, or just censures of any kind; therefore the very annointing of Kings cannot doe it. Sixthly, the Ceremony of annointing kings, as (m) Cassianus with others write, is peculiar onely to the German Emperor, the King of Ierusalem, the King of France, the King of England, and the King of Sicily; but to no other kings else, who are neither annointed nor crowned, as he affirms; so that it cannot give any priviledge at all to any but onely to these 4. not other kings, who are not annointed. Now seeing only these 4. kings are actuall annointed, yea lawfull Kings and their persons sacred, even before they are annointed or crowned, and other kings persons (as of Spain, Hungary, Denmark, Sweden, Poland, &c.) who are not annointed, are as sacred, as exempt from danger, as those who are enoyled; And seeing the annointing of kings is at this day a meer arbitrary humane Ceremony, not enjoyned by divine authority, nor common to all Kings, who are (n) Kings before their Coronations, it is most certain and infallible, that this enoyling in and of it selfe derives no personall Prerogatives or Immunities at all to kings, much lesse an absolute exemption from all actuall resistance in cases of unjust invasions on their Subjects, or from the censures of their Parliaments for publike destructive exorbitances, as most have hitherto blindly believed.

Neither will the frequent next objected speeches of David concerning Saul, impeach the premises, 1 Sam. 24. 6. 10. c. 26. 9. 11. 23. & 2 Sam. 1. 12. 16. The Lord forbid that I should do this thing unto my Master the Lords Annointed, to stretch forth my hand against him seeing he is the Lords Annointed. I will not put forth my hand against my Lord, for he he is the Lords annointed. And David said to Abishai, Destroy him not, for who can stretch forth his hand against the Lords Annointed, and be guiltlesse? The Lord forbid that I should stretch forth my hand against the Lords Annointed. The Lord delivered thee in my hand to day, but I would not stretch forth mine hand against the Lords Annointed. How wast thou not afraid to stretch forth thy hand against the Lords Annointed? Thy blood shall be upon thy head, for thy mouth hath testified that thou hast slain the Lords Annointed. Which severall Texts seem at first sight to insinuate, that Sauls very externall annointing was that which did secure his person from assaults and violence; and that it is unlawfull even by way of defence, forcibly with Armes to resist a persecuting unjustly invading king, because he is annointed.

But these Texts, if duly pondered, will warrant neither of these conclusions. First then, I answer, that Sauls bare annointing, considered as an externall Ceremony to declare him a lawfull King, did not, could not adde any immunity to his person against Davids, or any other Subjects just violent resistance, as the premised reasons manifest; but it was onely his royall Sovereign Office conferred on him by God and the people, to which his externall annointing by Samuel was but a Preparation: That which made Saul, with other his successours, a King, was not his bare annointing. For (a) Saul himselfe was annointed by Samuel, before he was made and chosen King, not when he was made King. So (p) David, (q) Hazael, (r) Iehu, with others, were annointed before they were actuall Kings, and many of their Successors by

(i) See Claudi-
us 11. cunctis
Dign. s. in 1. 6. p.
p. ad Tim.
d. Crisostomus
usu p. 261 &c.
(k) Espondeus
libid. See 110.
mas 11. aldenis,
Bellarmine and
others, De Sa-
cramento extre-
me unctionis,
and all School-
men and Cano-
nists, De Sacra-
mentorum Num-
m. 10. 11. 12. 13.
miro & Extr. 1.
unct.
(l) Catalog Glo-
rie Mundi. par.
5. Confil. 35. p.
49. Alter. de
Ris Super G. of
Rubr. F. de sta-
ho.

(m) Cassianus
libid. & Confil.
19.
(n) Cook 7. Re-
port. Calvin
case. 11. Phi-
loech. Arch. De
Somnio Per da-
11. c. 71.

Obj. 2. 5.
Answ.
(o) 1 Sam. 10.
1, 2, 24.
(p) 1 Sam. 16. 1.
10 14
(q) 1 King. 19.
15, 16.
(r) 1 King. 19.
16. 2 King. 9.
1, 10 8.

descent, were real kings before they were annointed; some of them being not annointed at all for ought we read; therefore their unction made them not kings, since neither simply necessary, nor essentiall to their being kings. Nor did *Sauls* annointing only, preceding his Regality, make his person sacred, or any other kings persons; for then it would follow, That if *Saul* had not been actually annointed, or had continued king for some yeeres without this annointing, then *David* in such a case might lawfully have slain him, without check of conscience, and that the persons of kings not at all annointed; and of hereditary kings before their Coronations, till they are annointed, should not be sacred, nor exempt from violence; which is both false and perillous to affirm; but it was his Sovereign Royall Authority over *David* (then his *Son-in-law, Servant, Subject*) which restrained him from offering violence to his person. *Saul* then being thus privileged, not because he was annointed, but because he was an annointed king, and that not *quatenus Annointed*, but *quatenus King*; the true sense and genuine interpretation of these Texts must be, That *Sauls* person was sacred, exempt from his Subjects violence, not because he was annointed, as if that only did privilege him; but because he was a lawfull king (*f*) appointed by the Lord himselfe, the (*z*) Lords annointed, being but a periphrasis, or forme of speech, wherein the Ceremony of annointing, is used for the Regality, or kingly power it selfe, declared not conferred by annointing, and in plain words without any figure, it is put for, the Lords King, that is, a King appointed by the Lord; in which sence God calls Christ (*v*) my King; and *David* stiles himselfe (*x*) Gods King. *Sauls* Royall Authority without his annointing, not his annointing, (predestinating him to his Authority) being the ground of this his immunity from *Dauids* violence. Secondly, (*y*) *Saul* was annointed some space before he was made King, and (*z*) *David* many yeere before hee came to the Crowne: I would then demand of any man; if *Saul* or *David* after their unction, and before their election and inauguration to the Crown had invaded or assaulted any of the people in an hostile manner, whether they might not have justly resisted, repulsed, yea slain them in their own necessary defence? If nor, then one Subject may not repulse the unjust violence of another in an elective kingdome, if by possibility he may after wards be chosen king, though for the present he be neither actually king nor Magistrate, but a Shepherd, as *David* was, *Psal.* 78. 70, 71. which I presume none will affirm, I am certain none can prove: If so, then it was not *Sauls* annointing but onely his Royall Authority, which made *David* thus to spare his life, his person. So that our Opposites pressing this Argument only from his Annointing, is both false and idle, as all the premises demonstrate.

But to set the Argument right; I answer thirdly, That all which these Texts and *Dauids* example prove, is but this. That Subjects ought not wilfully or purposely to murder or offer violence to the persons of their kings; especially in cold blood when they doe not actually assault them. Ergo they may not resist, repulse their personall actuall assaults, nor oppose their cut-throat Cavaleers when they make an unjust warre against them. Which Argument is a meer *Non sequitur*.

For 1. *Dauids* example extends only to *Sauls* own person, not to his Souldiers, who were neither kings, nor Gods Annointed; and whom *David* no doubt would have resisted and slain too had they assaulted him, though he spared *Saul*: as (*a*) *Dr. Ferr* himselfe insinuates in these words; *Dauids* Guard that he had about him, was onely to secure his person against the cut-throats of *Saul*, if sent to take away his life, &c. He was annointe

(f) 1 Sa. 15, 16,
17. c. 10. 1, 2, 4.

(z) 1 Sam. 12,
13. c. 15. 13. c. 18

1. 1 Chro. 28.

4.
(v) Psa. 2. 6.
Psal. 18. 50.

(y) 1 Sam. 10.
1, 2, 24.

(z) 1 Sam. 16.
5. 10 14.

(a) Sc. 2. p. 8.

annoynted and designed by the Lord to succeed Saul, and therefore he might use an extraordinary way of safe-guarding his person: Therefore he and his Guard would and might doubtlesse have with a safe conscience resisted, repulsed Sauls cut-throat Soldiers, had they assaulted David, to take away his life. And if so, then the Kings Cut-throat Cavalleers by his own confession, may lawfully be resisted, repulsed, slain in a defensive way, by the Parliaments forces now.

Secondly, the argument is absurd, because we may forcibly resist and repulse with safe conscience, those whom we may not wilfully slay. If a man assaults me, to beat or wound me, I may resist, repulse him with violence, but I may not kill him in mine own defence, without murder or manslaughter, unlesse I could not otherwise preserve my own life by flight or resistance. (b) Doctor Ferne grants, that a Subject may in his own private defence, lawfully ward off the Kings own blows, and hold his hands, in case of sudden and illegall assaults, much more then of malicious and premeditated: but yet denies, he may either wound or kill him, and that truly. To argue therefore from Davids example and words, The King may not with safe conscience be wittingly slain by his subjects: Ergo, He and his Cavaleers may not be forcibly resisted, repulsed by them for their own defence and preservation, is a grosse inconsequent by the Doctors own confession.

Thirdly, there is nothing in all these speeches, or the practise, or in David, pertinent to the case in dispute; for when (c) Davids men moved him to kill Saul, and would have risen up against him, to slay him, & David refused to act, or suffer his men to do it; neither Saul nor any of his men did actually assault David or his followers, nor so much as once discover them; but Saul went casually to cover his feet into the Cave, where they lay hid; which done, he rose up and went on his way, not once espying David (though he cut off the skirt of his Robe privily) nor any of his men with him. To argue therefore, that David and his men might not with a safe conscience stretch forth their hands and rise up against their Soveraigne king Saul, to kill him thus in cold blood, when he assaulted them not, nor so much as thought of their being in the Cave, and went out fit quietly, not discovering them; Ergo, they might not, they would not in conscience have resisted, repulsed him, or his Forces, had they assaulted, or given them battell in the Cave, is a Non-sence Conclusion; just in effect the same with this. I may not resist or repulse one who assaults me not, Ergo, I may not resist one that actually assaults me to take away my life, or to beat, rob, wound me: What Logick, Reason, Law or Divinitie is there in such an argument? So after this when (d) Abishai said to David, God hath delivered Saul thine enemie into thy hand this day, now therefore let me smite him, I pray thee, with the spear, even to the earth at once, I will not smite him the second time: And David said to Abishai, Destroy him not, for who can stretch forth his hand against the Lords Annoynted (to wit, to slay him purposely, as Abishai intended) and be guiltlesse? The Text is expresse, That Saul and his men were then in their own Trenches, fast asleep, because a deep sleep from the Lord was fallen upon them; David and Abishai were here the onely assailants, they came into Sauls Trenches, he and his whole army were in so sound a sleep, that they came to Sauls own person, took away from him his Spear, and the Cruse of water from his Bolster, and departed, not being once discerned; No man resists, assaults, discovers them. To slay Saul thus in cold blood, without any assauk or present provocation, and especially upon a private quarrell, had been Treachery and impiety in a Son-in-Law, a Servant, a Subject, a Successour;

Self, 1.

(b) Self, 2. p. 72

(c) 1 Sam. 24. 3. 10 16.

(d) 1 Sam. 26. 7. 10 25.

ceffour; and to do it with the hazard of their own lives, had any of *Sauls* Army been awakened at the stroke *Abisbai* would have given him. (as probably they might have been) they being but two, and within their enemies Trenches, in the midst of the Army, who might have easily and speedily slain them, had been rashnesse, indiscretion; their departure with the Spear and Cruse was more Heroicall, Loyall, prudentiall. To conclude therefore, as our Opposites do from this speech and example, That *David* thought it un'lawfull in point of Conscience for him or *Abisbai* to murder his *Soveraign* Lord King *Saul*, when he and his men were thus fast asleep in the midst of their Trenches, offering them no wrong, making no actuall assaults upon them; Ergo, they could not, would not unjustly with safe consciences have forcibly defended themselves against *Saul* and his Army, had they been assaulted by them in their own Trenches; is a transcendent absurdity, refuted by the very next words of *David* to *Abisbai* at that instant, *1 Sam. 26. 10.* And *David* said furthermore, As the Lord liveth, the Lord shall smite him, or his day shall come to die; or he shall **DESCEND INTO BATTELL, AND PERISH**; which intimates, that if *Saul* would force him to a battell, then he might lawfully defend himself against his violence, though he might not murder him now in his sleep, when he did him no harm; and if he casually perished in the battell, it was *Sauls* own wilfull default, not his, who could not dissuade him by all this his fair carriage and sparing of his life, (when he had those two advantages to slay him) from his violent prosecution, nor yet succeed him in the Crown (as God had appointed and foretold) shou'd he suffer him to murder him and his men in battell without resistance. Yea, *David*s earnestnesse to go with *Achish* and the Philistines to the battell against *Saul*, wherein he perished, *1 Sam. 29.* (unlesse we will taxe *David* for a notable Hypocrite and dissembler) unanswerably evidenceth, that he deemed it lawfull to resist, to encounter *Saul* and his Forces in battell, notwithstanding his person might chance to perish in the fight, though not to slay him treacherously, and basely upon the precedent advantages: And his slaying of that lying (e) *Amalchite* who brought him tydings of *Sauls* death, reporting that himself had slain him, to gain a reward from *David*, he being then one of *Sauls* souldiers, (as it seems) concludes onely, that it was not lawfull for any of *Sauls* own men to slay him, by his own command: Not that resistance of him in the open battell was unlawfull in point of conscience. Other answers might be given to this Objection concerning *David* and *Saul*. As 1. that this difference was but private and personall between *Saul* and *David*, *David* being then *Sauls* private subject, Servant, Son in Law, not publike between *Saul* his whole Parliament or Kingdom; now many things are unlawfull to be done in private quarrels, which are iust and honourable in publike differences.

Secondly, that *David* himself, though he thus forbore to murder *Saul*, yet betels him, *1 Sam. 24. 10, 11, 12.* This day thine eyes have seen how that the Lord had delivered thee to day into mine hand in the Cave, and some had me kill thee, but mine eye SPARED THEE; and I said, I will not put forth my hand against my Lord, for he is the Lords anointed. Moreover, my father, see, yea, see the skirt of thy Robe in my hand, for in that I cut off the skirt of thy Robe and KILLED THEE NOT, know thou and see, that there is neither evil nor transgression in mine hand, and I have not sinned against thee, yet thou huntest my soul to take it. The Lord judge between me & thee, and the Lord avenge me of thee, but mine hand shall not be upon thee, and plead my cause and deliver me out of thine hand. And after this upon the second advantage, he useth like words, *The*

Lord render to every man according to his righteousness & faithfulness, for the Lord delivered thee into my hand to day, but I would not stretch forth my hand against the Lords ^{1 Sam. 26. 23,} ²⁴ *annointed. And behold, as THY LIFE WAS MUCH SET BY THIS DAY* IN MY EYES, so let my life be much set by in the eyes of the Lord, and let him deliver me out of all tribulation: Wherein David declared, that God had given up Sauls life into his power, that it was his owne meer goodnesse that moved him to spare Saul contrary to his Souldiers, and *Abishai*s minds, who would have slain him, without any scruple of conscience; that the reasons he spared him were: First, because he was Gods *Annointed*, that is, specially designed and made King of *Israel* by Gods own election, which no kings at this day are, & so this reason extends not so fully to them, as to *Saul*. Secondly, Because he was his Father and Lord too, and so it would have been deemed somewhat an unnaturall act in him. Thirdly, because it had favoured onely of private self-revenge and ambitious aspiring to the Crown before due time, which became not *David*, the quarrell, being then not publike, but particular betwixt him and *David* onely, who was next to succeed him after his death. Fourthly, because by this his lenity he would convince & reclaim *Saul* frō his bloody pursuis, and cleare his innocency to the world. Fifthly, to evidence his dependance upon God and his speciall promise; that he should enjoy the Crown after *Saul* by divine appointments; and therefore he would not seem to usurp it by taking *Saul*s life violently away. Most of which considerations faile in cases of publike defence, and the present controversie. Thirdly, that *Saul* himselfe, as well as *David*s Souldiers, conceived, that *David* might with safe conscience have slain as well as spared him; witness his words, 1 Sam. 24. 17, 18, 19 *Thou art more righteous then I, for thou hast rewarded me good, whereas I have rewarded thee evil: And thou hast shewed me this day how thou hast dealt well with me; forasmuch as when the Lord had delivered me into thine hand THOU KILLEDST ME NOT. For if a man finde his enemy WIL HE LET HIM GO WEL AWAY? wherefore the Lord reward thee good for that thou hast done unto me this day, &c.* And in 1. Sam. 26. 21. Then said *Saul*, I have sinned; returne my sonne *David*, for I will no more do thee harm, because my soule was precious in thine eyes this day; behold I have played the fool exceedingly, &c. But the former answers are so satisfactory, that I shall not pray in ayd from these, much lesse from that evasion of *Dr. Fern*, who makes this, and all other *David*s demeanors in standing out against *Saul* (f) *EXTRAORDINARY*; for he was annointed and designed by the Lord to succeed *Saul*; and therefore he might also use all extraordinary wayes of safeguarding his person; which like wise insinuates, that this his scruple of conscience in sparing *Saul*s life was but extraordinary, (the rather, because all his Souldiers and *Abishai* would have slain *Saul* without any such scruple, and *Saul* himselfe conceived, that any man else but *David* would have done it;) and so by consequence affirms, that this his sparing of *Saul* is no wayes obligatory to other subjects, but that they may lawfully in *David*s case kill their Sovereigns; But *David*s resistance of *Saul* by a guard of men, being only that ordinary way which all subjects in all ages have used in such cases, and that which nature teacheth not onely men, but all living creatures generally to use for their own defence, and this evasion derogating exceedingly from the personall safety of Princes, yea, and exposing them to such perils as they have cause to con the *Dr.* small thanks for such a bad invention, I shall reject it as the extraordinary fanatic of the *Dr.* & other loyalists, void both of truth and loyalty.

Obj^ect. 7.
(2) Dr Fern,
Resolving of
Conscience,
Sect. 2. p. 10.
And others.

The 7. Obiection out of the Old Testament is this, 1 Sa m. 8. 11. *Samuel tells the people, how they should be oppressed under kings; yet all that violence and injustice that should be done unto them, is no just cause of resistance: for they have NO REMEDY LEFT THEM BUT CRYING TO THE LORD, v. 18. And ye shall cry out in that day because of the King which ye shall have chosen you, and the Lord will not hear you in that day.*

Answer.

To this I answer 1. that by the Doctors own confession, this text of Samuel, much urged by some of his fellows, to prove an absolute divine Prerogative in Kings, is quite contrary to their suggestion; and meant onely of the oppression, violence, and injury (not lawfull power) of Kings, which should cause them thus to cry out to God. This truth we have clearly gained by this obiection, for which some Royallists will renounce their chumpion, 2. It is but a meer fallacie and absurdity not warranted by the Text, which saith not, that they shall onely cry out; or that they shall use no remedy or resistance, but crying out; which had been materiall, but barely, ye shall cry out in that day, &c. Ergo, they must and should onely cry out, and not resist at all; is a grosse Non-sequitur: which Argument because much cryed up, I shall demonstrate the palpable absurdity of it by many parallell instances. First, Every Christian is bound to pray for Kings and Magistrates, 1 Tim. 2. 1, 2. Ergo, they must onely pray and not fight for them, nor yeeld tribute or obedience to them: Kings and their Subjects too are bound to cry out, and pray to God against forraign enemies that come to war against them, as (h) Moses did against Pharaoh and his Host, (i) David against his enemies, (k) Hezekiah against Sennacherib and his Hosts, (l) Ala against his enemies, (m) Abijah and the men of Judah against Ieroboam and the Israelites their enemies; and as all Christians usually do against their enemies. (Yea, I make no doubt but the Doctor, and other Court-Chaplains, inform his Majesty and the Cavalleers, that they must cry to God against the Parliamenteers and Roundheads now in Arms to resist them;) Ergo, they must onely pray, but in no wise resist or fight against them; All men must pray to God for their (n) daily bread: Ergo, they must onely pray and not labour for it; Sick (o) persons must pray to God to restore their health: Ergo, they must take no Physick, but onely pray; All men are expressly commanded to (p) erie and call upon God in the day of trouble, Ergo, they must use no meanes but prayer to free themselves from trouble; pretty Logick, Reason, Divinity, fitter for derision then any serious Answer.

(h) Exod. 14.
(i) Psa. 59. 1, 10
and other Psal.
(k) 2 Chron. 32.
20. 2 King. 19.
(l) 2 Chron. 14.
9. 9. 10. 15.
(m) 2 Chron. 13.
14. 15. 16.
(n) Mat. 16. 11.
(o) 1am. 5. 14,
15. 6.
(p) Psal. 50. 15

Math. 21. 13.

This is all this Text concludes, and that grossly mistaken Speech of Saint Ambrose, *Christians weapons are Prayers, and Tears*; of which anon in its due place. In one word, prayer no more excludes resistance, then resistance, prayer; both of them may, and sometimes (when defence is necessary, as now) ought to concur; so that our Court Doctors may as well argue, (as some Prelates not long since did in word and deed) *Ministers ought to pray, and Gods* House is an Oratory for prayer: Ergo, they must not Preach (at least, very seldom) nor make his House an Auditory for Preaching:* Or as rationally reason from this Text, That Subjects must cry out to God against their kings oppressions, Ergo, they must not petition their Kings, much lesse complain to their Parliament for relief; as conclude from thence; Ergo, they may in no case resist the king, or his invading Forces, though they endeavour to subvert Religion, Laws, Liberties, as the Doctor himself states the controversie: whose arguments will hardly satisfie conscience, being so voyd of reason, sence, yea science.

Obj^ect. 8.
(q) Dr Ferre,
Sect. 2. 7. An
Appal to thy
Conscience.

The eighth is this, (q) *None of the Prophets in the old Testament, reprehending the Kings*

Kings of Israel and Judah for their grosse Idolatry, cruelty, oppression, did call upon the Elders of the people for the duty of resistance; neither do we finde the people resisting, or taking up Arms against any of their kings, no not against Ahab or Manasseh, upon any of these grounds: Ergo, resistance is unlawfull.

To which I must reply, first, That none of the Prophets did ever forbid resistance in such cases, under pain of Damnation, as our new Doctors do now; Ergo, it was lawfull, because not prohibited. Secondly, that as none of the people werethen inhibited to resist, so not dehorted from it: therefore they might freely have done it, had they had hearts and zeal to do it. Thirdly, * Iosephus resolves expressly, That by the very Law of God, Deuter. 17. If the King did contrary to that Law, multiply silver, gold, and horses to himself, more then was fitting, the Israelites might lawfully resist him, and were bound to do it, to preserve themselves from Tyrannie; Therefore no doubt they might have lawfully resisted their Kings Idolatry, cruelty oppiessions. Fourthly, ^q Hulderichus Zuinglius; a famous Protestant Divine, with others, positively affirms, That the Israelites might not onely lawfully resist, but likewise depose their Kings for their wickednesses and Idolatries; yea, That all the people were justly punished by God, because they removed not their stagitious, idolatrous Kings and Princes out of their places, which he proves by Ierem 15. where after the four Plagues there recited, the Prophet subjoyne the cause of them, saying, Verse 4. I will give them in fury to all the Kingdoms of the Earth, (that is, I will stirre up in fury all the kings of the earth against them) because of Manasseh the son of Hezekiah king of Judah, for that which he did in Jerusalem. This Manasseh had committed many wickednesses by Idolatry and the shedding of innocent blood, as we may see in the one and twentieth Chapter of the second of the Kings; for which evils the Lord grievously punished the people of Israel: Manasseh shed overmuch innocent blood, until he had filled Jerusalem even to the mouth, with his sins wherewith he made Judah to sinne, that it might do evill before the Lord: Therefore because Manasseh King of Judah did these most vile abominations, above all that the Amorites had done before him, and made the Land of Judah to sin in his uncleansse, therefore thus saith the Lord God of Israel, Behold, I will bring evill upon Jerusalem and Judah, that whosoever shall hear, both his ears shall ring, &c. In summe, if the Jews had not thus permitted their King to be wicked WITHOUT PUNISHMENT; they had not been so grievously punished by God. We ought to pull and cast away even our eye that offends, so a hand and foot, &c. If the Israelites had thus DEPOSED Manasseh by consent and suffrages of all, or the greatest part of the multitude, they had not been so grievously punished of God. So Zuinglius, with whom even (f) B. Bilson himself in some sort accords, who in defending & interpreting his opinion, confesseth, That it is a question among the Learned, what Sovereignty the whole people of Israel had over their Kings; confessing, that the peoples rescuing Jonathan that he died not, when Saul would have put him to death, (u) Davids speech to the people when he purposed to reduce the Arke, (x) all the Congregations speech and carriage toward Rehoboam when they came to make him King, with the (y) peoples speech to Ieremy, Thou shalt die the death; have perswaded some, and might lead Zuinglius to think, that the people of Israel, notwithstanding they called for a King, yet RESERVED TO THEMSELVES SUFFICIENT AVTHORITY TO OVER-
RVLE THEIR KING, IN THOSE THINGS WHICH SEEMED EXPEDIENT AND NEEDFULL FOR THE PVBLIKE WELFARE; else

Ans. 1.
2.
3.
* Antiqu. Iud. l. 4. c. 8.
4.
(q) Explanat. Artit. 42. Operum, Tom. 1. &c.

(f) Third Part of the True Difference between Christi- on subjection, &c p. 513. 514. (t) 1 Sam. 14. (u) 1 Chron. 13. (x) 1 Kin. 12. (y) Ier. 26.

God would not punish the people for the kings iniquity, which they must suffer, and not redresse. Which opinion, if as Orthodox, as these learned Divines and Josephus averre it, not onely quite ruines our Opposites Argument, but their whole Treatises and cause at once. But fitly, I answer, that subjects not onely by command of Gods Prophets, but of God himself, and by his speciall approbation have taken up Arms against their Idolatrous Princes, to ruine them and their Posterities: A truth so apparent in Scripture, that I wonder our purblind *Doctors* discern it not: For did not God himself, notwithstanding his frequent (conditionall) promises to establish the Kingdom of

(z) 1 King. 11.
1. 10. 40.

Israel on David, Solomon and their Posterity; for (z) Solomons grosse Idolatry (occasioned by his Wives) *is* Solomon in expresse terms? Wherefore for as much as this is done of thee, and thou hast not kept my Covenant and my Statutes, which I have commanded thee, I will surely REND THE KINGDOM FROM THEE, and will give it to thy servant. Notwithstanding in thy days I will not do it, for David thy fathers sake; but I will rend it out of the hand of thy son. Did not the Prophet *Abijah* in pursuance hereof, rending *Ieroboams* garment into twelve pieces, tell him? Thus saith the Lord, the God of Israel, behold, I will rend the Kingdom out of the hand of Solomon, and will give ten tribes to thee; And I will take the Kingdom out of his sons hand, and will give it unto thee, even ten Tribes; and I will take thee, and thou shalt reign according to all that thy soul desireth, and shalt be King over Israel; and I will

(a) 1 King. 12.
2 Chr. 10.

for this afflict the Seed of David. (y) Yea, did not ALL ISRAEL upon Solomons death, when *Rehoboam* his son refused to grant their iust requests at their coming to *Sechem* to make him king, use this speech to the king, What Portion have we in David? neither have we inheritance in the son of Iesse, so your Texts to Israel: we see to thine own house David. Whereupon they departed and fell away from the house of David ever after, and made *Ieroboam* King over all Israel. And doth not the Text directly affirm? Wherefore *Rehoboam* hearkned not unto the people, for the cause was from the Lord, that he might perform the saying which the Lord spake to *Abijah* unto *Ieroboam*, the son of *Nebat*. After which when *Rehoboam* raised a mighty Army to reduce the ten Tribes to obedience, the Word of the Lord came to *Shemaiah* the man of God, saying, Speak unto *Rehoboam* and all the house of *Judah* and *Benjamin*, Thus SAITH THE LORD, Ye shall not go up to fight against your brethren the children of Israel, return every man to his house; FOR THIS THING IS FROM ME; They hearkned therefore to the word of the Lord and returned to depart, according to the word of the Lord. Lo here a Kingdom quite rent a way from the very house of David; yea, a new King and kingdom erected by the People, by Gods and his Prophets speciall direction, and approbation, for King Solomons Idolatry. Who is such a stranger to the sacred Story, but hath oft-times read, how God anoynted *Iehu* King, of purpose to extirpate and cut off the whole house of *K. Ahab* his Lard for his and *Iezabels* Idolatry and blood-shed, in slaying the Prophets, and unjustly executing *Naboth* for his Vineyard? in performance whereof he slew his Sovereign King *Ioram*, *Ahaziah* King of *Judah*, *Queen Iezabel*, all *Ahabs* posterity, his great men, his Nobles, and all the Priests and worshippers of *Baal*, till he left none remaining, according to the word of the Lord which he spake by his servants *Elijah*, 2 Kings c. 9. & 10. For which good service the Lord said unto *Iehu*, Because THOU HAST DONE WELL in executing that which is right in mine eyes, and hast done unto the house of *Ahab* according to all that was IN MINE HEART, thy children of the 4-generation, shall sit on the Throne of Israel.

This

This fact therefore of his thus specially commanded, approved, rewarded by God himself, must needs be just and lawfull, not Treason, nor Rebellion in *Iehu*, unlesse the Opposites will charge God to be the author, approver, and rewarder of sin, of Treason.

Neither will it serve their turns to Reply, that this was an extraordinary example, not to be imitated without such a speciall commission from heaven, as *Iehu* had, and no man can now a dayes expect; For since God hath frequently enjoyned all grosse incorrigible Idolaters (especially those who are nearest and dearest to, and most potent to seduce us) to be put to death, without any pitty, or exception of Kings, whose examples are most pernicious, and apt to corrupt the whole Nation, as the presidents of the Idolatrous kings of *Israel* and *Judah* abundantly evidence) if Kings become open professed Idolaters, though private persons may not murder them, and their families, as *Iehu*; yet the representative body, or greater part of their Kingdoms, (as many Pious Divines affirm) may lawfully convent, depose, if not judge them capitally for it: and Gods putting zeal and courage into their hearts, or exciting them by his faithfull Ministers, to such a proceeding, is a sufficient Divine Commission to satisfie Conscience, if no sinister private ends, but meer zeal of Gods glory, and detestation of Idolatry be the onely Motives to such their proceedings. (c) Thus we read, God stirred up *Baacha*, exalted out of the dust, and made him a Prince over the house of *Israel*, who slew king *Nadab*, and smote all the house of *Ieroboam*, till he left him not any that breathed, because of the sins of *Ieroboam* which he sinned, and which he made *Israel* sin, by his provocation wherewith he provoked the Lord God of *Israel* to anger; who going on after in *Ieroboams* sins, God threatens to cut off all his house, and make it like the house of *Ieroboam*; which was actually executed by *Zimri*, who slew his Sovereign King *Elah*, son to *Baacha*, with all the house of *Baacha*, and left not one that pissed against the wall; neither of his kinsfolke, nor of his friends, according to the word of the Lord which he spake against *Baacha* by *Iehus* the Prophet. Which act of *Zimri*, though a just judgement in regard of God, on the family of *Baacha* for their Idolatry, was notwithstanding reputed Treason in *Zimri*, because he did it not out of Conscience or zeal against Idolatry, being, and continuing an Idolater himself; but onely out of ambition to usurp the Crown, without the peoples consent; whereupon all the people made *Omri* King, and then going all to the Royall Palace, set it on fire, and burnt *Omri* in it, both for his sins, Idolatries, and Treason which he wrought. We read expressly, (e) that after the time that *Amaziah* did turn away from following the Lord, they (for this) conspired a conspiracie against him in *Ierusalem*, and he fled to *Lachish*, but they sent to *Lachish* after him, and slew him there; and they brought him upon horses, and buried him with his fathers in the City of *Judah*. Then all the people of *Judah* took *Uzziah*, who was 16 years old, and MADE HIM KING in the room of his father *Amaziah*, and he did that which was right in the sight of the Lord. So (f) *Zachariah*, *Shallum*, *Pekahiah*, *Pekah*, four evil Kings of *Judah*, successively acquiring the Crown by murder, and reigning evilly in Gods sight, were all slain by Gods just judgements on them, of one another, and *Hoshea*. In few words, God himself ever annexed it in condition to the Kings of *Israel* and *Judah*, that they should serve and fear him, obey his Laws, keep his Covenant, otherwise if they did wickedly forsake him, or commit idolatry, he would destroy, forsake, and cast them and their seed off from being (*) Kings. When therefore they apparently violated the condition, the whole State and people, as Gods Instruments, lawfully might, and sometimes did by Gods speciall direction, remove

Evason.
Reply.
(b) Deut. 13.
thorowout.
c. 17. v. 10 8.

(c) 1 Kin. 16.
27. 10 34. v. 16
12.

(d) 1 Kings 16.
1, 10 20.

(e) 2 Chron. 25.
27. 28. v. 6. 10
6. 1 King. 14.
19. 20. 21. v. 15.
(f) 2 King. 15.
1 Sam. 12-14.
15. 25 2 Sam.
7. 11, 12, 14, 15,
16. 2 Sa 29. 30,
31, 32. 1 Chro.
28. 7, 8. 9. 1 Kin.
11. 9, 10, 11, 12,
32, 33. 1 Sam.
15. 25, 26, 27, 32
29, 30 15. 1.
10m par d 2018
be 1. 7. 10 10
the 154.

depofe, and sometimes put them even to death for their groffe iniquities, and idolatries; and when they did it not, it was not (as many think) for want of lawfull Sovereign Authority remaining in the whole State and people, (as I shall fully manifest in the *Appendix*) but out of a defect of zeal, out of a generall complying with their Kings in (g) their abominable idolatries and sins, which brought War, Captivity, ruine, both on their Kings, their Posteritie, the whole Nation and Kingdoms of Iudah, and Israel, as the Sacred Story plentifully relates. All which considered, this objection proves not onely false, but fatal to the Objectors cause, who might with more discretion have forborn, then forced such an answer to it, which I hope and desire no private persons will abuse to iustifie any disloyalty, sedition, Treason, Rebellion, or taking up of Arms against their lawfull Princes, though never so evill, without the publike consent and authority of the representative bodies or major part of their severall Realms, byassed with no sinister nor private respects, but ayming onely at Gods glory, and the publike weale, security, peace of Church and State. Thus much in answer to the principall Objections out of the Old Testament.

(g) 1 King 12.
30. 6. 13. 33. 34.
6. 14. 7. 10. 17. 6.
15. to the end
of c. 22. 2 King.
6. 1. to the end
of c. 25. 2 Chro.
10. 10. to the
end of c. 24.

Object. 9.

(h) Dr Ferne,
Sect. 2. p. 10, 11,
12 and esse-
where. The ne-
cessitie of Chri-
stian Subjection,
Oxford, 1643.
Appeal to the
conscience,
1643. The
Lords Anoin-
ted, Oxford,
1643. with
others.

The ninth and most materiall (h) Objection, on which our Opposites principally relie, is that noted Text in the new Testament, *Rom. 13. 1, 2. Let every soul be subject unto the higher Powers, for there is no Power but of God; the Powers that be, are Ordained of God. Whosoever therefore resisteth the Power, resisteth the Ordinance of God, and they that resist, shall receive to themselves damnation.* From whence Dr. Ferne concludes, 1. That the King is the Supreme or Highest Power here intended. 2. That all persons under the Highest Power are expressly forbidden to resist. 3. That in those dayes there was a standing and continuall great Senate, which not long before had the Supreme Power in the Roman State, and might challenge more by the fundamentalls of that State, then our Great Councell will or can. But now the Emperour being supreme, as S. Peter calls him, or the Higher Power, as S. Paul here, there is no power of resistance left to any that are under him, by the Apostle. 4. Was there ever more cause of resistance then in those dayes? Were not the Kings then not onely conceived to be inclined so, and so, but even actually to be enemies of Religion, had overthrowen Laws and Liberties? And therefore if any should from the Apostles reasons that he gives against resistance in the 3, 4, 5; Verses; (for Rulers are not a terror to good works, but evill, and he is the Minister of God to thee for good) replie, That Rulers so long as they are not a terror to the good, but ministers for our good, are not to be resisted; the consideration of those times leaves no place for such exception, because the Powers then (which the Apostle forbids to resist) were nothing so, but subverters of that which was good and just. The Emperours did then indeed rule absolutely and arbitrarily, which should have according to the Principles of those dayes been a stronger motive to resist. But how did they make themselves of Subjects such absolute Monarchs? was it not by force and change of the Government? and was not the right of the People and Senate (according to the Principles of these dayes) good against them, with as much or more reason, then the right of the people of this Land is against the Succession of this Crown, descending by three Conquests? 5. The prohibition doth not onely concern Christians, but all the people under those Emperours, and not onely Religion was persecuted, but Liberties also lost, the people and Senate were then enslaved by Edicts and Laws then enforced on them, by Nero and other Roman Emperours, yet notwithstanding the Apostle prohibits them to resist. By all which conscience will clearly see, it can have no warrant in Scripture for resistance, to wit, of
the.

the King, or his invading Forces, by way of necessary defence. So the Doctors and other Objectors hence conclude.

To give a satisfactory Answer to this grand Objection, I shall in the first place inquire, *Whether there be any thing in this Text, prohibiting subjects to resist with Force the armed unjust violence of their Princes persons or instruments, especially when they are bent to overthrow Religion, Laws, Liberties, the Republike, and turn professed Tyrants?* And under correction, I conceive there is not the least syllable or shadow in this Text for any such inhibition, as is pretended. Not to insist upon the words, *higher Powers ordained of God, &c.* which extend not unto Tyrannie and illegall exorbitant oppressions, of which hereafter; I shall deduce my first Demonstrations to prove this negative Assertion, from the occasion inducing the Apostle to insert these objected Verses into this Epistle: (i) *Dr Willet recites 7. Reasons of it*, all fortifying my assertion; I shall mention onely the three most probable, most received of them, and apply them as I go.

(i) Sixfold Comment. on Rom. 13. Quæst. 10. p. 578.

First, the Roman Magistrates being then infidels, the new converted Christians among them, either did, or might take themselves to be wholly exempted from any subjection or obedience to them, *reputing it a great incongruity, that Christians should owe any subjection to Pagans*: To refute which error, the Apostle informs them, that though the Magistrates themselves were **Ethnicks**, yet their *Authority and Power was from God himself*; therefore their profession of Christianitie did rather oblige them to, then exempt them from subjection. Thus *Haymo Soto, Calvin, Guather, Marlorat, Willet, Pareus*, with others on this Text. Turn this Reason then into an Argument, and it will be but this *Non sequitur*: Christianity exempts not subjects from due obedience to just Pagan Magistrates, Ergo, Tyrants may not be resisted, neither ought the Parliament and their Forces to resist the Kings **Cavallcers** unjust assaults, as the case is formerly stated. Pretty **Logick**, and **Divinity**.

2. The *Gaulonites*, as (k) *Iosephus* records, with other Jews, being **Abrahams** seed, held it unlawful for them to yeeld any subjection or tribute to the Roman Emperors, or other Heathen Princes, reigning over them; whereupon they demanded this question of Christ himself, *Is it lawfull to pay tribute to Cesar?* *Matth. 12.* which error perchance spread it self into the Christian Church, by reason of **Evangelicall Libertie**, grounded on *Ioh. 8.* *If the Son shall make you free, then are ye free indeed;* *Mat. 17.* *They are the Children free*; and *Ro. 6.* *We are not under the Law, but under Grace.* To recall this mistake, the Apostle inserted these passages into this Epistle; Thus *Soto, Calvin, Peter Martyr, Willet*, and others. Whence nothing but this can be properly concluded, Neither the Prerogative of the Jews, nor Liberty of Christians exempts them from due subjection to lawfull heathen Magistrates, because they are Gods Ordinance, Ergo, No Subjects can with safe conscience defend themselves in any case against the unjust invasions of Tyrannicall Princes or their Armies. A palpable Inconsequent.

(k) Antiquit. l. 18. c. 12.

Thirdly, the Apostle having formerly taught, (*) that *Christians might not avenge themselves*: lest some might have inferred thereupon (as many * **Anabaptists** have done) that it was not lawfull for Christians to use the Magistrates defence against wrongs, nor for the Magistrate himself to take vengeance of evill doers: To prevent this the Apostle argues, That the Magistrates are **Gods Ministers**, appointed by him to punish Malefactors, and take vengeance on them, So *Guather, Willet*, and others. To conclude from this ground: Oppressed Subjects may seek redresse of their grievances from the Magistrates, who may lawfully punish Malefactors, Ergo, they may not resist with

(*) Rom. 12. 19. Olander. Enchir. contr. cap. 9. de Magistr. Potib.

with force, Tyrannicall bloody Magistrates, or their wicked Instruments, when they actually make war upon them, to ruine, spoyl, enslave them, is but a ridiculous *Non sequitur*. There is nothing therefore in the occasions of the Apostles words which gives the least colour, to disprove the lawfulness of such resistance, or of the Parliaments just defensive war.

Secondly, this is manifest by the *whole Scope* of this Text, which in summe is onely this, *That Christians ought in conscience to (1) be subject to all lawfull higher Powers, so farre forth as they are Gods Ordinance, Gods Ministers, for their good, to the praise of the good, and punishment of evill doers, and not to resist them in the execution of their just Authority: Or Christianity exempts not Christians from obedience unto faithfull Civill Magistrates: to inferre from thence. Ergo it is unlawfull for Christians in point of conscience to resist their Magistrates when they warre upon them to subvert Religion, Lawes, Liberties, slay, plunder them, is but a meer non-sence deduction.*

Thirdly, this appears most perspicuously from the motives to obedience, and reasons against resistance of Magistrates specified by the Apostle in the text it selfe.

First, the higher Powers must be submitted to, and not resisted, *because they are ordained of God, and are Gods Ordinance, vers. 1. 2.* But they are ordained of God and his Ordinance, so far forth only as they govern according to his Word; and preserve,

(m) *prote& Religion, Lawes, Liberties, the persons and estates of their people; They are not Gods Ordinance, but the Devils, when they doe quite contrary, (o) walking about like roaring Lions, seeking whom they may devoure, as the Devill doth; According to that resolution of Bracton, and Fluta (p) Exercere debet Rex potestatem Juris sicut Dei Vicarius & Ministeri in terra, quia illa Potestas SOLIVS DEI EST potestas autem injuria DIABOLI ET NON DEI; Cujus horum operam fecerit Rex ejus minister erit. Igitur dum facit justitiam, vicarius est Regis aeterni: MINISTER AVTEM DIABOLI dum declinat ad injuriam.* Therefore they are so farre forth onely to be obeyed and not resisted, as they are Gods Ordinance, and lawfull Magistrates, not as they are tyrants and the Devils Agents: we might have obeyed the evill spirits themselvs whiles they continued good Angels; Ergo we must not resist them now they are turned Devils, is il Logick, course Divinity, contrary to the 1 Pet. 5. 8, 9. Jam. 4. 7.

Secondly, *because those who resist shall receive to themselves damnation, temporall or eternall, since they resist Gods Ordinance, v. 2.* But that subiects should be temporally and eternally damned, only for resisting tyrannicall Magistrates or their Cavaliers, and that by authority from the Parliament, when they with armed violence must impiouly set themselves to subvert Religion, Lawes, Liberty, Propertie, and take away their livs, against all Lawes of God and Man; for which *they themselves incurre both (r) temporall and eternall damnation, is such a Paradox, as is no way warranted by, but directly opposite to the Scripture.* Therefore it must be intended onely of resisting lawfull Authority, and iust commands.

3, They must be subiected to, not resisted, *because Rulers are not a terror to good work, but to evil, v. 3.* Now is this a reason why Subiects should not resist tyrannicall oppressing Princes, Magistrats, or their Instruments, who are only a terror to good works, not to evill? who do (s) evill and only evill continually, even with both hands? doubtlesse not. We must not resist Rulers who are a terror to good works but to evill; Ergo, we must not resist Rulers, who are a terror to good works, not to evill, as our Opposites conclude hence, is to argue point blank against the Apostle; Ergo, we may and must resist.

(m) *Isay 32. 1, 2. 5. 49. 23. 1. Sa. 8. 20. Psa. 78. 72, 73, 74.*
 (n) *Paraus, willet, Sozo, and others.*
 (o) *1 Ret. 5. 8. (p) Lib. 3. 6. 9. f. 107.*
 (q) *Fluta, l. 1. f. 17.*

(r) *Isay 14. 4. 10. 27. 1 king. 1. 21, & 22. Psa. 52. 1. 50 7. Psa. 7. 13. Psa. 94. 20, 21, 23. Psa. 140. 1. 10 13. (s) Psa. 140. 1. 20 6. Prov 1. 16. Mich. 2. 1. 3. 68. 23. 37. 30.*

resist them to our powers, lest we be (1) partakers of their sinnes and punishments, and become authors of Religions and the Commonwealths subversion, is a more proper Inference.

(1) Rom. 1. 31.
3 2 1 Tim. 5. 22
2 John 10. 11.
Rev. 18 4.

Fourthly, the Apostle subjoynes this argument against resistance. *Wilt thou not then be afraid of the power? doe that which is good, and thou shalt have praise of the same,* Vers. 3. That power is not to be resisted, which wee need not be afraid of, and of whom we shall have prayse whiles we doe that which is good: But this onely can be intended of a lawfull power justly executed; not of Tyrants, or their ill Ministers bent with force of armes to ruine Religion, Lawes, Liberties,; who onely terrifie, disgrace, discountenance those that are good; applaud, advance none but those who are evill, and as *Micah* writes, Chap. 3. 2. 3. *Love the evill and hate the good, and pluck off their skin from off them, and their flesh from off their bones,* &c. Therefore this inhibition of resistance extends onely to lawfull Magistrates, not to ungodly oppressing Tyrants.

Fifthly, he is not to be resisted, but obeyed; because he is the *Minister of God to thee for good,* Vers. 4. But is this true of Tyrants? of ungodly Magistrates bent to subvert Religion, Lawes, Liberties, and destroy their people? True of (u) *Caligula*, of *Nero*, who wished all the Romans had but one necke, that he might cut them all off at one stroke; and purposely fired Rome to consume it, beholding the flames as a most delightfull spectacle? Are such the Ministers of God for our good here intended? or not rather, (x) the very *Pests, Judgements, Scourges, Wolves, Cut-throats, destroyers of mankind,* and direct Antinodes to all things that are good? If these be not within the Apostles definition, they are without his inhibition; which extends onely to such, who are the Ministers of God to us for good: and implies a lawfulness of resisting those who are the *Devils Ministers* to us for evill, rather than Gods for good.

(u) See *Suetonius, Eutropius, Zonarus, Giimston* and others in their lives.

(x) See *Seneca de Clem. l. 1. Hosea 13. 11.*

Sixtly, He subjoynes this further reason of obedience and not resistance, Vers. 5. *But if thou dost thit which is evill be afraid; for he beareth not the sword in vaine; for hee is the Minister of God, a revenger, to execute wrath upon him that doth evill;* which no wayes suites with a Tyrant bent to subvert Religion, Lawes, Liberties: For he secures all evill men, especially those who are instrumentall to advance his cruelty, and oppressions; gives liberty to all manner of wickednesses, Proclaimes impunity to his ill instruments, knowing that of the Poet to be true;

(y) *Libertas scelerum est que Regna invisa tuetur, &c.*

He beareth the sword not onely in vaine, in reference to any good end, for the promoting of Gods glory and the publike good; but likewise draweth it forth, and useth it directly against both; And is so farre from being a *Minister of God, or revenger to execute wrath upon them that doe evill,* that he is the very Minister of the Devill, (a) a bloody implacable revenger to execute wrath upon those onely that doe good: Such was *Nero*, who then reigned, of whom (a) *Tertullian*, *Nihil nisi grande aliquid bonum a Nerone damnatum.* This reason then extends onely to righteous Governours, in their execution of justice upon wicked malefactors wherein they must not be resisted; Not to bloody, gracelesse, lawlesse Tyrants and their instruments, who by the rule of contraries may and ought to be resisted in their cruelties, oppressions, impieties.

(y) *Lucan. de Pello Civili. l. 8. p. 141.*

(z) See *For Acts and Monuments* throughout.

(a) *Apolog. c. 5. and Seneca de clementia. c. 24.*

Seventhly, the Apostle hereupon concludes, Vers. 5. *Wherefore you must of necessity be subject not onely for wrath, but also for conscience sake.* This conclusion as the word, *Wherefore,* demonstrates, being inferred from the premised reasons, extending onely to

just and upright Magistrates, not to Tyrants, as they are such; must relate wholly unto them; namely, that we must of necessity be subject unto just rules, and the higher powers, governing uprightly; *Because they are Gods Ordinance; because those who resist them shall receive damnation: Because they are not a Terror to good workes, but to evill: because we shall have praise of them if we doe good; because they are the Ministers of God to us for good; and because they are Gods Ministers and revengers, to execute wrath upon them onely that doe evill:* Neither of which reasons extending to Tyrants, this conclusion can never reach to them; since no Law of God or man, necessitates any one to be subject, not onely for wrath, but even for conscience sake, to the unjust commands and violence of Tyrants, but the quite contrary: Should Tyrants enjoyne men, as some have done, to offer sacrifice to Idols, to renounce Christianity, abjure Jesus Christ, and yeeld up their chastity to their unruly lusts; Gods (c) Law and conscience in such cases enjoynes them of necessity to disobey and resist those commands, even for conscience sake; as every man endued with conscience must acknowledge; Therefore this Text extends not to resistance of such exorbitant powers in such lawlesse cases.

(b) See Fox
Acts and Mo-
nument, Euse-
bius, Socrates,
Scholast, Nice-
phorus, Grim-
sten in his life
of Julian the
Apostate and
others.

(c) Dan. 3. 5.
to 25. Acts 4.
20. c. 5. 28, 29.

Eighthly, the Apostle thus proceeds, *Verf. 6. For this cause also pay you tribute, for they are Gods Ministers, attending continually upon this very thing.* What, doe men pay any Tribute to Princes or Magistrates for this cause, that they may subvert Religion, Lawes, Liberties? that they may plunder, nurther, warre upon, and expose them to the rapine of their ungodly Malignant Cavaliers? Or are Magistrates, Gods Ministers, attending continually upon this very thing, to ruine Parliaments, Church, State, people? would any men, thinke you, give Tyrants wages for such a service, to cut their throats, to devoure and undoe them in soule, body, estate? Or do not they pay tribute to, and Magistrates attend continually upon quite contrary employments? If so, as none can contradict, then the resistance here is onely intended of lawfull Magistrates, who continually attend upon their charge, to protect the good, and punish Malefactors; not of Tyrants, who doe quite contrary; and therefore are to be resisted.

Ninthly, he infers from the premises, *Verf. 7. Render therefore to every man his due, tribute to whom tribute, custome to whom custome, feare to whom feare, honour to whom honour:* By what Law of God are obedience, feare and honour due to Tyrants in their ungodly, exorbitant, unjust commands, to subvert Religion, Lawes, Liberties? Certainly the Apostle hath no where in this Text, nor God himselfe in any other Scripture expressed such obedience, resistance, feare or honour to be due unto them: and *Elisha* his speech to *King Jehoram*, 2 *King* 3. 13. 14. compared with *Ezek.* 21. 25. *Job* 12. 19. 21. *Cb.* 3. 4. 19. *Nebem.* 4. 7. to 20. *Cb.* 13. 17. *Isa.* 1. 23. *Cb.* 41. 25. *Lam.* 1. 6. *Cb.* 5. 2 proves directly, that they are not their due. Therefore this Text extends not to them, but onely to lawfull Magistrates.

Lastly, he concludes hence, *Verf. 8. Owe no man any thing, but to love one another: for he that loveth another hath fulfilled the Law.* Now no such Love is owing to Tyrants who subvert Religion, Lawes, Liberties; but we are to hate them with a perfect hatred, as enemies both to God and man, borne for the publike prejudice, *Psal.* 139. 21. 22. *Psal.* 109. 1. to 21. 28, 29. but onely just and upright Magistrates: Therefore this Text is intended onely of them.

By all these premises it is undeniable, that the resistance here prohibited is onely of lawfull Magistrates in the due execution of their Offices, according to the Lawes
of

of God and the Realms they live in; not of tyrannicall oppressing Princes, Rulers, or their instruments forcibly endeavouring to ruine Religion, Lawes, Liberties, Parliaments, Kingdomes; which fully refutes the Doctors fourth Observation; of which more anon.

I now proceed to some farther disquisitions for the finall clearing of this Text; and herein I shall examine,

First, what is meant by higher powers: whether Kings or the Roman Emperor onely, as our objectors pretend, or all civill Magistrates whatsoever as well as Kings?

Secondly, whether the Roman Emperour in *Pauls* time were the highest Sovereign power in that State, or the Senate?

Thirdly, whether Tyrants and unjust oppressing Magistrates, as they are such, be within the intendment of this Text, and not to be resisted in any case.

Fourthly, whether Kings and kingdomes be Gods Ordinance; or an institution *jure divino*; or a humane ordinance *jure humano*; and how farre divine or humane?

Fifthly, what resistance of the higher powers is here prohibited?

For the first of these. By the higher Powers it is cleare, that Kings and Emperours onely are not meant, as our opposites dreame; but all kinde of civill Rulers and temporall Magistrates whatsoever, from the King himselve to the Constable and Tithingman: As is apparent, first, by the word, *higher Powers*, used indefinitely in the plurall number, without mentioning any speciall kind of power. Secondly, by those words: *There is NO POWER but of God: the powers THAT ARE* (that is, all lawfull powers whatsoever now in being) *are ordained of God*: which universall Negative, and Affirmative, must necessarily include all lawfull civill powers. Thirdly, by the following words: *(d) For Rulers, &c.* that is, all Rulers in the plurall number; a Title common to all inferiour Officers: witness *Exod. 18. 21. 22. 25, 26.* (See *1 Chron. 12. 14.*) *And Moses chose able men out of all Israel, and made them HEADS over the people: RULERS of thousands, Rulers of hundreds, Rulers of fifties, and Rulers of tentes,* (such as our Tithingmen are) *and they judged the people at all seasons,* So that the Tithingman is a Ruler, a higher power within this Text. Fourthly, the word *Ministers*, *For they are Gods Ministers, &c.* in the plurall too, extending generally to all officers. Fifthly, by *v. 6, 7, 8. Render therefore to ALL their dues,* (that is, to all Magistrates whatsoever; as these ensuing words evidence) *tribute to whom tribute is due, custome to whom custome, feare to whom feare, honour to whom honour: Owe nothing to ANY MAN, &c.* that is, to ANY Magistrate, or Ruler of what kind soever. Sixthly, by parallel Texts, extending as well to inferiour lawfull Magistrates and Officers, as to Kings, as *1 Tim. 2. 1. I exhort therefore, that first of all supplications, prayers, &c. be made for all men; for Kings, and ALL THAT BE IN AVTHORITY, &c.* *Titus 3. 1. Put them in minde to be subject to principalities and powers, to obey Magistrates* (all in the plurall:) *1 Pet. 2. 13. 14. Submit your selves to EVERY ORDINANCE of man for the Lords sake; whether it be to the King as supreme, or unto GOVERNORS,* (in the plurall) *as unto those that are sent by him, for the punishment of evill doers, and the praise of them that doe well;* Compared with *Jesh. 1. 16. 17. 18. Ezra 7. 25, 26. Ephe. 6. 1. 5. Col. 3. 18. 20. 23. 1 Tim. 6. 1. Heb. 13. 17. Exod. 22. 28. Chap. 18. 21, 22, 25, 26. 2 Kings 11 4.* Seventhly, by all Expositors generally on this Text, ancient, moderne, Protestants, Papists, who grant, that this Text

(d) See *Exod. 16. 22. c. 34. 31*
2 King. 10. 1.
1 Chron. 26. 32
Ezra 9. 2. c. 10.
14 Nchem. 2.
16. c. 5. 17. c.
13. 11. Ezek.
23 6. Joh. 7.
48. c. 12. 42.
Acts 4. 5. 8, 26.

extends to all civill Magistrates, as well inferiour and subordinate, as superiour, (and many sticke not to straine it even to Ecclesiasticall ones) So Origen, Ambrose, Hierome, Remigius, Theodulus, Chrysofome, Theodoret, Primasius, Haymo, Rabanus Maurus, Theophylact, Oecumenius, Haymo, Aquinas, Anselm, Lyra, Bruno, Gorran, Hugo de Sancto Victore, Tostaius, Luther, Calvin, Erasmus, Melanethibon, Gualther, Musculus, Bucer, Hemingius, Ferus, Fayus, Soto, Alexander Alesius, Peter Martyr, Pareus, Beza, Piscator, Zuinglius, Tollet, Willet, Wilson, Nasclantus, Snecanus, Vignerius, Wenerichius, Winckelman, Estius, Faber, Cornelius a Lapide, Salmeron, Catharinus, Guillandus, Adam Sasbout with sundry others. This then being irrefragable, hereby it is most apparent; First, that no resistance of the higher powers is here prohibited, but onely in the due and legall execution of their offices: For if any inferiour Officers illegally indeavour to subvert Religion, Lawes, Liberties, and unrightly governe the people, they may lawfully be resisted by them: For example, if a Maior, Justice of Peace, Constable or other officer, extravagating from the common course of Law and Justice; shall with force of armes in a riotous manner assault any private man, or the whole Citie or Village where he lives, to beate, wound, kill, plunder, dispossesse the inhabitants of their houses, goods, franchises, or assault them on the highway side, to take away their purses; in theie and such like cases, both in point of Law and conscience he may not onely be forcibly resisted, but repulsed, apprehended, battered, if not lawfully slaine by the people, and proceeded against as a delinquent: The reason is, because these illegall unjust actions, are not onely besides, without their Commissions, but directly contrary to their offices, and the Lawes, which never gave them authority to act such injustice: yet they are *higher Powers ordained of God*, within this Text, and no way to be resisted in the due execution of their Offices according to Law. If then these inferiour Officers may be thus forcibly resisted, repulsed, notwithstanding this Text, in such cases as these; then by the selfe same reason Kings and Emperours may bee thus resisted too; since the Text extends indifferently to them both. Let then the objectors take their choyce; either affirme, that no inferiour lawfull Officers whatsoever, may be forcibly resisted, by the people, or repulsed, arraigned, censured for their misdemeanour, by vertue of this Text; which would bring an absolute Tyranny, Anarchy and confusion presently into the world, and make every Constable as great a Tyrant, Monarch as the grand Emperor of the *Turks*; or else confesse, that this Text condemnes not such resistance, even of Kings and Princes, when they forcibly war upon their Subjects to subvert Religion, Lawes, Liberties, and ruine the republike; since it makes no distinction at all betweene the ones power and the others; but equally enjoynes subjection, prohibits resistance unto both; and that onely in just administration of their severall authorities, not in the arbitrary unjust prosecutions of their wils and lusts.

Secondly, it followes, that the Kings Souldiers, Cavaliers and Forces now raised against Law, and armed onely with illegall Commissions voyd in Law, as I have proved; are none of the high powers ordained of God, nor lawfull Rulers or Magistrates within the meaning of this Scripture; and so the forcible resisting of them, and of the Kings illegall commands and designes executed by them, is no resistance of the higher powers here prohibited.

Thirdly, that the Houses of Parliament being in truth the highest powers ordained of God in this Realme, and their just legall Ordinances, Votes, Forces, for the
 necessary

necessary defence of Lawes, Liberties, Religion, against the Kings ill Counsellors, and Malignant Popish Forces, neither may, nor ought in conscience to be resisted by the King himselfe, or any of his Subjects, Souldiers, under the perill of that damnation mentioned in this Chapter.

For the second, *Whether the Roman Emperor in Pauls time was the highest Sovereign power in the Roman State, or not?* It is taken for granted by Doctor Ferne and other (a) opposites, that he was, as a thing past doubt, the Senate and people (as they say) having resigned up their power to the Emperour. But this no doubt is a grosse error, (which I have largely refuted in the Appendix, and therefore shall be the briefer here) derived from some civill Lawyers; who out of *Justinian. Digest. lib. 2. Tet. 2. and Instit. Tit. 2.* falsly affirme, that *Lege Regia*; by the regall Law the Senate and people transferred all their Empire and power unto the Emperour. For first the Senate and people (as *Albericus Gentilis* well observes) did not by this Law give the Emperour all power and command to dispose of them, or the lands and revenues of the Empire, as he pleased; but onely to governe them according to their Lawes, as men; not to slay and alienate them as beasts. Thus reason dictates, so the words of the Law sound. (c) Divines are deceived, Lawyers flatter, who perswade, that all things are lawfull to Princes, and that their power is highest and free. It is ridiculous to affirme, that absolute power over the subjects belongs to Popes; which belongs not to the Emperours themselves over the Italians, from whom they derive it. Imagine therefore that the Emperour had a power never so free, yet it is not of dominion, but of administration. (d) And he who hath but a free administration hath not the power of donation. (e) A guardian is then reputed in stead of a Lord, *cum tutelam administrat, non cum pupillum spoliat*; when he rightly administers his tutelage, not when he spoyles his pupill. So *Gentilis*. If then the Emperours had onely a free legall administration, not an absolute dominion; granted them by the people, then this soveraigne power still resided in the Senate and people, as *Justinian Digest. lib. 1. Tit. 2. De Origine Juris*, will sufficiently manifest: Secondly, (f) *John Bodin* a learned Civilian clearly proves: That the Roman Emperours were at the first, nothing else but Princes of the Commonwealth; THE SOVERAIGNTY NEVERTHELESSE STILL RESTING IN THE PEOPLE, and THE SENATE: So that this Commonwealth was then to have beene called a Principality; although that *Seneca* speaking in the person of *Nero* his Scholler, saith. I am the onely man amongst living men, elect and chosen to be the Lieutenant of God upon earth: I am the Arbitratour of life and death; I am able of my pleasure to dispose of the state and quality of every man. True it is, that he tooke upon him this Sovereign authority, by force wrested from the people and Senue of Rome, (therefore not freely given him by any Law) but IN RIGHT HE HAD IT NOT, the State being but a very principallitie WHEREIN THE PEOPLE HAD THE SOVERAIGNTY. In which case, THERE IS NO DOUBT but that IT IS LAWFULL to proseeute against a Tyrant by way of justice, if so men may prevail against him; or else by way of fact, and OPEN FORCE, if they may not otherwise have reason; As the Senate did in the first case against NERO: and in the other against Maximinus. So *Bodin*, who directly resolves, that even in *Nero* his raigne when this Epistle was written, the highest soveraigne power was not in the Emperour, but in the Senate and people: who notwithstanding this objected Text, had no doubt a lawfull Right, not onely to resist *Nero* when he turned Tyrant with open force, but likewise judicially to arraigne

Quæst. 2.
(a) Doctor Ferne, Appeals to thy conscience; The necessity of subjection.
(b) *Albericus Gentilis, de lu. Belli. l. 3. c. 13. p. 309.*
(c) *Alci. l. 3. de V. s. l. 35. & de pati.*
(d) *L. 7. de Don. l. 1. quæ res, p. 1. da. ob. non. p. 1. l. 8. qui mo. p. 6 l. 17. pro. Empt.*

(f) Commonwealth, l. 2. c. 5. p. 221.

(g) *Suetonius, Zonaras, Grimbis, Eutropius, Sabellicus, Opineer, and others in his life.*

and condemne him even to death, as they did, for his publike crimes. Now that the Sovereaign highest Power remained in the Senate and people notwithstanding this *Lex Regia*, *Marius Salamonius* (an incomparable learned Roman Civilian) hath largely proved in his six Bookes *De principatu* (purposely written to refute the contrary common error) where he writes, First, that the Roman Emperours were created and constituted onely by the Senat and people; and that the Creature should be superiour to the Creator, the child to the parent, is absurd. Secondly, that the Emperours were but the Senates and peoples publike servants; therefore they were their Lords, and not inferiour, but superiour to their servants. Thirdly, that they were subordinate and inferiour to the Lawes made by the Senate and people; and bound by all their Lawes, but such as the Senate and people did by speciall Acts exempt them from. Fourthly, that the people and Senate did by speciall Lawes create, limit, enlarge or abridge their Emperours power and jurisdiction, as they saw cause, giving sometimes more or lesse jurisdiction to one Emperour then another: which they could not justly doe, were they not the highest Sovereaign power. Finally he proves it by the very *Lex Regia* it selfe; which because rare and unknowne to most, I shall here recite, to informe and reformie our ignorant Court Doctors, Lawyers, with *Salamonius* his observations from it. *Lex Regia*, was not onely one single Law: There was not one Law for all Emperours, but it was revived for every Emperour, yet not with the same conditions. The brasse Table which yet hangech in the *Lateran Church*, proves that the Royall Law was accustomed to be altered in every Princes reigne AT THE PLEASURE OF THE ROMAN PEOPLE; for it is part of the Royall Law of the Empire of *Vespasian*, that it should be altered: which had beene voyd, if from the beginning of the Empire a perpetuall Law had beene made for all successors; the words of the Law are these.

(b) *Marius Salamonius de Principatu*, l. 6. p. 122. to 126.

Fædusve cum quibus volet facere, ita ut licuit Divo Augusto, Tyber. Julio Cesari Aug. Tyberioque Claudio, Julio Cesari Aug. Germanico.

Utique cum Senatium habere, relationem facere, remittere Senatus consulta, per relationem, discessionemque tacere liceat, ut licuit Divo Augusto, Tyberio, Julio Cesari Augusto, Tyberio, Claudio Cesari Augusto Germanico.

Utique quum ex voluntate, auctoritateve, jussu, mandatione ejus, presenteve eo Senatus habeatur, omnium rerum jus perinde habeatur, servetur, ac si elege Senatus edictus esset, habereturque.

Utique Coss. Magistratus potestatem, imperium, curationemve cuivis rei petenti Senatui populoque Romano commendaverit, quibusve suffragationem suam dederit, promiserit, eorum Comitibus quibusque extra ordinem, ratio habeatur.

Utique ei fines pomerii proferre, procurare, cum e Rep. censetur esse, liceat; uti licuit Tyberio, Claudio Cesari, Augusto Germanico.

Utique quæcunque ex usu Reip. majestate divinar: humanar: publicar: privatarumque rerum esse censetur, ea agere, facere jus, potestasque sit, ita uti Divo Aug. Tyberioque, Julio Cesari Aug. Tyberioque Claudio Aug. Germanico fuit.

Utique quibus legibus, Plebisve scitis scriptum fuit, ne Divus Augustus Tyberiusve, Jul. Caf. Aug. Tyberiusve, Claudius Caf. Aug. Germanicus tenentur; his Legibus Plebisque scitis Imp. Aug. Vespasianus solutus sit; quæque ex quaque Lege, Rogatione Divum Aug. Tyberiumve, Inl. Casarem Aug. Tyberiumve, Claudium Caf. Aug. Germanicum sa-

cere

cere oportuerat, ea omnia Imperatori Cesari Vespasiano Aug. sacre liceat.

¶ *Utiq; que ante hanc legem rogatam, acta, gesta, decreta, imperata, ab Imp. Cesare Vespasiano Augusto, jussu, mandaturæ ejus a quoque sunt, ea perinde jura rata sint, ac si populi plebisve jussu acta essent. Sanctio: Si quis hujusce legis ergo adversus leges, rogationes, plebisve scita, senatusve consulta fecit, feceritve, sive quod cum ex lege, rogatione, plebisve scito, senatusve consulto facere oportebit, non fecerit, hujus legis ergo, id ei ne fraudi esto, neve quid ob eam rem populo dari debets, neve de ea re cui, actioneve judicatio esto, neve quis de ea re apud eum agi sinio.*

¶ This Law first shewes, that there was not one royall Law made for all Emperors, but that for every severall Emperour severall Lawes were necessary, containing the conditions whereupon the Principalltie was collated by the Roman people: For to *Vespasian*, it appeares power was granted, of enlarging or setting the bounds, as it was granted to *Germanicus*, but not to other Princes. And in the last Chapter but one, which saith: And by those things which by any Law, &c. it is lawfull to doe; a larger power is given to *Vespasian* then to the forenamed Emperours; and that they ought to doe some things, which *Vespasian* ought not to doe by Law. Likewise by these words; *Utiq; quibus legibus, &c. solutus sit*: it appeares that *Vespasian* was not freed from all Lawes, nor yet the Emperour before him. Likewise out of the Chapter where it saith, *Ex usu Reip. Majestate, &c.* it is evident that not an absolute free administration of things was committed to the Emperours, but onely such as was usefull, that is, which should be for the profit and honour of the republike: whence is inferred, that those things which were not for the benefit and honour of the Commonweale, Emperours had no right nor power to doe. And in the last Chapter is perspicuously set downe THAT SUPERIOUR POWER OF THE PEOPLE, GREATER THEN THE PRINCIPALITY IT SELFE. How then doth *Ulpian* say, the Prince is loosed from Lawes? he saith not from all Lawes: verily that he was exempt from many is no doubt, &c. (yet it was by a speciall clause in the *Lex Regia.*) This and much more *Salamminus*. All which considered, will infallibly evidence, the Roman Senate and people to be the highest power in *Pauls* time, not the Emperour; who even at this day (as *(i) Bodin* proves) is inferiour to the Germane States, who are the Sovereigne power: when King *Henry* the fourth of *France*, Anno 1600. used this speech to the Duke of *Savoy*; *(k) If the King of France wou'd be ambitious of any thing greater then his Crowne, it might be an Empire, but not in the estate that it is now; the title of Empire being little more then that of the Duke of Venice; the soverainnty (writes the Historian in the Margin) remaining in the States of the Empire.*

(i) Commonweale l. 2 c. 5.
(k) Generall History of France, p. 965.

All that is objected against the premises, is that passage of *Tertullian*, much insisted on: *Colimus ergo & Imperator e sic, quamodo & nobis licet, & ipsi expedit, ut hominem a DEO SECUNDUM: & quicquid est a Deo consecutum, SOLO DEO MINOREM. Hoc et ipse volet: Sic enim OMNIBUS MAJOR EST, DUM SOLO VERO DEO MINOR EST. Sic & ipsi Diis major est, dum & ipsi in potestate sunt ejus, &c.*

Object.
(1) *Ad Scapulan*, lib. p. 163.
Objected by,
The necessity of Subjection, and others.

To which I answer, that these words onely prove the Emperour in the Roman State to be the highest Officer and Magistrate under God, of any one particular person; not that he was the Sovereigne highest power above the Senate and people collectively considered: And the occasion of these words will discover the Authors intention.

Answer.

(m) Rhenani
Annot. Ibid.

tention to be no other : which was this. The Christians in that age were persecuted and put to death by Scapula President of Carthage, to whom (m) Tertullian writes this Booke, because they refused to adore the Emperour for a God, to swear by his Genius, and to observe his solemnities and triumphs in an Ethnicall manner ; as is evident by the words preceding this passage : *Sic & circa Majestatem Imperatoris infamamur, &c.* and by sundry notable passages in his *Apologeticus*. In answer to which accusation Tertullian reasons in the Christians behalfe ; that though they adored not the Emperour as a God, yet they revered him as a man next under God ; as one onely lesse then God ; as one greater then all others, whiles lesse onely then the true God, and greater then the Idol Gods themselves, who were in the Emperours power, &c. Here was no other thing in question ; but whether the Emperour were to be adored as God ? not, whether he or the Roman Senate and people were the greatest highest Sovereigne power ? And the answer being, that he was but a man next under God, above any other particular officer in the Roman State, is no prooffe at all, that he was paramount the whole Senate and people collectively considered, or of greater Sovereigne power then they ; which the premises clearly disprove. Adde, that this Father in his *Apologeticus* thus censures the Pagan Romans for their grosse flattery of their Emperours whom they feared more then their Gods, applicable to our present times ; *Siquidem majore formidine & callidior timiditate Cæsarem observatis, quam ipsum de Olympo Jovem, &c. adeo & in isto irreligiosi erga deos vestros deprehendimini, cum plus timoris, humano Domino dicitis ; citius denique apud vos per omnes Deos, quam per unum genium Cæsaris pejeratur.* Then he addes, *Interest hominis Deo cedere, satis habeat appellari Imperator : grande & hoc nomen est, quod a Deo tradetur ; negat illum imperatorem qui deum dicit ; nisi homo sit, non est imperator. Hominem se esse etiam triumphans in illo sublimissimo curru admonetur. Suggestitur enim ei a tergo, Respice post te ; hominem memento te. Etiam hoc magis gaudet tanta se gloria coruscare, ut illi admonitio conditionis sue sit necessaria. Major est qui revocatur ne se deum existimet. Augustus imperii formator, ne Dominum quidem dici se volebat : et hoc enim Dei est cognomen. Dicam plane Imperatorem Dominum, sed vere communi, sed quando non cogor, ut Dominum Dei vice dicam.* Concluding thus : *Nullum bonum sub exceptione personarum administramus, &c. eisdem sumus Imperatoribus qui & vicinis nostris. Male enim velle, male facere, male dicere, male cogitare de quoquam ex æquo vetatur, Quodcumque non licet in Imperatorem, id nec in quemquam : quod in neminem, eo forsitan magis nec in ipsum qui per deum tantus est, &c.* From which it is evident, that the Christians did not deifie nor flatter their Emperours more then was meet, and deemed they might not resist them onely in such cases where they might resist no others, and so by consequence lawfully resist them, where it was lawfull for them to resist other private men who did injuriously assault them.

If then the Roman Emperours were not the highest Sovereigne power in the Roman State when *Paul* writ this Epistle, but the Roman Senate and State, as I have cleared : and if the Parliament, not the King, be the supremest Sovereigne power in our Realme, as I have abundantly manifested ; then this objected Text (so much insisted on by our opposites) could no wayes extend to the Roman Senate, State, or our English Parliament, who are the very higher powers themselves, and proves most fatall and destructive to their cause of any other, even by their owne Argument, which I shall thus doubly discharge upon them.

First, that power which is the highest and most Sovereigne Authority in any State

kingdome by the Apostles and our Antagonists owne doctrine, even in point of conscience, neither may, nor ought in what case soever (say our opposites) to be forcibly resisted, either in their persons, ordinances, commands, instruments, offices, or Armed Souldiers, by any inferiour powers, persons or subjects whatsoever, especially when their proceedings are just and legall, under paine of temporall and eternall condemnation. But the Senate among the Romans, not the Emperour; and the Parliament in England, not the King, really were and are the higher Powers and most soveraigne Authority. Therefore by the Apostles owne Doctrine even in point of conscience, they neither may nor ought to be disobeyed or forcibly resisted in any case whatsoever, either in their Persons, Ordinances, Commands, Instruments, Officers, or Armed Souldiers, by the King himselfe, his Counsellors, Armies, Cavaliers, or by any inferiour powers, persons, or Subjects whatsoever, especially when their proceedings are just and legall, (as hitherto they have beene) under paine of temporall and eternall condemnation. I hope the Doctor and his Camerads will not behew themselves that ever they medled with this Text, and made such a halter to strangle their owne treacherous cause, and those who have taken up armes in its defence.

Secondly, that Power which is simply highest and supream in any State, may lawfully with good conscience take up Armes to resist or suppress any other power, that shall take up armes to subvert Religion, Lawes, Liberties, the Republike, or the just Rights and Priviledges of the Subject, or of this higher power. This is our opposites owne argumentation. Therefore the Parliament being in verity the highest supream Power in our State, may lawfully with good conscience take up Armes to resist or suppress his Majesties Malignant, Popish Forces, or any other power which already hath, or hereafter shall be raised to subvert Religion, Lawes, Liberties, the Republike, just Rights and Priviledges of Parliament, or the Subjects; and every man with safe conscience may chearefully serve in such a warre, upon the Parliaments encouragement or command, without guilt of treason, or rebellion either in Law or Conscience.

For the third Question; *Whether Tyrants or unjust oppressing Magistrates, as they are such, be within the intendment of this Text, and not to be resisted in any case?* I have fully cleared this before from the occasion, scope and arguments used in this Chapter; that they are not within the compasse of this Text; as they are such, and may be resisted in their Tyranny and oppressions notwithstanding this inhibition; I shall not repeat, but onely fortifie this Position with some new reasons and authorities.

Quest. 3.

First then, that which is not the ordinance of God, but rather of the Devill, and the mere sinne and enormity of the Governour himselfe, not of the Government, is not within the intendment of this Text, and may lawfully bee resisted without any violation of it. But Tyrants and unjust oppressing Magistrates as they are such, are (n) *not Gods ordinance, but rather the Devils, and their Tyranny and oppression is onely the sinne and enormity of the Governours themselves, not of the government*; A truth granted by all men: Therefore they are not within the compasse of this Text, and may lawfully be resisted without any violation of it.

(n) See Mich.
3. 1. 10 5. 11 v
3. 4. 5. Zeph. 3.
3. Ezech. 45.
8, 9.

Secondly, that which is no point of the Magistrates lawfull power ordained of God, but diametrically repugnant to it, cannot be within the meaning of this Text,

and may lawfully be resisted; but the tyranny, oppression, rapine, and violence of lawlesse Kings and Magistrates are such, as all mult and doe acknowledge. Ergo, they are not within the verge and compasse of this Text, and may lawfully be resisted.

(o) In Rom.
13. Col. 1266.
Willet on Rom.
13. quest. 6. p.
583.

Thirdly, all powers intended in the Text, are not only ordained, but ordered of God, that is, (as ^(o) *Paræus* with others observe) they are circumscribed & bounded with certain Rules or Lawes of justice and honesty, within which they must containe themselves, else they exorbitate from Gods ordinance when they passe beyond these limits, and become none of Gods; This the Greeke word *ταξέμεναι*, (which *Arias Montanus* and others render, *ordinate*, and the Margin of our English Bibles, are ordered of God;) doth sufficiently warrant being coupled with the subsequent limitations; For rulers are not a terrour to good workes, but to evill, &c. they are Gods Ministers attending continually on this very thing. Now the Tyranny and oppression of Kings and other Rulers, are meere exorbitances, arbitrary illegall actions, exceeding the bounds of justice and honesty prescribed by the Lawes of God and men. Therefore not within the limits of this Text, and resistible.

Fourthly, it is generally accorded by all Commentators, that though the lawfull power of Princes or other Magistrates degenerating unto Tyrants, be of God, and not to be resisted; yet the Tyranny it selfe, and abuse of this power is of Satan, not of God; and the vice of the persons onely, not of the Power it selfe; whence they conclude, that Tyrants are not within the meaning of this Scripture. So *Origen*, *Paræus*, *Willet*, with most others on this Text; and *Zuinglius* most expressely *Explanatio Artic. 41. Tom. 1. f. 82. 83.* where he complaines, that many Tyrants, cheate, steale, rob, slay, plunder, and attempt any thing against their subjects to oppress them; assuming a pretext and vayle of their malice from this Text of Paul. Yea *Dominicus Soto*, *Cajetan*, *Pererius*, and other Popish commentators on this place observe; that Paul addes this Epithet, of higher or excelling powers (omitted by him in other parallel Texts) of purpose to exclude Tyrants, who are no excelling Lords, nor lawfull Powers; reigning oft times by Gods permission for the peoples punishment; not by his ordination for their good: and blame *Bucer* for saying, that Tyrants power is from God, as if he were the author of sinne and Tyranny.

(p) Sect. 2.

This then fully answers that absurd error of Doct^r (p) *Ferne*, wherein all his force is placed: That the Powers in Pauls dayes which he here prohibits to resist, were subverters of that which was good; and the Roman Emperors Tyrants: where he sottishly confounds the tyranny, lusts, and vices of the Emperors persons, which were detestable, with their power it selfe, which was good and commendable; as if the Imperiall power it selfe was ill, because Nero was ill, and was (q) therefore justly condemned to death by the Roman Senate, as a publike enemy to the Roman State, though they approved and continued his just Imperiall principality, which lasted in succession for many hundred yeares after his censure, death. To which I shall onely adde; that though Nero himselfe were a Tyrant, yet the Roman Senate, and all their Inferiour Offices were not Tyrants; many of them, no doubt, being just and upright Magistrates. The Precept therefore being thus in the generall, and the plurall number, Let every soule be subject unto the higher powers; nor personall; let them be subject to Nero; or speciall, to the Roman Emperour (whom Paul no doubt would have (r) specified, had he specially intended them, as our opposites fondly dreame,) we may safely conclude, that the Apostle intended it onely of lawfull powers and Magistrates, not of Nero

(q) *Grinston*,
Suetonius,
Eutropius,
Zonarus,
Volaterranus,
Speed and others in his
life.

(r) As he doth
Phil. 4. 22. Act.
25. v. 10, 11,
12. c. 26. 32. c.
28. 19. See
Matth 22. 17.
21. Luk. 2. 14.
23. 2. Act. 11.
23. c. 17. 7.

or other Tyrants: And writ this to Christians onely, to whom he dedicates this Epistle, witnesse Ch. 1. V. 7. *To all that be at Rome beloved of God, called to be Saints, &c.* not to Pagan Romans, as the Doctor dreames, to whom he writes not; much lesse to the Roman Senate, who were then the soveraigne power; and therefore could bee subject to no other but themselves. Precepts of obedience to children and Servants, concerne not parentes and masters as such, in point of submission or obedience.

For the fourth Quere: *Whether Kings and Kingdomes be Gods ordinance; or an institution Jure divino, not a humane ordinance, instituted Jure humano? or, how farre divine or humane?* Is a necessary considerable question grounded on this Text, and very needfull to be discussed to cleare the present controversie.

Some of our opposites are so intoxicated with the divinity of Monarchy, as they confidently (1) determine; *but the efficient cause of royall Monarchicall power is one's God; not the people. That Kings receive no power or regall Authority from the people, but from God alone; That the power of Kings is not a humane, but a divine power, of which God onely is the efficient cause. That the people doe not make the King, but God properly and absolutely; this power, right and authority be hath from God. That the King hath no dominion and power from his Subjects by way of trust, but from God, from whom he hath his kingdom and power, so that by Idolatry and oppression, he breakes not the trust reposed in him by his Subjects, because the people HAVE COMMITTED NOTHING TO HIS CHARGE, but God onely, &c.* For prooffe whereof they produce Prov. 8. 15. *By me Kings reigne, Dan. 2. 21. God removeth Kings and setteth up Kings, Dan. 4. 17. 25. The most high ruleth in the kingdom of men, and giveth it to whomsoever he will; and setteth up over it the basest of men, with Hos. 13. 11. 1 Sam. 10. 1. Jer. 27. 5, 6, 7. Isay 45. 1, 2. and other Texts.*

To answer this question distinctly, and dissipate these grosse erroneous Paradoxes; we must distinguish:

First, betweene *Government it selfe in generall*, and kingly or other kindes of government, in speciall. (as our opposites distinguish betweene, a Sabbath, and the Sabbath; the first they say is morall and of divine institution, the later not.)

Secondly, betweene the Regall power of Kings, the persons invested with this power, the manner of obtaining, and the administration of their power.

Thirdly, of Gods manner of instituting and ordaining things; which is twofold, immediately by himselfe, mediately by others. And these institutions of both kinds are either universall, extending to all places, Nations; or particular, concerning some Countries, and Nations onely, and not others; Perpetuall for ever, or temporall onely for some set time: Immutable, not capable of the least alteration; or mutable, and that either at the pleasure of God onely; or at the will of men, when they shall see just cause, either in part or in whole.

Fourthly, in what severall senses things may be said to be of God. First, in respect of his owne immediate institution. Secondly, of his generall or speciall commands. Thirdly, of his generall or speciall disposing providence, without any speciall institution or command. Fourthly, of his approbation of, assent unto, and blessing on the meere institutions of men. Fifthly, of his permission onely.

To apply these distinctions to the present occasion.

First, it is cleare, that power and government in generall are Gods owne institution; who as he hath appointed (*in the great fabricke of the world a*) (1) *certaine constant*

Quest. 4.

(1) Doctor
Ferne, Sect. 2. 3
Appeale to the
Conscience, p.
11. o 15 The
necessitie of
subjection.
Christus Dei,
p. 11. 12 with
others.

Answ.

(1) Gen. 1. 16.
15. 28. 29. 30.
Jer. 31. 35, 36.
Psal. 136. 9. 9.

forme of government and subordination of one creature to another) so he hath for the good of mankinde, appointed that there should be some forme of government or other among men in the world; which in respect of families hee hath specially and universally decreed, (u) *as that the wife should be subject to the husband, the children to the parents, the servants to their masters;* but in regard of Commonweales, or Nations, hee hath left it arbitrary and indefinite, leaving every Nation and Country free liberty to elect such a publike politike forme of government, as themselves should judge most expedient for their publike good, and that mutable (since all humane things are so) as they should see just occasion, not prescribing any sempiternall, immutable forme of government to any particular Nations, Regions, much lesse to all the world.

(u) Gen. 3. 16.
Exod. 20. 12.
Eph. 6. 1, 2, 5
c. 5. 22, 24. Col.
3. 23. to 25. c.
4. 1, 2. 1 Tim.
6. 1, 2. 1 Pet.
2. 18. c. 3. 1, 2
3, 3:

Secondly, government in generall being thus of Cod, but the kindes of it thus left arbitrary to mens institution and free election; the particular governments instituted by any Nation for the better regulating of their lives, the preservation of humane society, and advancement of Gods glory, may be truly said in some sense *to be of God*, though instituted, invented by men. Not because God himselfe did immediately ordain or prescribe them by speciall command to all, or any one people: or because God himselfe did immediately ordaine or prescribe them by speciall command to this, all, or any one people: but because hee by his generall or speciall providence did direct this Nation to make choise of such a government, or gave them wisdom to invent and settle it, as most commodious for their republike, till they should see cause to alter it: or because he blessed and approved it, when invented and received by them.

Thirdly, Kingly powers, Kingdomes, Kings (the things now in question) are, and may be said *to be of God, and ordained of God*, in no other manner or sense, then all other particular Governments or Magistrates are. For this Text of the Romans, speaking onely of the *higher powers, the powers that are*, and of Rulers; as doth that place of *Titus 3. 1.* And the Text of *Prov. 8. 15, 16.* (so much relied on by the objectors) extending as well to all subordinate Rulers as Kings; witness the subsequent words, *By me Kings reigne, and Princes decree justice: by me Princes rule AND NOBLES, yea ALL THE JUDGES OF THE EARTH;* (that is, all Magistrates whatsoever) it cannot but be yielded; that all and every lawful kinde of government, all lawfull Rulers and Magistrates of what sort soever are of Gods ordinance, and his ordinance, as farre forth as Monarchies are; and what is truly affirmable of the one, is of the other too.

(y) Josephus
Antiq. Jud. l. 4.
c. 8. Carolus Si-
gonius de Re-
pub. Hebræorum.
l. 7. c. 5.
(z) Aristot. Po-
lit. l. 2. c. 5. l. 10.
lib. H. st. l. 6.
Just. in Hist. l. 1.
Cassian. Ca-
sualog. Gloria
Mundi pars. 5:
Consid. l. 1. Philo-
chius Archilaz-
cus de Sor.
Viridarii, c.
17. Fortescue
c. 9. 13. 15.
Mr. Seldens
Titles of Ho-
nour, part. I. c.
23. 45.

These generalls thus premised as indubitable; I say first of all: *That Monarchy or regall power is not of God, nor yet Gods ordinance by way of immediate divine institution or speciall command from Gods owne free motion, as our opposites affirme it.*

For first, God himselfe never immediately instituted a royall Monarchicall government in any Nation whatsoever, no not among his owne people; whose government was at first (y) *Paternall and Patriarcbicall; next Aristocraticall; then Regall; not by Gods immediate institution and voluntary designation; but by the peoples earnest importunity, contrary to the good liking of God and Samuel, as is evident by 1 Sam. c. 8, and 9, and 10, and 11. Hof. 8. 4. and the Appendix.*

Secondly, (z) *All Politicians, and Historians grant; that the originall erection of all Monar- chies was either by the peoples free consent and ordination; or by Tyranny and usurpation; or*

by conquest; none by divine institution or speciall command from God: And it must needs be so, because most (a) kingdomes were primitively erected, either among Pagan Nations and States, who knew not God nor his Word, or among Christian States since speciall commands and Revelations from heaven ceased: which if our opposites deny; I shall desire them to instance in any one Monarchy in the world, instituted immediately by God himselfe, or by speciall command from his owne free motion: Till this be done, all their asseverations will be accounted fabulous.

(a) Gen. 14.
1 Sam 8 5.
Seldens Titles
of Honour,
part 1. c. 1. 2.
See the Ap-
pendix.

Thirdly, if Regall power be Gods ordinance by way of divine immediate institution and command; then this institution of Regall Monarchy, with the severall Prerogatives, and boundaries of it, would appeare in some Text of Scripture, and this government would be specially and perpetually prescribed either to all, or some particular Nations by God himselfe. But this institution, with the generall Prerogatives and bounds of Regall Authority, are no where extant in Scripture, neither this forme of government therein prescribed, but left arbitrary to all or any Nation in particular, for ought any man can demonstrate. Those Texts which concerne the Kings of the *Israelites* in point of sovereignty, and Prerogative, being judiciall onely, and peculiar to that Nation, nor morall, or extending unto others. Therefore it is not Gods ordinance by way of divine immediate institution, or command.

Fourthly, if it were of divine ordination in this sense; then the Regall power and authority of all Kings and Monarchs in the world should bee equal, yea the very same; and there should be no different kinde of Kings; as the divine authority of all Ministers (being of Gods owne institution by one and the same commission) is one and the same: But the regall power and jurisdiction of all Kings and Monarchies in the world is not equal nor the same; for some have farre greater authority then others; there are many different sorts of Kings in the world, some onely annuall, others for life, others hereditary, others at will, depofible at the peoples pleasures when ever they offended, (Such were the Kings of the (b) *Vandalls* in *Africk*, of the (c) *Gothes* in *Spaine*; cum ipsos deponerent populi quoniam displicuissent: such the Kings of the *Heruli* (*Procopius*, *Gothicorum*) Of the *Lombards*, *Paulus Warnafreli*, l. 4. & 6. Of the *Burgundians*, *Ammianus*, 11. lib. 28. Of the *Moldavians*, *Lionichus Chalcoandylus*; the King of *Agadis* among the *Africans*, *Johannis Leo*, lib. 7. Of the *Quadi* and *Fazyges* (in excerptis *Dionis*) with sundry others hereafter mentioned.) Some elective, others successive, some conditionall, others absolute, as I have plentifully mentioned in the *Appendix*. Therefore they are not of divine ordination in the objectors sense.

(b) *Procop.*
Vand. l. 1.
(c) *Ammen.* l. 2.
c. 2. l. 4. c. 25.
Hugo Gretius
de Jure Belli.
l. 1 c. 3. c. 58.
72.

Fifthly, If Kings were of divine ordination in this sense, then their kingdomes and people upon their Elections, Institutions and Coronations could not justly prescribe any conditions, oathes or covenants to them, upon promise of performance whereof they onely accept of them to be their Kings, refusing else to admit them to reigne over them; and such conditions, oathes, covenants, would be meere nullities, since men have no power at all to detract from Gods owne divine institutions, or to annex any conditions or restrictions to them. But our Antagonists themselves dare not averre, that Kingdomes and Nations upon their Kings Coronations, Institutions and elections may not lawfully prescribe conditions, oathes, and limitations to them, upon promise of performance whereof they onely submitted

(e) See Part 1.
P. 51. to 76. E-
dit. 2.

(f) Bracton l. 3.
c. 9. Fleta l. 1. c.
5. 17. See here,
p. 5. & part 1.
p. 83.

to them as their Sovereignes, it being the received practise of our owne, of all or most other Kingdomes whatsoever, especially elective ones, and confirmed by divine Authority, 2 Chron. 10. 1. to 19. Therefore they are not of divine institution in the objected sense.

Sixthly, All (f) *Lawyers and most Orthodox Divines determine, that Kings have no other just or Lawfull royall Authority, but that which the Lawes and customes of their Kingdomes allot them, and that the Law only makes them Kings, from which if they exorbitate they become Tyrants and cease to be Kings.* Their Royall authority therefore is of humane institution properly, not Divine; from their people, who both elect, constitute them Kings, and give them all their regall Authority by humane Lawes enacted, not from God as the onely efficient cause.

Seventhly, All Kingdomes, Monarchies, Policies, are mutable and variable in themselves, while they continue such; yea, temporary and alterable into other formes of Government by publicke consent, if there be just cause; without any immediate command or alteration made by God himselfe, or his divine authority: There being no positive Law of God confining any Nation, (whose humane earthly condition is still variable) to a Monarchicall or any other constant forme of government onely, much lesse for perpetuity without variation. Therefore, they are not of divine institution in this sense.

Eightly, St. Peter expressly defines Kings and Monarchies, in respect of their institution, to be humane creatures, or institutions, 1 Pet. 2. 13. *Submit your selves to every ORDINANCE OF MAN for the Lords sake; whether it be to the King, as supreme, &c.* And they are common to Pagans who know not God, as well as to Christians. Therefore, they are not simply divine, but humane Ordinances.

Ninethly, Our Antigonists will yeeld, that other formes of Government; whether *Aristocraticall, Oligarchicall, Democraticall*, or mixt of all three, are not absolutely and immediatly of divine institution; nor yet *Dukes, Principalities*, with other inferior *Rulers*, though the Apostle in this Text makes them all equally Gods Ordinance, and Divine. Therefore Monarchy, Kings and Kingdomes are not,

Tenthly, The very Text it selfe seemes to intimate, that Royalties and higher powers are not of God, by way of originall or immediate institution; or command: for the Apostle saith not; that all powers whatsoever were originally instituted and ordained by God himselfe; but, *There is no power but of God; The powers that be, are (not were at first) ordained (or rather, ordered) of God: that is; where powers and Governments are once erected by men, through Gods generall or special providence, there God approves and orders them for the good of men.*

2. If Monarchies, and Kings themselves be not of divine institution, and Gods ordinance in the former sense, as is most apparent: & *Aristotle, Plato*, all Politicians grant; Then they are so onely in some other sense, in what I shall truly informe you.

First, They are of God; and his Ordinance, by way of imitation, as derived from Gods owne forme of Government, which is Monarchicall; Whence he is called,

(g) *I be only God, God alone, (h) the King of Kings, and Lord of Lords.*

Secondly, By way of approbation; He (i) *approves and allows this kinde of Government where it is received, as well as other formes.*

Thirdly, by way of direction, he gives divers generall (k) *rules and directions to Kings*

(g) Psal. 86. 10

Deut. 32. 39.

Isa. 37. 16. c. 44

6. 1 Cor. 8. 4.

Ephes. 4. 6.

(h) 1 Tim. 6. 15

6. 15. Rom. 17.

14. c. 19. 16.

Deut. 10. 17.

(i) Deut. 17.

14. 15, 16. 1

Sam. 8. 22. 2

Sam. 7. 12.

(k) 2 Sam. 23.

37. 1 King. 11

11. 38. 2 Chro.

9. 8. Prov. 31. 4

Kings (and to other Rulers and Magistrates also as well as them) in his sacred word they ought to demean themselves, towards him and their Subjects; and likewise (1) to Subjects, how they should carry themselves towards their Kings; and all other Rulers and Governours temporall or spirituall: in which sense they may be properly said, to be ordered and ordained too, of God.

Fourthly, By way of speciall providence and incitation; God excites and moves some people to make choyce of Kings, and Monarchicall formes of Government, rather than others; and to elect one man or family to that dignity rather than others, *yea his providence mightily rules and swaves in the changes, the elections, actions, counsels, affaires of Monarchies, Kingdomes, Kings, States, to order them for his own glory, the Kings, the Subjects good or ill, in wayes of Justice or Mercy; as is evident by Dan. 2. 21. c. 4. 17. 25. Hof. 13. 11. Jer. 27. 5, 6, 7. Isa. 45. 1, 2, 3. c. 10. 5. 20. Psal. 110. 5. Psal. 113. 7, 8. Job 12. 18. to 25. Dan. 5. 26, 28.* The genuine list of all these Texts.

Fifthly, Kings may be said to be of God and his Ordinance, because they, (and to all other Rulers, Judges, Magistrates as well as they, in respect of their representation and the true end of Government) are said to be Gods; to be Gods Ministers and Vicegerents; to sit upon Gods Throne, and ought to reigne, to judge for God, and to rule Gods people according to Gods Word, with such justice, equity, integrity as God himselfe would Govern them. *Exod. 22. 28. 2 Chron. 9. 8. Rom. 13. 4, 5. 2 Sam. 23. 3. Psal. 78. 72, 73, 74. 2 Sam. 5. 2. Prov. 8. 15, 18. Psal. 82. 1. 1 Cor. 8. 5. Isa. 32. 1. c. 9. 7. c. 16. 5. Deut. 1. 17.*

Sixthly, All Kings, and Tyrants, may be said to be of God, by way of permission, and of Ordination too, in reference to the peoples punishment, *Job 34. 30. Hof. 13. 11. 1 Sam. 8. 18.* In these regards (common to all other Governours and lawfull Governments, as well as Kings and Monarchies) Kings and Kingly Authority, are and may be said to be of God, and Gods Ordinance; yet not immediately, or properly in the first acception, here refuted, but so as that still they are really the institutions and ordinances of men, of humane, not divine right, and authority.

As for the objected Scriptures to prove Kings *jure Divino*, as *Prov. 8. 15. By me Kings, Reigne, &c.* Ergo, they are of immediate divine institution, and have all their authority from God, not from the people, and may in no case be resisted, censured, deposed, or put to death for any misdemeanours; the consequences thence inferred.

I answer, First, That this Text speaks onely of the promotion or Reigne of Kings; not of the erection and power of Monarchies; and so doe *Daniel 2. 21. c. 4. 17. 25. c. 5. 26. 28.* with the other objected Scriptures.

Secondly, If it be meant of the rule of Kings; then true it is, that good Kings Reigne by Gods direction, according to his word, *executing justice, and judgement, as he enjoyes them.* But then it is not true of wicked Kings and Tyrants, who though they Reigne by Gods Providence or permission, yet they rule not by his word and will as he prescribes them.

Thirdly, If it be meant of the meanes and manner of Kings coming to their Kingdomes, as I conceive it is, and the Texts of *Daniel* perswade:

True it is: first, That some Kings Reigned and came to the Crowne by Gods immediate

(1) 1 Tim. 2. 1,
2. 1 Pet. 2. 13,
14. Rom. 13. 1
to 7. Tit 3. 1.

Object.

Ans.

(m) 2 Chro. 9.
8. Isa. 32. c.
16. 5.

mediate nomination and designation, as *Saul, David, Solomon, Jeroboam, Jehu, and Hazael* did: But that all, or most did heretofore, or now doe so, especially in Pagan Kingdomes, is a notorious falshood.

Secondly, it is true, That most lawfull Kings in hereditary or elective Kingdomes, come to their Crownes, and Reigne; though not by Gods immediate nomination, yet by his ordinary or speciall providence, (though it be untrue of *Usurpers*, and *Tyrants* who come to Reigne by Treason, Murther, or other unlawfull meanes; and so by Gods (1) *permission onely, rather than his providence*: and then the sense of the place is but this; That Kings receive their Crownes, and Reigne by Gods generall, or more speciall providence: Which I thinke is the full and proper sense of the place. In this sense *C. Plinius Secundus* a heathen in his admirable *Panegyric* to the Emperour *Trajan*, a Pagan, Rhetorizeth thus of him: *Quid enim præstabilius est, aut pulchrius munus Deorum, quam castus & sanctus & Diis simillimus Princeps? Ac si adhuc dubium fuisset sorte casuque Rectores terris, an aliquo numine darentur, Principem tamen nostrum liqueret DIVINITUS CONSTITUTUM. Non enim occulta potestate satorum, sed ab Jove ipso, coram ac palam repertus, electus est, &c.* Which * *Tertullian* thus seconds, speaking even of the Roman Pagan Emperours. *Inde est Imperator, unde & homo, antequam Imperator; inde Potestas ei, unde & spiritus: Per Deum tantus est:* So *Irenæus*, *Cujus jussu homines nascuntur, hujus jussu Reges constituuntur.* And *Diodorus Siculus* of the *Ægyptians*; *Exstimant non SIN DIVINA QUADAM PROVIDENTIA, pervenisse ad summam de omnibus Potestatem:* So the (m) *Esses*, hold this opinion, *Non obtingit cuiquam Imperium sine Dei cura speciali:* So (n) *Vitigis*, *Omnis proventus, maxime Regius, ad Divinitatis munera referendus est:* and *Clément* (o) *Romanus*, too. *Regem timeto, sciens Domini esse electionem.* Which *Grotius* de *Jure Belli*, l. 1. c. 3. sect. 8. confirms with other Authorities; all concurring in this, That Kings and Emperours are such onely by the selfe-same PROVIDENCE OF GOD, by which they were men before they were Emperours; which gives them no greater Prerogative in respect of irresistibility in unjust exorbitant actions, then their being men, by the selfe-same providence of God, gave them before they were Emperours, as *Tertullian*'s words most clearly prove.

But what priviledge this alone should yeeld to Kings, more than to any other Magistrates, Men or Beasts, for my part I cannot yet discern. For doth not the same Text say of Nobles, Princes, Judges, as well as of Kings, *Prov. 8. 15, 16.* By me Princes (put as contradistinct to Kings) decree justice; By me Princes Rule AND NOBLES, YEA ALL JUDGES OF THE EARTH? Doth not *David* say of all kinde of Promotions whatsoever, *Psal. 113. 7, 8.* *The Lord raiseth the poore out of the dust, and lifteth the needy out of the dungbill; that he may set him with Princes, even with the Princes of his people?* And *Psal. 75. 5, 6.* *Promotion commeth neither from the East, nor from the South; but God is the Judge; he putteth downe one and setteth up another?* Nay, doth not *Christ* informe us (p) *That the very haire of our head are all numbered? That two sparrows are sold for a farthing; and yet one of them shall not fall on the ground without our Fathers providence?* Yea doth not every man, yea every Bird, Beast, Fish, Raven, and living creature whatsoever, (as the Scripture (q) expressly resolves) receive, enjoy their Lives, Honours, Offices, Estates, food, rayment, being, preservation, by Gods generall and speciall providence, as well as Kings their Crownes, Honours, Lives, Estates?

(1) See Doctor Willet, Parau, and others on Rom. 13.

* Apologeticus.

(m) Porphy.

(n) Apud Cassiodorum.

(o) Apostol. consil. 1. 7. c. 17.

(p) Mat. 10. 29

30. Luk. 12. 6, 7

(q) Psal. 105.

27. 10. 32. Psal.

145. 14, 15, 16.

Psal. 17. 27, 28.

And is not the providence, yea are not the very (o) Angels of God, who are all ministering spirits, sent forth to minister: to them who shall be heirs of salvation, as vigilant over every pious Christian (though never so mean & despicable) as over the greatest Monarch in the world? If so, as all men must necessarily acknowledge (there being (p) no respect at all of persons with God, who accepts not the persons of Princes, regards the rich no more then the poor, for they are all the work of his hands) then kings reigning by the Providence of God, can of it self no more exempt them from resistance, censures, deprivations, for their detestable publike crimes, then it exempts any other Nobles, Princes, Iudges, Magistrates, Christians, or the meancst subiects whatsoever; which I shall make good by one more unanswerable demonstration. There is not one of our Antagonists but will acknowledge, that Priests under the Law, and all Ministers under the Gospell, if rightly qualified, are made such not only by Gods speciall Providence, but likewise by Divine institution from God himself; Nay, Toller, (q) Wilket, and many others on this very Text of the Romanes, make a difference between the civill and Ecclesiasticall Regiment and Power: for the first (say they) is so from God, that yet the institution thereof may be devised and altered by man, and therefore Peter calls it, the Ordinance of man; but the spirituall Power is immediately instituted by God, and no wayes alterable or determinable by man: And therefore the Apostle saith Ephes. 4. 11. He gave some to be Apostles, some Prophets, some Evangelists, &c. So that by their determination, Ministers are more Gods Ordinance, and more *jure Divino*, then Kings; yea but few years since they all professed themselves to be as much, if not more, Gods anointed, then Kings; and some of our ^{*} Archebishops Prelates made publike challenges in the open Court, That if they could not prove their Lordly Episcopacy to be *Iure Divino*, they would presently burn their Rochets, and lay down their Bishopricks; though they never made good their promises: & to doubt, whether the Pope and his supreme Authority be *iure Divino* by Christs own immediate institution, deserves a fagot in the Roman Church: Yet notwithstanding all this Divine Right and institution, our Opposites will grant, That if Popes, Archbishops, Bishops, Priests, Ministers preach false Hereticall doctrines, oppresse, wound, slay, rob, plunder the people committed by God to their cures; or attempt with force to subvert Religion, Laws, Liberties; or commit any capitall offences, they may not onely with safe conscience be resisted, repulsed by their people, but likewise apprehended, arraigned, deprived, condemned, executed, by Lay Iudges, as infinite examples in our Histories manifest, and the example of Abiathar the High Priest, 1 Kings 2. 26, 27 And if so, then why not Kings as well as they, or other temporall Magistrates, notwithstanding any of the objected Texts? Either therefore our Opposites must grant all Bishops, Priests, Ministers, yea, all other Magistrates whatsoever, as irresistible, uncensurable, undeprivable, uncondemnable, for any crimes whatsoever, as they say kings are, which they dare not do; or else make Kings as resistible, censurable, deprivable, and lyable to all kindes of punishments, (by their whole Kingdoms consent in Parliament) as far forth as they, notwithstanding all the former Objections, which quite subverts their cause.

Thirdly, Kings and Kingdoms are not so Gods Ordinance, as that they should be universall over all the world, and no other Government admitted; or so, as any one Nation whatsoever should be eternally tyed to a Monarchicall Government, without any power to alter it into an Aristocracy, or other form, upon any occasion; or so as unalterably to continue the Sovereign power in one family alone, as not to be able

(o) Psa. 307.
Psal 92. 11, 12
Act. 12. 7, 10 18
Heb. 1. 14
(p) Rom. 2. 1:
Act. 10 31.
1 Pet. 1. 17.
Deut. 10. 17.
Job 34. 19, 20.
2 Chron. 19. 7.
Gal. 2. 6. Ephes.
69 Col. 3. 25

(q) Quest. 4 on
Rom. 13. p. 580.
See Cassanau,
Catalogus Glo-
rie Mundi,
pars 4. Confid. 1.
to 8.

* Archbishop
Laud and Neal,
in the High
Commission and
Star Chamber.
(r) See Bellar:
de Rom. Pont.
Cassanau's Ca-
talog. glorie
Mundi, pars 4.
confid. 7.

* Foxius de Rege, &c p. 17.
 Grotius de iure Belli, l. 1. c. 3. n. 10.
 (s) Explan. Artic. 42.
 (t) De iure Reg. apud Scotos.
 (v) De Rego & Regis Instit. l. 1. c. 4 to 8.
 (x) Arist. Polit. l. 3. c. 5. Polyb. Hist. l. 6. Gen. Hist. of France, Spain, Hungary, Bohemia, England.
 Grotius de iure Belli, l. 1. c. 4. n. 7. COVARIA.
 Quest. Illustr. T. 2. 396, n. 2. 4.
 Vasquies Contr. Illustr. 59. n. 8. 61. n. 22. 100. n. 29.
 Hookers Eccles. Pol. l. 1. sec. 10. p. 69, 70, 71.
 (y) See Scripture and reason pleaded for defensive Arms, p. 30, 31, 32.
 (z) Seneca Grotius de iure Belli, l. 1. c. 4. sect. 6. p. 84.
 (a) Eccles. 5. 8.
 Quest. 5.
 (b) See Paraus, Willet, Tollet, Solo, Marlborat, and others on: this Text.

to transfer it to another, when the whole State shall see just cause: Hereditary Kingdoms being but Offices of publick trust for the peoples good and safety, as well as elective; most of them were elective at first, and * made hereditary *onely either by violent usurpation, or the peoples voluntary assents and institution, and not by any immediate divine Authority*, and so alterable by their joynt assents, as (s) Zwinglius, (t) Buchanan, (v) Mariana observe, and the Histories of most Kingdoms, the experience of all ages evidence. Which truths being generally confessed by all (x) Politicians, Historians, Statists; by many judicious Divines, contradicted by no one text of Scripture that I have met with which our Opposites have objected hitherto, they will finde all Monarchies upon the matter, to be meer humane Institutions, alterable still by that humane Power which did at first erect them, and subordinate still thereto, as the Creature to its Creator; and to be Gods Ordinance onely in regard of speciall providence, and the like, as other inferiour Magistrates, Rulers are, who may be justly resisted, altered, removed, censured, notwithstanding the objected Text. From which whiles some men earnestly presse, that *every soul by Gods own Ordinance, ought to be subject to some publick civill power*, (which (y) others safely deny, since the Patriarks, the first families of most Nations and Countries were not so, and all Nations, all people before settled publick governments, were erected, which in many places are not very ancient; since those whose Parents are dead, and are not by them subjected to a Government, are naturally free; and none bound to part with their freedom to any other, unless they see a necessitie, a great advantage, and that upon such terms and conditions as they deem meet,) they involve even Kings and Emperours themselves by Gods own Ordinance, in a subiection to a superiour earthly civill power, to wit; to their Laws, Parliaments, Kingdoms, (which I have proved Paramount them, collectively considered) according to the common proverbe (z) *Omne sub Regno gravioze Regnum est*; and that of (a) Solomon (concerning oppressing Kings and Judges) *He that is higher then the Highest considers, and there be higher then they*: And so make kings not onely resistible by their whole Kingdoms the supreme Sovereign power, but likewise subiect to their Realms superiour commands, and uncapable to resist their lawfull power and Forces even in point of Conscience, by vertue of this very Text. And so much for the fourth Question.

For the fifth and last, (b) *What kinde of resistance of the Higher powers is here prohibited*? I answer briefly, That resistance is here forbidden, which is contrary to subiection or obedience, as the words, *Let every soul be subject to the higher Powers*, coupled with the ensuing reason, *Whosoever therefore resisteth* (that is, disobeyeth, or is not subiect to) *the Power, resisteth the Ordinance of God; and they that resist shall receive to themselves damnation*. In the Greek there are two distinct words used, ἀνταγωνισμος, & ἀπειρησις, the Latine, English, French, Dutch use them both as one, without distinction: The first word signifies properly *disordered, counter-ordered, or ordered against*, (as Paraus, Willet, and others observe) and it is thus used by the Apostle, *2 Thess. 3. 6, 7, 11; or disobedient. 1 Tim. 1. 9*. The later word signifieth properly *to resist, withstand, or oppose*; in which sense it is used, *Matth. 5. 39. Luke 21. 1, 5. Act. 6. 10. Rom. 9. 19. Gal. 2. 11. 2 Tim. 3. 1. Hebr. 12. 4. Iam. 4. 7. chap. 5. 6. 1. Pet. 5. 9*, and applied indifferently both to a *spirituall, corporall, and verball resistance of the Holy Ghost, the Devill, or men*: Since then the Apostle in this Text useth the Hebrew phrase *Soul, not Man, Let every Soul be subject to the Higher Powers*; be-
 cause

cause (as *Haymo, Tolles, Willet, Soto*, and most other Interpreters observe) we (c) ought willingly and cheerfully to submit to the higher Powers, not only with our bodies, but soules and spirits too: I may hence clearly inferre, that the resistance of the higher Power here prohibited as contrary to this subjection, is not only that which is corporall and violent by force of armes, as the Objectors glosse it; but that likewise which is verball, mentall, spirituall in the soule it selfe without the body, and no more then a meer passive resistance, or not obeying: For not to doe what the higher Powers enjoyn, is in verity actually to resist, to withstand them; as not to doe the will, not to yeeld obedience to the motions, dictates of the Holy Ghost or devill is really to resist them, even in Scripture phrase: Yea, corporall resistance or opposition by way of force is only an higher degree of resistance, but not the enely or proper resistance here prohibited, which relates principally to the Soule and Spirit. For as corporall forced obedience against a mans will which still holds (d) out, is no true obedience in the esteem of God or men: and as the very essence, life of all outward obedience consisteth (e) principally in the cheerfull submission or activity of the soule or will: So a forced corporall resistance against the mind or conscience, is in a manner no resistance; and the very malignity, quintessence of all inward or outward resistance, disobedience, rests only in the mind, soule, will; and is here principally forbidden, as is evident by the 5. verse; *Wherefore ye must needs be subject, not onely for wrath (which relates only to the body, which mens wrath can only harm in case of disobedience, Mat. 10. 28.) but also FOR CONSCIENCE SAKE*, which principally, if not wholly relates unto the soule, of which the conscience is a chief-overruling part. This then being altogether irrefragable, gives our Antagonists, with Dr. *Fern*, an eternall overthrow, and unavoidably demonstrates the resistance of the Higher Powers here prescribed, to be only of iust lawfull powers in their iust commands or punishments, which we must neither corporally, verbally, nor so much as mentally resist, but readily submit too with our very soules, as well as bodies: not of Tyrants or ungodly Rulers uniuert oppressions, Forces, proceedings to subvert Religion, Lawes, Liberties, which all our Opposites, all Divines whatsoever grant, we are bound in conscience passively to resist, and disobey; yea, with our Tongues to (g) reprehend, and our Soules and Spirits to oppose, detest, abhorre, hate in the very highest degree of opposition, notwithstanding this inhibition: And therefore by like reason are no wayes prohibited, but authorized by it, even forcibly to resist to our utmost power, have we meanes and opportunity so to doe, as the Parliament now hath: That power and proceedings which Christians may lawfully with good conscience, yea and are bound to resist with all their soules, minds, tongues, they justly may and must likewise resist with all their corporall might and strength; especially if they have good opportunity, publike encouragements, and meanes to do it, as *Deut. 6. 12. 1 Pet. 5. 9. Iude 3. 4. Phil. 1. 27, 28. 1 Cor. 16. 13.* compared together, and with the premised Scriptures, fully evidence. But Christians may lawfully with good conscience, yea must resist with all their soules, minds, tongues, the fore-named violent proceedings of kings, Oppressors, ill Counsellors and Cavaliers, and no wayes submit unto them with their soules, minds, tongues, lest thereby they should approve and be partakers, with promoters of their execrable designs; therefore they may and must with safe conscience resist them with all their corporall might and strength, having now opportunity, a Parliamentary publike command and sufficient

(c) *Iudg 8. 2. 9.*
1 Cor 8. 3. 12.
1 Cor. 9. 17. 1
Pet. 5. 2. Philem
14. 1 Chron. 29.
6. 9. 14. 1 Tim.
6. 18. Exod 35.
27, 22. 29. 1
Chron. 28. 9.
Psal. 100. 3.

(d) *2 Cor 9. 7.*

(e) See (c) befo.
2 Cor. 9. 13. 7.
Rom. 12. 8. 11.

(g) *Levit. 19.*
17. Mat. 14. 4.
Psal. 139. 21. 22
Pro. 29. 28.
Pf. 11. 9.

meanes to execute it. And thus have I now at last not onely most clearly wrested this sword out of the hands of our great opposite *Goliaths*, but likewise cut off their heads, and so routed all their forces with it, as I trust they shall never be able to make head againe.

Yet before I wholly take my leave of this Text, to gratifie our Prelaticall Clergy, I shall for a parting blow adde this one observation more, That all our (i) *Popish Clermen* heretofore (and many of them till this day) notwithstanding the universality of this Text, Let every soule be subject to the higher Powers, &c. not only pretended themselves to be of right exempted from the jurisdiction, censures, taxes of Emperours, Kings, and all Civill Magistrates, (Which priviledges some of our late Prelates began to revive, as the late cases of Mr. *Sherwill*, the Maior of *Arundel*, and some others evidence, censured for punishing drunken Priests :) but likewise held it lawfull to censure, excommunicate, depose even Emperours and Kings themselves, and interdict their Kingdomes; witnesse not only the (k) *Popes excommunications* of many Emperours and Kings, by apparant usurpation and injury; but of sundry Prelates excommunications of their own Sovereigns as of right, and putting them to open penances; as *K. Suinthila*, *Sancho*, *Ramir* in *Spain*, and others elsewhere, of which you may read divers presidents in my *Appendix*: The History of (m) *St. Ambrose* his excommunicating the Emperour *Theodosius* for the bloody murder of those of *Theffalonica*, is so commonly known, that I need not spend time to recite it, nor yet the (n) excommunications and censures of our King *John*, or *Henry* the 2. and 3. *Suano* King of *Denmark* (as *Saxo-Grammaticus* records) was not onely sharply reprehended, but excommunicated in a most bold and solemn manner by one of his Bishops for his uncleannesse, and murdering some eminent persons, of whom he was jealous, whiles they were at their devotions in the Church. This Bishop instead of meeting this King when he came to enter into the Church, with accustomed veneration, clad in his Pontificalibus, with his Crofier Staffe, kept him from entring so much as within the Court thereof; calling him not by the name of a King, which he suppressed, but a shedder of mans blood; and not content to chide him, he fixed the point of his Staffe in his brest, preferring the publike scandall of Religion before private society, not being ignorant, that the Offices of familiarity were one thing, the rights of Priesthood another thing, that the wickednesses of Lords as well as servants ought to be revenged, nor are Noble-mens crimes to be more partially censured, then ignoble ones: And not content thus to repulse him, he added an execeration therunto and denounced a sentence of damnation against him in his presence, so as he left it doubtfull, whether he repulsed him more valiantly with his hand, or voyce. Hereupon the King considering this Act to proceed from zeale and publike severity against wickednesse, and being confounded with the blush of his guilty conscience, forbade any to resist his violence, and patiently underwent, heard both his repulse and reprehention; After which, this King laying aside his royall Robes, put on old course apparell, desiring rather to testifie his sorrow by the deformity of his habit, then his contempt by the splendor of it. And struck with so sad a sentence of the Bishop, he would not indure to carry about the ornaments of Royall Magnificence; but casting away the ensignes of Regall Majesty, he put on sack-cloth the badge of penitence; putting off his power likewise together with his vestment, and of a sacrilegious Tyrant, became a faithfull reverencer of holy things. For

(i) See *Tostatus*, *Caietan*, *Cornelius a Lapide*, *Solo Epius*, with most *Popish Commentators*, & *Dr. Ilk* on this Text, *Bellarmin*, *de Clericis*, and the *Canonis*, de exemptionibus, & Immunit. Clericorum.

(k) *Bp. Wilsons* true Difference &c. par. 3. p. 369. to 376.

30. V. *Voices* Reference of the way c. 6. p. 14. to 22.

(l) *Page*, 62. *Ge. hist.* of *Syria*.

(m) *Theod. Eclesiast.* hist. l. 5. c. 27, 18. *Sozom.* l. 7. c. 24.

(n) See *Math. V. Vesp.* *Math. Paris*, *Hoveden Polychron.* *Fab. Caxton*, *Polidor*, *Virgil*, *Helmsh.* *Stow*, *Grafton*, *Speed*, *Daniel* in the *Lives* of *Hen. 2.* *K. John* and *Hen. 3.*

(o) *Danica hist.* l. 1. p. 189, 190. 195.

“ returning bare-foot to the Church-porch, he cast himselfe prostrate in the entrance
 “ thereof, and humbly kissed the ground, suppressing the griefe which is wont most
 “ sharply to be inflicted from contempt, with shamefastnesse and moderation, re-
 “ deeming the fault of his bloody reigne with shame and penitence: After which
 “ confessing his fault, and craving pardon with teares of the B. shop, he was absolved,
 “ and then putting on his Royall Robes, admitted into the Church, and brought up
 “ to the Altar, to the exceeding joy of the people, who applauding the kings humi-
 “ liation and modesty; *plus poenitentia pium, quam imperio scelestum euasisse con-*
 “ *fessus*: A memorable story of a zealous stout Prelate, and of a penitent submissive
 wild Prince: I shall only adde to this some few domestick presidents of our Welch
 Kings *p*) *Tendur* king of *Brecknock*, for his perjury and murder of *Elgistill*, another
 King of that Countrey, was solemnly excommunicated by *Gurcan* the 10. Bishop of
Landaffe and his Clergy, in a Synod assembled for this purpose, by uncovering the Al-
 tars, casting the Crosses and Reliques on the ground, and depriving him of all Christian
 communion, Whereupon *Tendur* unable to undergoe this malediction and rigorous
 justice, with a contrite heart, and many teares powred forth, craved pardon of his
 crimes, and submitted himselfe to the penance imposed on him according to his qua-
 lity and greatnesse. *q*) King *Clotri* slaying *Inguallaun* treacherously, contrary to
 his League and Oath, *Berthgwin* the 14. Bishop of *Landaffe*, hearing thereof, assem-
 bled a Synod of his Clergy at *Landaffe*, and solemnly excommunicated the King with
 all his Progeny and Kingdom, by uncovering the Altars, casting down the Crosses on
 the earth, and depriving the Countrey both of Baptisme and the Eucharist. Whereupon
 the King unable to endure so great an excommunication, with great dejection submit-
 ted himselfe to the Bishop, and leaving his Kingdom, went on pilgrimage into for-
 raign parts for a long space; after which returning, by the intercession of king *Mor-*
cant, he obtained absolution from the Bishop, to whose enioyned penance he submit-
 ted himself, conferring divers Lands upon the Church. And in another Synod at *Land-*
daffe under this Bishop, King *Gurcan*, for living incestuously with his Mother-in-law
 was solemnly excommunicated in form aforesaid; whereupon he craved pardon,
 resolved to put away his Mother-in-law, promised satisfaction by *k. Indhail* his In-
 tercessor; upon which he was absolved, upon promise of amendment of life, with fa-
 sting, prayer and almes; after which he bestowed divers Lands on the Church.
r) *Houell* king of *Gleniffig*, contrary to his Oath & League, treacherously circumver-
 ting and slaying *Gallun*, hereupon *Cerenbir* the 18. Bishop of *Landaffe*, calling a
 Synod, solemnly excommunicated him by laying all the crosses on the ground, over-
 turning the Bells, taking the Reliques from the Altar and casting them on the ground,
 depriving him of all Christian communion, under which excommunication he remained
 almost a whole yeers space; After which, this king came bare-foot to the Bishop, im-
 ploring his absolution from this sentence with many teares, which he obtained after
 publke penance enoynd. Not long after the same Bishop and his Clergy in another
 Synod, for the like crime, in the self-same forme excommunicated *Ili lone* of *Con-*
blus, till he came bare-footed with teares and prayed absolution; which upon per-
 formance of enioyned penance, promise of future reformation, with prayers, fasting,
 almes, and the selling of some Lands on the Church, was granted him by the Bishop.
 So *s*) *Loumarchion* of *Carguocann*, was in a full Synod excommunicated by *Gul-*
frid the 20. Bishop of this See, for violating the patrimony of the Church; and king

(p) Spelm. Con-
cil. tom. 1. p. 381
382. Godwin.
Catal. of Bish.
Edit. 2. 2. p. 328.

(q) Spelm. Con-
cil. p. 382, 383.

(r) Spelm. Con-
p. 383, 384.
Godwin. Catal.
of Bish. p. 522.

(s) Spelm. Con-
cil. p. 385, 386.

Brochuail, with his family convented before a Synode, threatened Excommunication, enjoyed Penance and satisfaction by the Synode, for some injuries offered to to Cincil-
 * Goduin. Catalo-
 log. of Bishp.
 p. 527.
 (u) Spelem. in
 Concil. Tau. I.
 p. 626, 627.
 Goduin. Edit. 2.
 p. 528.
 (x) Mal. Paris.
 H. 2. p. 551. 715
 Goduin. Catalo.
 p. 537. 547.
 (y) Antiqu. Ec-
 cl. Bul. p. 245.
 See Walsingh.
 Hist. Angl. p.
 238. 10 144.

lianuc the two and twentieth Bishop of Landaffe. * Mauric King of Glamorgan was excommunicated by Ioseph the eighth and twentieth Bishop of Landaffe, for treacherously putting out the eyes of Etguin during the truce between them; After which he was again publikely excommunicated in a Synode, for violating the Sanctuarie of the Church of Landaffe, and hurting some of this Bishops servants; and not absolved till he made his submission, and did his Penance, and gave some lands to the Church for satisfaction of these offence. Thus (u) Calgucan King of Morganauc, and his whole family were solemnly excommunicated by Heremald the nine and twentieth Bishop of Landaffe in a Synod of all his Clergy, onely because one of the Kings followers being drunk, laid violent hands upon Barthuis the Bishops Physitian and Kinsman on Christ-
 mas day, Anno 1056. Whereupon all the Crosses and Reliques were cast to the ground, the Bells overturned, the Church doors stopped up with thorns, so as they continued without a Pastor and Divine Service day and night for a long season, till the King (though innocent) submitted himself to the Bishop; and to obtain his absolution, gave Henringuina to him and his Successors for ever, free from all secular and royall Services, in the presence of all the Clergie and people. So (x) Richard the tenth Bishop of Bangor, excommunicated David ap Lhewelin, Prince of Wales, for detaining his brother Griffith prisoner, contrarie to his Oath, repairing to him upon the Bishops word for his safe return, who never left vexing him, till he had delivered him up to the King of Englands hands. Many such prefidents of Prelates censuring and excommunicating their Kings occur in Storie, which for brevity I pretermite; onely I shall inform you, that (y) Iohn Stratford Archbishop of Canterbury, in the 14. year of K. Edw. 3, contesting with this King, and excommunicating divers of his followers, and all the infringers of the Churches Liberties, presumed to write thus unto his Sovereign; There are two things by which the world is principally governed, The sacred Pontificall authority, and the royall power, of which the Priesthood is by so much the more weighty, ponderous, and sublima, by how much they are to give an account of kings themselves at the Divine audit: And therefore the kings Majesty ought to know, that you ought to depend on their judgement, not they to be regulated according to your will. For who doubteth that the priests of Christ are accounted the FATHERS AND MASTERS of Kings, Princes, and all faithfull Christians? Is it not known to be a part of miserable madnesse, if the son should endeavour to subjugate the Father, the servant the master to himself? The Canonickall authority of Scriptures testifieth, that divers Pontiffs have excommunicated, some of them Kings, others Emperours: And if you require somewhat in speciall of the persons of Princes; Saint Innocent smote the Emperour Archadius with the sword of excommunication, because he consented that Saint Iohn Chrylostom should be violently expelled from his Sec. Likewise Saint Ambrose Archbishop of Millain, for a fault which seemed not so bainous to other priests, excommunicated the Emperour Theodosius the great: From which sentonce, having first given condigne satisfaction, he afterwards deserved to be absolved; and many such like examples may be alleaged, both more certain for time, and nearer for place. Therefore no Bishops whatsoever neither may nor ought to be punished by the secular Power, if they chance so offend through humane frailtie: For it is the duty of a good and religious Prince to honour the Priests of God, and defend them with greatest reverence, in imi-
 sation

ration of the Pious Prince of most happy memory, Constantine, saying, when the cause of Priests was brought before him, You cannot be judged by any, to wit, of the secular judges, who are referred to the judgement of God alone; according to the assertion of the Apostle (very ill applied) saying, The spirituall man is iudged of no man, 1 Corinth. 2. 15. (Not meant of Bishops or Clergie-men, but Saints alone, endued with Gods Spirit, not of judging in courts of iustice, but of discerning spirituall things, and their own spirituall Estates, as the Context resolves;) Thus and much more this Prelate, who notwithstanding this text of the *Romans*, pleads an exemption of all Bishops and Priests from the kings secular power, by Divine Authority, and arrogates to Priest and Prelates, a iudiciary lawfull power over Kings themselves, to excommunicate and censure them for their offences. And to descend to later times, even since the the Reformation of Religion here, John Bridges Dean of Sarum, and Bishop of Oxford, even in his Book intituled, *The supremacy of Christian Princes over all persons thoroughout their Dominions, in all causes so well Ecclesiasticall as spirituall*, printed at London, 1573. p. 1095. writes thus; *But who denies this (M. Saunders) that a godly Bishop may upon great and urgent occasion, if it shall be necessary to edifie Gods Church, and there be no other remedy, see to this last censure of Excommunication AGAINST A WICKED KING?* Making it a thing not questionable by our Prelates and Clergie, that they may in such a case lawfully excommunicate the King himself: And Doctor Bilson Bishop of Winchester, in his *True difference between Christian subiection and unchristian Rebellion*, dedicated to Queen Elizabeth her self, printed at Oxford, 1595. Part. 3. Page 369. to 378. grants, *That Emperours, Kings and Princes, may in some cases be Excommunicated and kept from the Lords Table by their Bishops; and grants, That with Hereticks and Apostates, be THEY PRINCES or private men, no Christian Pastor nor people may Communicate:* Neither finde I any Bishop or Court Doctor of the contrary opinion, but all of them readily subscribe hereto. If then not onely the ill Counsellors and Instruments of Kings, but Kings and Emperours themselves, may thus not onely be lawfully, iustly resisted, but actually smitten and excommunicated by their Bishops and Clergy, with the spirituall sword, for their notorious crimes and wickednesses, notwithstanding this inhibition; (which * Valentinian the Emperour confessed; and therefore desired, that such a Bishop should be chosen and elected in Millain after Auxentius, as he himself might really and cordially submit to him and his reprehensions, since he must sometimes needs erre as a man, as to the medicine of souls; as he did to Ambrose, when he was elected Bishop there;) why they may not likewise be resisted by their Laity in the precedent cases with the temporall sword, and subjected unto the censures of the whole Kingdoms and Parliaments, transcends my shallow apprehension to conceive, there being as great, if not greater, or the very self-same reason for the lawfulness of the one, as of the other. And till our Opposites shall produce a substantiall difference between these cases, or disclaim this their practice and doctrine of the lawfulness of excommunicating Kings and Emperours, they must give me and others liberty to conceive, they have quite lost and yielded up the cause they now contend for, notwithstanding this chief Text of *Romans* 13. the ground of all their strength at first, but now of their ruine.

The tenth (x) Objection is this, that of 1 Pet. 2, 13, 14, 15, 16. *Submit your selves to every ORDINANCE OF MAN for the Lords sake, whether it be to*

* Theod. Ecc. 65.
Bist. 1, 4. 6. 5. 6.
Object. 10.
(x) Dr. Fern
Sect. 2. Appeal
to thy Conscience.
THE

The King *AS SUPREAME*, or unto Governours, as unto them that are sent by him (to wit, by God, not the King, as the distribution manifests, and Rom. 13. 1, 2, 3, 4.) For the punishment of evill doers, and for the praise of them that doe well, &c. Feare God, Honour the King; wee must submit to Kings and hen our Kings, who are the supream Governours; therefore we may in no case forcibly resist them or their Officers, though they degenerate into Tyrants.

Answ.

To which I answer; that this is a meer insequent; since the submission here injoyed is but to such Kings, who are punishers of evill doers, and praisers of those that doe well; which the Apostle makes the Ground and motive to submission; therefore this text extends not to Tyrants and oppressors, who doe quite contrary. We must submit to Kings when they rule well and justly, is all the Apostle here affirms; Ergo wee must submit to, and not resist them in any their violent courses to subvert Religion, Lawes, Liberties; is meer non-sence both in Law, Divinity, and common Reason.

Reply.

If any reply, as they doe, that the Apostle, vers. 18, 19, 20. Bids servants be subject to their Masters with all feare, not onely to the good and gentle, but also to the froward: For this is thank-worthy, if a man for conscience towards God endure grieffe suffering wrongfully, &c. Ergo this is meant of evill Magistrates and Kings, as well as good. I answer 1. That the Apostles speaks it onely of evill Masters not Kings; of servants, not subjects; there being a great difference between servants, Apprentices, Villaines, and free-borne subiects, as all men know, the one being under the arbitrary rule and government of their Masters; the other only under the just, settled, legall Government of their Princes, according to the Lawes of the Realme: Secondly, this is meant onely of private personall iniuries, and undue corrections of Masters given to servants without iust cause, as vers. 20. For what glory is it, if when yee be *BVFFÉTED FOR your faults*, &c. intimates: not of publike iniuries and oppressions of Magistrates, which indanger the whole Church and State.

Answ.

A Christian servant or subiect must patiently endure private* undue corrections of a froward Master or King: Ergo whole Kingdomes and Parliaments, must patiently without resistance suffer their kings and evill Instruments to subvert Religion, Lawes, Liberties, Realms, (the proper deduction heen) is but a ridiculous conclusion.

* See Heb. 12.
10. Malch. 5.
39, 40.

Secondly, This Text enjoines no more subjection to kings, then to any other Magistrates; as the words: *Submit your selves TO EVERY ORDINANCE of Man; Or unto Governours, &c.* prove past all contradiction; And vers 6. which bids us, *Honour the King*; bids us first in direct termes, *HONOVR ALL MEN*; to wit, *All Magistrates* at least, if not all men in generall, as such: There is then no speciall Prerogative of irresistability given to kings by this Text in injurious violent courses, more then there is to any other Magistrate or person whatsoever; God giving no man any Authority to injure others without resistance, especially if they assault their persons or invade their Estates to ruine them: Since then inferiour Officers, and other men may beforeably resisted when they actually attempt by force to ruine Religion, Lawes, Liberties, the republike, as I have proved, and our Antagonists must grant; by the self-same reason kings may be resisted too, notwithstanding any thing in this Text, which attributes no more irresistability or authority to Kings, then unto other Magistrates.

Thirdly,

Thirdly, Kings are here expressly called; AN ORDINANCE OF MAN, not God; as I have formerly proved them to be. If so; I then appeal to the consciences of our fiercest Antagonists, whether they do believe in their consciences, or dare take their Oathes upon it; That ever any people or Nation In the world, or our Ancestors at first, did appoint any Kings or Governours over them, to subvert Religion, Laws, Liberties; or intend to give them such an unlimited uncontrollable Sovereignty over them, as not to provide for their own safety, or not to take up Arms against them, for the necessary defence of their Laws, Liberties, Religion, Persons, States, under pain of high Treason, or eternall damnation, in case they should degenerate into Tyrants, and undertake any such wicked destructive designe. If not (as none can without madnesse and impudence averre the contrary, it being against all common sense and reason, that any man or Nation should so absolutely, irresistably inflave themselves and their Posterities to the very lusts and exorbitancies of Tyrants, and such a thing as no man, no Nation in their right senses, were they at this day to erect a most absolute Monarchie, would condescend to;) then clearly the Apostle here confirming onely the *Ordinances of men*, and giving no Kings nor Rulers any other or greater power then men had formerly granted them (for that had been to alter, not approve their humane Ordinances) I shall infallibly thence inferre; That whole States, and Subjects, may with safe conscience resist the unjust violence of their Kings in the foresaid cases, because they never gave them any authority irresistably to act them, nor yet vested themselves (much lesse their posterity whom they could not eternally inflave) of the right, the power of resisting them in such cases; whom they might justly resist before, whiles they were private men, and as to which illegall proceedings they continue private persons still, since they have no legall power given them by the people to authorize any such exorbitances.

Fourthly, The subjection here enjoyned, is not passive, but active, witnesse *ver. 15. For so is the will of God, that by WELL DOING (to wit, by your actuall cheerefull submission to every Ordinance of man for the Lords sake, &c.) you put to silence the ignorance of foolish men: as free, and not using your liberty, &c.* If then this Text be meant of active, not passive obedience; then it can be intended onely of lawfull Kings, of Magistrates in their just commands, whom we must actuallly obey; not of Tyrants and Oppressours in their unjust wicked proceedings, whom we are bound in such cases actuallly to disobey, as our Antagonists grant, and I have largely evidenced elsewhere: Wherefore, it directly commands resistance, not subjection in such cases; since actuall disobedience to unjust commands, is actuall resisting of them. And that these Texts prescribing resistance tacitely, should apparantly prohibit it under pain of Treason, Rebellion, Damnation, is a Paradox to me.

Fifthly, This Text doth no way prove that false conceit of most, who hence conclude: That all Kings are the Supream Powers, and above their Parliaments, and whole Kingdoms, even by Divine institution: There is no such thing, nor shadow of it in the Text.

For first, This Text calls Kings, not a Divine, but *Humane Ordinance*; If then Kings be the Supreamest Power, and above their Parliaments, Kingdoms, it is not by any Divine Right, but by *Humane Ordination* onely, as the Text resolves.

Secondly, This Text prescribes not any Divine Law to all or any particular States;

nor gives any other Divine or Civill Authority to Kings and Magistrates in any State then what they had before; for if it should give Kings greater Authority and Prerogatives then their people at first allotted them, it should alter and invade the settled Government of all States, contrary to the Apostles scope, which was to leave them as they were, or should be settled by the peoples joynt consent: It doth not say, *That all Kings in all Kingdoms are, or ought to be Supream; or let them be so henceforth*: no such inference appears therein. It speaks not what Kings ought to be in point of Power; but onely takes them as they are, (according to that of *Rom. 13. 2. The Powers that ARE, &c.* to wit, that are, even now every where in being, not which ought to be, or shall be) whence he saith; *Submit to the King as supream*: that is; where by the Ordinance of man the King is made supream; not, where Kings are not the supreamest Power; as they were not among the (a) ancient *Lacedemonians, Indians, Carthaginians, Gothes, Aragonians*, and in most other Kingdoms, as I have (b) *elsewhere* proved: To argue therefore, We must submit to Kings where the people have made them supream; *Ergo*, All Kings every where are and ought to be supream *jure divino*; (as our *Antagonists* hence inferre) is a grosse absurdity.

(a) See *Bodin Common-weal l. 1. c. 10 l. 2. c. 5. Hugo Grotius de jure Belli l. 1. c. 3. sect. 8 to. 3. & Annotata.*
(b) *Part. 1. & in the Appendix.*

III.

Thirdly, This Text doth not say, That the King is the supream soveraign Power, as most mistake; but *supream Governour*, as the next words; or *Governours*, &c. expound it; and the very *Oath of Supremacie*, *1. Eliz. Cap. 1.* which gives our Kings this Title, *Supream Governour within these his Realms*. Now Kings may be properly called *Supream Magistrates* or *Governours* in their Realms, in respect of the actuall administration of government and justice, (all Magistrates deriving their Commissions immediately from them, and doing justice, for, and under them:) and yet not be the *Soveraign Power*, as the *Romane Emperours*, the *Kings of Sparta, Arragon*, and others; the *German Emperours*, the *Dukes of Venice* in that State, and the *Prince of Orange* in the *Nether-lands*, were and are the *Supream Magistrates, Governours*; but not the *Supream Soveraign Powers*; their whole *States, Senates, Parliaments*, being the *Supreamest Powers*, and above them; which being Courts of State, of Justice, and a compound body of many members, not alwayes constantly sitting, may properly be stiled, *The Supream Courts and Powers*; but not the *Supream Magistrate* or *Governour*: As the *Pope* holds himself, the *Supream Head and Governour* of the *Militant Church*; and the *Arch-Bishop of Canterbury* stiles himself, the *Primate and Mstropolitane of all England*; and so other Prelates in their Provinces; yet they are not the *Soveraign Ecclesiasticall Power*, for the King, at least *Generall Councils* or *Nationall Synods* (which are not properly tearmed *Governours*, but *Powers*) are *Paramount* them, and may lawfully *censure* or *depose* them, as I have (d) *elsewhere* manifested. To argue therefore, that Kings are the highest *Soveraign Power*, because they are the highest particular *Governours* and *Magistrates* in their Realms, as our *Antagonists* do; is a meer *Fallacie*, and *Inconsequent*, since I have proved (e) *our own*, and most other Kings, not to be the highest Powers, though they be the *Supreamest Governours*.

(c) *Bodin. Common-weal l. 2. c. 5. l. 1. c. 10.*

(d) *Part. 1. p. 86.*

(e) *Part. 1. & the Appendix.*

IIII.

Fourthly, This Text speaks not at all of the *Romane Emperour*, neither is it meant of him, as *Doctour Ferris*, with others mistake; who is never in *Scripture* stiled a King, being a Title extremely odious to the *Romans*, and for ever banished
their

their State with an (f) Oath of execration, by an ancient Law, in memory whereof they instituted a speciall annuall Feast on the 23. of February, called, (g) *Regifugium*; the hatred of which Title continued such, that Tully (b) and Augustine write; *Regem Romæ postbac, nec Dii nec Homines esse patiuntur*: And (i) *Cæsar* himself being saluted King by the multitude, perceiving it was very distastfull to the States, answered, *CÆSAREM SE, NON REGEM ESSE*: which Title of *Cæsar*, (not King) the Scripture ever useth to expresse the Emperour by: witnesse Matth. 22. 17, 21. Mark 12. 14, 16, 17. Luke 2. 1. chap. 20. 22, 24, 25. chap. 23. 2. John 19. 12, 15. Acts 11. 28. chap. 17. 7. chap. 25. 8, 10, 11, 12, 21. chap. 26. 32. chap. 27. 24. chap. 28. 19. Phil. 4. 22. Which Texts do clearly manifest, that no Title was ever used by the Apostles, Evangelists, Jewes, to expresse the Emperour by, but that of *Cæsar*, not this of *King*. Therefore *Peters* Text, speaking onely of the King, not *Cæsar*, cannot be intended of the Romane Emperour, as ignorant Doctors blindly fancie.

Fifthly, This Epistle of *Peter* (the (h) *Apostle of the Jews*) was written onely to the dispersed Jews thoroughout Pontus, Galatia, Cappadocia, Asia, and Bythinia, 1 Pet. 1. 1. over whom Herod at that time reigned as King, by the Romane Senates and Emperours appointment, who had then conquered the Jews, and made them a tributarie Province; as is evident by Matth. 27. 17, 21. Mark 12. 14, 16, 17. Luke 20. 22, 24, 25. chap. 23. 2. Acts 17. 7. chap. 25. 8, 10, 11, 12, 21. chap. 27. 24. chap. 12. 1. to 24. compared together; and by (l) *Josephus*, the Century writers, *Baronius*, *Sigonius*, and others. The King then here mentioned to be supream, was Herod, or King *Agrippa*, or some other immediate (m) *King of the Jews*, who was their supream Governour, not absolutely, but (n) under the Romane Senate and Emperours, and made so by their appointment, whence called in the Text; an Ordinance of man, not God: Now this King of the Jews (as is evident by *Pauls* Appeal to *Cæsar* from *Festus* and King *Agrippa*, as to the Sovereign Tribunall; Acts 25. and 26. by *Josephus*, *Philo Judæus de legatione ad Caium*, and the consent of all Historians) was not the absolute Sovereigne Power, but subordinate to the Romane Emperour and Senate, (o) who both created, and had power to controll, remove, and censure him for his misdemeanours; yet *Peter* calls him here Supream, because the Highest Governour under them, as we stile our Kings (p) *Supream Governours under Christ*. Therefore having a Superiour Governour and Power over him, to which he was accountable and subordinate; *Supream* in the Text, cannot be meant, of a King absolutely Supream, having no Power Superiour to him, but God; but onely relatively Supream, in respect of under-Governours, there actually residing: whose Supremacie being forcibly gained onely by conquest, not free consent; (and the ancient native * *Kings of the Jews*, being inferior to their whole Senates and Congregations, and to do all by their advice, as *Josephus Antiq. Jud. lib. 4. cap. 8. 2, Sam. 18. 3, 4. Jer. 38. 45. 1. Chron. 13. 1. to 6. attest*) will no way advantage our Opposites, nor advance the Prerogative of Kings; since it extends onely to the King of the Jews that then was, who was not simply Supream, but a Subj. & Prince subordinate to the Romane State and Empire, and one appointed by a Conquerour, not freely chosen and assented to by the people. So as all the Argument which can hence be extracted for the absolute Sovereignie and irresistibility of Kings over their whole Kingdomes and Parliaments, is but this. The King of the Jews was

(f) Livy Hist. l. 1. See the Appendix. p. 3. 4.
(g) Macrob. Saturnal. l. 1. c. 13. Seldens Titles of honour. part. 1. c. 2. sec. 2. p. 13.
(h) Aug. de Civ. Dei. l. 2.
(i) Selden. ibid. Plutarchi, Julii Cæsar. Eutropia. Grimston in his life.

V.
(k) Gal. 2. 7. 8.

(l) Ant. Jud. l. 17. c. 12. l. 18. c. 1. l. 20. c. 9. De Bel. Jud. l. 1. c. 1.
(m) Mar. 3. 1. c. 27. 11. Act 25. 13. 24. 26. c. 26. 2. c. 12. 1.
(n) Ant. Jud. l. 13. to 20. John 19. 12.
(o) Ios. de Bel. Jud. l. 1. c. 10. 11. 12. 15.
(p) See the Appendix.

* Schickardus jus Regum. Heb. p. 7. Cincius de Rep. Heb. p. 101 166.

in *Peters* time the Supreme Magistrate over that *Nation*, by the *Romane* Senates and Emperours appointment, to whom yet he was subordinate and accountable; the *Romans* having conquered the *Jews* by force, and imposing this government upon them, without their consents. Therefore the Kings of *England*, and all other Kings are absolute Sovereigne Monarches, Superiour to their whole Parliaments and Kingdomes, collectively considered; and may not in point of conscience be forcibly resisted by them, though they endeavour to subvert Religion, Laws, Liberties: How little coherence there is in this Argument, the silliest child may at first discern.

Objection II.

(x) *Bodin. l. 2. c. 5*
Bilson. part. 3. 4
 An appeal to
 thy conscience,
 and many
 others.

From these Scriptures, I descend to Reasons deduced from them, against resistance, which I shall contract into three Arguments: The first is this; (x) Kings are the Fathers, Heads, Lords, Shepherds of the *Common wealth*; Ergo, They ought not to be resisted in any their exorbitant proceedings; it being unlawfull, unseemly, for a Son to resist his Father; the Members the Head; the Vassals their Lord; the *Flock* their Shepherd.

Answer I.

(y) 2 Sam. 24.
 17. Isa 49. 23
 Pl 78. 72. 73.
 74. Isa. 40. 11.
 c. 32. 2. Ezek.
 34. 2. to 18.
 Joh. 10. 9. to 19.
 (z) Ezek 22. 27
 Zep 3. 3 Mat. 7.
 15. Act. 20. 29.

To this I answer: First, They are Fathers, Shepherds, Lords, Heads, onely in an improper, allegoricall, not genuine sense; therefore nothing can thence be properly inferred: They are and ought to be such in respect of their (y) loving and carefull affection towards their Subjects; not in regard of their Sovereigne Power over them: Therefore when their Tyrannie makes them not such; in regard of care and affection to their people; their people cease to be such; in regard of filiall, naturall, and sheep-like submission: When these Shepherds turn (z) Wolves; these Fathers, Step-fathers; the Subjects, as to this, cease to be their Sheep, their Children, in point of Obedience and Submission.

2.
 * 1 Pet. 2. 13.
 (a) Rom. 13. 6.

Secondly, If we consider the *Common-weal* and Kingdom collectively; Kings are rather their Kingdoms children then Parents, because * created by them, their public like servants, ministers, for whose benefit they are employed, and receive (a) wages; not their Sovereigne Lords; their subordinate Heads, to be directed and advised by them, not Tyrannically to over-rule them at their pleasure: Therefore Paramount, and able in such cases to resist them.

3.
 (b) 2 John 10.
 II
 (c) *Lieftson. sect*
 19. 4. & *Coke*
 Ib. p. 126
 (d) See *1 B. Gen.*
the Law. B. l. 1.
 s. 15. 16.

Thirdly, Parishioners may, no doubt, lawfully resist the (b) false Doctrines and open assaults of their Ministers, though they be their *Spiritual* Shepherds: Citizens the violent oppressions of their *Majors*, though they be their Politique Heads: Servants the unjust assaults of their Masters, though their lawfull Lords; (who may (c) not misuse their very Villaines, by Law:) And if Parents will violently assault their naturall children, Husbands their Wives, Masters their Servants, to murder them without cause, they may (d) by Law resist, repulse them with open force.

4.

Fourthly, A Son who is a Judge, may lawfully resist, imprison, condemne his naturall Father; A Servant, his Lord; A Parishioner his Pastour; a Citizen his Major; a meer Gentleman, the greatest Peer or Lord, as experience proves; because they do it in another capacity, as Judges and Ministers of publicke Justice, to which all are subject. The Parliament then in this sense, as they are the representative Body of the Realm, not private Subjects, (and their Armies by their authority) may, as they are the highest Sovereign Power and Judicature, resist the King and his Forces, though he be their Father, Head, Shepherd, Lord, as they are private men.

Fifthly,

Fifthly, This is but the common exploded Argument of the Popish Clergy, To prove themselves superiour to Kings, and exempt from all secular Jurisdiction, because they are spirituall Fathers, Pastors, Heads to Kings; Who ought to obey, not judge, and censure them, as (c) Archbish. Stratford, and others argue. But this plea is no ways available to exempt Clergy men from secular Jurisdiction; from actuall resistance of parties assaulted, nor yet from imprisonment, censures, and capitall executions by Kings and Civill Magistrates, in case of capitall Crimes; Therefore by like reason it can not exempt Kings from the resistance, censures of their Parliaments, Kingdoms, in case of tyrannicall invasions. We deride this Argument in Papists as absurd, as in sufficient to prove the exemption of Clergy men: I wonder therefore why it is now urged to as little purpose, against resistance of Tyrants, and oppressing Kings and Magistrates.

The second reason is this, (f) The Invasions and oppressions of evill Kings and Tyrants, are afflictions and punishments inflicted on us by God: Therefore we ought patiently to submit unto them, and not forcibly to resist them.

I answer; First, The invasions of Forraign Enemies are (g) just Judgements, and punishments sent upon men by God; as were the invasions of the (h) Danes, Saxons and Normans in England, heretofore; of the Spaniards since. Ergo, we ought not to resist or fight against them. The present rebellion of the Papists in Ireland is a just punishment of God upon this Kingdom and the Protestant party there; Ergo, Neither we, nor they ought in conscience to resist or take Arms against them. Every sickness that threatens or invades our bodies, is commonly an affliction and punishment sent by God: Ergo, We must not endeavour to prevent or remove it by Physick, but patiently lye under it without seeking remedy. Injuries done us in our persons, estates, names, by wicked men, who assault, wound, rob, defame us, are from (h) God, and punishments for our sins: Ergo, We may not resist them: Yea, Subjects Rebellions, Treasons, and Insurrections, against their Princes many times, are punishments inflicted on them by God, displeas'd with them, as the Statute of 1 Ed. 6. c. 12. resolves, and the (i) Scripture too: Ergo, Kings ought not to resist or suppress them by force of Arms; If all these Consequences be absurd, and idle, as every man will grant, the objection must be so likewise.

I read, That in the * persecution of the Hunnes, their King Attila being demanded of by a religious Bishop, of a certain Citie? who he was? when he had answered; I am Attila, the scourge of God: The Bishop reverencing the divine Majesty in him; answered, Thou art welcome o Minister of God; and ingeminating thus saying, Blessed be he that cometh in the Name of the Lord, Opened the Church door, and let in the persecutor, by Whom he obtained the Crown of Martyrdom, not daring to exclude the scourge of the Lord; knowing, that the beloved sonne is scourged, and that the power of the scourge itself is not from any, but God. Will it hence follow? That all Christians are bound in conscience to do the like, and not to resist the barbarous Turks, if they should invade them; no more then this Bishop did the bloody Pagan Hunnes, because they are Gods wrath? I trow not. One Swallow makes no Summer; nor this example, a generall president to binde all men.

The third reason is this, Saints forcible resistance of Tyrants, begets civill warres, Obje. 7. 12.

(c) Antiq Eccl. Brit. p 245.

Object. 12.

(f) Appeal to thy conscience, and others.

Answer.

(g) See 1 Kin. 11. 14. to 4 r. 2 Chro. 33. 11. ca. 35. 1. to 21. Isai. 10. 6.

(h) See Gildas de Excidio Brit. Mather West. Malmbsury, Huntingdon, and all our Chroniclers.

(h) 2 Sam 16. 10, 11, 12.

(i) 1 King cap. 11. & 12.

* Joan. Carnot. lib. 4. Polymet. c. 1. & Boet. l. 5. Decreta, Eccl. Gal. 1. 5. Tit 1. ca. 6. p. 697.

(k) Dr. Ferne, great disorders, and (k) many mischiefs in the State : Ergo, It is unlawfull, and inconvenient.

Ans^w.

I answer, First, That this doctrine of not resisting Tyrants in any case, is farre more pernicious, destructive to the Realm then the contrary; because it deprives them of all humane means, and possibilities of preservation; and denies them that speciall remedy which God and nature hath left them for their preservation: Laws, denyall of Subsidies, and such like remedies prescribed by Doctor Ferne, being no remoraes or restraints at all to armed Tyrants; Wherefore I must tell thee Doctor, *Theologorum utrunque disertissimorum sententia, in hac controversia non sunt multo faciendae, quia quid sit Lex humana ipsi ignorant, as Vasquius controvers. Illustr. §1. .II. determines.*

Secondly, The knowledge of a lawfull power in Subjects to resist Tyrants, will be a good means to keep Princes from Tyrannicall courses, for fear of strenuous resistance; which if once taken away, there is no humane bridle left to stay the Inundation of Tyranny in Princes or great Officers; and all Weapons, Bulwarks, Walls, Lawes, Armes will be meerly uselesse to the Subjects, if resistance be denyed them, when there is such cause.

Thirdly, Resistance only in cases of publike necessity, though accompanied with civill warre; serves alwayes to prevent farre greater mischiefs then warre it self can produce, it being the only Antidote to prevent publike ruine, the readiest means to preserve endangered, to regaine, or settle lost Liberties, Laws, Religion, as all ages witness; and to * prevent all future Seditions and Oppressions.

* Seditiones non facit, sed tollit quae eversem Patriae, publicaeque discipline coercerit, Vindicta. contr. Tyr. cap. p. 145.

Fourthly, Desperate diseases, have alwayes desperate remedies, *Malo nodo, malus cuncus*: When nothing but a defensive warre will preserve us from ruine and vassalage; it is better to embrace it, then hazard the losse of all, without redemption. *Ex duobus malis minimum.* All Kingdoms, States in cases of necessity, have ever had recourse to this as the lesser evil; and why not ours as well as others.

Object.

The last (and strongest Objection as some deem it) is the sayings of some Fathers backed with the examples of the primitive Christians, to which no such satisfactory answer hath hitherto been given, as might be.

Authority 1.

The first and grandest Objection against Subjects forcible resistance, and defensive warre, is that speech of Saint Ambrose, *Lib. 5. Orat. in Auxentium. Coactus repugnare non audeo: dolere potero, potero flere, potero gemere: adversus arma, milites, Gothos, Lachryma mea arma sunt: talia enim sunt munimenta sacerdotum: ALITER NEC DEBEO, NEC POSSUM RESISTERE.*

Ans^w.

This chiefe Authoritie, though it makes a great noise in the world, if solidly scanned, will prove but *Brutum fulmen*; a meer scar-crow and no more.

(*) See Orofium, Eutropius, Paulus Dioscorus, Grinston, and others.

For first, *Ambrose* in this place speaks not at all of Subjects resisting their Princes, or Christians forcible resisting of the persecuting Romane Emperours; but of resisting *Valentine*, and the Arms and Souldiers of the *Goths*, who at that time (1) overran Italy, and sacked Rome, being mortall Enemies to the Romans, the Roman Emperours, Saint *Ambrose*, and *Millain* where he was Bishop.

This is evident by the expresse objected words: *I can grieve, I can weep, I can mourn,* (to wit for the wasting of my native Country *Italy*, by the Invading Enemies

Enemies the *Goths* :) against *Armes, Souldiers, GOTHES* (marke it) *my teares are Weapons, &c.* If any sequell can be hence properly deduced, it must be that for which the (m) *Anabaptists* use it (from whence our *Opposites*, who tax the Parliaments Forces for *Anabaptists*, when themselves are here more truly such, and fight with this their weapon.) *That it is unlawfull for Christians to fight, or make so much as a defensive warre against invading Forraign barbarous Encmies*, of whom this Father speaks: And then if the *Irish Rebels, Danes, Spaniards, French*, should now invade *England*, both against the Kings and Kingdoms Wills, we must make no forcible resistance at all against them with Arms in point of conscience, but onely use prayers and teares.

(m) See Lucas Osiander Enchir. cap. 9. de Magistratu. politic.

This is the uttermost conclusion which can properly be hence deduced; which our *Antagonists* will confesse to be at least erroneous, *Anabaptisticall*, if not *Hereticall*.

Secondly, You must consider who it was that used this speech; *Ambrose*, a *Minister*, then *Bishop of Milan*; who by reason of this his function being an *Ambassadour of Peace*; had his hands bound from fighting with any other weapons, even against invading forraign *Enemies*, but only with the sword of the spirit, *prayers and teares*: and that his calling only, was the ground of this his speech; is infallible by the latter clause thereof, which our *Opposites* cunningly conceale. *Prayers are my Armes: For such are the Defensive Armour OF PRIESTS; Otherwise I NEITHER OUGHT NOR CAN RESIST: Why so? Because he was a Minister, a Bishop; and Paul prohibites such to be STRIKERS, Tit. 1. 7. 1 Tim. 3. 3. and because Priests under the Law did but blow the Trumpets, and never went out armed to the warres, Josh. 6.* Upon which ground (n) *Divers Councells, Decretalls, Canonists*, expressly prohibit, and exempt *Priests and Bishops*, from bearing *Arms*, or going to *Warre*, though many of them have turned (o) *great Souldiers, and been slain in warres.*

(n) Gratian Distinct. 5. & Causa 23. q. 8. Aquinas. 2. 2. qu. 40. Artic. 2. Silu. de Bello, p. 3. Grotius de Iur. Belli. l. 1. c. 5. sect. 4. p. 98. Nicetas Chro. l. 6.

Hence Anno 1267, in a Parliament held at Bury, K. H. 3^d. and Ottobon the Popes Legat, demanded of all the *Bishops and Clergy men*, holding *Barronies or Lay-fee*s, that they should go personally armed against the *Kings enemies*, or finde so great service in the *Kings expedition*, as appertained to so much *Lands and Tenants*. To which they answered, *That THEY OUGHT NOT TO FIGHT WITH THE MATERIALL SWORD; (no not against the Kings Enemies) But With the spirituall; to wit, with humble and devoute teares and prayers, (using these words of Ambrose :) And that for their benefices they were bound to maintain Peace, NOT WARRE.*

(o) See Walsingham. hist. Anglie. p. 312. 10 330.

Hence our King (q) *Richard the first, taking the Bishop of Beauvoies in France, his great Enemy, armed from top to toe, prisoner in the field; commanded him to be strictly kept in prison in his arms, and would by no means suffer him to put them off: for which hard usage he complained to the Pope, and procured his letter to King Richard to free him from his arms and restraint; in which Letter, the Pope sharply reprooves the Bishop for preferring the secular warfare before the spirituall, in that he had taken a Spere instead of a Crosier; an Helmet in lieu of a Miter; an Habergion instead of a white Rochet; a Target in place of a Stole; an Iron-sword, instead of a spirituall sword.* After which, the King sent his Arms with this Message to the Pope: *See whether this be thy sonnes Coat or not? Which the Pope beholding, answered: No*

(p) Contin Max. Paris. p. 971. (q) Roger de Hoved. Annal. pars 102. p. 763. to 778. Neudrigensii. hist. l. 9. c. 21.

by

by Saint Peter, It is neither the apparell of my sonnes, nor yet of my Brethren, but rather the vesture of the sonnes of Mars. And upon this ground (*) Our Bishops
 (r) Antiqu: Eccl: Brit. p. 299 anciently, when Members of Parliament, departed the house when Cases of Treason
 300. 10. E. 4. 6. or Felony came in question, because they might not by the Canons, have their hands in
 Stamford, s. 143 bloud.

* See Io: Maior
 in 4. Scot.
 Dig. 15.

This then being Ambrosio his direct words and meaning, That he neither ought, nor could use any other Weapons against the invading Gothes, and their forces, but prayers and tears; *because he was a Minister, a Bishop, not a Lay-man; The genuine Argument that our opposites can thence extract, is but this. Priests must use no other Defensive Arms, but prayers and tears, against invading forraign Enemies. Ergo, The Priests and Ministers in his Majesties Armies, who bear Offensive Arms, must now in conscience lay them down, and use no other resistance, but prayers and tears against the Parliaments forces: where as their former inference against resistance: Ergo, It is altogether unlawfull for the Parliament, or any Lay-Subjects by their command, to defend Religion, Laws, Liberties, against his Majesties invading forces, who intend by force to subvert them; is but ridiculous nonsense, which never once entred into this Fathers thoughts, and can never be extorted from his words.

Ministers of the Gospel must not use any Arms, but prayers and tears to resist a forraigne Enemy: Ergo, None else may lawfully use them to withstand an invading adversary; is a conclusion fitter for Anabaptists then Royallists, who may now with shame enough, for ever bid this authority adieu; with which they have hitherto gulled the ignorant World: And henceforth turn it against the Commission of Array, enjoyning Bishops, and Clergy men, to array and arme themselves as well as other men, as the Presidents cited in Judge Cooke his Argument against Ship-money; in the Parliaments two Declarations against the Commission of Array; and in the Answer published in the Kings name, to the first of them, plentifully evidence.

3

Finally, Hence I infer, That Clergy men may, and must fight against their invading Enemies with prayers, tears, the Weapons which they may lawfully use as proper for their callings. Ergo, Lay-men may, and must resist, and fight against them with corporall Arms, since they are as proper for them in cases of needfull defence, as these spirituall Arms are for Priests.

Authority 2.
 (s) An appeal
 to the concil-
 ience. p. 28.
 Grotius de Iure
 Belli, l. 1. c. 4.
 s. 4. p. 83.

The second Authority is that of (s) Nazianzen. Oratio. 2. in Julianum. R-
 pressus of Julianus Christianorum lachrymis, quas multas multi profuderunt. HOC
 VNVM or Solum (as Grotius translates it) adversus persecutionem medicamen-
 tum habentes: To which I shall adde by way of supply this other passage. Nos
 autem; quibus NULLA ALIA ARMA, nec muri, nec praesidia,
 praeter spem in Deum, reliqua erant: Utpote OMNI HVMANO
 SUBSIDIO PRORSVS DESTITUTIS ET SPOLIA-
 TIS, quem tandem alium aut precum auditorum, aut inimicorum depulsores habi-
 turi eramus, quam Deum Jacob, qui adversus superbiam jurat. From whence they
 conclude, that Christians must use no other weapons but prayers and tears, against
 Tyrants and oppressors.

From

To which I answer. First, that it is cleare by this, that Christians may use pray- *Ans. 1.*
ers and teares against Tyrants and oppressors.

Secondly, that these are the most powerfull prevailing Armes both to resist and 2.
conquer them. This the opposites readily grant. Therefore by their own confession,
Christians both may and must resist tyrants by the most powerful & effectual means
that a. Tyrants therefore are not the higher Powers, Kings, Rulers, which *Paul*
and *Peter* in the fore-objected texts, enjoine men under paine of damnation to be sub-
ject and obedient to for conscience sake, and no waies to resist; since they may resist them
with the powerfullest armes of all others, prayers and teares.

Thirdly, if they may be lawfully resisted with these most prevailing armes not- 3.
withstanding *Pauls* & *Peters* objected inhibitions, then *a fortiori* they may be with
corporall, which are lesse noxious and prevalent; he that may with most successfull
meanes resist, vanquish, and overcome his tyrannizing, oppressing Sovereigne, may
likewise doe it by the lesse noxious Armes. If Christians may repulse and subdue
a Tyrant with their Prayers, Teares, then why not with their Swords? Doth God
or the Scripture make any such distinction, that we may and must resist them under
paine of damnation, with these kind of weapons; and shall it be no lesse then *Trea-*
son, *Rebellion*, *Damnation* to resist them with the other? what difference is there in
point of *Allegiance*, *Loyalty*, *Treason*, *Conscience*, to resist an oppressing tyrannizing
Prince and his Forces with a *Prayer*, or with a *Sword*? with a *Teare*, or with a *Speare*?
Are they not all one in substance? By the Statutes of 26 H. 8. c. 13. 1 E. 6. c. 14. 5 E. 6.
c. 11. 1 Eliz. c. 6. 13 Eliz. c. 1. words against the King delivered even in *Preaching*, are
made and declared to be high *Treason*, as well as bearing Armes, and striking blowes;
yea, the Statute of 1 & 2 Ph. & Ma. c. 9. makes certaine prayers against this persecuting
Queen, high *Treason*; and by the Statute of 25 E. 3. c. 2. it is high *Treason* for any man
to COMPASSE OR IMAGIN the death of the King, Queen, Prince, as well
as to slay or leavy warre against them. If then we may, by the Objectors confession,
the practises and examples of the Primitive Christians, against *Iulian* and others,
fight with our Tongues, Prayers, Teares, Imaginations against our Sovereignes, who
turne Tyrants and Persecutors; and thereby suppress, conquer, confound them, of
which none make scruple, though our Statutes make it no lesse then high *Treason*
in some cases; then questionlesse they may by the selfe same reason and ground, re-
sist them with open force, notwithstanding any inhibition in Scripture. We may
not, must not resist any lawful King or Magistrate in the just execution of his office,
so much as with a repugnant wil, thought, prayer, teare: we may, yea must resist
an oppressing, persecuting Tyrant with all these; therefore with any other Armes,
meanes (v). *Hezekiah*, *David*, *Moses*, *Abijah*, *Asa*, resisted their invading enemies,
and conquered them with their prayers; but yet they provided to repulse and vanquish
them with other externall Armes. The Christians resistance and vanquishing their
Emperour *Iulian* with the one, is an infallible argument, they might doe it with the
other too, there being no such distinction in the objected Scriptures, that we may
fight against and resist them with our prayers, teares, not armes.

Fourthly, this Father saith not, that it was unlawful for the Christians to use any
other weapons but teares against *Iulian*, the onely thing in question. No such syllab-
le in the Oration, but onely, that they had no other Armes to resist and conquer
him with, being utterly destitute and spoyled of all other humane helpe. Therefore their

(t) The Chri-
stians then sti-
led *Iulian*, *Ido-*
lian, *Pisaur*,
Adonius, *Tau-*
ricemus, *alier*
Hieroboam, *A-*
chab, *Pharao*,
&c. *Nazian-*
zen, *Ora* 47.
& 48. in *Iulia-*
nus.

(v) *Exodus*, *Sa-*
muel, *King*,
Chronicles,
Numbers, *Judges*
and the Booke
of *Psalms* e-
very where al-
most.

* See Zozimen.
l. 5. c. 2. Non
Gentiles solum,
&c.

want of other Armes and helpe, *not the unlawfulness of using them, had they had them, was the onely ground they used prayers and teares, not armes. To argue then, those who are destitute of all Armes, but prayers and teares, must use them onely: Ergo those who have other Armes besides prayers and teares, may not lawfully use them to resist a Tyrant, is but Scholastical Nonsense; yet this is the very uttermost this authority yeelds our opposites. In one word, this Father informes us, that this Apostate Emperour (x) *Iulian*, would not make open warre at first upon the Christians, because this would altogether crosse the end he aimed at: (marke the reason) *Nos enim, si vis inferatur, acriores obstinatiorisque futuros, ac tyrannidi obnixum pietatis TUENDÆ STUDIUM OBJECTUROS cogitavit. Solent enim fortes & generosi animi, ei QUI VIM AFFERRE PARAT CON-TUMACITER OBSISTERE, non secus ac flamma, quæ a vento excitatur, quo vehementius perflatur, eo vehementius accenditur.* Which argues, that the Christians would have forcibly resisted him, had he at first with force invaded them; therefore he weakened, subdued, disarmed them first by policy; and then fell to persecute them with force, when they had no meanes of resistance left.

(x) Oratio. I. in
Iulianum p. 760.

Authority 3.
(y) Appeale
to thy consci-
ence, p. 28, 29.

The third authority is that of (y) *Bernard*, Epist. 221. to King *Lewis* of France, *Quicquid vobis de Regno vestro, de animâ & coronâ vestrâ facere placeat, NOS ECCLESIE FILII, matris injurias, contemptum, & conculcationem omnino dissimulare non possumus. Profecto STABIMUS ET PUGNABIMUS USQUE AD MORTEM (si ita oportuerit) pro matre nostrâ ARMIS QUIBUS LICET, non scutis & gladiis, SED PRECIBUS ET FLETIBUS AD DEUM.* Therefore it is unlawfull for Christians to resist with force of Armes.

Answer. I.

I answer first, that *Bernard* was both a *Monke* and *Clergie-man*, prohibited by Scripture and sundry Canons to fight with military Armes against any person or enemy whatsoever; and he utters these words of himselfe, as he was a *Clergie-man, servant, and sonne of the Church*; in the selfesame sence as *Saint Ambrose* did before. It was then onely his Calling, not the cause which prohibited him forcibly to resist King *Lewis*.

Secondly I answer, that this authority is so farre from prohibiting resistance of oppressing Princes, endeavouring with force of Armes to subvert Liberties, Lawes, Religion; that it is an unanswerable prooffe for it, even in our present case: King *Lewis* to whom *Bernard* writes, had then raised a civil warre in his Realme against *Theobald* and others who desired peace; which the King rejecting, *Bernard* doth thus reprehend him in the premisses. *Verum vos nec verba pacis recipitis; nec pacta vestra tenetis, nec sanis consiliis acquiescitis. Sed nescio quo Dei judicio, omnia vobis ita vertitis in perversum, ut probra honorem, honorem probra ducatis; tuta timeatis, timenda contemnatis; & quod olim sancto & glorioso Regi David, Ioab, legitur improbrasse; diligitis eos qui vos oderunt, & odio habetis qui vos diligere volunt. Neque enim qui vos instigant priorem iterare maliciam adversus non merentem, querunt in hoc honorem vestrum, sed suum commodum, imò nec suum commodum, SED DIABOLI VOLUNTATEM; ut Regis (quod absit) potentiam concepti furoris habeant effricem; quem suis se posse adimplere viribus non confidunt; INIMICI CORONÆ VESTRÆ, REGNI MANIFESTISSIMI PERTURBATORES;* (Our present case, in regard of the Kings evil sedu-

Nota.

ding

ding Counsellors.) Then immediately follows the objected clause, *At quicquid vobis, &c.* After which he gives him this sharpe reproofe. *Non tacebo quod cum excommunicatis iterare fedus & societatem nunc satagis, quod in necem hominum, combustionem domorum, destructionem Ecclesiarum, dispersionem pauperum, raptoribus, predonibus (sicut dicitur, adhaeretur; juxta illud Prophetae (z) si videbas furcm currebas cum eo, &c. quasi non satis per vos mala facere valeatis. Dico vobis, non erit diu inultum, si hac ita facere pergitis, &c.* Here this holy man prohibited by his orders to fight against this King, his Sovereigne with his Sword; fights strongly against and resists his violence with his Penne. And although he may not use a Sword and Buckler in respect of his calling to defend his mother the Church against him: yet he is so farre from yeelding obedience to and not resisting him, according to *Pauls* and *Peters* pretended injunctions, that he expressly tels him to his face, **THAT HE WOULD STAND AND FIGHT AGAINST HIM EVEN UNTO DEATH** (if there were need) *with such weapons as he (being a Monk and Minister) might use, to wit, with Prayers and teares, though not with Sword and Buckler;* which were more prevalent with God against him then any other Armes. So that he resists him in the very highest straine that may be; and clearly admits, that **Laymen** who might lawfully use Swords and Bucklers, might with them justly defend the Church in standing and fighting for it against him even to death, as well as he might doe it with prayers and teares, his proper Armes: Which answers that objection out of his 170. Epistle, written to the same King; and his 183 Epistle to *Conrad* King of Romans; where he subjects these Kings to the Pope, whom he adviseth them to obey; and reprehends them for their misdemeanours, notwithstanding that text of *Rom. 13.* which he there recites.

(z.) Pl. 49.

The fourth authority, is the example of the primitive Christians, who submitted themselves willingly to their persecuting Emperours; without resistance in word or deed. For prooffe whereof, severall passages are recited out of Fathers, which I shal conjoyne: the first is out of *Tertullian* his *Apologeticus*. *Quoties enim in Christianos deservitis, partim animis propriis, partim legibus obsequentes? Quoties etiam praeeritis a vobis SUO JURE NOS INIMICUM VULGUS invadit lapidibus & incendiis? Ipsi Bacchanalium furis, nec mortuis parcunt Christianis, quin illos de requie sepulturae, de asylo quodam mortis, jam alios, jam nec totos avellant, dissecent, distrabant? quid tamen de tam conspiratis unquam denotatis, de tam animatis a mortem usque pro injuria repensatis? quamvis vel una nox pauculis facultis largitatem ultionis posset operari si malum malo dispungi, penes nos liceret. Sed abstet ut aut igni humano vindicetur divina selecta; aut doleat pati, in quo probatur. Si e im in hostes exortos non tantum vindices occultos agere vellemus, de sset nobis vis numerorum & copiarum? Plures nimirum *Mauri* & *Marcomanni*, ipsique *Parti*, vel quantacunque, unius tamen loci & suorum finium gentes, quam totius orbis? Extremi sumus & vestra omnia implevimus, urbes, insulas, castella, municipia, conciliabula, castra ipsa, tribus, decurias, palatium, senatum, forum, sola vobis relinquimus templa. Cui Bello non idonei, non prompti fuissetus, etiam impares copiis, QUI TAM LIBENTER TRUCIDAMUR? Si non apud istam disciplinam MAGIS OCCIDI LICERET, QUAM OCCIDERE. Potuimus & incenses, NEC REBELLES; sed tantummodo discordes solius divortii invidia adversus vos dimicasse. Si enim tanta vis hominum, in aliquem orbis remoti sinu abruptis-*

Authority 4.
(a) Dr. Ferne,
The necessity
of subjection.
An Appeale
to thy Conscience. Bishop
Moren, Hugo
Grotius, and
others.

*semus à vobis, suffudisset utique damnationem vestram tot qualiumcunque amissio civium, imò etiam & ipsa institutione punisset: proculdubio expavisset ad solitudinem vestram, ad silentium rerum, & stuporem quendam quasi mortui urbes quaesissetis quibus imperaretis. Plures hostes, quàm cives vobis remanissetent, nunc enim pauciores hostes habetis præ multitudinem Christianorum, penè omnium civium. Which S. Cyprian (Tertullians imitator) thus seconds, *Ledere Dei & Christi servos persecutionibus tuis desine, quos laesos ultio divina defendit. Inde est enim quod nemo nostrum quando apprehenditur, reluctatur, nec se adersus injustam violentiam vestram quamvis nimis & copiosus noster sit populus, ulciscitur. Patientes facit de securura ultione securitas. Innocentes nocentibus cedunt. Insontes poenis & cruciatibus acquiescunt, certi & silentes, quod in ultum non remaneat, quodcumque perpetimur, quantoque major fuerit persecutionis injuria, tantò & justior fiat & gravior pro persecutione vindicta. Which Lactantius thus trebles. *Confidimus enim Majestati ejus qui tam contemptum sui possit ulcisci, quam servorum suorum labores & injurias. Et ideo cum tam nefanda perpetimur, ne verbo quidem reluctamur, sed Deo remittimus ultionis.* (d) Saint Augustine relates the same in these words, *Neque tunc Civitas Christi quamvis ad hoc peregrinaretur in terra, & haberet tam magnorum agmina populorum, adversus impios persecutores, pro temporali salute pugnavit, sed potius ut obtineret aeternam, non repugnavit: ligabantur, includebantur, cedebantur, torquebantur, roebantur, laniabantur, cruciabantur, & multiplicabantur. Non erat eis pro salute pugnare, nisi salutem pro salute contemnere.* The summe of all these Fathers sayings (which I have largely cited, because I would conceal nothing that might be materially objected) is this: That the Christians in the primitive Church, though they were many in number, and sufficiently able to defend themselves against their persecuters by force of Armes, did yet refuse to doe it, yeelding themselves up to any tortures, punishments, deaths, without the least resistance in word or deed; Ergo, the Parliament and Kingdome ought now to make no resistance at all against the Kings popish Army and Cavaliers, but to expose themselves to their cruelties and rapines, without the least resistance in word or deed.**

Answer.

(e) Mr. Goodwin his Anti-cavalierisme, Scripture and Reason for defensive Armes.

Because this objection stickes most with many Schollars, Statists, and tender consciences, I shall endeavour to give a satisfactory answer to it, without any shifting evasions, or questioning the truth of Tertullians, and Cyprians assertions, concerning the multitude and strength of the Christians, and their ability to resist, which some have taken (e) great paines to refute.

First, then I say, that neither of all these Fathers say, That the primitive Christians held it *unlawfull*, muchlesse *damnable*, in point of conscience for them to resist their persecuting enemies, no such syllable in any of them. And Tertullians, *Si non apud istam disciplinam MAGIS OCCIDI LICET QUAM OCCIDERE*, by way of necessary defence, implies no such thing, but rather proves the contrary, that resistance is lawfull, because it is lawfull to be flaine as a martyr; therefore in this case to slay. So as there is nothing in these authorities in point of conscience to condemne the Parliaments present resistance, and defensive warre, as unlawful.

Secondly, they all seeme to grant, that the Christians deemed resistance even by force of Armes to be lawfull for them, though they used it not; no Text of Scripture prohibiting, but allowing it, and these Fathers producing no one text which truly condemnes it; this being the very summe of their words. That though the

Chri-

Christians were exceeding many in number, of strength and power abundantly sufficient to defend themselves in a warlike manner against their persecuters, and had full liberty and no restraint upon them in point of Conscience either to withstand their persecuters with Armes, or to withdraw themselves from under the jurisdiction of their persecuters into remote parts, to the great weakening and losse of the State: yet such was their patience, innocency, and desire of Martyrdom, that they resisted not their Adversaries with force, nor retired, nor fled away from under their obedience, but cheerfully without the least resistance by word, deed, or thought, yielded up their Bodies, Liberties, Lives, to the cruelties of their Enemies, to obtaine that Crowne of Martyrdom which they desired, and to offer up themselves a voluntary freewill oblation to the Lord, who would certainly avenge all their wrongs. This is the sum of all these Authorities, which evidence resistance lawfull in it selfe, and to these Christians too in their owne judgments and resolutions, though the desire of Martyrdom made them freely to forbear it. These Examples and Authorities therefore abundantly corroborate, and no wayes impeach our cause.

Thirdly, their examples of not resisting Persecuters, being rather voluntary, then enjoyed, out of a longing desire to be Martyrs, and an assurance of divine vengeance to be executed on their Persecuters, is no restraint nor ground at all for other Christians, now not to use any forcible resistance, it being a grosse inconsequent to argue: The Primitive Christians voluntarily refused to defend themselves with force of Armes against their Persecuters, though they were not bound in point of Conscience from such resistance, and had both liberty and power to resist. Ergo, Christians in point of Conscience ought not to make any forcible resistance against oppressing Lords and Persecuters now: For then this their voluntary choice and election should deprive all following Christians of that ability of defence which both themselves then had, and since enjoy by Gods and Natures Law. Yet this is all the argument which can be ingeniously framed from these Authorities and Examples; the absurdity whereof I shall thus further illustrate from like Precedents: We know, first, That (f) the primitive Christians, out of a desire of martyrdom, not only refused to resist, but to flee away from their Persecuters, when they might safely doe it; some of them holding it unlawfull and dishonourable to flee in such a case; by name Tertullian, in his booke *De fuga in persecutioe*. Will our Opposites from hence inferre: Ergo, it is unlawfull for Christians not onely to resist, but even to flee from their Persecuters, or his Majesties murdering, plundering Forces? Or for themselves to flee, not onely from the Parliaments Forces, but Justice too, as many of them have done, yea, made escapes against Law to flee therefrom. If the Christians not fleeing, binde neither them, nor us, not to flee now, why should their not resisting onely doe it? Secondly, (g) The Primitive Christians ran to the stake of martyrdom, when they were neither accused, cited, persecuted by any, freely confessing themselves Christians, and rather desiring presently to die Martyrs, then live Christians, and reputing it worse then death not to be admitted to, or delayed the honour of being Martyrs, of which we have infinite Presidents in Ecclesiasticall Histories commonly known and over-tedious to recite. I shall onely instance in Julian the Apostates (h) Christian Souldiers: who being over-reached by him under colour of a largesse, to throw some Frankincense into a fire secretly kindled by the Emperour in honour of an Idol, they dreaming of no such thing, and doing it onely as a meere comple-

3.

(f) See Socrat. Schelast. Theod. Niceph. Eccles. Hist. Fox Acts and Monuments. Tertul. Apolog. & ad Martyres Cyprian ad Martyres.

(g) See Fox Acts and Monuments, Vol. 1. p. 455m.

(h) Nazianz. Orat. 47. in Julianum.

'plementall Ceremonie; as soon as they heard how the Emperour had over-rea-
 'ched them, and given out speeches that they had sacrificed to his Idol, presently
 'rising from the feast prepared for them, in a fury, inflamed with zeale and wrath,
 'ran through the Market-place, and cried out openly, Wee are Christians, Wee are
 'Christians in minde; let all men heare it, and above all, God, to whom we both
 'live and will also die. O Christ our Saviour, we have not broken our faith plight-
 'ed to thee: If our hand hath any way offended, verily our minde followed it not
 'at all; we are circumvented by the Emperours fraud, with whose gold we are wound-
 'ded. We have put off impiety, we are purged by blood. After which, posting
 'speedily to the Emperour, and casting away their gold, with a generous and stre-
 'nuous minde they exclaimed against him in this manner. O Emperour, we have
 'not received gifts, but are damned with death. We are not called for our honour,
 'but branded with ignominie. Give this benefit to thy Souldiers, kill and behead
 'us unto Christ, to whose Empire onely we are subject. Recompence fire for fire;
 'for those ashes reduce us into ashes. Cut off the hands which we have wickedly
 'stretched out; the feet wherewith we have perniciously run together. Give gold
 'to others, who will not afterwards repent they have received it; Christ is enough,
 'and more then sufficient unto us, whom we account in stead of all. The Empe-
 'rour enraged with this speech, refused to slay them openly, lest they should bee
 'made Martyrs, who as much as in them lay were Martyrs; but onely banished
 'them, revenging this their contempt with that punishment. Will it then follow
 from these memorable examples, That all true Christians now in *England* and *Ire-*
land must come thus and offer themselves voluntarily to the Popish Rebels and For-
 ces (now in Arms to extirpate the Protestant Religion in both Kingdoms) or that
 the Members of both Houses must go speedily to *Oxford* to the King and his evill
 Counsellors, and there let them kill, hang, burne, quarter, slay, execute, torture
 them, subvert Religion, Laws, Liberties, Parliaments, without the least resistance?
 Or will our Opposites hence conclude (as they may with better Judgement and
 Conscience doe) Ergo, all such persons voted Traitors and Delinquents in any
 kinde by both Houses of Parliament, ought now in point of Conscience (to avoid
 the effusion of blood and ruine of the Realm, through the civill warres they have
 occasioned) to lay down their Arms, and voluntarily resigne up themselves to the
 impartiall Justice of the Parliament, without any the least resistance for the future:
 If no such Doctrinall, or Practicall conclusions may be drawne from these their
 Precedents of voluntary seeking and rendring themselves up to the Martyrdome
 of their Opposites; then the unlawfulness of resisting cannot be inferred from
 this their non-resisting. Thirdly, how many cowardly Souldiers in all ages, and
 in this too, have voluntarily yielded up Forts, Castles, Ships, Armes, Persons, to
 their invading approaching enemies without fight or resistance? How many
 persons have resigned up their Purles to high-way theeves, their Lands to disseisore,
 their Houles, Goods to riotors, their Ships, Estates, Persons, to Turkish and other
 Pirates, without any resist- nce, when they might have lawfully and easily preserved
 them by resisting? Will it therefore follow, that all others must do so? that we must
 not fight against invading Enemies, Theeves, Pirata Riotors, because many good
 Christians out of fear or cowardise, or for other reasons have not done it in all
 ages? I know not. Will the Jews refusing three (s) or four severall times to defend
 them-

(1) Josephus
 Antiq. Ju.
 lb. 12. cap. 13.
 lib. 13. c. 12. l. 14
 c. 8. Dion. Hist.
 lib. 16. 1 Mac. 2.
 Dr. Heylen
 History of the
 Sabbath, p. 1.
 cap. 8.

themselves against their insulting enemies on their Sabbath; or the (1) Gothes not resisting their invading foes on the Lords Day; or will the Alexandrian Jewes example and speech to Flaccus, (x) *Inermes sumus ut vides, & tamen sumi qui nos tanquam hostes publicos hic criminantur. Etiam eas quas ad nostri tutelam partes dedit natura, retro vertimus ubi nihil habent quod agant, corpora prabemus nuda & patientia ad impetum eorum qui nos volunt occidere.* Or that example of the Christian (x) *Theban Legion*, flin without the least resistance for their Religion: who as an ancient Martyriologer saith, *Cad bantur passim gladiis non reclamantes, sed & depositis armis cervicis persecutoribus vel intectum corpus offerentes: warrant this deduction. Ergo, no Christians now must resist their invading enemies on the Sabbath day, but must offer their naked bodies, heads, throats, unto their swords and violence? If not, then these examples and authorities will no wayes prejudice our present resistance.*

Fourthly, the Christians not onely refused to resist their oppressing Emperours and Magistrates, who proceeded judicially by a kinde of Law against them, but even the vulgar people, who assaulted, stoned, slew them in the streets against Law, as *Tertullians* words, *Quoties enim prateritis a vobis SUO JURE NOS INIMICUM VULGUS invadit lapidibus & incendiis, &c.* manifest without all contradiction; and indeed this passage so much insisted on, relates principally, if not onely to such assaults of the rude notorious vulgar, which every man will grant the Christians might lawfully with good conscience forcibly resist, because they were no Magistrates nor lawfull higher powers within *Rom. 13. 1. 2.* or *1 Pet. 2. 13, 14.* Either then our Antagonist must grant, that it is unlawfull in point of Conscience forcibly to resist the unlawfull assaults and violence of the vulgar or private persons who are no Magistrates: and that it is unlawfull now for any Christians to resist Theeves, Pirats, or beare defensive Armes, as the (y) *Anabaptists* (from whose quiver our *Antagonists* have borrowed this and all other shafts against the present defensive warre) and so make the primitive Christians all *Anabaptists* in this particular: Or else inevitably grant resistance lawfull, notwithstanding their examples and these passages of not resisting. The rather, because *Tertullian* in the next preceding words, puts no difference at all between the Emperour and meanest Subjects in this case; *Idem sumus* (saith he) *Imperatoribus, qui & vicinis nostris male enim velle, male facere, male dicere, male cogitare de quoquam ex aquo vetamur. Quodcumque non licet in Imperatorem id nō in quenquam.*

Fifthly, admit the Christians then deemed all forcible resistance of persecuters simply unlawfull in point of Conscience, as being a thing quite contrary to Christian profession and Religion; then as it necessarily proves on the one side, That even Christian Kings, Princes, Magistrates, must in no wise forcibly resist the tumultuous Rebellions, Insurrections, and persecutions of their Subjects, because they are Christians as well as Rulers, and in this regard equally obliged with them not to resist with Armes; much lesse then their Parliaments Forces lawfully raised for the publike defence. So on the contrary part it follows not, that therefore resistance is either unlawfull in it selfe, or that the Parliaments present resistance is so. For first, such resistance being no where prohibited (as I have formerly proved) their bare opinion, that it was unlawfull to them, cannot make it so to them, or us in point of conscience, since God hath not made or declared it so. Secondly, the

(1) *Francisci a Carthagena Regum. Hist. Joseph. c. 44.*
(u) *Hugo Grotius de jure belli lib. 1. cap. 4. Annos ad sect. 7. p. 95. & sect. 7. p. 88. 89.*
(x) *See Grotius ibid.*

(y) *Lucas Osiand. Enchir. contr. cap. 9.*

(z) *De corona Militiis.*

(a) *Surius Concil. tom. 1. p. 347. tom. 2. p. 1052. tom. 3. p. 324. 277.*

(b) *Apolog. et.*

(c) *Octavius.*

(d) *Concil. Constant. 6. can. 76. Surius tom. 2. p. 1050.*

(e) *Tertul. Apolog. Eusebius, Socrates, scolasticus, Hist. 1.*

(f) *Cor. 1. 26. John 7. 48.*

primitive Christians held many things unlawfull in point of Conscience, which we now hold not so. (z) *Tertullian* and others informe us, *That the Christians in his time thought it a baine sinne (Nefus) to pray kneeling on the Lords day, or between Easter and Whitsonide (and so by consequence to kneele at the Sacrament) praying alwayes standing on those dayes in memory of Christs resurrection.* Which custome was ratified also by many (a) *Councils*: Yet then it was lawfull no doubt in it selfe for them to pray kneeling, and we all use the contrary customs now. The Christians then held it unlawfull, to eat blood in puddings, or any other meats, as (b) *Tertullian*, (c) *Minucius Felix* testifie, and many (d) *Councils* expressly prohibited it since, as unlawfull: Yet all Churches at this day deem it lawfull, and practise the contrary. The Christians in *Tertullians* dayes, and he himselfe in a speciall Book, *De fuga in persecutione*, held it unlawfull to flee in times of persecution, and therefore they voluntarily offered themselves to martyrdom without flight or resistance. Yet we all now hold flying lawfull, and all sorts practise it as lawfull; yea many more then they ought to doe. I might give sundry other instances of like nature: The Christians opinion therefore of the unlawfulness of any armed resistance of Persecuters publike or private (held they any such) though seconded with their practice, is no good argument of its unlawfulness, without better evidence, either then, or at this present. Thirdly, the case of the Primitive Christians and ours now is far different; The Emperours, Magistrates, and whole States under which they then lived were all Pagan Idolaters, their Religion quite contrary to the Laws and false Religions setled in those States: There were many (e) *Laws and Edicts* then in force against Christian Religion, unrepealed: most Professors of Religion were of the lowest ranke, (f) *not many wise, Noble, mighty men, scarce any great Officer, Magistrate, or Senator, was of that profession*, but all fierce enemies against it: For Christians, being but private men, and no apparant body of a State, to make any publike forcible resistance in defence of Religion against Emperours, Senators, Magistrates, Lawes, and the whole State wherein they lived, had neither been prevalent nor expedient; a great hinderance and prejudice to Religion, and as some hold, unlawfull. But our present case is far otherwise; our King, Parliament, State, Magistrates, People, are all Christians in externall profession, our Protestant Religion established, Popery excluded, banished by sundry publike Lawes; the Houses of Parliament, and others now resisting, are the whole body of the Realme in representation, and have authority, even by Law, to defend themselves and Religion against invading Popish Forces: In which regards our present resistance is, and may cleerly bee affirmed lawfull, though the primitive Christians, in respect of the former circumstances, might not be so. Secondly, their resistance, (especially of the Magistrates not vulgar rabble) if made, had been onely, singly for defence of their Religion then practised but in corners, publikely condemned, no where tolerated: Our present war is not onely for defence of our Religion established by Law, and to keep out Popery, but for the preservation of Laws, Liberties, the very essence of Parliaments, the safety of the Realme, and that by authority of Parliament, the representative body of the Realme. The Parliaments defensive warre, therefore, upon these politicke grounds is just and lawfull, though the Primitive Christians, perchance in defence of Religion onely, as its case then stood, would not have been so: even as the Roman Senators and

States resisting of Nero, or any other Tyrannicall Emperors violations of the Laws, Liberties, Lives, Estates of the Senate, people, were then reputed just and lawfull, though the Christians defence of Religion would not have been so esteemed in those times. And thus I hope I have satisfactorily answered this objection without shifts or evasions, and rectified these mistaken Fathers meanings, with which our Opposites have seduced the illiterate over-credulous vulgar.

I have now (through Gods assistance) quite run through all Objections of moment from Scripture, Reason, Fathers, against the lawfulness of the Parliaments present defensive war, and discovered divers grosse errors, yea, Impostures in our Opposites writings, wherewith they have perverted many mens Consciences, and cheated the ignorant seduced world: I shall therefore here adjure them in the presence of Almighty God, as they will answer the contrary before his Tribunall at the Day of Judgement, seriously to consider these my answers, and publicly to retract those their Errors, false grosse mis-interpretations, perversions of Scriptures, Authors, which I have here discovered. And since they pretend *nothing but the satisfying and keeping of a good (g) Conscience in & by others, concerned in this Controversie;* to shew a sincere ingenuous Conscience therein themselves where they have been mistaken, since the contestation pretended, is not for *Victory, Time-serving, or Self-seeking;* but for *Truth, Gods glory, and the publike weal:* and if I have over-shot my self in any thing, I shall promise them a thankfull acknowledgement, and ready *palmedy* upon their information and conviction of any apparent oversights, I may casually fall into.

(g) Doctor Ferris Resolving of Conscience, An Appeal to thy Conscience, The necessitie of Christian subjection, &c all plead conscience;

Now because they shall not deem me singular in my opinion concerning the lawfulness of subjects defensive Arms against their Sovereigns, bent to subvert Religion, Laws, Liberties, the Republike, or deem it is a late upstart Novelty, I shall conclude this discourse with such personall, naturall and publike authorities, as they shall not be able to balance with counter-resolutions; in which I shall be as brief as I may be.

For personall Authorities, I shall not be ambitious to remember many, especially Papists, whose common, constant received opinion, and practise hath alwayes been and yet is, (b) *That Subjects upon the Popes command adore, and absolution of them from their Sovereigns allegiance, may and ought to take up even offensive Arms against their owne naturall Princes excommunicated, interdicted, deposed, or openly declared contumacious, Schismaticall or Hereticall by the Pope, without, yea, against their Kingdoms, Parliaments privities or consents, much more then with their approbation.* What Papists have determined and practised in this very point you may read at large in *Gratian himself Causa. 15. Quast. 6. and Causa. 23.* in the very Oath of Supremacie, and Statut. of 3. *Jacobi, ch 4.* which prescribes it, in *Bishop Jewels view of a seditious Bull, in Doctor John White his Defence of the way, Chap. 6. & 10.* in *Abbas Uspergensis, Sabellicus, Valateranus, Grimston* and others, in the Lives of the Roman and German Emperours; in *Aventinehis Annalium Boyorum, the Generall and Particular Histories of France, Spain, Germany, Italy, Sicily, Hungary, England;* in *Bishop Bilsons third part of the True Difference between Christian Subjection and unchristian Rebellion.* In sundry Sermons on the fift of November, to which I shall refer you: In *Pope Paschal* his letter to *Robert Earl of Flanders*, about the year of our Lord, 1107. exorting him to war against those of *Leige, Henry the Emperour* and his Assistants, wheresoever he should finde them, excommunicated and deposed as an Heretike and enemy to the Church; telling him, that he could not offer a more gratefull

(b) See part. 1. p. 4. 6.

* Eotbellus De crei. Eccl. Gal. 5. Tit. 5. c. 8. f. 759.

I

Sacrifice

sacrifice to God, then to ware against them; concluding, *Hoc tibi & Militibus tuis in peccatorum remissionem, & Apostolica sedis familiaritatem precipimus, ut his laboribus, & triumphis ad Caelestem Hierusalem, Domino prestante, pervenias:* Which Let er was excellently answered by those of Leige. And in the * Council of Tomres in France, under Lewis the twelfth, Anno 1510. it was unanimously resolved by the Church of France, That if the Pope did make war upon temporall Princes, in lands which they held not of the patrimony of the Church, they might lawfully by force of Arms resist and defend both themselves and others; & not only repulse this injury, but likewise invade the lands of the Church, possessed by the Pope their notorious enemy, not perpetually to retain, but to hinder the Pope from becoming more strong and potent by them, to offend both them and theirs. And that it was lawfull for such Princes, for such notorious hatred and unjust invasion to withdraw themselves from the Popes obedience, and with armed force to resist all ce-sures denounced by the Pope against them, their subjects and Confederates, and that such sentences ought not to be obeyed, but are near nullities in law, which oblige no man. Yet I must inform you further in brief, that John Maior a Popish Schoolman in Lib. 4. Sentent. (as Grotius writes) affirms, That the people cannot deprive themselves of the power, not onely of resisting, but deposing Kings in cases which directly tend to their destruction, and that * John Barclay, a late Scottish Priest, though a strenuous defender of Princes Prerogatives, expressly averres, That if a King will alienate and subiect his Kingdom to another, without his subjects consents, or be carried with a true hostile minde, to the destruction of all his people, that his Kingdom is thereby actually lost and forfeited, so as the people may not onely absolutely resist, and disobey, but depose him, and elect another King: to which (k) Hugo Gortius a Protestant, freely subscribes; and John Bodin alloweth of Subjects resistance, yea, deposing kings, in some Kingdoms absolutely, and in some cases generally in all; De Repub. l. 1. c. 10. l. 1. c. 5 & 6. 5. & 6. For Protestant personall authorities: we have Huldoricus Zuinglius, *Explanatio Articuli*, 40, 41, 42, 43. Tom. 1. fol. 82. to 86. who allows not only Subjects actual resistance, but deprivation of Kings, where Princes set themselves to subvert Religion, Laws, Liberties; and that by the common consent of the States in Parliament, from whom Kings originally receive their Royall power and authority. Martin Luther, Bugenhagenus, Iustus Jonas, Ambrosius, Spalotinus, Melancthon, Cruciger, and other Divines, Lawyers, Statesmen, Anno 1531. who published a writing in justification of defensive Arms by subjects in certain cases; Sleidan. *Hist. lib. 8.* 18. 22. David Chytraeus, *Chron. Saxoniae*, l. 13. p. 376. Richardus Dinotus *de Bello Civili Gallico Religionis causa suscepto*, p. 231. 232. 225 227, &c. A book intituled, *De Iure Belli Belgici*, Haga, 1599. purely justifying the lawfulness of the Low-countries defensive war. Emanuel Metenander *Historia Belgica*, Praefat. & lib. 1. to 17. David Pareus, *Com. in Rom.* 13. in *Epist. Centur.* Dub. 8. And *Quaest. Theolog.* 61. Edward Grimston his *Generall History of the Netherlands*, l. 5. to 17. passim. Hugo Grotius *de Iure Belli & Pacis*, lib. 1. cap. 4. with sundry other forraign Protestant * writers, both in Germany, France, Bohemia, the Netherlands and elsewhere; John Knoles his *Appellation*, p. 28. to 31. George Bucanon *De Iure Regni apud Scotos*, with many * Scottish Pamphlets justifying their late wars: Joh. Ponez. once B. of Winchester, his Book intituled, *Politick Govern* p. 16. to 51. Alber. Gentilis *de Iur. Belli*, l. 1. c. 25. l. 2. c. 9. 22. M. Goodmans Book in *Q. Ma. dayes*, intituled, *How superior Magistrates ought to be obeyed*, c. 9. 13. 14. 16. Di. A. Willeh his *Sixfoild*

* Boshellus De-
cret. Eccles.
Gall. 5. Tit. 5.
c. 5. p. 757. 58.
Nich. Gilles
Annals of
France.

* De Potest
Pape in Prin-
cipes Christ. l. 4.
c. 16.

(k) De Iure
Belli, l. 1. c. 4.
sect. 10, 11. p. 89
92.

* Calvin Instit.
l. 4. c. 20. sect. 31.
& in Dan. c. v.
22. 25. Alexander
in *Epist. Centur.*
9. & 17. Sharpus
Sympho. p. 244.
245, 412. Vindi-
ca contra
Graziosos.
* See the un-
derstanding of the
Scottish Army,
p. 32. 34.

Commentary on Romanes 13. *Question. 16. & Controversie, 3. p. 588 589, 590, 608,*
*&c. * Peter Martyr Com. In Rom. 13 p. 1026. with sundry late writers, common in* * *Ardu. l. Iud.*
 every mans hands, iustificyng the lawfulness of the present defensive War, whose
 Names I spare. And lest any should think that none but Puritanes have maintained this
 opinion, K. James himself in his Answer to Card. Perron, iustificieth the French Pro-
 testant taking up Defensive Arms in France. And (1) *Bish. Bilson* (a fierce Antipuritane) (1) *The true*
 not onely defends the Lawfulness of the Protestants defensive Arms against their So- *Differense, &c*
 veraigns in Germany, Flaunders, Scotland, France; but likewise dogmatically de- *part. 3. p. 520,*
 termines in these words; "Neither will I rashly pronounce all that resist to be Rebels;
 "Cases may fall out even in Christian Kingdoms, where the people may plead their
 "right against the Prince, **AND NOT BE CHARGED WITH REBEL-**
 "**LION,** As wherefor example? If a Prince should go about to subject his People
 "to a forreign Realm, or change the form of the Common-wealth from Impery to Ty-
 "rannie, or neglect the Laws established by Common consent of Prince and people, to
 "execute his own pleasure. In these and other cases which might be named, **IF**
 "**THE NOBILITY AND COMMONS IOYN TOGETHER TO DEFEND THEIR**
 "**ANCIENT AND ACCUSTOMED LIBERTY, REGIMENT AND LAWS, THEY**
 "**MAY NOT WELL BE COVNTED REBELS.** I never denied, but that the People
 "might preserve the foundation, freedom, and forme of the Common-wealth, which
 "they foreprised when they first consented to have a King: As I said then, so I say now,
 "The Law of God giveth no man leave; but I never said, that Kingdoms and Com-
 "mon wealths might not proportion their States, as they thought best, by their publike
 "Laws, which afterward the Princes themselves may not violate. By superiour Pow-
 "ers ordained of God, (Rom. 13.) we understand not onely Princes, **BVT ALL PO-**
 "**LITIKE STATES AND REGIMENTS;** somewhere the People, some-
 "where the Nobles, having the same interest to the sword, that Princes have to their
 "Kingdoms, and in Kingdoms where Princes bear rule by the sword; we do not mean
 "**THE PRIVATE PRINCES WILL AGAINST HIS LAWS, BVT HIS PRECEPT**
 "**DERIVED FROM HIS LAWES, AND AGREEING WITH HIS LAWES:**
 "Which though it be wicked, yet may it not be resisted of any subject, (when derived
 "from, and agreeing with the Laws) with armed violence. Marry, when Princes
 "offer their Subjects not Justice, but force, and despise all Laws to practise their lusts,
 "not every, nor any private man may take the sword to redresse the Prince; but if the
 "Laws of the Land appoint the Nobles as next to the King to assist him in doing right,
 "and withhold him from doing wrong, **THEN BE THEY LICENCED BY**
 "**MANS LAW, AND NOT PROHIBITED BY GODS,** to interpose
 themselves for safeguard of equity and innocency, and by all lawfull **AND NEED-**
 "**FULL MEANS TO PROCURE THE PRINCE TO BE REFOR-**
 "**MED,** but in no case deprived where the Scepter is Hereditary. So this learned
 Bishop determines in his authorized Book dedicated to Queen Elizabeth, point-
 blank against our Novell Court-Doctors, and Royallists.

But that which swayes most with me, is not the opinions of private men, byassed
 oft-times with private sinister ends which corrupt their judgements, (as I dare say
 most of our Opposites in this controversie have writ to flatter Princes, to gain or re-
 tain promotions, &c.) But the generall universall opinion and practice of all King-
 doms, Nations in the world from time to time. Never was there any State or King-

dom under heaven from the beginning of the world till now, that held or resolved it to be unlawfull in point of Law or Conscience, to resist with force of Arms the Tyranny of their Emperours, Kings, Princes, especially when they openly made war, or exercised violence against them, to subvert their Religion, Laws, Liberties, State, Government. If ever there were any Kingdom, State, People of this opinion, or which forbore to take up Arms against their Tyrannous Princes in such cases, even for conscience sake, I desire our Antagonists to name them; for though I have diligently searched, inquired after such, I could never yet finde or hear of them in the world; but on the contrary, I finde all Nations, States, Kingdoms whatsoever, whether Pagan or Christian, Protestant or Popish, ancient or modern, unanimously concurring both in iudgement and constant practice, that forcible resistance in such cases is both iust, lawfull, necessary, yea, a duty to be undertaken by the generall consent of the whole Kingdom, State, Nation, though with the effusion of much blood, and hazard of many mens lives. This was the constant practise of the Romans, Grecians, Gothes, Moors, Indians, Ægyptians, Vandals, Spaniards, French, Britains, Saxons, Italians, English, Scots, Bohemians, Polonians, Hungarians, Danes, Swedes, Jews, Flemmings, and other Nations in former and late ages, against their Tyrannicall oppressing Emperours, Kings, Princes, together with the late defensive Wars of the protestants in Germany, Bohemia, France, Swethland, the Low-countries, Scotland, and elsewhere, against their Princes, (approved by Queen Elizabeth, king James, and our present king Charles, who assisted the French, Bohemians, Dutch, and German Protestant Princes in those Wars, with the unanimous consent of their Parliaments, Clergy, people) abundantly evidence beyond all contradiction; which I have more particularly manifested at large in my Appendix, and therefore shall not enlarge my self further in it here: onely I shall acquaint you with these five Particulars.

First, that in the (m) Germanes Defensive Wars for Religion, in Luthers dayes, the Duke of Saxonie, the Lantgrave of Hesse, the Magistrates of Magdeburge, together with other Protestant Princes, States, Lawyers, Cities, Counsellors and Ministers, after serious consultation, concluded and resolved, That the Laws of the Empire permitted resistance of the Emperour to the Princes and Subjects in some cases, that defence of Religion and Liberties when invaded, was one of these cases; that the times were then so dangerous, that **THE VERY FORCE OF CONSCIENCE AND NECESSITY DID LEAD THEM TO ARMS**, and to make a League to defend themselves, **THOUGH CÆSAR OR ANT IN HIS NAME WOULD MAKE WAR AGAINST THEM**; That if the Emperour had kept his bonds and Covenants, they would have done their duties; but because he began first to make the breach, the fault is his: For since he attempteth to root out Religion, and subvert our Liberties, he giveth us cause enough **TO RESIST HIM WITH GOOD CONSCIENE**; The matter standing as it doth, we may resist him, as may be shewed by Sacred and prophane Stories. Unjust violence is not Gods Ordinance, neither are we bound to him by any other reason, then if he keep the conditions on which he was created Emperour. **BY THE LAWS THEMSELVES IT IS PROVIDED**, that the inferiour Magistrate shall not infringe the right of the Superiour: and so likewise if the superiour Magistrate exceed the limits of his power, and command that which is wicked, not onely we need not obey him, **BUT IF HE OFFER FORCE WE MAY RESIST HIM**. So they in point of Law and Conscience then publicly resolved.

Secondly.

(m) Sleidan. 8.
28. 22. Bish.
Bilsons Difference, &c. part.
3. p. 518. Chytra-
us Chron. Sax.
l. 13. p. 376. &c.

Secondly, that the (n) French Protestants, and others, in the reign of King Francis (n Gen. Hist. of the second, Anno 1559. being much oppressed by the Guisian faction, who had got the France p 682, K. into their power, and wholly sway'd him (as his Maj. ill Councillors sway him now) 683 The Ap- thereupon assembling together to consult of some just defence, to preserve the just and an- pendix, p 34, cient government of the Realm. They demanded advice TOVCHING LAW AND 35.44 45. CONSCIENCE, OF MANY LEARNED LAWYERS AND DIVINES; who resolved, THAT THEY MIGHT LAWFVLLY oppose themselves against the Government which the House of Guise had usurped, and AT NEED TAKE ARMS TO REPVLSE THEIR VIOLENCE; so as the Princes, who in this case are born Magistrates, or some one of them would undertake it, being ordered by the States of the Realms, or by the sounder part of them. (o) That defence of Religion and Liberties against violence and oppression were just causes of Warre; Et quod pia arma ea sint, ultra que nulla restat spes vite nec salutis. A like resolution and determination was made by the chief Dukes, Peers, Nobles, and Officers of France, Anno 1614. which you may read in the Appendix.

(o) Dinochus Hist. Gal. l. 4. p. 227.

Thirdly, that the (p) Angrogians and Waldensian Protestants of Lucerne and Piedmont in the year 1558. to 1561. being persecuted by the Lord of Trinitie and their Popish Sovereigns, assembling solemnly together to consult how to prevent the great dangers then at hand, after long prayer and calling upon God for his grace and Spirit of direction and Counsell, well to manage their weighty affairs, and to preserve themselves and the Protestant Religion professed by them, concluded in the end, to enter into a solemn mutuall Covenant, and to syn in a League together for defence of themselves and their Religion; whereupon they all promised by Gods grace and assistance, to maintain the pure preaching of the Gospell and administration of the Sacraments, and one to ayd and assist the other, &c. which they did with good successe, obtaining many glorious victories against invading persecuting enemies. The like did (q) Zisca, the Thaborites and Bohemians heretofore, and of (r) later times; as the Maginall Authors largely relate, resolving it just and lawfull for them in Law and Conscience, to defend themselves and their Religion by force of Arms against their persecuting Sovereigns.

(p) Fox Aēs & Mon Vol. 2. Edit. ult. p. 208, 209. 213, 214.

(q) Fox Aēs & Mon Vol. 1. Ed. ult. p. 248. to 252. Pantaus Bohemie pie, lib. 1.

(r) Grimstons Imperiall Hist. p. 655, 730. to 740, 746. to 806 Spasim.

Fourthly, that the (s) Netherland Provinces, being oppressed in their Bodies, Estates, by the Duke of Alva and Spaniards Tyrannie, and in their Religion and Con- Sciences, by the introduced Inquisition to extirpate Religion; did after serious delibe- ration, and consultation with learned men of all sorts, unanimously conclude and enter into a solemn Covenant to defend their Liberties, Religion, Laws, by force of Arms, against the Spanish Tyrannie; as you may read at large in their Histories. And in the year 1572. The Prince of Orange and his Confederates having levyed a goodly Army to relieve Mons besieged by the Duke of Alva, caused this notable * Protestation to be printed and published to the World, as well in his own name, as in his Confederates, giving a reason of the Arms which he had taken up, as followeth.

(s) Erman. Me- teranus, Hist. Bel. ita, Grimst. Gen. Hist of the Netherlands.

(*) Grimstons Gen. Hist of the Netherlands, l. 9. p. 369, 370.

Wee William by the Grace of God, Prince of Orange, Earle of Nassau, &c. To all Noble-men, Knights, Gentlemen, and others, of what quality soever of these Netherland's, which desire the Liberty thereof, being miserably tyrannized and oppressed by the Duke of Alva, the Spaniards, and other their friends, TRAYTORS AND MURDERERS OF THEIR OWN COUNTRY, Wee declare that every

one of us, for a particular love and zeale he beares unto his Countrey, and for the glory of God, which we desire above all, have often sought by all meanes the good and quiet of the Countrey, as well by Petitions and other mild meanes, as by force of Armes, thinking to draw those that were as we are, to doe the like, sometimes by sighes and prayers unto God, having had patience untill that it should please him to mollifie the hearts of the said Tyrans; but in the end solicited and called generally and particularly by the inhabitants of the said Countrey, by reason of the inhumanities and oppressions; We have in the Name of God (ACCORDING TO OVR CONSCIENCES) TAKEN ARMES; protesting before God and his Angels, and before all Men present and to come, that we have not been moved hereunto by any private passion, but with an ardent desire which we have to oppose our selves against this more then barbarous and unsupportable tyranny, to the Proclamations, Edicts, taxes, Imposts and charges of the hundreth, thirtieth, twentieth and tenth penny imposed by the insatiable covetousnesse of the Duke of Alva, against the Lawes, Liberties, Freedomes, and ancient Priviledges of the said countrey; which Lawes, Liberties, freedomes and ancient priviledges, we mean (by the grace of God) to restore unto the said countrey, holding it under the obedience of their Prince and naturall Lord, as we are bound to do: affirming and maintaining, that * all Princes and Noblemen, Gentlemen, Commonweales, or others, of what quality soever, be they strangers or home-bred, that have been moved to give us aide or assistance IN THIS SO IVST AN ENTERPRISE, have not dmit for any other intent, but for true piety and compassion which they have wth us of the said miseries and calamities: Wherefore we pray and extreat every one, both in generall and particular, to assure themselves, that we intend not to doe wrong to any man, nor to attempt upon the good estates or honour of any of what quality soever, were he of the Clergy, but are ready to aid and assist every one freely and willingly; as for his liberty, EVERY ONE IS BOVND TO SVCCOR VS BY ALL DVE AND POSSIBLE MEANES. In the mean time we will give order, that God and the countrey may be served, inprocuring the preservation of the people, and the defence of their houses, wives, and children: Praying to God, that he would favour and bring to a good end SO HOLY AND NECESSARY AN ENTERPRIZE.

This their defensive Warre, yet continuing, hath been justified by many, and in soeciall maintained to be just and honorable BOTH IN LAW AND CONSCIENCE in a particular Book *De iure Belli Belgici*, printed at the Hague with the States approbation, 1599. to which I shall referre you.

Fifthly, (which comes neerest to our present case of any story I have met with) Alphonso the 3. king of Arragon, in the year 1285. through the ill advise of some bad Counsellors and Courtiers about him, departed in discontent from the Parliament of the Estates of Arragon then assembled at Saragossa, and posted to Osca, because the Parliament took upon them to make Lawes to reforme and order his Courts, his Courtiers, which he denied, but they affirmed, they had just right and power to doe. Hereupon, the businesse being put unto greater difficulty; the Estates affirmed. A Comitiis intempestive discedere Regi NE FAS ESSE, That IT WAS A WICKED ACT, FOR THE KING THVS VNSEASONABLY TO DEPART FROM THE PARLIAMENT; NEITHER WAS SO GREAT A BREACH OF THEIR PRIVILEDGES AND RIGHTS TO BE PATIENTLY ENDVRED;

Where.

* Si Princeps Tyrannus est, iure Naturali reliquis omnibus mundi Principibus incumbit illi populo Tyrannidem patienti operam & auxilium ferre; hominum egrorum virorum haec est vera laus, decus & honor. Vasquius Centro lll. 36.

(r) Hye omnis Blanca Aq 20- nens. Rerum Comment. p. 651. 662. See p. 652.

Whereupon they presently raised up the Name and FORCES OF THE UNION or Association: (formerly made and entred into between the Nobility, Cities, and people, mutually to aid and assist one another to preserve the Peace and Liberties of the Realm, even with force of Armes) IT BEING LAWFULL for the common cause of Liberty; *Non Verbis solum. SED ARMIS QUOQUE CONTENDERE*, not onely TO CONTEND with words, BUT ALSO WITH ARMES. Vpon this, king Alphonso desirous to prevent the mischief then present and incumbent, by advise of his Privy Counsell, published certaine good Edicts at Osca for regulating his Court, Counsell, Judges, Officers; by which he thought to have ended all this Controversie, but because they were promulged onely by the Kings own Edict, not by the whole Parliament as binding Lawes, they still proceeded in the Union; till at last, after various events of things, this King returning to the Generall Assembly, and Parliament of the Estates at Soragossa, in the year 1287. condescended to their desires, and confirmed the two memorable priviledges of the Union, with the Sovereign power of the Justice of Aragon, which could controll their very Kings: Of which see more in the Appendix.

I shall close up this of the lawfulnessse of a necessary defensive warre, with the speech of the Emperour Alexander Seuerus, recorded by (f) Herodian, l. 5. He who first infers injuries hath no probable colour; but he that repulseth those who are troublesome to him; *EX BONA CONSCIENTIA sumit fiduciam*; assumes confidence FROM A GOOD CONSCIENCE, and good hope of successe is present with him from hence, that he offers not injury, but removes it.

Thus have I now at last waded thorow this weighty controversie, of the lawfulnessse both in point of Law and Conscience, of the Parliaments present. and all other subjects necessary Defensive Warres against their Sovereigns, who invade their Lawes liberties, Religion, Government, to subvert them, by open force of Armes: in which I have freely and impartially discharged my conscience, not out of any turbulent, seditious, or disloyall intention, to foment or perpetuate the present, or raise any future destructive, unnaturall warres between king, Parliament, and People, or to countenance, to encourage any tumultuous, rebellious, factious, ambitious, traiterous spirits to mutiny or rebell against their Sovereigns for private injuries, or upon any false unwarrantable ends or pretences whatsoever; (let Gods curse and mens for ever rest upon all those, who are in love with any warre, especially a Civill, within their own dearest Countries bowels; or dare abuse my loyall sincere Lucubrations to any disloyall sinister designs, to the prejudice of their Sovereignes, or the States wherein they live :) but only out of a cordiall desire to effect such a speedy, honourable, safe, religious, sempiternall peace between king and Parliament, as all true Christian English hearts both cordially pray, long for, and endeavour, by informing his seduced Majesty, his evill Counsellors, his Popish Malignant Forces, that if they will still proceed unnaturally and treacherously to make war against their Native Countrey, Religion, Lawes, Liberties, and the Parliament, (which to doe I have (t) elsewhere manifested to be no lesse then high Treason, Rebellion, against both King and Kingdome) they may in point of conscience and Law too, be justly opposed, resisted, repulsed, even by force of Armes, without any guilt of Treason, Rebellion, or feare of temporall or eternall condemnation, as publike Enemies, Rebels, Traitors to the Realm, whateyver they have hitherto been informed of to the contrary by rem-

(f) Quoted by
Grotius de
Iure Belli & c.
1, Annot. ad
sect. 14. p. 119.

(t) Part. 1. Tract.
2. p. 108. &
112.

porizing Lawyers, or flattering illiterate Court Divines; and by assuring all such noble generous publike spirits, who shall willingly adventure their lives or fortunes by the Parliaments command, in the present necessary defensive warre, for the ends premised; that for this good service they shall neither in the Courts of Law, nor Conscience, incurre the least stain, or guilt of Treason, Rebellion, sedition, or any such like odious crime, much lesse eternall condemnation; the panick feare whereof, frequently denounced against them by many sottish Malignants, Royalists, ill-instructed Lawyers and Theologasters, hath frighted, kept back, and withdrawn multitudes from, yea cooled, corrupted many in this honourable publike duty, service, which they now owe of Right to God and their Countrey; in which to be treacherous, perfidious, sloathfull, negligent, cold, uncordiall, or timorous (as too many hitherto have been, to the greater honour of those who have been faithfull, actiue, Valiant, and sincere) especially now after so many late horrid treacheries most happily discovered and a new Couenant solemnly entred into, demerits a perpetuall brand of infamy and reproach. To dye fighting for ones dearest bleeding, dying Countrey, hath in all ages been honoured with a Crown of Martyrdome; to liue or dye fighting against it hath ever deserved the most capital censures, ignominies, and heaviest execrations. Let both sides therefore now seriously ponder and lay all the premises close to their soules, consciences; and then I doubt not through Gods blessing, but a happy peace will speedily thereon ensue (x) *Nation shall not lift up sword against Nation, Countrey against Countrey, Englishman against Englishman, Brother against brother any more, as now they doe, neither shall they learn such an unnaturall cursed kind of Civill Warre any more, but beat their swords into Plow-shares, and their speares into pruning hooks; and (y) greet one another with a kisse of holy peace and charity: Which desired end and issue of these present bloody warres God in his mercy hasten and accomplish, to the joy of all our Soules.*

(x) *Isay 2. 4.*(y) *Rom. 16. 16.
1. 1 Thess. 5.
26. 1 Pet. 5. 14.*

I should now, according to former engagements, proceed to other remaining particulars; but because this part hath already farre exceeded its intended bounds, out of a desire to give full satisfaction in a point of highest present, and future concernment every way; I shall reserve the residue, with the *Appendix*, for another distinct part; with which I shall conclude my Meditations and Collections of this subject, without any further Additions, if God say *Amen*.

Finis Partis tertiæ.

Errata in some Copies.

P Ag. 100. l. 28. to. by. p. 101. l. 32. Omri, Zimri. l. 40. Iudah, Israel. p. 115. l. 12. *that*. p. 127. l. 36. of their. p. 128. l. 31. hence, p. 136 l. 8. nota Bishop; a Bishop, not a Lay-man. p. 14. l. 17. dele ass. p. 15. l. 16. brevis. p. 26. l. 1. assistants. p. 94. l. 22. offer to, v. ask of. p. 17. l. 8. no man should lovg. p. 105. l. 22. sipodes. p. 106. l. 2. Rulers, l. 34. irrefistance. p. 107. l. 3. by the. p. 121. l. 16. Emperours l. 6. Emperour.

THE
FOURTH PART OF
THE
SOVERAIGNE POWER
OF
PARLIAMENTS and KINGDOMES.

Wherein the Parliaments Right and Interest in ordering the Militia, Forts, Ships, Magazines, and great Offices of the Realme, is manifested by some fresh Records in way of Supplement: The two Houses Imposition of moderate Taxes and Contributions on the People in cases of extremity, without the Kings assent, (when wilfully denyed) for the necessary defence and preservation of the Kingdome; and their imprisoning, confining of Malignant dangerous persons in times of publicke danger, for the common safety; are vindicated from all Calumnies, and proved true.

Together with an APPENDIX;

Manifesting by sundry Histories and Foraine Authorities, that in the ancient Kingdome of Rome; the Roman, Greeke, German Empires; the old, the present Grecian, Indian, Egyptian, French, Spanish, Gothish, Italian, Hungarian, Polonian, Bohemian, Danish, Swedish, Scythish, with other Foraine Kingdomes, yea in the Kingdomes of Judah, Israel, and other Gentile Royalties, mentioned in Scripture; the Supreme Sovereigne Power resided not in the Emperours, or Kings themselves, but in the whole Kingdome, Senate, Parliament, State, People, who had not onely Authority to restraine, resist, yea call their Emperours, and Kings to an account, but likewise, when they saw just cause, to censure, suspend, deprive them for their Tyranny, vices, misgovernment; and sometimes capitally to proceed against them. With a briefe Answer to the contrary Objections; and tenne materiall Observations, confirming all the Premises.

By WILLIAM PRYNNE, *Utter-Barrester, of Lincolnes Inne.*

Olaus Magnus l. 8. c. 32. De Iniquis Consiliariis, & c. 33.

Iniqui Consilarii aiunt, Regem nihil injuste facere posse, quippe omnia omnium ejus esse, ac homines et a nullo. Tamen vero curque esse proprium, quantum Regis Benignitas ei non aemerit, &c. Utiunque sit, multi Principes. hi & similibus consiliis & consiliariis, facti sunt cautes, miseris, infames, & inhabiles in se & posteritate sua, amplius gubernandi. Principis itaque Officium est, ut non secus curet subditos, quam fidelis Pastor oves, ut dirigat, soveat, conservet.

It is this tenth day of July, Ordered by the Committee of the House of Commons concerning Printing, that this Booke Intituled *The fourth Part of the Sovereign power of Parliaments and Kingdoms, &c.* be Printed by Michael Sparke Senior.

John White.

Printed at London for Michael Sparke Senior. 1643.

ROYALTY

GOVERNMENT

THE

ACTS OF PARLIAMENT

1801

CHAPTER

OF THE

ACTS OF PARLIAMENT

1801

CHAPTER

To the READER.

ourteous Reader,

Here present thee with the last Part, of The Sovereaign Power of Parliaments and Kingdomes, and An Appendix in pursuance of it; abundantly manifesting, from the very fundamentall Constitutions, Lawes, Customs, Resolutions, Remonstrances, Oathes, Inaugurations, Elections, Ceremonies, Historie, publique Transactions, Treaties, Agreements, Wars, of Forain Empires, Emperors, Realmes, Kings, States, Senates, Diets, Parliaments, in all Ages, and the most judicious famous Authours of all sorts; That whole Kingdomes, Parliaments, Senates, States, Nations, collectively considered, have ever constantly enjoyed, in all Ages, Nations, the most Sovereaign Jurisdiction, and Authority, and beene Paramount their Kings and Emperours, who were and are subordinate, accountable for their actions to them; and copiously refuting the fond erroneous fancies of all illiterate flattering Court-Doctors, Theologasters, Lawyers, Statists, who, without any shadow of Truth or Reason, audaciously averre the contrary, not so much to flatter or seduce their Princes, as to advance themselves; against whom the contrary constant practice and resolutions of most lawfull Kingdomes, at either are or have beene in the world from Adams dayes till now, shall unanimously rise in judgement, and passe a most Catholike irreversibile sentence on them, for their notorious flatteries and Impostures.

For mine owne particular, as I have alwayes beene, and ever shall be an honourer, a defender of Kings and Monarchy (the best of Government, while it keepes within the bounds which Law and Conscience have prescribed;) So, I shall never degenerate so farre beneath the duty of Man, a Lawyer, a Scholar, a Christian, as to mis-informe, or flatter either; nor yet (out of any popular vain-glory) court either Parliaments or People, to the prejudice of Kings just Royalties; but carry such an equall hand betwene them, as shall doe right to both, in injury to neither; and preserve, support their just, Legall severall Sovereignties, Jurisdictions, Rights, within their proper limits, without tyrannicall invasions, or seditious encroachments, upon one another, to their mutuall and the Republickes prejudice.

It fares with Regall and Popular Powers, usually, as with Seas and mighty Rivers, they violently breake downe, or swellingly overflow their fixed bankes, they presently cause an inundation, and in stead of watering, surround, and drowne the Countries round about them, for a season, (Sometimes for sundry yeares) ere they can be perfectly drained, and their bankes repaired, to confine them to their ancient proper Channels; of which we have present sad experience, written in Capitall red Bloody Letters, throughout the Realme. To redresse, prevent which overflowing mischiefe for the future, I have without feare or flattery of any humane Power, or party whatsoever, by Publicke Authority divulged this last, and the three preceding Parts of this Discourse: together with the Appendix, (all hastily collected, and carelesly confuted through want of time, and sundry interrupting Avocations, than desired) wherein I have impartially, according to my judgement, conscience, defended amongst the ancient, undoubted, universall Truthes of reall State-Policy, and true Theologie, (almost forgotten in the world, yea cryed, Preached, Printed down for erroneous, seditious Paradoxes, if not reasons, by Sycophants and Malignants in these later ages;) out of a cordiall affection, as much as in me lyeth, to restore and settle the real, tranquillity, and safety of my bleeding, dy-

To the Reader.

ing Country, now miserably distracted, wasted, consumed every where: (through the long fore-
 plotted conspiracies of Romish Priests and Jesuites, to subvert the Protestant Religion and our
 Realmes) upon a pretended quarrell unhappily raised by them, betweene the two much mistaken
 Grand Sovereigne Jurisdictions, of King and Parliament, Crowne and Kingdome,
 now miserably clashing one against the other, through ignorance and mistakes, and trying their
 Titles in the open field BY BATTLE, in stead of Law, by the Sword of the Sould-
 ier, not of the Spirit, the onely proper peaceable Judges in these Quarrells, by which alone they
 can and must be finally resolved, settled; else neither King nor kingdome, can be ever quiet, or se-
 cure from dangers, and Commotions.

* See the 21.
 Article of the
 Church of Eng-
 land, & Rogers
 ibidem.

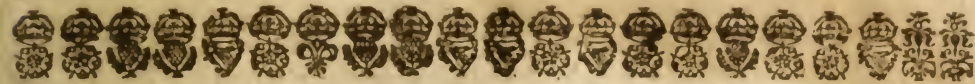
I dare not presume to arrogate to my selfe, a Spirit of in-errability in the grand Controversies
 here debated, wherein I have travelled in no beaten common road; No doubt * Generall, Na-
 tionall Councells, Parliaments, Popes, Kings, Counsellors, Statesmen, Lawyers, Divines,
 all sorts of men, both may, and usually doe erre from Truth, (especially in Questions which
 concerne their owne Jurisdictions, Honours, Profits;) and so may I. But this I dare with safe
 conscience protest to all the world, that I have not willingly erred in any particular; and if I
 have casually failed in any thing, out of humane frailty, I shall (upon better information) ac-
 knowledge and retract it. In the meane time, I trust, I have here sufficiently discovered, re-
 futed, many common impostures and erroneous grosse mistakes in Law, Policy, Divinity, An-
 tiquity; which have in later ages bene generally received as indubitable verities, by most men;
 yea professedly defended by sundry injudicious Lawyers, and ignorant Divines (though
 perchance reputed learned, solid in their own, and others opinions) who never tooke the paines
 to dive into the true originall fundamentall creations, institutions, publicke Lawes, Reasons,
 Policies, Jurisdictions, compositions, Rights, Customes, Histories of Kings, Kingdomes, Par-
 liaments, States, Magistrates, People; the ignorance whereof, hath made them confidently vent
 many grand absurdities, and untruthes, to the prejudice, imbroyling, and almost utter ruine of
 divers Kings and States; which now, I hope, they will ingenuously acknowledge and recant with
 reall griefe and shame, that they have so grossely cheated, seduced Kings, Kingdomes, People,
 and oft times stirred up civill warres, to maintaine their idle lies, crazy fictions, as just Royall
 Rights, and indubitable Prerogatives, when as they are nothing lesse.

I shall not begge any mans beliefe, of any Truth here newly discovered, further than his own
 judgement & conscience, upon serious consideration, shall convince him of it; and himselfe discern
 it fully ratified by substantiall precedents and Authorities in the body and close of the Treatise &
 Appendix: Only this I shall request of every Reader, to peruse over all the Parts of this Discourse
 with a cordiall Love of Truth and Peace; and when he is convinced what is Truth, then to
 live and dye in Pauls resolution, 2 Cor. 13.8. We can doe nothing against the Truth, but
 for the Truth. It was our Saviours owne reply to Pilate, John 18.37. For this end was
 I borne, and for this cause came I into the world, THAT I SHOULD BEARE
 WITNESSE UNTO THE TRUTH; O then let it now be every ones end, and
 practice too; since it is the * Truth (and nothing else) that shall make (and keepe) us free:
 Free, from Errors, Troubles, Tumults, Warres; Slavery, Tyranny, Treachery, Popery,
 dangers, feares: Wherefore, *love the Truth and Peace, and then through Gods mercy
 we shall speedily regaine, retaine them both.

* Joh. 8. 32.

* Zech. 6. 19.

Farewell.



THE
Fourth Part of the Sovereign
POWER of
PARLIAMENTS and **KINGDOMES.**

The Parliaments Interest in the Militia, Forts, Navy, & Officers of the Kingdoms.



IN the preceding Parts of this Discourse, I have with as much perspicuity and sincerity as I could, waded through those deepe and weighty differences of greatest importance, which have lately (to our great unhappinesse) I know not by what * evill spirits sollicitation, unexpectedly risen up by insensible degrees, betweene the *Kings Majestie*, and the present *Parliament*; (whose primitive sweet agreement, made us not so happy, as their subsequent Divisions in place, affection, opinion, have rendered the whole three Kingdomes miserable,) in point

* Judg 9.23.

of *Royall Prerogatives* onely, which I have dispatched: I should now proceed to other Controversies betweene them, principally concerning the Subjects Liberties; But before I passe to those particulars; I shall present you with some few *Records* of speciall note (casually omitted in their proper place, through over-much haste, and want of time) which will very much cleare the Parliaments just right, and ancient Jurisdiction *In ordering the Militia of the Realme, by Sea and Land; in disposing the Ships, the Forts of the Realme for the publicke safety in times of danger; in concluding matters of Warre and Peace; in placing and displacing the great Officers, the Privy Counsellors of the Kingdom; yea regulating the Kings owne household, and meniall servants of times; when there was occasion; which may serve as a supplement to the second part.*

It is the determination of *Henricus Ranzovius*, a Noble Dane, a great Statesman and Souldier in his *Commentarius Bellicus*, Dedicated to *Christierna* the fourth, King of *Denmarke*, Anno 1565. lib. 1. c. 3. *That All Kings and Princes in most Republickes, rightly and lawfully constituted, are obliged by their paction entred into before their Inauguration, (a) Not to begin or move any Warre without the consent of all the Estates and Nobles.* Thus in my bearing, Philip King of *Spaine* when he demanded and tooke an Oath from his Subjects in the *Netherlands*, promised by a mutuall Oath to the *Estates*, *That he would make no wars in these parts without their pssivity.* The same also (most Noble King) is received and observed not only in our Kingdomes and Dominions, but likewise is in use almost in all Europe. Therefore *Frederick your Father*

(a) *Plato Reges loquax. li 12 de Li. Si quis privatim sine publico scito, pacem bellumve fecerit, capitale esto.*

of most famous memory, knowing himselfe to be bound hereunto by compact, before he would be involved in the Swedish Warre, communicating the whole businesse faithfully to his people, as well to the Senators of the Realme, as to the Nobles of the Dukedomes, maturely advised with them about the manner of waging it. Wherefore, lest the Warre which is undertaken bee accused as unjust by the States, because it was undertaken without their advice, contrary to custome and agreements, all ought to be assumed into the Counsell and care of Warre. For thus it will come to passe, besides, that things very well thought on and deliberated by many, have for the most part better successses, than those things which are rashly begun by some one; that the Subjects, who not unwillingly bring their estates and lives into danger, will lesse feare the losse of both, will fight more valiantly, and will put forth all their strength in prosecuting and ending the combate of warre, even for this reason, that themselves have beene the advisers of the warre. Upon this reason, not onely the Kings of the Jewes, Arragon, France, Navarre, and others, (as I have manifested in the (b) Appendix) but even of this our Realme, have usually undertaken all their warres, and ordered all their Military affaires, both by Sea and Land, by the advice and direction of their Parliaments, as the Grand Councell of Warre, both for King and Kingdome. This I have plentifully manifested in * the premises, by sundry examples, and shall here onely briefly ratifie with some few new Precedents.

In the first Parliament of 13 Ed. 3. after Proclamation made, Num. 2. That none should come armed with weapons to the Parliament, Num. 3. The causes of summoning the Parliament were shewed to the Lords and Commons, to have their counsell and advice therein, what was best to be done; and expressed to be three. First, that every one, great and small, should consider, in what manner the peace might most surely be preserved within the Realme. Secondly, how the Marches of Scotland, and the Northerne parts might be best defended and kept against the enemies of Scotland. Thirdly, how the Sea should be guarded against the enemies, that they should doe no damage, nor enter the Realme for to destroy it. After this. Num. 4. The Bishops and Letters from the King then in France, relate to the Houses the Estate of the Kings Army, warres, and proceedings in France, and the great debts the King stood engaged in for the maintenance of his Army; for discharge whereof and the Kings further reliefe in the easiest way, to support his warres, the Lords condescended to grant the ninth sheafe of all their corne, and the ninth fleece and Lambe of all their flocks to the King, for the two next yeares, so as the custome of Mal-tolt, newly imposed on Wools, should be released, and this grant not drawne hereafter into custome, as a precedent to their prejudice. Who acquainting the Commons therewith, they after deliberation; As to the Kings supply; returned this Answer. Num. 8, 9. That they thought it meet the King should be supplied, and were ready to ayde him, as they had alwayes formerly beene, but yet as the ayde was granted in this case, they durst not assent to it, untill they had consulted and advised with the Commons in the Country; for which end they craved time to goe into their Counties, and that Writs might issue to summon another Parliament on the Octaves of Saint Hillary, of the richest Knights in every Shire at a short day to come, (which was (c) condescended to.) After which, Num. 9, 10, 11. they gave this answer in writing concerning the three Articles propounded to them: First, As to the keeping of the peace of the Realme, that the Justices of the Peace had sufficient power already to that purpose; onely they adde, that disturbers of the peace should not be let out of Prison, but upon sufficient Bayle, and that no Charters of pardon should be granted to Felons, but by

common

(b) Page 141.
22, 23, 95, 72.
and elsewhere.

* Part 2. & 3.

(c) Num. 22, 23
24, 25.

common consent in Parliament, and all other pardons held as voyd. *To the second they answered*, That the King before his going beyond the Seas had taken so good order, and appointed such sufficient Guardians to defend the Marches of *Scotland*, who were best able to guard those parts, that the enforcement of them by the Kings Council would be sufficient, without any charge to the Commons; Only, they ordered, that every man who had Lands in the Marches of *Scotland*, of what condition soever they were, should reside upon them to defend them (as it had bene formerly ordained) without charge to the Commons. *To the third*, concerning the guard of the Seas: The Commons prayed that they might not be charged to give Counsell in things of which they had no confidence (or charge;) and that they were advised, that the Barons of the Ports which at all times have honours before all the Commons of the Land, and are so enfranchized to (d) guard the Sea betweene us and strangers, (if so be it fals out, that they will enter and assaile our Land) that they contribute to no aydes nor charges on the said Land, but receive profits without number arising by the Sea, for the Guard aforesaid. Wherefore the Commons are advised, that they ought to maintaine a guard upon the Sea, as the (e) Commons do upon the Land, without taking or demanding wages. Likewise, there are other great Townes and Havens which have a Navy, that are in the same case, and are bound to guard the Sea. And as for the safeguard of the Watch-houses upon the Sea by Land; let the guard of them be made by the advice of the Knights of the Shire, where the said Guardians are assigned, in the safest manner that may be, without charge of the Commons: And that the people of the Land, of what condition soever, which have lands on the Coast, shall keepe residence upon those Lands, the better to repulse the enemies from the Land, so that for their abiding there, they shall be discharged to give any aide toward the same guard elsewhere. *Num. 13.* The Commons frame and demand a generall pardon, upon grant whereof they promise to aide the King with monies. *Num. 14.* They make an Ordinance for increase of monies in the Realme. *Num. 15.* Because the ships of *England* went not out together in Fleetes, to trade, but severally, out of desire of gaine and covetousnesse, and so many of them were taken by the Enemies of the King, and the men slaine and murdered, to the dishonour of the King and the whole Realme; it was agreed, and assented in full Parliament, that all the Navy should stay and be arrested, till further order were given to the contrary. *Num. 16.* It was accorded and assented in Parliament, that the Bishops and Lords in the Parliament, should send Letters to the Archbishop of *Yorke*, and the Clergy of his Province, under their Seales, to excite them to grant a convenient ayd for the guard of the Marches of *Scotland*, for the defence of the Church, the Realme, and themselves, as the Clergy of the Province of *Canterbury* had done. *Num. 17.* It is accorded, that Master *Robert de Scardeburgh* shall be put into the Commission which shall be sent into the County of *Yorke*, to survey the Array of the people, which shall be chosen for the defence of the Realme, in lieu of Sir *Thomas de Blaston*. That Sir *Richard Chastell* shall be put in the Commission to survey the Array in the Counties of *Notingham* and *Derby*, and *John Feriby* in the County of *Lancaster*. *Num. 18.* It is assented that the people of *Holdernes* shall be Arrayed, taxed, and make ayde for the guarding of the Marches of *Scotland*, and other buisnesses of the King in those parts, notwithstanding the Commission made to them to guard the Sea, *Num. 21.* The Lords who have Lands towards the Marches of *Scotland*, are commanded and prayed by writs and Letters to repaire thither for de-

(d) See *Cambden's Britannia*, p. 318, accordingly.

(e) See 19 E. 3. p. 1. M. 14 & p. 2. M. 14 Judge *Cook's* Argument against Ship-mony, p. 62. to 74.

fence thereof, namely the Lords of *Ros, Wake, Mowbray, Clifford*, and Master *William Daubeny* Steward of the Earle of *Richmond*, and that those who could not in this case goe in proper person, should send their people to the Lords in the Marches.

In the second Parliament held this year, by appointment of the first (*Octabis Hilarii*, 13. Ed. 3. Num. 2. 5. Edward Duke of *Cornwall*, Guardian of *England* (in the Kings absence) being hindered by other busineses to be present in this Parliament, by Letters Patents under the Kings great Seale, appointed the Archbishop of *Canterbury*, and others to supply his place, and hold the Parliament. Num. 6, 7, 8, 9. The Commons for the defence of the Realme, Sea, and Marches of *Scotland*, granted the King thirty thousand sackes of Wooll, and the Earles and Barons, the ninth sheafe, Fleece and Lambe, within their Demesne Lands; and agreed to raise a great summe of money presently, to set out a fleet of Ships to Sea, fraught with men of armes, and archers for defence of the Realme. Num. 10. All the Merchants of *England*, were summoned by writ to appeare at *Westminster* in proper person, to conferre upon great busineses concerning the Kings honour, the salvation of the Realme, and of themselves. Num. 11. The Mariners of the Cinque-ports upon their departure promised to make their ships ready by Mid-Lent; and were to receive a summe of money to helpe defray their charges herein; and the men of the Cinque-ports, promised to defray the moiety of the costs; and the Kings Counsell the other moiety, but not in name of wages, but out of speciall grace; and the (f) Cinque-ports were to finde 21 ships of their owne, and nine ships of the River of *Thames*. Num. 12. The Mariners towards the West promised to finde 70. ships of an hundred Tunne and upwards, and to make them ready by the same day; and to defray the charges of them as farre as was requisite; and for the residue, the Kings Counsell were to send them a summe of money for their aide, but not as wages, but of speciall grace; and a Clerke was ordained to survey the charges of the Mariners of the West; and of the Cinque-ports. Num. 23. All the ships of *Portsmouth*, and the West, were to meet at *Dartmouth* at the day assigned; and the Earle of *Arundell* was assigned their Admirall; And the ships of the Cinque-ports and the River of *Thames*, were to meete, & assemble at *Winchelsea*, and the Earle of *Huntingdon*, appointed their Admirall; and that all these ships should be ready by the middle of Lent, Num. 19. The Admiralls of all parts were commanded to arrest all other ships, that might passe the Seas, for feare of being surprisid by the enemies, & that 200. men should man those to whom the smaller ships belonged, to bring them into such havens where they might be safest from the Enemies. Num. 15. Writs were directed to all Sheriffes of *England* to make Proclamation, that all those who had Charters of pardon, should repaire towards the Sea, in the service of the King, and at his wages by the middle of Lent, upon paine of losing their Charters, and being put to answer the things contained in them, in case they should not goe. Num. 16. It was accorded and assented in Parliament, that Master *Richard Talbot* ordained to guard the Towne of *Southampton*, which he had undertaken to doe, should have a company of men at Armes, and Archers at the Kings wages, which he might increase if there were cause; that he and they should have their wages paid them monethly, from the second Sunday in Lent, and so forwards whiles they continued in that Service, & that he should receive 200. pounds in money, and 200. markes in Wooll, in respect of his said service, and to defray his ancient debts. And he had power given him to assesse and levy monies upon the said Town, towards its defence; and if the Towne were not able to defray all the charge, the King should ayde them for the residue.

(f) See *Cambden's Britan.* p. 318.

Num. 18. The Bishop of *Winchester*, the Prior of *St. Swithin* of *Winchester*, and the
 Abbot of *Winchester*, were commanded to have the people of their Mannors next
 the Towne of *Southampton* well armed and arrayed, that they might be ready to
 their power to defend the said town, upon summons of the Guardians thereof, that
 no perill might happen thereunto, *Num.* 19. That two Pinaces, one of *Melbroke*, and
 the other belonging to *Roger Normand*, should be assigned to remaine in the port of
Southampton, at the appointment of the said *Mr. Richard*, for the safety thereof.
Num. 20. All the Burgesses and Sea-men of the Town which had departed thence,
 were ordered to goe and abide therein for the defence thereof, and of their owne
 possessions; and in case they refused, that their Lands and Possessions should be sei-
 zed into the Kings hands, and the profits of their Lands which should be found
 elsewhere. *Num.* 21. That a Commission should be made to *Stephen Butterly*, and
William Weston, Serjeants at Armes, to take Timber, Bords, and other things neces-
 sary for the safety of the said Towne at certaine prises, upon indenture made be-
 tween them and the owners of the said goods; and that the King should pay, or
 give them other satisfaction. *Num.* 22. 23. That all the Armes, Engines, Ammuni-
 tion, Iron and Lead in the said Towne, should be delivered to the Gardian of it by
 Indenture; who should have the same power in all things within that Towne, as
 the Earle of *Warwicke* had, when he was Governour. *Num.* 24. That the Sheriffe
 should have a Writ of attendance, to be attendant on the said *Mr. Richard*, with
 Victuals, and all other things necessary for the safegard of the said Towne. *Num.*
 25. 26. 27. Certaine Merchants are appointed and take upon them to the Parlia-
 ment, to buy great proportions of Corne, Peas, Oates, Hay, and other provisions,
 (the quantities whereof are particularly expressed) at certaine rates, to victuall
Barnwicke, the Castles of *Edenburgh*, and *Strivelyn*, (which Castles *Mr. Thomas Roke-*
by, Guardian thereof, promised to keep till Saint *Iohns* day then next to come, upon
 condition to receive his wages formerly due, out of the first moneys granted to the
 King in this Parliament.) by a certaine day; provided they shall carry no victuals
 to the enemies of the King and Realme, and that they should be payd out of the
 first moneys arising out of the ayde granted to the King. *Num.* 28. 29. The inha-
 bitants of the *Ile of Wight* were respited of the ayd granted to the King, according
 as their good carriage should be during the war; and it was agreed in Parliament,
 that no Commandement nor Ordnance, or license granted under the great or privy
 Seale, to any of the said inhabitants bound to defend the said Isle, should licence
 any to absent himself from it during the war, unlesse it were for feare of disinheriting
 or other great necessity, with which the Councell should be acquainted, or upon in-
 quests. *Num.* 30. 31. Provides, that the Castle of *Carefbrocc* in the *Ile of Wight* should
 be furnished with a certaine proportion of Wine, Corn, Peas, Oats, Hay, Coles, Iron,
 Salt; and that a Commission should be granted to *Robert Vandalym* Sheriffe of
Southampton, and to *William of Kekenwich* joyntly and severally, to purvey and de-
 liver the same provisions over by Indenture, to the Constable of that Castle; and
 a Writ directed to the Kings Botteller, to deliver the Wines assigned (to wit ten
 Tonne) out of the Wines then in, or which should first come into his hands. *Num.*
 32. *Mr. Thomas Ferrers* undertakes to the Parliament, to send without delay a suf-
 ficient man to the Castle of *Tenisey*, to survey the defaults and state of the said Ca-
 stle, to certifie the Councell fully of them; and in the meane time to finde the waies

of those remaining there in garrison, to the summe of an hundred pounds; and a Writ is directed to the Sheriffe of *Souhampton*, to furnish the said *Thomas* with a convenient quantity of Powder, and Iron, and other necessaries for the defence of that Cattle. And because *Thomas Payne*, one of the Jurates of that Isle was gone to the enemies, contrary to a defence made, that a Writ should issue to the Bayliffs and Jurates of the same Isle to choose another sufficient man in his place, and to seize his Lands, goods, and Chattels into the Kings hands, and answer the meeſne profits of there. *Num. 34. dorſo.* There is an exact Array or List of all the Captaines and men at Armes, and archers under their severall commands for defence of the borders of *Scotland*, amounting in all to 4715. *Num. 35.* Those of the Counties of *Nottingham*, *Derby*, *Yorke*, were to goe to *Newcastle upon Tyne*, at the Countries charges, and then to receive the Kings wages: and those of *Westmerland*, *Cumberland* and *Lancashire*, to marth to *Carlisle* at the Counties charges, and then to receive the Kings wages; and that the Commanders, great men, and all the host when they assembled should lie and travell in the Land of *Scotland*, and not in the Marches of *England*. *Num. 36. 37.* A fit and trusty Clerke is appointed to pay the Souldiers wages by the adviſe and survey of the Lords *Percy* and *Nevill*, and Merchants are ordered to returne moneys for the exploit, and to furnish the King of *Scotland* with moneys sufficient to maintaine twenty men at Armes. *Num. 38.* Because Mr. *Richard Talbot* had discharged himselfe of the government of *Barwicke*, the Lords in Parliament earnestly intreated Sir *Walter Creak* to take upon him the custody of *Barwicke*, and to certifie the Lords within a short time, how many men at Armes and Archers would suffice to guard it, and whether he would accept of the charge or not; and if not, they would provide another. *Num. 39.* A Commission is granted to Master *Thomas Wake* and others to muster the Horſe and Foot arrayed for this expedition in *Torkeshire* and the other Counties, and to conduct them towards *Newcastle*. *Num. 46.* It is accorded and assented, that Writs shall be made to the arrayers of the Men of Armes, Hoblers, and Archers, in the County of *Oxford*, for the guarding of the Sea, for the Prior and Canons of *Burnacester*, to surcease their demand which they made to the said Prior and Canons to finde a man at Armes and two Archers to make such a guard at *Portsmouth*; and also for the payment of certaine moneys for this cause, untill they have other command from the King; by reason that the Prelates and other great men in the Parliament are informed, that all the possessions of their house will hardly suffice for their sustenance, and that they cannot finde such charge without very great oppression of them and their house.

Loe here in these two Parliaments (the Rols whereof I have recited more largely, because rare and memorable) all bulinesses concerning the *Warres*, *Militia* and *Array* both by Land and Sea, were particularly consulted of, ordered, and determined in and by the Parliament onely; in a farre more ample manner then this present Parliament at first petitioned, desired they should have been ordered and settled now.

In the Parliament rolls 14 E. 3. *Num. 19.* Certaine men are appointed to guard the Islands and Sea-coasts against the enemies. *Num. 42.* The Lord *Mowbray* is appointed keeper of the Town of *Barwicke*. *Num. 53 54 55. &c.* Commissions of Array in severall Counties are made by Parliament to the Earle of *Angoyes* and others, for defence of the Kingdome.

In the Parliament of 50 E. 3. *Num. 15.* A Commission is granted in Parliam. nt to the

the Lord Percy and others, to appoint able persons for defence of the Marches of the East-riding.

In the Parliament Roll of 1 R. 2. Num. 51. Because that the Lands of *Gascoigne*, *Ireland*, the Seigniory of *Arroyes*, and the Marches of *Scotland* are in perill to be lost through default of good Officers, the Commons petition, that it would please the Lords to ordaine good and sufficient ministers, which may be sent to governe in the same Lands in the most hasty manner that may be, by reason of the great need that requires it. And that all the chiefe guardians of the Ports and Castles upon the Sea, as *Dover*, *Bannburgh*, *Carlile*, and other Marches, may be put in the forme aforesaid: And that these Guardians of the Castles and keyes of the Realme may be sufficient men, who may forfeit their inheritance if any mischief shall happen by reason of them, which God forbid. And that in all other, sufficient persons of your Leiges be placed who may forfeit in the same manner for the salvation of the Realme. To which the King answers. The King willeth it, and will doe that which shall belong to him by the advise of the Lords of His continuall Councell.

In 2 R. 2. Rot. Parliament. Num. 37. the Admiralty is disposed of by the Parliament: and Num. 39. a Schedule of Orders for the defence of the North sea, is confirmed by the Parliament.

In the Parliament of 7 & 8 H. 4. Num. 26. The Parliament gave power to the Merchants to name two meet persons to be Admirals, to guard the Seas.

In the Parliament rolls of 2 R. 2. pars 2. Num. 37. The Commons supplicate, how the enemies of *France*, with great Armies, and many Vessels of warre have been continually and yet are in the Northerne parts, and namely about the coasts of *Scarborough*, which Towne is dangerously seated upon the Sea, open to the assaults of the said enemies, and that the people of the said Towne had within two yeeres last past paid above one thousand pound ransome to the said enemies, and yet were destroyed and carried prisoners into *Boloigne* and other places, where they were yet kept prisoners, and that the Towne was upon the point to be burned and destroyed, and all the coast about it in short time, if hasty remedy were not provided. That therefore it would please the King and his most sage Councell, considering the great damages and perils the said Towne and coasts about it had sustained, and were yet apparently like to sustaine, to ordaine and assigne certaine Vessels of warre upon the said coasts, to guard them against the malice and power of the said enemies; and that during the warres, for saving of the said Towne, and the Kings Castle there situate, and all the Country about it. The Answer is: This matter is in part touched by the Merchants of the said coast which are at this Parliament, and by their advise and others who are to passe their Merchandize in these Marches by Sea, remedy hath bene ordained in such sort as the Earle of *Northumberland* and the Major of *London*, who were assigned in Parliament to treat of this businesse know more fully to declare.

In the Parliament of 6 R. 2. pars 2. Num. 11. The Bishop of *Normich* offered before the King and Lords, that if the King would grant him the quindisme and disme of the Laity and Clergy; and the 6 pound and 2 shillings on the Tonne of Wine, lately granted to the King for the safeguard of the Sea; that he would within 20 daies after the receipt of the last payment, transport into *France* 3000 Archers well armed and mounted for the ayd of *Gaunt*; and would defray all the charges

of shipping them: And that if he might have the attendance of the West-Admirall, he would finde on the Sea for the safeguard of it, betweene this and Michaelmas next, ten great ships, and ten Burges armed; in which besides Marriners necessary, he would finde at least 500 fighting men for the said terme.

In the Parliament of 15 R. 3. Num. 15. It is to be remembered, that the Commons said in full Parliament, that if a treaty of peace or truce should be entertained betweene their Lord the King and his adversary of France, that they thought it expedient and necessary, if it should please the King, that *Monsieur de Guyen*, because he is the most sufficient person of the realme, shall goe to the same Treaty. And the King said, that he liked it well, if it pleased the said Lord *de Guyen*: and thereupon *Monsieur de Guyen* said, that he would with a very good will travell and doe any thing which might turne to the honour and profit of the King, and of his realme.

In the Parliament of the 14 H. 6. Num. 10. The Kings grant of the custody of the Town and Castle of Calice, the Towne of *Risbanke*, the Castles of *Hamures*, *Marke*, *Oye*, *Stangate*, *Bavelingham*, and of the Castle and Dominion of *Guynes* in *Picardy*, to be made to *Humsfrey Duke of Gloucester* his unkle, in the presence of the Lords spirituall and temporall then being in the present Parliament, was on the 29 day of October read before them: which being understood, and mature deliberation taken thereupon, the severall reasons of the said Lord being heard, it was at last by their assent and consent agreed and ordered, that the said Duke should have the custody of the said Towne, Castles, and premises, to the end of nine yeeres then next ensuing, which Charter was subscribed by all the Lords there present.

In the Parliament of 31 H. 6. Num. 41. *pro custodia Maris*, it was enacted: For as much as the King, considering that as well divers His Clergy men of this his realm inhabiting nigh the coast of the Sea, and others His Subjects using the Trade of Merchandises, have been oftentimes grievously imprisoned, distressed, put to great sufferances and ransomes; and their Ships, Vessels, and Merchandises of great value taken upon the Sea by his enemies; and also Merchant strangers, being under his leageance, amity, safegard, or safe conduct upon the Sea, have been robbed and spoyled, against the forme and contents of such truces, and safe conducts signed; His Highnesse willing and intending sufficiently to provide for the remedy of such inconveniences, and to eschew and avoyd all such robberies and dispoylers, HATH BY THE ADVICE AND ASSENT OF THE LORDS SPIRITUALL AND TEMPORALL in his high Court of Parliament assembled, desired certaine great Lords of this realme, that is to say, *Richard Earle of Salisbury*, *John Earle of Shrewsbury*, *John Earle of Worcester*, *James Earle of Wiltshire*, and *John Lord Sturton* with great Navies of Ships and people defensible in great number purveyed of abiliments of warre, to intend with all diligence to their possibility the safeguard and keeping of the Sea. For which cause the subsidies of Tonnage and Poundage granted to the King for his naturall life this Parliament, that they might be applied to such uses and intent as they be granted the King BY THE ADVICE AND ASSENT OF THE LORDS SPIRITUALL AND TEMPORALL, AND COMMONS IN THIS PARLIAMENT ASSEMBLED, AND BY AUTHORITY OF THE SAME, were granted to the said Earles and Lord *Sturton*, and the survivors of them for three whole yeeres; with power for them to appoint Collectors
to

to receive and collect them in every Port, without rendering any account; so as they kept the covenants and indentures made between the King and them for the safeguard of the Seas; with a proviso, that this Act during the three yeeres should not be prejudiciall to the custome of the Towne or Castle of *Calice* or *Risshanke*, for the payment of the wages and arrears of the Souldiers there. And over that, if the goods of any of the Kings liege-people, or any of his friends, be found in any Vessell of the Kings enemies without any safe conduct, that then the said Earles and the Lord *Sturton* shall take and depart it among them and their retinue without any impeachment, according to the Statute thereupon made.

In the Parliament of 33 H.6. Num. 27. the said Lords were discharged of the custody of the Sea by the Parliament, in these words: For as much as the Earles of *Salisbury*, *Shrewsbury*, and *Worcester*, and the Lord *Sturton* besought the Kings Highnesse in this present Parliament, that it might like his Highnesse and Excellency of his Noble grace to have them clearely discharged of the keeping of the Sea; the King therefore and for other causes moving his Highnesse, BY THE ADVICE OF THE LORDS SPIRITUALL AND TEMPORALL IN THE SAID PARLIAMENT ASSEMBLED the 30 day of *July*, the 23 day of the same Parliament, admitted their desire, and would that the said Earles and Lord *Sturton*, or any other THAT HAD THE KEEPING OF THE SEA BY AN ACT MADE IN THE LAST PARLIAMENT begun and holden at *Redding*, and ended at *Westminster*, be from the 30 day of *July* fully discharged of the keeping of the same, and that IT SHOULD BE ENACTED OF RECORD.

In the Parliament of 39 H.6. Num. 32. The King BY THE ADVICE OF THE LORDS SPIRITUALL AND TEMPORALL, AND COMMONS IN THIS PARLIAMENT ASSEMBLED, AND BY AUTHORITY THEREOF, ordained and established, that his dearest cousin *Richard* Duke of *Yorke* rightfull heire to the Countries of *England* and *France*, and of the Lordship and Land of *Ireland*, have and take upon him the power and labour to ride into the parts of *England* and *Wales*, where great rebellions, murders, riots, spoylings, executions, and oppressions be used, committed and attempted, to repress, subdue, and appease them. And also to resist the enemies of *France* and *Scotland* within the realme. And further granted, ordained, and established by the said advice and authority, that every Sheriffe, with the power and might of his Sheriwicke, and every Major, Bailiffe, Officer, Minister, and Subject of the said realme of *England* and of *Wales*, shall attend upon his said cousin for the said intent, as the case shall require; and to the same intent be ready at the command of his said cousin; and the same obey and performe, in like case as they ought to doe at his commandement after the course of the Lawes of *England*, and in *Wales* after the customes there, &c.

And to cite no more presidents in to cleare a case: in the Parliament of 21 *Iacobi* ch. 33. The Temporality having granted three intire Subsidies, and three Fifteenes and tenths, to King *James*, towards the maintenance of the warres that might then suddenly insue upon the breach with *Spaine*, and more particularly for the defence of the realme of *England*, the securing of *Ireland*, the assurance of the states of the united Provinces, with the Kings friends and allies; and for the setting forth of the Navy-royall: did by that Act, for the better disbursing of the said ayd and manning that warre according to the Parliaments true intention, by that very

' An Act wherein they gave the Subsidies, did especially appoint eight Aldermen and
 ' other persons of London Treasurers to receive and issue the said moneys; and ap-
 ' pointed ten Lords and Knights (particularly named in the Act) to be of the Kings
 ' Councell for the warre; by whose warrant (under five of their hands at least)
 ' all the moneys they granted were to be issued and exported, for and towards
 ' the uses expressed in the Act to such person or persons as the said Councell of
 ' warre should direct: and that both those Treasurers, and this Councell of warre,
 ' and all other persons trusted with the receiving, issuing, bestowing and employing
 ' of those moneys or any part thereof, their heires, executors and administrators,
 ' should be answerable and accomptable for their doings and proceedings therein to
 ' the Commons in Parliament, when they shall be thereunto required by Warrant
 ' under the hand of the Speaker of the House of Common for the time being; and
 ' thereby they and every of them according to their severall places and employ-
 ' ments shall give a true and ready declaration and account of their severall respective
 ' dealings, doings and proceeding therein; and that the said Commons in Parlia-
 ' ment shall have power by this Act, to heare and determine the said account, and all
 ' things thereto appertaining; And withall they in this Act prescribe a speciall oath
 ' to the Treasurers, *Not to issue out any moneys without the Warrant of the Councell of war
 ' under their hand.* And another oath to the Councell of warre, *To make no Warrant
 ' for any moneys issued, which are given by this Act, but for some of those ends which are
 ' expressed therein, and that to the best of their meanes they should employ the said moneys
 ' accordingly;* and that freely without requiring any reward or allowance whatsoever.

* An exact
 collection of
 all Remon-
 strances, &c.
 p.66,67.

Which presidents with others forementioned, made His Maj. sty return this* Answer
 to the Petition of the Lords and Commons touching the Articles delivered February 2.
 1641. For the securing you from all dangers or jealousies of any; His Majesty will be
 content to put in all the places both of FORTS and MILITIA, in the severall
 Counties, such persons as both Houses of Parliament shall either approve or recommend
 unto Him; so that you declare before unto His Majesty the names of the persons whom
 you approve or recommend; unlesse such persons shall be named against whom He shall have
 just and unquestionable exception. And thus much by way of supplement touching
 the Militia.

Concerning the Parliaments interest and right in electing and removing the Officers
 of the realme, and the Kings meniall servants, I shall onely adde these Precedents to
 the* forementioned.

Part. 1 p. 89. 90.
 part. 2. p. 41. to
 74.

In the Parliament rolls 4 E. 3. Num. 1. Foure Bishops, foure Earles, and foure Barons
 were assigned to the King, without whose consent, or of favour of them, no great businesse
 was to be transacted.

14 E 3. Num. 36. in the Parliament rolls, The Parliament agreeeth, that the Duke of
 Cornwal be Custos of England during the Kings absence in the warres of France.

In the Parliament rolls of 1 R. 2. Num. 18. & 19. The Commons requested first, that
 it would please the King to ordaine, and nominate to them now in this present Parliament,
 some sufficient persons of divers estates to be continually resident of his counsell for the af-
 faires of the King and of the realme, and to have the Officers of the King of such persons
 who best knew, and would and might most diligently travell for the redresse of the foresaid
 mischiefes, and the good government and salvation of the realme, so that the Commons
 may be clearly ascertained of the names of those Counsellors which shall be disbursers and
 orderers

orderers of that which they shall grant for the warres, and thereby to have greater encouragement to doe to our Lord the King that which they have in charge concerning him, as is aforesaid. Also that it would please them to ordaine and nominate in this Parliament the persons which shall be about (or have the custody) of the person of our Lord the King himselfe, who is of such tender age, and that those persons shall be of the most vertuous, honestest, and sufficientest of the Realm; so that our said Lord, who is a person sacred and anointed, be nobly governed, and brought up in good vertues and manners to the pleasure of God, whereby all the Realme may be secured and amended; and that it belikewise ordained, that our Lord the King and his house be governed with good moderation, and defray his expences onely out of the revenues of the Realme, and other rights and seigniories of his Crowne. And that all that which shall be granted to our Lord the King in maintenance of his wars, shall be applied and expended in the warres, and no part thereof otherwise, in aid and discharge of his said commonaltie.

In the Parliament of 11. Richard 2. Num. 23. 'The Commons pray, That no person, of what state or condition he be, should meddle with any manner of governance about the person of our Lord the King, nor with the busineses of the Realm, nor yet to counsell our Lord the King, but those Lords which are assigned and ordained in this present Parliament, if it be not by ordinance of the continuall Councell, and by assent of our Lord the King, upon grievous paine. And the same Lords, which shall bee about the person of our Lord the King and of his Councell, shall cause to remove all the persons which they think fit to remove in the household of our Lord the King, without shewing favour to any, and to put others in their place, whom they shall think sufficient and vertuous. And that the said Lords of the Councell be charged to keep and sustaine the estate of our Lord the King in its regalty, and to doe and use that which may turne to the honour and profit of our Lord the King and of his Realme to their power, according to the form of the Oath contained in a Schedule made in this present Parliament annexed hereunto; to the intent that it may be notoriously known throughout all the Realme, that good and sufficient Councell is about the person of our Lord the King, to the comfort of all his Commons, and firme assurance and establishment of the Realme aforesaid; the which Oath was made in forme ensuing. You shall swear, That you will not assent, nor yet suffer, as much as in you lieth, That any Judgement, Statute, or Ordinance made or given in this present Parliament be any way annulled, reversed, or repealed in any time to come; and moreover, That you shall keep the good Laws and usages of the Realme afore these times made and used; and shall firmly keep, and cause to be kept, good peace, quiet, and tranquillity in the Realme according to your power, without disturbing them in any manner. So helpe me God and his Saints. *The Answer.* As to the first point of this Article, the King wils it: And as to the second point, If there be any Lord of the Councell, or other Lord of the Realme, which will informe the King, That he hath any person about him not sufficient, nor honest, he wils, that it being proved, he shall be oured and removed, and another sufficient, by his advice, put in his place.

In the Parliament of 5. Henry 4. Num. 16. 'Upon certain prayers and requests made

made before by the Commons, divers times touching the removing of divers persons, as well aliens and others, by reason of divers destructions by them moved, and for certaine Articles appointed by the Lords upon the charge given to them by our Lord the King in Parliament, and by the said Lords it was specially accorded, That four persons, to wit, the Kings Confessor, the Abbot of *Done*, Master *Richard Derham*, and *Crosseby* of the Chamber, shall be quite ousted and voided out of the Kings house; whereupon the ninth of February, the said Confessor, Master *Richard*, and *Crosseby* came before the King and Lords in Parliament, and there the King in excusing the said four persons said openly, that he knew not by them any cause or occasion in speciall for which they ought to bee removed from his household; notwithstanding our said Lord the King well considered, that what the said Lords and Commons shall do or ordaine, was for the good of him and of his Realme, and therefore he would conforme himselfe to their intentions, and did well agree to the said Ordinance, which charged the said Confessor, Master *Richard*, and *Crosseby* to avoid his said Court, and like charge should have beene given to the said Abbot, had he been present. And our Lord the King said further, That he would doe the like with any other which was about his royall Person, if he was in hatred or indignation with his people. *And Numb. 37. 10*

the end that good and just government and remedy may bee made of divers complaints, grievances, and mischiefs shewed to our Lord the King in this Parliament; our Lord the King, to the honour of God, and upon the great instances and requests to him divers times made in this Parliament by the Commons of his Realm, for the ease and comfort of all his Realme, hath ordained certain Lords and others underwritten to be of his great and continuall Councell, to wit, the Archbishop of *Canterbury*, the Bishop of *Lincolne* Chancellour of *England*, the Bishops of *Rochester*, *Winchester*, *Bath*, and *Bangor*, the Duke of *York*, the Earles of *Somerset* and *Westmerland*, the Lord *Roos* Treasurer of *England*, the Keeper of the Great Seale, the Lord *Berkley*, the Lord *Willoughby*, the Lord *Furnevall*, the Lord *Lovell*, Mounsier *Pierce Courtney*, Master *Hugh Waterton*, Master *John Cheyne*, Master *Arnald Savage*, *John Northbury*, *John Doreward*, *John Cawson*.

Nota.


In the Parliament of 7. & 8. Henry 4. Numb. 31. The 22. day of May, the Commons came before the King and his Lords in Parliament, and then *John Tivetot*, their Speaker, rehearsed, how they had prayed the King in the beginning of the Parliament, and after, to increase the number of his Councell for the better government of the Realme, and prayed the King to put it in execution; and further rehearsed, how that the Archbishop of *Canterbury* had reported to them, That the King would be counselled by the most sage Lords of the Realme, the which thought to have the survey of all that which shall be done for the good government of this Realme, which thing the King agreed to doe and rehearsed with his own mouth, That it was his entire will. And thereupon a Bill made by the King himselfe, by his own will was delivered, containing the names of the Lords which shall be of his Councell, the tenour of which Bill ensueth. It is to bee remembered that our Lord the King, considering the great labours, occupations, and diligence which he ought necessarily to imploy about the good government of his Realme, and other his possessions, as well on this side the Sea as beyond it. First of all for the prefer-
vation of our Lord the King, and of his Crowne, and that the revenues of the
same

same may be the better collected to his profit and increase, as much as a man may justly doe, to the end that he may the better sustaine his honourable estate. And secondly, for the confirmation of the Lawes and Statutes of the Realme, to the end that equall right may be done to every one, as well poor as rich; Our Lord the King, of his proper and good will, desirous to be supported in the foresaid causes, because that he cannot attend thereunto in proper person so much as he would, for the great love and good affiance which he hath among others, in the most reverend Fathers in God, the Archbishop of *Canterbury*, the Bishops of *Winchester* and *Excester*, the Duke of *Yorke*, the Earle of *Somerset*, the Lord *Roos*, the Lord *Burner*, the Lord *Lovell*, the Lord *Willoughbie*, the Chancellour, Treasurer, and Keeper of the privie Seale, the Steward and Chamberlaine, Master *Hugh Waterton*, Master *John Cheyney*, and Master *Arnald Savage*, hath chosen and charged them to be of his counsell, praying and commanding them, that in all the foresaid causes they will put to their intire diligences for the profit of our said Lord the King, and likewise for the confirmation of the Laws and Statutes aforesaid.

In the Parliament of 2. *Henry 6. num. 15.* After divers speciall requests of the Commons of the Realme, being in the present Parliament, made to my Lord of Gloucester Commissary of the King, and to other Lords Spirituall and Temporall there, for to have notice and consance of the persons assigned and elected to be of the Kings Council, to their great ease and consolation: By advice and assent of all the Lords Spirituall and Temporall aforesaid, were elected and named certaine persons, as well spirituall and temporall, to be Counsellours assistant to the governance of the Realm, whose names here ensue; The Duke of Gloucester, the Archbishop of *Canterbury*, the Bishops of *London*, *Winchester*, *Norwich*, *Worcester*, the Chancellour, Treasurer, and Keeper of the privie Seale, the Duke of *Excester*, the Earle of *March*, the Earle of *Warwick*, the Earle *Marshall*, the Earle of *Northumberland*, the Earle of *Westmerland*, the Lord *Cromwell*, the Lord *Fitz-Hugh*, the Lord *Bourchier*, the Lord *Scroop*, Master *Walter Hungerford*, Master *John Tiptoff*, *Thomas Chaucer*, *William Allington*.

In the Parliament of 29. *Henry 6. num. 16.* Upon the Petition of the Commons against divers Lords, Bishops, Knights, Esquires, and others, to the number of 29. who misbehaved themselves about the royall Person of the King, and in other places, by whose only meanes it was suggested, the Kings possessions had been greatly diminished, his Laws not executed, the peace of the Realm not observed, to the great hurt and trouble of the liege people of the Realm, and likely subversion of the same, of which misbehaviour, universall noise and clamour was openly received thorowout all the Realme, upon the same persons specified in the Petition; all of them, except the Lords and some few others, without further evidence against them, were by the King now removed from his presence and Court for a whole yeeres space, within which time any man that could and would object against any of them, should be patiently heard and interdicted.

These few fresh Precedents added to the precedent, and to such forraign examples of this nature cited in the Appendix, will abundantly cleare the Parliaments right and Kingdoms interest in non inating, placing, and displacing the great Officers of the Kingdom, and in regulating the Kings own meniall servants in some cases when they either corrupt or mis-counsell him. And thus much touching the unhappy differences between the King and Parliament, concerning matters of his own royall Prerogative.



The Parliaments Right and Jurisdiction to impose Taxes and Contributions on the Subjects for the necessary defence of the Realm, Laws, Liberties without the King, in case of the Kings wilfull absence from, and taking up Arms against the Parliament and Kingdom, briefly vindicated from the calumnies against it.



THe severall grand Objections of consequence made by the King and others against the Parliaments pretended usurpations upon the just Rights and Prerogatives of the Crowne, being tully examined and refuted in the Premises, so far (I hope) as to satisfie all ingenuous men, in point of *Divinity, Policy, Law, Reason, Conscience*. I shall next proceed to the remaining materiall Accusations which concerne the Subjects onely, in regard of *Property and Liberty*: wherein I will contract my *Discourse* into a narrow compasse; partly because the debate of the fore-going Differences between the Kings Prerogative and the Parliaments Sovereaign Jurisdiction, hath in some sort over-ruled the Controversies betwixt the Subjects and both Houses, representing them: partly because these accusations are not so universally insisted on, as the former which concerne the King; the justnesse of them being generally acknowledged, willingly submitted to by most, except such, who calumniate and traduce them, either out of *covetousnesse* onely to save their Purfes, or from a *groundlesse Malignity* against the Parliament, or out of a consciounesse of their owne Delinquencies, subjecting them to the Parliaments impartiall Justice, or out of some particular interests which concern them in their *gains, honours, preferments*, or such who by their restraints for not paying Parliamentary Assesments, hope to save their purses for the present; or to gaine favour and preferment by it for the future. If these private sinister ends were once laid by, this second sort of accusations would speedily vanish, especially with men of publike spirits, who prefer the Common-weale before their owne particular interests.

Object. 6.
 See the Kings
 Declarations
 and Proclama-
 tions against
 this and other
 Assesments.

The first of these Cavillatory Objections against the Parliaments proceedings is, *That both Houses, without the Kings Royall Assent, have contrary to Magna Charta, the Petition of Right, the Statutes De Tallagio non concedendo, and other Acts, by their Ordinances onely imposed late Taxes on the Subjects, amounting to the twentieth part of their estates, and since that monetibly or weekly Assesments, to maintaine a war against the King; a grand incroachment on the peoples Properties, contrary to all Law and Justice.*

Answer.

This Objection seems very plausible and cordiall to covetous Earth-worms, being politickly contrived to *Court* the close-handed niggardly party, by those who are guiltiest in themselves of that they thus object against others. But it will easily receive an answer, as to the Parliament, and recoyle with infinite disadvantage on those that make it.

First,

First then I answer, That the Parliament is the absolute Sovereigne power within the Realme, not subject to, or obliged by the letter, or intendment of any Laws, being in truth the sole Law-maker, and having an absolute Sovereignty over the Laws themselves (yea, over *Magna Charta*, and all other objected Acts) to repeale, alter, determine and suspend them when there is cause, as is undeniable by its altering the very common Law in many cases, by repealing, changing many old Statute Lawes, and enacting new ones every Sessions as there is occasion, for the publike safety and defence. This the practice of all Parliaments in all ages (yea the constant course of all Parliaments and Assemblies of the Estates in all forraigne Kingdoms too) abundantly manifeste. The Parliament therefore never intended by all or any of these objected Acts, to binde its owne hands, but onely the Kings and his Ministers, with inferiour Courts of Justice, neither is the Parliament within the letter, words, or meaning of them; therefore not obliged by them.

2. The King, with his Officers, Judges, and inferiour Courts of Justice onely are included, and the Parliament, is directly excluded out of the very letter and meaning of all these Acts; as is apparent. First in generall, from the occasion of enacting all these Laws, which was not any complaints made to the King of any illegall taxes, imprisonments, or proceedings of our Parliaments, to the oppression of the people; but onely the great complaints of the people and Parliament against the illegall taxes, impositions, imprisonments, and oppressions of the Subject by the King, his Officers, Judges, and inferiour Courts of Justice, as all our Histories, with the Prefaces and words of the Acts themselves attest; to redresse which grievances alone these Lawes were made by the Parliaments and peoples earnest solicitations, much against the Kings good will. The Parliament then (who would never solicit the making of a Law against, or to restrain it selfe) being cleare out of the orignall ground and mischief of enacting these Lawes, and the King, with his Ministers, and inferiour Courts only within them; they can no way extend to the Parliament, but to them alone.

See Sir Edward
Cooke's Institut.
on Mag. Charta,
and these Laws
Articuli super
Chartas, Confir-
matio Chartarum,
part. I.

3. The Parliament, ever since the making of these Acts, hath alwayes constantly enjoyed an absolute right and power, without the least dispute, of granting and imposing on the Subjects whatsoever Taxes, Subsidies, Aids, Confiscations of Goods, or restraint of Liberty for temporall or perpetuall imprisonment, it thought meet and necessary for the publike defence, safety, and tranquility of the Realm, as the severall Taxes, Subsidies, and Poll-monies granted by them in all ages, the many Statutes enjoying confiscation of Lands, Goods, corporall punishments, banishments, temporary or perpetuall imprisonments, for divers things not punishable, nor criminall by the Common Law, or when *Magna Charta*, and the ancient Statutes in pursuance of it were first enacted, abundantly evidence past all contradiction: none of all which the King himselfe, his Officers, Judges, or inferiour Courts of Justice can doe, being restrained by the objected Acts. Therefore it is altogether irrefragable, that the Parliament and Houses are neither within the words or intentions of these Acts, nor any wayes limited or restrained by them, but left as free in these particulars (in order to the publike good and safety) as if those Acts had never bene made, though the King, with all other Courts, Officers, Subjects, remaine obliged by them.

4. This is evident by examination of the particular Statutes objected: The first and principall of all the rest is *Magna Charta*, cap. 29. But the very words of this Law: 'Nor We shall not passe upon him, nor condemne him, but by the lawfull judgement of his Peeres, or by the Law of the Land: We shall deny nor deferre to no man either Justice or Right, compared with the Preface to, and first Chapter of it, *Henry, &c.* know ye that We, &c. out of meere and free will, have given and granted to all Archbishops, Bishops, E rles Barons, and to all free men of this our Realm of *England*, and by this our present Charter have confirmed FOR US AND OUR HEIRS FOR EVERMORE, these liberties underwritten, to have and to hold to them, and their Heirs, OF US AND OUR HEIRS FOR EVERMORE, &c. (together with the whole tenour and title of this Charter, and the two last Chapters of it;) All those customs, and liberties aforesaid which we have granted to be holden within our Realme, as much AS APPERTAINETH TO US AND OUR HEIRS, WE SHALL OBSERVE. And for this our gift and grant of those Liberties, &c. our Subjects have given us the fiftenth part of all their moveables: And We have granted to them on the other part, that NEITHER, WE NOR OUR HEIRS shall procure or doe any thing, whereby the Liberties in this Charter contained shall be infringed or broken; We confirme and make strong all the same FOR US AND OUR HEIRS PERPETUALLY. (not the Parliament) All these, I say, infallibly demonstrate, that this Statute of *Magna Charta*, did never extend unto the Parliament to restraine its hands or power, but onely to the King, his Heirs, Officers, Courts of Justice, and particular subjects. So that the Parliaments imprisoning of Malignants, imposing Taxes for the necessary defence of the Realm, and seizing mens goods, or imprisoning their persons for non-payment of it, is no wayes within the words or intent of *Magna Charta*, as Royallists and Malignants ignorantly clamour; but the Kings, his Officers, Councillours, and Cavalliers proceedings of this nature are cleerly most direct violations of this Law. And that which puts this past dispute are the severall Statutes of 25. *Edward 3. cap. 4.* Statute 5. 37. *Edward 3. cap. 18.* 38 *Edward 3. cap. 9.* 42. *Edward 3. cap. 3.* 17. *Richard 2. cap. 6.* and the Petition of right it self, all which expressly resolve, that this very objected Law of *Magna Charta*, extends onely to the King himselfe, his Privy Councell, Judges, Justices, Officers, and inferiour Courts of Justice, but not unto the supream Court of Parliament, which no man (for ought I finde) ever yet held, to be absolutely obliged by it, before the Kings late recess from Parliament.

Rassall Accusation 5, 6, 7, 8.

Rassall Tenents, Taxes, &c. 1.

The next Statute is that of 34. *Edward 1. cap. 1.* No tallage nor aid shall be taken or levied BY US AND OUR HEIRS (not the Parliament) in our Realme, without the good will and assent of the Archbishops, Bishops, Earls, Barons, Knights, Burgesses, and other free men of the Land; which the Statute of * 25. *Edward 1.* thus explains, But by the common consent of the Realme. The Statute of 14. *Edward 3.* cap. 21. and Statute 2. cap 1. thus, If it be not by common consent of the Prelates, Earles, Barons, and other great men and Commons of our said Realme of *England*, AND THAT IN PARLIAMENT. The Statute of 25. *Edward the third, cap. 8.* thus. If it be not BY COMMON CONSENT AND GRANT IN PARLIAMENT. The Statute of 36. *Edward the third,*

cap.

cap. 11. thus, That no Subsidie nor other charge be set nor granted upon the Wools by the Merchants, nor by NONE OTHER from henceforth WITHOUT THE ASSENT OF THE PARLIAMENT. The Statute of 45 Edward 3. cap. 4. thus, It is accorded and established, That no imposition or charge shall be put upon Wools, Woollfells, or Leather, other than the custome and subsidie granted to the King, WITHOUT THE ASSENT OF THE PARLIAMENT, and if any be, it shall be repealed and holden for none. And the Petition of Right, 3. Caroli, thus, By which Statutes, and other good Statutes of this Realm, your Subjects have inherited this freedom, that they should not be compelled to contribute any Taxe, Tallage, Custome, Aide, or other like charge, not set BY COMMON CONSENT IN PARLIAMENT. Now it is as evident as the noonday sunshine, that these Acts onely extend to the King, his Heirs, Councill, Officers, inferiour Courts, and private Subjects onely, and that the Parliament is precisely excepted out of the very intent and letter of them all, having free power to impose on the Subjects what Aids, Taxes, Tallages, Customes, and Subsidies they shall deem meet. by the expresse provision of all these Laws, concerning the granting and imposing of Subsidies, Therefore by the direct resolution of these Acts, the King, his Councillors present contributions, assessments, and ransoms imposed on the Subjects are illegall against the letter and provision of all these Acts; but the Parliaments and Houses lawfull, approved and confirmed by them.

True, will Royallists and Malignants answer (who have no other evasion left but this) If the King were present in Parliament, and consenting to these contributions and taxes of the twentieth part, there were no doubt of what you alleage; but because the King is absent, and not only dissents to, but prohibits the payment of this or any Parliamentary Assessments by his Proclamations, therefore they are illegall and against these Laws.

Object.

1 To which I answer, First, that the King by his Oath, duty, the ancient custom and Law of the land ought of right to be alwayes present with his Parliament (as he is now in point of Law) and not to depart from it but in cases of urgent necessity with the Houses free consents, and then must leave * Commissioners, or a Deputy to supply his absence. This is not onely confessed, but proved by a Booke lately printed at Oxford 1642. (with the Kings approbation or permission) intituled, *No Parliament without a King*, pag. 5. to 16. where by sundry presidents in all Kings Reignes it is manifested, That Kings were, and ought to be present in their Parliaments, which I have * formally cleared. If then the King, contrary to these Presidents, his Oath, Duty, the Laws and Customs of the Realme, the practice of all his Progenitors, the rules of nature (which prohibit the head to separate it selfe from the body) and will (through the advice of malignant Councillours) withdraw himselfe from his Parliament; yea, from such a Parliament as himselfe by a *specciall Act hath made in some sort perpetuall, at the Houses pleasure*; and raise an Army of Papists, Delinquents, Malignants, and such like against it, and that purposely to dissolve it, contrary to this very Law of his for its continuance: why this illegall tortious act of his (paralleld in no age) should nullifie the Parliament, or any way invalid its Impositions or Proceedings, for their own, the Kingdoms, Peoples, and Religions preservation (all now indangered) transcends any reasonable mans capacity to apprehend.

Answer.

* See 8. H. 5. c. 1

Part 1. pag. 43, 43. 44.

2 The right and power of granting, imposing, assenting unto Assessments,

Taxes, Subsidies, and such like publique charges in Parliament, for the publique safety, rests wholly in the Commons and Lords, not King; and is their owne free act alone, depending no waies on the Kings assent, nor necessity requiring his personall presence in Parliament.

This is evident: First by the expresse letter of the forecited Acts, *No Subsidy, Tax, Ayde, Talleage, or Custome shall be set, granted, taken or leavied, but by common consent and grant of the Prelates, Earles, Barons, Knights, Burgesses, and other free men of the Realme in Parliament; or without the assent of the Parliament: so that their grant and assent in Parliament, (not the Kings) is the onely thing that makes them legall and binding to the subje^t.* Now both Houses have granted, ordered, and assented to this Assesment, exceeding not the twentieth part of mens estates; and given order for the leavying of it, and that for the Parliaments, Kingdomes, religions, necessary defence and preservation. Therefore it is obligatory and legall, though the King himselfe consent not, or disassent thereto, (especially as the present condition of things stands) even by the very letter of these acts.

Secondly, this is apparent by the letter of all our publique Acts, for the granting of Subsidies, Ayds, Tenths, Fifteenes, Taxes, Customs, Tonnage, Poundage, or any such like impositions in and by Parliament, either by the Temporality or Clergy: which Acts runne usually in this manner. * *The Commons of this Realme HAVE GRANTED FOR DEFENCE OF THE SAID REALME, and especially for the safegard and custody of the Sea, a Subsidy, a Subsidie called Tonnage, &c.* * *The Prelates, Earles, Barons, and all the Commons of the Realme willingly and with one assent HAVE GRANTED the ninth Lambe, ninth sheafe, and ninth fleece, &c. And of Cities and Burroughs the ninth part of all their goods and chartels, &c. in aide of the good keeping the Realme as well by Land as by Sea, &c.* * *We your poore Commons desire your excellent Majesty willingly to accept and receive these OUR POORE GRANTS hereafter following, as GRANTED of free hearts and good wils, as the first-fruits of our good wils and hearts, &c. by the advice and Assent of the Lords spirituall and temporall, GIVE & GRANT, for the defence of your realm, and the keeping and safegard of the seas, &c. one Subsidy called Tonnage, &c.* * *The Prelates and Clergy, &c. as a speciall and significant testimony of their loyall affection, &c. with one affection and uniforme consent HAVE GIVEN & GRANTED foure whole and intire Subsidies.* * *We your Commons assembled in your high Court of Parliament, humbly present your Majesty with the FREE & CHEERFULL GIFT of two intire Subsidies, &c.* All Subsidies and Taxes then being the free gift of the Commons, Clergy and Peeres in Parliament, and that onely for the defence of the Kingdome by sea and land; it is infallible, that they do, may and can oblige themselves, and those they represent, to pay such publique Taxes, to this end, without the Kings concurrence.

Thirdly, this is cleare by considering, that the Commons and Lords in Parliament have alwaies had: 1. An absolute right and power to grant or deny Taxes, Subsidies, aydes and assistance as they saw occasion: 2. To proportion the aydes and Subsidies granted. 3. To limit the certaine manner, waies, and times of paying and levying them; and the persons who shall either pay, assesse, collect, receive, or disburse them. 4. The ends and uses to which they should be employed when leavied, debarring the King oft times (when they saw cause) of any power at all to receive or dispose of them, appointing Collectors, and Treasurers of their owne to receive

and

* See part. 1. p. 47, 48, 49, 50.

12 E. 4. c. 3.

* 14 E. 3. c. 20.
The King then absent in France.

* 1 E. 6. c. 13.
1 Mar. 1 E. c. 19.
1 Jac. c. 33.

* 21 Jac. c. 32.
1. Care. c. 5.
* 1 Car. c. 6. 21.
Jac. c. 33.

* See Rastall. Taxes, &c. throughout.

and iſſue them out againe, by the advice and directions of theſe, as themſelves preſcribed; for which I ſhall give you ſome few inſtances of note, in lieu of many more, that might be remembred. * Anno 1237. being the 21 yeere of Henry the third, The Parliament after many conteſtations with the King for his fraud, oppreſſions, favouring of Aliens, &c. to the Kingdomes detriment; the King by Oath promiſing amendment, granted unto him the thirtieth part of all their movable (excepting ready Money, Horſe, and Armour.) to be employed for the Common wealth, and benefit of the Realm; with this condition often annexed, that the King ſhould leave the Counſell of Aliens, and onely uſe that of his naturall Subjects. And for more ſecurity it was ordained, that foure Knights of every Shiere, and one Clerke of the Kings in every ſeverall Shiere, ſhall upon their oathes collect, receive and deliver the ſaid Subſidy either into ſome Abbey or Caſtle, to be ſafely reſerved there, and diſpoſed of for the benefit of the King and Kingdom, by the view and counſell of the Earle Warren or others, when there ſhould be need: Or otherwiſe if the King failed in performance of His promiſes and grants, it ought to be faithfully reſtored and diſtributed to the Country whence it was collected. * In the 11. yeere of King Edward the 2. Anno

* *Maſt. Paris*,
Hiſt. Angl. p.
420, 421, 562,
563. Daniels
Hiſt. p. 157.

1318. The Parliament (not daring to truſt this prodigall miſ-counſelled King with moneys) inſtead of Subſides, granted him an aide of armed men againſt the Scots: London ſet forth 200. Canturbury 40. Saint Albanes 10. and ſo all other Burroughs and Cities according to their proportion, whereby a great Army was leaved. The Parliaments of 14 E. 3. c. 20. 21. Stat. 1. & Stat. 2. c. 1. 18 E. 3. Parliament 2 & 3. (forecited at large, part. 2. p. 8. 9.) 31 H. 6. Num. 41. 21 Jac. c. 33. particularly direct how the Subſidies granted ſhall be diſpoſed of by certaine Nobles and others, whom they nominate, and appoint Treasuſers to receive and iſſue them to the ends for which they granted them, preſcribing them an oath to iſſue none of them to other purpoſes, or in any other manner then they preſcribed. Yea the Acts of former Parliaments, and this preſent concerning Tonnage, Poundage, Polemony, and Subſidies, frequently do the like. Therefore the granting and diſpoſing of thoſe Taxes, Aydes, Subſidies reits wholly in the Commones, and Lords; and no waies on the King, who commonly deſires the Parliament to grant them.

* *Walsingham*.
Hiſt. Angl. p.
88. Holinshed,
Graſton, and
Daniel, p. 217.

Fourthly, this is further evidenced, by the Kings uſuall answer and aſſent unto ſuch Bills as theſe: * *Le Roy remercy ſes Loaulx Subjects accept LOUR BENEVOLENCE, & auxy le veult*; taking it wholly as a free grant from them; which aſſent in this caſe is rather formall then ſubſtantiall, it being the Commones and Lords owne conſent only to Bills of this nature, not the Kings, that make the Taxes and Impoſitions binding as the forecited Statutes, the Petition of Right 3 Caroli; * *Fortescue*, and our Lawbookes reſolve, and I have ellewhere maniſteſted more at large. Therefore the want of the Kings aſſent, or diſaſſent to the Parliaments preſent aſſeſſment for the Kingdomes neceſſary defence in the preſent extremity (when the King not onely wilfully abſents himſelfe from, but hath raiſed Armes againſt the Parliament) is not materiall nor ſimply neceſſary in point of Law, though uſually requiſite and neceſſary for formality take, at other ſeaſons, to compleat ſuch Acts; ſiacc *ſepenumero Neceſſitas vincit legem, & quod neceſſarium eſt, licitum eſt* (as this aſſeſſment now is) though all formalities be not punctually obſerved; as is reſolved in *Dormers* caſe. Cooke l. 5. f. 40. b.

* *Mr. Hackwells*
manner of paſ-
ſing Bills, ſ. c. c.
8. p. 78.

* See part. 1. p.
37, 38, 39, 46,
to 53.

Fiftly, it is undeniable, that the Knights, Citizens, Burgeſſes, and Commones in Parliament, elected by the ſuffrages of the ſeverall Countie, Cities, and Burroughs of England,

* See part. i. p.
39. 47.

* Fitzh. Assise
413. Assise,
74. Prefcrip.
67. Br. Custom.
31. Kitchin. 45.
73. 80. Co. 5.
Rep. 63. Co. 69.
See Ristal. title
Corporations.

do* really and legally represent all the Commons; and the Lords and they the whole Realm, and all the people of England: so that what ever Tax is imposed and assented to by them, or by both Houses onely without the King (who represents no man but Himselfe alone) is in point of Law imposed and assented to by all the Commons, and whole Realm of England, (as the recitals in all our Statutes, and Law-bookes resolve) though the King assent not to it, If therefore (as our * Law-books clearely resolve without dispute, and the experience of all Corporations, Parishes, and Mannors evidenceth past contradiction) all Ordinances and Bylaws made for the common good of Corporations, Parishioners, Tenants of a Mannor, and the like, by all or the greater part of the Corporations, Parishioners, Tenants, and Taxes imposed by them for the Common good (as repairing of Churches, High-waies, Bridges, reliefe of the poore, and the like) shall binde the rest: even in point of Law, without the Kings assent. Then by the same, or better reason, the impositions and Taxes now laid upon the subjects by the assent and Ordinances of both Houses of Parliament, representing the whole Commons and Realme of England (who actually assent likewise to these Taxes and Assessments in and by them) must and ought in point of Law to oblige all the Subjects in this case of necessity, (at least as long as the Parliament continues sitting, and this their representation of them remains entire;) especially being for the necessary defence of the Parliament, Kingdome, Religion, all our lives, estates, liberties, lawes, against an invading Army of Papiests and Malignants, in a case of extraordinary extremity. This I shall further cleare by some ancient and late judgements in point.

* Judge Crookes
argument a-
gainst Ship-
money. p. 24, 25

Mich. 14 Ed. 2. rot. 60. in the Kings Bench *William Heyborne* brought an Action of Trespasse against *William Keylow*, for entering his house and breaking his chests, and taking away 70 pounds in money; the Defendant pleading, Not guilty, the Jury found a speciall Verdict: that the Scots having entred the Bishopricke of *Durham* with an Army, and making great burning and spoyles, thereupon the Commonalty of *Durham*, whereof the Plantiffe was one, met together at *Durham*, and agreed to send some to compound with them for a certaine summe of money to depart the Country, and were all sworne to performe what compositions should be made, and to performe what Ordinance they should make in that behalfe; and that thereupon they compounded with the Scots for 1600 Markes. But because that was to be paid immediately, they all consented, that *William Keylow* the Defendant and others, should goe into every mans house to search what ready money was there, and to take it for the raising of that summe and that it should be suddenly repaid by the Commonalty of *Durham*: And that thereupon the Defendant did enter into the Plaintiffs house, and broke open the chest, and tooke the seventy pounds, which was paid accordingly towards that composition. And upon a Writ of Error in the Kings Bench, it was adjudged for the Defendant against the Plaintiffe, that the action did not lie, because he himselfe had agreed to this Ordinance, and was sworne to performe it, and that the Defendant did nothing but what he assented to by Oath; and therefore is accounted to doe nothing but by his consent, as a servant to him and the Commonalty of *Durham*; therefore he was not trespasser. Which case was agreed for good Law by all the Judges, in the late Case of Ship-money argued in the Exchequer Chamber; though neither King nor Parliament consented to this Tax or Composition.

This

This is the Parliaments present case in effect: The King having raised an Army of Papists, Delinquents, Forraigners, Irish Rebels, disaffected Persons, and actually invading the Kingdom and Parliament with it; Hereupon the Parliament were enforced to raise an Army to defend themselves and the Realm against these Invasions; For maintenance whereof, they at first made use onely of voluntary contributions and supplies; proceeding onely from the liberality of some private persons, best affected to the publike service; Which being exhausted, *The Lords and Commons considering what a sollemn Covenant and Protestation themselves had made and taken, and the Subjects likewise throughout the Realm, to maintein and defend, as farre as lawfully they might WITH THEIR LIVES, POWER AND ESTATES, The true Reformed Protestant Religion, &c.* As also **THE POWER AND PRIVILEDGES OF PARLIAMENT, THE LAWFULL RIGHTS AND LIBERTIES OF THE SUBJECT,** And every person that maketh this Protestation, in whatsoever he shall do in the lawfull pursuance of the same, &c. as in the Protestation (made by both Houses consents when full:st.) And considering that the whole Commons and Kingdoms assents were legally and actually included in what they assented in Parliament, for the necessary defence of the Realm, the Subjects, Parliaments Priviledges, Rights, and the Reformed Religion (all actually invaded, endangered) by an Ordinance of both Houses, without the Kings consent (then absent from, and in open hostilitie against them) impose a generall Assesment upon all the Subjects, **NOT EXCEEDING THE TWENTIETH PART OF THEIR ESTATES;** And for non-payment prescribe a distress; &c. Why, this Assesment in this case of necessitie, being thus made by assent of both Houses (and so of all the Kingdom in them) in pursuance of this Protestation, should not as legally, yea more justly oblige every particular subject, though the King assented not thereto, as well as that agreement of the men of *Durham*, did oblige them even in point of Law, Justice, Conscience, transcends my capacitie to apprehend: and if the first Case be Law, as all the Judges then, and of late affirmed, the latter questionless must be much more Legall, and without exceptions, (a) *M. 32. and 33. Eliz.* in the Kings Bench, in the *Chamberlain of Londons case*, it was adjudged, That an Ordinance made by the Common Councell of London only, that all Clothes should be brought to *Blackwell-hall*, to be there viewed, searched, and measured, before they were sold, and that a penny should be paid for every Cloth for the Officer that did the same, and that six shillings eight pence should be forfeited for every Cloth, not brought thither and searched; was good to binde all Within the Citie, and that an Action of Debt would lye at the Common Law, both for the duty, and forfeiture, because it was for the publike benefit of the City and Common-Wealth, (b) *M. 38. Eliz.* in the Common-Pleas, it was adjudged in *Clerks Case*; That an Ordinance made by assent of the *Burgesses of Saint Albans*, whereof the Plaintiffe was one, for assessing of a certain summe of Moneys upon every Inhabitant, for the erecting of Courts there (the Terme being then adjourned thither from London, by reason of the Plague) with a penalty to be levied, by distress, for non-payment of this Tax, was good to binde all the Inhabitants there, because it was for the publike good. (c) *Mich. 31. pri. fol. 62. 63.*

May 5.
1641.

and 32. Eliz. in the Kings Bench, *Williams Jfferios Case*, and *Pasch. 41. Eliz. Pagers Case*, it was resolved; That the Church-Wardens with the greater part of the Parishioners assents, may lay a Taxe upon all the Parishioners, according to the quantitie of their Lands and Estates, or the number of Acres of Land they hold (the Taxe there was four pence an Acre for Marsh-Land, and two pence for Earable) for the necessary reparation of the Church; and that this shall binde all the Inhabitants, so as they may be Libelled against in the Spirituall Court for non-payment thereof, and no prohibition lieth. The like hath been resolved in sundry other Cases. And, by the Common-Law of England where by the breach of (d) *Sea-Walls*, the Country is, or may be surrounded, every one who hath Lands within the lowell or danger, which may have benefit, or losse, by the inundation, may and shall be enforced to contribute towards the repair, and making up of the Sea-Walls, and a reasonable Tax assessed by a Jury, or the Major-part shall binde all the rest, because it is both for their own private, and the common good. If the Law be thus unquestionably adjudged in all these Cases, without the Kings assent, then much more must this Assessment imposed by both Houses be obligatory, in point of Law and Justice, though the King consented not thereto, since the Houses, and whole Kingdom consented to it, for their own defence and preservation.

(d) Register. fol.
127. Fitz. Nat.
tur. Breu. fol.
113. Cooke, l.
20. fol. 142.

Sixthly, This is a dutie inseparably incident by the Fundamentall Law, and originall compact of every Kingdom, Citie, Corporation, Company or Fraternitie of men in the World; that every Member of them should contribute proportionably upon all occasions (especially in Cases of imminent danger) toward the necessary charges, defence, and preservation of that Kingdom, Citie, Corporation, Company, or Fraternitie, of which he is a Member, without which contribution, they could be neither a Kingdom, Citie, Corporation, Company, Fraternitie, or have any continuance, or subsistence at all; Which Contributions are assessed by Parliaments in Kingdoms, by the Aldermen, or Common-Councill in Cities, by the Master and Assistants in Fraternities, and what the Major part concludes, still bindes the Residue, and the dissent of some (though the Major, or Master of the Company be one) shall be no obstacle to the rest. This all our Acts concerning Subsidies, Aydes, Tonnage and Poundage the daily practice and constant experience of every Kingdom, Citie, Corporation, Company, Fraternitie in the World, manifests past all contradictions; which being an indubitable veritie, I think no reasonable man can produce the least shadow of Law or Reason, why the Parliament representing the whole Body of the Kingdom, and being the supream Power, Counsell, in the Realm; bound both in Dutie and Conscience, to provide for its securitie, may not in this Case of extremitie legally impose this necessary Tax, for their own, the Kingdoms, Subjects, Laws, Religions preservations (of which they are the proper Judges, Guardians) and should not rather be credited herein then a private Cabinet Court-Counsell of persons disaffected to the Republike, who impose now farre greater Taxes on the Subjects, and plunder, spoyl, destroy them every where directly against the Law, of purpose to ruine both Parliament, Kingdom, Religion, Laws, Liberties, and Posteritie.

Seventhly, It is confessed by all, That if the King be an Infant, Non-Compos, absent

absent in Forraign remote parts, or detained prisoner by an Enemy, that the Kingdom or Parliament in all such Cases, may without the Kings actuall, personall assent, create a Protector or Regent of their own Election, and not onely make Lawes, but grant Subsidies, impose Taxes, and raise Forces for the Kingdoms necessary defence, as sundry domestick and forraign Presidents in the preceding (c) Parts, and Appendix, evidence; And (f) Hugo Grotius, (g) Junius Brutus, with other Lawyers acknowledge as a thing beyond all dispute. Nay, if the King be of full age, and within the Realm, if a forraign enemy come to invade it, and the King neglect or refuse to set out a Navy, or raise any Forces to resist them, The Lords and Commons in such a Case of extremitie, may, (and are bound in Law and Conscience so to do) for their own, and the Kingdoms preservation, not onely in and by Parliament, but without any Parliament at all (if it cannot be conveniently summoned) lawfully raise forces by Sea and Land, to encounter the Enemies, and impose Taxes and Contributions to this purpose on all the Subjects by common consent, with clauses of distresse and imprisonment in case of refusall, as I have elsewhere proved. And if in Case of invasion, even by the Common-Law of the Realm, any Captains or Souldiers may lawfully enter into another mans ground and there encamp, muster, or build Forts to resist the Enemy, or pull down the Suburbs of a Citie, to preserve the Citie it self, when in danger to be fired or assaulted by an Enemy, without the speciall consent of King, Parliament, or the Owners of the Land, or Houses, without (h) Trespasse or offence, because it is for the publike safety, as our Law Books resolve; Then much more may both Houses of Parliament, when the King hath through the advice of ill Councillors wilfully deserted them, refused to return to them, and raised an Army of Papists and Malignants against them and the Realm (now miserably sacked and wasted by them, as bad as by any forraign Enemies) both take up Arms, raise an Army, and impose Assessments and Contributions by Ordinances, unanimously voted by them, against which no Lover of his Country, or Religion, no nor yet the greatest Royalist, or Malignant, can with the least shadow of Law or Reason, justly except.

Eightly, If they shall now demand what Presidents there are for this? I Answer: First, That the Parliament being the Sovereign Power and Counsell in the Realm, is not tyed to any Presidents, but hath power to make new Presidents, as well as new Lawes, in new Cases and mischiefs; where there are no old Presidents, or vary from them though there be ancient ones, if better and fitter Presidents may be made; as every Court of Justice likewise hath Power to give new Judgements, and make new Presidents in new Cases, and may sometimes swerve from old Presidents, where there were no ancient Presidents to guide them; even as Physitians invent new Medicines, Chyrurgions new Emplaisters for new Diseases, Ulcers, or where old Medicines and Balsomes, are inconvenient, or not so proper as new ones. And as men and women daily invent and use new Fashions at their pleasure, & Tradesmen new Manufactures without licence of King or Parliament, because they deem them better or more comely then the old. Secondly, I might demand of them, by what old domestick lawfull Presidents, His Majesties departure from the Parliament, His Levying Warre against it, His

(e) Part. 1 p. 57
50. 97. 100,
101, 102 p. 105.
12. p. 98, &c
Francis, Then
his Catalogue
of Protectors,
in Holinshead, p.
1073 &c
(f) De Jure Bel-
li & Pacis, l. 1.
c. 3. nu. 24.
p. 67.
(g) Vindicte
contr. Tyrannos,
qu. 3, 4.
(h) 13. H 8. 16.
9. E. 4. 35 b. 8.
E. 4. 23. Br.
Custome 145.
Tresp. 405.
Dyer. 36.

* Cook 4. Rep.
f. 93, 94.
Abb. Title
sid. nts.

(i) See the Remonstrance of the rise and progresse of the Irish Rebellion and Romes Master-piece. proclaiming many Members of it, Traytors, and now all of them Traytors and no Parliament; His unvoting of their Votes in Parliament, out of Parliament; His imposing of Taxes and Contributions in all Countries where His Forces are, beyond mens Estates, and annuall revenues; His burning, sacking, pillaging, murdering, ruining, of His own Kingdom, Subjects, both by Sea and Land, and putting them out of His regall Protection; His raising of an Army of English, Irish, Scottish, French, and Germane Papists to maintain and settle the Protestant Religion among us, (which they have plotted totally to extirpate, as appears by their proceedings in *Ireland, England*, and the late plot discovered among the Archbishops Papers) and the like, are warranted? (which questions I doubt would put them to a *non-plus*, and silence them for eternitie;) yet to satisfie their importunitie, and stop their clamorous mouths; I shall furnish them in brief, with some Presidents in point in all States, and Kingdoms of note in former, in latter times, and in our own Realm too; In all the civill waeres between Kings and Subjects, in the *Roman and Germane Empires, France, Spain, Aragon, Castile, Hungary, Bohemia, Poland, Denmark, Scotland*, and other Kingdoms mentioned in the Appendix; They shall finde that the generall Assemblies of these States, Lords & Commons, without their Emperors or Kings assents, did both raise Forces, impose Taxes, yea, and lease on the Imperiall and Royall Revenues of the Crown to support their waer, against their Tyrannicall oppressing Princes. In ** Flanders heretofore, and the Low-Countries of late years*, they have constantly done the like; as their Excises long since imposed, and yet on foot by common consent (without the Kings good liking) to preserve their Liberties, Religion, Estates from the Spanish Tyranny, with esse; which every one willingly at the very first imposition, and ever since both readily submitted to, being for the publike preservation. The like hath been done in former ages, and within these five years in the Realm of *Scotland*; the same is now practised even without a Parliament by the Popish Rebels both in *Ireland and England*, who have laid Taxes upon ** all Ireland*, and all the Romanists in *England*, for the maintenance of this present Rebellion; and yet neither King, nor his Counsell, nor Royallists, nor Malignants (for ought I can read or hear) have ever so much as once written or spoken one syllable against it, when as many large Declarations, Proclamations, Inhibitions in His Majesties Name, and at least fortie severall Pamphlets have been published by Malignants against this Assentment of the Parliament, and the Levying, or paying thereof, strictly prohibited under pain of high Treason; such a grand difference is there now put by the Royall Court-partie (to the amazement of all intelligent men) between the Irish Rebels, (now the Kings best Subjects as it seems) who may do what they please without censure or restraint; and the English (now un-Parliamented (Parliament, though perpetuated by an Act of Parliament) who may do nothing for their own, or the Kingdoms safety, ut it must be high Treason at the least *O tempora; o mores: Quis tu tu fando tempore lachrymis?* Adde to this, ** That the Lords Justices and Councell in Ireland, the twenty nine of June, 1643. have without authoritie of Parliament or King, for their present necessary defence, against the Popish Rebels there, imposed an Excise upon most commodities in that Realm, here lately Printed;* which

* See *Metranius* and *Grimstor's* generall History of the *Netherlands*.

* See the Relation and proceedings of the Irish Assembly at *Kilkenny* The Parliaments Remonstrance of the rise and progresse of the Irish Rebellion.

* See the Irish excise.

which no man can deem Illegal in this case of absolute necessitie. But to come close home unto our selves; who is there that knows ought in historie and policie, but must needs acknowledge, That the Britains and Saxons warres of this Realm, against their oppressing Kings, * Archigallo, Emorian, Vortigorne, * See Part. 1
Sigebert, Ojred, Ethelred, Beornard, Leowulfe, Edwine, (Whom they deposed for p. 71, 9 &c.
 their Tyranny and mis-Government;) That our Barons long-lasting bloody warres against King John, Henry the third, Edward the second, Richard the second, and others fore-mentioned; were maintained by publike Assessments and Contributions made by common consent, even without a Parliament, and with the Revenues and Rents of the very Crown, which they seized on, as well as the Castles and Forts? This being a true role in Law, *Qui sentit commodum, sentire debet & onus*; All the Kingdom had the benefit, of regaining, preserving, establishing their Fundamentall Charters, Laws, Liberties, by those warres; therefore they deemed it just, that all should bear a share in the charge and burthen, by voluntary Assessments without King or Parliament.

During the absence of King Edward the third in France; *The (a) Lords and* (a) 14 E 3 c.
Commons in Parliament, for the defence of the Realm by Sea and Land, against 20. 21. hinc. p.
forraign Enemies; granted an ayde of the ninth Sheaf. Lamb, and Fleece, besides 2; 3; 4; 5.
many thousand Sacks of Wool, and the ninth part of other mens Estates in Towns and Corporations, and disposed both of the Money and Militia of the Realm, for its defence, as you heard before: The like did they during the Minorities of King Henry the third, King Richard the second, and King Henry the sixth, as the premises evidence, without those Kings personall assents. (b) Anno Dom. 1259. (b) Marbow
Richard King of Romans coming with a great Navy and Army of Germans, and Paris. p. 952.
forraigners, to ayd his Brother, King Henry the third, against the Barons; thereupon, the Barons sent out a fleet to encounter them by Sea, and prepared a strong 953. Speed p.
Army of Horse and Foot by Land, that if they prevailed against them at Sea, 636.

(c) King Richard the first was taken prisoner by the Emperour in his return from the (c) Roger Hove
holy Land, by Authority of the Kings Mether, and the Kings Justices alone (with- den, Annual
out a Parliament) it was decreed, that the fourth part of all that yeers Rents, and post, p. 726. Du-
of all the moveables, as well of the Clergy, as of the Laity, and all the Woolles of the rial. p. 127.
Abbots of the Order of the Cistercians, and of Sempringham, and all the Gold and Silver Chalicees, and Treasure of all Churches should be paid in, toward the freeing and ransome of the King; which was done accordingly. If such a tax might be imposed by the Queen Mother, and Justices onely, without a Parliament, for ransoming the King alone from imprisonment, may not a tax of the twentieth part onely of mens estates be much more justly imposed on the Subjects by an Ordinance of both Houses in Parliament without the King, for the defence and preservation, both of the Parliament and Kingdom to, when hostily invaded by the King?

In few words, the King and his Councill, yea his very Commanders,

(without his speciall Commission or advice) have in many Countries imposed large monthly, weekly Contributions and Assessments on the People, beyond their abilities and estates; yea, upon the very Speaker and Members of the Commons, and Lords House, (notwithstanding their Priviledges of Parliament. which they say they will maintain) to the utter impoverishing, and ruining of the Country; yea, they have burned, sacked, plundered, many whole Towns, Cities, Counties, and spoiled thousands of all they have, contrary to their very Promises, Articles, Agreements, which they never faithfully observe to any in the least degree; and all this to ruine the Kingdom, People, Parliame. t, and Religion; yet they justify these their actions, and the Parliament, People, must not controule, nor deem them Traytors to their Country for it: And may not the Parliament then more justly impose a moderate in-destructive necessary tax without the King, for the Kingdoms, Religions, and Peoples defence and preservations, against their barbarous Taxes, Plunderings, and Devastations, then the King, or his Commanders, Souldiers play such *Rex*, and use such barbarous oppressions without, yea against the Parliaments Votes and consents? Let them therefore first cease their own most detestable unnaturall, inhumane practises, and extortions of this nature, and condemn themselves, or else for ever clear the Parliament, from this unjust Aspersion.

Object. 7.

The last Objection against the Parliament is, That they have Illegally imprisoned, restrained, plundered some Malignants, and removed them from their habitations, against *Magna Charta*, the Fundamentall Laws forenamed, and the Liberty of the Subject, contrary to all Presidents in former Ages.

Ansiv. 1.

To which I answer, First, That the Objectors and Kings party are farre more guilty of this crime, then the Parliament, or their Partisans, and therefore have no reason to object it, unlesse themselves were more innocent then they are.

Secondly, For the Parliaments imprisoning of men pretended to be against *Magna Charta*: I answer first, That the Parliament is not within that or any other Law against imprisonments, as I have formerly cleered; Therefore is not obliged by it, nor can offend against it: Secondly, That it hath power to imprison,

restrain the greatest Members of their own Houses*, though priviledged men, exempt from all other arrests; and publike persons representing those that sent them thither: Therefore much more may they imprison, or restrain, any other private persons, notwithstanding *Magna Charta*. And the Parliament being the supreme Judicature paramount all other Courts, their commitments can not be Legally questioned, determined, nor their prisoners released by *Habeas Corpus*, in or by any other inferior Court or Judicature whatsoever. 3. The Parliament hath power to make new Laws for the temporall and perpetuall imprisonment of men, in mischievous cases, where they could not be imprisoned by the Common Law, or any other Act before or since *Magna Charta*; and so against the seeming letter of that Law which extends not to the Parliament; and what persons they may restrain, imprison by a new enacted Law, though not restrainable before by *Magna Charta*, or the Common Law, without breach of either, they may whiles they sit, in case of publike danger, restrain, imprison, by their own Authority, without,

or before a new Law enacted. In how many new Cases, by new Statutes made since *Magna Charta*, the Subjects may be lawfully imprisoned, both by Judges, Justices, Majors, Constable, and Inferiour Courts or Officers; whereas they could not be imprisoned by them, by the Common Law, before these Acts, without breach of *Magna Charta*, and violating the Subjects Liberties, you may read in the Table of *Rassals Abridgments of Statutes*, and in *Asbes Tables* Title *Imprisonment*, and *Fals-Imprisonment*; Yea, by the Statutes of 23. H. 8. cap. 1. 31. H. 8. cap. 13. 33. H. 8. cap. 12. 5. Eliz. cap. 14. 1. and 2. Phil. Mary, cap. 3. 5. and 6. E. 6. cap. 1. 1. Eliz. cap. 2. with other Acts, perpetual imprisonment, during life, is inflicted in some cases, for which no imprisonment at all could be prescribed before these Acts, and for crimes, for which the parties were not formerly punishable; yet for the publike weale, peace, safety, and prevention of private mischiefs, even against the Letter (as it were) of the great Charter the Parliament hath quite taken away all liberty, the benefit of the Common Law, and of *Magna Charta* it self, from parties convicted of such offences, during their naturall lives; and if they bring an *Habeas Corpus* in such cases, pretending their perpetuall imprisonment, and these latter Laws to be against *Magna Charta*, they shall notwithstanding be remanded and remain prisoners all their dayes, because the Parliament is above all Laws, Statutes, yea *Magna Charta*; and may deprive any Delinquents of the benefit of them, yea, alter or repeal them, for the common good, so farre as they see just cause; *Though neither* (d) *Fortescue*,^{1.}
the (d) King, nor his Counsell, nor Judges, nor any Inferiour Officers, or Courts of 1 c. 9, 10. 14.
Justice, have any such transcendent power, but the Parliament alone, to which all 15. *Cromptons*
men are parties, really present, and allowing all they do; and what all assent to, *lawisels f. 14.*
decree for the common good and safetie, must be submitted to by all particular 11 H. 4. f. 73.
persons, though never so mischievous to them; this being a Fundamentall Rule 76
even in Law it self (e), That the Law will rather suffer a private mischief, then a *Brooke Parag.*
generall inconvenience. Seeing then the Parliament to prevent publike uproars, 15.
sedition, treachery, in or against the Kingdom, Cities, Houses, or Counties, where (e) *Littleton and*
fictitious persons live, hath thought meet to restrain the most seditious Malignants, *Cooke Institutes*
(especially these about London and Westminster where they sit) and to commit 1 H. 7. 15. a 17.
them to safe custody, till they receive some good assurance of their peaceable b. 21 H. 7. 8. a
behaviour; they must patiently suffer their private restraints for the common
safety, tranquility, till the danger be past, or themselves reformed; who if they re-
form not their own malignity, not the Parliaments cautelous severity, themselves
must be blamed, since they detain themselves prisoners only by not conforming,
when as the Parliament desires rather to releate, then restrain them, if they would
be regular; and so they must blame themselves alone, not clamour against the (f) *Levit. 13. &*
Houses. All Leprous persons by the (f) Leviticall and (g) Common Law, were 14
to be sequestred and shut up from others, lest they should infect them; and so all per- (g) *Register. par.*
sons visited with the Plague by late (h) Statute Laws may be shut up, without breach 1. f. 267. *Fitz.*
of Magna Charta. Why then not Malignant, seditious ill affected persons, who *Nat. Bre. f. 234*
infect others in these times of Commotion and Civill Warres, as well as Leapers (h) *1. lac. c. 31.*
and Plague sick persons, removed into Pest-houses, for fear of spreading the In-
fection upon the self-same grounds, by the Houses Authority? The Parliament
by

by an Ordinance, Act, or Sentence, hath Power to banish men out of the Kingdom in some cases (which no other Court, nor the King himself can lawfully do, as was expressly resolved in Parliament, upon the making of the Statute of 35. Eliz. cap.1.) as is evident by the case of Thomas of Weyland, An. 19. E. 1; Of (i) Peirce Gavaston and the two Spencers in King Edward the second his reign. Of the Lord (k) Maltravers in Edward the third his reign; Of (l) Belknap and divers, over Judges in the 10 and 11 yeers of Richard 2. his reign, by the Statutes of 33. El.c.1. Separatists, and of 39. El.c.5. Rogues are to be banished: and in (m) Calice heretofore, a Woman might be justly banished the Town for adultery; and a scould at this day after three convictions is to be banished out of Westminster, and rowed over the Thames from thence thorough the water at the tayl of a Boat, for the quiet of the City. Then much more may any private seditious turbulent Malignants be justly restrained to some safe places where they may do no harme, till the warres and troubles be ended, or themselves reclaimed. Fifthly, By the (m) Common and Statute Law of the Realm, yea by (n) Magna Charta it self, cap.30. the Lands, Rents, Goods, and Persons of Priors, and other aliens, Merchants, or others, residing in England may be, and have been usually seized on, and secured, or else their persons banished the Realm, and borders of England, during the warres with others of the Nation, least they should assist them in the warres with their Estates, persons, or intelligences, or betray the Kingdom, or places where they resided to the Enemy; And upon this ground by the expresse Statutes of 2. H. 4. cap.12. 20. 1. H.4. cap.7, 8. 3. H. 5. cap.3. 4. H.5. cap.6. 1. H. 6. cap.3. the Irish, Brittaines, Welshmen, and Scots, because we had frequent warres with them, were not permitted to purchase either Houses or Lands, or to remain in any Fort, Town, or City, neer the Borders of Scotland, or Wales, but banished thence, and their Goods and persons, seized on in times of warre, to prevent treachery, intelligence, and assistance of the Enemy. A thing generally practised and warranted in all States and Kingdoms, (as well as in England,) by the very Law of Nations, as just and necessary in times of warres; as Martinus Lindensis de Repraesaliis & de Bello, Henricus Ranzovius his Commentarius Bellicus, Georgius Obbrechtus: Disput. Juridica de Bello, Henricus Bocerus de Jure Pregnae, Hugo Grotius, & Albericus Gentilis, in their Books de Jure Belli, and all Historians evidence: Therefore lawfull for the Parliament to practise at this present, as well as the King, or any others. Sixthly, In times of Forraign Invasions, the Parliament hath enjoyed all Inhabitants neer the Sea-coasts or Marches of Scotland and Wales, to repair to their Houses and Lands there, with all their Families, for the defence and safetie of the Realm, under pain of imprisonment, and confiscation of their Goods, and Revenues there, and elsewhere, as is evident by 13. E.3. nu.21. Parl. 1. and Parl.2. n.20. 23. Eliz. c.4. the * Statutes confining Papists to their Houses, and sundry other Prefidents. Therefore by like reason they may confine Malignants in times of warre, for the public peace and safetie, and disarme them to for a time; as Constables may by the Law, disarme and imprison peace-breakers, fray-makers, riotors, and others to prevent bloodshed, quarrels, and preserve the publike peace.

Thirdly, For the plundering of Malignants, and sequestering their Estates; I answer, that, I thinke the Parliament never yet approved the plundering (or in plain

(b) See Magna Charta c.29.
 Conkes Institutions
 on Littleton. f
 133 a. b Cook
 Ibid.
 (i) See Walslog.
 Dawl, s; ced,
 G of on, in th:
 6. & 7, E. 2.
 h rec. p. 1. p 20
 21, 22. Ex libum
 Hugonis l dis-
 p. c. f. 15. E. 2.
 1. E. 3. cap 2.
 Walslog. hist.
 Aug. p 366.
 Ypedig Neust.
 p. 52. Holing
 p. 328. Speed,
 p. 674
 (k) 10. E 3. 53.
 Conks Instit. f.
 132 b.
 (l) Walslogham,
 Speed, Grafson,
 Trussel Hist.
 in 10 and 11 R.
 2. 1 H. 4 1. b.
 2 H 4 7. a.
 31 E. 1. Cui in-
 vita 31.
 (m) Regist fol.
 31. b. Cooks.
 Instit f 133.
 (n) Sec Part. 2
 p 16 7. Fitz
 Ayde le Roy. 43
 65 57. 70 71.
 76 93. 98 1.
 H. 5 c 7
 7. H 7. c 6. 2.
 & 3. Ph. &
 Mar. c. 1 (See
 4. Tac. c 1.)
 * 35 Eliz. c 2
 3. Tac. c. 3, 4, 5.

plain English, robbing) of any man, by any of their forces; they having plundered no places taken by assault, for ought I hear; though the Kings forces on the contrary, have miserably plundered all the Kingdom almost, (except the Papists who are most exempted from this rapine, and some few, chief Malignants,) yea, those very Persons, Souldiers, Cities, Towns, which by their very Articles of surrender, were not to be plundered; (witnesse, *Taunton, Bridgewater, Bristol, Gainsborow*, where many have been pillaged to their naked skins, notwithstanding their Aricticks of agreement, solemnly sworn, to depart quietly with bag and baggage, without interruption, and the Towns to be free from plunder) contrary to the very * Law of warre, and Arms; which may instruct all others not to trust them henceforth. If any of the Parliaments forces have misbehaved themselves in plundering any Malignants or disaffected persons, more then by seising, of their Arins, distraining their Goods for imposed Assesments; or sequestering their Plate, Moneyes, Estates, for the publike service upon promise of repayment and restitution; I know the Houses have publicly, by expresse Ordinances, inhibited, disavowed the fact, and exposed the disorderly Delinquents to condigne punishments, even to the losse of their lives, if any please to prosecute them by way of inditement or Martiall Law. For my part I abhorre all violence, plunder, rapine, and disorders in Souldiers, as contrary to the Law of God, *Obadiah 10. to 16. Luke 3. 14* and leave those who are guiltie of them to the severest publike justice, as offenders

against the (o) Law of Nature, of Nations, of the Land, yea, of Warre it self: (o) See *Albericus Genz-liis, de Iure Belli, l. 2. c. 16. 2. 3. l. 3. c. 2. & 19. Hugo Gro-tius, de Iure Belli, l. 3. c. 11. to 23.*
 But God forbid the Parliament should be unjustly charged with all the misdemeanours of their Souldiers, which they prohibit, detest, censure; more then the King with all the barbarous rapes, murthers, cruelties, rapines, and monstrous insolencies, which his Cavaliers every where perpetrate without punishment or restraint; especially the blood-thirsty *Irish* Popish Rebels among them: who having shed so much *English* Protestants blood in *Ireland*, ere they came over hither, of which they vaunt, is such an high dishonour to God, and the *English* Nation, if their own blood be not shed for it by the hand of vengeance here; that I wonder with what face or spirit, His Maj:stie or any *English* Protestant can patiently suffer these *Irish* Rebels to shed any more Protestant *English* blood, or breath in *English* ayre, who have cut the throats of so many thousand innocent *English*, both here and elsewhere, and are like to cut all our throats ere long (as they have designed) unlesse their throats be first cut by us. But yet for the plundering of such Malignants goods, and houses, who are opposite to the whole Kingdom and Parliament, and will not joyn with them in the common cause, which concerns us all; as it hath sundry (p) patterns in the *Barons Warrs*, against the *Poictovines* and their faction, in *Henry the third his* reign, and afterwards against the *Spensers*, in *Edward the second dayes* formerly touched; so it hath one observable generall resolution of the whole body of the Lords and Commons, warranting it in *King Johns* reign, even then when they all took up Armes to enforce him to confirm the great Charter it self, which our Opposites cry out to be violated by the Parliaments moderate seizures, onely by way of distresse pre-sequestration: (q) For the *Barons, Knights, and Commons,*

* Alber. Gent.
de Iure Belli, l.
3. and Hugo
Gro-tius, de Iure
Belli, l. 3. cap. 9.
10. 11. &c.

(o) See Albericus
Genz-liis, de Iure
Belli, l. 2. c. 16.
2. 3. l. 3. c. 2. &
19. Hugo Gro-
tius, de Iure
Belli, l. 3. c. 11.
to 23.

(p) See Part. 1.
p. 22. Part. 2. p.
18, 19, 0
Fabian. part. 7.
p. 78 92.

(q) *Math. Paris,*
Hist. p. 247. 10
255. *Daniel* p.
142, 143, 144.
Part. 1 p. 9, 10.

With their whole Army being met together in London, which joyned with them to gain this Charter from the King; sent from thence Letters to all the Earls, Barons, and Knights throughout England, who seemed (though but fainedly) to adhere to the King, exhorting them with this Commination; That as they loved the indemnitie of their Goods, and possessions, they should desert a perjured King, and adhering faithfully to them, should with them inviolably stand, and effectually contend for the Libertie and Peace of the Kingdom; which if they contemned to do, they would with force of Arms, and Banners displayed, MARCH AGAINST THEM AS PUBLIKE ENEMIES, SUBVERT THEIR CASTLES, BURN THEIR HOUSES AND EDIFICES, AND NOT CEASE TO DESTROY THEIR PONDS, PARKES, AND ORCHARDS. Whereupon all the Lords, Knights, and People, deserting the King, who had scarce seven Knights in all left with him, confederated themselves to the Barons in the Common Cause. (wherein to be a Neuter, was to be an enemy, and no member of the politicke body, in which all were equally engaged.) Whereupon the King thus deserted by all, condescended speedily to their demands, and confirmed the great Charter much against his will. A very apt President for these times, which would make the people more unanimous, faithfull, and couragious for the Common Cause, if but imitated in the commination onely, though never put into actuall execution; he being unworthy once to enjoy any priviledge of a free-born Subject in the Kingdom, who will not joyn with the Parliament and Kingdom, to defend his Libertie, and the Kingdoms priviledges, in which he hath as great a common share, as those who stand, pay, and fight most for them. It is a good Cause. (r) of disfranchising any man out of any Citie, Corporation, or Company, and to deprive him of the Priviledges of them, if he refuse to contribute towards the common support, defence, or maintenance of them, or joyn in open hostilitie, contributions or suites against them. There is the same and greater reason of the generall Citie and Corporation of the whole Realm, to which we are all most engaged; and therefore those who refuse to contribute towards the defence and preservation of it, if able; or by their persons, purses, intelligence, or counsell, give any assistance to the common enemy against it, deserve to be disfranchised out of it, to have no priviledge or protection by it, and to be proceeded against as utter enemies to it, Christs rule being here most true, (s) He that is not with me, is against me; and he that gathereth not with me, scattereth abroad. The (t) Common-wealth of which we are members, hath by way of originall contract (u) for mutuall assistance and defence (seconded by the late Protestation and Covenant) a greater interest in our Persons, and Estates, then we our selves, or the King; and if we refuse to ayd the republike, of which we are members in times of common danger, with our Persons, Abilities, Goods; or assist the common enemy with either of them; we thereby betray our trust and fidelitie, violate our Covenants to the Republike, and expose our bodies to restraint, our estates to confiscation, for this most unnaturall treachery, and sordid niguardlineffe (as well as for Treason, Felony, or other more petty injuries against the State, or humane societie, made capitall by the Lawes) most justly, for the publike

(r) Cook II Re-
pub. 97, 98, 99
James Bagges
Case.

(s) Math. 12.
30.

(t) Ciceronis de Of-
ficiis, l. 1, 2. A-
ristot. Polit. l. 1.

publike service of the State, which hath a generall Sovereign Interest in them in all times of need; paramount our private Rights, which must alwayes submit to the publike: and lose all our formerly enjoyed Priviledges, either of Laws, Liberties, or free-born Subjects, if we refuse to defend, or endeavour to betray them, as the Laws and common practise of all Nations evidence. In the

(2) *Barons Warre's against King John, Henry the third, and Edward the second, in defence of their Liberties, and Laws, they seised upon the Castles, Forts, and Revenues of the Crown, and upon the Moneyes, and Goods of the* (u) See Part. 2. p. 16. to 24.

malignant Poictovines, which they employ'd in the Kingdoms service (x) *Eo-* (x) Fabian. part. 7. p. 78.

dem tempore Castellanus de Dovera, Richardus de Gray, vir fidelis & strenuus, qui ex parte Baronum ibidem constituebatur, omnes transeuntis & transituros, diligenter considerabat, cuncta prudenter persequens, & invenit NON MODICUM (y) *Matth. Paris* p. 943.

TESAURUM paratum, dictis Poictaviensibus clanculo deferendum; qui TOTUS CAPTUS EST, IN CASTRO RESERVANDUS. Similiter Londini apud novum Templum THESAURUS MAXIMUS, de cujus quantitate audientes mirabantur, quem re-

posuerunt Poictavienses memorari, licet contradicentes reniterenter Hospitelarii, CAPTUS est; AD ARBITRIUM REGIS ET BARONUM IN UTILES REGNI USUS UTILITER EXPONENDUS, writes *Rishanger* the continuer of *Matthew Paris*; a

good President for the present times: After which the (2) *Barons banished* (z) *Matth. Paris* *all the Poictovine Malignants, who miscounselled and adhered to the King, out of* *hist. Angl. p. 959.*

England, Anno 1260; who Anno 1261. were all banished out of London, and *Grasson, p. 140,* *other Cities, and Forts. * An. 1234. The Earl Marshall having routed John of* *141.* ** Matth. Paris,* *Monmouth his forces (which assisted King Henry the third against the Barons) in* *hist. Angl. p. 380.*

Wales, he wasted all the said Johns Villages and Edifices, and all things that were his, with sword and fire, and so of a rich man, made him poor and indigent. In the very Christmas holy-dayes, there was a grievous Warre kindled against the King and his evill Counsellors. For Richard Suard conjoyning other Exiles to him, entered the Lands of Richard Earl of Cornwall, the Kings brother, lying not farre from Behull, and burned there, together with the Houses, and the Corne, the Oxen in the Ox-stalls, the Horses in the Stables, the Sheep in the Sheep-cots: they likewise burned Segrave the native soyl of Stephen, Justiciar of England, with very sumptuous Houses, Oxen, and Corne; and likewise brought away many horses of great price, returning thence with spoils, and other things. They likewise burned down a certain village of the Bishop of Winchester, not farre from thence, and took away the spoils, with other things there found. But the foresaid Warriors had constituted this laudible generall rule among themselves, that they would do no harme to any one, nor hurt any one BUT THE WICKED COUNSELLERS OF THE KING, by whom they were banished; and those things that were theirs, they burnt with fire, extirpating their Woods, Orchards, and such like by the very Roots. This they did then de facto; * de Jure, I dare not approve it, though in Cases of Attaint, and Felony, the very Common Law to terrifie others, gives sentence against perjured Juries, Traytors, and Felons, in some Cases, that their houses shall be rased to the ground, their Woods, Parkes, Orchards, Ponds, cut down

(z) *Matth. Paris* *hist. Angl. p. 959.*
Grasson, p. 140,
141.
** Matth. Paris,*
hist. Angl. p. 380.

* See 2. R. 2. c. 7. 1. H. 5. c. 6. 2. H. 5. c. 8.

44. Aff. 2 6.
 ff. 7. 30. Aff.
 24 50. Aff 4.
 6 E. 4. 5. Fitz.
 Aitaiat. 14.
 * Matth. Paris,
 p. 961.

and destroyed; their * Meadows, and Pastures, plowed up and defaced, though not so great Enemies to the State, as evill Counsellors. * Anno 1264. the forty eight yeers of Henry the third his reign; The King keeping his Christmas with the Queen, Richard King of Romans, and many others at London, Simon Mountford the Captain of the Barons at the same time, preyed upon the Goods of these who adheared to the King, and especially those of the Queens retinue, brought by her into England, whom they called Aliens. Among others, some of the Barons forced rook Peter, a Burgundian, Bishop of Hereford, in his Cathedrall Church, and led him prisoner to the Castle of Ordeley, and divided his treasure between themselves; and took divers others of the Kings partie prisoners. Who thereupon fearing least he should be besieged in the Tower by the Barons army, by the mediation of timorous men, he made peace with the Barons for a time; promising inviolably to observe the Provisions of Oxford, that all the Kings Castles throughout England, should be delivered into the custody of the Barons; that all Aliens within a certain time should void the Realm, except those who should be thought faithfull therunto by the unanimous consent of the Kingdom, and that faithfull and profitable natives of the Realm, should thenceforth dispose of the affairs of the Kingdoms under the King. But THE QUEEN infliged with feminine malice, contradicted it all she could, which made the people revile, and cast dirt and stones at her, as she was going to Windsore, enforcing her to retire again to the Tower. How William Longshamp Bishop of Ely, Lord Chancellor of England, Earl John, and others, when they disturbed the peace of the Realm, and turned Malignants, were apprehended, besieged, imprisoned, excommunicated, and their Goods, and Castles, seised on by the Lords and Commons, out of Parliament, yea, during the time of King Richard the first, his absence and captivity, you may read at large in * Roger de Hovedon, * Holinshed, Daniel, and others. Why then the Lords and Commons in Parliament may not now much more do the like, for their own, and the whole Kingdoms safety, I can yet discern no shadow of reason. I will not trouble you with Histories, shewing what violent unlawfull courses, Kings and People have sometimes used to raise moneyes in times of warre, by sacrilege, rapine, and all manner of indirect means; I rather wish those P. eidents, and their occasions, buried in eternall silence, then reduced into practise; and verily perswade my self, that every ingenuous trueborn Englishman, who bears a reall naturall affection to his Countrey, or a Christian love to his Brethren, the Parliament, and Religion, will according to his bounden duery, the Protestation, and Covenant which he hath taken, rather freely contribute his who'e estate, if need so require, towards the just defence of his Countrey, Libertie, Religion, and the Parliament, against the treacherous Conspiracies of the Pope, Jesuites, forraign Catholikes, Irish Rebels, English Papists, and Malignants, who have plotted their subvertions, then repine at, or neglect to pay any moderate Taxes, which the Parliament shall impose, or enforce the Houses to any extraordinary wayes of Levying Moneyes, for want of ordinary voluntary supplies, to maintain these necessary defensive warres.

* Anal. pars
 posterior p. 702.
 703. 705 706.
 734 735.
 * In the life of
 Richard the
 first.

I shall close up all in a few words. The Parliament hath much against their will, been enforced to this present defensive warre, which they have a just, and lawfull

full power to raise and manage (as I have * elsewhere evidenced) by the Fundamentall *Laws of the Realm, yea, by the Law of God, of Nature, of Nations.* * See Part. 2. and 3.

This warre cannot be maintained without Moneyes, the sinews of it; wherefore when voluntary contributions fail, the Houses may by the same Laws which enabled them to raise an Army without the King, impose necessary Taxes for the maintaining of it, during the warres continuance, else their Legall power to raise an Army for the Kingdoms defence, would be fruitlesse, if they might not Levy Moneyes, to recrute and maintain their Army, when raised: which Taxes if any refuse to pay, they may for this contempt, be justly imprisoned, as in cases of other Subsidies; and if any unnaturally warre against their Countrey, or by way of intelligence, advise, or contribution, assist the common Enemy, or seduce, or withdraw others (by factious slanderous speeches against the Power and Proceedings of the Parliament,) from assisting the Parliament in this kinde, they may for such misdemeanours (upon conviction) be justly censured, confined, secured, and their estates sequestred, rather then the Republike, Parliament, Religion, or whole Kingdom should miscarry: *It is better that one should perish, then all the Nation;* being the *voyce* * of God, Nature, and resolution of all Laws, Nations, Republikes, whatsoever. If any hereticall, scismaticall, or vicious persons, which may poyson others with their *pernicious false doctrines, or vicious Wicked lives, appear in the Church, they may after admission, if they repent not, yea, and de facto, are, or ought to be* * excommunicated, the Church, and societie of all faithfull Christians, so as none may, or ought to converse with them till their repentance. If this be good Law and Divinitie in the Church; the banishing and confining of pestilent Malignants in times of warre, and danger, must by the self-same reason be good Law and Divinitie in the State.

I have now (by Gods assistance) notwithstanding all distracting Interruptions, Avocations, Remoraes incountring me in this service; ran through all Objections of moment, which the King, or any opposites to this Parliament, have hitherto made against their proceedings, or jurisdictions; and given such full answers to them, as shall, I trust, in the generall, abundantly clear the *Parliaments Authoritic, Innocency, Integrity,* against all their clamorous malignant Calumnies, convince their Judgements, satisfie their consciences, and put them to everlasting silence, if they will without prejudice or partialitie, seriously ponder all the premises, and ensuing *Appendix*, which I have added for their further satisfaction, information, conviction; and the confirmation of all forecited domestick Laws, Presidents, by forraign examples and authorities of all sorts. And if any shall yet continue obstinate and unresolved after many convincing Reasons, Presidents, Authorities, or still retain an ill opinion of the Parliaments proceedings; I shall desire them onely seriously to consider, the most execrable conspiracy of the Pope, Jesuites, and Popish party in all His Majesties three Realms to extirpate the Protestant Religion, subvert the Government, Parliament, and poyson the King himself, (if he condescend not to their desires, or crosse them in their purposes,) whom they have purposely engaged in these warres, still continued by them for this very end, to enforce the King to side with them, and so gain possession of his person, to accomplish

* John 11. 50.
51. c 18. 14.

* 1 Cor. 5.
1 Tim 1 20.
Fitzherbert,
Brook and Ash,
Title Excom-
municen. Sum.
ma Angelica,
Rosell and o-
thers, Tit. Ex-
communication.

plish this designe of theirs; (as is cleerly evidenced to all the world, by *Romes Master-Peace*, the *English Pope*, the *Declaration of the Lords and Commons*, concerning the *Rise and Progresse of the Irish Rebellion*,) and then advisedly to consider in what great present danger the Kingdom, King, Parliament, and Religion are, when the Popish Partie, and forces now in Arms have gained the Kings, Princes, and Duke of *Yorkes* persons into their custodie, the Cities of *Chester*, and of late *Bristoll*, the Keyes of *England*, with other Ports, to let in all the Irish Rebels upon us, to cut our throats in *England*, as they have cut above an hundred and fortie thousand of our Protestant brethrens throats already in *Ireland*, it being one part of their designe, now presently to be executed, as appears by sundry Examinations in the Irish Remonstrance; for which end, some thousands of Irish Rebels (who have all embrued their hands there in English blood,) are already landed here, and are in great favour and command about the King; To which, if they adde the omnipotent over-ruling power of the Queen (the Head of that partie) with the King, and his Councell, in disposing all Officers, all places of command and trust under him: The Confederacie and Contributions of forraign Popish States, to maintain this warre to ruine the Parliament, Kingdom, Religion, and re-establissh Popery in its universall extent; with the large progresse the Papists have lately made in *Ireland*, *Scotland*, and *England*, to accomplish this their long-agitated Conspiracie; and the late strange proceedings in *Ireland*, where the best Protestants are displaced, disgraced, restrained; the Popish Rebels advanced, and a truce negotiated, if not fully concluded with the Rebels, to the end that all their forces may be speedily transported hither to ruine our Religion, and cut all our throats (enough to awake the most stupid English spirits, and rouze them, up to a speedy unanimous resolution to unite all their purses, and forces to the Parliament, against the Popish Conspirators, and these bloody Butchers now ready to devour us :) and then I doubt not, if they have any true love to God, Religion, King, Countrey, themselves, or their Posterities, they will soon change their former opinions and practises against the Parliaments just proceedings, and joyn hearts, hands, forces, yea, their uttermost endeavours with them, to prevent and ward off that imminent destruction which now hangs over our heads, and will in short time wholly ruine us, if God open not our eyes, and unite not all our hearts and mindes unto the Parliament, with one unanimous resolution to oppose these cursed Confederates, who have plotted, occasioned all these warres and miseries, under which our Kingdomes now groan and languish; which long plotted Treacherie in humane probabilitie can no wayes be prevented, nor a settled peace, and Reformation established, but with the totall suppression of the Popish partie now in Arms, and by rescuing His Majesties person, Children, forces out of their Trayterly hands and power, whose death they have conspired long agoe, if he refuse to grant them an universall open toleration of their Antichristian Religion, in all His Kingdoms, and then to seise upon the Prince, and train him up in their Religion; which how easie it is for them to effect, now they have the King, Prince, Duke, the Kings-Ports, his Forces in their power, yea potent Armies of their own in the field here, and such a force

force of Irish Rebels now ready to be shipped over to *Chester, Milford, and Bristol*, for their assistance, and enforcement, to over-power the Protestant party in the Kings Armies, no understanding man can without fear and trembling, consider.

O then, if ever we will shew our selves faithfull, valiant, couragious, magnanimous, bountifull, really cordiall, and loyall to our King, Kingdoms, Countrey, Parliament, Religion, LAWS, Lives, Libertics, Kinred, Families, Posterities; Let all who professe themselves Protestants lay aside all causelesse jealousies and prejudices against the Parliament, or any others; and now speedily unite all their Prayers, Hearts, Hands, Purfes, Forces, Counsells, and utmost endeavours together, to defend, secure them all against these forraign and domestice Jesuiticall Romish Confederates; and if any prove traitorous, fearfull, cowardly, unfaithfull, base, or faint-hearted in this publike Cause, as too many, (who deserve to be made spectacles of treachery and cowardise to posteritie, and cannot without injustice or dishonour to the Parliament and Kingdom, be suffered to scape scot-free, without severe exemplary punishment,) have done, to their eternall infamy, and betraying of their Countrey; the present generations shall abhorre them, posteritie curse, and declaim against them, as most unnaturall Monsters, unworthy to breath in English ayre, or enjoy the name, the priviledges of English men, or Protestants. There is a double kinde of Treachery in Souldiers, both of them adjudged Capitall. The first proceeds from a *sordid pusillanimous fear*, unworthy the spirit of a Souldier: and this is Capitall, both by the Civill and Common Law. By the * *Civill Law*; *The Souldiers who first begin to flye, or but faine themselves sick, for fear of the Enemy, are to be adjudged to death for their cowardize. Yea Lucena and Demetria, two magnanimous Women, slew their timorous sonnes, who fled basely from the battle, with their own hands, disclaiming them as degenerous Brats, and not their sonnes; the latter of them inscribing this Epitaph on her sonnes Tombe.*

*Hunc timidam Mater Demetrium ipsa peremit,
Nec dignum Matre, nec Lacedaemonium.*

Indeed * *Charondas* and the *Thurians*, enacted, *That cowards who basely fled or refused to bear Arms for their Countries defence, should sit three dayes one after another in the open Market-place, clad in Womans apparell; (a punishment farre worse then death it self, writes Diodorus Siculus) whereas all other Lawyers made it Capitall; yea, our * Common Law adjudges it Treason: Witnesse the notable Cases of Gurnes and Weston, 1. R. 2. num. 38, 39. who were adjudged Traytors in Parliament. for surrendering two Castles in France, onely out of fear, when they were strongly besieged, and battered, sooner then they needed, without any complency with the enemy: The Case of * John Walsh Esquire, accused of high Treason in Parliament against the King and Kingdoms, for yeelding up the Castle of Cherburg in France, to the enemy, when as he might have defended it. And the Case of * Henry Earl of Essex, in the second yeer of Henry the second, accused of high Treason, by Robert de Monfort, and vanquished by him in a Duell, waged thereupon; for throwing down the Kings Standard (which he bare by inheritance) and flying, in passing a straight, among the Mountains, when fiercely encountred by the Welsh. For which*

* D. L. omne delictum 6. f. 67. qui in acie Rebuffus in L. liberorum sect. et anim. Henricus Bocerus, lib. 1. de Bello, cap. 13. p. 49. 50.

* Diodorus Siculus Bibl. hist. l. 12. sect. 15, 16. p. 420. * See Here part. 2. p. 24

* *Walshes hyst. Angl. pag. 337. Daniels hyst. p. 81.*

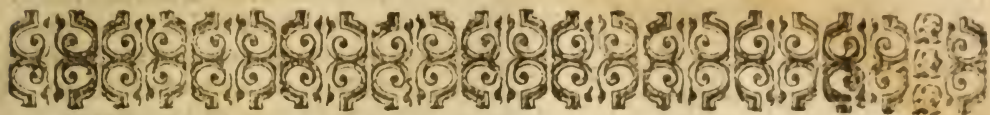
which, though his life was pardoned, yet he was adjudged to be shorn a Monke, put into the Abbey of Reading, and had his Lands seised into the Kings hands. And as
 * D. 1.3. sect. is for * treacherous revolting to, or delivering up Castles to the Enemy, it is Capitall, and
 qui ad hostem high Treason by all Laws, and so resolved in Parliament, 3. R. 2. in the Case of
 Henricus Boce- * Thomas Keirinton Esquire, accused of high Treason by Sir John Ann. sleigh Knight,
 rus de Bello. l. 1. for delivering up the Castle of Saint Saviour in the Isle of Constantine, to the French,
 c. 13. p. 48. for a great summe of Money, when as he neither wanted provisions, nor means to defend
 * Walsingham. it. As for those unnaturall Vipers, and Traytors, who shall henceforth (after
 bist. Angl. p. this discovery) joyn with the Popish Conspirators, to ruine their Religion,
 245, 246. Countrey, and the Parliament, for private ends, as * Count Julian the Spaniard
 See Rastall. joyned with the Moors, An. Dom. 713. whom he brought into Spain, his native
 Captains and Countrey, furiously pursuing his own private injury with the Ruine of the publike. I
 Cook 6. Rep. f. 27. shall onely bestow his Epitaph upon them, with which I shall conclude this
 * The generall Treatise. *Maledictus furor impius Juliani, quia pertinax; & indignatio, quia
 History of dura: vesanus furia, ammosus furore, oblitus fidelitatis, immemor religionis,
 Spain, l. 5. p. contemptor divinitatis, crudelis in se, homicida in vicinos, reus in omnes. Memoria
 153, 154. ejus in omni ore amarescit, & nomen ejus in aeternum putrescet.*



FINIS.



An



AN APPENDIX:

Manifesting by sundry Histories and Authors, that in the ancient Roman Kingdome and Empire; in the *Greek and German Empires*, derived out of it; in the old *Græcian, Indian, Ægyptian* Realmes; in the Kingdomes of *France, Spaine, Italy, Hungary, Bohemia, Denmarke, Poland, Sweden, Scotland, yea, of Judah, Israel*, and others mentioned in the Scripture; the *Supreamme Sovereignty and Power, resided not in the Emperours and Kings themselves, but in their Kingdomes, Senates, Parliaments, People, who had not on'y a power to restrain, but censure and remove their Emperours, and Princes for their Tyranny and misgovernment.*

With an Answer to the Principal Arguments, to prove Kings above their whole Kingdomes and Parliaments, and not questionable nor accountable to them, nor censurable by them for any exorbitant Actions.

HAVING finished the preceding Treatise; which asserts, *The Supreamme Authority and Sovereigne Power in the Realme of England, legally and really to reside in the whole Kingdome, and Parliament, which represents it, not in the Kings Person, who is inferiour to the Parliament: A Doctrine, quite contrary to what Court Prelates and Chaplaines have for sundry yeeres inculcated into our Kings and People (who preach little else but Tyranny to the one, and Slavery to the other, to support their owne Lordly Prelacy, and hinder an exact Church Reformation) and directly opposite to the resolutions of many malignant Courtiers, Lawyers, and Counsellours about His Majesty; who have either out of ignorance or malice, created him a new Utopian absolute Royall Prerogative, unknowne to our Ancestors, not bottomed on the Lawes of God or the Realm; for maintenance of each Puntilio whereof, against the Parliaments pretended Encroachments, the whole Kingdome must be engaged in a destructive civill Warre, now like to ruine it: I could not but conjecture, how in all probability these Clergy men, Courtiers and Lawyers, out of their unskilfulnesse in true Divinity, History, Law, and Policy would upon the first tydings of this strange Doctrine, passe a sentence of Excommunication and death against it, as guilty not onely of Heresie, but High Treason; and judge it such a monstrous Antimonarchicall Paradox as was never heard of in, much lesse claimed or practised by any Kingdome, Realm, or Monarchy whatsoever: To anticipate which rash censures, and undeceive both Kings and Subjects whom these grosse Parasites have over-long seduced in this point, to their prejudices, convince the consciences of all gainsaying Malignants, irradiate this long obscured verity, whose seasonable discovery, may through Gods blessing, conduce very much to period the present*

Differences between King and Parliament, touching matters of *Prerogatives* and *Priviledges* claimed by either; I conceived it, not only expedient but necessary, to back the forecited presidents of our own Kingdom with paralleled examples in most forraign Realmes and Monarchies (in which it is not mannerly to be overbusie without just cause) which I have faithfully (though suddenly) collected out of the best approved Authors and Historians; whereby I shall infallibly prove, that in the *Roman* State and Empire at the first, in the *Greek* Empire since, in the *German* Empire heretofore and now; in the ancient Kingdomes of *Greece*, *Egypt*, *India*, and elsewhere; in the Kingdomes of *France*, *Spaine*, *Hungary*, *Bohemia*, *Denmarke*, *Sweden*, *Poland*, *Scotland*, and most other Kingdomes in the world, (yea in the Kingdomes of *Judah* and *Israel*, and o hers mentioned in Scripture) the Highest Sovereigne Authority, (both to elect, continue, limit, correct, depose their Emperours and Kings, to bound their royall power and prerogatives, to enact Lawes, create new Offices and formes of Government) resided alwayes in these or Princes persons, I shall begin with whole Kingdomes, Senates, Dyets, Parliaments, People, not in the Emperours, Kings, the Roman State, as having much affinity with ours, * which was long under their command heretofore.

* See Camb. Br. Matb. 11. 11. 11.

Polychr. Fabian, Holinsb. Speed, Graffton, Grimston.

(a) Livy, Rom. Hist. l. 1. Plut. Romul. & Numa Pomp. Dionys. Hal. Antiq. Rom. l. 1. Munster Cosmog. l. 2. c. 63. p. 280.

After the building of *Rome* by *Romulus* and *Remus*, (a) *Romulus* being elected King, divided the people into two Ranges; those of the highest and richest quality, he stiled *Senators*, making them a *Court of Counsell and Justice*, much like our *House of Peeres*; the other he termed *The People*, being the body of the State, and representing our *House of Commons*. In this distinction, made by the Peoples consent, the Sovereigne Authority to elect Succeeding Kings, to enact binding Lawes, to make warre, or peace, and the like; rested not in the Kings person, but in the Senate and people joyntly, if they accorded; yet principally in the people, in case either of assent or dissent between them; their very Kings and Lawes having their greatest power and efficacy chiefly from the peoples election and assent.

(b) Plutarchi Numa Pompil. Dionys. Hal. l. 1. 1. 1.

To begin first with their Kings Election and Authority. (b) when *Romulus* their first King deceased, there arose a great controversie in *Rome* about the Election of a new King; for though they all agreed to have a King, yet who should chuse him, and out of what Nation he should be elected, was then controverted. In the *Interim* to avoid confusion, the Senators, being 150. divided the Regall power between them, so as every one in his turne in Royall Robes should doe Sacrifice to the Gods, and execute Justice six houres in the night time, and six houres in the day; which tended to preserve an equality among the Senators, and to diminish the envie of the people, when in the space of one night and day, they should see one and the same man, both a King and a private person. But the people disliking this *Interregnum* (as tending to put off the Election of a King, that the Senators might keep the principallity, and divide it among themselves) (c) cried out, that their bondage was multiplied having an hundred Lords made instead of one, neither would they suffer it any longer, unlesse they would admit a King, created by themselves: Hereupon the Senate, thinking it best to offer the people that, which they were like to lose, to gaine their favour, *Summa potestate populo permissa*, permitted to the people the chiefe power of Electing a King: but yet that they might not give away more right, then they deteined: they decreed, That when the people had commanded and elected a King, it should be ratified, if the Senators should approve it, or be reputed the authors of it: Then the *Interrex* assembling the people, spake thus unto them: O *Romans* REGEM ELIGITE, chuse ye a King: so the Senators thinke fit, and if he be one worthy to succeed.

(c) Livie Rom. Hist. l. 1. f. 14. 15. Edit Fran- cosurti, 603. Dionys. Hal. l. 1. 1. 1. 1.

Romulus,

Romulus, they will approve him. This was so gratefull to the people, that lest they should be overcome with the benefit, they commanded, that the Senate should decree who should reign at Rome. At last, *Numa Pompilius* was named; and none of the people or Senate daring to preferre any before him; all of them joyntly decreed, that the Kingdom should be conferred upon him. Whence *Canubius* the Tribune of the people in his Speech against the Consuls, long after, used these words (d) *Numa Pompilius POPULI JUSSU Patres auctoribus, Rome Regnavit. Reges exacti JUSSU POPULI*: which manifests, the chiefe power to be in the people. *Numa* departing, (e) *Tullus Hostilius* by the peoples command, consent and approbation was made King, which *Livy* thus expresseth; *Tullum Hostilium REGEM POPULUS JUSSIT, patres auctores facti*: After him the people created *Ancus Martius* King (f) *Regem POPULUS CREAVIT; patres fuere auctores*: After him (g) *ingenti consensu Populus Romanus Tarquinium REGNARE JUSSIT*: The People of Rome with great consent commanded *Tarquin* to reign. But he dying; *Servius* having a strong Guard to defend him (h) *primus injussu populi, voluntate Patrum Regnavit*, was the first that reigned without the command of the people, by the Senates consent; yet doubting his title for want of the peoples votes, and young *Tarquin* his Competitor, giving out speeches, (i) *se injussu populi regnare*, that he reigned without the peoples command; he thereupon so courted the Commons, by dividing the Lands he had taken from the enemies among them, that at last he appealed to the people, *Vellent nolent in se regnare?* whether they would or would not have him reign? *tan- toque consensu, quanto hand quisquam alius ante rex est declaratus*. But *Tarquin* the Proud affecting the Kingdom slew *Servius*; and (k) *Non Comitibus habitis, non per suffragium populi, non auctoribus Patribus*: without the Election of the people or Senate, usurped the Crowne; *neque enim ad jus regni quicquam prater vim habebat, ut qui neque populi jussu, neque Patribus auctoribus regnaret*, writes *Livy*: Whereupon reposing no hope in the love of the people, he endeavoured to defend his usurped Sovereignty by force: to which purpose, he of himselfe, without the Senate or Counsell, tooke upon him the consufance of Capitall offences; and by colour hereof, not onely to slay, banish, and plunder those whom hee suspected or hated, but even those from whom hee could expect nothing but prey. Then he lesseneth the number of the Senate to diminish their esteeme and power, and at last to subvert it. Hee was the first of Kings who dissolved the Custome used by all his Predecessours, *De omnibus Senatuum consulendi*, of consulting with the Senate about all affaires, and administred the Common-wealth by his domesticke Counsels; making Warre, Peace, Truces, Leagues with whom he would, *injussu populi & Senatus*, without the peoples and Senates command; which Tyrannicall Usurpations of his, with his ravishing of *Lucretia*, caused *Brutus* and the incensed *Romanes* to rise up in Armes against him; deprive him of His Crowne, banish him, his Wife and Children, utterly to abolish the Kingly Govern- ment by a Decree, and to take a (l) *solemne Oath*, (lest afterward they might bee overcome by Royall intreaties or Gifts) *That they would never suffer any King to Reigne in Rome*: Which act of *Brutus* and the People is highly magnified by *Livy* and (m) *Tully*. This done, the (n) people created two annuall Consuls, who had the Power, but not the name and continuance of Kings, *Annuum imperium con- sulare factum est*: *Brutus* the first Consull was slaine, whilest hee was Con- sull, and *Valerius* his Companion being suspected by the People to affect the King- dome, because hee demanded no new Companion: *Valerius* heereupon calls

(d) *live Rom. hist. l. 4. p. 4.*

145.

(e) *Livie l. 1.*p. 7. *Dionys. Hal. l. 3. c. 10.*(f) *Livie l. 1. p.*15. *Dionys. Hal.*

l. 3. c. 9.

(g) *Livie l. 2. p.*28. *Dionys. Hal.*

l. 3. c. 10.

(h) *Ibid, p. 32.**Dionys. Hal. l. 4.*

c. 1. 2.

(i) *Ibid.*(k) *Ibid p. 36.*37. 8. 44. *Ti-**onys. Halicar.*

l. 4. c. 5 to the

end.

(l) *Livie l. 1.*p. 45. 47. *Dionys.**Hal. l. 4. c. 10.*

l. 5. c. 1.

(m) *De officiis*

l. 3.

(n) *Livie l. 2.*p. 47. *Dionys.**Halicar. l. 5. c.*

1. 2.

(o) *Livy* *ibid.* the people together (o) *lays downe his Fasces (the badges of his Sovereignty before them)* which was a gratefull spectacle to the people, *confessionemque factam*; *Populi quam Consulis Majestatem vimque majorem esse*; and a confession made, that the People had greater Sovereignty and Power then the Consul, who yet had regall Jurisdiction. And then there were Lawes enacted, of appealing from the Consul or Magistrate to the people, and that hee should lose both his head and goods, who should but consult to usurp the Kingdome.

In briefe, it is clearly agreed by (p) *Dionysius Halicarnassens*, (q) *Polibius*, (r) *Livy*, (s) *Alexander ab Alexandro*, (t) *Bodin*, (and (v) *most* who have written of the Roman Republike) that the Sovereigne Authority among the Romans, during their Kings, Consuls, Dictators, and other Magistrates, was originally vested, not in the Kings, Senate, Consuls, or other Magistrates, but in the whole body of the Senate, and People; the People had the chiefe Sovereigne Power of enacting and confirming Lawes, (the Senates Decrees and Lawes being of no validity, unlesse the People ratified them) of creating and electing Kings, Dictators, Tribunes, and all other great publike Officers; of denouncing warre, and making Peace: these Tribunes, and Dictators might restrain, curb, imprison, censure, depose the Roman Consuls (who had Regall Power) yea, the Roman Kings, Senators, and highest Officers; and to them the (x) last appeale from King, Senate, or other Magistrate might be made, as to the highest Tribunall: they having power likewise to (y) change or annull the very frame of their publike Government, which they oft times did, as these Authors prove at large, to whom for brevity I referre the Reader. Yea, after the Roman Empire (the greatest, largest Sovereignty in the world) was created, the Supream Power still rested in the Senate and People, not in the Emperors themselves, which (z) *Bodin* grants and proves. This is clearly evident by these ensuing particulars: First, the Senate and People had sole right and lawfull power both to elect and confirme their Emperors, and to decree them new Honours, Titles, Triumphs; which power of election, though some Emperors in a sort usurped, by adopting their Successors, and the Roman Soldiery too, by presuming sometimes to elect Emperours without the Senate; yet these adoptions and elections were not held valid, unlesse the Senate approved and confirmed them, who usually elected all their Emperors, as of right, according to that of the Panegyrist, *Imperaturum omnibus ex omnibus elegi debere*; *Plinius Panegy. Trajano dictus*, and *Jacobus Valdesius*, c. 18. This appeares by the election and confirmation of most Emperors from (a) *Octavius* to *Leo the first*, and more particularly by the Senates and Peoples election and confirmation of *Nerva*, *Pertinax*, *Severus*, *Gordianus*, *Maximus*, *Pu- piennus*, *Clodius Balbinus*, *Philip*, *Decius*, *Trebonianus*, *Galiennus*, *Claudius the second*, *Tacitus*, *Probus*, *Iovianianus*, *Aurelius*, and others. This right of the Senate was so cleare, that (b) after the death of *Aurelianus*, the Army sent word to the Senate, that (as reason was) they should chuse and name an Emperor, and that they would obey him. After six months space (during which time the Empire was governed by the Senate) the Senate made choice of *Tacitus*, who earnestly refused the same at first, but in the end accepted thereof, to the great joy of the Senate and Roman people. After whose decease (c) *Probus*, being chosen Emperor by the Legions and Army, he presently wrote a letter to the Senate, excusing himselfe for having accepted the Empire without their knowledge and confirmation; whereupon the Senate confirmed his election with many blessings, gave him the name of *Augustus*, Father of the Countrey; made him High Priest, and gave him Tribunall Power and Authority.

Secondly,

Secondly, This is manifest by the confessions, and Actions of the best Roman Emperours. (d) Volateranus writes of Trajan (the (e) best heathen Emperor that Rome enjoyed, that he used to call the Senate, Father, but himselfe their Minister, or Servant of their labour; And that standing, he did reverence to the Consuls sitting, quia SE ILLIS INFERIOREM EX LEGIBUS esse REPERIRET, because he found by the Lawes he was inferior to them. Whence (f) Dion, (g) Niciphorus, and (h) Speed record of him; that when he invested any Prætor or Commander, in giving him the sword, he openly commanded him before all, to use the same even against his owne person, if he governed not the Empire well, or violated Law and Equity; confessing thereby, that he was subject not only to the Lawes, but to the sword of Justice too, in these Officers hands in case he did offend, much more then to the Senate. I read of the Emperor (i) Decius, elected by the Senate; that he preserved the authority of the Senate, (who compelled him to make his Sonne his companion in the Empire) following their Counsell in all matters of Government, governing all things with great wisdom and equity, by the advice and consent of the Senate, to the great contentment of all the Roman People; and going into Thracia against the Gothes, he left the Government in the hands of the Senate; permitting them to chuse a censor at their pleasure, who had Supreme Jurisdiction over all men; which office some former Emperours had usurped, making themselves Censors. So (k) Claudius the second, and Tacitus did nothing without the consent, advice, and counsell, of the Senate, either in matters of Warre or Peace. And (l) Polybius writes expressly, That the Roman Emperours Counsels and purposes were efficacious, or invalid, at the pleasure of the Senate, which had power to remove or continue them, to increase or abridge their power and wealth; to decree or deny them triumphs, towards which they contributed; and that they could neither make warre, nor peace, nor truces, without the peoples consent. Their Emperours in truth, being but their chiefe Generals in their warres, at the first, in right.

Thirdly, They had power to create one, two, or more Emperours at once, as appeares in their election of (m) Gordianus, the Father and Sonne to be Joint-Emperours at once, and of Maximus Pupienus, and Clodius Balbinus, and Gordianus, to be Casars at once. And those who could thus create more Emperours then one, when they pleased, no doubt had a power above the Emperours.

Fourthly, They had a Sovereign power, judicially to convent, censure, yea to depose, and adjudge their Emperours to death, for their tyranny and misgovernment: this appeares by the case of Nero, that wicked Emperour (n) whom the Senate judicially deposed, condemned for his tyranny and misgovernment, as a publique enemy to the State, adjudging him to have his head fastned to a forke, and so to be publicly whipped to death, and then precipitated from a rock: upon which sentence he being sought for, and forsaken of all, to avoyd the execution of it, murdered himselfe with a poynard. So when (o) Domitian was slain, the Senate assembling the same day, caused all his Statues to be thrown downe, and all the inscriptions and memorials of him to be cancelled, defaced; and elected Nerva Emperour. (p) Didius Julianus who purchased the Empire by bribing the Soldiers, comming to Rome with an Army, went to the Senate, where assembling such Senators as were present, by their decree he was proclaimed Emperour, and they presently made his Son in law Cornelius Repentinus Prætor of Rome, putting Sulpicianus out of that office, and from thence he was caried to the Imperiall Pallace, and held for Emperour, more through force, then good will of any honest men: But the people hate-

(d) Cunn. histor. l. 23. f. 38.
 (e) See Europ. Sabellius, Zonaras, Grimston, Munster in his life: Paneg. Trojano dictus.
 (f) In vita Trajani.
 (g) eccles. H. A. l. 3. c. 23.
 (h) History of Gr. Brit. p. 95.
 (i) Grimstons imperiall Hist. in his life, p. 181. Munst. C. 9. m. l. 2. c. 63.
 (k) Grimstons imperiall Hist. p. 196. 205.
 (l) Hist. l. 6. p. 530. 531.
 (m) Grimston, ib. d. p. 171. tom. 176. Munst. Cosmog. l. 2. c. 63.
 (n) Grimston, Suetonius, Eutrogius, Zonaras Volateranus, Sabellius, Math. Westm. Polychronicon, Opius Chron. Chroniconum, Speed, and others in his life.
 (o) Grimston, Eutropius, and others in his life.
 (p) Grimstons imperiall Hist. p. 160. Munster Cosmog. l. 2. c. 63. p. 2. 2.

ing, and cursing him; at last, a full Senate being assembled, by the common consent of all the Senators, it was decreed, that Julianus should be deprived of the Empire, as a man unworthy to rule, and Severus proclaimed Emperour; to whom two of the principall Senators were sent to yeild him their obedience, with the Ensignes of the Empire, and Julianus being generally abandoned, they commanded him to be slaine in his pallace. (q) Helioabalus (that monster of wickednesse) was slaine by the prætorion Souldiers by the Senates and peoples approbation, who commanded he should no more be called Antoninus, and that in detestation of him, no other Emperour should after that be called by this name, and that he should be called Tiberinus, according to the manner of his death, his body being tyed to great stones, and sunke in Tiber, that it might never be found. So (r) Maximinus the Emperour oppressing, and Tyrannizing over the people, with great cruelty, was deposed by the Senate, and he, with his sonne (though already made Caesar, and declared Emperour) adjudged enemies and Rebels; and Gordianus with his Sonne elected and proclaimed Emperours by the Souldiers, people, and Senate of Rome. After which they, considering the great power of Maximinus, to secure the City, made great preparations to resist him, and writ letters to all their Provinces, that (s) all those Governours that Maximinus had there placed should be displaced; which direction was generally obeyed, and the Governours most of them slain. Thereupon Maximinus then in Hungary, posts with his Army, and Son towards Rome; and young Gordianus being slain & his Father strangled in the interim; the Senate assembled in the Temple of Jupiter, chose Maximus Pupienus and Clodius Balbinus Emperours, and to please the people which consented not to their election, they likewise named young Gordianus Caesar, and raised forces to resist Maximinus, who lying before Aquilia, his Souldiers hearing that he, with his Sonne were proclaimed Rebels at Rome, and new Emperours elected, came boldly to their Pavilions about noone, slew them, and sent their heads to Rome. By these, with sundry presidents of like nature, it is apparent, that the Sovereigne power and Jurisdiction, even after the Roman empire erected, continued still in the Senate and people, to whom the Emperours were responsible, by whom they were deposed, yea put to death for their misdemeanours and offences against the state, and oppressions of their Subjects: Which power they retained till the Emperours removed their Courts from Rome to Constantinople, by which meanes the authority of the Senate, and dignity of the Consuls was almost wholly lost by degrees, in Justine the seconds reigne.

After the seat of the Empire was translated to Constantinople, the Senate, People, Souldiers, and Patriarchs of Constantinople, claimed a right, and power to elect their Emperours, to prescribe conditions, and Oaths unto them before they were crowned; as also a power in some cases to depose them, yea execute them, as you may read at large in their (t) lives; Of which I shall recite some instances. (v) Julian the Apostate dying, Jovinian, assensu omnium, by the joynt assent of all the Souldiers, Captains, and people was elected Emperour; who absolutely refused the Empire, saying; that he being a Christian would not be an Emperour over Infidels: But all men were so pleased with his election, that they cryed out aloud saying; we are all Christians; And for his sake, those which were not so, resolved to become Christians, upon condition that he would accept the Empire; which he thereupon accepting, with incredible joy and gladnesse, they swore obedience to him, and gave him the Imperiall Ensignes. He being casually smothered to death; (x) Valentinian the first was by the joynt consent of the Captains and Souldiers, chosen Emperour: after which, the Empire went by descent till the death of Valentinian the second and then (y) Mariannus by means of Eudoxia, with the Senates and Patriarchs assent

(q) Grimston
ib. p. 160.

Ælii Lampridii
Helioabalus,
Zonaras, Sabel-
lic, and others.

(r) Grimst. in
his life p. 170,
to 174. with
Jul. Capitol,
Sabellicus,
Munster, and
others.

(s) Grimston
p. 344.

(t) See Munst.
Colm. l. 4. c. 59.
Zonaras, Nau-
clerus, Sabellicus
Grimston, and
others.

(v) Ioannes Zo-
naras, Annal.
Tom. 3. p. 96.
Grimst. p. 245.
Eut. opin. l. 1.
p. 154. See
Munsteri Cosm.
l. 4. c. 9.
throughout.

(x) Zonaras ib.
Grimst. p. 47.
and Munster,
l. 4. c. 9.

(y) Zonaras.
Tom. 3, f. 123.

assent, was elected and crowned Emperour: After whose poisoning (z) *Asper* sought to have been his Successor; but being an *Arrian*, the orthodox Christians of *Constantinople* would by no means elect him; whereupon, *accepta a populo potestate*, he named *Leo* Emperour, having received power so to doe from the people, *Leo* adopting one of *Aspers* Sonnes *Casar*, the *Senate and people* were so much displeas'd at it, fearing that an *Arrian* should reigne over them, that they went tumultuously to the Emperour, desiring him to remove him from that dignity, who soone after slew both him and his father. (a) *Basiliscus* usurping the Empire against the *Senates and peoples consents*, who hated him for his Tyranny; the people sent for *Zeno*, whom he expelled, received him into *Constantinople*, and restored him to the Empire; After whose death (b) *Anastasius*, de *sententia Senatus & Legionum*, was elected Emperour by the *Senates and Legions* decree. He dying, (c) *Justinus*, by the generall consent both of the *Senate, people, and Souldiers* was elected Emperour, though but a swineheard in his yonger dayes; who creating *Justinian* for his Successor, the people gave keir consents thereto, with happy acclamations. So (d) *Constans* the second was made Emperour by the *Senate of Constantinople*. (e) *Philipicus* usurping the Empire against the peoples and *Senates* liking, they rose up against him, deposed him: and as (f) *Beda* (g) *Marianus* (h) *Otho Frisingensis* and (i) *Abbas Uspergensis* write; The people of *Rome* decreed, that neither his name, nor letters, nor coyne should be received. And the (k) *Senate and people of Constantinople* created *Anthemius* Emperour in his place, giving him the name of *Anastatius*. Thus (l) *Michael Curpalata* was created Emperour by the *Senate* in the life of *Stauratius* who intended to leave the Empire to *Theophanon* his wife. So (m) *Theodora*, atoto *Senatu, populo & sacerdotibus*, was elected and saluted Empreffe. (n) *Isatius Angelus* was elected Emperour, and *Andronicus* deposed, apprehended and put to death by the people of *Constantinople* for his tyranny and oppression. After whose death (o) *Baldwin Earle of Flanders*, a *Frenchman*, was elected Emperour by the *Souldiers and people*, upon condition, the *Venetians* should elect the *Patriarch*: in whose blood the Empire continued (p) four descents and then returned to the *Greekes*. And as the *Senate and people of Constantinople* had thus the right of electing their Emperours, so likewise (q) they and the *Patriarch of Constantinople* prescribed a conditionall *Coronation-oath* to divers of them, which they were to take before they were crowned, and to deliver it under their hands in writing. *Anastatius Dicori*, being chosen Emperour after *Zeno* his death, (r) *Euphemius* the *Patriarch of Constantinople* before he would crowne him, exacted of him a confession of his faith in writing, wherein he should promise, that he would innovate nothing in *Eclesiasticall Doctrines &c.* whereupon he delivered a writing to the *Patriarch*, wherein he professed, that he did embrace all the *Tenents of the Church*, and that he would keep all the *Decrees of the Councell of Chalcedon*; which done, he was crowned, and then presently tooke away the grievous tribute called *Aurargenteum*, which much oppressed the people. Thus when (s) *Michael Rungabis* was elected Emperour, and came to be crowned, *Nicephorus* the *Patriarch* first required of him a writing, wherein he should promise, that he would violate no ordinances of the *Church*, nor defile his hands with the blood of *Christians*: which conditions * *Bishop Bilson* grants, the people had power to prescribe, the Empire being elective, but not the *Patriarch* alone. And with all these *Patriarchs* sometimes presumed to excommunicate and keep their Emperours cut of the *Church* for murders

(z) *Zonara* ib. f. 124. *Crimst* p. 192.

(a) *Zonaras* ibid. f. 116.

(b) *Zonaras* ib. f. 127, 128. *Crimst* p. 306.

(c) *Zonaras* ib. f. 127, 128. *Crimst* p. 306.

(d) *Grim.* p. 347

(e) *Zonaras* f. 127

(f) *Def. x. Aetate mundi.*

(g) *In Philip.*

(h) *l. 5. c. 15.*

(i) *An. 713.*

(k) *Zonaras*

Tom. 3. f. 137

(l) *Zonaras*, ibid. f. 142

(m) See *Zonaras* ib. f. 168

(n) *Nicita Chroniata*, *Annales* f. 40.

(o) *Munst. Cosm.* 1. 4. p. 110

(p) *Munsteri Cosm.* 1. 4. c. 9.

(q) See *Bishop Bilson* true difference &c. part. 3. p. 494, 500.

(r) *Zonaras* *Annal.* *Tom. 3. f. 126.* *Cuspinian*, in *Annastatio.*

(s) *Zonaras* *Tom. 3. f. 122.*

(t) See (q) before.

(r) Zonaras An-
nal. Tom. 7.
f. 151, 162.

and such like offences, as appears by (r) *Polyenctus* keeping *John Zimiscea* out of the Church, and refusing to crowne him, till he had banished the Emperesse *Theophano* and those who slew *Nicephorus*; and by *Photius* his putting by the Emperour *Basilius* from the Sacrament, when he came to receive it, for homocidies committed by him.

(v) Grim. impe.
Hil. p. 291, 293.
See Mun. Cosm.
l. 2, c. 64, & l. 4.
c. 59.

Fifthly, The Roman Senate and people had power to divide the Empire, and to create a new Emperour at *Rome* in the West, distinct from that of *Constantinople* in the East: About the yeare of Christ 456 (v) *Genfericus* King of the Vandals waisting *Italy* and sacking *Rome* whiles *Marcianus* the Emperour resided at *Constantinople*, the Senators and Roman Gentlemen returning to *Rome* when *Genfericus* had lost it, wanting an Emperour to protect them, chose *Avitus* by common consent for Emperour of *Rome, Italy, and Sicilie*, of which *Marcianus* was very glad, and approved his Election: And not long after, whiles *Leo the first* raigned at *Constantinople*, the Senate successively elected *Olibrius* and *Glizerius* Emperours of *Rome, Italy, and Sicilie*; yea, the very finall division of this great Empire into that of the East and West, and the creation of a new Roman Emperour, and Empire of the West, with the transferring of the Imperiall Crown from the Greeke to the German line, was done by the authority, and joynt consent of the people, Senate, and Bishop of *Rome*, upon this occasion: as (x) *Blondus* (y) *Sabellicus* and (z) others relate. *Aistulfus* King of the *Lombards* invaded and spoyled those parts of *Italy* belonging to the *Romans*; who being unable to resist or pacifie him; the Bishop and City of *Rome* hereupon sent messengers to their Emperour *Constantine* to *Constantinople*, for ayd, assuring him, that unlesse he sent them ayd the City and whole Country would be subdued by *Aistulfus*: But whiles *Rome* and *Italy* were ready to sinke under those ruines *Constantine* had no manner of care to relieve them; and the messengers that were sent to him, signified by letters, that there was no looking for help from *Constantine*, either for that he would not, or could not, and therefore they must seeke some other way: In the meane time *Aistulfus* sent *Heralds* to menace the Bishop and people of *Rome*, that unlesse they would yeeld them selves and their City, he would come and take them by force, and kill man, woman, and child. Hereupon they being out of hope to pacifie the enemy, or to receive help from *Constantine*; the Pope, together with the people of *Rome*, determined to send messengers to desire ayd from *Pepin* father to *Charles the great*, then King of *France*, who sent them succour, subdued their enemy, and quieted *Italy*. After which, *Charles* likewise ayding and succouring both the Pope, and *Romans* against their enemies, and comming in person to *Rome*; the *Romans* (who in heart were long before fallen from the Emperour of *Constantinople*, because he began to neglect the City of *Rome*, and to leave it as a spoyle to the *Barbarians* and others) taking this occasion and opportunity, and grieving that the Empire of the world, which with their blood they had gotten, and established by their vertues, should be governed and ruined by *Irene* (a lewd woman) *Constantines* mother (who swayed all at her pleasure) did thereupon elect and proclaime *Charles* for their Emperour, and commanded Pope *Leo* to crowne him.

(x) Decad. I.
l. 1, 10.
(y) Enead. 2, 18.
(z) Bp. Bilsons
true difference
between Chri-
stian Subjecti-
on and unchri-
stian Rebellion
p. 41. to 416.
Naucleus vol. 3
Generat. 26.
An. 753. Sige-
bert. Chron. An.
801. Aeneas Syl-
vius de Autho-
rom. Imperii c. 9
Mun. Cosmog.
2. c. 4.

(a) Platina, (b) Blondus, (c) Naucleus, (d) Sabellicus, (e) Aventinus, (f) Sigebert, (g) Frisingensis, and (h) Aeneas Sylvius, all record; that this was done (not by the Popes authority alone, (as some late Romanists pretend, for he poore man had no such power) but by THE DECREE, DETERMINATION, ASSENT AND REQUEST OF THE SENATE AND PEOPLE OF ROME; who, tacito SENATUS CONSULTO PLEBIS CITOQUE DECERNUNT to transerre the Empire JURE SUO, By their owne right, from the

(a) In Leone 3.
(b) Decad. 2, l. 1.
(c) Vol. 3, Gen.
27, An. 800.
(d) Enead. 2, 18.
(e) Annal. 60, c.
rum. l. 4, f. 344.
(f) Anno 801.
(g) L. 5, c. 29.
(h) De Autho-
rom. Imp. c. 9.

the Greeks to the Germans, and from Constantine to Charles the Great: ever since which time it hath continued thus divided in the blood of Charles, and other French and German Princes. A most cleare demonstration, that the most absolute Sovereigne power and disposall of the Empire resided not in the Emperours themselves, but in the Senate and people, even from the very first Emperours, till this partition of the Empire (more then 800 yeares space,) and that their Emperours neglect to protect, to ayde them against their enemies when they needed, and craved help, was a iust ground for them to reject his Sovereignty; yea, to create a new Empire, and Emperour of another race, as (i) Pope Leo with all the Roman Clergy, Senate, and people then resolved; not only in point of State policy, but of Conscience too: upon which very (k) ground; not only the Spaniards fell off from the Roman Empire, electing them Kings, and erecting Kingdomes of their own: but likewise our (l) Island of Brittain (the fairest plume of the Roman Diadem) rejected the Roman yoke and Government, to which it had been subject almost 500 yeares; craving ayd against the Scots and Picts from the Saxons, who therereupon became their Sovereigne Lords at last, and dispossessed them of the Kingdome: Now, that these revolts and changes of the Empire in this case were lawfull even in point of Conscience, we have the resolution of Bishop Bilson himselfe, (in his Booke dedicated to Queen Elizabeth, wherein he professedly defends the Sovereignty of Kings) in these very words (m) The Roman State and Common wealth had as good right to dispose the Roman Empire, as all other Christian and Heathen Kingdomes and Countries had to settle the sword and scepter that Reigned over them. And since all (n) other Nations once members of the Roman Empire, were suffered to plant those severall formes of regiment which they best liked, and when the Right Heires failed to elect their owne Governours, I SEE NO CAUSE why the Romans might not provide for themselves as well as other Realmes had done before them; especially if the reports of your stories be true; that they were neglected by the Grecians, when they were besieged by the Lombards; and the scepter at Constantinople went not by descent, or succession, but by violent and wicked invasion, and usurpation. So he; with whom Cassanaus in his Catalogus Gloriamundi: pars 5 confid. 30. p. 248. accords. and Iacobus Valdesius, de Dignitate Regum Hisp. c. 18. n. 20, 21.

Sixthly, After this division, and translation of the Empire unto Charles the Great, the Roman Empire for a time, by permission and connivence of the French, & German States, went by succession till Charles the Grosse; after him wholly by Election, (o) the power of electing the Emperour residing in all the French & German Princes, till at last it was by consent, about the yeare 1001. translated to the 6, or rather (p) 7. Princes Electors: Yet during all this time the Sovereigne Power and Iurisdiction of the Empire resided only in the German Princes, States and Diets (not the Emperours themselves) who had power, not only freely to elect what Emperours they pleased, but also to censure, and depose their Emperours upon iust grounds, and to set limits to their Imperiall Iurisdctions. Not to trouble you with the Histories of (q) Ludovicus Pius, Otho the great, Henry the 1, 2, 3, 4, 5, 6, 7. Lotharius, Fredericke Barbarossa, Phillip, Otho the fourth & fifth, Fredericke the 2, 7. Albert the 1, Ludovicus Bavarius, Sigismond, and other Emperours, who were much affronted, persecuted, warred against, and some of them unjustly deposed and murdered by their Subjects, Sons, and the Princes electors, through the Popes procurement; I shall pitch only

(i) see Avenue, An. 1. 355, 321. Eccl. 11 d. Bishop. Bilson (2) before (k) Iacob Wald. de dignitate Regum Hisp. c. 18. Munf. Cosm. l. 2. c. 20, 21. (l) see Speeds Hist. p. 189 to 212.

(m) The true difference between Christian subiection and unchristian rebellion. part. 3 p. 416.

(n) Cassanaus catalogus glorie mundi pars 5, confid. 29. p. 245 246.

(o) see Munf., Cosm. l. 3, c. 22, and Grimstons Imperiall Hist.

(p) Grimst. Imp. Hist. p. 433, 535. 540, 571, 572. Munf. Cosm. l. 3, p. 410, to 414.

(q) see Grimst. Abbas Vpergensis, Naucivius, Rerum Germanicarum Scriptores, Munf. Cosmog. l. 3, Bp. Iewels veins of a seditious Bull. and others in their lives, and John White his Defence of the waz. 5, 6, p. 18 to 21.

(r) *Grimst. Imp. Hist.* p. 404.
Munf. Cosmog. l. 3, p. 384. *Hermolds Chron.* *Slavorum* l. 1, c. 7. *Iean Crespin Le state de Le gise* p. 263.

(s) *Munf. Cos.* l. 3, p. 415, 416, 404. *Grimst. Imp. Hist.* p. 576, 581, 582. *Iean Crisp. Le state de Le gise* p. 465.

(t) *Grimst. Imp. Hist.* p. 736, 737.

(u) *Munf. Cos.* l. 2, c. 64, p. 303, 33, p. 410, 418. *Grimston.* p. 737, 738.

(x) *Cosm. l.* 3, p. 382, 418.

(y) *Imp. Hist.* from Charles the great to the end.

(z) *Commonwealth.* l. 2, c. 5, p. 221, 222.

upon such presidents as are pertinent to my purpose (r) Charles the third surnamed the fat, though he came to the Empire by diligence, yet the Princes, Dukes, and Governours of the Provinces of Germany, and France, seeing his great insufficiency, and unaptnesse to governe (he being growne a very foole and having lost his understanding) did thereupon deprive him of his Empire, and other Kingdomes; and elected and crowned Arnolph Emperour in his stead: He being thus degraded both of Realme, Empire, and forsaken of all the world, not having so much as an house wherein to shroud himselfe, retired into a poore village of *Suabe*, where he lived some few dayes in execrable misery, and penury, and soone after dyed; not lamented nor pitied of any man: Which deposition of his, I have formerly proved lawfull; though his subsequent ill usage was no doubt dishonourable, and unjust. So the Emperour (s) *Wenceslaus* was deposed by the Princes Electors of the Empire, for his insufficiency to governe, and the little care he tooke to suppress and pacifie the civill warres and dissensions in the Empire, giving himselfe over to vaine pleasures and delights, which made his government dangerous, and unprofitable for the Empire, and Christian commonwealth; and *Rupert* made Emperour by them in his room. After this, about the end of (t) *Rodulph the second* his imperiall raigne, the Electors called a Dyet at *Nurenberg*, from whence they sent ambassadors to the Emperour to acquaint him with the State of the Empire; who told him, that the Electors required above all things a reformation of justice: That he should make choice of more faithfull officers and Councellors then formerly he had done: That a generall Dyet might be called the spring following: That the reason of the bad government of the commonweale was, for that his Majesty did not impart the important affaires of the Empire unto them, as his Predecessours had done &c. Whereupon he appointed a generall Dyet to redresse these disorders; but dying before the day, according to the golden Bull made in the yeare 1356 the Elector *Palatine*, and he of *Saxon*, were appointed *Vicars, Governours, and Administrators* of the Empire untill there were a King of Romans chosen to be Emperour. After which they elected *Mathias*, who as Emperour and King of the Romans (u) had not any City or Towne within the Empire, the whole Territory of Germany belonging to the Electors, Bishops, Abbots, Princes, Earles, Noblemen, and free Townes. What power the Princes Electors, and German states had, and yet have in electing, rejecting, deposing, restraining their Emperours; in calling *Diets*, and making Lawes, you may read more largely in (x) *Munster*, and (y) *Grimston*: By all which, and other particulars, which for brevity I shall omit, it is most evident, that the Supreme Sovereigne Authority of the Roman State, both under their ancient Kings and Emperours, and of the Greeke, and German Empires resided not in the Kings and Emperours themselves, but in their Senates, Diets, People, States, who prescribed them conditionall Oaths at their Coronations, and to whom they were still accountable for their actions and misgovernment, This (z) *John Bodin* (a famous learned French Lawyer, of great experience in State affaires, surpassing all who writ before him of Republickes) plainly affirms in these words. *The Roman Emperours were at first, nothing else but Princes of the Commonweale, that is to say, the cheife and principall men: the SOVERAIGNTY neverthelesse still RESTING IN THE PEOPLE AND SENATE, the Emperour having the Sovereigne authority only in fact, not in right: the State being but a very Principality, wherein THE PEOPLE HAD THE SOVERAIGNTY.* So the German Empire at this day

day is nothing else, but an Aristocraticall Principality: wherein the Emperour is head and chiefe, the POWER and majesty of the Empire BELONGING VNTO THE STATES THEREOF, who thrust out of the Government Adolphus the Emperour, in the year: 1296, and also after him Wenceslaus in the year 1400; and that BY WAY OF IVSTICE, AS HAVING IVRISDICTION AND POWER OVER THEM. (a) And so properly ancient Romins said: (b) Imperium in Magistratibus, Auctoritatem in Senatu, Potestatem in Plebe, Maiestatem in Populo; Command to be in the Magistrates, Authority in the Senate, Power in the Meniall People, and Majesty in the People in Generall. The Senate in Rome did consult, the people command: for Livy oft times saith: Senatus decrevit, populus iussit: the Senate hath decreed, and the People commanded; Which be there more largely prosecuted, as you may read at leysure. To all which (c) Bishop Bilson himself doth fully assent, affirming, that Germany is a free state, that the Emperour hold: the Empire by election, and that but on condition, which he takes an oath to performe. And if he violate their liberties, or his oath, they may not only lawfully resist him by force of armes, but repell and depose him as a tyrant, and set another in his place, by the right and freedome of their Countrey. And (d) Cassianus holds, that the people may take away the very name of the Emperour at this day, degrade him, and resume his royall power. This then being an unquestionable verity; disproves that palpable common mistake of (e) Dr. Ferne with other ignorant Court Doctors and Royalists, who would make the world and Kings beleve, that the Roman Emperours were of greater power and authority than the Senate, people; the highest powers upon earth to which all persons, yea the Senate and people collectively considered, ought to submit; and that it was unlawfull either for the Senate or people forcibly to resist Caligula, Claudius, Nero, and other their wickedest, and most tyrannicall Emperours: much lesse to depose, take armes against, or call them to a strict, just account for their Tyranny, Oppression, or Misgovernment, it being directly contrary to Pauls Doctrine Rom. 13. 1. to 6. Let every soule be subject to the higher powers, &c. which false groundlesse principle, is the sole foundation upon which all their late Sermons, Books, and rayling Discourses against this Parliaments proceedings and taking up of defensive armes are built; when as in truth, the Senate & people were the highest powers, to who the Roman Emperours themselves were to be obedient in all iust requests & commands, under paine of damnation, and subject to the Senates sword of iustice in case of disobedience & misgovernment, as all the premises evidence; yea it likewise manifestly evidenceth, that whole States & Parliaments are the highest power and above their Kings, who are subject to the, since the Romana and Greek Senates and people heretofore, & the very German States at this day are the highest power and above their Emperours, though ever reputed of (f) greater power, Sovereignty and dignity than any Kings, and the greatest Monarchs in the world: and that therefore Kings, even by Pauls Doctrine Rom. 13. ought to be subiect to the higher power and Iurisdiction of their Parliaments, the Laws and Statutes of their Realms; and to be accountable to them, if not subiect to their censures, as some affirme, in exorbitant cases of misgovernment which concern the Kingdomes and peoples safety. If Kings iniuriously take away the lands, goods, or imprison the persons of any particular subjects, the (g) Law gives every one a particular remedy against them by way of Action, or Petition of Right. If then every private subiect may have redresse, much more the whole Kingdome, (in and by Parliaments only not in inferior Courts) against

- (a) Bodin Com. l. 1. c. 10, 2. 157, &c.
- (b) Cicero Oratio pro Rabirio, Perd. reo.
- (c) Of the difference between Christian subjection, &c. part. 3. p. 513. to 521.
- (d) Catalogus Glorie Mundi pars. 5. Confid. 29. p. 246.
- (e) Resolving of Conscience sect. 1. 2. 3. A Revindication printed at Cambridge, 1643. and other late pamphlets.
- (f) Cassianus Catalog. Glorie Mundi pars. 5. confid. 27. & Iacobus Valdesius de Dignitate Regum Regnorumq; Hispania passim
- (g) 22. E. 3. 3. Error, 9. Fitzherberts Petition. The petition of Right 3. Caroli. See Ashes Tables Annuis 72. American. 8. entr. Cougeable 84. Entrusion 1. Petition and Traverses Offices throughout & Habeas corpus Hieron. Blanca. Aragon. Rerum Comment. p. 188. 589. 590. 724. 747. 80761.

their Sovereigns which oppresse them; who being subiect unto the Lawes of God and their Realmes, which *have* (b) *no respect of persons*, may as many affirme, be questioned and iudged by them in their Parliaments as well as other princes, great officers of State and Magistrates who in scripture are called (i) *Gods*, the *higher powers* and said to be (k) *ordained, to rule* (l) *judge by and for God*, as well, as *Kings and Emperours*. It is branded as a spice of (n) *Antichristian pride* in *Popes* and their *Parasites*, to deem themselves so *High above other men*, that they are accountable to none but God for their wicked actions, though many *Popes* in former and later times, have been (n) *questioned, censured, imprisoned and deposed both by Emperours, Kings, and Councils for their intollerable misdemeanors*. And is it not the very selfe same crime in *Kings, in Emperours, and their flatterers*, to hold this *Popish* erroneous opinion, that they are in no case responsible to their whole Kingdomes or Parliaments for their grossest exorbitance? Our (o) *Popish Prelates and Clergy* generally heretofore, and some of our *Protestant* (p) *Bishops and Divines* of late times, from *St. Ambrose* his practise, have held, that *Kings* for *murthers, rapes, and great crying offences* may be *Lawfully excommunicated and censured by the spirituall Law and sword, as sundry Emperours and Kings have been*; then why not likewise by the *temporall*, when their Parliaments and whole Kingdomes see just cause, the case of hundreds of *Emperours and Kings* in former time, as the *Histories of all Nations and ages* prove abundantly, beyond all contradiction? I shall here instance in some few *Kings* censured subject to the *Roman State and Empire*, with whom I shall conclude this discourse touching the *Roman Monarchs* (q) *Deirotus* King of *Galatia* under the *Romans* Jurisdiction, and one of their allies, was *accused of Treason, and condemned to lose both his head and estate, for certaine offences against C. Caesar, and the Roman State*; as appeares by *Tullies* Oration to *Caesar* in his behalfe, to procure his pardon; which because it was the first president of this kinde, made his advocate say; *tamen ita in iustitiam est, Regem capitis reum esse, ut ante hoc tempus non sit auditum*: yet long before that, *Zedechiah* King of *Judah*, rebelling against the King of *Babylon*, was brought prisoner to the King of *Babylon* to *Riblah*, where hee gave judgement upon him *slew both his sonnes and Princes before his eyes, and then put out his own eyes, bound him with fetters of brasse, and carried him prisoner to Babylon, where hee died.* 2 Kings 25. 1. to 8. Jer. 52. 1. to 12. And after *Deirotus* (r) *Antigonus* King of the *Iewes*, being taken prisoner by *Antonius*, for moving sedition against the *Roman State*, was *beheaded with an axe at Antioch, without any legall triall, to prevent further seditions, which never befell any King before that time, writes Alexander ab Alexandro*; And (s) *Agrippa*, not long after, put *Boqus* King of the *Mores* to death, for siding with *Antonius*. Of later times, I read that (t) *Ludovicus Pius* the Emperour taking *Bernard* his Nephew (King of *Italy*) prisoner, for rebelling and denying his superiority over him, carried him into *France, to determine what should be done with him according to Justice, for this his offence*; where (though a King) hee was *condemned to death and executed*, as some, or at least cast into prison, and had his eyes put out, as others write: So (v) *Charles of France* taking *Conradine* King of *Sicily* prisoner, *publicly arraigned and condemned him of high Treason, and cutt off his*

(b) Prov. 24 23
Rom. 2. 11.

(i) Psa. 82. 1, 2.
Exod. 22. 8. 10b.
10. 34, 35.

(k) Rom. 13. 1, 2
3, 4. Tit. 3. 1.
1 Tim. 2. 2.

(l) Prov. 8. 15.
Deut. 1. 17. 2 Chr.
19. 6, 7.

(m) B. Jewells
veiw of a seditious
Bull, Dr.

Crackenborp of
the Popes tem-
porall monarchy
c. 1. 2. 3, 4, 5.

Cassianus Cata-
logus glorie mun-
di pars 4. conf. 7.

(n) See Balaus
de vitis Pontifi-
ficum. Morneys
Miscorium, and
here, p. art. 1.

(o) Bp. Jewells
veiw of a seditious
Bull.

Matt. Paris, and
Speed, in King
Iohns life: Bp.
Bilsons true Di-
ference, &c.

part. 3, p. 409, 10
326. Saxo gram-
maticus Hist.

Danie 1, 11. p.
189, 190.

(p) Bp. Bridges
his Supremacy of
Christian Prin-
ces, p. 1094.

(q) Oratio pro
Deirotio Rege.
p. 629.

(r) Josephus Antiqu.
Iudcorum, l. 11, c. 27.
Alexander ab Alexandro. Gen.
Dierum l. 3, c. 5, f. 116. (s) Alexander ab
Alexandro ibid. Strabo Geogr. l. 8, p. 712, 713. (t) Grimmsens Imperiall history, p. 389. (v) Munsters Geogr. l. 2, c. 76, p.
16. Gen. hist. of France, p. 35.

head, Anno 1208. Yea, our owne (v) King John being a Feudatary to the King of France, was by Philip the French king in a full Parliament there (during his abience in England) arraigned, condemned to death, and deposed from his Crowne by the sentence of his Peeres, for murdering his Nephew, Arthur, (then a Subject of France) with his owne hands: So (x) Iohn Bailiol king of Scotland, renouncing his homage for that Crowne, to king Edward the first, was for this offence compelled to resigne his Crowne with all his right to the kingdom of Scotland, to King Edward the first, and sent Prisoner to the Tower of London: and (y) Mary Queene of Scots, within many mens memories, after long debate in Parliament, was condemned and beheaded at Forbringham Castle, Febr. 8. An. 1587. for laying claime to the Crowne of England, and other particulars mentioned in our Historians. And thus much for the Roman, Grecian, German Emperours, kings and kingdomes.

I shall now give you a briefe Survey of what Greeke Authors write concerning Kings and Kingdoms; and of the power, the kinds of ancient Kings and Kingdomes, in Greece and other places. That great Father of Learning and policie Aristotle, (Tutor to the greatest Emperour Alexander the Great) whose Authority is irrefragable in our Schooles; resolves: (z) That true Kingdoms were erected at first and conferred on the worthiest men by the free voluntary joyn consent of the people, and founded, confirmed by the customes and Lawes of each country, (which * Polubius also affirmes)

(a) That there are 4 severall sorts of Kings, some of greater, some of lesser Authority and continuance then others: some elective, some successive, some during life, some Annuall, all of them receiving their distinct jurisdictions, Formes, Limitations, and different Royalties, from the peoples primitive or subsequent institutions and consents. For all men being equall by the Law of nature, can have no dominion nor Supericrity one over another, but by their own voluntary consents. That the (b) Lawes, (not the Kings Princes, or Magistrates be they one or more, or never so good) ought to be the sole Lords or Rulers of the Common-wealth, and that Princes and Governours ought to governe by the Lawes: who cannot command what the Lawes doe not command. That those who command that the Law should rule, command that God and the Lawes should rule: but he that commands a man to be a Prince, he commands that both a man and beast should be Princes: for covetousnesse and the lust of the minde is a certaine beast, which perverts both Magistrates and the very best men; but the Law is a constant and quiet Minde and Reason voyd of all motions of lusts and desires. (c) That the power of the greatest things, and greatest power, ought (DE IVRE) of right to be in all the people, because their wisdomes, resolutions, and revenues considered altogether, are greater and more considerable then those of a few wise or honest men placed in the highest offices of Magistracie, who are but a small partick of the State in respect of all the people. (d) That the people ought to be of more power then the King or greatst Magistrates, to prevent their Tyranny and Oppression; and that a King ought to governe by his Lawes, and not to doe any thing against them, according to his lust; wherefore he ought to have so much power and force wherewith he may protect the authority of the Lawes: yea he must necessarily have forces and power, yet so much onely, as thereby he may be able to curbe every particular man; or many also: yet not so great power but that, a populo auctem universo idem REX ILLE IPSE COERCERI POTEST, the very King himselfe may yet BE CVRBED by all the people: such Guards verily the Ancients gave to their Kings when they would set any Tyrant or Governour over the City: And when

(v) Math. Par. Hist. Angl. p. 273, 274, 275. Gen. hist. of France. p. 119. (x) Speed, p. 653, 654. Holst. Boetius, l. 14. Walsing. Holins. Fabian, Graet. and others. (y) Speed, 156. 1196. Cambd. Eliz. Holins. Shaw, Martin, Buchanan.

(z) Polit. l. 3. c. 10. p. 209, 210. and l. 5. c. 10. p. 367. (*) Hist. l. 6. p. 621, &c. (a) Polit. l. 3. c. 10, 11. and l. 5. c. 10, 11. (b) Polit. l. 3. c. 7, 10, 11, 12. (c) Polit. l. 3. c. 10. p. 193.

(d) Polit. l. 3. c. 11. p. 217, 218.

- (e) Hist. l. 6. p. 521. Dionysius required Guards, a certaine Syracusan perswaded them to curbe such Guards: to which (e) Polybius also suffragates. According to these Rules of Aristotle, I read in
- (f) Antiq. Rom. l. 2. sect. 2. p. 133. (f) Dionysius Halicarnassans, and (g) Polybius, that in the Lacedemonian Commonwealth, the Kings had not the chiefe Dominion, so as they might doe what they pleased, sed summa totius Reipub. administratio penes Senatum erat: but the chiefe Government of the whole Commonweale was in the Senate, from whence the Romanes tooke their patterne. (h) Alexander ab Alexandro, Boemus, and Xenophon write, That the Lacedemonians sometimes elected a King out of the Family of the Heraclidæ, or of Agis, but more often two joynt Kings of equall Authority out of the stock of Proclus and Æmistheues, who yet had not the chiefe Command as Kings, Quia juris omnis publici potestas penes Senatum erat, because the power of all publike law or rule was in the Senate (the better to keep their Kings from attempting and usurping a Tyranny; they being Kings rather in name then Dominion, and like the Achæan two Annuall Prætors; whence (i) Aristotle makes them, the lowest ranke of Kings. (k) John Bodin informes us, That in the Lacedemonian Aristocracie, the Sovereignty remained in the State, wherein were two Kings without any Sovereignty at all, being indeed nothing else but Captains and * Generals for the managing of their Warres; and for that cause were by the other Magistrates of the State, sometimes for their faults condemned to pay their fine, as was Ageilaus, and sometimes to death also, as was Agis and Paulanias:
- (l) Agis the last of the Lacedemonian kings (as Plutarch records) being apprehended and condemned by the Ephori, without an Indictment, and then hanged in a halter. Finally (m) Aristotle himself, and (n) Xenophon informe us; that the Kingdom of the Lacedemonians flourished very long, yea longer then any other forme of Government, because their Kings power was but small, and their Kings never desired greater things then the Lawes would beare, by which they had received their Kingdome in the beginning: for in the beginning that Kingdome was divided between two joynt Kings: After which Theopompus left it more moderated to his successours, and constituted the Magistracie of the Ephori (who had power even to depose and execute their kings if they offended, and rose not up out of their seates unto them;) to retain that moderation; By which meanes he verily weakened the power of the Kingdome, but yet certainly settled it more lasting and stable: Whence Theopompus gave this answer to his complaining and upbraiding wife, whether he was not ashamed to leave the Kingdome lesse to his Children then he had received it from his Father? No truly, saith he, for by this means I leave it more stable and lasting. A Speech well worthy the consideration of the very greatest hereditary kings These Lacedemonian kings (whose honours, writes (o) Xenophon, were not much better then those of private men; Etenim, neque Regibus animos addere Tyrannicos voluit, L) curgus, neque civibus eorum potestatem invisam reddere, rooke an
- (o) Oath every month, to governe the Kingdome according to the Lawes enabled. I finde that the (p) Cumeans had a Magistrate whom they called Phylactus, whose office was, to come into the full Senate, and hold the Kings hands who stood in judgement before them, untill by the Senators decree, their reward or punishment was appointed. By which it is apparent, that the Cumean Senate was above their kings, and did usually arraigne and punish them judicially, if they saw cause; as they rose up in Armes against (q) Aristodomus their king, (who tyrannized over them) by Zenocrista her instigation, slew him; and so recovered their Liberties. The (r) ancient Carthaginians had two kings, whom they stiled Suffices; who were but annuall, removed every year;
- (g) Xenoph. de Lacedem. Repub. p. 690.
 (p) Alexan. ab Alex. l. 3. c. 5. f. 126. Calius Rhodig. Antiq. Lect. l. 7. c. 10.
 (q) Plutarch. de virtutibus mulierum, p. 544. 545.
 (r) Alex. ab Alex. l. 3. c. 3. f. 117.

Yea, the Iberians and Parthians had two joynt kings in ancient times, the one to judge the other to governe the people. In (f) *Meroe*, where they elected their kings by their beauty, strengib or wealth; their Priests had the chiefe power; who had so great authority, that sometimes (like the Pope and his Nuntioes) they would send a Messenger and command the king to be put to death, and make another in his stead. Which custome was after abolished by one of the kings, who violently assaulted and slew all the Priests: and in (s) *Meroe* if the king offended, after the Priests power was abolished, they inflicted no corporal punishment on him, but all withdrew themselves from him and avoided his company till he was killed with griefe and consumption. The (u) *Indians* will not permit their king to sleep in the day time, and if he be drunken at any time if any woman (of whom he hath a guard) kill him while he is drunke, she is so farre from being guilty of Treason, that for a reward, she shall be married to his Successour: much like the ancient publike institution of the *Sclavonians*, recorded by (x) *axo Grammaticus*, that the assassinate of evil Kings should succeed them in their kingdomes; a thing frequently practised in many kingdomes and Empires, though very ill enacted in any. The (y) *Sabaans* confined their Kings to their Palaces, and used to stone them if they went forth of their bounds. The (z) *Mosserians* whose kings were elective, used to punish them, when they offended, by keeping them fasting a whole dayes space. Among some of the (a) *Indians*, if the king dyes, having male children of his owne, or cosen-germans, or brothers children, they shall not succeed him in the kingdom, but his sisters sonne, if there be any; if not, then his next alliance; and that, ex gentis instituto, by the institution of the Nation; the reason is, because their Priests used to defloure the Queene, whose issue is held to be illegitimate. In (b) *Thracia*, the people elect a king who is well qualified, mercifull, grave for his age, and one who hath no children: For no Father, though never so well qualified, is admitted to raigne; and if he fortune to have issue while he reignes, he is deprived, and so kept, lest the kingdom should become hereditary. Yea, though the king be never so just, yet they will not that he should have the whole power, but appoint him 40. Governours, lest hee alone should judge in capitall causes: And if he be convicted of any offence, he is punished with death, yet not by laying violent hands on him, but by publike consent, all food is kept from him, so as at last he perisheth with famine. The (c) *Taprobani* had this custome, that no man who had any children should be chosen king, lest he should claime the kingdom as hereditary, and make it so. The (m) *Athenians*, *Ionians*, *Milesians*, *Marchomanni*, *Quadi*, *Persians*, *Sicilians*, *Corinthians*, *Parthians*, *Meroes*, *Gordii*, *Medes*, *Raphii*, *Cathians*, *Aethiopians*, *Sydonians*, *Germans*, *Swedes*, *Danes*, and other Nations had severall Customes, Lawes, Rules, (over-tedious to recite) by which they elected and inaugurated their kings (of which you may read in *Alexander ab Alexandro*. (1) *Strabo*, (o) *Boemius*, (p) *Peter Martyr*, (q) *Purchas*, and others) and different degrees of power and government derived from their kingdomes and people, the souveraine Authority still residing in them to prescribe both Lawes and limits to their kings, and call them to publike account for their grosse offences and misgovernments. The ancient (r) *Aethiopians* elected the most fanaticke Priest for their king, whom though they adored and honoured for a God, yet *Vitam agere STATVTAM LEGIBVS DEBET* iuxta patrios mores, he ought to live such a life as the Lawes appointed him, according to the manners of the Country, neisher ought he to reward or punish any man himselfe, though chiefe parts of Royalty. The (s) *old German kings* had no free nor infinite, but a restrained

(f) *Strabo* Geog. l. 17. p. 619. Alex. ab Alex. l. 3. c. 3. *Diodorus Siculus* Bibl. hist. l. 3. c. 6. p. 240. 141.
 (1) Alex. ab Alex. l. 3. c. 5 f 123. *Diod. Sic. Bibl. hist.* l. 3. p. 140.
 (v) *Strabo* Geog. l. 11. p. 148 Alex. ab Alex. l. 3. c. 10. *Munf. Cosmog. l. 5. cap. 113. Boe. de Moribus Gentium* l. 2. c. 8. p. 102.
 (x) *Hist. Danica*, l. 8. p. 140.
 (y) Alex. ab Alex. l. 4. c. 23. f 239.
 (z) Alex. ab Alex. l. 3. c. 11.
 (a) *Munf. Cos.* l. 5. c. 37. p. 1248.
 (b) *Munf. Cos.* l. 4. c. 53. p. 1083 *Boe. de Moribus Gentium* l. 3. p. 209. 210.
 (c) Alex. ab Alex. l. 4. c. 23. f. 239.
 (m) *Gen. Dier.* l. 4. c. 23. Et l. 3. c. 11.
 (n) *Geog. lib.*
 (o) *De Moribus Gentium*.
 (p) *Ind. Hist.*
 (q) *Pilgrimage and Voyages*, Merula, *Munf. Gotard. Mercator, Nou. Orbis*.
 (r) *Diod. Sicul. Bibl. hist.* l. 3. c. 5. p. 140. *Boem. de moribus Gent.* l. 1. c. 4. p. 27. *Fortes de Laud. Leg. Ang. c. 12.*
 (s) *Poem de moribus Gent.* l. 3. c. 12. p. 341.

and

(t) *Bibl. Hist.*
l. 1. sect. 70. p.
61, 62, 63. *Boem.*
De Mor. Gent.
l. 1. c. 5. p. 37, 38.
Fortes. c. 11.

and bounded power by the Lawes. (t) *Diodorus Siculus* writes, that the first Egyptian Kings lived not like other Monarchs, to rule all things according to their wills, *Nullo obnoxii censuris*, as obnoxious to no censures; but all things, not only their publick actions, but even the regiment of their daily life, were conformed to the rule of the Lawes (as hether manifest in sundry particulars) both in respect of their attendants, dispatches, devotions, recreations, moderate spare dyet, and the like; neither was it lawfull for them to judge, nor doe any thing, nor punish any man out of petulancy or anger, or any other unjust cause, contrary to what the established Lawes required concerning every of them. Whiles they observed these things customarily, it was so farre that they took it ill, or were offended in minde, that on the contrary they thought they lived a most blessed life. For other men rashly giving indulgence to the affections of nature, acted many things accompanied with losses and dangers; yea some men oft times although they foreknew they should sinne, did notwithstanding perpetrate evill things, being led away with love or hatred, or some other perturbation of minde; but they, imbracing the rule of life approved by the most prudent men, resolved not to erre from their duty in the least degree. Whiles Kings used this Justice towards their Subjects, they had their Subjects bound unto them in greater benevolence and love then their very kindred; For not only the Colledge of Priests, but the whole Nation of the Egyptians, and likewise every one of them were not so carefull of their wives and children and private goods, as of the safety of their Kings: Wherefore they preserved the estate of the Republike intire for a long time under the mentioned kings, spending their life in greatest felicity, as long as this constitution of Lawes flourished. And when these kings dyed, all the Egyptians generally mourned for them in an extraordinary maner divers wayes, made solempne Orazions in their praise, buried them with great pompe and solemnity, and erected Pyramides to their eternall honour; all which funerall pompous solemnities many ill kings wanted after their deaths, ob plebis refragationem, because the people gain-sayed it, (who together with the Priests and Senates, who were ever present with the kings to assist, counsel, and direct them, were superior to their kings, since they could thus decree or deny them these funerall honours) which made many of their following kings to addict themselves to just actions too, for feare of contumelious handling and sempiternall ignominy after their decease. So this Author. To which I shall adde (v) *Xenophons* definition

(v) *Memorabili-
um*, l. 4. p. 813.
De Laced. Reip.
p. 690, 691.

(x) *Hist.* l. 6. p.
128, 126.

of a Kingdome and Tyranny: A Kingdome, is an Empire over men by their free assents according to the Lawes of the City: And a Tyranny, is an unlawfull Empire over men against their wills, which depends upon the will of the Prince. And this observation of (x) *Polybius*, That kings in ancient times did give themselves wholly to doe that which was honest and just, and so suppress the contrary; the very beginning of all true kingdomes, and the end for which kings were first instituted by the people. Whiles they thus demeaned themselves, they were subject to no envy, because they differed not much from others, neither in apparell, nor in meat and drinke, but observed a conversation of life conformable to other men, and lived perpetually like to others. But afterwards, when those who obtained the principality of succession, and the prerogative of their blood had those things already provided, which made them able to secure themselves, and to support their state, following their lusts by reason of their abundance, they then thought, it belonged to Princes to be better clad then subjects, to exceed them in costlinesse and variety of meats, and to use venery with whom they pleased: Hence envy and offence was begotten, and implacable hatred and anger kindled, and a kingdome by this meanes changed

changed into a Tyranny: Hence men most generous and magnanimous bold spirits, unable to beare such affronts and insolences of Princes, seditiously conspire against them; and the people having got such Captaines to make resistance, joyne with them for the foresaid causes, that the Princes may be repressed. And thus the forme of a Kingdome and Monarchy is utterly taken away by the roots, and the beginning of an Aristocracy again laid, the people refusing to set any more a King over them, yet not daring to commit the Republike to many, fearing as yet the injustice of Superiours, and therefore most esteeme equality and liberty; So that the Sovereigne power of setting, or changing the Kingdome and forme of government resides principally in the people, who (as hee there largely proves by the Lacedemonian and Roman state) ought to enjoy the Supreme authority, and to be above their Kings; as it seems the Egyptians did, (y) who deposed and expelled Evergetes their King, for his cruelty, and after him their King Ptolomæus Auletes, setting up Cleopatra his eldest child in his Throne; and as the Roman Senate did, (z) who had power to dispose of the common Treasury and revenue (one of the greatest points of Sovereignty) to appoint Lieutenants and Governours of Provinces, to grant Triumphes, to dispose of Religion: (for which cause (a) Tertullian saith, that never any God was received in Rome without the decree of the Senate,) and to receive, answer, and dismiss the Ambassadours of Kings and Nations, which none else did but the Senate; whose Sovereigne power was such, that Tiberius the Emperour in the beginning of his Reigne called the Senators (assembled altogether in the Senate) *Indulgentissimos DOMINOS*, his most loving LORDS, (and moved the Senate, to divide the Empire, & not to commit it all to one man, as we read in (b) Tacitus) though they were his Subjects and inferiours when divided and severally considered: And such Sovereigne power had the Panatolium or generall assembly of Parliament among the *Ætolians*, who received and answered all Embassadours, determined all affaires of warre and peace, it being provided by the Lawes of the *Ætolians*, that nothing should be intreated of concerning peace or war, but in their Panatolium or Pelæicon Councell, as (c) Livy and (d) Bodin record.

But to leave these ancient, and come neerer our present neighbor Kings and Kingdomes of greatest eminencie and power, which may paralell our owne; The Kings of France (to whom (e) Cassanæus in his *Catalogus Gloria mundi*, gives precedency before all others, and to the Emperour himselfe, whiles but elect, before his coronation,) have in ancient times been inferiour to their Kingdomes, Parliaments, and subiect to their censures even to deposition, if not more, though (f) some cry them up for absolute Monarchs, and make them little better then Tyrants now.

(g) John Bodin, a learned French Lawyer and Statesman, writes, That in ancient times the Kings of the Cities of the Gaules were subiect to their States; whom Casar for this cause oftentimes calleth *Reguli*, little Kings, being themselves subiects and justifiable to the Nobility, who had all the Sovereignty, causing them even to be put to death if they had so deserved: And that is it for which Amphiorix the Captaine Generall, whom they called the King of the *Lingois* said, Our commands are such, as that the people hath no lesse power over us, then we over the people: Wherein he shewed evidently, that he was no sovereigne Prince; howbeit, that it was not possible for him to have equall power with the people, as we have before shewed: Wherefore these sort of Princes, if they, polluted with wickednesse and willany, cannot be chastised by the Authority and severity of the Magistrate, but shall abuse their wealth and power unto the

(y) *h^o knit.*
Cosmog. l. 6. c.
 19. p. 1298 1299
 (z) *Bodin Com-*
monw. l. 1. c. 1.
 p. 273.
 (a) *Apolog. adu.*
Genes.
 * See *Livy Pas-*
sim.

(b) *Annalium l.*
 1. *Commonw.*
 l. 3. c. 1. p. 276.

(c) *Hist. Rom l.*
 31. c. 35.
 (d) *Commonw:*
 l. 3. c. 1. p. 261.
 (e) *Paris 5. con-*
fid. 19, 30, 31. p.
 243. &c.
 (f) *Cassan. l. bid.*
 & *Bodin Com-*
monw. l. 2. c. 5.
 l. 1. c. 10. l. 3. c.
 1.
 (g) *Commonw.*
 l. 2. c. 1. p. 222.

hurt and destruction of good men, IT ALWAYS HATH AND SHALL BE LAWFULL not for strangers onely, but even for the subjects themselves also, to take them out of the way: But if the Prince be an absolute Sovereigne, as are the true Monarchs of France, &c. where the Kings themselves have the souerainty without all doubt or question not divided with their subjects; in this case it is not lawfull for any one of their subjects in particular, or all of them in generall to attempt any thing, either by way of fact or justice against the honour, life, or dignity of the Sovereigne, albeit hee had committed all the wickednesse, impiety, and cruelty that could be spoken: so Bodin. By whose words it is cleare, that the ancient kings of France were inferiour in Jurisdiction to their whole kingdomes and Parliaments, yea censurable by them to deposition or death: Yet that their kings of late are growne absolute Monarchs above their kingdomes, Nobles, Parliaments, and so not responsible to, nor punishable by them for the grossest misdemeanours: But if this their absolute Monarchy be onely an usurpation (as many conceive it,) not of right, by their Parliaments and kingdomes free grants and consents, they are still, in truth, of no greater Authority, nor no more exempted from iust censures, then their predeceffours. Now it is clear, that in ancient times, (h) the 3. Estates and great Councell of France assembled in Parliament, and their twelve Peeres (or kings as Fabian termes them) were the highest power and judicature, from which there was no appeale; that the Kings of France could make no binding Lawes but by their Authority (though now of late they doe what they please) and that they have judged the differences between the Crownes of England and France (as I have formerly proved) and exercised the same, or as great authority as the Parliament of England hath done, which authority it hath lost by certaine degrees. To give a few more instances to cleare this truth.

(i) Pharamond, the first King of the Franks, that Reigned in France, An. 420. was elected King by the unanimous vote and consent of all the people: and by their advice and consent, in his Raign, the Salique Law was made to Regulate the descent of the Crowne, that no women should be heeres to it, or claime it by descent; which Law continues of force untill this day, as all the French historians generally accord, who make frequent mention of it; though our English have much oppugned it, as you may read in (k) Hall and (l) Speed. (m) Childericus the fourth King of France about the yeare 460. giving himselfe to all vice and cruelty in such extreame wise, that hee became odible to his subjects; perceiving the murmur of the people, and fearing his sudden destruction, by the counsell of Gynemius, fled out of his kingdom to Bescigne king of Thuringes. Whereupon the French-men with one assent, chose Gyll a Roman, for their King and governour: who laying grievous Taxes upon his Subjects by the fraudulent counsel of Gynemius (a fast friend to Childericus) and using sharp execution upon some of the Nobles, so farre discontented his subiects that by the helpe of Gynemius, they deposed and chased him into Saysons; and sending for Childericus againe, restored and made him King: after whose death his sonne Clodovins, was by the people ordained and authorized for King of France: between whose foure sonnes it was afterwards divided (n) After the death of Chilpericus, Clotharius being very young, Gunthranus king of Orleans (his uncle) with the assent of the Nobles of the Realme, was made his Tutor: who coming to age, hee offered to referre the differences between Sigebert and himselfe touching Austracy, (to which both laid claime) to an Assembly of the Lords of that Kingdom: and condemned Queen Brunicheld.

(b) Fabian. pa. 5. c. 155. par. 6. p. 154. 160. 164. 243; 244. par. 7. p. 107, 108. 280; 282. Andrew Favins Theatre of Honor, l. 2. c. 12. Munsteri Cosmog. l. 2. c. 40. p. 139. 140. Paulus Emilius, l. 1. Mercators Atlas, p. 254, 255. Bodin Common. l. 3. c. 1.

(i) Paulus Am. l. 1. Gaguinus and the generall History of France in his life, Jean Crispin Lestate de Leglise p. 144. Fabian. par. 5. c. 75. p. 66. Munsters Cosmog. l. 2. c. 41.

(k) 2. H. 5. f. 35. c. 5.

(l) Hist. p. 685. 687, 786. 787. c. 6.

(m) Fabian. pa. 5. c. 86. Gaguin. Emil. the Generall Hist. of France, Crispin, Munst. and others in his life

(n) Fabian, pa. 5. c. 12. 126. Gaguin. Emil. the Generall Hist. of France.

child by the unanimous consent of the Lords, to be tyed by the haire of her head to a wilde horse taile, and so to be drawed while shee was dead; for her many murders and criminous deeds; which was accordingly executed. (o) King *Dagobert* exercised such tyranny and iniustice in pillaging his commons by Exactions and Tributes, that those who dwelled in the out parts of the Realme were the Turkes, and other strange Nations, chose rather to put themselves under their government, than under the Rule of their owne naturall prince: *Poytiers* rebelled against him, his Lords murmured so much against him, that *Pipin* and *Martain* (two of his great Lords and agents) to save his Crown, dissuaded him from his ill counsell: whence a little before his death, calling a great counsell of his Lords Spirituall and Temporall, hee made his will, and settled his Kingdome by their advice; dividing it between his two sonnes. (p) *Theodericus* king of France, giving himselfe to sloath and idlenesse, committed the government of the Realme to *Ebroyn* Mr. of his Palace, who did what he liked, and vexed and troubled the Subiects grievously; wherefore by assent, the Lords assembled them, and by authority deprived the King of all Dignity, and closed him in a Monastery during the residue of his life, when he had borne the name of a King without executing of the art therunto belonging, three yeares: the cruell *Ebroyn* they exiled to *Luxembourg* during life; making *Childericus* brether to *Theodericus* King, Ann. 669. who oppressing his subiects grievously, and using the Lawes of his progenitors after his pleasure, and unjuustly causing a Noble-man called *Belin* to be tyed to a stake and beaten to death, without guilt or Trespasse Hereupon the Lords and Commons, fearing like punishment without deserving, murmured and conspired against him, and slew him and his wife (then great with Child) as they were hunting in a wood: After which they restored *Theodericus* (whom they had deposed) to his former dignity; under whom *Ebroyn* getting into place and favour againe, used such Tyranny towards the Nobles and People, that *Pipin* and *Martain* raised a great army against him, lest he should destroy the Common-wealth, gave him battell, and at last *Hermefredus* slew him: After which *Pipin* was made Master of the Palace in his place. (q) *K. Dagobert* the second dying without any Issue or knowne Heire at all, one *Daniel* (after named *Chilpericke*) a Priest, was by the Lords and peoples generall assent chosen King of France, Anno 721. for that by their former experience of him, they deemed him apt for the rule of the Land. After whose death, *Theodericus* sonne to *Dagobert*, (secretly fostered among Nunnes within Nunneries in womans cloathing) was espied and admitted for King: During most of the forenamed Kings, the grand Master of the Palace swayed the Kingdome as his pleasure, and executed the Office of the Kings, who had nothing but the bare name of Kings, and were subject to this grand Officer: Whereupon *Theodericus* dying, (r) *Childericus* his sonne being a Sott, and for his duinesse unfit to governe, *Charles Martell* Master of the Palace, (who swayed all things in *Theodericus* raigne) deceasing, his two sons *Charlemaine* and *Pipin*, by the advice of the Nobles of the Land, considering the insufficiency of the King to rule so great a charge, divided the Land of France betweene them, so that either of them should under the King Rule and Govern such proportion as then there was to them appointed: *Charlemayne* soone after renounced his Government and turned Monke; and *Pipin*, as onely Ruler, tooke upon him the charge of the whole Realme. *Pipin* then considering in his minde in what danger and trouble before him, his Father, and he now had ruled the Land, and that

(o) *Fabian*.
part. 5. c. 132.
Gaguinus,
Paulus Aemilius,
Crespin, the
generall Hist.
of France.
(p) *Fabian*.
part. 5. c. 133,
133, 40. *Gaguinus*,
Aemilius,
Crespin, the
generall History
of France, in
his life, and the
life of *Childericus*.
(q) *Fabian*.
part. 5. c. 144,
145. *Gaguinus*,
Aemilius, *Crespin*,
Turpin, the generall
Hist of France.
(r) *Fabian*.
part. 5. c. 150,
153. generall
Hist. of France,
Gaguinus, *Aemilius*,
Crespin,
Turpin, *Chronicorum*,
Sabellicus,
Olympereus, in
the life of *Childericus*
and *Pipin*, *Aveninus*
Annal. *Dayor*.
l. 7. *Antonini*
Chron. Tit. 14.
nn. 1. sect. 2.
Munſ. *Cosmog.*
l. 3. c. 41. Bish.
Jewels Reply, p.
341, 342, 343.
Bishop *Bilſon* of
Christ. *subiection*
6c. par. 3. p. 418
10 423. *Blondus*
Decad. l. 10.
Nauclerus, vol.
3. gen. 26. *Regi-*
no, l. 2. An. 722.
Pappius *Maf-*
ſon. *An* in *Child.*
p. 83. *Ayron*.
Geſt. Fr. p. 403.

the King to whom belonged all the charge, kept his Palaces, and followed all his delights and pleasures, without taking any paine for reformation of the same; sent an ambassage to Pope Zachary, (asking his advice in point of conscience,) whether it were more necessary or wealsfull for the Realme of France, that he should be admitted for King, that did nothing but apply his minde to all bodily pleasures, without care and charge taken upon him for the guarding of the Land, and the People of the same; or he that tooke upon him all the charge and paine in defence of the Land, and keeping of the people in the due subjection? To this the Pope answered, and wrote back to Pipin, that he was best worthy, and most profitable for the Realme, to be admitted for King, that ruled well the Commonalty by justice and prudence, and the enemies thereof defended and subdued by his policie and manhood. (f) *Aventine* relates his answer more largely, in these words; I finde (saith Zachary) in the Story of Divine Scripture, that the people fell away from their wretchlesse and lascivious king, that despised the counsell of the wise men of the Realme, and created a sufficient man, one of themselves, King; God himselfe allowing their doings: All Power and Rule belongs to God, Princes are his Ministers in their Kingdomes; And Rulers are therefore chosen for the people, that they should follow the will of God, the chiefe Ruler in all things, and not do what they list. He is a true King that guideth the people committed to his charge according to the Pre-script and Line of Gods Law; all that he hath, as power, glory, riches, favour and dignitie, **HE RECEIVETH OF THE PEOPLE**, and the people, **MAY WHEN THE CAUSE REQVIRETH, FORSAKE THEIR KING.** It is therefore **LAVFVLL** for the Franks and Germanes, refusing this unkindly Monster (Childericke) to chuse some such as shall be able in warre and peace, by his wisdom to protect and keep in safetie their Wives, Children, Parents, Goods and Lives. Which answer of the Pope (recited and approved in our owne King (r) Edward the Confessors Lawes, and Childerickes deposition likewise Chap. 17.) being declared to the Lords, Barons, and Commons of the Realme (whom this Pope likewise wholly absolved from their allegiance to Childericke) soone after, they of one assent and minde, proceeded, and deposed, and put downe their King and Governour, Childericke (u) being a Sott, a foole, a beast, and one unfit to governe, and closed him in a Monastery, after he had reigned ten yeares in the Kings roome, by name onely; which done, they unanimously elected and crowned Pipin for their King: By meanes whereof the Royall Line of *Moroveus* after 17 descents ended, and the Crown was translated to Pipins blood. Which act in point of policie, is determined lawfull by (x) *Polybius*, who Writes, That the reason why some Kingdomes became hereditary, was onely this, because their first Kings being vertuous and worthy men, they were perswaded their Children would prove like them; but if at any time they degenerate, and prove otherwise, and the (*) posteritie of the first Kings displease the subjects, they thenceforth make the Kingdome elective; chusing Kings, not according to their strength of body and mindes attempting great things, but according to the difference of their will and reason manifested by their actions: And by (y) *Aristotle*, who informes us, That in Kingdomes confirmed in succession of blood, this is to be numbred among the causes of their ruine, that the Kingdomes descenda to many contemptible and slothfull persons, who although they obtaine no tyrantiscall but Royall dignitie, yet they live lustfully and proudly; and so the Kingdome easily falls to ground, and becomes a tyrannie, the people being unwilling that such should rule over them; and so either wholly alter the forme of government,

(f) *Annal. Boiorum*, l. 3. p. 299.

(t) *Lambards Archaion*, f. 130
Fox AEs & Mon. vol. 1.
Edit. ult. p. 244.

(u) *Antonini Chron.* Tit. 14.
14. m. 1. sect. 2.
f. 102. *Blondus Decad.* 1. l. 10.

Sabellicus. Encyd. 8. l. 8. *Gaguinus* l. 3. in *Car. Martel.*
Nauclerus vol. 3 gen. 26. *Gratian.* *Caus.* 15. qu. 6.

Platina in Zach. 1. *Frisit.* l. 5. c. 22. *Fabian.* part. 5. c. 132. p. 141.
Amonius de gest. Franc. p. 423.

(x) *Hist.* l. 5. p. 521.

(*) Though that of *Plinius secundus*, *Paxegyri. Traiano dictus*, p. 8. be true, *Quod equore animo*

serunt homines quem Princeps parum feliciter genuit quam quem male elegit.

(y) *Polit.* 5. c. 10.

to make choice of a fitter King for the necessary preservation of the State; yea this election in point of Politie and Divinity too, is justified and proved lawfull by Buchanan, in his Book *de Iure Regni apud Scotos*; by John Mariana, *de Rege & Regis Instit.* l. 1. c. 2. 5. by Pope Zachary in his forecited Epistle, by King Edward the Confessor in his Laws c. 17. by a generall Councell of all the Peers, and Prelates of France; *Convocato enim Principum et Senatorum Concilio de COMMUNI SENSU ET VOLUNTATE OMNIUM Childericum solo nomine Regem a regni fastigio deponunt,* (2) *Chron. tit. &c. ac OMNIBVS GAUDENTIBVS ET VOLENTIBVS, Pipinum super Francos REGNARE FACIUNT*; writes (2) Antoninus: and in a word, our Bishop (a) Bilson himsele, an Anti-Puritan, and great Royalist, affirms, *That if the King be a naturall foole, distracted, and altogether unable to governe, as Childericke was, any Realme, by publicke consent and advice, may choose another to govern them: of which more before.*

(2) Chron. tit. 14. c. 1. sect. 2. t. 103.
(2) Of Christ an subjection, par 3. p. 420.
(b) Fab. par. c. 154. Gaguin the Gen. Hist. of Franca.
(c) Fab. par. c. 214. Grimsst. Imper. Hist. p. 370, 391. Gaguin The Gen. Hist. of France, Turpin Antoninus, Munst. Cresspin, Papyr. Massou, and others.

Pipin (b) deceasing, Charlemain and Charles the great, his sons, reigned jointly over the Frenchmen, by their joyous admittance. Having now two Kings instead of one (c) Lewes, surnamed the godly, sonne of Charles the great, (a pious, yet unfortunate Prince) by meanes of his sonne Lothair, was first imprisoned, and then by a Councell and Parliament held at Compaigne, by authority of the spirituall and temporall Lords, and of that Parliament, discharged of all rule and dominion, as well of the Empire, as of the Realme of France; after that shorne a Monke, and thrust into the Monastery of Saint Marke, where he was strictly guarded; and when some of the Nobles and people afterwards desired Lothair to release and restore him to his former dignity; he answered them: *That the deposing of him was done by the whole Authority of the Land; wherefore if he should be againe restored, it must be by the same Authority, and not by him onely: After which by the Lords assents hee was restored.*

(d) Lewes and Charles, after Lewes Balbus their fathers death, were joint Kings of France, and being very young, by a Parliament held at Meaux, Lewes the Emperour, their Uncle, was declared to be more apt to rule the Kingdome of France, then these Infants, or Barnard their Guardian, and these Children held by some illegitimate. Whereupon, by the greater number of voyces an Ambassadour was sent to the Emperour, to come and take upon him the Rule of middle France, which he comming to doe, his Nephewes friends compounded with him, and then caused these Infants to be crowned and proclaimed Kings.

(d) Fab. par. c. 175. Gaguin. Gen. Hist. of France.

(e) Charles the simple, at his Fathers death, Anno 895, being too yong to take upon him the charge of the Realme, the Lords of France put him under good and convenient guiding, and of assent they chose Eudo, a man of great fame and worth, to be King of the Land, for the terme of his life, and to guide the Land, till Charles should come to his lawfull age, whom they put under Eudo his tuition, making him King in his stead, who was crowned of Walter then Archbishop of Senys. After which when Eudo knew he should dye, he called before him the Lords and Nobles of France, charging them by solemne Oath, that after his death they should immediately crowne Charles for their King (whom he had brought up with diligence in learning and all Princely vertues) being then of age to governe. Charles comming to the Crowne, the Danes miserably watted his Kingdomes; Whereupon his Nobles and people assembled themselves in sundry companies, and went to the King, shewing their misery and blaming his fear-

(e) Fab. par. c. 175. Gaguin. Gen. Hist. of France, Hermaschedel, Cresspin and others.

- fulnesse and negligence, that he no more for him resisted the Danes cruelty; Whereupon (he out of feare belike, lest they should chuse another King to protect them) compounded with Rollo chiefe Commander of the Danes, giving him all Normandy, and his owne Daughter in Marriage, to purchase peace; (f) Charles being afterwards slaine by Hebert Earl of Vermandoyes, Aligned his wife mistrusting the Frenchmen, fled secretly with her young sonne Lewes (Heire to the Crowne) to Edward the Elder into England: Whereupon, that the Land might not be without a Ruler, the Lords of France assembled at Paris, and there tooké Councell to elect a new King; where, after long debate, they named and crowned Raulfe, sonne to Richard Duke of Burgundy King, as next Heire to the Crown but young Lewes: Raulfe dying after he had reigned 12 yeares, the Nobles hearing that Lewes was alive in England, sent for him into France and crowned him their King. (g) Lewes the 6. dying without issue, being the last King of Pipens blood (who enjoyed the Crowne 10. discentes) Hugh Capet usurped the Crowne, putting by Charles Duke of Lorraine, Vncle and next heire to Lewes, whom by the Treason of the Bishop of Laon, he took prisoner: After which the Crowne continued in this Hugh and his Heires. (h) Philip the 2. of France, by a counsell of his Prelates was excommunicated for refusing to take Ingebert his wife, whom he unlawfully put from him, and to renounce Mary whom he had married in her stead; And calling a Parliament, they concluded, that King John of England should be summoned to appeare as the French Kings Liege-man, at another Parliament to be holden at Paris within 15. dayes after Easter, to answer to such questions as there should be proposed to him for the Dutchy of Normandy, and the County of Angeou and Poytiers; who not appearing at the day, Philip hereupon invaded and seized them: After which, (i) Lewes the 9. and Henry the 3. of England in a parliament at Paris, made a finall composition for these Lands.
- (k) Lewes the 10. being under age, was thought of many insufficient to govern the Realme; and when he had a mind to goe to the holy Warre (as it was then deemed) he did not undertake it, but by the advice of his great Councell of Spirituall and Temporall Lords and persons, who assisted him therein. (l) Philip the 4. in the 27. yeare of his Raigne, raised a great Taxe throughout France, (which before that time was never heard nor spoken of) by his absolute Prerogative, without consent of his Estates in Parliament, which had the sole power of imposing Taxes: Which Taxe all Normandy, Picardy and Champaigne allyng themselves together, utterly refused to pay: which other Countries hearing of, tooke the same opinion, so that a great rumour and murmur was raised throughout the Realme of France, in such wayes, that the King for pacifying the people, was faine to repeale the said Taxe.
- (m) Lewes 11. of France dying without issue male, left his Queen great with child, whereupon Philip his Brother reigned as Regent of France, till the childe was borne, which proved a male, named John: who dying soone after, Philip was crowned King at Paris, albeit, that the Duke of Burgoyne and others withstood his Coronation, and would have preferred the Daughter of King Lewes. But other of the Lords and Nobles of France, would not agree, that a woman should inherit so great a Kingdome, it being contrary to the Salique law: This Philip by advise of evill counsell set a great Taxe upon his Commons to the Fifth part of their movable goods, at which they murmured and grudged wondrous sore, and before it was levied, hee fell into a Feaver Quarian and great Flixie, whereof hee dyed: which Sicknesse fell upon him

him by prayer of the Commons for laying on them the said grievous Taxe. (n) Charles the fifth of France, having a purpose to drive all the English out of Aquitaine, and other parts of his Kingdome; and being provided of all things which he thought needfull for the doing of it, yet would not undertake the warre without the counsell and good liking of the Nobility and people, whose helpe he was to use therein: Wherefore he commanded them all to be assembled to a Parliament at Paris to have their advice, and by their wisdom to amend what had by himselfe not altogether so wisely been done, and considered of. And this warre being at last decreed by the Councell, prospered in his hand, and tooke good successe. Whereas when the Subjects see things done, either without counsell, or contrary to the wills and decrees of the Senate or Councell, then they contemne and set them at naught, or else fearfully and negligently do the command of their Princes; of which contempt of Lawes, Magistrates, and seditious speeches ensue among the people; and so at length most dangerous rebellion, or else open conspiracy against the Prince, as Bodin observes. This (o) Charles dying without Issue Male, leaving his Wife great with Childe, Philip Earle of Valoyes, his Nephew, was by the Barons and Lords made Protector and Regent of the Realme of France, untill such time as the Queene was delivered; who being brought to bed of a Daughter onely, hereupon Philip was crowned King. Betweene him and King Edward the third of England, and their Councells, arose great disputations for the Right and Title to the Crowne of France; for it was thought, and strongly argued by the Councell of England, for so much as King Edward was soune and sole Heire to his Mother Queene Isabel, daughter to King Philip le Beau, that he should rather be King of France, then Philip de Valoyes, that was but Cousin German to Philip le Beau: Of which disputations, the finall resolution of the Lords and Parliament, was, That for an old Decree and Law by Authority of Parliament long before made, (which the English much oppugned) that no woman should inherite the Crowne of France; therefore the Title of Edward by might of the Frenchmen, was put by; and Philip by an Act of the whole French State, (by which his right was acknowledged) admitted to the Government of the same. After which one Simon Poylet was hanged in Chaines, Headed, and Quartered at Paris, for saying in open audience, that the right of the Crowne of France belonged more rightfully unto King Edward, then to King Philip; who had long warres about these their Titles to the Crowne.

(n) Bodin. Com-
monweal. l. 3 c. 1.
p. 2. 4.
See the generall
Hist. of France
in his life.

(o) Fabian,
part. 7. p. 192.
193, 261, 274.
Speeds Hist.
p. 687, 64, 786,
787, 788. Halls
Chron. 2. H. 5.
See the generall
Hist. of France,
and Gaguinus
in the life of
John.

(q) Fabian.
part. 7. p. 230, to
298. Gaguinus,
the generall
Hist. of France,
in the life of
this Philip and
King John.

King (q) John of France, in the fifth year of his reigne, had by authority of the three estates of his Realme assembled in Parliament (to wit of the spirituall Lords and Nobles; and Heads of Cities and good Townes of his Kingdome) 3000 men waged for a year, granted to him to defend him and his Realme, against Edward the third King of England; who the next yeer following took King John prisoner in the field: Wherenpon Charles Duke of Normandy, his eldest sonne, and Heire apparent, assembled the 3 Estates at Paris in a Parliament there held, craving aid of them to redeem their captivated King; who promised their uttermost help herein, desiring convenient time to consult thereof: Which granted, the three Estates holding their Councell at the Gray Fryers in Paris, appointed fifty persons among them to take view, and make search of the grievances and evill guidance of the Realme; who after examination appointed six of themselves to acquaint the Duke, That the Realme before time had bene misguided by ill Officers, and except remedy for it were shortly found, it should stand in perill to be lost; wherefore they besought him to discharge all such as

they

they would name unto him, and over that to forfeit their Goods to the Kings use. And first they name Peter Archbishop of Roan, Chancellor of France, Sir Simond de Bury, chiefe Counsellor of the King and Parliament too, Sir Robert de Lorize before time Chamberlaine to the King, Sir Nicholas Brake Master of the kings Palaces, Engueram Burgesse of Paris & under Treasurer of France, John Pryll Sovereaign of the money & Kings accounts, and John Channeon Treasurer of the Kings wars. All which Officers they would should be discharged all ro; all Offices for ever: Also they would that the King of Naverne (then imprisoned by the King of France) should be set free, and that Duke Charles himselfe would be contented to be advised and counselled by such as they should appoint unto him; namely, by foure Prelates, twelve Knights, and twelve Burgeses, which eight and twenty persons should have authoritie to rule and ordaine all things necessary for the Realme, to set in and put out all Officers appertaining to the Realme, with divers other requests which unto the Duke were nothing agreeable: Vpon which requests the Duke gave answer, That he would counsult with his Councell, and thereupon would shap unto them some reasonable answer. But first he desired to know, what aide the three Estates would give unto him, for delivery of his Father: Whereunto was answered, that the Clergie had given a disme and a halfe to be paid in a yeare, with that, that they may have license of the Pope, and the Lords as much to be levied of their lands, and the Commons the tenth penny of their moveable goods. The morrow following the Duke and his Councell met, and after many Messages betweene them and the three Estates, offers to reforme some part of the Articles. But the Estates firmly answered, That unlesse he would reforme all the said faults, and confirme the said Articles to their minde, for the Commonwealth of all the Land, they should not aide him with their Goods, like as they shewed him. The Duke hereupon secretly acquainted King John of these proceedings, who wrote to him againe, that in no wise he should agree to the said requests, and to the end that these matters should not be touched in open Parliament, he deferred the debate of them from day to day; and at last by advice of his Councell, dissolved the Parliament of the three Estates, and commanded every man to returne home without any effect of their long counsell: Wherewith many of the said persons were grievously discontent, saying among themselves, that they perceived well this was done by the Duke to the intent the requests by them devised, should not take place, but that the old misgovernance might continue like as before times it had done: Wherfore divers of them assembled againe at the Gray Fryers, and theremade out divers Copies of the said requests, to bear them into their Countries, and shew them unto the good Townes. And albeit the Duke after this Councell thus dissolved, asked ayde of the Citie of Paris, and other good Townes to maintaine his wars; he was plainly answered, * That they might not ayde him, unlesse the three Estates were againe reassembled, and that the grant of the ayde might passe by their authority: Whereunto the Duke in no wise would agree. In the wean time the 3 Estates of Languedock assembled in their Province by the Earl of Armenake, the Kings Lieutenant, to make ayde for the Kings deliverance, agreed to purvey at their proper costs 500 men at Armes, with a furniture to every speare, and a 1000 souldiers on horsbatke, 1000 Arbalestres, and 2000 others called Gunsiere: all which to be waged for a whole yeare; and farther ordained, that no man should weare any furrer of great price: that women should leave the rich attire off their heads, and weare neither pearle nor gold upon them, nor silver in their girdles; and that all

manner.

(*) Note this.

manner of *Minstrelsie* should be put to silence, so long as the King remained prisoner. The Duke and his Counsell after this, proclaimed at *Paris* certaine coynes and values of money, newly ordained by them; with which Proclamation the Commons of the City were grievously moved: And for reformation, the *Provost of the Merchants* with others, rode to the Earle of *Angeou* the Dukes Brother and Lieutenant, (who was then absent at *Meaux*) requesting him to cease the use of that money; And if not, they would use such meanes, that it should not be suffered to be put forth nor taken within the City: Whereupon after long debate it was agreed, that the money should be stopped till the Dukes pleasure was knowne: Vpon whose returne, the Dukes counsell sent for the *Provost*, and desired him to suffer the said money to run and be currant throughout the said City; Which, the *Provost* with his company utterly denyed: and after many great and bold words, departed from the Counsell in great ire, and after their returne unto the City, incensed so the Commonalty, that they set apart all workmanship and Occupation, shutting in their Shops, and drew unto their Armour and Harnes. The Duke informed of this murmure of the Commonalty of the City, straitly commanded the *Provost*, that the Kings peace were kept within the City; and that he with certaine Citizens should appeare at the Palace before him and his Counsell the next day, at an houre assigned: at which time the *Provost* with his company came and were conveyed into the *Parliament Chamber*, where the Duke and his Counsell were present. Then the Duke after certaine Challenges made to the *Provost* for his obstinacy and misleading the Commonalty of the City, said: That, albest the King by his* Prerogative, might at his pleasure, and for his advantage, make his monies when he would, and so to suffer them to be currant thorow his Realme; yet for the weale and ease of his Subjett, considering their manifold and late charges, he was content, that at this season, this new money should be spared; and that the 3. estates should be againe assembled, and that they should deprive all such persons then bearing Offices as they should thinke prejudiciall to the Realme, and over that, to ordaine such Money as might be beneficiall for the Land: Of all which Grants the *Provost*, to the intent, that he might of authority shew them unto the Commonalty of the Citie, desired a writing: The which the Duke to appease the people, though it were much contrary to his minde and his pleasure, granted unto his request. The thirtieth day of *January* ensuing, the Duke, at the request of the said *Provost*, sent certaine Officers to the houses of *Simon de Burg*, and others accused of misgoverning of the Realme, whose houses the said Officers seized and made Inventories of their goods: That done, the Duke sent out Commissions, and assembled the Three Estates againe at *Paris*, the 15. day of *February*: Where, in the parliament chamber in the presence of the Duke, Estates, and divers Nobles, *Robert Coke* Bishop of *Laon* by command of the Duke, made a long Oration, of the misguiding the King and the Land by meanes of cvill Officers, as well by changing of money, as other many unlawfull Excises and Taxes, to the great impoverishment of the Commonalty of the Realme, and to the singular enriching and advancement of the said Officers; Wherefore the Three Estates prayed, that all such Officers may be removed from their Offices, and other that shall be thought more beneficiall for the King and his Realme to be admitted: Of which Officers the Archbishop of *Roan* (then newly made *Cardinall*) was noted for one, and other to the number of 21. whereof some were right nere to the Duke. After which Oration, *Sir John de Pigquine*, in the name of the Three Estates offered, That the Three Estates should

* So it hath been conceived by some, the King by Law might do this in England but *Sir Edward Cooke* in his *Institutes* on *Magna Charta*, f. 575. to 579. hath largely proved the contrary; that the King by his Prerogative and Proclamation cannot alter, enhance or abate his coyne, but in and by the Parliament onely, because it is contrary to sundry Statutes, it is the sinues and life of trade, and every mans estate consists in it, and so all have a common interest therein, which cannot be altered but by common consent in Parliament.

finde to the King 30000. men for an whole yeare, so as all things might after that day be ordered as the Bishop had before devised: All which Articles were unto them by the Duke granted, and incontinently all such Officers as they before had named were clearly avoided, and other such, as by the said 3. Estates were thought most necessary, were put and chosen to their roomes, except that some of the old (as Masters of Accounts and some of the Presidents and Masters of the Requests) were holden in for a time, to shew unto the new, how they should order and guide their said Offices: And the 26 of March was a new money proclaimed thorow Paris, such as the said 3. Estates had newly devised. The King informed of this, sends the Archbishop of Sennes and two Earles from Burdeaux where he was prisoner, with a Proclamation, which they caused to be proclaimed in Paris the 6. of April, That the people should not pay such Subsidies, as the 3. Estates had ordained for the waging of the 30000. men aforesaid, or for the Kings fine; and also that the 3. Estates after that day should no more assemble for any causes or matter before touched, till they had farther knowledge of the Kings pleasure: For which Proclamation the Citizens of Paris much blamed the said Bishop and Earles, who purchased it, who as soone as this Proclamation was made, for feare of the people, fled from Paris. Upon this Proclamation the Commons waxed so mad, that they left their occupations, drew them to Conventicles and Companies, and used many unfitting words of the King and his Counsell: Whereupon to avoid inconvenience, the Duke commanded a Watch to be kept in the City day and night, and certaine Gates of the City to be kept shut. Vpon the 9. day of April, another Proclamation was made all contrary to that other. By vertue whereof, it was charged, that the fore-said Subsidies should be levied, and also that the 3. Estates should re-assemble at Paris, the 5. day after Easter, and there to proceed upon all such matters as were before by them began. When the Estates meet againe, there grew a difference between them and the Duke, about the subsidies for the finding of 30000. men, the summe assessed for that purpose being too small by much, the Clergy and Lords then refusing to pay any more then they were first sessed unto: By meanes of which difference, the assembly of State was dissolved. Whereupon strait command was given by the Duke to the Provost of Paris and others (who bare principall sway within the City, and were great stricklers and doers in the Assemblies of the 3. Estates, so that much of the businesse was ruled by them and their meanes;) that they should cease their Authority, and not to deale any more with the rule of the Realme, but onely with the good rule and government of the City of Paris: That done, the Duke rode about to divers good Townes, making request to them for ayde, and to have this new money curreant among them. But he speed little of his purpose. Then shortly after he assembled at Paris certaine person of 20. or 30. Townes next adjoynting, with whom he held a Counsell for sundry dayes; who in the end shewed him; that they might bring nothing to effect without the assembling the 3. Estates, besought him that they might be est-soon assembled, trusting that they would then satisfie his minde: Upon which the Duke sent forth Commissioners, charging the said 3. Estates to appeare before him at Paris the next Wednesday after All Saints day; which they did, where the Duke condescending to their former Articles he gave the King of Navarre and the 3. Estates full content; who promised that they would demean themselves to his Father and him, as true and dutifull Subjects; and advising him to take upon him the Government of the Realme, they created him Regent of France, during his fathers imprisonment. After this hee assembled the Estates and

chiefe Burgesses of Cities at *Paris*, and acquainted them with the King of *Englands* large demands for his fathers inlargement; which were so displeasing to all the company, that they answered, The said Treatie was neither honourable nor profitable: And rather then the King should binde him and his land to such inconveniences, they would prepare to make sharpe Warre against *England*: whereupon they granted to finde divers thousands of men at Arms, at their owne costs, for certain moneths, to relieve the King: And at (q) another Parliament assembled when *John* was dead, and *Charles* came to the Crowne, they granted an excise of every 4 penny of all things bought and sold for the maintenance of his warres, the spirituallty granted him a *disme*, and the Lords and Gentlemen were stinted at a certaine. And in the eleventh yeare of his reigne, he assembled his great Councell of Parliament at *Paris*, where among many Acts made for the weale of the Realme; he, with the assent of the Lords and Commons there assembled, enacted for a Law after that day to be continued, That all Heires of the Crowne of *France*, their fathers being dead, may be crowned as Kings of *France*, so soone as they attained to the age of fourteene yeares. And in the fifteenth yeare of his reigne, the (r) Duke of *Flanders* granted to those of *Gaunt* such Articles of agreement, for the confirmation of their liberties, the repealing of illegall taxes, the electing of their owne Officers, the Dukes Councillours, and the like (which you may read in *Fabian*) as plainly manifest this whole Dukedome and people to be of greater jurisdiction then himselfe, though invested with regall authoritie, and that he had no power to impose any taxes on them, without their grant and consent; the contrary whereof caused many bloody warres among them.

Charles (s) the seventh (after *Fabians* account, but sixt after the *French History*) a Childe of thirteene yeares, by reason of the difference between the Lords who should be Vicegerent, was by the advice of the major part of the Lords, for the common good of the Realme, Crowned at *Raynes* within the age of fourteen yeares, contrary to a Law made in the eleventh yeare of his Father. In the fourth yeare of his reigne, the Citizens of *Paris* murmuring and grudging for divers impositions and taxes unduely leaved upon them, suddenly arose in great multitudes, intending to have distressed some of the kings Household: Whereupon soone after, the Kings Councell considering the weaknesse of the Treasure, and his great charges and needs; and assembling a Parliament of the Rulers of *Paris*, *Roan*, and other good Townes, exhorted them to grant the King in way of Subsidy, twelve pence in the pound, of all such Wares at that day current, for the defence of the Realme and subjects. To the which request, after consultation taken, it was answered; That the people were so charged in times past, that they might not beare any more charges till their necessity were otherwise relieved: and to the King and his Councell at this time were disappointed. In his seventh yeare, by the Duke of *Angeau* his procuring, a tax was laid upon the Commons of *France* (without the three Estates:) Which to bring to effect, many friends and promoters were made, as well of Citizens, as others. Whereupon the Commons of *Paris* and *Roan* became wilde, assembled in great companies, chole them Captains, and kept watch day and night, as if enemies had been about the Citie; utterly refusing to pay that Tax. This *Charles* being none of the wisest Prince, ruled by his household servants, and beleeving every light Tale brought unto him, (t) marching against the Duke of *Brittaine*, as he came neare a wood, was suddenly met of a man like a Beggar, which said unto him, *Whither goest thou Sir King? beware thou*

(q) *Fabian*,
part. 7. p. 305,
306, 311, 312.
Generall Hist.
of *France*, *Ga-*
guin, and others.

(r) *Fabian*.
part. 7. p. 317.
sec. p. 190, 191,
266, 477, &c.
355, 326, 357,
358, 359, 460.
Walsingham,
Hist. Angl. p.
235, 236.

(s) *Fabian*.
part. 7. p. 324.
355, 356, 357,
358, 363, 364.
The generall
Hist. of *France*,
Gaguin, and
others in his
life.

(t) *Fabian*. *ibid.*
Generall Hist.
of *France*, p. 226
22, 732, 28, 229.

goe no further, for thou art betrayed, and into the hands of thine enemies thine owne Army shall deliver thee. With this monition the King was astonied, and stood still, and began to muse. In which study one of his followers that bare his Speare, sleeping on Horsback, let his Spear fall on his fellowes Helmet; with which stroke the King was suddenly feared, thinking his enemy had come unawares upon him; wherefore in anger he drew his sword, slew foure of his owne Kinghts ere he refrained, and took therewith such a deadly fear, as he fell forth with distracted, and so contiued a long season, being near at the point of death. VWhereupon his brother Lewes of Orleans, being but young, the States of France thought it not convenient to lay so heavy a burthen upon so weake shouldrs; wherefore his two Vncles the Dukes of Berry and Burgoine, BY AVTHORITY OF THE STATES OF THE LAND, specially assembled in Parliament upon this occasion, tooke upon them to rule the Realme for that season, it being ordered by a speciall Law, that they should abstain from the name of Regent, unfit in this sudden accident, the King being alive, and of years: And because the Duke of Berry had but an ill name, to be covetous and violent, and was therefore ill beloved of the French, his younger brother Philip Duke of Burgoyne, had the chiefe charge imposed on him; and though the Title was common to both, yet the effect of the authoritie was proper to him alone, who changed divers Officers. After which the Duke of Orleance was made Regent, being the Kings younger brother, who pressing the people with quotidian taxes and tallages, and the spirituall men with dismes and other exactions, he was at length discharged of that dignitie, and the Duke of Burgoyne put in that authoritie. After this our King (u) Henry the fift, gaining a great part of France, and pretending a good title to the Crowne { recited at large by (x) Hall and John Speed) the Frenchmen to settle a peace, made this agreement with King Henry: (y) That he should marry Katharine the French Kings daughter, and be admitted Regent of France, and have the whole government and rule of the Realme, during Charles his life, who should be King of France, and take the profits of the Crowne whilest he lived; and that after the death of Charles, the Crowne of France, with all rights belonging to the same should remaine to King Henry, and to his Heires Kings: That the Lords spirituall and temporall, and the Heads and Rulers of Cities, Castles and Townes, should make Oath so King Henry, to be obedient to his lawfull commands concerning the said Regency, and after the death of Charles to become his true subjeells and liegemen; That Charles should in all his writing name King Henry, his most dearest sonne, Henry King of England, and inheritor of the Crowne of France; That no imposition or tax should be put upon the Commons of France, but to the necessary defence and weale of the Realme; and that by the advice of both Councils of the Realmes of England and France, such stablished Ordinances might be devised, that when the said Realme of France, should fall to the said Henry, or his Heires, that it might with such unity joyne with the Realme of England, that one King might rule both Kingdomes as one Monarch; reserved alwayes to either Realme all Rights, Liberties, Franchises and Lawes, so that neither Realme should be subject unto other, &c. VWhich Articles were ratified and agreed with the consent of the more part of the Lords spirituall and temporall of France: But (z) Charles dying, his sonne Charles the eight, was by some part of France, and many Lords, reputed and knowledged King, but not crowned whiles the Duke of Bedford lived and remained Regent, our Henry the sixth, both in Paris and many other

(u) Chron. 2.
c. 5. H. 5.

(x) Hist. p. 786.
to 782.

(y) Fabian.
part. 7. p. 399,
400, 475.

Generall Hist. of
France, Holin-
shed, Fabian,
Walsingham,
Grafton, Hall.

(z) Fabian,
part. 7. p. 475,
478. Generall
Hist. of France,
Hall, Holinshed,
Speed.

other cities, being allowed for king of France. After his death, his sonne (a) *Lewes* the eleventh, (as *Fabian* accounts) by strength of friends was crowned king of France; who refused the counsell and company of his Lords, and drew unto him, as his chiefe Councillors, villaines and men of low birth, as *John de Luze*, *John Balua*, *Oliver Devill*, (whose name for odioulnesse he changed into *Daman*) with others, whom he promoted to great honours and places: VVhereupon the Lords murmured, and were so discontented, that the *Duke of Brittain*, and others, withdrew them from the king, and refused to come unto his presence when he sent for them, raising a great power: And when no peace could be mediated betweene the king and them, they met in a plaine battell at *Chartres*, where many were slaine on both sides, but the king lost the field. After which an accord was made betweene them, but the king continued his old courses, delighting more in the company of lewd, irreverent persons, to eate and drink with them, and to heare them talke of ribaldry and vicious fables, then to accompany his Lords, which might have won him much honour, going liker a *Serving man* then a *Prince*: and being a great oppressor of his subjects to maintaine his prodigality, for lack of money, he was driven of necessitie to aske a preste of the citizens of *Paris*; who, after many excuses, which might not be allowed, they lastly denied the kings pleasure. VVherewithall he being grievously discontented, removed divers from their offices, and put many of the richest and head men of the citie to death, upon surmised causes, without proofs of justice: For which causes, and many other oppressions, the Lords againe assembled their people, intending to subdue the king, and to set his brother in his place, or to cause him otherwise to rule the Commonwealth: To which end all the Lords met at a Towne called *Stampes*, where they continued their Councell fiftene dayes, and then marched to *Paris*, sending four severall letters unto the citie; one to the Bishops and spirituall men, the second to the Confulls and headmen, the third to the Vniversitie, the fourth to the Commonalty, signifying, That neither they nor any of their company were come thither as enemies to the Citie, or to warre against it, or the Commonwealth of the Land; but for the increase and augmentation thereof to the uttermost of their powers. VVhereupon these foure parties sent certaine Orators for them to the Lords, who after long communication with them had, returned to the citie with this report; First, the Lords would that the inhabitants of the City should consider the conditions of the King, which yearly oppressed his Subjects with taxes and other grievous servages. Secondly, how he despised the noble bloud of his Realme, and drew to him villaines and men of no reputation, by whose counsell onely all the Commonwealth of the Land was guided and ruled. Thirdly, how hee ruled his Subjects by force and will without administration of justice, and himselfe in all Counsels and Parliaments is Judge of all causes, and calleth himselfe Counsels and Parliaments more for this singular weale then for the Common-weale of his Realme. Fourthly; how hee enhaunsed men of low birth to great honours, and caused Noblemen to be obedient unto them, intending to bring the said ignoble men to be equall with the Princes of the Land. Fithly, how the Lawes be delayed and bolstered by such as stand in his favour, wherethrough at this day Law is will, and will is Law, and no man almost in any surety of life or goods; insomuch that daily many have been banished and put to death for unlawfull causes, and also to any Noble-man at this day no power or roome of honour belongeth; so that to the wild Beasts in the Forrests appertaineth more Liberty and surety then to the more

(a) *Fabian*,
part. 7. p. 479,
480, 481, 482.
Generall Hist.
of France.

party of the Kings subjects. Sixthly, The great taxes and summes of money which daily be levied of the Commons be not spent in the Kings honourable needs, and for the Commonwealth of the Realme, but are spent vainly and riotously, and bribed out of the Kings Coffers; for which enormities and misgovernance with many other, the said Lords were come thither in defensible wayes for the safeguard of their owne persons, as to the head and principall City of the Realme, for to have aide and Counsell, to reforme the foresaid evils, not intending any harme to the Kings person, or yet to remove him from his regality or Kingly Majestie; but to induce and advertize him to that which should be for his honour and the weale of his Realme, and to live in wealth and honour, as his Noble Progenitors lived before him; For which causes and considerations, the said Lords, as the Kings true Subjects, and friends to the Commonwealth of the Land, and of that City, desired to enter there to refresh them and their people, and to pay truly for all things they should take, without doing harme or violence to any person. All which requests and matters of the Lords shewed to the Inhabitants of the City, by favour of some friends they there had, it was with the more partie well accepted, and thought convenient they should be received into the Citie; but by meanes of the Earle of Davoise it was respited, till they had further knowledge of the Kings pleasure: who comming out of Normandie into Paris after diuers Skirmishes, the King and Lords fell to a Treaty of peace, whereupon Commissioners on both sides assembled and communed together by sundry times two dayes; In which season new strength of Souldiers came to the King out of Normandy. The Treatie hanging long, and a longer Truce being proclaimed, the souldiers fell to robbing, and other unlawfull acts; and at last, through obstinacy on both parties, all offers were refused, and the day of the Truces expiration approached, without hope of accord; whereupon provisions for warre were made on both sides. Then begun grudges and murmures betweene the kings souldiers and the citizens of Paris: and shortly after newes came to the king, that the Castle and Citie of Roan was yeilded up to the Duke of Burbon: Whereupon the King considering what great advantage the Lords had of him, both by strength and favour of the Commons, which daily drew unto them by sundry companies, in avoiding of more danger, concluded a peace: which being proclaimed thorowout all France, the King and Lords met, to whom the King shewed great semblance of kindenesse, specially to his brother Charles Duke of Normandy; wherein appeared great dissimulation, Lewes being of such conditions, That what he might not overcome with strength, he would win with dissimulation and treachery. Not long after the King warred upon Charles his brother, the Duke of Burgundy and Brittain, and a Treaty of peace being propounded betweene them, Charles answered, That if a perfect concord should be established betwene the King and him, it should be authorized by the whole consent and counsell of the Barons of the Realme. With which the King being content, at Turon, in the moneth of April, a d tenth yeare of his reigne, assembled a counsell of his Lords spirituall and temporall, in the which the demands of Charles, and offers of the king were shewed: And after the said Councell had at length reasoned the said demands and offers, it was finally determined, That the Duchy of Normandy was so appropriated unto the King of France, and to his heires, that in no wise it might be dissevered from the Crowne; but that a perfect unitie might be had betweene the King and his brother, the King should be instanced to give yearly to his brother in recompence of the said Duchy, 12000 pounds of Turon money, with certain land to be assigned with the

name of a Duke, and 40000 annuall rent of like money during his naturall life, for such portion as he claimed to be his right, within the Realme. To all which the king agreed, and to pardon the Duke of offences against his Majestie, and all such Lordships as he had wonne from him in Britaine, to restore: which offers Charles refusing, was the yeare following contented with the Dutchy of Guyan onely, and so the warre of Normandy ceased. After Lewes his death most of his speciall and dearest beloved Servants and ill Councillours (whom he specially recomaended to his sonne Charles the ninth on his death-bed) came to disgracefull ends: (b) Oliver Dammman was beheaded for Treason, and John Doyacon for trespassse and hatred unto the common people by his desert, was with all shame brought to the Market place at Paris, and there bereft of both his ears, and then banished the Court for ever; by reason whereof arose this proverbe among the Frenchmen, *Principibus obsequi hereditarium non esse*, The favour of Princes is not hereditary. (c) Philip de Commines living under Lewes the eleventh, and Charles the eighth, by whom he was made Lord of Argenton, being in high favour with them, and a great Councillor of State, hath this notable passage, against the French Kings power then to impose any taxes on their Subjects, without their free assents in a Parliament of the 3. Estates, though the contrary be now daily practised, to the intollerable grievance of the subjects; (c) *Is there any King or Prince that hath power to leavie one penny upon his subjects, besides his demains, without leave or consent of those that must pay it, unlesse it be by tyrannie and violence? A man will say, that sometime a Prince cannot tarry to assemble his Estates, because it would require too long time. Whereunto I answer, That if he move a Warre offensive, there needeth no such haste, for he may have leisure enough at his owne pleasure to make preparation; and further, he shall be much stronger, and much more feared of his enemies, when he moveth warre with the consent of his subjects, then otherwise. Now as touching a warre defensive, that Cloud is seene long before the tempest fall, especially when it is a forraine warre; and in this case good subjects ought not to complaine, nor to refuse any thing that is laid upon them: Notwithstanding such invasion cannot happen so suddenly, but the Prince may have leisure at the least to call together certaine wise personages, to whom he may open the causes of the warre, as if to collusion therein, neither seeking to maintaine a trifling warre upon no necessitie, thereby to have some colour to leavie money. Money is also necessary in time of peace, to fortifie the Frontiers, for defence of those that dwell upon them, lest they be taken unprovided, but this must be done measurably. In all these matters the wisdom of a sage King sufficeth, for if he be a just Prince, he knoweth what he may do, and not do, both by Gods Lawes and mans. To be short, in my opinion, of all the Seniories in the world that I know, the Realme of England is the Countrey where the Commonwealth is best governed, the people least oppressed, and the fewest buildings and houses destroyed in civill warre, and alwayes the lot of misfortune falleth upon them that be authors of this warre: Our King is the Prince in the whole world that hath least cause to alledge, that he hath priviledges to leavie what he listeth upon his subjects, considering that neither he nor any other Prince hath power so to doe; and those that say he hath, do him no honour, neither make him to be esteemed any whit the mightier Prince thereby, but cause him to be hated and feared of his neighbours, who for nothing would live under such a government: But if our King, or those that seeke to magnifie and extoll him, should say, I have so fastidious and obedient subjects that they deny me nothing I demand, and I*

(b) Fabian.
part. 7 p. 47,
521, 522, 523.

(c) Phil. de
Com. l. 5. c. 18.

Note.

am more feared, better obeyed, and better served of my subjects, than any other Prince living; they endure patiently whatsoever I lay upon them, and soonest forget all charges past. This (me thinkes, yea, I am sure) were greater honour to the King, then to say, I leavie what I list, and have priviledge so to doe, which I will stoutly maintaine. King Charles the first used no such termes, neither did I ever heare such language proceed from any king, but from divers of their servants, who thought they did their Master great service in uttering such speeches; but, in mine opinion they misbehaved themselves towards their Prince, and used such language, partly because they would seeme to be good servants, and partly because they knew what they said. But for a manifest prooffe of the French mens loyaltie and obedience to their Prince, we need alledge none other example then that we have seene our selves of late by experience, when the Three Estates were assembled at Towrs, after the death of our Master King Lewes the eleventh, which was in the yeare of our Lord, 1483. A man might have thought this good assembly to be dangerous for the kings estate; yea, and divers there were of mean calling, and lesse honesty: that said then, and often said since, That it is Treason to make mention of assembling the Estates, and a thing tending to the diminishing of the Kings authoritie; but themselves are those that worke Treason against God, the king, and the Commonwealth; neither doe any use these speeches, but either such as are in authoritie without desert and unworthy thereof, or such as are common Tale-carriers, and accustomed to talke of trifling matters, or such as feare great assemblies, lest their doings should there be ripped up and reprehended, &c. (d) Charles the eighth of France, being but thirteene yeares of age when the Crowne descended to him; hereupon in the year 1484. a generall Parliament was held at Towrs, with more free access then had bene usuall, yet not so effectuell as was expected, every one seeking rather to maintaine his private authoritie then to procure the peoples ease. In this Parliament the pragmatick sanction was restored, to use it as they had accustomed. The Constables sword was given to the Duke of Bourgon, the government of the Kings person to his Sister, a cunning woman, and somewhat of her fathers humour; but the name of Regent was forbidden to them all, to prevent jealousies: and there was a Councell enacted of Twelve, by whom matters should be dispatched in the kings name; of the which Lewes Duke of Orleans should be President. Lewes discontented with the device, seekes to hold his ranke; he pretends, that being the first Prince of the blood, the Regency belogged unto him: he assists at the Councell in Parliament, and in the assemblies in Towne, and notwithstanding the last V Will of King Lewes, and the Decree of the Estates, yet will he by force have the name and effect of Regent. VVhereupon discontents arising, he leaves the Court in discontent, and raised a civill warre. However, the Estates settled the Regencie and affaires of the Realme. (e) Anno 1525. Francis the first King of France was taken prisoner by the Emperour Charles the fifth in the Battell of Pavia; who by mediation of Friends for his enlargement, sent the Earle of Reux his Lord Steward, to offer the King Liberty, so as he would resigne all the rights he pretended in Italy; restore the Duchy of Burgongne, as belongeth to him by right, with Provence, and Dolphine for the Duke of Bourbon, to incorporate them with other Lands which he had formerly enjoyed, and to make all together a Kingdome. Moreover the Emperour offered to give him his sister in marriage, propounding many other conditions, so absurd and void of reason, as it is better to let the curious read them in the Originalls themselves. Amongst all losses, that of Liberty toucheth nee-

Note.

(d) Gen. hist. of France. p. 421.

423.

(e) Gen. hist. of France. p. 575. to 580. Grimst. Imper. hist. p. 647, 648.

rest; but Francis having learned to withstand all adversity with a constant resolution, said, I will dye a Prisoner rather then make any breach in my Realm for my delivrance, whereof I neither WIL NOR CAN alienate any part without the consent of the Sovereign Courts and Officers, in whose hands remains the authority of the whole Realm. We preferre the generall good before the private interest of Kings persons. If the Emperour will treat with me, let him demand reasonable things which lye in my power, then shall he finde me ready to joyne with him, and to favour his greatnesse. The Emperour seeing the King constant in this resolution, in the end yeilded to his delivery, upon these termes, That within six weekes after his delivery he should consigne the Duchy of Burgongne to the Emperour, with all the dependancies, as well of the Duchie, as of the Countie, the which should hereafter be sequestred from the Sovereignie of the Realme of France; That he should resigne to the Emperour all his rights pretended to the Estates of Naples, Milan, Genoa, and Ast: That he should quit the Sovereignie of Flaunders and Arthois, &c. Hereupon the King being enlarged, and arrived at Bayonne, he was required, to ratifie the Accord, which he had promised to doe when hee came to a free place: but he delayed it with many excuses, giving the Emperour to understand, that before he proceeded to such an act, it was necessary that he should pacifie his Subjects, who were discontented with bonds which tended to the diminution of the Crowne of France, &c. After which, the Pope and the Venetians sending Messengers unto him, he complained of the Emperour, that he had wronged him in that he had forced him to make impossible promises, and that he would be revenged if ever occasion were offered; and that he had often told him,* that it was not in the power of a French King to binde himselfe to the alienation of any thing depending of the Crowne, without the consent of the Generall Estates: that the Lawes of Christians did not allow, that he which was taken in Warre should be detained in perpetuall prison, which was a punishment proper to Malefactors, and not for such as had bin beazen by the cruel y of fortune: that all men knew that Bonds made by constraint in prison, were of no value, and that the capitulation being of no force, the faith likewise which was but accessory, and the confirmation of the same could not be bound: that by the oath which he had taken at Rhemes at his Coronation, he was bound (according to the custome of other Kings of France) not to alienate the patrimony of the Crowne; and therefore for these reasons he was no lesse free then ready to abate the Emperours pride. The Emperour growing jealous of the Kings delays, for ratification thereof sent one unto him, to be certified of his intent, who found him very unwilling to leave Burgundy; which being very prejudicall to the Crowne of France, he said, was not in his power to observe; and that hee could not alien the Bourguinians without their assents in an assembly of the Estates of the Country, which he intended to call shortly to know their minds. By which it is most apparent, that the Kings of France have no power at all to dispose of their Crown lands or alienate them to others (as other Subjects may doe) because they hold them onely in the right of their Crowne for their Kingdomes use and service, the true proprietiers of them. Upon which very ground (f) Philip Augustus King of France, Anno 1216. in a solemne Assembly of the States at Lyons, told Walo the Popes Legate (who came to prohibit his Sonne Lewes to goe to receive the Crowne of England, because King John had resigned it to the Pope;) That no King or Prince can give away his Kingdom without the consent of his Barons, who are bound to defend the Kingdom; and if the Pope decreed to defend this error, he should give a most pernicious Example to all King-

* Nota.

(i) Matthew Paris, p. 279, 271.

domes: Whereupon all the Nobles of France began to cry out with one mouth, *That they would stand for this Article unto death, That no King or Prince by his sole pleasure could give his Kingdome to another, or make it tributary, whereby the Nobles of the Realme should be made servants*: And the next day Lewes his Advocate alledged, that King John for his homicides and many other enormities, was justly rejected by his Barons, that Hee should not reigne over them. That he could not give the Crowne of England to any one without the assent of his Barons; and that when he had resigned it, he presently ceased to be a King, and the Kingdome became void without a King, and being so vacant could not be disposed of without the Barons, who had lawfully elected Lewes for their King: who in pursuance of this his Title, (which the Estates of France held just,) sailed into England, took possession of the Kingdome, received homage of all the Barons, and Citizens of London, who joyfully received him, taking an Oath upon the Evangelists, to restore them their good Lawes, together with their lost Inheritances.

(g) The generall
Hist. of France,
p. 657; 86690.

(g) Henry the 2. of France being casually slaine by the Earle of Montgommery in running at the Tilt, left the Crowne to Francis the 2. being but about 16. yeares of age, the Queen Mother, with his wives Uncles the Duke of Guise, and the Cardinall of Lorraine, hereupon usurped the Government of his person and Realme, dispossessed the chiefe Officers of the Crowne, kept backe the Princes of the Blood from Court, the true and lawfull Governours of the State during the Kings minority, and plotted the meanes to raise their race to the Royall Throne, by displacing all great Officers, substituting others of their owne faction, and endeavouring to extirpate the Protestant party, whom they feared as most oppositeto their treacherous designs; They doe and undoe, place and displace in Parliament and Privie Councell, like absolute Kings; they revoke all alienations for life or yeares made by the deceased King in recompence of any services, except sales; they caused divers Protestants to be put to death, imprisoned, pillaged: Wherewith the princes, Officers and people being generally discontented, to redresse the present and prevent all future disasters that might ensue, require a generall Parliament (as the Sovereigne cure for such diseases, whereby the Queen Mother might be put from her usurped Regency, and those of Guise excluded from the Kings person) who to please the king, perswade him, that their opposites sought only to bridle and make him a Ward, and that he should hold them enemies to his Authority and **GUILTY OF HIGH TREASON. THAT TALK OF A PARLIAMANT.** The King of Spaine to crosse them, by Letters to the King his Brother-in-law, declares himselfe (for the good affection he bare to him) Tutor and Protector of him, his Realme and affaires, against those that would change the Government of the Estate, as if the King were not capable of the Government. Pleasant people, which reject so much the word of lawfull tutelage, and yet usurped it against the Lawes and Orders of the Realme, holding it onely by tyranny. After this they cast many slanders on the Protestants, put Anne du Burge and other Councillours of Parliament to death, pistoll Anthony Minard president of the Parliament, publish sundry Edicts against those of the reformed Religion, promise great recompences to those that discover their assemblies, fill their prisons with them, imploy ayre, fire and water to ruine them, and kept the king from hearing his Subjects complaints. The princes were kept backe, the greatest of the Realme out of credit, threatned, and secretly pursued to death, the convocation of the Estates refused, the parliaments corrupted, the Judges

for the most part at the *Guisians* devotion; and the publike treasure, offices and benefices given to whom they pleased. This their violent government against the lawes, and orders of the Realme, purchased them wonderfull hatred, and caused many which could no longer endure these oppressions, to consult UPON SOME IVST DEFENCE, to the end they might preserve the just and ancient Government of the Realme. They demand advice, TOUCHING LAW AND CONSCIENCE OF MANY LEARNED LAWYERS AND DIVINES: who resolved, THAT THEY MIGHT LAWFVLLY OPPOSE THE MSELVES against the government which the house of *Guise* had usurped, AND AT NEED TAKE ARMES TO REPVLSE THEIR VIOLECE; so as the Princes, who in that case are born Magistrates, or some one of them, would undertake it, being required by the Estates of the Realme, or by the sounder part of them. They who first thought of this Act of consequence, had severall considerations: Some, moved with a true zeale to serve God, the King and Realme, thought they could not doe a greater worke of pietie, then to abolish Tyrannie, rescue the State, and to finde some meanes to ease them of the Religion. There were others desirous of change, and some were thrust on with hatred, for the wrongs which the house of *Guise* had done them, their kinsmen and friends: yet all had one designe to suppress this unlawfull government. In these consultations it was held necessary to seize on the *Duke of Guise*, and the *Cardinall* his brother, being advoed by one chiefe member of the State, and then to require an assembly of the *Three Estates*, to the end they might yeeld an account of their Government, & provide for the King and Realme. After which they make the *Prince of Conde* acquainted with this their designe, & engage him in this quarrel; which being discovered, produced a long bloody civill war against the Protestants, under this and the two succeeding Kings; in which warre, those that died, departed this world with this singular content, to have couragiously sacrificed their lives for their countries libertie: So the generall History of France; in which and in *Richard Dinothus* you may read at large, both the History and the lawfulnessse of this defensive warre, overtedious to transcribe.

Francis (c) dying, the Crowne descended to *Charles* the ninth, being but eleven yeares of age, and a Parliament of the Estates being assembled on the three and twentieth day of December, 1560. the *Queene Mother* was thereby allowed and confirmed Regent during the Kings minority: In severall Parliaments contradiotory Acts are made, some restraining, others granting the free exercise of the Reformed Religion thorowout the Realme. The *Guisian* Popish faction, being the strongest party, most powerfull at Court, and intimatest with the King, notwithstanding all Acts for the Protestants immunitie and libertie of conscience, impose divers illegall restraints upon them, commit many outrages and massacres on them, for which they could have no redresse; whereupon for their own defence and preservation, after many fruitlesse Petitions, & delusory promises, they take up Arms; whereupon many bloody civill wars ensue. Many propositions and overtures of Peace were made by the *Guisian* royall party, not one of them reall, but all to get advantages, and over-reach the Protestants, against whom they had the most mischievous designs in agitation, when they seemed most earnestly to desire Peace. Four or five severall conclusions of Peace were solemnly made and ratified betwene them, but no sooner made and proclaimed, but

Note.

Generall Hist.
of France,
692, 696. & *Richardus Dino-*
thus de Bello
Civili Gallico
Religionis causa
suscepio. l. 2, 3,
4, 6. Speeds
Hist. 1211, 1212
1213. K. James
Answer to *Car-*
dinall Peron.

presently violated of the King and Popish party, by massacres, and new treacherous Plots to extirpate the Protestant party; so that every accommodation proved but a seminary of a new and more bloody warre, almost to the utter ruine of France. In the yeare 1592. when a publicke peace was made, and all differences to our ward appearance, buried in eternall oblivion; the King; contrary to his faith and oath, caused the *Admirall of France*, (the Protestants chiefe pillar) as he departed from the Councell to dinner, to be shot with a Harguebuze, which carried away the forefinger of his right hand, and wounded him in the left arme. The king to colour this treachery, *swears with an execration to the King of Navarre*, and others who complained of this outrage, *to take such exemplary punishment on the offenders, as the Admirall and his friends should have cause to rest satisfied, commands them to be pursued, appoints three of the Parliament to make information against them, protests after this again and again, to be exceeding sorry; that this act touched his honour, that he will be revenged for it, so as the memory thereof should remaine for ever; writes to the governours of the Provinces, chiefe Townes, and Magistrates, That he would take such order as the Authors of so wicked an act should be knowne and punished: And to his Ambassadors to forraigne Princes, That they should make it knowne to all the world, that this outrage did displeas him. And for the Admirals safetie, he commands the Captaines of his Guards, to give him as many of his Guard as he pleased, to suffer no Papist to enter his lodging; and adviseth all the Gentlemen Protestants then in Paris to lodge about the Admirals lodging.* But all this Court-Holy-water was onely to keep every Bird within his owne nest, and a Pitfall to entrap the chiefe of the Protestants: For the same day after dinner, the King and *Queene Mother*, the Duke of Guise, and others, take counsell to murder the Admirall, and all the chiefe Protestants, the night ensuing, not onely in Paris, but thorowout all France, whiles they were sleeping in their beds. Which most tyrannicall barbarous Tragedie was accordingly acted, the Admirall slain in his lodging, and his head cut off, carried to the King and *Queen Mother*, who causing it to be embalmed, sent it to the *Pope* and *Cardinall of Lorraine*, for an assurance of the death of their most capitall enemy: all the Protestants, Noblemen and Gentlemen, lodging in the Admiralls Quarter, undergoe the like Butchery; the Streets of *Paris* are strewed with Carcases, the pavements, market places and river dyed with Protestant blood, about ten thousand of them being thus treacherously massacred in their beds, at such a season when they thought themselves most safe, and that on the Lords owne sacred day, a very unsutable time for such a bloody, prophane, infernall sacrifice. No sooner was this most chiefe treachery of this king against his owne naturall subjects executed, but he avowes and justifies that which he but the day before so solemnly and openly disclaimes, as a meanes to cut off all commotions for time to come. But this blood-shed began new warres, and made the Protestants in *Languedoc*, *Rocheil*, and other parts, to take up Armes in their owne defence, and stand more strictly on their guard than ever before: And (i) God himselfe out of his Divine justice, after this horrible Butchery committed by this dissembling, cruell, blasphemous King, smote him with an answerable disease, causing him to wallow in his owne blood, which he pitifully vomited out in great abundance, by all the conduits of his body, for divers hours, till he dyed: (A just judgement for him that barbarously shed blood thorowout all the Provinces of the Realme) he in the meantime tossing in his bed, and casting out many horrible blasphemies. A notable spectacle

(i) *Gen. hist. of France*. p. 744.
Fox Acls and Moz. Vol. 3.
 p. 1. c. 26, Edit.
 1710.

cle for all unnaturall fidiſragous Princes to looke on, who imbrue their hands in the blood of their Christian ſubjects. VVhich crime (as the Authour of the (k) French Hiſtory obſerves) made his reigne curſed in the City, and curſed in the field; curſed in the beginning, and curſed in the ending; mortalitie, ſword, famine, curſing, feare, and deſolation, following it even unto the end. I ſhall conclude his reigne with the words of the French Hiſtory; Doubtleſſe God loves not the Prince that thirſts after his ſubjects blood, for the ſubjects blood is the very blood of their Prince.

(k) Gen. Hiſt. of France, p. 764.

(l) Charles dying without Heire of his body, the Crowne deſcended to his Brother Henry the third, then king of Poland, Anno 1574. his firſt deſigne was to extirpate the Huguenots and Proteſtant Religion thorowout the Realme, though the Emperour Maximilian told him, *There is no ſinne ſo great as to force mens conſciences, and ſuch as think to command them, ſuppoſing to win heaven, doe often loſe that which they poſſeſſe on earth.* His pernicious Cabinet Councillors, to effect this deſigne, cauſe him firſt to proteſt by ſundry Proclamations, his love to the good of his ſubjects, and to aboliſh what was paſt, ſo as they lay aſide armes, de iure him all his Townes, and live quietly in their houſes, without any ſearch, constraint, or moleſtation for matter of conſcience. A policie practiſed onely to bring the Proteſtant party into ſlavery, all thoſe Proclamations making no mention of liberty of their Religion, neither of a Parliament for the publike Government, nor of a nationall Councell for matters of Conſcience: herenpon the Proteſtants ſtood the more upon their guards, they are full of jealousie, diſtruſt, doubt, feare, the King and his Popiſh Councell endeavouring by this wile to keepe the Proteſtant party at a gaze, whiles they in the meane time made great preparations under hand to put a mighty army into the field, to ruine them without hope of riſing: So they arme on all ſides, eſpecially in Poitou, the Proteſtants are beſieged, aſſaulted in many places, and ſo manfully repulſe their aſſailants, that they are willing to hearken to a Treaty of peace; wherein the Proteſtants demanding free exerciſe of their Religion thorowout all France, new Chambers in the Parliament for the execution of juſtice, puniſhment of the murderers of them, eaſe of impoſts, a free aſſembly of the generall Eſtates, and an aſſurance for the entertainement of the pretended peace. The King after ſixtene dayes conference, promiſeth to content them all, but he will have them to referre theſe demands to his will; and ſo the Treaty vaniſhed into ſmoake, and new warres ſprung up in every place with new Court-deſignes to undermine and circumvent the Proteſtants, who are aided by a German Army, Anno 1576. The Queen Mother ſeeing the Proteſtant party proſper in their warres, makes a peace betweene the King and them; who grants the Proteſtants all their former demands, reſtores divers of them to their goods, offices, honours: avows by a ſolemne Declaration the Maſſacres of them, Anno 1572. to have bene committed againſt all right and law of Armes; He ordained that the children of ſuch Gentlemen as had bene murdered, ſhould be reſtored to their parents goods, and freed from all charges of warre, yea, he avowed their taking up of Armes, as taken for his ſervice, &c. Which Articles, with the Kings Ediſt thercon, were allowed by the Parliament at Paris. But no ſooner were their Forces diſbanded, but they began to finde this peace to be counterſeit, being onely made to diſarme them, and divide their Commanders: none of the promiſes being really performed. In the mean time the houſe of Guiſe and their faction ſend their Agents to Rome, and Spaine, to joyne with them in a Catholike league, and under pretence of extirpating Hereſie,

(l) General Hiſt. of France, p. 765, &c.

and establishing the Roman religion thorowout *France*, endeavour to settle the Crowne upon themselves: their chiefe designs were, to overthrow the succession of the Crowne brought in by *Hugh Capet*, in the full assembly of the Estates, and to make the naming of a Successor subject unto the said Estates, to cause the Princes of the blood that should oppose against the Decrees of the Estates to be declared incapable of succeeding unto the Crowne; to make the Estates protest to live and die in the faith set downe by the Councell of Trent; to cause it to be signed in the open Parliament; to revoke and annull all publike Edicts in favour of the Protestants and their associates, and to pursue them to the death, that should hinder the extirpation of Heresies, &c. These Articles of Association were first drawne at *Peronne* in *Picardy*, but disguised with goodly shewes, to blind those that would examine them more exactly, as being onely to maintaine the Law, and restore the holy service of God; to preserve the King and his Successors in the estate, dignitie, service and obedience due unto them by their subjects; to reserve unto the Estates of the Realme, their rights, preheminences and ancient liberties. And for the execution of these Articles, a certaine forme of Oath was propounded, inflicting pains of eternall damnation to the associates, that for any pretext whatsoever should withdraw themselves from this league; and a Bond for such as should be enrolled, or imploy their goods, persons, and lives, to punish, and by all meanes to ruine the enemies and perturbers thereof, and them that should faile, or make any delays, by authoritie of the Head, as he should thinke fit. Soone after a Parliament of the three Estates is assembled at *Bloyes*, where the *Catholike Leaguers*, after much consultation, caused the last Edict of pacification, in behalfe of the Protestants to be revoked, and procured an Edict for the exercise onely of one Religion (to wit the *Poppish*) to be tolerated within the Realme. The King of *Navarre*, the Prince of *Conde*, the Marshall of *Montmorancy*, with divers other Noble men of both religions, foreseeing these practises, and refusing to assist at this pretended Parliament, concluded a nullitie of all that should be decreed to prejudice the former Edict of Pacification; protesting, that they were resolved to maintaine themselves in the Rights, Liberties, and freedoms which the Edict had granted them. That the troublers of the publike quiet, and sworn enemies of *France*, should finde them in a just defence, and they should answer before God and men for all the miseries that should ensue thereby: Yea the Prince of *Conde* answered more sharply, That he did not acknowledge them assembled at *Bloys* for the Estates of the Realme, but a Conventicle of persons corrupted by the sworn enemies of the Crowne, who have solicited the abolition of the Edict, to the ruine and subversion of the Realme: That if they had beene lawfully called, he would have assisted, for the sincere affection he beares to the Kings service and the quiet of his Countrey; that he will never give his consent to the counsels of the Authors of so many confusions which he foresees, &c. Hereupon a sixt civill Warre begins betweene the *Catholike Leaguers*, and the Protestants, whose good successe caused the King, *An. 1580.* to make a new peace with the Protestants, and grant them their former immunities. The Leaguers discontented herewith, begin to cast forth Libels against the King, disgrace him in companies as a *Sardanapalus*, and idle *Chilpericke*, fit to be shaved and thrust into a Cloyster; They cause the Preachers publicly in all places, to censure him a Tyrant, an Oppressor of his people by Taxes, and a favourer of Heretikes: And under a pretence of suppressing Heretikes, reforming publike oppressions; and settling the succession of the Crowne in case the King should die without Heire, they, contrary to the Kings command,

mand, (who *disavows them, and forbids all leayes of warre*) raise a great Army, and so enforce the king to publish a Declaration in his owne justification, and to procure his peace with them, to revoke all *Edicts* made in favour of the Protestants, and make open warre against them. Hereupon the King of *Navarre* (next Heire apparent to the Crowne) for preservation of his owne interest and the Protestants, complains against the kirgs proceedings, layes open the mischievous Plots of the Leaguers: and then with the *Prince of Conde* and other Nobles, Gentlemen, Provinces, Townes, and Commonalties of both Religions, *He protests, by a lawfull and necessary defence to maintaine the fundamentall lawes of families, and the Estates and libertie of the King, and Queenehis Mother.* The Leaguers hereupon procure *Pope Sextus the fift,* to excommunicate the king of *Navar,* and *Prince of Conde,* to degrade them and their Successors from all dignities, from their pretensions to the Crowne of France, and to expose their Countries and persons in prey to the first that should seize on them. The Court of Parliament declares this Bull of the Pope to be void, rash, insolent, strange, farre from the modestie of former Popes, pernicious to all Christendome, and derogating from the Crowne of France: The Princes likewise protest against, and appeale from it, as abusive and scandalous, to the next free and lawfull Councell. The Leaguers pursue their begun warres against the King of *Navarre* and Protestant party; who protest to use all lawfull meanes to resist the violence of their enemies, and cast all the miseries that shall ensue upon the Authors thereof. Fresh warres are hereby prosecuted against the Protestants by the Leaguers, *German Forces* come in to ayde the Protestants; after many combats the King desires peace, but the Leaguers will have none; and assembling at *Nancy,* they endeavour to force the King to make his Will, and allow the Regency unto them; to which end they conclude, *That the King should be urged to joyne his Forces effectually with the League, To displace such from their Offices as should be named, To bring in the in the Inquisition of Spaine, and publish the Councell of Trent, but with a moderation of such things as derogate from the priviledges of the French Church; To consent to the restitution of the goods sold by the Clergy for the charges of the warre, To give them Townes to be named and fortified as the time and necessity required, To forfeit the Huguenots bodies and goods, and to entertaine an Army upon the frontiers of Lorraine against the Germanes.* After which the Duke of *Guise* approaching to *Paris,* enters it against the Kings command, who was jealous of him; mutinies the Citizens against the King, who thereby is forced to retire from thence for feare of being surprized by the Duke, who plotted to seize his Person. After which the Duke by the *Queene Mothers* mediation, is reconciled to the King; who for feare of his power, by an Edict of re-union, admits no religion but the Popish, promiseth never to make Peace nor Truce with the Heretikes, nor any Edict in their favour; binds his subjects to swear, never to yeeld obedience after him, to any Prince that shall be an Heretike, or a favourer of Heresie; degrades from all publike charges, either in peace or war, those of the Reformed Religion; promiseth all favour to the Catholikes, declares them guilty of High Treason who shall refuse to signe to this new union, and shall afterwards depart from it, But signing this forced Edict, he wept. To establish which Edict, and work their further ends, the Leaguers cause the King to summon a Parliament of the 3. Estates at *Blois,* procuring those of their faction to be chosen of this Assembly: where establishing the former extorted Edict, they thereby exclude the King of *Navarre,* (an Heretike as they deemed him) from the Crowne of France, to which he

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was next Heire: An Heretike cannot reigne in France, it is an incompatible thing with the Coronation and Oath which he ought to take; hurtfull to the honour of God, and prejudiciall to the good of the Realme: Then they declare the King an enemy to, and oppressor of his people, a Tyrant over his Realme, that so the people should presently resolve to confine him unto a Monastery, and install the Duke in his throne. And at last, the King being certainly informed of the Dukes traitorous designs to surprize him, and usurpe his Throne, caused the Duke and Cardinall of Bourbon (the chiefe heads of the League) to be suddenly slaine, and others of them to be imprisoned. Hereupon the Parisiens mutinie, and take up Armes afresh; The Colledge of Sorbone concluded by a publike Act of the seventh of January, 1589. That the people of France are freed from the Oath of obedience and fealty which they owed to Henry of Valoys, and that lawfully and with a good conscience they may arme against him, receive his Revenues, and imploy it to make warre against him. After which the Assembly of the Estates dissolving, the Parisiens imprison the Court of Parliament at Paris, till they condescended to their pleasures, and confirmed a generall Councell of the union, consisting of forty choice men of the three Estates, to dispose of the publike affaires, and conferre with the Provinces and Townes of the League. To which many Assistants were afterward added by the Nobles, and a Declaration (in manner of an oath) for the entertainment of the Vnion, made, sworne, and subscribed to by many; one of which prickt his own Arme, to signe it with his owne blood, and became lame thereby. The people condemne, imprison, spoile, ransom of their absolute power, and sell the goods of any that bears not the mark of their iraged faction. Hereupon the King turning his lenitie into fury, Proclaims them Rebels and Traitors, if they come not in and submit by a day, and reconciles himselfe to the King of Navarre: They go on with greater insolency then before, set out a great Army under the Duke of Mayenne; crave assistance from the Pope and king of Spaine; surprize divers townes, robbe Churches, ravish Wives and Virgins, murder men of all sorts even before their Altars, commit all the outrages, wickednesses which irreligion and impiety could invent in madd Souldiers. The King at last besieged Paris, takes some of the Outworks, and was like to master the Citie; but in the middest of this attempt he was stabbed in the belly with a Knife, by James Clement, a Jacobin Friar of two and twenty yeers old, (sent out of Paris to act this Tragedie on the kings person) who vowed to kill the Tyrant, and to deliver the City besieged by Sennacherib. The murderer was presently slaine by those who came in to assist the king, who within few houres after died of this wound, which he received in the self-same chamber wherein the Councell for the Massacre of the Protestants was held on that fatall day of Saint Bartholmew, 1572. A notable circumstance of Divine justice upon this Prince, who being ever a zealous promoter of the Romish Religion, was murdered by a Zealor of it, and had his owne blood shed by those who spurred him on to shed the blood of Protestants, in the very Chamber where the most barbarous Massacre of Protestants that ever the world beheld, was contrived. (m) Henry when the pangs of death seized on him, declared Henry the fourth, King of Navarre (his brother in law) the lawfull Successor of the Crowne of France, as in Truth he was, notwithstanding the Edict of Bloys to exclude all Heretikes from the Crowne. The Parisiens and holy Vnion refuse to accept him for their Sovereigne, proclaiming Charles the tenth for their King, and triumphing exceedingly at Henry his death. The Parliament at Bourdeaux commands all men under

(m) Gen Hist.
of France,
p. 834, 835.

under their jurisdiction, by a Decree of the nineteenth of August, 1549. To observe inviolably the Edict of Union in the Catholique, Apostolike and Romish Church; and Declarations are hereupon made. The Parliament of Tholonsa is more violent; they decree, That yearly the first day of August they should make processions and publique prayers for the benefits they had received that day, in the miraculous and fearfull death of Henry the third, whereby Paris was delivered, and other Townes of the Realme; forbidding all persons to acknowledge Henry of Burbon, the pretended King of Navarre, for King; declaring him incapable ever to succeed to the Crowne of France, by reason of the notorious and manifest crimes contained at large in the Bull of Excommunication of Pope Sixtus the fifth. The Court of Parliament at Rean, no lesse violent and presumptuous then that of Tholonsa, pronounced them guilty of High Treason, both against God and man, and the Estate and Crowne of France, that had opposed themselves against the holy Union, and all Royalists and their Successors deprived of all prerogatives of Nobility; their Offices to be void, not to be recovered, and all their Goods forfeited: Anno 1592. they renew this Edict every eight moneth. Thus the league kindled afresh the fire which the siege of Paris had somewhat quenched: the King raising his siege before it, and returning to Arques, the Leaguers Army followed him, and are there defeated: after which the King with a small Army gains many great Conquests, which amaze the Leaguers; he besiegeth Paris above three moneths, where more then one hundred thousand people died of famine, yet they force the Parliament to publish a Decree the fithteenth of June, 1590. Forbidding upon pain of death all men to speak of any composition with Henry of Burbon, but to oppose themselves by all meanes, yea, with the effusion of their blood. But the Belly hath not Ears, the people are not fed with paper, or promises, they mutinie and demand peace; whereupon Deputies are sent to the King to treat a peace; who to defeat the Spanish Army called in by the Leaguers, raiseth his siege, and routs the Spanyard, with other Forces of the League in sundry places, which makes many desire peace; yet by meanes of Pope Clement the eighth his Bull, the Duke of Mayenne, and the Popes Legate, they intend to summon a Convocation of the Estates of Paris to elect a new King, desiring the Cards all of Placentia to assist and confirme this their intended future elector. The Parliament of Paris removed to Chaalons gives sentence against the Popes Bull, and nulls it: The King sets out a Declaration against the Leaguers as Traitors and Rebels, declares this Assembly of the Estates without his Authoritie, to be against the Lawes, against the good and quiet of the Realme, and all that should be treated or concluded therein, abusive, and of no force. On the contrary, the Popes Legate, by a publique exhortation full of injuries, labors to perswade the French, that the King, long since dismembred from the bodie of the Church, was most justly pronounced incapable of the Crown. The Spaniards labouering the Estates to elect the Infanta of Spain king; the Parliament of Paris by a Decree of the eight and twentieth day of July, declare all Treaties made or to be made to that end, void, and of no validitie, as being made to the prejudice of the Salique Law, and othe fundamentall lawes of State. The king to quiet these differences, and gain peaceable possession of the Crown, most unworthily deserts his Religion, reconciles himselfe to the Church and Pope of Rome; yet one Peter Barriere, seduced and perswaded by a Capuchin of Lyons, Aubry a priest of Paris, and father Varide a Iesuite, was apprehended at Melna, and executed, for attempting to murther the King with a sharpe two-edged Knife, which fact he confessed. After

this the Townes subject to the League, returne by degrees to the obedience of the Crown; the king is solemnly Crowned at *Chartres, Rhemes* shutting the gates against him. This done, he surprizes *Paris*, and notwithstanding their former rebellions, grants them all free pardon upon their submissions. The Parliament at *Paris* disannuls all the Decrees of the League, and pretended assembly of Estates, as void, and done by private persons, without due election; grants Proesse against the Iesuites, as chiefe pillars of the League, disgracing the new Kings Majesty, and the memory of the deceased King in their Sermons; and perswading the execrable attempt of Peter Barriere to stabbe him: the Cardinall of *Burbon*, the Duke of *Nevers* with others, protect and sic for them; who soone after suborne *John Chastle*, one of their Novices, (of the age of eighteen years) to stabbe the king; who creeping into the kings chamber at the *Louvre* in *Paris*, among the presse, December 27. 1594. and thinking to stabbe the king in the belly, as he resolved, struck him on the upper Lip, and brake a Tooth, as he stooped to take up some Gentleman who saluted him; for which fact he was condemned by the Parliament as guilty of High Treason, his body adjudged to be torne in peeces by four horses, then burnt to ashes and cast into the winde, and all his Goods confiscate to the king: All the Iesuites, with their schollers, were hereupon banished the Realme, as corrupters of youth, troublers of the publike quiet, enemies of the Kings State, and none of them to remaine above fifteen dayes, nor any to harbour them within the Realme under paine of High Treason. I have heard from a Gentleman of credite, which served this king, that when he was thus stabbed in the mouth by *Chastle*, one of the * Religion gave him this Christian admonition, Sir, you have denied God already with your mouth, in renouncing the protestant faith, which you once professed; now God in his justice hath permitted this Iesuite, of that Religion you revolted to, thus to stabbe you in the mouth: O take heed you deny him not in your heart, lest the next stroke they give you be to the heart. Which fell out accordingly, for (n) after four or five more severall attempts of the Iesuites and Papists to murder him, which were discovered and prevented, he was stabbed to death with a Knife by one *Francis Ravillac*, (a Papist at the Iesuites instigation) as he was riding in his Caroch neare to *Innocents* church in *Paris*, for suffering two religions in the Kingdom, as the Traitor professed. This Villaine stabbed him first in the left Pap, and next between the fift and sixt Ribbe, cutting asunder the veine leading to the heart, and entring into the *Cava venaz* and being dead the Iesuites of his royall Colledge at *la Fletche* (whom he (o) restored and favoured exceedingly, notwithstanding their former Treasons, and banishments of them out of France, causing the *Pyramis* erected by sentence of Parliament as a monument of their Treasons to be rased, and yet were found to have a chiefe hand in this his death) begged and procured his heart to be there interred: O the admirable passages of Divine Justice, that those two *Henries*, who most advanced the *Popish Religion*, and abandoned the Protestant faith to humour the Iesuites and Papists, thereby to secure their Crownes and lives, as they beleaved, should thus fatally perish by those of that Religion, and their unlawfull revolts thus used to preserve their lives; whereas our nobler *Queen Elizabeth* continuing constant in her Religion, notwithstanding all allurements menaces and attempts upon her person, to withdraw her from the truth, was miraculously preserved from all the bloody assaults of this infernall generation of *Romish Vipers*, and went to her grave in peace.

But to return to this kings actions; (p) Anno 1596. king *Henry* calls a generall assembly

* Monsieur
Danberno.

(n) The generall
Hist. of France,
p. 976, 977, 982.

(o) Gen. Hist.
of France, p. 914
915, 1070, 1071
1072, 1094,
1095, 1110,
1131, 1172,
1173, 1174,
1175, 1181,
1182, 1183,
1196, 1210.

(p) Gen. Hist. of
France, p. 187,
388.

assembly at *Roan* in forme of a Parliament, where he speaking to the assembly, told them, *That at his coming to the Crowne he had found France not onely ruined, but almost all lost for the French, but by the grace of Almighty God, the prayers and good counsell of his subjects, the sword of his Princes, and brave generous Nobilitie, and his owne pains and labour, he had saved it from losse; let us save it now from ruine, participate with me, my dear subjects in this second glory, as you have done in the first; I have not called you as my Predecessors did, to make you approve my Will, I have caused you to assemble, TO HAVE YOVR COUNSELS, TO BELEEVE THEM, AND TO FOLLOW THEM; finally, TO PVT MY SELFE INTO YOVR HANDS: A desire which seldome commands Kings that have white hairs and are Conquerours; But the love I beare unto my subjects, and the desire I have to adde these two goodly Titles to that of king, makes me to finde all easie and honourable.* After this the King and Parliament set forth divers (q) Edicts against the transportation of Gold and Silver, the wearing of Gold & Silver, excessive usurie, Advocates extortions, Duels, Bankrupts, and the like. This (r) Martiall King being murdered by *Ravillac*, as aforesaid, the Crowne descended to *Lewes* his Sonne, not then ten years old: The Court of Parliament at *Paris* having notice of his death, made this Decree in Parliament, *May 14. Anno 1610. Whereas the Kings Attorney Generall hath informed the Court of Parliament, and all the Chambers thereof assembled, that the King being now murdered by a most cruell, inhumane and detestable Parricide, committed upon his most sacred Person, it were very necessary to provide for the affairs of the present King, and for his Estate, and hath required that there be present order given concerning the service and good of his Estate, which cannot be well governed by the Queen, during the minoritie of the King her sonne; and that it would please the said Court to declare her Regent, that the affairs of the Kingdome may be governed by her: Whereupon having consulted, THE COVRT HATH DECLARED AND DOTH DECLARE THE QUEEN* (mother to the King) *REGENT OF FRANCE, for the governing of the State, during the minoritie of her sonne, with all power and authoritie.* The next day the King himself sitting in the Seat of Iustice in Parliament, by the advice of the Princes of his blood, Prelates, Dukes, Peers and Officers of the Crown, according to the Decree made by the Court of Parliament, declared and did declare the *Queen his Mother Regent in France, and to have the care of bringing up his Person, and the Government of the affairs of his Kingdome during his minoritie; commanding the Edict to be entolled and published in all the Bayliweeks, Senescaushes, and other jurisdictions depending upon the said Court of Parliament, and in all other Parliaments of the Realme; so that the Queene Mother was seled in the Regency by the Parliament and whole State of France.* After which (s) *Pasquier*, Counsellor and Master of Requests, writ her a large Letter touching the Government of the State, wherein he informed her, *That she must not forbear to assemble the Estates, for the reason that some would suggest unto her, that they will be some blemish to her greatnesse; it is quite contrary: The Estates having confirmed it by publike authoritie, will settle it fully. Commonly the Estates assemble to provide for the present and future complaints of the generall of this Monarchy, and to reduce things to their ancient course; the people being the foundation whereon this Realm is built, and the which being ruined, it is impossible it should subsist: take away these new Edicts, Impositions and Subsidies: it is better to gratifie a people, than so intreat them*

(q) Gen. Hist. of
France, p. 1009;
1022, 1023,
1124, 1154,
1156, 1157.
(r) Gen. Hist.
of Fr. p. 1173;
1174, 1200.

(s) Gen. Hist.
France, p. 1207.

roughly. Above all things beware that you follow not your own opinion alone, in managing the affaires of the Realme. Hereupon four and fifty Edicts and Commissions were revoked, wherewith the Subjects had been oppressed. (r) When the King was to be Crowned, the Prelates made this request to him at the Altar before his Coronation; We pray and require that you would grant unto every one of us, and the Churches whereof we have the charge, the Canonick priviledge, good lawes, and justice; and that you will defend us, as a king ought all his Bishops and their Churches. Whereunto the king answered; I promise to preserve you in your Canonick priviledges; as also your Churches; and that I WILL GIVE YOU (in the future) GOOD LAWS, and do you Justice, and will defend you, by the help of God, according to my power; as a king in his Realm OUGHT TO DO IN RIGHT AND REASON, to his Bishops and their Churches. After which having been acknowledged their lawfull Prince, BY A GENERALL CONSENT OF ALL THE ORDERS, the Cardinall of Joyeuse presented unto him the Oath of the Kingdome, (the sacred Bond of the fundamentall Lawes of the State) the which he took publikely in these words, with invocation of the Name of God, having his hand upon the Gospell, which he kissed with great reverence.

I promise in the Name of Iesus Christ, these things to the Christians subject unto me; First, I will endeavour that the Christian people shall live peaceably within the Church of God: Moreover, I will provide that in all vocations, theft, and all iniquities shall cease: Besides, I will command, that in all judgements equitie and mercy shall take place; to the end that God, who is gentle and mercifull, may have mercy both on you and me. Furthermore, I will seek by all means in good faith to chase out of my Jurisdiction, and the Lands of my subjection, all Hereticks denounced by the Church; promising by Oath to observe all that hath been said: So help me God, and this holy Evangel.

(u) Ibid. p. 95.
26. 29. 30. 31.
45. 49. 50. 74. 75

After this (u) Bellarmines Book of the Popes power in temporall causes, Becanus, and Scoppus Books, Marianas Book de Rege & Regis institutione, Suarez his Book, with others, which taught, That the Pope was above Kings in temporall things, and that it was lawfull for private subjects by the Popes authoritie to murder kings that were Heretikes, and that the murders of Henry the third and fourth, by Chastle and Ravillac were lawfull and commendable; were prohibited and condemned to be burnt by Edicts of Parliament.

(x) Ibid. p. 17.
58. 27.

(x) Anno 1611. the Reformed Churches of France, at their generall Assembly at Samure by the Kings permission, made a generall Vnion, which they did swear to keep inviolably for the good, quiet, and advancement of the said Churches, the service of the King, and Queen Regent, and preservation of the Estate; and appointed six Deputies therein, for the dispatch of all their affaires, (y) Anno 1614. the Prince of Conde with divers other Princes, Dukes, Peers, Noblemen, and Officers of the Crowne retired from the Court in discontent, and meeting at Meziers, writ severall Letters to the Queen, Parliament, and others, complaining therein of divers grieivances and disorders in the government, which they desired might be redressed, by summoning a generall Assembly of the three Estates to be free and safe, to be held within three moneths; at the first best; protesting, that they desired nothing but peace and the good of

(y) Ibid. p. 59.
50. 120.

the Realme, that they would not attempt any thing to the contrary, unlesse by the iust resolution of their enemies, (who covered themselves with the Cloke of State under the Queene Regents authority) they should be provoked to repell the injuries done unto the King and State BY A NATVRALL, IUST AND NECESSARY DEFENCE. After which with much adoe Articles of Peace were concluded on at Saint Marthold, between the King, Queen Regent, and these Nobles; wherein it was among other things accorded, That the generall Estates of the Realme should be assembled at Sens by the four and 20. day of August, in which the Duties of the three Estates, may with all libertie propound whatsoever they shall thinke in their consciences to be for the good of the Realme and ease of the subject; that thereby the King with the advice of the Princes & Estates might make some good Lawes and Ordinances to contain every man in his durie, to fortifie the Lawes and Edicts made for the preservation of the publike tranquillitie, and to reforme the disorders which may give just occasion of complaint and discontent to his good subjects: That the Kings Marriage with Spaine, formerly concluded on, should be respited and not proceeded in during his minority: that all Garisons put into any places of the Realme by reason of the present motions, should be discharged that Letters Patents be directed to all Courts of Parliament to be verified, by which his Majestic shall declare, that the said Princes, Nobles, and others of what quality and condition soever, which have followed and assisted them in these alterations, had no bad intensions against his service, with all clauses necessary for their safeties and discharges, that they may not be called in question hereafter, and that they shall be restored to their Offices, Estates and Dignities, to enjoy them as they had formerly done. And in like manner his Majestic shall write to all Princes, Estates, and Commonwealths allied to the Crowne, and men of qualitie shall be sent expressly to them, to let them understand what he had found concerning the innocency and good intention of the said Princes, Officers, and Nobles. After which the three Estates were published, Deputies elected; and the King (by his Council and Parliament of Paris) was declared of full age, according to a fundamentall Law made by Charles the fifth, ratified by the Court of Parliament; That the Kings of France, having attained the full age of thirtene years, and entering into the fourteenth, they should take upon them the Sovereigne Government of the Estate: Whereupon the Queen Mother in the Parliament resignes the Regency and reignes of the Empire into his hands. After which the three Estates assembling abolished the sale of all offices of iudicature, and others which tend to the oppression and ruine of the People, suppress Duels; the Commons and Deputies of the three Estates present a Petition of all their grievances to the King, consisting of severall natures, and pray redresse: And for the securing of the Kings Crowne and person against the Popes usurpations and attempts, they desired, that it should be declared by the said Estates, and set down as a fundamentall Law, That the King did not hold his Realme of any but God and his sword, and that he is not subject to any superiour power upon earth for his temporall estates, and that no Book should be printed containing any Doctrine against the person of Kings touching the question too much debated by presumptuous men, whether it be lawfull to kill Kings? The Clergy of France except against this Article, as a point of doctrine and conscience (not of State policie, as the Commons pretended, for onely for the Clergies determination, not the Commons or three Estates, as a means to ingender a schisme and offend the Pope, and after much debate prevail and suppress it: In fine, after many debates the three Estates brake up without any great redresse.

dresse of their grievances, or full answer to their Petitions, which was defaced: here-
 upon the *Parliament at Paris* the seven and twentieth day of *March*, 1615. decreed,
 under the Kings good pleasure, *That the Princes, Dukes, Peers, and Officers of the*
Crowne, having place and deliberate voyce therein, being then in the Citie, should be
invited to come into the Court, there (with the Chancellour and all the Chambers as-
sembled) to advise upon the propositions which should be made for the kings service, the
ease of his subjects, and good of his estate, and so draw up a Remonstrance to this effect.
 Some Court Parasites presently acquaint the King and Queen Mother with this De-
 cree; as if it were an apparent enterprize against the Kings Authoritie, and did touch
 the *Queens Regency* which they would controll; and objections are made against it in
 Councell, whereupon the Parliament are sent for to the Court severall times, and or-
 dered to revoke this Decree; they excuse and justifie it, then draw up a *Remonstrance* to
 the king, consisting of many Heads; wherein among others they affirme, *That the*
Parliament of Paris was borne with the State of France, and holds place in Coun-
cill with Princes and Barons, which in all ages was near to the Kings person. That it had
alwayes dealt in publike affairs: that some Kings which had not liked of the Remon-
strances of the Parliament at Paris, did afterwards witnesse their grieve. That Popes,
Emperours, Kings, and Princes had voluntarily submitted their controversies to the
judgement of the Parliament of Paris, &c. To which I shall adde some passages out of
 Andrew Favine, in his *Theater of Honour*, touching the dignitie, power, and honour
 of the Parliaments of France: “In the Register of the Acts of Parliament, begin-
 “ning, 1368. there is one dated the twenty seventh of *June* 1369. for matter of mur-
 “der and affassinate committed on the person of Master *Emery Doll*, Councillor of
 “the said Parliament; whereby it was approved, *That it was a crime of High Trea-*
 “son, to kill a Councillor of Parliament. And in *Anno* 1475. on the eleventh day of
 “*November*, Mounseir the Chancellour came to advertise the Court for going to
 “hear the confession of the Constable of *Saint Paul*, to whom for his rebellions and
 “disobediencies king *Lewes* the eleventh directed his Proceffe. And the said Parlia-
 “ment, declared, *That there was not a Lord in the Kingdome so great, except the*
 “*King and Mounsiour le Daulphine, but ought to come and appear at the said Parlia-*
 “*ment in person, when it was orained for him.* And this is witnessed by a *Lyon* aba-
 “sing his tail between his Legs, exalted over the gate and entrance of the great Cham-
 “ber, by the Parquet des *Huissiers* thereof. So that by this illustrious and Sovereigne
 “Parliament are ordered and determined the principall affairs of the kingdom. And
 “in *Anno* 1482. the second day of *Aprill*, king *Lewes* the eleventh, sent unto the Par-
 “liament the Oath which he took at his sacring, exhorting the said Parliament to per-
 “forme good justice, according as the King had promised to doe by his said Oath, which
 “he purposed to keep; and the Oath is there Registred downe. The Parliaments of
 “*France* are Oaks with exalted Heads, under whose Branches the people are covered
 “from the very strongest violencies, which constraineth them to yeeld obedience to
 “their Prince: But when Princes (by bad councell) misprize the authoritie of them
 “whereof they ought to be zealous defenders, as being exalted to the Royall dignity,
 “to rule and governe their Subjects by justice, they cut off the right hand from the left:
 “If they refuse the holy Remonstrances of their Parliaments under color that they are
 “not to meddle with affairs of State, but onely with the Act of justice, and lend a
 “deaf ear when they are advertised of evill Government, it is an assured Pronostick,
 fore-

(r) Lib. 2. c. 12.
 p. 179. to 187.

“ forewarning of the entire decadence of the Kingdome. Strange and forraigne Prin-
 “ ces have sought and submitted themselves to the judgement of their Parliament, even
 “ in their affairs of greatest importance. The Chronicle of *Laurestine*, under the year
 “ 803. (followed by the Monk *Aimonius* in the fourth Book of his *History of France*)
 “ reporteth, that king *Lewes the Debonnaire*, holding his Parliament in *May*, there
 “ came thither from strange Provinces, two Brethren, kings of *Uvilses*, who with
 “ frank and free good will submitted themselves to the judgement of the said Parlia-
 “ ment, to which of them the Kingdom should belong: Now albeit the custom of the said
 “ kingdom adjudged the Crown to the eldest, according to the right of Prerogative
 “ allowed and practised by the Law of Nature, and of late memory in the person of the
 “ last dead king *Liubus* father communito these two contendants; yet notwithstanding
 “ in regard of the subjects universall consent of the Kingdom, who (for the coward-
 “ ise and want of government in the Elder) had given the Crowne to the Younger, for
 “ vallsancie and discreet carriage; by sentence the Kingdom was adjudged to him: and
 “ the Eldest did him homage, with Oath of allegiance, in the said Parliament.
 “ Under the third Ligne, in the reign of *Philip Augustus*, Pope *Innocent* the third,
 “ and the Emperour *Otho* the fourth, being in variance for the forme and terms of
 “ the Oath of fidelity with the said Emperour should make to the Pope; they refer-
 “ red it to the judgement of king *Philip* in his Parliament, furnished with Peers. *Otho*
 “ made some exception concerning the forme and terms of the Oath; And not being
 “ able to agree of chemielves, both parties submitted to the judgement of king *Philip*
 “ *Augustus* and of his Court of Parliament, furnished with Peeres: So that by order
 “ given at *Melum* in *July*, 1104. the form of the said Oath was prescribed, and regi-
 “ ttered in the Parliament Register, at request of the said parties, and sent unto *Otho*
 “ to render it to the said Pope *Innocent*, who sent this assurance and Certificate to the
 “ said Parliament for Registering it, being performed.

Innocentius Episcopus, servus servorum Dei, charissimo filio nostro Philippo Francorum Regi charissimo, salutem, & Apostolicam benedictionem; absque dubitatione noveritis, quod secundum formam a vobis & Curia Regni vestri paribus prescriptam, habetur apud nos iusjurandum charissimi Filii nostri Othonis Romanorum Regis illustris aurea Bulla munitum, nobis & Ecclesia praestitum.

Ego Otho Romanorum Rex, & semper Augustus, tibi Domino meo Innocentio Papa, & Ecclesia Romana spondeo, polliceor, & juro, quod omnes possessiones, honores, & jura Romana Ecclesia, pro posse meo, bona fide protegam, & ipsam ad eas retinendas bona fide juro. Quas autem nondum recuperavi adiutor ero ad recuperandum, & recuperatarum, secundum posse meum, ero sine fraude defensor; & quaecunque und manus meas devenient, sine difficultate restituere procurabo. Ad hanc autem pertinent tota terra quae est de Radicafano, usque ad Ceperanum, Exarcatus Ravenna, Pentapolis, Marchia, Ducatus Spoletanus, terra Conitissa Mashildie, Comitatus Bricenori cum alijs adjacentibus terris expressis in multis privilegijs Imperatorum, à tempore LYDOVICI PII FRANCORVM ET ROMANORVM IMPERATORIS CHRISTIANISSIMI. Has omnes pro posse meo restituam, & quietè dimittam, cum omne jurisdictione, districtu, & honore suo. Veruntamen cum ad recipiendam Coronam Imperij, vel pro necessitatibus Ecclesia Romana ab Apostolica sede vocatus accessero, mandato summi Pontificis ab illis ter-

ris praestationes accipiam. Præterea adjutor ero ad retinendum & defendendum Ecclesia Romana REGNUM SICILIAE. Tibi etiam Domino meo Innocentio Papa & Successoribus tuis omnem obedientiam & honorificentiam exhibeo; quam devoti & Catholici Imperatores consueverunt Sedi Apostolica exhibere. Stabo etiam ad consilium & arbitrium tuum de bonis consuetudinibus populo Romano servandis & exhibendis, & de negotio Tusciae & Lombardiae. Et si propter negotium meum Romanam Ecclesiam oportuerit insurrere guerram, subveniam ei sicut necessitas postulaverit in expensis. Omnia vero predicta tam juramento, quam scripto firmabo, cum Imperij Coronam adeptus fuero. Actum Aquis-Grani Anno Incarnationis Dominicae Millesimo Ducentesimo Quinto, mense Marcy, Regni nostri septimo.

“ William Rishanger Monk in the Abbey of Saint Albane in England, continuer of
 “ the History of Matthew Paris, observeth under the year 1263, that the king of Eng-
 “ land, Henry the third, and the Barons of England, who made warre upon him, com-
 “ mitted their whole difference and quarrell to be judged by the Parliament of France;
 “ Ut pax reformaretur inter Regem Anglia & Barones, ventum est ad istud, ut Rex &
 “ proceres se submitterent ordinationi Parliamenti Regis Francæ (in the time of
 “ Saint Lewis) in præmissis provisionibus Oxoniae. Nec non pro depredationibus &
 “ damnis utrobique illatis. Igitur in crastino S. Vincentij, congregato Ambianis popu-
 “ lo pene innumerabili, Rex Francæ Ludovicus coram Episcopis & Comitibus, alijsque
 “ Francorum proceribus solemniter dixit sententiam pro Rege Anglia, contra Barones
 “ statuti Oxoniae provisionibus, ordinationibus, ac obligationibus penitus annullatis.
 “ Hoc excepto, quod antiqua Charta Joannis Regis Anglia universitati concessa per il-
 “ lam sententiam in nullo intenderat penitus derogare. In this Parliament at Ami-
 “ ens were present the King of England, Henry the third, Queen Elenor his wife, Bo-
 “ niface Archbishop of Canterbury, Peter Bishop of Hereford, and John Mautsfell;
 “ and on the Barons of Englands side a very great number of choicely elected Lords;
 “ who the same year repatted back into England after the Parliament, as the same
 “ Monk speaketh. Thus Favine in the behalfe of the French Parliaments, concern-
 “ ing whose power and priviledges you may read much more in him and others.

(a) Continuation
 of the Gen. Hist.
 of France,
 p. 13, to 150.

But to returne to the former History. (a) The Queen Mother was much discontented with this Remonstrance of the Parliament, pretending that they had an intent to call her Regency in question, which all had commended; that they could not speak of the Government of the affaires of the Realm, without touching her, &c. Whereupon she commanded the Chancellour to give them this answer in the kings name: That France was a Monarchy wherein the king alone commanded, holding his Realm Sovereignty from God; That he had Lawes and Ordinances by which to governe them, for the which he was not to give an account to any man; That it did not belong unto the Parliament to controll his Government; That they neither could nor ought to complain of the Queens Regency which had been so happy; That the Queen was not to give an account of her Regency, but to God onely; That no man could prescribe unto the King what Councellers he should entertain, &c. with many other such bigge words. After which there was a Decree made in the Councell of State against the Decree and Remonstrance in Parliament, disannulling and revoking them as void, and forbidding the Parliament hereafter to meddle with affairs of State. The Court of Parliament in generall complained
 much

much of this Decree; the kings learned Councell refuse to carry, or cause it to be read in Parliament, because it would cause an alteration of the good affections and devotions of the Kings good subjects, and the dis-union of the greatest companies of the Realme, who administer justice, which makes kings to Reigne: After which this controversie was compromised, and the Decree of the Councell against the Parliament suspended, and not enrolled. Soon after the prince of Conde, with divers others, seeing all things disordered at Court, and little or no reformation of their former grievances, desert Paris, expresse their grievances in sundry letters and Articles of complaint, wherein they complain of the want of freedom and redresse of their grievances presented in the last assembly of the three Estates; of the Decree and proceedings against the Jurisdiction, Remonstrance and proceedings of the Parliament of Paris; Of suffering some Councillors of State to usurpe all the power of the Kingdom, to pervert the Lawes, and change all things as they list; with sundry other particulars: In these they intreat and exhort all men of what condition or quality soever, that call themselves Frenchmen, to assist and ayde them in *SO IVST A CAUSE*; conjuring all Princes and forraign Estates to do the like, and not to suffer such good and loyall subjects to be suppress by such a conspiracie. Vpon this the king and Q. Mother, through advise of these ill Counsellors, raise an Army, declare these Princes and Nobles, *Rebels and Traitors, if they submit not by a day*: wherupon they Arm, raise Forces in their own & the publikes defence, and being at *Nogon*, concluded, *That as their Armes were lewyed for the maintenance of the Crown, so they should be maintained by it; so the which end they seized on the kings Rents and Revenues in sundry places.* Mean while the Protestants being assembled in a generall Synod at *Grenoble*, *Mai* th. *Desdiguire* makes an Oration to them, to dissuade them from opposing the marriage with Spain; wherein he hath this memorable passage to justify the lawfulness of a necessary defensive war for the preservation of Religion and Liberties: *We have leisure to see the storme come, and so prepare for our own preservation: Finally, having continued constant in our Duties. if they seek to deprive us of our Religion, and so take that from us wherein our libertie and safetie depends, purchased by the blood of our Fathers and our own, and granted unto us by that great King Henry the fourth, the restorer of France; we shall enter into this comerce full of justice and true zeale, finde againe in our breasts the courage and vertue of our Ancestors: We shall be supported IN OVR JVST DEFENCE by all good Frenchmen, assisted by all Princes and Estates which love the true Religion, or the good of this State; and in a word, we shall be favoured of the blessings of God, whereof we have hitherto had good experience in our Arms, and which will be to the glory of his Name, and the spirituall advancement of our Churches.* After which the Duke of *Rh an* and Protestants, in defence of their Religion and Liberties, jyn with the Princes and Nobles: At last both sides came to Articles of agreement made at *Luudun*, Anno 1616. whereof these were a parcell, *That the grievances of the generall State should be speedily answered; That Sovereign Courts should be preserved in their authority, and the Remonstrances of the Parliament and Peers considered of; That such as had been put from their Offices, should be restored: That all moneys they had taken out of the kings Revenues, should be discharged; A Edicts of pacification granted to them of the Reformed Religion, observed; The prince of Conde and all those of either Religion, who had assisted him in this war, held for the Kings good and loyall subjects; all illegall Imposts removed; and all prisoners taken on either side, set at liberty.* Anno 1617. the King and Queene Mother

seizing upon the Prince of Conde his person, and sending him to the Bastile, upon false pretences of disloyaltie and treason, caused new insurrections, warres, and tumults; and the Princes hereupon meeting at Soissons, resolved to make open war, to seize on the Kings Revenues, and to fortifie those Towns and Castles which they held in their Government; which they executed; and withall set forth a Remonstrance of their grievances unto the king, complaining especially against the Marshall of Ancre and his Wife, with their adherents, who were the causes of all their miseries; who having drawn unto himselfe the whole administration of the Realme, made himselfe master of the Kings Councils, Armies, and Forts; thereby suppress the lawfull libertie and Remonstrances of the Parliament, caused the chief Officers to be imprisoned, and was the cause of the violence done to the Prince of Conde, first Prince of the Blood: To the end therefore that they might not be reproached to have been so little affected to his Majestie, so ungratefull to their Countrey, and so unfaithfull to themselves and their posterity, as to hold their peace, seeing the prodigious favour and power of this stranger; they beseech his Majestie to provide by convenient means for the disorders of the Estate, and to cause the Treaty of Loudun to be observed, and to call unto his Councils the Princes of the Blood, with other Princes, Dukes, Peers, ancient Officers of the Crowne and Councellors of State, whom the deceased King had employed during his reigne. Withall they publish a solemn Declaration and Protestation, for the restoring of the Kings authority, and preservation of the Realme, against the conspiracie and tyrannie of the Marshall of Ancre, and his adherents: Who finding no safetie in the settling of justice, resolved to make triall of his power, by violating the publike faith, thereby to plunge the Realme into new combustions, conspiring to destroy the princes of the blood, of Peers, and chiefe Officers of the Crowne, and to oppresse them altogether, with the State, who might be an obstacle to his ambitious designs. To which end he raised false accusations against them, as if they meant to attempt the Kings and Queen Mothers persons; and caused the King to go in person to his Court of Parliament to publish a Declaration, whereby they were declared guilty of Treason; though at last being better informed, he declared them to be his good Subjects, and caused De Ancre to be suddenly slain in the Louvre, and his Wife to be legally condemned and executed: Upon which the new Councellors and Officers advanced by him, were removed, the old restored, the Princes reconciled to the King, and by him declared for his good and loyall Subjects: Upon which followed a generall assembly of the Estates, wherein divers grievances were propounded, and some redressed; the King therein craving their advice for the settling and ordering of his Privie Councils. (b) Anno 1620. there happened differences between the King and Queen Mother, who fortified Towns, and raised an Army against the king; at last they came to an agreement, and were reconciled. The two following years were spent in bloody civill warres betweene the King and those of the Religion, who avowed their defensive warres lawfull; which at last concluded in peace: that lasted not long, but brake out into new flames of war, by reason of the great Cardinal Richelieu, who of late years (c) proved the greatest Tyrant and Oppressour that France ever bred, reducing both Nobles, Gentlemen, and Peasants into absolute slavery and vassallage, to make the King an absolute Monarch of France, and himselfe both Pope and Monarch of the world: But he lately dying by the of Divine Justice of filthy Vicers and Diseases, and the King since being (some say) poisoned by the Jesuites, who murdered his two immediate Predecessors: wise men conjecture the

(b) *Ibid* p. 220.
30306.

(c) See the Synopsys of his life.

French will now at last revive and regain their ancient, just hereditary freedom, rights Liberties, and cast off that insupportable yoke of bondage under which they have been oppressed for sundry years, and almost brought to utter desolation.

I have the longer insisted on these Histories of the Kings and Kingdom of France, (which clearly demonstrate the Realm, Parliament and three Estates of France to be the Sovereigne Power in that Kingdom in some sort, paramount their kings themselves, who are no absolute Monarchs, nor exempted from the Laws, jurisdiction, restrains, censures of their Kingdom and Estates assembled, as some falsely averre they are) because our Royalists and Court Doctors parallel England with France, making both of them absolute Monarchies; and our greatest malignant Councillors chiefe Designe hath been to reduce the Government of England to the late modell and new arbitrary proceedings of France; which how pernicious they have proved to that unfortunate Realm, what infinite destructive civill warres and combustions they have produced, and to what unhappy tragicall deaths they have brought divers of their Kings, Princes, Nobles, and thousands of their people, the premisses & other Storyes, will so far discover, as to cause all prudent Kings and Statesmen, to steer the Helme of our own and other Kingdoms by a more safe, steddie, and fortunate compasse. Thus I have done with France, and shall recompence any prolixity in it, with greater brevity in other Kingdoms, when I have overpassed Spain.

From France I shall next steer my course to the Kingdomes and Kings of Spain, whom *Iacobus Valdesius* Chancellor to the King of Spain in a large Book *de Dignitate Regum Regnorumque Hispanie* printed at *Granado*, 1602. professedly undertakes to prove, to be of greater dignity, and to have the Precedency of the Kings and Kingdoms of France, which (*) *Cassianus* and all French Advocates peremptorily deny. The first Kings of Spain, over-run by the *Goths* and *Wisigoths*, are those their Writers call the *Gothish Kings*, who as *Michael Ruvius de Regibus Hispanie*, L. 1, & 2. *Iohannis Mariana de rebus Hispanie*, L. 2, 3. the *Generall History of Spain*, and others affirme, were elected by, and had their authority from the people: You may reade their lives and successions at large in these Authors, and finde (d) some of them disinherited and deposed by their subjects, others of them in ward during their minorities to such as the State appointed; others murdered, but all of them subject to the Lawes of their Realms, as it is evident by the expresse ancient Law of the *Wisigoths*, having this Title; (e) *Quod tam Regia potestas quam populi universus Legum reverentia sit subiecta*; by other lawes thereto annexed, by *Iohannis Mariana De Rege & Regis institutione*, L. 1. c. 9. (f) Those whom they properly call Kings of Spain, had their royall authority derived to them, conferred on them by the people; upon this occasion. Spain, being a Province subject to the Roman Empire, was spoiled, over-runne and possessed by the barbarous *Moors* for many years; in which time the Spaniards solicited the Roman Emperours for ayde to expell the *Moors*, but could gain none. Whereupon to free themselves and their Countrey from slavery, they chose one *Pelagius* for their Captain, by whose valour they conquered the *Moors*, and thereupon by unanimous consent Elected and Crowned *Pelagius* King of *Oviedo*, whom the Spanish Writers mention as the first King of Spain: And this their desertion by the Emperours, the Spanish Writers generally hold (and (g) *Iacobus Valdesius* proves it largely) to be a sufficient lawfull ground for the Spaniards, even by the general law of Nations, to cast off their subjection to the Roman Empire, and to elect a King, erect a Kingdom of their

* Catalogus
Gloria mundi,
pars. 5. Confid.
29, 30. *Andrew*
Favne Theatre
of Honor, l. 2.
c. 12. See *Ca-*
millus Borellae
de Regis Catho-
lici Præstantia,
Et. Ge. erall
Hist. of France,
p. 90.
(d) See *Iohannis*
Mariana de Re-
ge & Regis,
Iustit. l. 1. c. 3.
p. 33. *Hieron.*
Blanca Rerum
Arag. Com-
ment.
See *concil. To-*
letanum. 8.
Savinus, Cox.
T. 2. p. 64, 69.
(e) *Iohannis*
Pisternus His-
panie illustrac-
Tom. 3. Leges
Wisigothorum.
L. 2. s. 2 p. 859.
(f) *Iacobi*
Valdesius de
dignitate Re-
rumq. Hispanie
par. 1. c. 11. p.
135. Michael
Ruvius de Regi-
bus Hisp. l. 2.
Gen. Hist. of
Spain, l. 6.
p. 162, 169.

own, exempt from all subjection to the Emperour, since they purchased their own libertie and Countrey, from the Gothes by conquest, of themselves alone without any aide or assistance from the Roman Emperours, to whom (for this reason) they hold themselves and their Kingdom no wayes subject; yet for all this they deem their Kings inferiour to their whole Kingdoms, and censurable, yea deposable by them, as is cleer by the (h) forecited passage of the Bishop of Burgen, (Ambassadour to the King of Spain, in the Councell of Basill, and by Jobannis Mariana the Jesuites Book, de Rege & Regis Institutione, dedicated to Philip the third, King of Spain, printed at Madrit in Spain, by this Kings own speciall priviledge, Dated at Madrit, January 25. 1599. and after this reprinted at Mentz in Germany, Anno 1605. Cum privilegio sacrae Caesariae Majestatis, (to wit, of the Emperour Radulph the second) & permissu Superiorum; who certainly would not thus specially approve, authorize this Book for the Presse, had it maintained any Positions contrary to the Laws, or derogatory to the Prerogative Royall of the Crownes and Kingdoms of Spain, though other States cannot so well digest it. In this very Book the Authour (who hath likewise written a large History of the affaires and Kings of Spain) professedly maintains (in a speciall (i) Chapter, wherein he debates this Question, *Whether the power of the Republike, or King be greater?*) That the whole Kingdoms, State and People in every lawfull Kingdom, and in Spain it selfe, are of greater power and authority then the King: His reasons (which I have for brevity digested into number in his own words) are these: First, because all Royall Power that is lawfull, hath its originall from the People, by whose grant the first Kings in every Republike were placed in their Royall Authoritie; which they circumscribed with certain laws and sanctions, lest it should too much exalt it selfe to the distruction of the Subjects, and degenerate into a Tyrannie. This appears in the Lacedæmonians long since, who committed onely the care of Warre and procuracion of holy things to the King, as Aristotle Writes. Also by a later example of the Aragonians in Spain, who being incited with an earnest endeavour of defending their libertie, and not ignorant how the Rights of Libertie are much diminished from small beginnings, created a middle Magistrate, like the Tribunall power (commonly called at this time Aragoniæ Iustitia, the Justice of Aragon) who armed with the lawes, authoritie and endeavours of the people, hath hitherto hold the Royall Power included within certain bounds; and it was specially given to the Nobles, that there might be no collusion, if at any time having communicated their counsell among themselves, they should keep assemblies without the Kings privy, to defend their Lawes and Liberties. In these Nations, and those who are like them, no man will doubt, but that the authoritie of the Republike is greater then the Kings. Secondly, because in other Provinces where the people have lesser and the Kings more power, and all grant the King to be the Rector and supream Head of the Commonwealth, and to have supream authoritie in managing things in times of warre or peace; yet therè the whole Commonwealth and those who represent it, being chosen out of all Estates, and meeting together in one place, (or Parliament) are of greater power to command and deny, than the King, which is proved by experience in Spain, where the King can impose no Taxes, nor enact no Laws if the people dissent or approve them not: Yea, let the King use art, propound rewards to the Citizens, sometimes speak by threats to draw others to consent to him, sollicite with words, hopes, and promises, (which whether it may be well done we dispute not:) yet if they shall resist, their judgement shall be preferred and ratified before the Kings will. Thirdly, because when the King dies without Issue or Heir, the Kingdom and people, not the Prince deceased,

(h) Pava. 1. b. 6.
& Foxe Acts
& Mon. Vol. 1.
p. 373. 810.

(i) Lib. 1. De
Regum, Instit.
cap. 8. p. 62. &c.

deceased, ought to chuse the succeeding King out of another Family. Fourthly, because if the King vex the Republike with his evil manners, and degenerate into an open tyrannie, the same Commonwealch may restrain him, yea, deprive him of the Principalltie, and of his life to, if need be; which it could not do unlesse it were of greater Power then the King. Fifthly, because it is not likely that the whole Kingdom and Commonweal would ever strip themselves of all Power and Authority, and transfer it to another, without exception, without counsell and reason, when they had none necessitie to do it, that so the Prince subject to corruption and wickednesse, might have greater Power then they all, and the Issue be more excellent then the Father, the River than the Spring (the Creature than the Creator of it :) And although perchance it be in the pleasure of the Commonweal to take away the plenary Power from it self and give it to the Prince, yet the Commonwealch should do unwisely to give it, and the Prince rashly to receive it; by which the subjects, of Free men should become Slaves, and the Principalltie given for their safetic, should degenerate into a Tyrannie, which then onely is Regall, if it contain it self within the bounds of modesty and mediocritie; which Power whiles some unwisely labour daily to augment, they diminish and utterly corrupt it, that Power being onely safe which puts a measure to its strength; for a Prince ought to rule over those who are willing, to gain the love of his subjects, and seek their welfare; which Power if it grows grievous, takes the King off his peoples love, and turns his power into weaknesse: Which he proves by the forecited Saying of Theopompus: For Princes who impose a Bridle on this greatnesse, more easily govern themselves, it, and their subjects; whereas those who forget humanity and modestie, the higher they climb, the greater is their fall: This danger our Ancestours, wise men; considering how they might keep their Kings within the limits of mediocrity and modesty, so as not to lift up themselves with overmuch power; to the Publike prejudice, have enacted many things wisely and excellently; among others, this, That nothing of great moment should be decreed without the consent of the Peers and people; and to that end they had a custom to assemble Parliaments chosen out of all orders of men, as Prelates, Lords, and Burgeses of Cities; which custom at this time is still retained in Aragon and other Provinces; and I wish our Princes would restore it: For why is it discontinued for the most part in our Nation, but that the common consent being taken away, and Parliaments excluded, wherein the publike safety is contained, both publike and private affairs may be turned into the Princes pleasure, and the lusts of a few corrupt, vicious, and voluptuous Courtiers and Parasites may domineer and order all things. Sixthly, because many great and learned men hold, that the Pope of Rome, who is of greater Power then any King, is yet subject to the whole Church and a Generall Councell; therefore the King must much more be inferiour to his Kingdom. Seventhly, because the whole Commonwealch hath greater strength and forces than the Prince, be he never so great in Power; and therefore if they disagree their Power will be greater: Yea, Aristotle wisely would have the Commonweal, not onely to be of greater authority, but likewise to have stronger Forces then the King; which he proves by Aristotles forecited words, by the practice of the Ancients, and those of Syracuse, who did moderate their Tyrants and Kings Guard so, that they might be able to over-power and master them upon any occasion. How great the authoritie of our Republike and Nobilitie was in the times of our Ancestours, I will give you but one example, and so conclude: Alfonso the eight King of Casteil besieged Concha, a City seated in Rockie places, and the most firme Bulwark of the Moors territories on that part: wanting money to pay his souldiers, and thereupon provisions failing, the King hastens to Burgon;

Note.

and in a nationall assembly, he demands, that because the people were wearied with Taxes for supporting the warre, the gentlemen would give five *Muruzdines* a Poll to his treasury; that this opportunitie of blotting out the name of the *Mores* was not to be omitted. *Dieglius* then Governour of *Cantabria*, assented to this Counsell, *Peter* Earl of *Cara* withstood this motion, and gatherieg a band of Nobles, departed from the assembly, readily to defend with Armes the Liberty gotten by their Ancestors with Armes and valour; affirming, that he would neither suffer a beginning to be made of oppressing and vexing the Nobilitie with new Subsidies, from this entrance or occasion; That to suppress the *Mores* was not of so great moment, that they should suffer the Commonwealth to be involved in a greater servitude. The King moved with the danger, desisted from that purpose. The Nobles taking advice, decreed to entertain *Peter* with a banquet every year, as a reward to him and his Posteritie of this good service, a monument so posterity of a thing well done, and a document that they should not suffer the right of libertie to be diminished upon any occasion. Let it be a fixt resolution therefore to provide for the safetie of the Commonwealth, for the Authority of the Prince, yet so as to retain their royall principality in order with certain bounds and limits, and that those vain talking parasites and deceivers may not ruine both, who exalt the Princes Power without measure, of which we may see a great number in Princes Courts, excelling in wealth, favour and power, which plague shall alwayes be accused and complained of, but shall ever be and continue. Thus *Mariana*, who in his next Chapter (worthy reading) proves at large by invincible arguments, (k) That all Kings and Princes (among others the Kings of Spain) are, and ought to be bound by Laws, and are not exempted from them; that this doctrine ought to be inculcated into thymindes of Princes from their infancy, and to be beleevd, yea oft considered of them; thnt they are more strictly obliged to observe their Laws than subjects, because they are sworn to do it; they are the Conservators of the Laws, the Avengers of those that infringe them, and their examples are the best means to draw subjects to obey them. Where he again affirms, That the whole Kingdom is above the King, and may not onely binde him by Lawes, but question him for the breach of them. Before both these, in his first Book *De Rege & Regum* institutione, Chap. 3, 4, 5, 6, 7. he affirms the like; adding moreover, That in many other Realms more, where the Crown is hereditary, the whole Commonwealth, not the King hath and ought to have the chief power to designe by a Law (which the King himself may not alter, but by their consents) who shall be the next Heir, to avoid questions and commotions about the Title to the Crown: That where the Right of the Crown is in controversie the whole Kingdom and State ought to decide the right, and settle it where they see best cause: That if the right Heir in Hereditary Kingdoms, yea in Spain, be an Idiot, Infant, Woman, or a person unmeet or not so fit to Govern, as others of the blood, he may be lawfully put from the Crown, and another of their Race lawfully substituted King in his place by the whole State, especially when the good or safetie of the Commonwealth requires it; because the safety of the people is the supremost Law, and what they by common consent have Enacted onely for the publike safetie, they may without any obstacle alter, when things require it, by like common consent; especially, because the hereditary Rights of reigning are for the most part made, rather by the dissimulation of the People, not daring to resist the will of former Princes, then by their certain will, and the free consent of all the Estates: That he which is thus settled by consent of all the Estates hath a just Title against the next Heir of the Blood and his Issue, who are put by the Crown; else divers Kings and Princes now reigning in Spain & elsewhere, should

(h) *De Rege & Regum* Ins. it.
l. 166.

Should be usurpers and want good Titles to their crownes, they or their Ancestors being not the next right heires of the Royall Stock (for all which particulars he gives sundry instances in the Kingdomes of Spaine) as in *Berengaria*, *Blanch*, the Mother of *Lewes* of France, *Ferdinand*, *Sancho* the younger sonne of *Alfonso*, *Henry* the Bastard, *Iohn* King of Portugall, *Ferdinand*, and *Iohn* the 2. of Aragon, &c. concluding, That if the King degenerate into a Tyrant, by subverting Religion, Lawes, Liberties, oppressing, murdering, or deflowring his subjects; the whole Kingdome may not onely question, admonish, and reprehend him, but in case he prove incorrigible after admonition, deprive him, and substitute another in his place; which (saith he) hath been done more then once in Spain: Thus King *Peter* was publikely rejected for his cruelty to his subjects, and *Henry* his Brother (though of an unclean Mother) obtained the Crowne: so *Henry* his Nephewes Nephew for his slothfulnesse and evill manners was deposed by the Nobles suffrages, and *Albanſo* his Brother, though but a yong child proclaimed King. After his death *Elizabeth*, (*Henry* his sister) had the chiefe government of the Realme leaving *Henry*. And for a conclusion he addes, That such a Tyrannicall King continuing incorrigible after publike admonitions of the whole State, if there be no hopes of amendment, may not onely be deposed, but put to death and murdered by the whole State, or any particular persons by their appointment; yea without it, (a note somewhat above Ela) if he be declared a publike enemy by the whole State; and in case the whole States cannot publikely assemble by reason of such a Princes knowne notorious tyranny, he writes, That then in such a case it is lawfull for any private man to murder him, to free the Countrey and Kingdome from destruction. Adding, that it is a wholesome meditation for Princes to be perswaded, that if they oppresse the Common-wealth, if they become insollerable thorow vices and filthinesse, that they live in such a condition, that they may not onely be slaine of right, but with laud and glory. Peradventure this feare will retard some Princes that they give not themselves wholly to be corrupted with vices flatterers, and cast bridles upon their fury. That which is the chiefe, let the Prince be perswaded, that the authority of the whole Common-wealth is greater then his, being but one, neither let him beleve the worst of men, affirming the contrary for to gratifie him, which is very pernicious. All these positions of *Mariana* (however other Kings and Kingdomes may relish them, especially the last touching private Subjects, which few can approve, the Parliaments of France doing publike execution on this Book, as they had just cause, for extolling and justifying the barbarous murder of their King *Henry* the 3. by *James Clement* a Dominican Frier, l. 1. c. 6. p. 51. to 57. and justifying the *Guises* Rebellion) are yet authorized as Catholike and Orthodox by the most Catholike King of Spaine, and the Emperour of Germany, in whose Kingdomes they passe for currant coyne, the most dangerous of them being seconded, not onely by *Hieronimus Blanca* in his *Aragonensium Rerum Commentarius*, *Iohannis Pistorius Hispania Illustrata*, &c. and other Spanish Historians collected by him, but likewise by (m) *Alvarius Pelagius*, *Cardinall Tolet*, *Capistranus*, *Dominicus Bannes*, *Franciscus Victoria*, *Simancha Patensis*, *Gregory de Valencia*, *Suarez*, the Doctors of *Salamancha*, *Becanus*, *Bellarmino*, with other Spanish Iesuites & Writers, who most heretically affirme, That even the Pope alone either with or without a Councell, for heresie (as they deem it) and obstinacy against the See of Rome, may excommunicate, censure, depose, kill, or murder any Christian Princes, depose them from their thrones, dispose of their Crownes to others at their pleasures, absolve their subjects wholly from their allegiance,

(l) The generall Hist. of France, p. 833, 834, 1178, 1179.

(m) See Doctor *Iohn White* his Defence of the way, c. 6. where their words are quoted for tyranny and misgovernment. The Gen. Hist. of France, p. 847, 914, 915. 1179, 1180, 1181, 1182, 1183, 1190.

(n) Of Christi-
an Subiection,
Ch. par. 3. p.
599, 20, 521.

allegiance, and give subjects power to rise up in armes against and murder them by open force or secret treachery; which Bishop Bilson truly affirms to be farre more dangerous and derogatory to Princes, then to attribute such a power, not to any particular persons but to their own whole Kingdomes and Parliaments onely: who being many in number, of the same Nation and Religion with, and having many dependances on, and many engagements by oath, duty, favours, benefits to their Princes, lesse malice against them, judging onely according to the fundamentall Lawes of the Realme, and former presidents of their Ancestors, and aiming at nothing but their Kingdomes safety, are like to be more just indifferent Iudges of their Princes actions when questioned, then the Pope, a meer enemy and forraigner; who proceeds by no other authority, but what he hath unjustly usurped from Kings, and by no other rules but his owne will, pride, malice, honour, or profit. I have thus given you an account of the Kings of Spaines subordination to their whole kingdomes and Lawes in point of Thesis and positive Doctrin approved by themselves, professed by their eminentest Writers, I shall now proceed to Historicall examples to confirme it in point of practise.

(o) Munst. Caf.
l. c. 20. p. 75.
Roderici Ar-
chiep. Toletani
De Rebus hisp.
l. 4. 2. l. 5. c. 1. 3.
Gen. hist. of Spa.
16

(o) Ordugno the 14. king of Castile, summoned 4. Earles of Castile to appeare before him, who refused to goe to the warres against the Saracens, promising them safe conduct, notwithstanding he commanded them to be apprehended, imprisoned and slain; for which bloody Treachery those of Castile rebelled against him, rejecting his government, and providing for the safety of them and theirs, *Duos Milites, non de potentioribus, sed de prudentioribus eligerunt, quos & Indices statuerunt, &c.* They elected two prudent Knights of their owne to be their Magistrates and Iudges, to governe them, to manage their warres, and administer justice to them: the one was named *Flavius Calvus*, the other *Nunius*, surnamed *de Rascara*, whose Son *Gondesalvus* after his Fathers death, was substituted in his place, made Generall of the Militia; (*Principatum Militia addiderunt*) and his son after him, *tam à Magnatibus & Militibus, quam AB UNIVERSIS POPULIS CASTELANIS*, made Earle of Castile, and all submitted themselves to his government, rejecting the Dominion both of *Ordugno* and his brother King *Froila* after him, for their tyranny and trechery.

(p) Rodericus
Toletanus de
Rebus Hiss. l.
6. 19.

(p) *Alphonso* the great King of *Gallecia* about the yeere of Christ 918. imprisoning his eldest sonne *Garcias*, laying him in irons and exercising other cruelties, was by the practise of his owne Queen *Semena* and his other sonnes and Nobles, so prosecuted and put to such streights; that they enforced him to resign his Crown to his sonne *Garcias*, and to deprive him'selfe of his gouernment in the presence of his sons and the grandees of his Realm; after which he requested his sonne to raise and grant him an Army to goe against the Sarazens, who condescending thereto, hee gained a glorious Victory ouer them, and so dyed.

(q) Roder. Tol.
l. 5. c. 45.
Munst. Caf. l. 2.
c. 20. Gen. hist.
of Spain. l. 7.

(q) *Alphonso* sonne of *Ordugno*, King of *Castile*, after 5. yeers reigne, out of levity rather then Religion, resigned his Crown to *Ramire* his younger Brother, and then turned Monk about the yeer 939. but not long after, casting off his Coule & leaving his Monastery, he began to raise forces, and to aspire to the Crown again which he had resigned; whereupon *Ramir* raised an Army against him, and after 2. yeers warres took him prisoner, put out his eyes, and thrust him into a Monastery.

(r) Munsterii
Cosmog. l. 2.
c. 20. p. 78. Gen.
Hist. of Spain.

(r) *Iohn* the first, the 35 King of *Castile* after the death of *Ferdinand* King of *Portugall* claimed that kingdom in right of *Eleanor* his wife and next Heire, but the *Portugals* elected *Iohn*, a bastard, a Knight of the blood Royall for their King, and excluded *Eleanor*. Henry

the 4. the 38. King of *Castile*, having no children lawfully begotten, would have made *Elizabeth* his bastard daughter heire to the Crown; but the Nobles would no wayes permit it; and resisting him with all their might, preferred his own sister *Elizabeth* to the Crown, and married her to *Ferdinand* the 6. sonne to *John* King of *Arragon*, rejecting his spurious daughter. And Frier *John d Teixeira* his Book of *The Originall of the Kings of Portugall*, affirmes, that the Kings of *Portugall* were usually ELECTED BY THE SUFFRAGES AND FREE CHOICE OF THE PEOPLE, who had power to conferre the Kingdome on whom they pleased: averring, that *Alfonso* 1. 3. and 5. *John* the 1. *Emanuel* and *Antonio*, Kings of *Portugall*, were thus elected. Which though (f) *Duardius Nonius Leo*, a Portugois Lawyer denyes, and seemes to refute; yet he grants freely, that the Parliament or Assembly of the Estates in *Portugall* have usually determined the Title, Right, and ordered the Succession of that Crown in the Cases of these Princes, and determined of their Legitimate or spurious birthes: That when the Kings of *Portugall* have dyed without Heires, they have BY THE LAW OF ALL NATIONS freely elected whom they thought meetest for their King: And that after the death of King *Ferdinand*, they put by *John* and *Ferdinand* the sonnes of King *Peter*, begotten of *Agnes de Castro* his Concubine, from the Crown, because they were bastards; and moreover enemies to the name and Realme of the Portugois, entring with *Henry* and *Peter* Kings of *Castile*, in an hostile manner with an Army into the Confines of *Portugall* wasting them every where, and doing great dammages to, and committing many murders among their Citizens; for which reason, the States assembled at *Coimbr*, resolved, that although they were legitimate, yet THEY COULD NOT OBTAIN THE SUCCESSION OF THAT KINGDOME, quod se hostes & alienos a Portugalia declarassent, because THEY HAD THVS DECLARED THEMSELVES ENEMIES AND ALIENS TO PORTVGALL. And therefore believing the Kingdome to be void for want of a right heire to succeed, in which case, BY THE LAW OF ALL NATIONS THEY MIGHT LAWFVLLY ELECT THEM WHAT KING THEY PLEASSED, they chose *John* the Bastard, King. After which he shewes, that *Philip* the 2. his Title to the Crown, was long debated by, and resolved in the Assembly of the States of *Portugall* in the life of king *Henry*, who summoned all the Pretenders to the Crown to come and declare their Titles to it in a Parliament held at *Almicerin*, upon the Petition of the Senate and People, who earnestly pressed him, that the Title of the crown might be settled and decided during his life, to prevent division and civill warres after his death: By which it is apparent, that the Assembly of the Estates of *Portugall*, is the most Sovereign power and above their kings themselves.

It is clear, that the *Gothish* kings which reigned in *Spain* were not hereditary, but elective, yea, censurable, excommunicable, and despolable by them for their Male-administrations. (t) The *Generall History of Spaine* is expresse, that among the *Goths* they did not reigne by right and succession from Father to Sonne, but those were chosen Kings among them, which were held worthy; which election was made by the Nobility and People, and if any one did affect that dignity by any other unlawfull meanes, he was excommunicated and rejected from the company of christians; as appears by the 5. Councell of *Toledo*. Thus *Vallia* the 1. king of the *Goths*, An. 418. *Agila* the 11. king An. 546. *Luiba* the 13. king An. 565. *Gundamir* the 18. king An. 610. *Suintilla*

(f) Censure in
F. Iosephi
Teixere libellū
6. 75. to 83. De
vera Regum
Portugaliū
Genealogia, lib.
in the 2. Tom. of
Icannis Pistor-
mis Hispanie
illustrata.

(t) Lib. 5. p.
146. Icannis
Mariana, De
Rebus Hisp. l. 6.
c. 4. 6.

- the 20. king *An* 621. (v) *Tulca* the 23. king *An*. 642. *Bamba* the 26. king of *Goths*,
 (v) *Gen. hist. of Spain*, l. 5. p. 122. 140, 145, 146, 147, 149. *Ro. san. hist. Hisp. pars 2. in their lives*, *Ioan Mariana de Rebus Hisp.* l. 5. c. 6.
 (x) *Gen. hist. of Spain*, l. 5. p. 139. 140, 145. *Rod. sanct. hist. Hisp. pars 2. c. 15. 2. 2.*
 (y) *Gen. hist. of Spain*, l. 5. p. 146
 (z) *Gen. hist. of Spain*, l. 5. p. 147
Concil. Toletanum 6. c. 3. Surivius Concil. Tom. 2. p. 742.
 (a) *Surivius Concil. Tom. 2. p. 739. 740. Mariana de Rebus Hisp. l. 5. c. 6.*
 (b) *Surivius Concil. tom. 2. p. 744. 745. Mariana de Rebus Hisp. l. 6. c. 9.*
 (c) *Gen. hist. of Spain*, l. 5. p. 149. 150. *Roder. san. hist. Hisp. pars 2. c. 32. Surivius Concil. tom. 3. p. 3. Mariana de Rebus hisp. l. 6. c. 13, 14, 17.*
- an. 672. to omit others, were elected by the Nobles and people, though now and then the Crown went by succession through usurpation rather than right,
 (x) *Theodiscle* the tenth king of the *Goths* in *Spain*, giving himselfe to lusts and adulteries, polluted great and honest families, corrupted Nobles wives, and committed many murders; whereupon the chiefe of the *Goths* conspiring against him, strangled him at *Sevill* rioting in his banquets, and elected *Agila* for their king: So *Vitrix* the 17. king of the *Goths*, a vicious base unworthy Prince, was miserably slain by his own people for his vitiousnesse, as he sat at Table. (y) *Suintilla* the 20. king of the *Goths*, in the beginning was a good Prince, but in the end he grew exceeding covetous and cruell; wherefore the *Goths* made him resign his Kingdom about the year 630. and deprived him of the crowne, he was likewise excommunicated by the Bishops (whose power at that time began to equall that of Kings) at the 4. Council of *Toledo*; which interdicted him, with *Geilands* brother, their wives and children, the communion and fellowship of the Church, and the possession of their goods gotten by violence and tyrannicall meanes; and *Sifenand* his adversary, with the consent of the people, obtained the Kingdom. The 6. (z) Council of *Toledo* under *Cintilla* the 22. king of *Goths*, about the year 686. decreed, and by a perpetuall law imposed on the Kings of *Spain*, not to suffer any one to live within their Dominions, which was not a Catholike; the which their kings should solemnly sweare before they were crowned; and if any king should goe against that Law which he had thus sworn, he should be excommunicate and accursed in sight of the eternall God, and made the fuell of eternall fire: which Canon was made, not only by the assent of this king & his Bishops but likewise with the consent & deliberation of his Nobles and great men. In the (a) 5. Council of *Toledo* under this king it was decreed, *Can. 2, 3, 4, 5, 6, 7.* That the kings children and faithfull servants after their deaths, should not be deprived of the lands, honours, and just rewards by the succeeding kings, which had been conferred on them in their lives; That no man should aspire to the crowne licentiously, under pain of excommunication and a divine Anathema, whom neither THE ELECTION OF ALL, nor the Nobility of the *Goths* Nation had not advanced to this top of honour. That none should, during the kings life, endeavour or use meanes to succeed him after his death; nor yet revile the Prince, under paine of excommunication. All which particulars were ratified by new (b) Canons in the 6. Council of *Toledo* under this king. *Can. 14, 15, 15, 17, 18.* with this addition; That the king being dead, none should usurp the kingdom by tyrannicall presumption; that none who had been shaven a Monke, or dishonestly bald, or descended from a servile stocke, or a man of a forraign Nation, unlesse worthy both in respect of his Pedigree and manners, should be promoted to the Throne of the Kingdom; nor no man attempt the Princes destruction, life, or usurp his Crowne tyrannically, under pain of being smitten with a perpetuall Anathema, and eternall condemnation, for breach of any the premises. These Councils, as *Mariana* observes, were in truth Generall Assemblies of the Estates, where they handled not only matters of Religion, but likewise of the Commonweale by common consent of all. *Bamba* the 26. king of the *Goths* (after (c) *Lewes de Mayern Turquets* computation which I follow, but 32. after *Roderick Sancho*) was elected king by the *Goths*, as he was plowing with his Oxen in the field, being a plain countrey man. Some say, that he would never have received this honour and charge, but by constraint, and that refusing it absolutely, a Noble man of the *Goths* drew his

Sword, and threatened to kill him if he did not yeeld to the Gothes intreaties, and that his Good wherewith he drove his Oxen did suddenly in his hand bring forth leaves, fruit, and roots; whereupon he took this dignity upon him, more for fear than for any desire to reign. Anno 672. After which *Eruinge* ambitious of command, poisoned king *Bamba*, so as he became madde; for curing whereof many naturall and superstitious medicines were applyed, but to small effect; so as *Bamba* coming a little to himself again, and finding his disabilitie to govern, willingly quit the Crown, and retired himselfe into a Monastery at *Pampliga*, where he lived seven years and one moneth, and (d) *Eruinge* was chosen king in his place, whose Election was confirmed and allowed lawfull in the 12 Council of *Toledo*, Can. 1. as Elected thereto by God, and ALL THE PEOPLES DESIRES; whom this Council absolved from their Oath of allegiance formerly made to King *Bamba*, while he held the Kingdom. In the (e) thirteenth Council of *Toledo* under this King *Eruinge*. Anno 684. it was decreed, That neither the King nor any other should marry the Widow of the deceased King, upon pain of excommunication, and to be damned to Hell fire.

(d) *Surius Con-*
cil. 3. p. 7. 40.
Mariana de
Reb. Hisp. l. 6.
c. 17.
(e) *Generall*
Hist. of Spain.
l. 5. p. 151.

Vitiza (f) the nine and twentieth King of the Gothes, at his first coming to the Crown, shewed himself milde, liberall and religious, but soon after became the infamy and dishonour of Kings, being full of all excesse of lust, impiety, hypocrisie and dissimulation, and exceeding in all vices without shame; he filled his Palace with many Wives, which he married, and Concubines too; he publicly allowed to all men, Nobles, Commons, Priests and Clergy, to marry as many wives, and keep as many Whores as they pleased; he used great crueltie to many: flattered the Clergy, left by their censures they should draw the people from obeying so filthy and unchaste a king. To prevent all rebellions (under the colour of peace which *Spain* did then enjoy) he caused all the Towns of *Spain* to be dismantled, except *Leon*, *Toledo*, and *Asturica*; he disarmed the people, disannulled all the immunities of the Church; he recalled the banished the Jews, and granted them great priviledges; he advanced a most wicked wretch to great honours, execrable to all the people, that so he might not say, himself was the worst of men: Finally, as a presage of his future miseries, he shewed (in all sorts of excesse and violence, contrary to the Laws of God and men) what Princes ill instructed and ignorant of true pietie could do: A *Buffone* asking him merrily, Why do you being a King & the son of a King, do thus, you may lose your Kingdom? Hereplied like another *Dionysius*, My Father left me his kingdoms, not fortune. In fine, (g) *Rodorick* with the ayd of the Gothes Nobility and of the *Romanes*, chased this infamous Monster out of the Throne, which he unworthily held, defeated, and took him prisoner in a set battell, put out his eyes as he had put out others, confined him to *Cordova*, where he spent his dayes in misery, without Title or honour, and by suffrages of the people (g) *Rodorick* obtained the Crown; who soone after exceeded *Vitiza* in all manner of vices, cruelty, and tyrannie, and ravished the daughter of *Julian* Earl of *Cava*, while he was in embassage in *Affrick* for the affairs of the kingdom; Who to revenge this indignity, and cast out this wicked Monster, Anno 713. called the *Mores* into *Spain*, who over-ran and conquered the Kingdom, destroyed *Rodorick*, and put a Period to the Gothes kingdom in *Spain*. Thus Tyrannicall vicious Princes ruine at last both themselves and their Realms.

(f) *Gen Hist.*
of Spain, l. 5.
p. 152, 153.
Rod. Sanct. Hist.
Hisp. pars. 2.
c. 35 Mariana
de Rebus Hisp.
l. 6. p. 19.

(g) *Gen. Hist. of*
Spain, l. 5.
p. 153, 154, 155
Rod. Sanctius,
Hist. Hisp.
pars. 2. c. 37.
Mariana de
Rebus, Hisp.
l. 6. c. 21, 22, 23.
Illustrate,
(b) *In Iohannis*
Pistorius, Hist.
Tom. 3. p. 859,
860.

Among the (h) *Laws of the Wisigothes*, Lib. 2. c. 2. 6. I finde not onely an Act declaring their Kings to be subject to their Lawes as well as subjects, but likewise a Law

- restraining their Kings excesses, and dis-abling them to alien their Crown lands or revenues to their own Children or others, but onely the Lands which themselves shall purchase; which was likewise decreed in the eighth⁽ⁱ⁾ Council of Toledo, under king *Receuinthus*, wherein there was this complaint made. *Quosdam conspeximus Reges, postquam fuerint regni gloriam assequuti, extenuatis viribus populorum, rei propria congerere lucrum; & obliui, quod reges sunt vocati, defensionem in vastationem converterunt, qui vastationem defensione pellerere debuerunt; illud gravius ennoctentes, quod ea qua videntur acquirere, non regni deputant honori, vel gloria, sed ita malunt in suo jure confundi, ut veluti ex debito discernant hac in liberorum posteritatem transmitti: Resolving, that non persona sed potentie hæc subdi debere, non habenda parentali successione sed possidendaregali congressione; regem terrenum jura faciunt, non persona, &c.*
- (i) *Gen. Hist. of Spain, l. 6 p. 169*
 171, 172, 173
 174, 175, 177
Mariana de rebus, Hisp. l. 7.
- (k) *Legis Wisigoth. l. 2. c. 28. p. 869. and l. 6. c. 7. p. 936.*
- (l) *Pelagius* the first king of *Oviedo*, was elected king, and that kingdom created by the generall consent of the people oppressed by the *Moors*, about the year, 618. during whose reign were severall Vice-royes of the *Mores* in *Spain*, as *Alcazarin*, and *Albatan* and others. His sonne king *Fasila* was slain by a Bear which he pursued in the mountains: I doubt his Subjects would have resisted him as well as the Bear, had he made war upon them. *Froila* the fourth king of *Oviedo* treacherously slew his own brother *Utmaran* a gallant Knight, generally beloved, (out of jealousy) lest he should usurpe the Crown; in revenge of whose death he was soon after slain by his own brother *Aurelius*, Anno 767. who succeeded *Froila* in the Realm, notwithstanding he left a son called *D Alphonso* the chaste; but the hatred that the Noblemen did bear unto his father, was the cause of his rejection, being then also very young; whereby it appears, that the right of succession was not in those dayes practised in *Spain*; *Sillo* his brother in Law succeeded him; after whose death by generall consent, the kingdom was given to *Alphonso*. (m) *Ramir* the tenth king of *Oviedo* did that which all other Princes abhor, for he received his son to be companion with him in his kingdom, and caused his brother *Garcia* to reign with him, so as there were now two kings and Courts in *Oviedo*, both agreeing well together. Anno 894. *Froila* dying without issue, because his children were too young to reign, the Nobles conferred the Kingdom on *Alphonso* the fourth, who after five years turned Monke. (n) *Ramir* the third, twentieth king of *Leon*, abandoning himself to a voluptuous life, condemned all good counsell, so as the Earls and Noblemen of *Gallicia* seeing his folly, and discontented with his vices, scorned him, and would no more acknowledge him to be their king, electing *Bermund* for their Sovereigne, and intituled him king of *Gallicia*, which title he enjoyed ten years: About which time the *Moors* in *Spain* which had one king reigning at *Cordova*, after the death of king *Mahomet*, made so many petty kings, as there was scarce any good town in *Spain*, but had a particular King, which made strict alliances among themselves for the preservation of their estates. (o) Anno 1071, *Garcia* king in *Gallicia* growing a tyrant, spoiled and ill created.
- (m) *Gen. Hist. of Spain, l. 6. p. 183*
- (n) *Gen. Hist. of Spain, l. 8. c. 8.*
 * *Ioan Vasai Hist. Chron. An 899. p. 714.*
 (o) *Gen. Hist. of Spain, l. 8. p. 242. Mariana de rebus Hisp. l. 9. c. 8. 9.*

treated his Subjects, governing himself after the appetite of a base woman, who put the Nobilitie and Gentry in favour or disgrace with the king as she pleased, so as in the end growing insupportable, certain Knights slew her in the kings presence; His brother *Sancho* taking advantage of the peoples hatred, entered his Realm with a great Army; who thereupon being deserted generally by his people, fled to the *Moors* for ayd, and fell to spoil his own Country, after which he was defeated, taken prisoner, and so kept in the Castle of *Lune* with a good Guard till his death.

I read in (p) *John Mariana*, that in the Council of *Florence* under Pope *Nistor* (p) De rebus Hist. 1. 9. c. 5. the second, Anno 1055. *Hildebrand* a Cardinall Deacon Embassadour to *Henry* the second, Emperour of *Germany*, complained in the Council against *Ferdinand* king of *Spain*, in the Emperors Name, That against the Custom of his Ancestors and prescript of Laws, he did with incredible arrogancy and levity hold himself exempt from the power of the Roman Empire, which in any himselfe could gladly suffer, if there were no other losse but of his own honour; But since the estate of Christendom could not well subsist, and the Popes Authority would likewise be impaired, unlesse all Christian Kingdoms were united and knit together under one temporall head the Emperour, whom they should obey; they ought to suppress the springing temerity in the Wombe, lest by their neglect spreading it self into other Provinces, animated with the sweet, and oft-times deceitfull name of libertie, the sacred Majestic of the Empire and Popedom should be reduced to an empty title; wherefore he desired them to interdict all *Spain*, and excommunicate the King; which if they did, he would be assistant to the Churches honour and Republiks safety then indangered: But if they refused it out of fear, he would not be wanting to the honour of the Empire, & would certainly look to himself in private. The Pope after some deliberation, approved this motion as just, & thereupon sends Legats to *Ferdinand* in his own and the Councils name, to satisfy the Emperors demands forthwith, under pain of present excommunication. The King doubtfull and fearfull whether to obey or not, summons a generall Assembly of the Estates of the Realme: The Clergy and religious sort of men perswaded submission, for fear of the Popes excommunication; the fearfuller sort concurring with them, by reason of the Emperours power and their own weaknesse and distraction, and the Kings desires of peace inclined most to their opinion. But some heroick spirits thought that a most grievous tax should thereby be laid on the liberty of *Spain*; which being once admitted on their necks, they should hardly shake off again; that it was better to die fighting, then that the Republike should be involved in so great a mischief and indignitie. *Rodericus Diacius*, a noble Spanyards opinion (then absent from the assembly) being required by the king and it, answered. That this was no matter of Counsell: that what was gotten with Arms was to be defended with Arms; that it seemed most unjust, that the frust of others valour should return to those who in their lost condition had not communicated in the labour and danger which recovered it; that it was better to die valiantly, than to lose the liberty gained by their Ancestors, to become a mocking-stock to a barbarous and cruell nation, who contemned all men but themselves; whose ears were proud, whose speeches contumelious, whose access difficult, riotings new, cruelty inhumane; Shall we who have yet hardly escaped the servitude of *Moors*, undergo a new bondage prepared from the Christians? They will deride both us and ours. Doth the whole world, as farre as Christianity extends it selfe, obey the German Emperours? Shall all the grace, power, honour, riches, gained by ours, and our Ancestors blood, give place to the Germans? Shall they leave dangers, repulses, indige-

men, want to us? Shall Germany again lay on us the yoke of the Roman Empire, which our Ancestors have shaken off? Shall we be a vulgar people without grace, without Empire, without authority, obnoxious to those, to whom if we had vigorous mindes, if we were men, we might be a terror? But it is difficult to resist the Emperours endeavours, not to obey the Roman Pontifs commands; verily it a basnesse of spirit, for an uncertain fear of war, to involve the Commonwealth in most certain dangers: many things are effected by triall, which seemed difficult to slothfull men. I know not what stupidity hath seized on many, whom neither glory moves, nor the infamy of the wretchednesse, thinking it great liberty enough if they be freed from scourges. I suppose the Popes ears will not be so averse to our affairs, that he will not be moved with our most just prayers, and the equity of the cause; Let some now be sent, who may boldly defend the cause of our liberty before him, and teach him, that the Germans demand unjust things. Mine opinion is, that the liberty gained by our Ancestors, is to be defended with arms against the attempts of all men, and with this my sword I will maintain, **THAT THEY ARE MOST WICKED TRAITORS TO THEIR COUNTRY**, who out of a simulation of a fond Religion, or shew of preposterous caution, shall give contrary advice, neither shall resolve, that servitude is to be repudiated with greater care by us, then domination is affected by them. So farre forth as every one shall addict himself to the liberty of his Country, so far shall I be a friend unto him, or a deadly enemy. This opinion of Roderic prevailed, in pursuit whereof they raise an army of ten thousand men, whereof he was made Generall; they send Ambassadors to the Pope and Council, whereof Roderic was chief; and upon a full hearing of the cause before Rupert Cardinall of Saint Sabria, the Popes Legat, at Tholouse, judgement was pronounced for the liberty of Spain, and it was decreed, That the German Emperours should from thenceforth have no power nor jurisdiction over the Kings of Spain; which was afterwards confirmed by the customes of the people, the consent of other Nations, the publike resolution and judgement of Lawyers; as Iacobus Valdesius in his Book de dignitate Regum Hispania printed 1602. Cap. 18. proves at large.

(q) Lib. 9. p. 240

(q) The Generall History of Spain, records, that the Council of Florence resolved, that seeing the King of Spain had defended and conquered their Realms by Arms, without any ayd from the Emperours, they were free and exempt from all subjection and acknowledgement to the Emperours; whereof we may read the Glosse upon the Chapter Adrianus Papa, distinct. 63. The like priviledge have the Kings of France, the State of Venice, the Kings of England, and some others; Which clearly demonstrates, the Sovereign power of Kingdoms and Nations even over their Kings and Princes, and that they may justly defend themselves, and Elect other Princes, when they are deserted or destroyed by them.

(r) Gen. Hist. of Spain, l. 8. p. 243

(r) Anno 1083. Sacho Ramires king of Aragon, to supply the charges of his wars against the Moors, was sometimes forced to use the revenues of his Clergy, his Treasure being not able to furnish so great a charge; but the Bishops of his Country, who affected nothing more but to enrich their own Order and State, opposed themselves against him, and afflicted him in such sort, as putting him in a vain fear, that he was damned for this cause, They made him do Penance in the Church of Roda before Saint Vincents Altar, in the presence and at the pursuite of Raymund Dolmare, Bishop of that place, the Bishop of Jarca, and others, and to confesse publicly, that he had grievously offended. Thus these good Fathers publicly insulted over their Sovereigne.

(s) Anno

(f) Anno 1091. king *Alphonso* granted this privilege, among other, to *Toledo*. (f) *Gen. hist. of Spain*, l. 8. p. 256. That the City of *Toledo* might never be alienated from the Crown, nor given upon any Title whatsoever, to man, woman, or child.

Anno 1076. *Sancho* King of *Navarre* was slain in battell by his brother *Raymond* (t) *Hieron. Blanca Arogon. Rerum. Com. in Saml. 4. p. 625. Gen. Hist. of Spain. l. 8 p. 243.* thinking to reigne after him, but the *Navarroyes* expelled him out of their confines, disdaining that he should raigne over them, who had embred his hands in his kingly brothers blood, and sending to *Sancho Ramires*, 4. king of *Aragon*, called him to raigne over them, because their slain kings sonnes were: on young to raigne, and protect them from their enemies; by which meanes the kingdomes of *Aragon* and *Navarre* were united. (v) *Veracha* Queen of *Castile*, a most lascivious open Adulteresse, by her unchast life so farre provoked her husband *Alphonso*, that he was divorced from her, made warre against her and confined her: After which she still continuing in her lewdnesse, the Nobility and States of *Castile* and *Leon*, revolt from her, take armes against her, depose her from the Crowne, and elect and crown her sonne *Alphonso* the 8. king An. 1122. allowing her onely a pension to support her life. (x) *Alphonso* King of *Aragon* by his last Will and Testament, most solemnly ratified, for the expiation of his sins, gave divers crown Lands, Tenements, Revenues, and Legacies to Religious houses and persons, An. 1132. but being prejudiciall to the Crown, his Will after his death was held void and not put in execution: he being slain by the *Moore*s An. 1134. the States of *Aragon* elected one *Peter Tares* for their King: who growing exceeding proud of his new dignity, began to despise the Nobles, and abrogate the Lawes and customes of the Country: And the Nobles (being assembled at a general Assembly of the States) going to visit him, he commanded his Porter to shut them out, saying, that Mounseur was busie about matters of great importance, but they understood afterwards, that the great affairs causing him to exclude his friends were, his Barbar was trimming him: which so incensed the Nobles and great men, that the next day they held their generall Assembly of the Estates without the King; where they first of all decreed to depose their new king, because being in honour he had no understanding of himselfe, and because they found he would grow more proud and insolent afterwards: whereupon expelling *Peter*, the Estates assembling at *Boria*, elected *Ramier* a Monke, brother to king *Alphonso*, for their King; who was much derided of his Nobles for his Monkish simplicitie, and at last turned Monk againe: But those of *Navarre* thinking a Monk to be better acquainted with the matters of a Monastery then how to govern a Kingdome, and being jealous that the *Aragonyes* by chusing a King of the blood Royall of *Aragon*, would by this meanes aspire to the chief places of honour and favour in Court, it was concluded, that the Estates of *Navarre* should assemble at *Pampelone*, where they chose *Garcia Remies* their King of *Navarre*; and so the Realmes of *Aragon* and *Navarre* which had been united 58. yeeres, were seperated in these two Kings. The Kingdomes of *Spain* being often before and since this time united and divided, as the people and Realmes assented or dissented thereunto. (y) Not to mention the troubles of *Castile* by reason of the nonage of their king *Alphonso* the fourth, of whose custody and tuition the assembly of the Estates disposed; or how some Knights of *Castile* slew a Jew, with whom this king was so enamoured, that he forgot his new Spouse, and almost lost his senses. (y) *Gen. hist. of Spa. l. 10. p. 307. to 312. 315. 321. 326.*

Anno 1179. king *Alphonso* assembled the Estates of *Castile* at *Burgon*, to levie a Taxe upon the people, whereto the Nobilitie, as well as the rest, should contribute, imposing

posing 5. Maravidis of gold for every person; but it took no effect: for all the Gentlemen of Castile being discontented, that he sought to infringe their Liberties, fell to armes, and being led by the Earle Don Pedro de Lara, they were resolved to resist this tax, and defend their Liberties with the hazard of their lives. Whereupon Alphonso changed his opinion, and let them understand, that from thenceforth he would maintain their immunities; and that whatsoever he had then propounded, was not to continue, but only to supply the present necessity of affaires, which he would seek to furnish by some other means. For the great resolution which Don Pedro de Lara shewed in this action, the Nobility of Castile did grant to him and his successours, a solemn breakfast in testimony of his good endeavour in a businesse of so great consequence, and thereby the Lords of Lara have the first voyce for the Nobility in the Court of Castile. (2) An. 1204. King Alphonso the Noble called a Parliament of the Lords, Prelates and Deputies of the Townes of his Realm at Toledo, to advise and assist him in his warrs against the Moores; where they concluded to crave ayd from all Christian Princes, and a Crossado from the Pope against the Moores, and made divers Lawes to restrain the superfluities of the Realm in feasts, apparell, and other things.

Gen. Hist. of
Spain, 10. p.
339. Mariana
de Reb. hisp.
l. 11. c. 23.

(a) Gen. hist. of
Spain, l. 10. p.
346. 347. l. 11.
p. 350. 351. 352.
353. 354. 355.
356.

(a) James the 8. King of Arragon being young at the time of his Fathers death, it was thereupon after ordained in the assemblies of the Estates of Mencon and Lirida, that Don Sancho Earl of Roussillon should govern the Realm during the Kings minority; but they gave him limitation: The Kings person they recommended to Frier William of Moncedon, Mr. of the Templers: After which An. 1220. this yong kings Uncles seeking to wrest the Realme from him instead of governing it, by the fidelity of the Estates and their authority, his interest was preserved, and three Governours with a superintendent of his Provinces were appointed by them; and to prevent the continuall practises of the Earles of Roussillon and Fernand the king's Uncles, the States and justice of Arragon declared the King of full age when he was but ten yeeres old, and caused the Earle of Roussillon to quit the Regencie; the authority of the justice of Arragon being then great for the defence of the publike liberty.

An. 1214. Alphonso the Noble king of Castile dying, his sonne Henry being but 11. year old, the Prelates, Nobles and Commons assembled at Burges, having declared him king, and taken the oath, made Queen Eleonorahis Mother, Governesse of his Person and Realms: after whose death, the custody of him was committed to the hands of the Lords of Lara: This king afterwards playing with other yong children of Noble Houses at Palencia in the Bishops Palace, one of them cast a tyle from the top of a Tower, which falling on the covering of an house, beat down another tyle, which fell on the young kings head, wherewith he was so grievously hurt, that hee dyed the eleventh day after. An. 1217. yet this his casual death (for ought I finde) was neither reputed Felony nor Treason in the child that was the cause of it. After whose death Fernand the 3. was proclaimed and made King by the States of Castile, to prevent the pretensions of the French: after which his Mother Queen Berenguela in the presence of the Estates, renouncing all her right to the Crown, resigned it up to her sonne Fernand: About this time the Moores in Spain rejected the Miraluminas of Africk, and created them severall Kings and Kingdomes in Spain, being never more united under one Crown after this division, which they thought it lawfull for them to make.

(b) Gen. hist. of
Spain, p. 363.
366. 367. 368.

An. 1228. the Estates of Arragon assembling at Barcelona, they consenting and requiring

requiring it according to the custome of the *Aragonians* and *Cattelans*, (these *Estates* having authority to make Warre and Peace, and Leagues) a warre was resolved against the King of the *Moors* and *Majorkins*. Anno 1231. the Realm of *Navarre* being very ill governed, by reason their King *Sancho* retired to his chamber, did not speak with any man but his Household servants, and would not heare of any publike affaires; thereupon the State began to think of electing a Regent to govern the Realm during his retirednesse; to prevent which, *Sancho* made an unjust accord with the king of *Navarre*, and confederated with *James* King of *Arragon*, by the assents of the States of the Realm to leave his Kingdome to him if he survived him; yet after his death *Thibault* Earle of *Champaigne* was by the States of *Navarre* elected and proclaimed King. And anno 1236. The Estates of *Arragon* and *Cateloigno* assembled at *Moncon* for the continuance of the warre with the *Moors* and conquest of *Valensia*, without whom it was not lawfull for the King to undertake any matter of importance. For maintenance of this warre, a custome called *Marebeisme*, and an exaction of impost for cattell was by the Estates imposed on the People; it was likewise decreed, that all peeces of Gold and silver coynad should be of one goodnesse and weight, to the observation of which Edict for coynes, all were bound to swear that were above 18. years of age.

(c) Anno 1236. *James* King of *Arragon*, revealing to his Confessor the Bishop of *Girone*, that before his marriage with Queen *Yolant* he had passed a matrimonial promise to *Theresa* of *Bidame*, she sued him thereupon before the Pope, who gave sentence against her for want of sufficient witness, notwithstanding his Confessors testimony: The King hereupon grew so angry with the Bishop for revealing his secrets, that sending for him to his chamber, he caused his tongue to be cut out: For which out-rage committed on the Bishop, though faulty, the Pope in the Councell of *Lions* complained, and in the end interdicted all the Realme of *Arragon*, and excommunicated the king. Hereupon to take off this interdiction and excommunication, the king sent the Bishop of *Valentia* with his excuse and humiliation to the Pope; wherewith he being somewhat pacified, sent two Legates into *Arragon*; who having assembled a Synod of Bishops at *Lerida*, they caused the King to come thither, and to confesse his fault upon his knees before these fathers, with great submission and teares, who gave him absolution, upon condition he should cause the Monastery of *Boniface* to be built, and endowed with an hundred and forty pounds of silver, of annuall rent; endow an Hospitall for the poore with foure hundred pounds silver per annum, and give a Prebendary in the great Church of *Girone*, for the maintenance of a Masse-priest. About which time the (d) Moors in Spain erected many new Kings and Kingdoms by mutual consent, and *Mahumad Aben Alamar* for his valour, was by the Inhabitants of *Marriona*, elected and made first King of *Granado*.

(e) Anno 1243. all was in combustion in *Portugall* by the negligence and baseness of their king *Don Sancho Capello*, who was wholly given to his wives humours, hated of the *Portugales*, and himselfe disliked for her sake: for many Malefactors and insolent persons were supported by her, who grew daily more audacious in their excessse, without feare of Justice, which was trodden under foot, for their respect. For these considerations, and her barrennesse too, all the Noblemen of the kingdome desired to have the Queen (called *Mencia*) separated and sent out of *Portugall*: for effecting whereof, they made a great insinace at *Rome*, but neither exhortation, a-

(c) Gen. hist. of Spain, l. 11. p. 370.

(d) Gen. hist. of Spain, l. 11. p. 372. 408.

(e) Gen. hist. of Spain, l. 11. p. 377. 378.

monition nor commandment, nor censure could prevaile, the king so doting on her, that he would not leave her: Which the *Portugals* perceiving, some of them presumed to seize on her in the City of *Coimbra*, and conducted her into *Gállicia*, from whence she never more returned into *Portugall*. Not content herewith, they sought to depose the King from his Royall dignity too, for his ill government, and to advance his Brother *Don Alphonso* to the Regall Throne, in his place; whom the *Estates* assembled made Regent of *Portugall*, leaving only the Title of King to his brother; which fact of the *Estates*, the Pope in the Councell of *Lions*, authorized by his Apostolicke power: with which the King being displeased, abandoned his Realme, and retired into *Castile*.

(f) Gen. Hist.
of Spain, l. 11.
p. 379.

(f) Anno 1247. The Lawes and Customes of *Arragon*, were reduced into writing by King *Iames* his appointment, and compacted into one body, having till that time been observed onely by tradition: which Volume was confirmed by the *Estates* held at *Huesca*: And the same yeere the King of *Castile* erected a kind of Chancery and standing Court of Parliament of 12. learned men, which followed the Court.

(g) Gen. hist. of
Spain, l. 12 p.
385, 386, 387.

(g) Anno 1254. *Thibald* the 2. king of *Navarre* being but 15. yeers old at the descent of the crown unto him, was at 25. yeers of age, declared of full age, and crowned King in the great church of *Pampelone*, where he did swear, TO PRESERVE AND AUGMENT THE PRIVILEDGES OF THE COVNTRY: Afterwards he doing homage to the king of *Castile* for the Realme of *Navarre*, as his predecessours had done before him, and making such a peace with him as the prelates, Knights and Commonalties of the Realme in the States had approved, yet divers knights and the Inhabitants of the Borough of *St. Iermin* of *Pampelone* disallowed this homage, this peace, and would not subscribe to it, as tending to the kings dishonour; whereupon the king did punish them by fines; but his choller being past, some few dayes after, considering they were good and faithfull subjects, loving his honour and greatnesse, and that they resisted his will out of true love and zeale which they owed to the Crowne and their Countrey, hee caused their Fines to be restored.

(h) Gen. hist. of
Spain, l. 12. p.
390, 397.

(h) *Alphonso* the 3. fifth King of *Portugall* putting away his first wife *Mahault* without cause after he had children by her, and marrying *Beatrix*; hereupon when by no intreaties of Friends or the Pope he would entertaine his first wife again, he was excommunicated by the Pope, and his Realme interdicted 10. or 12. yeers space, continuing still obstinate till his first wife dyed, after which he was absolved.

(i) Gen. hist. of
Spain, l. 12. p.
393, 400, 401.

(i) Anno 1260. and in some yeere following, there were divers controversies concerning the Crown Lands, and setting of Portions for the King of *Arragon* younger children, moved and determined in the Assembly of the *Estates* of *Arragon*: and the Nobility complaining, that their King *Iames* did breake their priviledges, made many Leagues and Factions. This matter being debated in the *Estates* at *Saragossa*, and then at *Exea* in the yeere 1265. for pacifying these troubles they enacted, That no honours nor military sees should be given to any but to Gentlemen of race, and born in the Countrey. That no Gentleman should be subject to the tribute of Cattell, nor to any other. That in all controversies which the Nobility might have against the king or among themselves, the Magistrate called the Justice Major of *Arragon* should be Judge, being assisted by the Councell. That the King should not give the sees and Military rewards, allotted to them that doe him service, as a recompence of their vertue and valour, to any of his lawfull children, who by right have their portions in the Realme.

Anno 1274. James King of Arragon comming to the Councell of Lions, desirous thereto be crowned by the hands of Pope Gregory; (a ceremony whereof he made great account:) the Pope refused him, *unlesse he would acknowledge himselfe vassall to the church of Rome, and pay the arrerages of the rent which the deceased King Don Pedro his Father had promised:* the which King James would not doe, holding it an unworthy thing so to debase the greatnesse of his Crowne, and restraine the Liberty of his Realme in any sort. And this yeare there were great and continuall Tumules in Arragon, the Nobility opposing themselves against the King: for composing which differences the Estates of Arragon assembled in Parliament at Exca, where King James tooke the government and managing of the affaires of the Realme from his sonne Don Pedro: and diverse great Dons were there condemned of contumacy, and their Lands confiscated by the Justice Major of Arragon: In this Assembly the Nobility pleaded the Priviledges of Cateloyne; That the Nobility might quit the Kings obedience in case of controversies and suites, especially if there were question of their Liberties, and to protest it publikely.

(k) Anno 1265. Denis the infant King of Portugall desired his Grandfather Alphonso King of Castile to discharge the Realm of Portugall of the homage and vassallage it ought to the King of Leon, who thinking it would be taken ill by the Noblemen his Subjects, advised the infant to propound it in an open Assembly, called to that end. The opinion of Don Nugno de Lara was, that by no meanes he should diminish the authority and greatnesse of his Crown, which he should doe, if he did quit this homage to the King of Portugall: For which opinion the King growing angry with him, the residue fearing the kings displeasure, advised him to doe it: Whereupon the Realme of Portugall was freed from all homage and subjection due to the Kings of Leon and Castile: For which prodigality the other Nobles and D. Nugno were so much discontented, that they made a League with the King of Granado against their own King, for dismembring Portugall from the Crown of Leon; to pacifie which differences the King used many mediations, and at last called an Assembly of the Estates at Burgos, the which was held without the Towne for the safety of these Confederates.

That great Astronomer (l) Alphonso King of Castile, (who presumed to controule the Author of Nature, saying; That if he had been at the Creation of the world, hee should in many things have been of another opinion, and amended Gods workmanship;) was a most willfull, indiscreet, unfortunate Prince; for his eldest sonne Fernand dying in his lifetime, leaving Alphonso and other issue males behind him, Don Sancho his second son resolved to dispossesse his Nephews of the kingdom, saying; That it was fit, that he who was a Knight, and learned to govern a Realme, were it in warre or peace, should raigne after his Father, rather then his Nephews, sons of his eldest brother who were very young, having need of Regents and Governours, charges which were affected by great personages, who by reason thereof grew into quarrels one with the other, to the oppression of the people, and hazzard of the Estate. After which, Don Lope Diaz of Haro pressed the King to declare Don Sancho his sonne, his successour in the Realmes of Castile, Toledo, Leon, and other places, being his eldest sonne then living; to which he giving a cold answer at first, having afterwards assembled the Estates in Segobia, he was by the King and the Estates consent declared and received as heire to the Crown after his Fathers decease, Fernands children being disinherited of their right, which fact was then excused and justified, because there was no law at that time which

(k) Gen. Hist. of Spain, l. 12. p. 337. 338.

(l) Gen. Hist. of Spain, l. 12. p. 412. to 426.

did binde the King, much lesse the Estates, to leave the Realme more to one sonne then to another: since which there was a law made and received in the time of *Fernand the 5.* in the City of *Taro*; where it was decreed by the Estates upon this difficulty, That the Children of the elder brother deceased, representing their fathers person, should in that respect be preferred before the Uncle: Hereupon *Queen Violant*, and *Blanche* widow to *Fernand* were so much discontented with the Decree of the Estates, disinheriting the eldest brothers sonnes, as taking the young children with them, they departed out of *Castile* to *Don Pedro* King of *Arragon*; where *Don Sancho* caused his Nephews to be imprisoned, whom king *Alphonso* labouring under hand to get releas'd, *Don Sancho* advertised hereof, made a league with the *Moors* of *Granado*, against his Father, and by assent of his confederates took upon him the Title of Regency of the Kingdome of *Castile* and other his Fathers dominions, refusing the Title of King, during his Fathers life time; who was forced to pawn his royall Crown and Jewels to *Iacob Abin Ioseph* a *Moore*, King of *Morocco*, who aided him willingly against *Don Sancho*. After which in an Assembly of the States at *Cordova* with the advise of the Noble men and knights of *Castile* thereupon sent, by a Decree pronounced by the mouth of *Don Manuel*, in the name of the whole Nobility, *Alphonso* was deprived of all his Realmes, for murdering his brother *Don Frederick*, and burning *Don Rues* unjustly without any forme of justice or orderly proceedings, the breach of the rights and priviledges of the Nobility, and the excessive wasting of the treasure of the Realme. Vpon this there arose bloody Warrs between the Father and sonne; and in the yeere 1282. *Alphonso* was so vex'd with his sonnes proceedings, that hee pronounced in the presence of many men of ranke both Clergie and Laity in the City of *Sevill*, The curse of God and his upon *Don Sancho*, a sonne, said he, disobedient, rebellious, and a paricide, declaring him incapable and unworthy to reign, depriving him of his successions, inheritance, and discharging the subjects, as much as in him lay, from all oath and homage which they had done unto him. But these were but words which *Don Sancho* did not much esteem; enjoying his Fathers kingdomes after his decease in Title, as he did before in a fact, and dying king of *Castile*, his heires succeeded him in that Realme, as lawfull heires thereunto.

(m) Hieron.
Blanca. Rer. Ar.
ragon. Com. p.
166. Gen. Hist.
of Spain. l. 12.
p. 419, 421, 422.

(m) *Don Pedro* the third, king of *Arragon* about the yeere 1283. had many controversies with his Nobles and knights who complained much of his sower disposition, and tyrannous manner of Government, insulting over the greatest, yea against his own blood, contrary to all Law and nature. Wherefore being ill intreated by him in their freedoms, whereof the Townes and Commonalties of his Countries did also complain, the Nobility, Knights and Gentry, for preservation of their Liberties made a Union together among themselves and with the people; promising and swearing to let the King and his sonne *Don Alphonso* (who was his Licutenant Generall) understand, that if they did not contain themselves within the limits of the Lawes of the Country, they would withdraw themselves from their obedience, and declare themselves enemies, and pursue them by armes that should seek to break them. The king hereupon called the Estates to *Tarrasone*, and afterwards to *Saragossa*, where he intreated, promised and did all what he could to break this Vnion: but he was forced to yeeld, and granted to the *Arragonians* the priviledge they call *Generall*, whereby their Liberties, which had been somewhat restrained, were again restored, the ancient manners of the Country, and customes of their ancestors put in practise. And moreover there

were

were Laws made for their Kings, which they should be bound to obey; and for that they were in a mutiny in some places, by reason of certain Impositions laid upon salts, the traffique thereof was made free by the Estates. And the king refusing the judgment of the Justice Major of Arragon, deposing Pedro Martines Artassone (who then exercised it) from his Office, the Estates soon after at an assembly at Zutaria, fortified it with stronger Laws, deeming the Justice of Arragon to be a lawfull Judge, (whom the King himself could not displace) even in Cases commenced against the King; who being cited and not appearing, there were Decrees made against him in many instances. In the end the King confirmed the Decrees of the Justice Major, and whatsoever should be concluded by the Estates, the Deputies and Cancellors having given their suffrages.

I read in * Hieronimus Blanca, that about the year 1212. the Arragonians taking it ill that their Liberties gotten with their blood, should so many wayes be subverted, as then they were by King Pedro the first, raised up the Name and forces of a Vnion, that with one force, and the consent of all, one might as it were being made out of all, they might more easily propulse so great injuries; but what was then done hereupon, is not recorded; But the two memorable Priviledges of the Vnion under King Alphonso the third, are said to spring from thence.

* Rerum Arragonens. Comment. in Fet. 2. p. 650.

Don Alphonso (n) king of Aragon succeeding Pedro, Anno 1286. he was admonished by the Estates Ambassadors, to come speedily to the Assembly at Saragossa; where having sworn and promised the observation of the Customs, Rights and Priviledges of the Countrey, and received the Oath of fealty from the Deputies, he might lawfully take upon him the Title of the King of Aragon; the which they said, he might not use before this Act and Ceremony, according to the ancient customs of Aragon. Vpon these summons he came to the Assembly of the Estates to Saragossa, took the Oath aforesaid, after which he was Crowned: Which done there grew in this assembly a great contention, touching the reformation of the manners of Courtiers, and the ordering of the Kings house; the Noblemen and Deputies of the Estates of Aragon maintaining; that the consuance thereof was incident to their charge; the King, and his household servants on the other side, denied, that there was either Law or custom which tyed the King or his followers to any such subjection. In the end it was concluded, that the reformation of the Court should be made by twelve of the principall Families, the like number of Knights, four Deputies of Saragossa, and one of either of the other Cities, the which should give their voices in that case. This Vnion of Aragon obtained likewise a Decree, that the King should have certain Cancellors chosen, to wit, four of the chief Nobility, four Knights of noble and ancient races; four of his household servants, two Knights for the Realm of Valencia, two Citizens of Saragossa, and one of either of the other Cities (whom they particularly name) with a condition, that whilest the King should remain in Aragon, Ribagorca, or Valencia, two of those Noblemen, two of his servants, two Knights of Aragon, one of Valencia; and the four Deputies of the Realm of Aragon, should follow and reside in his Court, AS CANCELLORS APPOINTED BY THE VNION; who protested by solemn Deputies sent to the King to that end, that if he did not receive, observe, and maintain those orders, THEY WOULD SEIZE VPON ALL HIS REVENUES, and on all the fees, Offices, and dignities of such Noblemen as should contradict them. Thus were the Kings of Aragon intreated in those times by their subjects, who

(n) Gen. Hist. of Spain, l. 13. p. 431. Hieron. Blanca Arrag. Rerum Com. in Apph. 3. p. 661, 662.

entred into a Union between themselves, resolving, That for the common cause of liberty *Non verbis solum, SED ARMIS CONTENDERE LICERET*; that it was lawfull for them to contend not onely with words, *BVT WITH ARMS TO*; and determined in this assembly of the States, *A Comitibus intempestive discedere REGI NEFAS ESSE*, That it was unlawfull (yea, a grand offence) for the king to depart unseasonably from his Parliament, before it was determined. Our present case.

(o) Gen. Hist. of Spain, l. 13. p. 436, 465.

(o) James the second of Aragon being in Sicily at the death of King *Alphonso*, *Don Pedro* his brother assembled the Estates at *Saragossa*, to consult, lest the State in his absence would receive some prejudice; where *James* arriving, having first sworn and promised the observation of the Rights and Priviledges of the Countrie, was received and crowned king. About the year 1320 *James*, by advice of his Estates held at *Tarragone*, made a perpetuall Union of the Realms of *Arragon* and *Valencia*, and the Principal ty of *Catclone*, the which from that time should not for any occasion be divided. In which assembly *Don James* eldest son to the Crown, being ready to marry *Leonora* of *Castile*, suddenly, by a strange affection, quitting both his wife and succession to the Realm of *Arragon*, told his Father, That he had made a vow neither to marry, nor to reign; so as notwithstanding all persuasions of the King and Noblemen, he quit his Birth-right to his Brother *Don Alphonso*, after the example of *Esau*: discharged the Estates of the Oath they had made unto him, and presently put on the habite of the Knights of *Ierusalem*; Whereupon his second brother, was by the Estates of *Arragon* acknowledged and sworn heir of these Kingdoms, after the decease of his father. At this time the Authority of the Justice of *Aragon* was so great, That it might both censure the King, and the Estates, and appoint them a place, and admit them that did assist, or reject them.

(p) Gen. Hist. of Spain, l. 13. p. 440. to 476.

(p) *Ferdinand* the fourth, king of *Castile*, being but a childe when his father *Sanch*o died, was in ward to his mother *Queen Mary*, his Protectresse; he had two competitors to the Crown, *Alphonso de la Cede*, and *Don Iohn*, who making a strong confederacy, were both crowned Kings, against right, by severall parts of his Realm, which they shared between them. The States assembled at *Zamora* granted great sums of money to *Ferdinand* to maintain the wars with his enemies, and procure a dispensation of Legitimation and marriage from the *Pope*, who would do nothing without great fees. After which he summoning an assembly of the Estates at *Meditina*, they refused to meet without the expresse command of the *Queen Mother*, who commanded them to assemble, and promised to be present. After this divers records were made twixt him and his competitors; and at last calling an assembly of the Estates to assist him in his warres against the *Moors*; he soon after condemned two Knights, called *Peter* and *Iohn* of *Caravajal*, without any great proofs, for a murder, and caused them to be cast down headlong from the top of the *Rock of Martos*; who professing their innocency at the execution, they adjourned the king to appear at the Tribunal Seat of Almighty God within thirty dayes after, to answer for their unjust deaths; who thereupon fell sick and died, leaving his son *Alphonso* the 12. very young; for whose Regency there being great competition, the inhabitants of *Avila*, and their Bishop resolved, not to give the possession and government of the Kings person to any one, that was not appointed by the assembly of the Estates; Whereupon the Estates assembling at *Palence*, committed the government of his person to *Q. Mary* his Grandmother and *Queen Constance* his mother; who dying, another Assembly of

the Estates was called at Burgos, Anno 1314. who decreed, that the Government of the King, and Regencie of the Realme should be reduced all into one body betwixt Q Mary, Don Pedro, and Don Iohn, and if any one of them should dye, it should remain to the two other that did survive, and to one if two dyed. After this, Anno 1315. these Tutors and Governours of the Realme of Castile were required by the Estates in an Assembly at Carrion to give caution for their government, and to give an account what they had done. Who often jarring and crossing one another; divers Assemblies of Estates were oft called to accord them. Anno 1320. The Estates assembling, appointed new Governours of the King and Realme, who discharging their trust very lewdely and oppressing the People, Anno 1326. they were discharged of their Administration at a Parliament held at Vailledolet: in which the king did sweare, to observe the fundamentall Lawes of the Realme, and to administer justice, maintaining every one in his Estate. goods and honour: which done, the Deputies of the Estates swore him Fealty. (q) This King afterwards proving very cruell and tyrannicall, his Nobles and Subjects oft times successively took up defensive armes against him, his Tyranny augmenting their obstinacy, and procuring him still new troubles; Whereupon at last discerning his errours, he became more mild, and often assembled the Estates in Parliament, who gave him large Subsidies to maintain his warres against the Moores.

(q) Gen. Hist. of Spain, l. 13. & 14. passim.

(r) The Province of Alava had a custome to chuse a Lord under the Sovereignty of Castile, who did govern and enjoy the revenues appointed by the Lords of the Countrey; for the election of whom they were accustomed to assemble in the Field of Arriaga; those of this Election being called Brethren, and the Assembly of the Brotherhood. Notwithstanding in the year 1332. the Brotherhood and Estates of this Province sent to K. Alphonso divers Articles, which they beseeched him to confirme, promising for their part, that this should be their last Assembly, and that the name and effect of their Brotherhood should remain for ever extinct, and the Province be for ever united to the Crown of Castile, if he would confirme those Articles to them, being 17. in number, which he did. The chiefe were these, That the King nor his Successors should not alien any place of his Demesnes. That the Gentlemen and their goods should be free and exempt from all Subsidies as they had been heretofore. That they and others of the Countrey should be governed according to the customes and rights of Soporilla; And that divers Townes and Villages therein specified should be free from all Tributes and Impositions.

(r) Gen. Hist. of Spain, l. 14. p. 487, 488, 489.

(s) About the year 1309. Mahumet King of Granado, becoming casually blind, was soon after deposed by his own Brother, and the great men of his Realme, who were discontented and disliked to be governed by a blind King, who could not lead them to the warres in person. Which Kingdome went by Election commonly, as is evident by his three next successours, and Mahumet the sixth King of Granado.

(s) Gen. Hist. of Spain, l. 13. p. 455. 460. 472.

(t) Anno 1307. Lewes Hutin was crowned King of Navarre at Pampelone, where he swore, to observe the Lawes and Rights of the Realme. After which, Anno 1315. Philip the long was elected by the Estates of Navarre to be their king in right of his wife, but it was upon conditions drawn in writing which they tendered to him and the Queen to subscribe and sweare to, before the solemnities of their Coronation, in the Estates assembled at Pampelone, which they yielded willingly unto; whereof the principall Articles were these:

(t) Gen. Hist. of Spain, l. 13. p. 452. 462. l. 14. p. 477. 478.

1. First, to the Estates to maintain and keep the Rights, Lawes, Customes, Liberties,

berties, and priviledges of the Realme, both written and not written, whereof they were in possession, to them and their successours for ever, and not to diminish, but rather augment them.

2. That they should disannull all that had been done to the prejudice thereof by the kings their Predecessors, and by their Ministers, without delay, notwithstanding any Let.

3. That for the tearme of 12. yeares to come they should not coyne any money, but such as was then currant within the Realme, and that during their lives they should not coyne above one sort of money, and that they should distribute part of the revenues, profits and commodities of the Realme unto the Subjects.

4. That they should not receive into their service above foure strangers, but should employ them of the Countrey.

5. That the Forts and Garrison of the Realme should be given unto Gentlemen borne and dwelling in the Countrey, and not to any stranger, who should do homage to the Queen, and promise for to hold them for her, and for the lawfull Heire of the Countrey.

6. That they should not exchange, nor engage the Realme for any other Estate whatsoever.

7. That they should not sell nor engage any of the Revenues of the Crowne, neither should make any Law nor Statute against the Realme, nor against them that should lawfully succeed therein.

8. That to the first sonne which God should give them, comming to the age of twenty yeares, they should leave the kingdome free and without factions, upon condition, that the Estates should pay unto them for their expences an hundred thousand Sanchets, or other French money equivalent.

9. That if God gave them no children, in that case they should leave the Realme after them free, with the Forts, in the hands of the Estates, to invest them to whom of right it should belong.

10. That if they infringe these Articles or any part of them, the Subjects should be quit of their Oath of subiection which they ought them.

These Articles being promised and sworne by the king and Queen, they were solemnly crowned, and the Deputies of the Estates, Noblemen and Officers of the Crown took their obedience to them. (r) Vpon this agreement, *all the Castles and places of strength in Navarre were put into the hands of the Estates*, who committed them unto the custody of faithfull knights, in whose keeping they continued; a Catalogue of which Castles with the names of the knights that guarded them, by the Estates appointment, in the yeare 1335. you may read at large in the *Generall History of Spaine*.

(v) *Gen. Hist. of Spain*, l. 14. p. 497, 498.

(x) *Gen. Hist. of Spain*, l. 14. p. 476.

Before this (x) Anno 1328. the Estates of *Navarre* assembled at *Puentala Reyna*, to resolve without any respect, **TO WHOM THE REALM OF NAVARRE BELONGED**, whether to *Edward* King of *England*, or to *Jane* Countesse of *Eureux*. The Estates being adjourned to *Pampelone*, the chief Town of the Realme, their opinions were divers; many holding that king *Edward* should have the Realm, as *Granchilde* (born of the daughter) to Queen *Jane*, daughter to King *Henry*, rather then the Countesse of *Eureux*, in regard of the Sex; others, with more reason, held for the Countesse, who was in the same degree, but daughter to a Son, and Heir

to Queen *Iane*. These prevailed, drawing the rest to their opinion; whereupon the Countesse was declared true and lawfull Queen of *Navarre*, the Realm having been vacant above four Moneths. And untill that she and Count *Philip* her husband should come and take possession of the Realm, they declared the Regent and Viceroy *Don John Corberan of Lect*, Standard-bearer of the Realm, and *John Martines of Medrado*. Lo here a Parliament of the Estates of *Navarre*, summoned by themselves, without a King, determining the Right of succession to the Crown, appointing a Vicegerent, and prescribing such an Oath and Articles to their king, as you heard before.

(y) Anno 1331. king *Philip* of *Navarre*, to administer justice, erected a new Court of Parliament in *Navarre*, which was called *New*, to distinguish it from the old; HE AND THE THREE ESTATES of the Realm NAMING MEN WORTHY OF THAT CHARGE. Queen *Iane* and *Philip* deceasing, their son *Charles* the second, surnamed the *Bad*, for his crueltie and ill manners, was called by the three Estates of *Navarre* to *Pampelone*, and there crowned in their Assembly after the manner of his Ancestors, swearing to observe the *Laxes and Liberties* of the Country. After which a far * *stricter Oath* was administered to *Charles* the 3, An. 1350.

(y) Gen. Hist. of Spain, l. 14. p. 479. l. 15. p. 539.

(z) Anno 1325. In a generall assembly of all the Estates of *Arragon*, *Don Pedro* son to the Infant *Don Alphonso*, was sworn presumptive Heir and Successor to the Crown, after the decease of his Grandfather and Father, the which was there decreed and practised, for that *Don Pedro* Earl of *Ribagorca* did maintain, that if his brother *Don Alphonso* should die before their Father, the Realm did belong to him by right of propriety, being the third brother, rather then to his Nephew the son of the second brother. In this Assembly the Articles of the generall priviledges were confirmed, and it was ordained for a Law, That no Freeman should be put to the *Racke*, and that confiscations should not be allowed, but in Cases of *Coyning* and *High Treason*.

* Which you may read at large, Gen. Hist. of Spaine, l. 17. p. 629. 626. (z) Gen. Hist. of Spain, l. 14. p. 480.

(a) Anno 1328. *Alphonso* King of *Castile*, treacherously murdering *Don John* the blinde, his Kinsman, in his own Court, when he had invited him to dinner on all Saints day, and then condemning him for a Traitor, confiscating his lands (a fact unseemly for a King, who should be the mirror of Justice :) Hereupon *Don John Manuel* stood upon his Guard, fortified his *Catiles*, revolted from the King for this his Treachery, allyed himself with the Kings of *Arragon* and *Granado*, overran the Countries of *Castile*, from *Almanca* unto *Pegnasfield*; the Prior of *Saint Johns*, *Don Fernand Rodrigues*, hereupon caused the Cities of *Toro*, *Zamora*, and *Vailedolite*, to rebell and shut their gates against the King; and many others likewise revolted from him: At last he was forced to call an Assembly of the Estates, who gave him Subsidies to ayde him in his wars against the *Moors*; and to conclude a peace with *Don Manuel* and his other discontented Subjects; whom he afterwards spoiling of their lawfull inheritances, and pursuing them in their honours and lives by Tyrannous crueltie, extending his outrageous disdain even to women of his own blood, he thereby so estranged most of his Princes and Nobles from him, that they revolted from him, and jyned with *Makumet* king of *Granado*, and the *Moors* in a warre against him, which lasted three or four yeers, putting him to infinite trouble, vexations and expences, enforcing him to make a dishonourable peace with the *Moors*, to release the Tribute which they payed him formerly; and after much mediation he concluded a Peace thorowout all the Realm with his discontented Subjects. This Prince think-

(a) Gen. Hist. of Spain, l. 14. p. 483, 484, 485, 486, 493, to 498 504. Dr Beards Theatre of Gods Judgements, Mariana and others.

ing to raaign more securely, had taken a course of extream severity, shewing himself cruell and treacherous to his Nobility, whereby he was feared, but withall he lost the love and respect of his subjects, so as he was no sooner freed from one danger, but he fell into another worse then the first, his Nobles holding this for a Maxime, That a Tyrant being offended will at some time revenge himself, and therefore they must not trust him upon any reconciliation, who to pacifie the troubles which had grown by his own errour, had made no difficulty to sacrifice (upon the peoples spleen) his own Mignons, degrading, and in the end murthering, condemning them as Traitors after their death, yea, the Princes of his own blood, taking their goods, estates, and depriving the lawfull Heirs, seeking to reign over free men, and generous Spirits as over beasts, entreating them as base and effeminate slaves, who might not speak their opinions freely in matters of State and Government, of which they were held dead members and without feeling. Whereupon *D. Manuel* and other Nobles, as men endued with understanding, reason, and not forgetting the nature of *Alphonso*, who was proud, a contemner of all laws, and treacherous, they proceeded so farre as to withdraw themselves from his subjection by protestation and publike act, and entred into a league with the King of *Portugall*, incensing him to take up Arms for their defence: Where upon King *Alphonso* having some feeling, that cruelty was too violent remedy for men that were Nobly borne, he sought by all milde and courteous means to divide them, and to draw some of them to his service, which he effected, and so more easily conquered, and reduced their companions.

(b) *Gen. Hist. of Spain*, l. 14. p. 306.

(b) *An. 1337.* was founded the Town of *Alegria of Dulanci*, in the Province of *Alava*, and many Villages thereabout, the which obtained from the King the privileges and Lawes of the Realm, whereby the inhabitants should govern themselves, with libertie to chuse their own Judges.

(c) *Gen. Hist. of Spain*, l. 15. p. 332 to 376.

(c) *Don Pedro* the first, king of *Castile*, surnamed the cruell, most tyrannically murthering and poysoning divers of his Nobles and subjects without cause, banishing others, quitting *Blanch* his espoused wife within three dayes after his marriage, to enjoy the unchaste love of *Donna Maria de Padilla*, by whom hee was enchanted, which much troubled the whole Court; divorcing himselfe without colour, by the advice onely of two Bishops, without the *Popes* assent, from *Blanch*, and marrying *Jane of Castro* in her life time; Hanging up divers Burgeses of *Toledo* causlessly, for taking the *Queens* part too openly, and among others a Goldsmiths sonne, who offered to be hanged to save his fathers life; causing his own brother *Don Frederick*, and divers Nobles else to be suddenly slain, *Anno 1358.* poysoning and murdering likewise divers Noble Ladies, among others *Don Leonora* his own Aunt; after which *Anno 1360.* he murthering two more of his own brethren, executing divers Clergy men, and Knights of *Castile*, banishing the Archbishop of *Toledo*, putting divers Jews (as *Samuel Levy* his High Treasurer, with his whole family) to death, to gain their Estates, and causing his own Queen *Blanch* to be poysoned, after she had long been kept prisoner by him. *Anno 1361.* Hereupon his cruelties, rapines and murders growing excessive, and the *Popes* Legat denouncing him an utter Enemy to God and man, *Henry Earle of Translamara*, his brother, with other Fugitives getting ayde from the King of *Navarre*, entred *Castile* with an Army, where by the Nobles importunity he tooke upon him the title of King of *Castile* and *Leon*; which done, the whole Kingdom (long oppressed with *D. Pedro* his Tyranny) immediately

diately revolted from him, so that in few dayes *Henry* found himselfe King of a mighty great Kingdom, almost without striking stroke, the people striving who should first receive him, such was their hatred to the Tyrant *Pedro*: who being doubtfull what to doe, fled with two and twenty Ships out of his Realme to *Bayon*, craving ayde of the English to reuest him in his Kingdom; meantime king *Henry* assembling the Estates at *Burgon*, they granted him the tenth penny of all the Merchandize they should sell in the Realm, to maintaine the warres against *Pedro*; who getting ayde from the English upon conditions, accompanied with the valiant Black Prince of *Wales*, entred with a great Army into *Spain*, where the Prince writing to *Henry*, voluntarily to resign the Crown to *Pedro* his Brother, to avoyd the effusion of Christian blood; he made answer, *That he could not hearken to any accord with him, who had against the law of nature taken delight to murder so many of the blood Royall and other great personages of Castile, who had no respect of the Lawes of the Countrey, and much lesse of God, falsifying his Oathes and promises, having no other rule in his actions, but his Tyrannous passions.* Whereupon, battell being joyned, *Henry* was conquered, and *Pedro* restored; But hee discontenting the English and others, who had re-seated him in his Kingdome, by his insolency and Tyranny, and the *Biscaniers* refusing to be under the command of strangers, whom they would never consent to be put in possession of their Countrey; and withall falling to his former cruelties, and courses contrary to the advice of his friends and Astrologers; he so estranged the hearts of all from him, that the English returning, and *Henry* receiving new forces from the French, entred *Castile*, suddenly, and conquered the Tyrant; who being betrayed into King *Henry* his hands as hee was taking his flight by night, King *Henry* stabbed him with dagger in the face, and at last getting him under him, slew him with his dagger for his excesse and tyranny, Anno 1368. and raigned quietly in his steed.

* See Mr. Seldens Titles of Honour, part 1 chap. 8. pag. 165. to 171.

(b) L. b. 2. c. 66
l. 4. c. 35.
(c) De l. re belli & pacis, l. 1 c. 3. sect. 11 p. 8.
(d) Vandal. l. 1. Grotius, ibid.
(e) Præcopius Goth. 2.
(f) Excerpt. Dionis. & Grotius. De l. re Belli. l. 1. c. 3. Ad notata sect. 11. p. 72.
(g) Paulus Marcius l. 1. c. 6.

I might prosecute and draw down the Histories of all the Spanish Kings and Kingdomes from his dayes till this present, which are full fraught with presidents of this nature, to prove all the Kings of *Spaine* inferiour to their Kingdomes, Assemblies of the Estates, Lawes, resistible, deprivable for their Tyrannies; but because those who desire satisfaction in this kinde, may read the Histories themselves more largely in the generall *History of Spain*, in *Joannis Pistorius*, his *Hispania Illustrata*, (where all their chiefe Historians are collected into severall volumnes:) and in *Meteranus* and *Grimstons* Histories of the *Netherlands*: I shall for brevity sake pretermitt them altogether, concluding with one or two briefe observations more touching the *Gothish* and *Arragonian* Kings in *Spaine*, which will give great light and confirmation to the premises.

(b) Ammianus lib. 28. Ioan. cus Chalcocondyles
(i) Ioan. Leo. li. 7
(k) Generall History of Spain l. 7. to 20. passim.
(m) Solinus l. 13. Grotius de l. re Belli c. 3. c. 2. p. 57
(n) Tacitus de mor. Germ. Grotius Ind. Dionis. Hal. l. 2. c. 7.

First, for the Antient Kings of the *Gothes* in *Spain*, (b) *Aimoinius*, (c) and *Hugo Grotius* out of him, confesse; that they received the Kingdom from the people, revocable by them at any time; and that the people might depose them as often as they displeas'd them; and therefore their acts might be rescinded and nulled by the people who gavethem only a revocable power: which the premised Histories experimentally evidence: such likewise were the Kings of the *Vandales*, removable at the peoples pleasure as *Præcopius* writes: such the Kings of the (e) *Heruli*, (f) *Quadi*, *Iazyges*, (g) *Lombardes*, (h) *Burgundians* (i) *Moldavians*, (k) *Africans*, the (l) *Moors* in *Spaine*, the (m) two annuall Kings of *Carthage*, the (n) antient *Germane Kings* the Kings of *Sparta*; and most other Kings of *Greece*, as Historians and Authors of best credite relate.

Secondly, for the Kings of *Arragon*, and originall constitution of the Kingdom, I find this memorable passage in *Hieronymus Blanca* his *Rerum Arragonensium Commentarius*, pag. 586. 587. 590. & 727. 724. in the third Tom. of *Ioannis Pistorius* his *Hispania illustrata*, ' *Sancho* the fourth King of *Arragon* dying without issue, the Estates and people advising together what course they should take for their security and future good administration of the Common-weale, about the year of our Lord, 842. elected twelve principall men to whom they committed the care and government of the Republike during the *Inter-regnum*. These because they were very ancient men, were called Elders, from whence those who by birth are stiled Rici-men, drew their originall; And this manner of governing the Common-wealth continued long: But the great incursions of the *Arabians* pressing them, they imagined it would not continue firme and stable: Yet notwithstanding, taken with the sweetnesse of Liberty, they feared to subject themselves to the Empire of one man; because verily they believed that servitude would proceed from thence. Therefore having considered and rightly pondered all things, and reasons, they made this the result of all their Counsels; that they should consult with Pope *Adrian* the second, and the *Lombards*; what course they should take by their advise, which should be most meet for the perpetuating of the Empire: to whom, as reports goe, they returned this answer. That preordaining certaine Rights and Lawes, ratified with the previous religion of a cautionary oath, they should set up one King over them; but yet should reject a forraign Dominion; and that they should take heed, that he whom they adopted to be King, should be neither of the superiours, nor inferiours; lest, if superiour, he should oppresse inferiours, or lest, if inferiour, hee should be derided by superiours; To which counsell and sentence they submitting, founded that ancient Suprabian Court: For according to the answer given, all decreed, That they ought to elect one man excelling in vertue for their King; But yet, lest the pleasures of Kings, like as in other Princes, should likewise even among us become Lawes, they first of all enacted some Lawes by which they might heale this inconvenience. These Lawes they afterward called the Suprabian Court, which we should largely prosecute, but through the injury of time, the knowledge of them is buried, and some fragments of them only are extant, observed by Prince *Charles* himselfe, and some other Writers, which we shall verily remember; because they are as the first elements of our Republike, and containe in them, the institution of the Magistrate of the *Iustice* of *Arragon*, which is the chiefesthing of our institution; therefore in the beginning of that Court it was provided, that the King which should be, since the Kingdom, lately taken from the *Moors*, was freely and voluntarily conferred on him, should be bound both by the Religion of an Oath, as likewise by the force and power of Lawes, to observe the Lawes and Liberties of the Kingdom; Now the Lawes were these,

Governe thou the Kingdome in peace and righteousnesse, and give us better Courts of justice.

The things which shall bee gained from the Moors, let them be divided not only between the Rici-men, but likewise between the souldiers and infantry; but let a stranger receive nothing from thence.

Let it bee unlawfull (or a wicked act) for the King to enact Lawes, unlesse it be by the advice of his Subjects first given.

Let the King beware, that he begin no Warre, that he enter into no Peace, conclude no Truce, or handle any other thing of great moment, without the concurring assent of the Elders.

Now lest that our Lawes or Liberties should suffer any detriment, Let there be a certain middle Judge at hand, to whom it may be lawfull to appeal from the King, if he shall wrong any one, and who may repell injuries, if peradventure he shall offer any to the Common-weale.

With these Lawes therefore and sanctions, those our Ancestors confirmed the enterprise of new moulding and reforming the Common-wealth: But verily this was the chiefest garison for to retain their liberty, whereby they ordained the Presidentship of a middle Iudge; placing the power in such sort in the King, that the tempering of it should be in the middle Iudge: out of which things, the moderate and muscull state of the Common-weale which we enjoy, is moulded and made up. For from the very beginning of things even to these later times, we see by force of this intermediate Magistrate, and by the goodnesse and clemency of most peaceable Kings, that both our pristine liberty, and ancient Priviledge hath been alwayes retained, and due loyalty and reverence to the Kings Majesty, observed: Neither hath the Kingdome onely employed the help of this Magistrate against Kings, but the Kings themselves oft-times against the Kingdome; by which meanes, many intestine evils have been appeased without any tumult, which unlesse they had been civilly suppressed, seemed verily to have been likely to have broken out to the common destruction of all men; so as we may rightly affirm, that in this alone, the summe of preserving civill concord both to Kings and the Kingdome hath consisted. This Magistrate was at first called THE JUSTICE MAIOR; afterwards assuming the name of the Kingdome it selfe, it was called THE JUSTICE OF ARAGON: By these (formentioned) prescribed Lawes, the will of him who desired to be King of *Aragon*, was wholly to be directed and formed; and unlesse he would first suffer his faith to be obliged in most strick bonds for keeping of them, any future soliciting was to be preposterous. Having therefore laid the foundations of their Countreys liberty, all of them began to dispute among themselves about electing a King: to which end, they all assembled together at *Aravest* to chuse a King; where they were suddenly besieged by the *Arabians*: which *Junicus Arista* King of the *Pompelonians* hearing of, came with an Army and rescued them; whereupon they elected him for their King with unanimous consent, and calling him unto them, shewed him the Lawes they had pre-established; one whereof, concerning the middle Magistrate, seemed most hard unto him: But having more delicently considered the matter, and that they voluntarily offered him the Kingdome gained from the enemies; Hee not only ratified the Lawes themselves, but likewise added this new Law, or priviledge to them: * That if the Kingdome should happen hereafter to be oppressed by him against the LAWE S, (Justice) or Liberties, the Kingdome it selfe should have free liberty to elect another King, whether a Christian or an Infidell; which clause of an Infidell King, they refused to have bestowed on them, because they judged it shamefull and dishonourable: After which *Junicus* taking an oath to observe the former Lawes, was advanced to the Throne and made King of *Aragon* about the year 868. Moreover, to establish all these Lawes and Constitutions, our Ancestors themselves adjoynd the accession of a

* Si contra foras aut libertates regnum a seipsum in futurum contingeret, aut sine fidelem, sine infidelem Regem ad succedendum liberi ipsi Regno adiutus, patet.

, publike Vnion; ordaining, that it should be lawfull and just for them, to meet all together, ET REGI OBSISTERE ARMIS ET VI, and to resist the King, with armes and force, as oft as there should be need to propulse any assault of him, or his, made against the Lawes; which form of assembling together for the common cause of liberty, they called a Vnion, (or Association:) Neither did they anciently lesse think all their Liberties to be preserved by this Vnion, then humane bodies themselves are by nervs and bones. And although it were not prescribed in that Sutarbian Forum, yet they thought it deduced from the very beginnings of things, and deeply fixed and impressed in the sense of all men, and to be established by our common Law, as by another Law of Nature, and that its force was enough and more then sufficiently known and discerned by use and reason. For they said, it would be but a thing of little profit for them, to have good Lawes enacted, and the very Iudiciary Presidentship of a middle Iudge, if when there should be need, AD E ARVM DEFENSIONEM ARMA CAPERE NON LICERET, cum jam tunc satis non esset pugnare consillis; it should not be lawfull for them to take up Armes in their defence, when as then it would not be sufficient in such a case to fight with Counsells.

Neither verily did that seem altogether impertinent from the matter, for if it should be so, all things long ere this had been in the power of Kings themselves. Whence our people reputed these two priviledges of the Union obtained from Alphonso the 3. (to wit, (r) That it shalbe lawfull for the Estates of the Realm, if the King shall violate the Lawes of the Countrey, To create a new King in his place; and without the crime of Treason, to make confederacies among themselves, and with Neighbour Princes To defend their Liberty; which King Ferdinand, upon the petition of the Castilians, refused to revoke, because he had taken a solemn Oath to observe them.) not as new favours or benefits, but as things done out of Office, &c. Therefore in those ancient Rulers of which we treat, the Liberty of our Countrey was hedged about by our Ancestors with three most strong fences; namely, with the Preecture of this middle Iudge, with the most ample power of the Rici-men (or Palatines) and with this most fierce force of the Vnion; of which the first seemed to be Legal and civil; the other domesticall and of greatest moment; the last warlike and popular. Neither ought it then to be inclosed with a lesser hedge, that so we might joyce, that it hath therby come safe & sound to us now. But of these garrisons or fences the ancient inventers of them, and those who next succeeded them, conferred more assistance and labour upon the two last, namely the domestick and popular, then on that Court presidentship: For they would alwayes retain in themselves a power of moderating and governing the most loose reins of the Royall Dignity, which they might restrain or enlarge as there was need. (s) Therefore they assigned those 12 elders to him, elected out of the greatest men, by whose Counsells the Kings ought to be hedged in, on every side: the place of which Elders, the Rici-men afterwards possessed; who were the chiefe of our Nobles; who in times past were second to the Kings in such sort, that they might seem to be their Peers and Companions. These called that publike union to the ayde of Liberty, and out of them were chosen those who should alwayes be the prime and principall conservators of it: for thus they called the presidents of the Vnion. Finally, they sustained on their necks all the Offices and burdens of peace and warre, if not with the same power as the Kings, yet I may truly

(r) See Ioannis de Laet Hispan. Descrip. p. 6. 5. p. 107.

(s) Pag. 664, 665, 667, 7. 6, 10 812

say with very little lesse; for the *Rici-men*, as long as they flourished, relying on the Forces of the Union, did alwayes hover over the Royall Empire, and by the intire power of their offices, if the violence or assaults of Kings were unjust, did from inordinate reduce them into order, and as it were into a circle of Law and Justice. In which thing verily their grave censorious and domesticall authority had sufficient right and moment with our ancient Kings, who were well mannered: but if peradventure they could not with their fitting counsels bridle the exulting royall Forces, they did constantly repell them from their necks with the force of the raised Union. Thus and much more this Spanish Author, in whom you may read at large the *Power and Authority of the Justice of Arragon, of the Generall Assembly of the Estates or Parliaments of that Kingdom, of their Rici men, Peeres, Magistrates, Councillors, and in Ioannis de Laet. his Descriptio Hispania, cap. 5. cite. Ioannis Mari. and De Rebus Hisp. l. 8. c. 1. & Gen. hist. of Spain, l. 17. p. 618.*

To which I shall onely adde this most notable custome and ceremony used at the Coronation of the Kings of *Arragon*, recorded (q) by *Iunius Brutus*, (r) *Franciscus Hotomanus*, and others. The *Arragonians* when as they create and crown their King in the Assembly of the Estates (or Parliament) of *Arragon*, to put the King in mind, that the Lawes, the Justice of *Arragon*, and Assembly of Estates are above him, act a kind of *Play* that he may remember it the better: they bring in a man on whom they impose the name of the *Justice of Arragon*, whom by the common Decree of the people, they enact to be greater and more powerfull then the King; to whom, sitting in an higher place, they make the King doe homage; and then having created the King upon certain Lawes and conditions, they speake unto him in these words, which shew the Excellent and singular fortitude of that Nation in bridling their Kings: *NOS QUI VALEMOS TANTO COME VOS, Y BODEMOS MAS QUE VOS, VOS ELEGIMOS REY, CON EST AS Y ESTAS CONDICTIONES INTRA VOS Y NOS VN QUE MANDA MAS QUE VOS*: that is, *We who are as great as you, and are able to doe more then you, have chosen you King upon these and these conditions: Between you and us there is one greater in command then you; to wit, the Justice of Arragon; Which Ceremony (lest the King should forget it) is every three yeares repeated in the Generall Assembly of the States of Arragon; which Assembly the King is bound by Law to assemble, it being a part of the very Law of Nations, which sacred Liberty of Parliaments, and Assemblies if any Kings by evill arts restrain or suppress, as violaters of the Law of Nations, and void of humane Society, they are no more to be reputed Kings, but Tyrants, as Hotoman hence determines.*

I have now given you somewhat an over-large account of the two (*) greatest and most absolute hereditary Kings in Christendom, *France* and *Spain*, and proved them to be inferiour to their Lawes, Parliaments, Kingdomes, People, out of their owne Authors and Historians; in which points, if any desire further satisfaction, I shall advise them to read but *Iunius Brutus* his *Vindicia Contra Tyrannos, De jure Magistratus in subditos*, and *Francisci Hotomani* his *Franco-Gallia*; and *Controvers. Illust. for France: Ioannis Mariana, de Rege & Regum Instit. l. 1.* with his *History of Spain, Hieronimus Blanca, Rerum Arragonensium Commentarius, Ioannis de Laet Hispania descrip. c. 5. & Vasquius, Contr. illust. for Spain*, at their leisure, and then both their judgements and consciences will be abundantly satisfied herein;

I shall

(s) *Quaest. 3. p. 162, 163.*
 (v) *Franco-gal. c. 10. p. 75. 76. De iure Magistr. in subditos, p. 282, 283.*

(*) see *Mr. seldens Titles of Hon. par. 1. c. 8. sect. 6. p. 256. 257.*

I shall now very cursorily run over other forraigne Kings and Kingdoms of less power and Sovereignty with as much brevity as may be.

For the Kings of *Hungary, Bohemia, Poland, Denmarke, Sweden*, as they have been usually, and are at this day for the most part, not hereditary, but meerly elective by the Nobles and people; so their Lawes, which they take an Oath inviolably to observe, and their Parliaments, Nobles, people, are in Sovereaign power and jurisdiction paramount them, as much almost (if not altogether) as the State of *Venice* is above their Duke, or the States of the Low Countries superiour to the Prince of *Orange*; and may upon just occasion not onely forcibly resist them with Arms, but likewise depose (if not adjudge them unto death) for their Tyranny, as (v) *Iohn Bodin*, the Histories of *Hungary, Poland, Bohemia, Denmarke, Sweden, Iunius Brutus, De Iure Magistratus in Subditos, Munster in his Cosmography*, and those who have compiled the Republics of these Realmes attest; who further evidence, that most of these Realmes have sometimes elected them Kings, other times onely Dukes, and made their republikes, Principalitis, Dukedoms or Kingdoms at their pleasure. To give onely some briefe touches concerning these Realmes and their Kings.

(v) Common-
wealth. l. c. 10.
l. 2. c. 5.

Hungary.

THE Kings of *Hungary* are meerly elective by the States and Senators, in their Parliaments or assemblies of the Estates, without whom they can neither make Lawes, impose Taxes, leave Warre, nor conclude Peace; and the grand Officer of the Realme, to wit the great Palatine of *Hungary* (who hath the chiefe Command both in Peace and Warre, and power to judge the King Himselfe in some cases) is elected onely in and by their Parliaments, as the (x) Marginall Writers manifest at large. For their Realmes and peoples deportment towards their ill Kings (since they became Christians) when they have degenerated into Tyrants, and otherwise misdemeaned themselves; take this briefe Epitome. *Peter* the second Christian King of *Hungary*, growing very insolent, Tyrannicall, and lascivious, ravishing maids, matrons; in the third year of his reign all the Nobles and people thereupon conspiring together, deposed and banished him the Realme, electing *Alba* in his place; who growing more insolent and Tyrannicall then *Peter*, was in the third year of his reign slaine in warre, and *Peter* restored to the Crown: who proceeding in his tyrannies, sacriledge, and cruelty, he was the third year after his restitution, taken prisoner by his subjects, his eyes put out, and imprisoned till he dyed. *Solomon* the fifth King of *Hungary*, was twice deposed and thrust out of his Kingdom, first by King *Bela*, next by King *Gyza*, elected Kings by the peoples generall consent and acclamation; after whose death the *Hungarians* refused to restore *Solomon*, and elected *Ladislaus* for their King; whereupon *Solomon* became an Hermite, and so dyed. *Ladislaus* dying, left two sons, *Almus* the younger, whom they elected King and *Coleman* the eldest, to whom *Almus* out of simplicity surrendered the Crown, because he was the elder brother, whom he would not deprive of his primogeniture; but repenting afterwards, by the instigation of some of his friends, he raised warre against his brother: But the *Hungarians* to prevent a civill warre and effusion of blood, DECREED, that these two brethren should fight it out between them in a single duell, and he who conquered in the duell, they would repute their King; Which Combate *Coloman* being purblind, lame and crookback'd, refused;

(x) *Recum Vn-*
garica um
Scriptores,
Nicholaus Ist-
huansius de Re-
bus Ungarie.
Hist. l. 6 p. 84,
85. Bodin, de
Rep. l. 1. c. 10.
Bonfinius; De-
ca des rerum
Vngar carum,
Munst. Cosmog.
l. 4. c. 4 18, 19.
Respub & Sta-
tus Hungarie,
An. 1634. De
Iure Magist.
& Subditos.

after

after which *Coloman* treacherously surprizing his brother *Almu*, contrary to agreement, put out his and *Bela* his sonnes eyes, and thrust them into a Monastery. King *Stephen* the second sonne of *Coloman*, refusing to marry a wife, and following Harlots, the Barons and Nobles grieving at the desolation of the Kingdome, provided him a wife of a Noble family, and caused him to marry her. After which making a war to aid *Duke Bezen* without his Nobles consent, in which *Bezen* was slaine: the Nobles of *Hungary* assembling themselves together in Councell, sayd: *Why, and wherefore dye we? if we shall claime the Dukedome, which of us will the King make Duke? therefore let it be decreed that none of us will assaue the Castle, and solve us till the King, Because he doth all this without the Councell of his Nobles: They did so, and added further, that if he would assault the Castle, he should doe it alone; but we (say they) will returne unto Hungary and chuse another King.* Whereupon, By the Command of the Princes, the Heralds proclaimed in the Tents, *That all the Hungarians should speedily returne into Hungary: wherefore the King when he saw himselfe justly deserted of his subjects ayde, returned into Hungary. Stephen* the third comming to the Crowne, did nothing without the Authoritie and advise of the Senate. *Stephen* the fourth sonne of *Bela* usurping the Crowne, was soone after expelled the Kingdome. *Emericus* being elected King, was very likely to be deprived by the Nobles and people for his sloathfulness, but that he appeased them with good words and promises. King *Andrew* going to *Jerusalem*, his Queene, *Elizabeth*, in the meane time delivered the Wife of *Bauchan* a Nobleman, being very beautifull to her brother who doated on her, to be abused, which *Bauchan* hearing of, slew the Queene: the King upon his returne examining this businesse, acquitted *Bauchan*, and judged her murder just, being for so lewd a fact. *Ladislaus* the fourth, giving himselfe to all effeminacy, luxury, and Harlots, became odious to his Barons, Nobles, People, for which he was excommunicated by *Firmanus* the Popes Legat, that he might live Christianly and Chastly; but he reforming not, was soone after (in the yeere 1190.) slaine by the *Cumans* and his Kingdome infested with civill warres. *Mary* the daughter of *K. Lewis*, being received as Queene by the *Hungarians* for her fathers merits, after his decease, being yet young, was married to *Sigismond*, who was admitted into partnership in the government of the Realme, and being governed by her mother and *Nicholas de Gara*, who perswaded them: to carry a strict hand over the Nobles of the Realme, which they did: thereupon the Nobles seeing themselves despised, sent for *Charles* King of *Naples* into *Hungary*; forced *Mary* and her Mother to resigne their rights to the Crowne, and crowned *Charles* King at *Alba Regalis*. When he was crowned the Bishop of *Strigonium*, according to the custome, demanded of the people thrice, with a loud voyce; Whether it were their pleasure that *Charles* should be crowned King: who answered, Yes: which done he was crowned, and toone after murdered by the two Queenes treachery; Who were shortly after taken prisoners by *John de Hornach*, governour of *Croatia*; the Queen Mother *Elizabeth* drowned, Queen *Mary* kept prisoner, and at last released upon oath given, not to revenge her Mothers death: who contrary to her oath caused *Hornach*, and 32. Nobles more to be beheaded by *Sigismond* her husband, whose kindred and children thereupon conspired against King *Sigismond*, rooke and detained him prisoner Anno. 1401. till they should proceede further against him,

John de Tbo-
rocq. Hungar.
Chron. c. 36.
p. 71.

and in the meane time the Nobles of *Hungary* elected *Ladislaus* King of *Apulia* for their King, and at last deposed *Sigismund* for his misgovernment, cruelty, love of women. After ^a *Sigismunds* death, the Nobles and people were divided in the choise of their King; one part electing and crowning *Uladislaus* King of *Poland*, the other party *Ladislaus* an infant, for their King: but *Uladislaus* his party prevailing, he was not long after slain in a battle against the Turkes; and the government of the Realme committed to that Noble Souldier *Hunades*, during the Minority of *Ladislaus*, who at his ripe age, was received and declared King by all the *Hungarians*. *Ladislaus* deceasing, the *Hungarians* elected the Emperour *Frederick* King, who delaying to come and take the election, they thereupon chose *Matbias* King, who enjoyed the dignity, notwithstanding the Emperours opposition. Anno. 1608. *Matbias* King of *Hungary* denied the Protestants in ^b *Austria* free exercise of their Religion, they thereupon were forced to take up Armes, and assembling together at *Horne* made a Protestation, and sent to the States of *Hungary* requiring them to assist them with the succours that were promised by the offensive and defensive league: after which they obtained a peace, and part of what they demanded. ^c Anno 1613. In an Assembly of the Estates of *Hungary*, the differences concerning the defence and *Militia* in the borders of *Hungary* against the *Turke* were ordered and settled. And ^d An. 1618. After many slow proceedings, they elected *Ferdinand* of *Bohemia* for their King of *Hungary*; but with these conditions, ^e That he should Religiously observe, and cause to be immovably observed all the Liberties, Immunities, Priviledges, Statutes, Rights and Customes of the Kingdom, with the Conclusions and Treaties of *Vienna*, and all the Articles comprehended therein, and all other concluded both before and after the Coronation of the Emperours Majestie, in the yeares 1608. and 1609. Which Articles being ratified by the Emperour under his Letters Patents, they proceeded to the Coronation, according to the accustomed manner. Such is the Sovereigne power of the States of *Hungary* to this very day. And in one word, so odious were ^e Tyrants anciently to the *Slavonians* and *Hungarians*, that by a publick Law of their Ancestors, he who slew a Tyrannicall King, was to succede him in the Kingdom.

Bohemia.

For the Kings and Kingdome of *Bohemia*, *M. Paulus Stranskius* in his *Respublica Bohemica*. c. 5 & 12. informes us out of the Fundamentall Lawes of *Bohemia*. ^e That the power of the Kings of *Bohemia*. who are Elected by the generall Votes of the States, is so farre restrained in that Realme, that they can determine nothing concerning the Kingdom or great Affaires of the Realme, but in their Parliaments, or generall Assemblies of the Estates, by the generall consent of the people; which are Summoned by the king himself and held (just like our Parliaments) in the kings Regency, and during the Interregnum by the Senate of the Realme, as often as there is occasion; there being this clause in the Writ of Summons; That whether all those who are somoned come at the day or not, the king with those who appear, will proceed to decree what shall be just and beneficiall for the Republicke, and that those who neglect to appear shall be bound thereby; all Lawes and Acts. are therein passed by publicke consent. The king cannot alien or mortgage any of the

^a See *Grimstons* Impericall History. p. 606 *Chytræus* Chron. Saxoniae.

^b *Grimstons* Imp. Hist. p. 730. 731.

^c *Grim.* p. 739

^d *Grim.* p. 748.

^e *Saxagræumæ* Danicæ Hist. l. 8. p. 140

^e See *Bartholæus Pontanus* Bohemæ p. l. 5. 6. & *Pauli Geschinti* Majestas Carolinæ.

the Crown Lands, nor relegate nor diminish the revenues & Liberties of the Realme, nor promote any strangers to the custodies of Castles or publicke functions; impose no Taxes, charges; nor alter the ancient manner of the Militia of the Realm, nor make warre or peace, without the Parliaments advise and consent. And before the king is Crowned, the *Burgrave* and *Nobles*, in the Name of all the Realme, demand of him to confirm and ratifie both with his especial Charter, and publick Oath, the Ancient and laudable Priviledges, Immunities, Liberties, Rights, Laws, Customes, and Institutions, as well private as publicke, of all and singular the inhabitants of the Realme, and to governe them according to the rule of the Lawes after the example of his predecessors kings of *Bohemia*. Which done, he seales and delivers them a special Charter, takes such a solemne Oath, and then is Crowned upon these Conditions. The Arch-bishop of *Prague* after the *Letany* ended, demands of the king, kneeling on his knees: *Wilt thou keepe the holy faith delivered to thee from Catholik men, and observe it in just workes?* He answering, *I will.* He proceeds, and saith: *Wilt thou Governe and defend the Kingdome granted thee from God, according to the Justice of thy Fathers?* He answeres, *I will, and by Gods Assistance promise that I will doe and performe it by all means.* After this kneeling on his knees, the Arch-bishop holding the New Testament open, and the Burgrave reading the words first; the king takes this Oath in the *Bohemian* tongue *We sweare to God (the mother of God and all Saints) upon this holy Gospell, that we will and ought to keepe immovably to the Barons, Knights, and Nobles, also to those of Prague and the other Cities and to all the Commonalty of the Realme of Bohemia, the Institutions, Lawes, Priviledges, Exemptions, Liberties, and Rights, and also the ancient, good and laudable customes of the Realme; and not to alienate or mortgage any thing from the same Kingdome of Bohemia, but rather to our power to augment and enlarge it; and to doe all things which may be good and honourable to that Kingdome: So helpe me God (touching the booke with two of the fingers of his right hand) and all Saints.* (The Kings of *Navarre* take the like Oath.)

^c Pauli Stran-
bii. Respub.
Bohemica c. 5.
^d Sæcl. 14. p.
^e 174. 75. 178
^f 179.

^g Munst. Cosm.
l. 3 c. 492.
^h 459. Burchol-
dus Pontanus
Bohemie Hist.
l. 1. 2.

ⁱ Gen. Hist.
of Spain. l. 17.
p. 626.

How^h this Realme hath beene altered from a Principality to a Dukedome, and from it againe to a Kingdome, having sometimes Kings, sometimes Dukes, both elected by the free choyse of the Estates, to whom they were inferiour in Sovereigne power, accountable for their mis-government, and removable from their Throne: you may read in the^h marginall Authors. Not to mention the *Bohemians* deposition of *Libussa* a Noble *Virago*, who governed them for 2 season, reputed it a dishonour to the Nation to be ruled by a woman, and electing *Przemyslus* for their Prince; their deposition and banishment of Prince *Borzinogius*, because he became a Christian, and renounced their Pagan Religion, though they afterwards twice restored him: Of *Boleslaw Ruffus*, or *Borzinogius* the 2. thrice deposed banished by the Nobles and people, or *Sobeslaw*, and other Princes. *Wladislaw* first King of *Bohemia* in his old age, by the assent of the Estates associated his sonne *Fredrick* (Anno 1173) with him in the Regality. *Henry* King of *Bohemia* using the Councell of the *Germans* rather than the *Bohemians*, and looking more after his owne private gaine than the Kingdome, was deposed in a generall Assembly of the Estates Anno 1310. and the sonne of the Emperour *Henry* the 7th. chosen King, upon this condition, if he would marry the youngest daughter of King *Wenceslaw*. King *Wenceslaw* the drunken, for his drunkenesse, negligence and

^k Paulus Stran-
s. de Princi-
pibus Regibus-
que Bohemice.
^l Munster pon-
tanus quæ.

cruelty, was twice imprisoned and severely handled by his Nobles, and upon promise of a amendment, restored to his liberty and dignity: in his and *Sigismund* his successors reigns* *Zizca* and the *Taborites* in defence of their Religion against the Popish party, who most unjustly against their promise and safe conduct, caused *John Hus*, and *Jerome* of *Prague* to be put to death, waged great warres and obtained many victories against the King and Emperour, and gained free liberty of professing their religion publickly much against the Popes good will; which liberty they have ever since maintained by the sword, both against the Popish Emperours and Kings, by meanes of which civill wars, the kingdome suffered some Interregnumms. During the Minority of king *Ladislaws*, Anno 1439, this kingdome was governed by two Presidents, appointed by the Estates.

Anno 1611. the Emperour *Rodulph* being willing to settle the kingdome of *Bohemia* on his Brother *Matthias* in an assembly of the States of *Bohemia* called for that purpose, the Estates thereupon drew many Articles which *Matthias* was to swear to, before his Coronation, with 49. Articles of complaints and grievances for which they craved redresse: and the inhabitants of *Prague* required the confirmation of 8. Articles, which concerned the private Government of their City: All which the Emperour and *Matthias* were constrained to Grant and swear to, before they would admit *Matthias* to be their King; who had nothing in a manner but the Title, some of the flowers of the liberty of the Crowne, being parted with by his assenting to these Articles. * Anno 1617. *Matthias* resigning the Crowne of *Bohemia*, and renouncing his right thereunto, recommended *Ferdinand* Arch-Duke of *Austria*, to them or his successour. The States would not admit him king but upon Conditions, the which if he should infringe, The States should not be bound to yeeld him Obedience. Moreover it was added, That he should confirme to the States before his Coronation, to maintaine all the Priviledges, Charters, Immunities, Municipall Rights, Constitutions and Customs, of the Realme and people, as the Emperour and his predecessors had done, by his Oath, and Charter in Writing. All which assented to, he was proclaimed and crowned king. Soone after the Arch-bishop of *Prague* causing some of the Protestant Churches to be ruined, and those who complained of it to be put in prison; and plotting the extirpation of the Protestant Religion, through the *Jesuites* instigation, contrary to their Liberties and the Provincially constitution; hereupon the Protestant States of *Bohemia* assembled at *Prague*, fortified the Towne, binding the three Townes of *Prague* to them by an Oath; entred into a solemn League, promising to fight against the Common enemies of God, the King and Religion, and in that cause to live and dye: to which end they levyed a great Army; banishing the *Jesuites* out of *Bohemia*, as the Authors of all the miseries which had hapned in that Realme, and many other Realmes and States of Christendome, and inciting murderers to kill Kings who would not live after their manner, and meddling with affaires of State, and who had drawne the whole Countrey into the hands of certaine perfidious Catholickes, by whose practises the Countrey was in danger of ruine. For which causes they banished them for ever out of the Realme of *Bohemia*, enjoying them to depart within 8. dayes, never to returne. After this, the Protestants hearing that the Emperour and Popish party raised Forces against them, possessed themselves of many Townes and places within the Realme, and raised two Armies; All the Protestants

* See *Aeneas Silvius* Hist. *Bohem.* Fox *AAs* and *Monuments* vol. 1 p. 848. to 852.

Pontanus *Bohemia* p. 1. 1. 2.

¹ *Grimstons* *Imperial* Hist. p. 735.

² *Grimstons* *Imperial* Hist. p. 744. 745.

Princes and States of Germany, Moravia and Silesia (except the Elector of Saxony) assisted them with men, money or Councell, publishing a Declaration to justify their action, being for the Common cause of Religion, &c. endangered. The Prince of Orange and States of the united Provinces promised them assistance of men and money, other Protestant Princes and the Protestant States of Lower Austria, did the like. The Protestant Armies after this had many victorious encounters with the Imperialists and Popish Forces, and took many Towns. King Ferdinand in the meane time, being newly chosen Emperour, the States of Bohemia being assembled together at Prague, which the Deputies of the incorporated Provinces, Anno. 1619. Concluded and protested by Oath, never to acknowledge Ferdinand for their King who had violated his first Covenants; resolving to proceede to a new Election; and on the 26. of August Elected Frederick the Prince Elector Palatine of Rhine to be their King; who accepted the dignity, &c. was afterward Crowned king accordingly. After which the States of Bohemia in sundry Declarations justified their rejection of Ferdinand, their Election of Frederick, and his Title to be just and lawfull, with their precedent and subsequent warres in defence of Religion. Yea Frederick himselfe by sundry Declarations maintained his own Title; and the lawfulness of these wars; which passages and proceedings being yet fresh in memory, and at large related by Grimston in his *Imperiall History*, I shall forbear to mention them. By this briefe account, you may easily discern the Sovereigne power of the Realm and States of Bohemia over their kings and Princes, most of the ⁿ great Offices of which Realme are hereditary, and not disposable by the King, but States who Elect their Kings themselves, and their greatest Officers; too.

ⁿ Page 745. to 250.

ⁿ Pauli Stran-
kii Resp. Bo-
hem. c. 10. 13.
14. 15.

Poland.

For the Kings and Kingdome of Poland, *Martinus Chromerus* in his *Polonia* ⁿ *lib. 2. De Republica et Magistratibus. Polonia*, informes us; that the Princes and Dukes of Poland, before it was advanced unto a Kingdome, and the Kings of it ever since it became a Realme, were alwaies elected by the chiefest Nobles and States, unanimous suffrages; That after the Kings of Poland, became Christians, their power began to be more restrained then it was at first, the Clergy being wholly exempt from their royall Jurisdiction: That the King cannot judge of the life or fame of a knight (unlesse in some speciall cases) without it be in the assembly of the Estates with the Senate, nor yet publickly make Warre or Peace with any, nor impose Taxes or Tributes or new Customes, nor alienate any of the goods of the Realme, nor yet doe or decree any greater thing pertaining to the Common-wealth without the Senates or Parliaments assent. Neither can hee make new Lawes, nor publickly command money in an extraordinary manner; nor coine money, nor nominate a Successor not with the Senate, without the consent of the Nobility, whether of Knights or Gentlemens Order; By, or out of whom all publicke Magistrates and Senators almost are chosen: so as now the summe or chiefest power of the Republicke is residing in them. So that the Kingdome and Republicke of the Polonians doth not much differ in reason from that of the *L. sedemonians* in ancient times, and of the *Venetians* now. An Oath is exacted of the new King when he is crowned, to this effect. That he shall raigne

ⁿ See *Munst.*
Cosmog. l. 4. c.

2. 4. 5.

according to the Lawes and institutes of his Predecessors; and will safely conserve
 to every order and man his right, privilege, and benefit, confirmed by former
 Kings; nor will he diminish any of the borders or goods of the Realme, but will ac-
 cording to his power recover those that are lost from others: After all which the
 Senate sweare fealty to him, &c. The Revenues, Tributes, and Customes of the
 King are all reduced to a certainty; the Nobles & Clergie are exempted from Taxes.
 The king by the Lawes of King *Alexander*, is prohibited to alien to any one the
 Lands of the Crowne. No new Lawes can be made, nor old ones repealed but
 by the king, Senate and Nobles assembled in Parliament. And because there is
 wont to be in highest power, a slippery and ready degree to Tyrannie, certaine
 Senators and Councillours are adjoynd to the King, who may direct his Coun-
 cels and Actions to the safety of the Common-wealth, and his judgements accord-
 ing to the Rule of justice and equitie, and with their wholesome monitions and
 Councill, may as there shall be occasion, as it were with certaine living Lawes,
 both informe his minde and moderate his power. This Royall Senae, much
 greater now then in times past, consists of a certaine number of men, which wee
 call the Senators or Councillours of the REALME; who are not admitted to
 the Councill without an Oath: and this Office is perpetuall during life, having
 certaine Honours and Magistracies thereto annexed, partly Ecclesiasticall, partly
 Civill; It consists of 96. persons in all, some of them Bishops, others Palatines,
 Knights, Castellanes, and other Officers of the Realme. The Chancellor of the
 Realme may signe many things without the Kings Privitie, and may deny to
 seale those things which are contrary to Law, though the king command them.
 Most of the great Officers and Magistrates are chosen in Parliament, and cannot be
 displaced but in Parliament, and that for some great offence. Their Parliaments or
 Generall Assemblies of the States are held (much like ours) once every yeare at
 least, and some times every fift or sixth moneth, if there be occasion; and then they
 are kept constantly at one place, to wit at *Petricow*, or *Warsavia* in the midst of the
 Kingdom, unlesse it be upon some extraordinary just occasion, and then the king
 by advice of this Council may sommon the Parliament at another place. It is provi-
 ded by a Law within these 20. yeares; That it shall not be lawfull to the King to
 make a warre without the assent of his Parliament and Great Councell; and that
 the Nobles as oft as there is occasion, shall at their owne costs without wages de-
 fend the borders of the Realme, yet not without the King, unlesse it be during the
 Interregnum; but they may not be compelled to goe out of the Realme to any For-
 raigne warre without wages: the Souldiers wages are reduced to a certainty, and
 assented by publicke consent in Parliament, which Orders all Military and Civill
 Affaires. So *Cromerus*.

Munst. Cosm.
 l. 4 c. 7. 19
 Martinus Chro-
 nicus de Rebus
 Polonorum.
 Heylins Geog.
 p. 378.
 Gaguinus Chy-
 treus, and o-
 thers.

For their carriage towards their ill Kings, I shall give you onely a short
 account. *P Miesco* their second King, being unfit to governe, a man given whol-
 ly to his belly, ease, sleepe, pleasur, and governed by his *Queene*, thereupon most
 of his subjects revolted from him; and he dying, the *Polonians* at first for many
 yeares, refused to chuse *Cazimirus* his Son King, least he should follow his fathers
 steps; till at last after a long *Interregnum*, when he had turned Monke, they elected
 him King. *Boleslaus* his sonne, a man of a dissolute life, given to lust, and the
 pest of the Realms, was excommunicated by the Bishop of *Cracow* for his wic-
 kednes

kednes; for which cause he slew him: Whereupon the Pope deprived him, and Poland of the Crowne, and absolved his Subjects from their obedience to him, who expelled and forced him to flee out of the Realme into Hungary, where he became mad and died. *Myzlaus* the 10. King of Poland, exercising tyranny every where upon his people by reason of his power and allies, was deposed by his subjects, and *Cazimirus* elected King in his stead; He was three or foure times deposed and put by the Crowne; *Boleslaus* who succeeded *Henry*, was deprived of the Monarchy; *Henry* was surpris'd and most strictly imprisoned, *Boleslaus* was slaine by his Nobles; and *Vladislaws Lockyett*, elected King in his stead, ravishing virgins, Matrons, and not reforming things according to promise; the Nobles hereupon assembling together Anno 1300. abrogated his election, as pernicious, and chose *Wenceslaus* King of Bohemia, King in his place: And not to recite more ancient histories of suchlike nature, a King *Henry* the third of Poland was elected and sworne King upon conditions which he was to performe Anno 1574. After which he secretly departing out of Poland, without the assent of the Nobles, to take possession of the Crowne of France, within 3. monthes after his Coronation in Poland: the Polonians sent Messengers after him to Ferrara, June 16. 1574. who denounced to him, that unlesse he returned into Poland, before the 12. of May following, they would depose him, and elect another King: Which he neglecting, they in a generall assembly of the Estates at Warsawia, deprived him of the Crowne, and elected a new King: the Chancellor and greatest part of the Counsellors elected *Maximilian* the Emperour; Some others, with the greater part of the Nobility, desiring to have one of the Polish blood, elected *Anne* sister of their deceased King *Sigismund*, giving her for husband *Stephen* Battery Prince of Transylvania, and proclaimed him King. The Emperour making many delays, *Stephen* in the meane time enters Poland, and arriveth *Anne*, and is crowned King by generall consent, February 8. 1576. who tooke this memorable Coronation Oath prescribed to him by the Nobles. *I Stephen by the grace of God elected King of Poland, great Duke of Lithuania, &c. promise and sacredly sweare to Almighty God, upon these holy Evangelists of Iesus Christ, that I will hold, observe, defend and fulfill in all conditions, articles, and points therein expressed, all Rights, Liberties, Securities, priviledges publike and private, not contrary to the common Law, and Liberties of both Nations, justly and lawfully given and granted to the Ecclesiasticks and seculars, Churches, Princes, Barons, Nobles, Citizens, inhabitants, and any other person of what state and condition soever by my goate Predecessors, Kings, Princes or Lords of the Kingdome of Poland, and of the great Dukedome of Lithuania, especially by Casimir, Lewis the great, called Loys, Vladislaws the first, called Jagiello and his brother Withold great Duke of Lithuania, Vladislaws the 2. Casimir the 3. Iohn Albert, Alexander, Sigismund the first, and 2. Augustus, and Henry Kings of Poland, and great Dukes of Lithuania; or derived and granted from them, together with the Lawes enacted, and established or offered by all the States during the interregnum, and the pacts and agreements of my Orators, made with the States in my name. That I will defend and maintaine peace and tranquillity between those who differ about Religion; neither by any meanes, either by Our Jurisdiction, or by any authority of Our Officers or States, permit any to be troubled or oppressed, neither will we our Selfe injure or oppress any by reason of*

9 David Clu-
trass, Chron.
Sax. 23. p
690. 692, 694
695 695, 696
Crusiers im-
perial history.
p. 694. 695.

Religion.

Religion. All things any way whatsoever unlawfully alienated, or distracted, either by warre or any other meanes, from the Kingdome of Poland, the great Dukedome and their dominions, I will re-unite to the propriety of the said Kingdome of Poland, and great Dutchy of *Litwania*. I will not diminish the lands of the Kingdome and great Dukedome, but defend and enlarge them. I will administer justice to all the inhabitants of our Kingdome, and execute the publike Laws constituted in all my Dominions, without all delays and prorogations, having no respect of any persons whatsoever. And if I shall violate my Oath in any thing (which God forbid) the Inhabitants of my Realme, and of all my Dominions of what Nation soever, shall not bee bound to yeeld me any Obedience: Yea, I doe *ipso facto* free them from all Faith and Obedience which they owe unto me as King. I will demand no absolution from this my Oath of any one, neither will I receive any, which shall be voluntarily offered, So helpe me God. To this notable Oath (an unanswerable evidence of the States of Poland's absolute Sovereignty over their Kings) this King within 4. dayes after his Coronation, added a confirmation of their Priviledges, containing the same heads, enlarged with a few more words; which he confirmed with his solemne deed and Royall Seal, and delivered the same to the Chancellor, and Vice-chancellor of the Realme to give out Coppies of them, under the great Seale to all the States of the Realm; who meeting afterwards in a Parliament at *Warsawia*, Anno 1562; there was much debate about settling of the Premises, and nothing concluded.

Chytraeus
Chron. Sax.
l. 25. p. 765.
766. l. 27. p.
809. 810. &
l. 28. 29. & p.
948. 949.
Chytraeus
Chron Sax l.
l. 28. 29. 30.
Grimst. Imp.
Hist. p. 698.
699.

Anno 1587, the States of Poland questioned and opposed K. Stephen, for violating their Priviledges, and those of *Riga* tooke up armes in defence of them; refusing after his death to repaire to the Assembly of the States at *Warsawia*, Anno 1587. vnlesse their Priviledges might be preserved and rectified, as you may read at large in *Chytraeus*. King Stephen dying the Estates of Poland, and *Lithuania*, assembled at *Warsawia*, Anno 1587. where they made Lawes for preserving the Peace during the *Inter regnum*; and enacted, that no new King should be elected, but by the unanimous consent and agreeing Suffrages of all the Estates, and that he who shall nourish factions, or receive gifts or rewards, or use any other practises about the election of a new King, should bee reputed an Enemy of his Countrey. After which they proceeding to an Election; there were divers competitors named: and after many debates; One part chose *Maximilian* Duke of *Austria*, the other *Sigismund* the King of *Swethland* his Sonne, both of them upon expresse articles and conditions, which they both sealed and swore unto, the chiefe whereof were these; To preserve all their Rights, Lawes, Priviledges, and Immunities publike or private, inviolably; To keepe all former Leagues and Truces; To bestow no Offices upon strangers nor harbour any about them, (except some few Private servants) but natives onely, and to be counselled and advised by them alone. To maintain a Navy, Garrisons, and build divers Castles in the Frontiers at their owne costs for the Kingdomes preservation; To redresse all grievances, maintaine the Priviledges, Rights and Peace of those who differed in Religion; To procure and augment the weale, peace, Priviledges and safety of the Realme; and perform all Articles mentioned in the Oathes of King *Henry* and *Stephen*; In fine, this competition comming to bee determined by the sword: *Maximilian* was taken prisoner by *Sigismund*, and forced to release his right

to obtain his liberty: And a Decree passed in Parliament, That no man hereafter should in the Election of the King of Poland, presume to name, or recommend any of the House of Austria to the Crown, and if any did he should be ipso facto infamous: Which decree the Emp. Rodolph desired might be abolished, as being a disparagement to that family, yet prevailed not. After which this King managed all things concerning Warre, Peace, and the Government of the Realm, by advice of his Parliament, as *Cyprus* at large relates; and his Successors to this present have done the like, taking the Crown upon such conditions, and making such conditionall Oathes at their Coronations, as *Steven* did at his.

Denmarke.

For the Kings of Denmarke, I have (r) formerly proved, That they can make no War, Peace, Lawes, nor lay any impositions on their subjects, but by common consent of the Estates in Parliament; their Kings being elective by the people, and crowned Kings upon such conditions, Oaths, Articles, as their States, (in whom the Sovereign power resides,) shall prescribe unto them; who as (v) *Bodin* clearly determines, have a lawfull power to question, censure, and depose them for their Tyrannie and misgovernment, they having no greater Authority then the Kings of Bohemia or Poland. To run over the Histories of all their ill Kings would be overtedious, for which you may peruse (x) *Saxo-grammaticus* & others; I shall give you a brief how some of their later kings have been handled by their subjects for their Tyranny and misgovernment. Not to mention the murders of *Canutus* in *Intland* in the very Church, or of *Magnus* or *Nicholas*, slain by their subjects; King *Humblus* was deprived of his Crown: and king *Harold* deposed by his subjects for his insolency. *Suano* waxing proud, Tyrannous and oppressive to his people, became so odious to them, that his Nobles adjoynd *Canutus* and *Waldemar* to him in the royall government, and divided the kingdom between them; who thereupon being much displeas'd, slew *Canutus* and wounded *Waldemar*, being impatient of any Peers in government; for which being soon after vanquished by *Waldemar*, hee was beheaded by the people. *Able* slaying and beheading his brother king *Ericus*, and usurping his Crown, the people rose up in arms against him, took him prisoner, and the Peasants in *Frisia* slew him. King *Christopher* spoyling *Waldemar* of his Dukedom of *Schleswick*, thereupon the Earles of *Holfatin* rose up in armes against him, took him prisoner, and detained him so at *Hamburg*, till he paid a great ranfome for his libertie. King *Ericus* was slain by his own servants, Anno 1286. king *Waldemar* was expelled the Realme by his Subjects, and afterwards restored upon his friends mediation; who not long after denying Merchants their ancient liberties in the Realme, the maritime Cities conspiring against him, entred *Denmark* with a great Army, expelled him the Realme, tooke his Castell of *Copenhagen*, and had the land of *Scania* assigned to them for 16. years, by the Nobles, in recompence of their damages sustained. *Ericus* seeing his subjects every where rise up in Arms against him, sayled into *Poland*, An. 1438. and deserted his Kingdom and Sovereignty, the people denying him libertie to name a Successor, and electing *Christopher* Duke of *Bavaria* for their king. After whom they elected *Christiern* the first king, against whom the *Sweeds* rebelling for want of administration of justice, and the oppression of his Officers, vanquished *Christiern* in battell, and set up a new king of their own, named

(r) Par. 4. p. 1. 2
 Henricus Ranzovius, Comment. Bellicus. l. 1. c. 3.
 (v) Commonwealth. l. 1. q. 10. l. 2. c. 5.
 (x) Danice. Hist. Chytr: Chron: Saxonic. Munsteri Cosmog. l. 4. c. 8, 9, 10, 11. Johannis Magni, Hermoldi Chron. Slavonum, Io. I. fac. Pontanus Rerum Danicorum, Hist.

(1) *Chytr. Chr.*
Sax. l. 10. 13. p.
 301. 10 312, 387
 388. 389. *Olaus*
Magnus, lib. 7.
 c. 3. p. 29 De
Iure Magistr. in
Sub p. 27. B. U.
Canon de iure
Regi apud Sco-
tos. Dr Beards
Theatre of
Gods Iudg-
ment. l. 2. c. 10.
 p. 4 4. 45.
 (2) *Chron. Sax.*
 l. 10. p. 303. 10
 312.

Charles, who An. 1455. abandoned the Royalty; the Swedes after that would neither create any new king, nor obey *Christierne*, nor yet King *Iohn* who succeeded him, whose Queen they took and detained prisoner two years, and maintained warre against him. (y) *Christierne* the second, King of *Denmarke*, was thrust out of his kingdom for his Tyrannie, and breach of his subjects Priviledges; which he endeavouring to regain, was taken prisoner by his Vncle *Frederick* Duke of *Sleswick* and *Holstein*, and committed prisoner to *Sunderburge* in *Holsatia*, where hee dyed in chains: *Frederick* was elected king in his place, (upon certain Articles and conditions which he was sworn unto before his Coronation) in a generall assembly of the States he'd at *Hafnia*, An. 1524. in and by which assembly *Christierne* was solemnly deposed, and a Declaration made, printed and published in the name of all the States of *Denmark*, wherein they expresse the cause why they renounced their faith and obedience to *Christierne*, sworn unto him upon certain conditions which he had broken, and elected *Frederick*: Which Declaration because it is not common perchance to every ordinary Shollar, and contains many things touching the frame and liberty of the kingdom of *Denmarke*, the Articles to which the kings do usuall swear at their Coronations, and the Tyrannies of *Christierne*, for which he was deprived. I shall here insert, as I finde it recorded in (z) *David Chytraus*.

Omnibus Christianis Regnis, principatibus, regionibus & populis, notum est, in Orbe Christiano, celebre regnum DANIAE suum esse, quod non secus ac cetera regna, plurimis jam seculis, Regia sua praeminentia dignitate, ornamentis & libertate praeditum fuerit, & adhuc sit; ita quidem ut Regnum Daniae, ejusque legitime electi Reges nullum unquam superiorem magistratum aut Dominum agnoverint. Omnibus quoque temporibus, Archiepiscopis, Episcopis, Dynastis, praelatis & nobilitati liberrimum fuit, regem, & Dominum aliquem suo iudicio & arbitrio designare, & in communem regni & Patriae consolationem & salutem eligere, cujus gubernatione, exemplo, & ductu regnum supradictum, Christianis statutis & ordinationibus, secundum leges suas scriptas, & antiquas consuetudines vigere, miseri & oppressi subditis sublevari, vidua & pupilli defendi possent. Qui quidem rex semper hactenus a prima electione convenienti juramento & obligatione se huic regno devincire coactus est. Etiam si igitur nobis omnibus regni hujus ordinibus & consiliariis licuisset post obitum potentissimi Regis quondam Daniae Iohannis laudatae memoriae pro jure nostro, secundum antiquam, & multis seculis continuatam regni Danici libertatem, regem aliquem pro arbitrio nostro designare & eligere: tamen virtute, justitia, magna animitate, bonitate & beneficentia, eorum Daniae regum, qui ex Holsatorum prosapia originem duxerant, moti; & bona spe freti fore ut rex *Christiernus* e vestigiis regis avi sui Regis *Christierni*, & R. Iohannis patris sui non excederet: sed potius ad eorum similitudinem & exemplum, gubernationem suam insisteret: supra dictum R. *Christiernum*, II. vivo adhuc patre Iohanne in Regem & Dominum totius Daniae designavimus & elegimus.

Quo quidem ipso tempore eelsitudo ipsius solemnem JURAMENTO, verbis conceptis, & Deo sanctisque testibus citatis, praestito, Archiepif. Episcopis, Dynastis, praelatis, equitibus, civitatibus & populo regni Danici se devinxit & obligavit, cujus juramenti inter alia hac quoque capita expressa fuerunt: Debemus ante omnia Deum diligere & colere, & sanctam ecclesiam defendere & amplificare. Omnia Episcoporum, Praelatorum & minorum status ecclesiastici privilegia, a S. Ecclesia & regibus Christianis ipsis concessa, inviolata conservare. Archiepiscopos quoque, *Londensem* et *Nidrosiensem*, et praeter eos

Episcopos,

Episcopos, prælatos, Equites auratos, & alios ordinis Equestris, Regni Proceres & Consiliarios, convenienti observantia & honore, pro cuiusq; conditione & statu prosequi. Si qua nobis controversia sit cum Archiepiscopis, Episcopis, aut prælatis S. Ecclesiæ, eorumque ministris, in locis convenientibus, nimirum coram senatu regni, cognosci & transigi oportebit. Si qua nobis ipsis, aut præfectis nostris, controversia, cum aliquo ex nobilitate, sive is senator regni sit, sive non, incidet, cum coram universo regni senatu, hoc nomine compellare debemus, sive ea controversia sit de fundis, sive de aliis quibuscunque bonis aut negotiis.

Et sicuti tenemur unumquemq; juvare, ut jus suum consequatur; Ita nos ipsi quoq; obnoxii esse debemus, unicuique eorum coram senatu Regni nos accusanti comparere, & ad ipsius postulata usitato Iudicio, more respondere, & quicquid a senatu regni super ea re decretum & prædictatum fuerit, totipsum exequi, neque huiusmodi legitimas accusationes aut postulationes inclementi animo ferre. Debemus etiam sine ullo prejudicio, gratia, aut muneribus, ex æquo, tam pauperi quam diviti, tam hosti quam indigenæ, jus dicere & administrare. Nullum etiam bellum incipere, aut externum militem in regnum introducere debemus, communi senatu Regni non præsciente & consentiente. Litteris quoq; & Diplomatis vel nostro, vel etiam patris nostri Regis Iohannis signo confirmatis, plenam & inviolatam fidem & auctoritatem relinquere, eusq; as alienum, quod liquidum est, dissolvere debemus. Moneta quoque, quam cufurimus, proba & sufficiens esse debet, ita, ut dua marca æquivalentes sint uni aureo Rhenano. Item, Nos Christiernus & obligamus nos, quod omnes & singulos articulos, in quos jurandum nobis est, incolis regnorum Dania & Norwegia, constanter re ipsa prestare velimus. Sicuti etiam ex adverso subditi obligati esse debent ad suum homagium, & auxilia militaria inviolata servanda & prestanda.

Si vero (quod Deus avertat) contra istos articulos agendo delinqueremus, & senatorum regni admonitionibus nullo modo locum dare institueremus: tunc omnes regni incolæ, ratione honoris & juramenti sui, consuetis viribus, fideliter in hoc incumbere debent, ut hoc avertant. Ad faciendum, contra sua juramenta, obligationes, homagia, quo abstracti nobis sunt, nequaquam seclitè censeri debebunt. Huius generis plures alii articuli juramento inserti fuerant, qui hoc loco brevitate gratia prætermittuntur.

Ut etiam regia ipsius dignitas, post juratos hosce articulos vehementius & ardentius ad virtutes regias, & Christianarum sanctionum huius regni conservationem incitaretur & inflammaretur, commodas rationes & vias invenimus, tandemq; perfecimus, ut illustrissima princeps D. Elizabetha, ex Hispaniarum regum & Archiducum Austria illustrissima prosapia oriunda, matrimonio ipsi conjungeretur. Sperabamus enim dignitatem ipsius regiam, admonitionibus nobilissima & excellentis virtute, & summa orbis Christiani regum familia ortæ regina, & præterea consideratis tantis & tam eximys ac sublimibus tot Regum ac Imperatorum affinitatibus, motum iri, ut omnibus Christianis & regis virtutibus, eum clementia & bonitate conjunctis, in tota gubernatione sua eo diligentius incumberet.

Verum, statim post coronam acceptam, Regia illius Majestas animi acerbitatem, tyrannidem, rapinas, immanitatem crudelem & sanguinariam, declaravit (quod tamen non injuria ipsam afficiendi animo, sed extrema necessitate, ad defensionem honoris nostri compulsus, scribere & divulgare volumus, de quo ipso palàm protestamur) imprimis autem amoris & fidei conjugalis nobilissima & omni virtute præstanti Regina præ-

Nul.

stita, oblitus est. *Quadam enim turpis, infamis & peregrina vetula, Syburgis, omni pudore & virtute destituta, & ad omnem impuritatem projecta, propriam suam filiam, Regi prostituit. Quam regina conjugii sua nobilissima, status conditione, dignitate & gubernatione Rex prae tulit, eiq; pra omnibus regni consiliariis summam Imperii in Dania commisit, ex cujus perversa administratione & mandatis, multa caedes, homicidia & injusta in causis tam capitalibus quam civilibus condemnationes extiterunt: Et quamvis Regina (quam semper pro Regina & dominatrice nostra deinceps quoq; agnoscere & habere cupimus) ab honestiss. matrona, Anna Holgeria, Gynecii sui praefecta, moveretur, ut Dominum & maritum suum amice hortaretur, ut a vita illa flagitiosa, qua Christianum conjugem, & imprimis regiam dignitatem, nequaquam deceret, desisteret: tamen, quam primam hoc rex & anus illa resciverunt statim illa, propter Christianam admonitionem innocens ab officio suo remota, & miserabiliter regno expulsa, et omnibus fortunis suis spoliata est.*

Eodem modo Tobernum Ochsitum, de veneno, filia Syburgis propinando, falso a se insinulatum innocentemq; deprehensum, et a senatu quoque regni eo nomine absolutum, in ignominiam et contumeliam Germanica nobilitatis, tantum mendacibus turpissima illius mulieris sermonibus fidem habens, capite truncari iussit.

Quamvis etiam R. ipsius Majestas ingens et publicum Bellum, contra datam fidem, nobis, nobis inconsultis et inscijs, contra Suecos excitavit: tamen ut animum nostrum fidelem, et regiam ipsius personam et nomen extollendi, imperium amplificandi, et exterarum nationes et regna subjungenda cupidum, posset deprehendere: nos omnes nostra corpora, fortunas, regiones et subditos, in magna pericula conjecimus: quod bellum septennale, contra potentissimum regnum Sueciae gessimus: et tandem cum effusione sanguinis nostri, et extrema ferè cum pernicie floris nobilitatis Danicae, auxilio Dei omnipotentis, contra regnum jam dictum, victoriam obtinimus, et Regia ipsius Majestati Regnum subijcimus. Ut autem regnum Suevia in perpetua fide et obedientia Regia ipsius Majestatis maneret in ipsa coronatione SUECUS verbis conceptis, Deoq; et sanctis testibus citatis, juravit, se ipsis antiqua sua jura, immunitates, et privilegia incolumia relicturum, et omnium qua in bello exorta sint offensionum, et inimicitiarum memoriam, sempiterna oblivione aboliturum esse. Cumq; ne tam quidem satis Regia ipsius Mti fiderent Sueci, necesse fuit nonnullis ex Episcopis, Praelatis, et Nobilibus Danicis, pro rege fidei suam interponere, eamq; diplomatibus eo nomine conferitis et obsequatis, confirmare. Qua quidem ipsa in re deesse illi noluimus.

Etiam si autem Regna et populi armis subjugati, tamen modo jure et justitia in officio cortuantur: tamen Rex hoc ipso non satis bene considerato, et maximis gravissimisque juramentis posthabitis, triduo post coronationem Suecicam, Episcopos, Praelatos, Nobilitatem, una cum consilibus et alijs praefectis (tanquam ad convivium regium & solennem de imperata a Deo victoria gratulationem) invitavit, qui etiam fide & invitatione regia illecti, una cum amicis, uxoribus & liberis suis, reverenter comparuerunt. Sed tam amice invitati, admodum hostiliter excepti sunt, ipsorumq; plausus in maesticiam commutatus est. Ex livore enim tyrannico ipsis imputatum est, quod pulvere tormentario arcem ipsius regiam passim consperxissent, ut ita incendio eum a medio tollerent. Cum tamen certissimis indicijs compertum sit, illud a Rege ipso, cum in finem factum esse, ut speciosiore aliquo pretextu, causam mortis in eos confingeret, quos alias nullo jure quaestoribus subijcere potuisset. Atq; ita reverendissimi, strenui, & honestissimi viri, D. Matthias Zu Strengentse, & D. Vincoalius Scharensis Episcopi, &

praeterea

præterea sexaginta Equites aurati & viri Nobiles, aliqui etiam Consules, Senatores, & cives uno die, sine ullo iudicio, ex mera tyrannide, contra datam fidem, decollati sunt. Quorum etiam cadavera, vestibus nudata, cum interitum usq̄, diem in foro Stockholmen- si, miserabili alijs spectaculo fuissent, tandem igne comburi iussit; ac etiam si illi adhuc vivi more Christiano Confessiones suas edendi cupidi essent, tamen hoc ipsis animo prorsus malevolo denegatum est.

Eodem modo Reverendum & religiosum D. Abbatem Nyddalensem & quinque fratres, qui tum in honorem Dei Missas celebrabant, die purificationis Mariæ, sine ullo iudicio, aquis suffocari curavit, nullam aliam ob causam, quam quod durante adhuc bello, una cum alijs se Regi opposuissent.

Sex præterea ex nobilitate Suecica qui communis inter Daniam & Sueciam pacificationis nomine, fide publica & regia, & quidem vocati antea venerant, sibi ipsi obfides constituit, eosq̄, in durissima vincula conjectos, tamdiu apud se detinuit, donec regnum Sueciæ sibi subjecisset.

Multos quoq̄, nobiles, inter quos nonnulli ex familia Ribbingia fuerunt, una cum duobus pueris adhuc teneris, qui fide & clementia ipsius freti, istuc venerant, capite plesti: sicuti etiam Tonnum Erici filium, & Henrichum Suchum, unâ cum multis alijs nobilibus in Finlandia, sine ullo iudicio decollari iussit.

Episcopo Finlandiæ domum & possessiones suas per violentiam ademitt, ita quidem, ut ille sibi consulens, paulo post tempestate in mari exorta naufragio miserabiliter perierit. Brevitatis causa multa alia prava & tyrannica facinora, in Regno Sueciæ contra Deum & omnem æquitatem ab ipso perpetrata, hic prætermittimus.

Quocirca Episcopi, Dynastæ, Prælati, Nobilitas, Civitates & reliqui regni Suecici incolæ, qui crudeles, impuras & sanguinolentas ipsius manus, vita sua incolunt effugerant, contra eum insurrexerunt, satius et honestius esse rati, potius in acie pro salute patriæ, quam domi fordis & turpissimis supplicijs innocentes excarnificatum, mori. Acque ita (nostro quidem iudicio non immeritò) sumptis armis & palam Bello contra Regem suscepto Tyrannicum illius jugum excutere instituerunt.

Etiã igitur nos periculo corporum & fortunarum nostrarum, ipsi, post auxilium Divinum in regno Sueciæ subjugando adiumento fuerimus: tamen non nostra sed sua ipsius culpa iterum eodem regno excidit. Quocirca denuo ab eo interpellati, ut Sueci nostro auxilio ad priorem obedientiam adigerentur; ne id quidem (quamvis nullo jure aut lege teneremur) facere recusavimus, ut vel hoc modo fidelis animus & voluntas nostra, à Rege perspiceretur, quando quidem ferè supra quam vires nostræ ferrent (cum jam antea nostros equos, arma, naves, aurum, argentum, Clinodia & insuper nostros amicos, affines & propinquos in Suecia reliquissimus,) denuo terra marisq̄ magnis impensis militem & naves armare & instruere: propria corpora nostra, possessiones, pecuniam & facultates omnes impendere: & una cum ipso totam belli molem, in tertium usque annum sustinere non detrectaremus. Idq̄, optima spe freti, futurum ut fidelia hæc nostra servitia, tandem aliquando à regia ipsius dignitate cum clementia agnoscerentur.

Verum his omnibus non consideratis, ille interea Episcopos, Prælatos, Ecclesias, Cænobias, Hospitalia, Sacerdotes, Matronas, virgines, Nobilitatem, cives, viatores, negociatores, & miseros denique Rusticos, immoderatis & inauditis exactionibus, vestigalibus & expilationibus oneravit.

Præterea maximam bonorum nostrorum partem, unâ cum auro & argento, ex-

actionibus extorsit, ad se translata adhuc retinet. Monetam verò nullius momenti cupream, ex ahenis cerevisiaris usu detritis cusam in regnum intrusit, quam æquo cum argenteis & aureis monetis precio, à milite ipsius acceptare, & ut in toto regno usurparetur & valeret, coacti sumus tolerare. Cum tamen illa in finitimis regnis, nationibus & civitatibus nullius valoris esset, res nostra familiaris, cum omnibus commerciis jacerent: regnum hoc nostrum antiquum cum suis incolis omnibus suis nervis & viribus planè exhauriretur, & ad extremam egestatem & inopiam conduceretur. Et quamvis hæc quoque omnia, ut bello suscepto optatus tandem finis imponi posset, submisisse toleraverimus: tamen ne hac quidem ratione quidquam apud Regem proficere potuimus, cum ille palàm hominibus fide dignis audientibus diceret, se & corporibus & fortunis imminutos ita nos debilitaturum, ut passim omnibus contumelia & ludibrio essemus. Cujus sui propositi statim etiam exemplum res ipsa nobis exhibuit.

Archiepiscopum enim Lundensem D. Georgium Schorburgum, quem secretarium quondam suum hac spe ad dignitatis illius fastigium rex evexerat, ut quedam Archiepiscopatus illius prædia ad se transferre posset; cum regis cupiditati postea non gratificaretur, quod diceret, juramento se illi ecclesie præstito, quod violari à se minime deceret, prohiberi: seque potius turpissimam mortem obire, aut vita monastica etiam durissime in reliquum vita tempus mancipare se velle, quàm in perjuri suspicionem vel minimam se conjicere. Cum igitur aliquot poenarum, qua innocenti irrogabantur, optio illi concederetur; ad vitam tandem monasticam à rege compulsus est. Quo facto, statim Prælatos & Canonicos ecclesie Lundensis per literas ad se accersivit, cumque illi præstita obedientia comparuissent: jussit eos contra fidem regiam, in infamem & satentem carcerem compingi, isdemque paulò post in insulam Borneholman, Ecclesie illi Lundensi subjectam & propriam, cum omnibus arcibus, oppidis & vicis, nullius excusationis ratione habita, vi metuque coactis, ademit.

Reverendissimus quoque Iohannes Episcopus Fyonia, cum literis regis ad juridicam vocatus comparuisset; eodem modo miserabiliter, & præter omnem culpam captus, & in carcerem conjectus est, & omni collegii illius ecclesie bona petulanter ad se transfudit.

Nemo etiam vel ex Senatoribus regni, vel aliis Daniæ incolis sine corporis & vita sua periculo ipsum convenire: aut si quis omnino fortunam suam hac in parte periclitari institueret; nequaquam id, nisi prius peccata sua sacerdoti confessus esset, & ad mortem se preparasset, tentare ausus est, cum sæpe numero in eas angustias coactos nonnullos confiteret, ut ne confitendi quidem spacium illis concederetur. Ex quo ipso hoc quoque consecutum est, ut regno hinc, & communi patriæ nostræ, consilio & consolatione nostra auxilio esse non possemus. Eodem proposito Rotschildensem, & D. Nicolaum Erici, multosque alios prælatos & viros ecclesiasticos, qui patri & matri ipsius laudatæ memoriæ fideliter inservierant, absq; ulla misericordia, bonis suis spoliavit.

Politico quoque & equestri ordini, reliquisque regni inquilinis nequaquam pepercit. Mandato enim ipsius, vir strenuus & nobilis, Magnus Tamassenus, qui toto vita sua tempore, ab omnibus habitus est homo integer & probus, & quem nemo unquam quidpiam, quod honestum & nobilem virum non deceret, gerere aut facere animadvertit; quique etiam in fide Christiana piè mortuus erat, hic inquam Tamassenus, ex terra iterum effossus est, ipsiusque cadaver, in foro Arhusiano, in singulare Daniæ nobilitatis ludibrium & contumeliam, suspensum est: & insuper Rex omnia illius, viduæque ipsius reliqua, bona, cum omni auro, argento, & clinodiis, sine ulla postulatione judiciali, ad se & in suam potestatem redegit.

Strenuo

Strenuo quoque D. Inggoni Krabbio, equiti auro & Marscalco, qui ipsi longo tempore in Dania, Norwegia, & Suecia honestè & fideliter, etiam cum effusione sanguinis, & bonorum suorum jactura inservierat, unum ex pagis suis Veschbecum novum unà cum multis ad eum pertinentibus fundis & bonis, aperta vi, & contra religionem jurisjurandi, ademit, & sibi vindicavit, cum interea ille multis modis ad legitimam causam cognitionem, sed tamen frustra, provocaverat.

Cum ex ministris ipsius aulicis Nicolaus Daa, quodam vesperi in caupona & symposio sedens, hospiti ex fenestra rhombos aliquot vitreos fortuito excussisset; & tamen eo nomine statim sequenti die hospiti pro tanto damno abundè satisfecisset: nihil minus tamen, ob causam tam nihil, pater ipsius in arcem Haffniensem violenter abductus, & tamdiu captivus est detentus, donec praefectus regius missis in domum ejus satellitibus, omnes ipsius cistas aperisset, omne aurum & argentum inde exemisset, & ad quatuor Marcarum Danicarum millia vi metuque illi extorsisset.

Quinetiam contra juramentum & dotam fidem, Schlof Gelauben Ins electionis, quod antea senatus regni proprium erat, post mortem ad suos heredes transtulit, quo ipso antiquum nostrum & liberum regnum, hereditaria oppressioni subicitur, & nos libera nostra electione spoliat sumus.

Quid, quod à quolibet, etiam pauperrimo hujus regni incola, binos in singulos annos florenos, in perpetuum deinceps numerandos, ausus est exigere, cum tamen multi ex ijs, vix binos solidos suis dominis quotannis exsolvere possent.

Nec tantum Danica nobilitatis excidio, animus ipsius sanguinarius satiri non potuit, sed in Germanos etiam nobles ingratitudinem effunderet. Honestum enim virum Stephanum Weberstedium, in Turingia loco equestri natum, qui longo tempore, sicuti Ministrum fidelem &obilem deceit, pro supremo Capiteo peccatum Danorum contra Suecos ipsi inservierat, & qui praefata fortitudinis suae specimina, cum Hoste usq; ad sanguinis effusionem dimicans, ediderat, cui etiam hoc nomine praefecturam Olandensem datis literis concesserat. Hunc inquam Stephanum, cum diutius praefectura illa carere nollet, ex asylo Cænoby Sp. S. ab ipsius avo fundati abreptum, decollari iussit, hoc praetextu, quod in domo publica militi cuidam vulnus inflixisset, cum quo tamen ille, amica transactione interveniente, jam pridem in gratiam redierat.

Eodem modo cum conjugio suae regiae cubulario Maximiliano egit, qui reginam in regnum Dania advenientem comitatus fuerat: eum enim cum Regina ad Cæsaream Majestatem, & Dominam Margaretam, ablegasset, Rex antequam Dania excessisset, exitinere retrahi, & capitali supplicio affici iussit.

Adhuc cum fortissimus ipsius capitaneus N. von Heterstozff, nomine praesidiariorum Stokholmensium, honestos aliquot milites, pro stipendio suo, & quibusdam alijs conficiendis, Haffniam misisset; praefectus Haffniensis eo exceptos Abramstorpum deduxit, quasi regem ibidem inventuri essent. Eò autem cum venisset, loci praefectus, eos carceri mancipatos, paulo post sine ullo iudicio, unà cum puero quopiam trucidari iussit.

Suum quoq; Germanicum Secretarium Stephanum Hopsfersteinerum, cujus opera in gravissima negotia apud Cæsaream Majest. Electores & principes Imperij Romanici, usus fuerat, ad impudentissimam mulieris Syburgis mendacem delationem, inclementer persecutus, ipsius vita & bonis infidatus est. Qui tamen evidentiſſimo Dei omnipotentis auxilio, manus ipsius crenas ex Dania evasit, & in Cæsaream urbem Lubecam confugit, ubi nihilominus à Ministro Regio, ejus vestigia insecutus, accusatus, & in custodia aliquandiu

aliquandiu detentus fuit, donec tandem causa probe cognita, ab injusta ejus accusatione & infimulatione, per sententiam absolutus est.

Præterea multas quoque exteræ nationes, Hollandos, Brabantos, Flandros, Lubecenses, cum omnibus civitatibus maritimis, contra datâ privilegia, & regia diplomata pecuniis suis emunxit, & quotiescunque illi negotiorum suorum causa in hoc regnum appulerunt, statim navibus & mercibus suis spoliati sunt.

Et quamvis Norvegia quoque regnum semper, ipsi fideliter fuerit subjectum, & pro viribus omnia sua officia & auxilia præstiterit, et ejusque omnibus edictis & interdicitis cum obsequio parverit: tamen neq; Deo consecrati Episcopi, neque Nobilitas, neque populus illius inclementem & immisericordem animum effugere potuit. Episcopus enim Camerensis, licet innocens, in crudeli admodum carcere captivus est detentus, ita quidem, ut ex fætido & impuro aëre, curis diurnaque sessione, omnibus suis viribus consumptis, tandem carcere liberatus, mox diem suum obierit.

Reverendissimus quoque Episcopus Anfloënsis, Andreas eo compulsus est, ut alteri suum Episcopatum cederet: quod si facere recusaret, submersivorem illi minabatur.

Reverendissimum quoque Archiepiscopum Nidrosiensem ab Ecclesia sua Archiepiscopali in exilium expulit, qui postea Romam ad Papam confugiens, ibidem in magna inopia & miseria mortuus est.

Nobilitati quoque ejus regni nequaquam pepercit, strenuum enim & præstantissimum equitem auratum, Canutum, Canuti fido & mentito quodam prætextu, in carcerem redegit. Cumque ille in jus provocaretur, & causa in senatu regni cognita & discussa absolutus esset: tamen jure suo, à Deo & equitate sibi concessa, uti non potuit, cum paulò post miserimè decollaretur, & omnia ejus bona, contra omne jus à rege abriperentur.

Etiamsi verò multò plura ipsius impia & tyrannica facinora, & imprimis cum honestis matronis & virginibus, viduis & orphanis passim in Dania, Suecia, Norvegia perpetrata, indicare possemus: tamen illa ipsa, respectu nominis & dignitatis regia habito, hoc quidem tempore, in nostra hac querela commemorare non volumus.

Semper equidem speraveramus futurum, ut crebris, fidelibus & submissis admonitionibus adductus, sese emendaret, & ab hujusmodi minimè regis aut Christianis, sed potius tyrannicis inceptis, facinoribus, expilationibus, veltigalibus, exactionibus, aliisque crudelibus institutis desisteret: sed tamen admonitiones hæc nostra planè infructuose aures regias personuerunt: nostra sententia & consilia planè sunt repudiata, nulli ex senatu regni locus apud regem fuit relictus, imò homines planè contempti & ad nullam rem idonei habiti & reputati sumus. Atq; ita ille in priori sua tyrannide, seipsum induravit.

Et ut omnino crudeli suo erga nos animo & voluntati satisfaceret, milites peregrinos magno numero, tam pedites quam equites, contra præstitum juramentum, quod ex superioribus articulis patet, in regnum induxit, & majoribus adhuc quàm antehac factum est, oneribus & exactionibus nos gravare instituit. Cum autem id non injuria nobis grave esset, hoc tentatum est, ut nos una cum miseris rusticis, (qui tamen ipsi tempore belli septennalis penè omnem substantiam nostram impenderamus) vi ad illas præstandas adigeret. Quocirca missis literis tanquam ad juredicam Abusum nos evocavit, eo consilio, ut nos vi militis externi (si modò is ad tam impium facinus à rege perducipotisset) adoriretur, & pro libitu suo imperata facere cogeret. Compertum etiam nobis est, Regem ad diem præstitutam duorum immanium carnificum, more suorum

satellitum

satellium (ne scilicet res innotesceret) vestitorum operam conduxisse, in eum finem, si intolerabilibus ipsius edictis & voluntati non assentiremus, ne tum in corpora & fortunas nostras impetum faceret, & forte non aliud quam in Suecia, Dynastiis, Episcopis, prelatiis, nobilitati & civitatibus factum est, convivium nobis adornaret.

Quapropter justissimo (qui etiam in fortissimos viros cadere potest) metu compulsi sumus, ut de tantis malis à nobis avertendis cogitationem aliquam susciperemus, atque ita nostra corpora, vitam & possessiones (quod jure naturæ facere tenemur) defendiremus. Compulsi igitur sumus, ut nostrajuramenta, homagia & auxilia militaria per literas illi renunciaremus, id quod, etiam re ipsa à nobis jam factum est, cum plane confideremus, neminem fore, qui impiis tyrannicis ipsius delictis consideratis, visio hoc vertere nobis posset. Nos enim status & consiliarios regni Danici, coram Deo & hominibus obligatos agnoscimus, ut communi patriæ, in extremis hujusce periculis & angustiis, consolationem aliquam offeramus. Siquidem miserorum ejus regni inquilinorum aeterna, rationis corporum & honorum, pernicies, matronarumque & virginum dedecus & contumelia potissimum ab eo queritur, à quo illa omnia merito averti à nobis debebant. Neque ignotum est, propter similia, aut (æpe etiam leviora quam nos (proh dolor) perpepsi sumus facinora tyrannica, sæpenumero Cæsares Romanos, Reges Ungariæ, Bohemæ, Angliæ, & Scotiæ, ex suis imperiis & regnis dejectos, nonnullos principes ex ditibus suis hereditariis expulsos esse, sicuti id tam ex veteribus historiis, quam ex nostræ ætatis exemplis satis certo nobis innotuit. Et nisi gravissimis hisce, quæ hactenus commemoravimus, oneribus impelleremur, pigeret & caderet nos, saltem aliquam cogitationem in nostram animam inducere, multo minus re ipsa eam exequi, sed potius sicuti patri & avo ipsius, ita ipsi quoque libenter adhiberi fuisset.

Nota.

Etiamsi verò ab electione externi alicujus & Christiani Regis aut Domini cujus potentia & defensione regnum nostrum gubernaretur non plane fuimus alieni: tamen considerato diuturno & Christiano regimine, regis virtutibus, clementia, bonitate & justitia, quibus & illustris princeps & Dominus, D. Fridericus, verus hæres Norwegiæ, Dux Slesvici, Holsatiæ, Stormariæ & Dietmarsis, Comes Oldenburgi & Delmenhorsti, erga Subditos suos statim à gubernationis suis exordio pie & laudabiliter usus est: eum potissimum unanimi consensu regem & Dominum nostrum supra totam Daniæm elegimus, cum nimirum cogitaremus, eum ex inclita regum Daniæ prosapia originem ducere, & præterea regis filium natum esse, atque ita jure præ omnibus aliis principibus hunc honorem ipsi, præsertim cum patrimonium quoque ex regno paterno sue Consuetudine debitum, ne nunc quod idem accepisset, deberi.

Rogamus igitur unumquemque, cujuscumque conditionis aut ordinis sit, si fortè supra dictus Rex Christianus, aut alius quisquam nomine ipsius, vel Scriptis vel alio modo, nos infirmulet, quod contra datam fidem & iuramenta hac in parte egerimus, ut illi, ætèquam ulteriorem nostram defensionem audiat, fidem non habeat, sed potius nostras hujusce difficultates, corporis & vite pericula, impias viduarum & pupillarum oppressiones, matronarum & virginum violationes, cum clementi, christiana, benivola & humana commiseratione cognoscat. & nos (qui honorem & existimationem nostram, ut pios nobiles decet, erga regem illam adhuc conservavimus) excusatos habeat. Simulque aliis quoque omnibus & singulis, ob causas jam supra dictas, & alias complures (quas adhuc in honorem nominis regis usque ad ultiores nostras apologias reticemus) benignè nos excuset. Si etiam rex coram legitimo aliquo iudice nos accusandos esse consuerit hoc ipso scripto nos ad legitimam & justam causæ hujus cognitionem & decisionem offerri-

mus; pollicemur etiam nos iis, qua hoc modo jure decernentur & sancientur, prompto animo parituros esse. Neque dubitamus, si vel sanctitas Pontificia, vel Rom. Caesarica Majestas, & Iudicium Camera, vel alii quoque Christiani Reges, Electores, Principes, Comites, Barones & Nobiles, vel inclite & libera Imperii civitates petitionis hujus nostris aequitatem, & ipsius impiam & Tyrannicam nostri oppressivam cognoverint, quin factum hoc nostrum, ad quod extrema necessitas nos compulit, nequaquam sint improbaturo. Pro quo ipso singulis, pro ratione ordinis & conditionis suae, nostra studia, officia, & gratitudinem, omni tempore praestandam, deferimus & pollicemur.

Swethland.

* Cosmog. lib. 4.
cap. 21, 24, 25.
* Gul. Neubrig.
lib. 2. cap. 6.
* Cosmog. lib. 4.
cap. 28, 29, 30
31, 32.
Heyl. Geogr.
pag. 430, 431.
Chytræus
Chron. Sax.
Hermold. Chron.
Slaudrum.
Joannis Magnus
hist. Goth. Swe-
dorumque.
Guagn. compen.
& Chron.

Not to mention the Kings and Kingdom of *Normay*, long since incorporated into *Denmarke*, whose lives and Catalogue you may reade in * *Munster*, *Ioannis Magnus*, *Crantzius*, and others: * in which Realme not one King anciently died of age or diseases in above one hundred yeers, but of violent deaths; there being this custome, That whosoever slew a tyrant King, was thereby made a King. The Kings of *Swethland* have alwayes been elected upon certaine conditions, and subordinate to the power and censures of their whole States and Parliament, in such sort as the Kings of *Hungary*, *Bohemia*, *Poland*, and *Denmarke* have beene; and oft times this Kingdome hath beene annexed to the Realme of *Denmarke*, and subject to the Danish Kings, as they saw occasion: The names and lives of the Swedish Kings before and since their conversion to Christianity, you may reade at large in * *Munster*, *Joannis Magnus*, *Crantzius*, *Olaus Magnus*, and others: I shall give you a taste onely of some of them out of those Authors. *Halsten*, and *Animander* his successor were thrust out of their Thrones and Realms by their Subjects. After whose death, the Swedes elected one King of their owne Nation, the *Gothes* another, not enduring a forraign Prince to reigne over them. King *Bugerius* slaying his brother *Ericus*, who had imprisoned him at a banquet, his Nobles detesting this his treacherous act, rose up in Armes against him, expelled him the Realme, and beheaded his Queen and *Magnus* his son, electing *Magnus* the son of *Ericus* for their King. *Magnus* the seventh, betrothed his son *Aquin* to a kinswoman of the Earle of *Holstain* upon this condition, That unlessse *Aquin* should receive her a Virgin, all the Nobles of the Realme should be freed from their Oath of Allegiance to him. The Virgin sailing into *Swethland*, was taken prisoner by *Waldamer* King of *Denmarke*, who betrothed his daughter *Margaret* to *Aquin*: whereupon the Nobles of Sweden denied to yeeld any more obedience to their King, deserted *Magnus* and chose *Albert* King: *Magnus* seeking to regaine his Realme, was defeated in battell and died in exile. Queen *Margaret* taking *Albert* prisoner, and conquering Sweden, left it and two Kingdoms more to *Ericus* her adopted son. But the Swedes weary of a forraigne yoke, by the helpe of *Engelbert*, denied subjection to him, and waged warre so long with him, that he was forced to place Swedes in all the Castles by agreement, and to receive onely halfe the revenues of the Realme in his absence, and at last (tired out with the wars) deserted both Crowne and Kingdome. After this the Swedes elected *Charles* for their King, who after seven yeers reigne, perceiving that he grew grievous and displeasing to the

the States of Sweden, taking his owne private goos onely with him, and leaving the treasure of the Realm in a safe place, left the Kingdome. Whereupon they elected *Christierne* the first, the King of *Denmarke* and *Norway*, for their King; against whom they took up armes, because he had broken that passion prescribed to him when he tooke the Crowne; whereupon *Anno 1499*, *Christierne* came with a great power to subdne the Swedes, but he was easily conquered, repulsd thence twice one after another by the Swedes united forces: who elected them a Governour whom they called a Marshall, which had power to call generall Assemblies of the States, and execute the Kings Office, and might have bene elected King upon such conditions as the States propounded, which he refused to submit to. King *Iohn* thinking to subdne the Swedes after *Christiernes* death, was repulsd by them, and his Queen taken prisoner. His sonne *Christierne* the second, King of *Denmarke*, by the treachery of *Gustavus* Archbishop of *Upsalis*, after many encounters, upon promise to continue their Laws, Liberties, and Priviledges inviolably, and to remit all offences past by a solemne Oath, was elected by the Swedes for their King: who swearing these Articles and confirming them by his Charter, was upon this admitted into the Towne and Castle of *Holme*; * where feasting all the Nobles and principall men of *Swethland* two dayes together, suspecting no treachery, he suddenly apprehends them, imprisons, murders all the Nobles, Gentry, Citizens, Commons, yea Bishops and Monkes, with extraordinary cruelty, spoils their wives and Orphans of all their goods, and exerciseth more then barbarous tyranny over them; which *Gustavus Erichson*, a noble Swede then in *Denmarke* hearing of, escapes thence privily, and comes into *Swethland* disguised, raiseth an Army to revenge this butchery, delivers his Country from this Tyrant, and for his noble service was by their unanimous vote elected and crowned King of Sweden in his stead; the Swedes in a publike Declaration manifesting their expulsion and deprivation of *Christierne* for his treachery and tyranny to be just and lawfull. * *Eri-*
cus the seventeenth King of Sweden, imprisoning his brother, murdering his faithfull Counsellours, warring upon his Subjects, playing the tyrant, and matching himselfe unworthily to a woman of meane condition, was for these his misdemea-
nors taken prisoner, with his Queene, *deposed*, and his brother made King in his stead, *Anno 1599*. And * *Sigismund* King of Sweden, taking upon him the Crowne of
Poland, after fourteen yeeres reigne, was *deposed* and *dispossessed* of his Kingdom
Anno 1607. and *Charles* his Uncle made King in his stead.

* *Chyr. Chroni*
Saxo. lib. 10.
p. 311.

* *Chyr. Chron.*
Saxo. lib. 2. 1, 22.
p. 636, 637, 638,
647, 648, 649
&c.

* *Hol. Geogr.*
p. 340.

Affyria, Cyprus, Lombardy, Naples, Venice.

I Could now acquaint you with many such like passages and stories in the King-
domes of *Affyria*; as how effeminate * *Sardanapalus*, for his vices and mis-gov-
ernment was *deprived by his Subjects*, *burned in his Palace*, and *Arbactus* made King
in his stead. In the kingdom of * *Cyprus*, where King *Peter* murdering his brother
and those of *Geneva*, was soon after taken prisoner and made a tributary Prince.
King *Iohn* governed by *Helena* his wife, and she by his Nurse, which made the people
weary of the government, had a Regent by consent of the Nobles (*Iohn* of *Por-*

* *Herod. Hist.*
lib. 2. cap. 79.

* *Herod. Hist.*
lib. 5. cap. 30.

tugall, whom they married to his daughter (*Carlota*) set over him and the Realme and all the royall power soon after put into his hands, who being soon poysoned by *Helen*, *Lemes* sonne to the Duke of *Savoy* was sent for and crowned King by generall assent, and *John* and *James* his sons put by. * *Clephus* the second King of *Lombardy* was so cruell, that after his death they would have no more Kings, but chose thirty Dukes to governe them, who continued this government eleven yeeres. *Desiderius* the last King of *Lombardy* was taken prisoner with all his children in *Pavia* by *Charles* the great, and so that Kingdome ceased, Anno 774. * *Tancred* the fourth King of *Naples* was deposed by Pope *Celestine* the third, with his peoples consent. * *Monsfrey Bastard* poysoning *Conrade* the seventh King of *Naples*, and usurping the Crowne, was deposed by *Charles* Earle of *Aniou*, who enjoyed the Crowne till *Aragon* seased on the Realme. *Joze* Queene of *Naples* married *Andrew* second sonne to *Charles* King of *Hungary*, whom she hanged at her window for insufficiency; after marrying *James* of *Tarragon*, she beheaded him for lying with another woman, and was at last driven out of her Kingdome by *Lemes* of *Hungary*, and hanged at the same window where she hanged her first husband. * *Peter* Duke of *Venice* was for his tyranny and misgovernment besieged in his palace by the people, which they fired, and then taking him his wife and sonne, dragged them unto the butchery, where they chopped them in pieces and threw him to the dogs to be devoured, notwithstanding all their submissions and intreaties on their knees, Anno 977. So Duke *Falier*, and many other Dukes, have beene condemned to death and executed by the States of *Venice*, and that justly as * *Bodine* grants. Multitudes of such like presidents occur, in most other Dukedoms and Principalities, which I will not name, because they want the title of Kings, though * *Aquinas* truly holds, *That a Kingdome is so called from ruling; therefore he who hath others under his government, is said to have a Kingdome; in reality, though not in propriety of speech; and so are Kings in verity, though not in title.* I might adde to these many more examples, manifesting what miseries and untimely deaths tyrannicall Kings and Princes have undergone in all ages and States, being commonly deposed, poysoned, murdered; but I shall for brevity passe over these examples, remitting the Readers to * *Aristotle*, * *Alian*, and Doctor *Beard*, his Theatre of Gods Judgements, and come nearer home to *Scotland*, as having nearest relation to *England*.

* *Mach. Hist.*
Heyl. Geogr.
p. 193, 154.

* *Heyl. Geogr.*
p. 166, 167.
General Hist.
of Spaine, lib.
18. p. 686.

* *Ioan. Crespin,*
Vestare de Log-
lise pag. 277.

The Venecian
History.

* *Com. lib. 2. c. 5.*
pag. 277.
* *4. Distinct. 49.*
quest. 1. Art. 3.
44. 5.

* *Polit. lib. 5.*
cap. 10, 11.
* *Varioe hist.*

Scotland.

W Hat soveraigne power and jurisdiction the Realme, Parliaments and Nobles of *Scotland* have claimed and exercised over their Kings, (who, saith *Buchanan*, can neither make Laws, Warre, Peace, nor conclude of any great affairs of the Realm without a Parliament, which hath there, and in *Hungary*, *Poland*, *Denmarke*, *Swerthland*. been oft-times summoned, not onely without, but against their Kings consents;) and how frequently they have questioned, imprisoned, censured, deposed, yea judicially sentenced their Kings for their tyrannies, oppressions, whoredoms, murders, rapines, and evil administrations, you may reade at large in *George Buchanan* (King *James* his owne Tutor) in his Booke, *De Iure Regni apud*

Scots, and his *Rerum Scotticarum Historia*. Where this their Sovereign power is so largely vindicated, debated, demonstrated, and the chief objections against it cleared so abundantly, that I shall not adde one syllable to it, but present you with some Historicall examples which confirme it.

* p. 100, 134, 257
292, 334, 691
704, 756, 747
748.

* *Fergusius* the last King of Scotland dying, and leaving two sons infants, unable to governe the Realme; the Scots thereupon considering what dangers might befall them both at home and abroad, during their infancy; at last concluded after much debate; and setled this for a standing law; *that when any King died leaving his son under age and unfit to governe, the next of their kinred, who should be esteemed fittest to raigne, should enjoy the sovereign power; and that he being dead, then the succession of the Crowne should returne to the children of the deceased King, being of age to rule; which Law continued constantly for many hundred yeeres, untill the reigne of Kenrath the third.* By this Law *Feritharis* brother to *Fergusius* obtained the Crowne and reigned fiteene yeeres with much justice and modesty; after which his Nephew *Ferleg* desiring to raigne, demanded his Fathers Kingdome of his Uncle, who being willing to resigne it to him, called an assembly of the estates, made an Oration in praise of *Ferleg* profered to resigne the Crowne unto him. But such was all the assemblies love to *Feritharis* and hatred to *Ferleg* for this his preposterous affectation of the Crowne, that they detested the act, and denied the motion both with frownes and verball reprehensions: Whereupon *Ferleg* conspired his Uncles death, which being discovered, they thought him worthy of death; but for *Fergusius* his fathers sake, his life was spared, and he onely imprisoned; after which making an escape he fled first to the *Picts*, then to the *Britons*, and in the meane time *Feritharis* dying, by the treachery of *Ferleg* as was suspected; *Ferleg* by the unanimous sentence of all was condemned and put from his Crowne, being absent, and his brother *Mainus* created King. (b) *Dornadilla* the fourth King of Scotland dying, leaving *Ruther* his sonne under age and unfit to raigne, the people made *Notatus* his brother King; who playing the tyrant, banishing, murthering, and oppressing the people, *Donald* of *Galloway* raised an Army against him, exoptulated with him for his tyranny, and wished him to resigne the Crown to *Ruther*; which he refusing to do, and justifying his tyranny; hereupon *Donald* gave him battell, slew him, and made *Ruther* King without the peoples suffrages: Upon which the Nobles being offended, (because the power of the Parliament was by this meanes abolished, and the election of the supream Magistrate made onely by one man.) tooke up Armes both against *Ruther* and *Donald*, gave them battell twice in one day, and tooke *Ruther* their new King prisoner: who afterwards dying and leaving *There* his sonne an infant, scarce ten yeeres old, they, according to the Law formerly made and received in this case, made his unkle *Ruther* King; who after seventene yeeres reigne voluntarily resigned his Crowne to his Nephew *There*, in whose commendation he made an Oration, the people hardly permitting it, *There* soone after growing very vitious and flagitious, slaying the Nobles, and filling the Realme with robberies, the Governours pittying the deplorable state of the Realme, resolved to punish him for it; of which he being informed, fled to the *Brittains*, where he spent his daies in contempt and ignominy, not daring to returne; *Conan* a prudent and discreet man, being elected *Viceroy* in the meane time, which office he held almost twelve yeeres till the death of *There*. In the reignes of *Finnan* the tenth King of Scotland, that the roots of ty-

* See *Io. Maior hist. Buchan. Rerum Scot. l. 4. p. 100, 101. Helter Bellius de Rebus Scotticis Fordon. his Scot. chronicon Polychronicon & Fabian; Mathews Westminster. Holinsheds history of Scotland.*

(b) *Buchan. l. 4. p. 101, 102, 103, 104, 105.*

ranny might be cut off, it was decreed, *That Kings should command nothing of greater moment to be done, but by the authority of the publique Councell.* *Durstus* the eleventh King, giving himselfe to all deboistnesse, first banished his fathers friends from him as the troublesome reprehenders of his pleasures; and sending for the most vicious young men to be his familiar companions, gave himselfe wholly to luxury and venery. He prostituted his wife, (daughter to the King of *Britains*) to his companions, and then banished her. At last the Nobles conspiring against him, he awaking as it were out of sleepe, considering that he should finde no place of safety, neither at home nor abroad, being equally hated of strangers and subjects, thought best to counterfeit repentance of his former life, for so he might retaine both his Crowne, and in time inflict punishments on his enemies. Wherefore recalling his wife from exile, he first of all endeavoured to reconcile himselfe to the *Britains*: then calling the chiefest of his subjects to him, he ratified with a most solemne oath the oblivion of his former courses; he committed every most wicked person to prison, as if he reserved them for punishment, and religiously promised, that *he would doe nothing hereafter, but by the advice of his Nobles.* When by these things he had given assurance of his sincere mind, he celebrated the agreement with pastimes, banquets, and other signes of publique gladnesse: and now all mens minds being taken up with joy, he called most of the Nobility to a supper; where, when he had shut them up (improvident and unarmed) in one roome, sending in his assassines, he slew them every one. This calamity not so much terrifying as exasperating the minds of the rest with new flames of anger, they gathered a great army together, all men conspiring to take away this detested monster; whom they slew in battell, together with his wicked confederates. After whose slaughter, the Nobles putting by *Durstus* sonnes, lest they should imitate their fathers vices, elected his brother *Even* King with unanimous consent; who hating *Durstus* his tyranny had voluntarily banished himselfe among the *Picts.* *Even* dying, leaving a bastard sonne called *Gillo*, he procured himselfe to be elected *Viceroy* till a new King should be chosen, and got the Kingdome confirmed to him; but yet not deeming himselfe secure as long as any of *Durstus* his family remained, he treacherously slew *Durstus* his two eldest sonnes, with all his kindred and familiars: With which the Nobles being much discontented, and fearing worse things, privily raised an Army against him; who finding himself generally deserted but by a few flagitious persons, who feared punishment, *He was forced to flie in a Fisherboat into Ireland:* whereupon the Scots created *Advallus* their Vice-roy, and after that created *Even* their King, who conquering *Gillo* in Ireland, he was forced to fly into a Cave, where he was taken and his head cut off.

* *Buchan*. l. 4. p.
109, 110, 111,
113, 114, 115,
116. *Grafton*,
part 6. p. 70, 71,
part. 7. p. 83, 81,
82, 84, 86, 87, 90.

* King *Even* the third, not content with an hundred Concubines of the Nobility, made a Law, *That it should be lawfull for every one to marry as many Wives as he could keepe; and that the King should have the mayden-head of Noble women, and the Nobles of the Plebeans before they were married; and that the common peoples Wives should be common for the Nobles.* Besides, luxury, cruelty and avarice were the companions of this his flagitious life; he murdering the rich to get their wealth, and favouring thieves to live in their robberies: whereupon the Nobles and people conspiring against him and taking up Armes, he discerned how unfaithfull the society of all men is; for being deserted by his party as soone as the battell began, he

Notable Diffi-
mulation.

he came alive into his enemies hands, and was committed to perpetual prison, his life being spared by the intercession of *Caldan*, who was made Vice-roy in his stead; but soone after he was strangled in the prison by one whom he had formerly injured. King *Corbreds* sonne being within age at his death, the Assembly of the States made *Dardan* King, who within three yeeres space rushing into all kind of vices, bannished all prudent and honest men out of his Court, kept none but flatterers about him, slew *Cardorus*, and divers others vertuous men who advertised him of his faults; and to take away the feare of succession, plotted the death of *Corbred*, *Galdus*, and others: whereupon the Nobles and people by unanimous consent rose up against him, slew his evill instruments, routed his Forces, tooke him prisoner, whilst he was about to murder himselfe, cut off his head (which they carried about for a laughing-stocke) and threw his corps into a jakes, after he had reigned foure yeeres. *Lustacke* the 22 King of Scots, giving himselfe wholly to Wine and Harlots, sparing the chastity of none though never so neere allied to him, nor their husbands never so great, deflowring his owne Sisters, Aunts, Daughters, joyning inhumane cruelty and insatiable avarice to his lust, and depraving the youth of the Country corrupted by his example, when as no man durst resist him; was at last convented before an Assembly of the chiefe men; where being more freely reprehended for those crimes, he commanded the chiefe of them to be drawne away to punishment, as seditious, calling them old dotting fooles. Whereupon the people assembling together, slew both him and the instruments of his wickednesses, when he had scarce reigned three yeeres space. *Mogaldus* was elected King in his place, who carefully reforming all the abuses and corruptions of *Lustack* in the beginning of his reigne; yet fell at last unto them in his old age, and grew so odious by his vices, to the Nobles and common people, that they weary of him, rose up against him; he being unable to resist them, wandered up & down with one or two Companions, in secret places, seeking to escape by flight; but was at last taken and slaine. *Conarus* his sonne and successor giving himselfe to all manner of luxurie, and lust, brought the Realme in short time to great penury; giving Lands and riches to most vile and naughty persons, because they favoured his corrupt living, and invented new exactions upon his people. Whereupon summoning a Parliament, he demanded a Tribute of them to support his State and Court in Honour; who taking time to deliberate, and understanding at last, that this his hunting after money proceeded not from his Nobles, but from the inventions of Court-flatterers, they resolved to commit the King to ward, as unfit to governe, untill he renouncing the Crowne, they should elect another King. Whereupon the next day, he who was first demanded his opinion, Declaimed sharply against the Kings former life, his bauds and companions, as unprofitable in warre, troublesome in peace, full of shame and disgrace: shewed, that the Kings revenues were sufficient to maintain him if he lived within compasse; that the rest might be supplied out of the estates and by the death of those on whom he had bestowed the publique patrimony; and that the King in the meane time should be committed to custody, as unfit to rule, till they elected another, who might teach others by his example to live sparingly and hardly, after their Countrey custome, and might transmit the discipline received from their ancestors to posterity. With which free speech he growing very angry, instead of pacifying their discontented minds, inflamed them more with his cruell

cruell threatnings; whereupon the King being laid hands on by those who stood next him was shot up in a Hall with a few attendants: his Courtiers, the authors of ill counsell were presently brought to punishment, and Argarus a Nobleman made Vice-roy till the people should mee to elect a new King; after which Cenare spent with griefe and sicknesse, died in prison. King Ethodius his sonne being an infant his brother Tetrasell was chosen King, who murdering his nephew, cutting off divers of the Nobles, and spoiling the common people, to establish the Kingdome in himselfe, he grew so odious and so much diminished his authority in a short time, that he stirred up divers seditions; which he not daring to goe abroad to suppress, being generally hated, was at last strangled by his own followers in the night, in his own House. Ethodius the 2. being a stupid man, and of a duller wit then was suitable to the government of so fierce a people, the Nobles hereupon assembling together out of their respect to the family of Fergusius, would not wholly deprive him of the name of a King, though he were slothfull being guilty of no crime, but assigned Him governours to execute Justice in every County: at last he was slain in a tumult of his familiars. King Athirco his sonne degenerating from his former vertues, and growing extremely covetous, angry, luxurious, sloathfull, and leaving the company of all good men, was not ashamed to goe openly in the sight of the people playing upon a Flute, and rejoycing more to be a Fidler, then a Prince; whereby he became very odious to the people: at last ravishing the daughters of Nathalocus a Noble man, and then whipping and prostituting them to his lewd companions luts; thereupon the Nobles rising up in Armes against him, when he had in vain endeavoured to defend himself by force, being generally deserted by his own people, who hated him for his wickednesse, he murdered himself, and his brother Donus was enforced to flie with his little ones to the Priests to save his life. Nathalicke succeeded in his Realme, governing it ill by indigent ordinary persons, who would attempt any wickednesse, and treacherously strangling divers of the Nobility, who were opposites to him, in the prison to which he committed them, to establish his Kingdome; thereupon their friends with others, being more enraged against him, raised an Army to suppress him; which whiles he endeavoured to resist, he was slain by one of his own servants, or as some say, by a Sorceresse with whom he consulted to know his end. King Findocke being treacherously slain through the conspiracy of Carantius his second brother, Donald his third brother was elected King. Donald of the Isles, usurping the Realme by violence, so farre oppressed the people by ill officers and discords raised amongst them, that he durst seldome stirre abroad; he never laughed but when he heard of the discord and slaughter of his Nobles: for which he was at last surpris'd and slaine by Crathilintius, who was unanimously elected King, and slew all this tyrants children. After the death of Fircormarch there were great divisions and warres for the Crowne between Romach and Augustian, two brethren; Romach at last conquering his brother and chasing him into Ireland, gained the Crown rather by force, then love of the people; which to preserve, he shewed himselfe very cruell to the adverse party, reduced capitall causes to his owne arbitrement, and putting many to death, strucke a generall feare in all good men: Upon this he grew so generally odious to all estates, that they conspired against, and suppressed him before he could collect his Forces; and cutting off his head, carried it about on a Poll, as a joyfull spectacle to the people.

^k *Constantine* the first, of *Scotland*, as soone as he obtained the Crowne, loosed the reines to all Vices: he was cruell and covetous towards his Nobles, kept company with men of the basest Rank; gave himselfe onely to the rapes of maides, matrons, and immoderate feasts, having fidlers, Stage-players, and ministers of all sorts of pleasures almost about him: with which vices the Nobles of *Scotland* being offended, admonished him of his duty. But he proudly contemning them, withed them to looke after other matters, saying, he had councill enough from others, and that they should lay aside their faile hope, that they could reclaime the King by their Councill. On the contrary he was of so poore a dejected Spirit towards his enemies, that he not onely granted them peace, but remitted them injuries, and restored them Castles as soone as they demanded them. Which caused the *Picts* and *Scots* to consult together to depose him by force of Armes; from which *Douglasse* dissuaded them for the present, by reason of their forraigne wars with the *Britans* and *Saxons*: In the end, he was slaine for ravishing a Noble-mans daughter in the 15th yeare of his Raigne. King *Goran* was slaine by the people for favouring *Towser* chiefe Inquisitor, or judge of capitall causes, who much oppressed the people; his children being young, *Hugonius* succeeded to the Crown; and after wards his brothers *Congalus* and *Kumtel*, after whom *Araan* the sonne of King *Goran* reigned. *Ferquhard* the 52 King of *Scots* a craftie man, desiring to turne the Kingdome into a tyrannie, nourished great divisions among the Nobles; but they discovering his malice privily enter into an accord among themselves, and calling a Parliament, sommoned him thereunto: who refusing to appeare, keeping within his Castle; they thereupon tooke it by force, and brought him to judgement against his will; where many and grievous crimes, among others, his cruelty and negligence in the affaires of the Common-wealth; the *Pelagian* Heresie, with contempt of Baptisme, and the other Sacraments, were objected against him; of none whereof he being able sufficiently to purge himselfe, was cast into prison; where, out of shame and sorrow, he slew himselfe. *Ferquhard* the second, a man polluted with all kinde of wickednesse, an unsatiable deterrer of wine and money, inhumanely cruell towards men, and impious towards God, when he had every where vexed others with cruelty and rapines at last turned his fury against his owne, slaying his owne wife, and ravishing his owne daughters: for which wickednesse he was excommunicated: but the Nobles willing to assemble together to punish him, were dissuaded by holy Bishop *Coman*, who told the King openly, that some Divine judgement would shortly seize upon him, which fell out accordingly, for falling into a Fever, and not obtaining from his intemperance, he was eaten up of lice. *Maldwin* 55. King of *Scotland* was strangled by his Queen, for suspicion of Adultery with an Harlot; for which fact she her selfe was burned 4 dayes after. *Amberkelethus* a vicious wicked king, was slaine by one of his own men, with an arrow in the night, when he was marching against the *Picts*: whereupon, lest the Army should be dissolved or left without a Generall, *Eugenius* the 7th was presently chosen King in the Tents: who making peace with the *Picts*, his wife being slaine in his bed by two conspirators who sought his life, the king being suspected of this murther was thereupon imprisoned; but before his triall set at liberty, by the apprehension of the Murtherers. King *Eugenius* the 8th, rushing into all Vices, and neither regarding the admonitions of his Nobles or Clergie, was for his filthy

Book 1 5. p.
140. 147.
156. 160.
171. *Graff*
part. 7 p. 94.
125.

Graffian part.
7. p. 125.
126. 130. 131.
Book 1. 5. p.
162. 63. 165.
166 p. 171. 75
170. 182. 184.
185. 187. 188.
189. 196. 197
197. &c. 200.
201.

lusts, covetousnesse, and cruelty, slaine in the assembly of his Lords by their generall consent, and his companions in wickednesse and villany hanged, which was a gratefull spectacle to the people. *Fergusius* the third succeeded him both in his Crowne and Vices; he was a foule drunken glutton, and so outrageously given to Harlots, that he neglected his owne wife, and brought her to such poverty, that she was forced to serve other Noble women for her living; wherefore to expiate this disgrace, she murdered him in his bed, and after wards flew her selfe also. *Donald* the 70 King of *Scotland*, gave himselfe wholly to his pleasures, keeping none but Hunters, Hawkers, and inventors of new lusts about him, on whom he spent the revenues of the Realme, by which he corrupted the youth of the kingdome: which the ancients of the Realme discerning, assembled and went to the King, admonishing him of his duty; which he not withstanding neglected, till the wars roused him up. Which being ended, he returned to his pristine courses; Whereupon the Nobles fearing, lest this filthy and sloathfull man, who would neither be amended by the counsels of his friends, nor calamities of his people, should lose the remainder of the Kingdome which was left, cast him into prison; where for griefe of his inhibited pleasures, or feare of publike shame, he layd violent hands upon himselfe. *Constantine* the second was inhibited by his Senators to make war before he had reformed the corrupted youth of the Realme by good Lawes; after which he was slaine in battle by the *Danes*. King *Ethius* his brother and successor polluting himselfe with all vices, and drawing all the youth of the Country (prone to wickednesse) with him, he was thereupon seised on by the Nobles; who making a long Oration to the people, wherein they related the wickednesse of his whole life, he was forced to renounce his right in the kingdome, and dyed in prison of griefe, within three days after, *Gregory* being made King in his stead. *Constantine* the third turning Monke, *Malchombe* was elected king, who was slaine by the conspiracie of theeves; whose sonne *Duffus* being an infant, *Indulfus* enjoyed the Crowne; to whom *Duffus* succeeding, was murdered by *Donald*: whereupon a Parliament was assembled to chuse a new King, which elected *Culenus*: who at last degenerating into all licentiousnesse, ravished Virgins, Nunnes, yea his owne sisters and daughters, and set up a kinde of publicke stewes. For which being reprehended by the Nobles, he excused part by reason of his youth, part by reason of feare, and acknowledging his sorrow for the residue, promised a amendment. But he not reforming upon their admonitions, they departed from Court, that they might neither be witnesses nor partakers of his vices: The king freed of their troublesome company gave himselfe wholly to feasting and ventry, spending nights and dayes in dishonest sports and pleasures with his dissolute companions; and to maintaine his luxurie, he pillaged and oppressed his Subjects, especially those who were rich; and by his disorders fell into a grievous sicknesse, which made him a deformed carcase, fit for nothing but to suffer the penalties of his vitious life, his Courtiers and companions spoyling the people every where in the meane time. Whereupon the Nobles were enforced to summon a Parliament at *Scome*, where the king was commanded to be present, that together with the rest he might consult how to provide for the publicke safety in this precipitate State of things: with which commons being awaked, he began to consult with his companions, what was best to be done for his owne safety in these exigents: being unable to resist.

resist or flee, he resolved to goe to the Parliament, hoping to finde some mercy there for his good fathers sake, to preserve him from falling into extreme misery; but in his way thither he was slaine by the Thane of the Country for his violent ravishment of his daughter; his death was acceptable to all, because it freed them of such a monster with lesse labour then they expected: and *Kenneth* the third was made King in his place: who poysoning his Nephew *Malcolme*, heire to the crown after his decease, to settle it on his own posteritie, he caused the Lords in Parliament to repeale the ancient Law wherby the Crown descended to the next of kin during the minority of the right heire; and to enact, that *the sonne should from thenceforth inherite the crowne next after his father, though a Minor, that the Realme during his Minority should be governed by a Viceroy elected by the Parliament and Nobles till he came to 14 yeeres of age; and after that by a Gardián elected by himselfe; that if the Kings eldest sonne dyed having issue, the issue should inherite, before the second brother, &c.* After which, the King generally hated for the poysoning of *Malcolme*, was slaine by the practise and command of *Fenella*. He thus cut off *Constantine* surnamed the bald, sonne of *Culen*, pretending the new Law concerning the descent of the Crowne to be unjust, obtained by force, and contrary both to the publicke liberty and safety; to wit, that an infant (commonly governed by a woman) being unable to governe, or repulse an enemy in times of danger, yea a curse of God upon a Realme, and therefore not to be endured or settled by a Law, especially in those time of warre, when they had so many enemies) should be preferred before a Kinsman of full age, fit to raigne; so ambitiously sought the Crowne and made so many friends, that he procured himselfe to be proclaimed King at *Score*; which *Malcolme* sonne of *Kenneth* (for whose sake this new Law was enacted) understanding, presently raised all the Forces he could, which being conducted by his brother *Kenneth*, *Constantine* and he in the second encounter were both slaine one of another. After whose death *Grame* the sonne of *Duffus* usurping the Crowne, when he and *Malcolme* were ready to encounter with their Armes, this agreement was made betweene them by *Forshred* a Bishop, that *Grame* should retain the Kingdome, and the new Law of succession be suspended during his life; and *Malcolme* succede him after his death. After which *Grame* giving himselfe to all dissolutenesse, covetousnesse and oppression, and warring upon those Nobles and Councillors, who advised him to reforme his evill courtes, with greater cruelty than any forraigne enemy, destroying both men, townes, cattle, fields, and making all a common prey; hereupon they called in *Malcolme* out of *Northumberland* to assist them, who encountring *Grame*, on Ascencion day, tooke him prisoner, being deserted of his people, wounded in the head, and then put out his eyes; who soone after dying of sorrow and his wounds; *Malcolme* thereupon summoned a Parliament at *Score*, and would not take the Crown till the Law concerning the succession made in his fathers raigne, was ratified by all their consents: against which *Lan Buchanan* exceedingly inveighs in the beginning of his seventh Booke, as the occasion and increase of all those mischiefes both to King and Kingdome, which it was purposely made to prevent. This *Malcolme*, after he had raigned long victoriously with much honour, in his declining age, growing very covetous, tooke away the lands he had formerly given to his Nobles for their good service in the wars, and punished divers of the wealthiest men so

*Buch. l. 7. p.
213. to 230.*

*Heylins Geogr.
p. 597. 508.*

severely, that he brought many of them to death, others to extreame poverty; which injuries lost him all his love, honour, and so farre exasperated the people that partly out of revenge, partly to prevent further oppressions and to provide for their owne securitie, corrupting his servants with money, they sent their agents into his chamber in the night, and slew him. Not to mention the murder of King ^m Duncan by *Machbed*, who usurped his Crowne through his pusillanimity; this *Machbed*, omitting no kind of libidinousness, cruelty, and tyrannizing over the people for 18. yeares soace together, trusting to the predictions of certaine wifards, that he should never be overcome till *Bernane wood* did come to *Dunsnave Castle*, and that he should never be slaine by any man borne of a woman. At last *Mackduffe* governour of *Fiffe* joyning himselfe to some few patriots who had escaped this Tyrants sword, met at *Bernane wood*, and early in the morning every man bearing a bough in his hand, the better to keepe them from discovery, tooke *Dunsmare Castle* by scalado: whence *Machbed* escaping was pursued, overtaken, and urged to fight by *Mackduffe*, to whom the Tyrant replied in scorne, that in vaine hee attempted his death, for it was his destinie never to be slaine by any man borne of a woman: Now then said *Mackduffe*, is thy fatall houre come, for I never was borne of a woman, but violently cut out of my mothers wombe, she dying before I was borne; which words so daunted the Tyrant, though otherwise valiant, that he was easily slaine, and *Malcolme Conner* the true heire of the Crowne, seated in the Throne. King *Donald* being odious and cruell to his subjects, they sent for *Duncan Malcolmes* bastard, who expelled him the Realme, and was created King in his steed; who proving harsh, cruell, and Imperious to his Subjects, fell into their hatred, and was beheaded in the night by *Marpender Earle of Murry*, corrupted with money by *Donald* to murder him. *Donald* permitting the Isles to be taken and possessed by *Magnus* King of *Norway*, and suffering his Realme to be waisted by a secree agreement; thereupon the Scots sent for *Edgar Malcolmes* sonne, to take possession of the Crowne, who entring into *Scotland* with small forces, *Donald* being deserted by his people, betooke himselfe to flight, but being apprehended and brought backe to *Edgar*, he was cast into prison, and not long after dyed. King *Malcolme* the fourth, at a Parliament at *Yorke* parting with divers of his Crowne-lands to King *Henry* without his peoples consents so farre incurred their hatred, that upon his returne they besieged him at *Barwick*, and almost tooke him prisoner, but by the mediation of some of his Councell, who informed the Nobles, that the King was by violence & fraud circumvented by the King of *England*, of the ancient patrimony of the Crowne land, they resolved to recover it by war: the Scottish Nobility affirming, that the King had not any power to diminish, or part with any lands appertaining to the Crown without all their consent in Parliament. This King after some encounters making a peace with the *English* upon unequall termes, wherein he parted with some of his ancient territories, out of his pusillanimity, against his Nobles consent; hereupon he grew so odious and contemptible to them, that they were all weary of his government, and caused many to take up Arms and Rebell against him.

*Buch. l. 8. p.
250. Wals. g.
Mat. Westm.
Fabian Holin.
Speed, Graft.
Daniel in the
life of K. Edw.
the 1. Wals-
ingham Tpo-
logiap. 79.*

After the death of King *Alexander* the third there was a Parliament summoned at *Score* to consult about the creating of a new King; and the government of the Realme, during the *Inter-regnum*; where first of all they appointed six men to rule the Realme for the present, and then heard and discussed the severall Titles pre-
tended

tended to the Crowne, the finall determination whereof, they referred to King *Edward* the first of *England*, as to the Supream Sovereigne Lord of the Realme: who selecting 12. *Scottish*, and 12. *English* Councillors to assist him; After full hearing, by generall consent of all, adjudged the Crowne to *John Baylioll*, husband to King *Alexanders* highest Kinswoman: The *Scots* considering his simplicity and unaptnes to governe them, and scarce confiding in him being an *Englishman*, and elected by the K. of *England*, constituted them 12. *Peers*, after the manner of *France*, to wit, 4. Bishops, 4. Earles, and 4. Lords, by whose advise the King and all the affaires of the Realme, were to be governed and directed: He was taken and kept prisoner by the *English*. After the death of *Robert Bruce*, the *Scots* before their King was crowned, created a *Vice-Roy* to govern the Realme, who suppressed the thieves, and Robbers: *Edward Baylioll* sonne to *John Baylioll* succeeding *Bruce*, was afterwards rejected and deposed by the *Scots*, for adhering too closely to the *English* & K. *Edward*, and *David Bruce* elected K. in his place. *Robert* the 3^d. of *Scotland* when a peace was propounded between *France*, *England*, and *Scotland* by the Pope, willingly consented thereunto, but his Nobles being against it, his assent alone was in vaine; because the King of *Scotland* alone, can make no firme peace nor truce, nor promise which shall bind, but by publike consent in Parliament. King *Robert* the 3^d. dying of grieft, for the captivity and imprisonment of his son *James*, taken prisoner by our King *Henry* the 4th. as he was going into *France*, the *Scots* hereupon appointed *Robert* his uncle, by common consent, for their *Vice-roy*, till *James* the (first of that name) right heire of the Cowne, were enlarged. *James* being freed and Crowned, summoned a Parliament, wherein an ayde was granted him to pay his ranfome, with much difficulty: he had many Civill wars with his Subjects, and at last was murdered by *Robert Grame* and his confederats, from whom he received 28. wounds in his Chamber in the night, wherof he presently died. *James* the 2. his son, being but 7. yeares old at his death, *Alexander Levison* was chosen Protector, and *William Crichies* made Chancellor by Parliament; Which the Earle *Douglas* storming at, committed many insolencies in a hostile manner. After which, *Alexander* and his faction opposing the Chancellor, and commanding that none should obey him, the Chancellor thereupon fortified *Edenborough* Castle, and as the King was hunting early in the morning seized upon him with a troop of Horse, & brought him to *Edinburgh* Castle, where he detained him from the Protector till the peace of the Kingdom, and present divisions should be settled: which lasting very long by reason of Earle *Douglas* his ambition, power, and covetousnes, who raised many grievous civill wars, he was at last stabbed to death by the King him selfe, Anno 1452. contrary to his promise of safe conduct to the Court, under the Kings and Nobles hands and seales: Wherupon his brethren and Confederats, meeting at *Sterling*, resolved to revenge his death, and tied the Kings and Nobles writing of safe conduct to an horses taile, which they led through the streets of *Sterling*, railing at the King and his Councill as they went, and when they came into the market place (where they had 500. trumpets sounding) they by an Herald, proclaimed the King and all that were with him, sedisfugus, perjured, and enemies of all good men: and then spoiled and burned the Towne, Country, with all places else that were firme to the King; betweene whom and the kings party, a bloody civill warre (to the spoyle of the Countrey) continued above two yeares

¹ Buchanan l.
9. 10. 11. 12.
p. 291. 334.
&c. 412. 413.

space with various success; still at last with much difficulty this fire was extinguished and the King casually slaine with the breaking of a Cannon: whose sonne *James* the 3. being but 7 yeeres old, was proclaimed king in the Campe, and the *Queen Mother* made Regent, till a Parliament might be called to settle the government; but when the Parliament assembled, upon the *Oration* of *Kneeth* Archbishop of *Saint Andrewes* shewing the *Inconveniences* and *unsitnesse* of a *womans* Government, they *Elect* 6. Regents to governe the King and Realme during his minority. After which *Bodinus* was made Vice-roy: This king being seduced by ill Courtiers and Councillors which corrupted him, thereupon divers of the Nobles assembling together, resolved to goe to the Court, to demand these ill Councillors and seducers of the King and then to execute them; which they did accordingly, and that with such fury, that when they wanted cords to hang some of them, they made use of their horses bridles, and every one slave who should be forwardest to doe this execution. The king promising reformation, was dismissed; but in stead of reforming he meditated nothing but revenge, blood and slaughter in his minde; and plotting secretly to murder the Nobles in *Edenburgh*, by the helpe of Earle *Duglasse*; he detesting the fact and revealing the Treachery, thereupon the Nobles who formerly desired onely his reformation, tooke up Armes to destroy him, as one incorrigible and implacable; whereupon they made the Kings sonne Vice-roy, and knowing the kings perfidioufnesse, would yeeld to no termes of peace, unlesse he would resigne up his Crown to his son: which he refusing, thereupon they gave him battle and slew him, as a common enemy. After which calling a Parliament, they created his son *James* the fourth king; who comming under the power of the *Duglasses*, rescued himselfe at last from them: and invading *England*, Anno. 1542 when he proclaimed *Oliver Sincleer* his favorite, Generall, the Scottish Nobility tooke it in such indignation, that they threw downe their weapons and suffered themselves to be taken prisoners; whereupon the king growing sicke with griefe and anger, soone after dyed. Anno. 1555. *Mary* the Daughter of king *James* the sixth of *Scotland*, and heire to the Crowne, being within age, her mother *Queene Mary*, by common consent was made Regent, and shee by common consent and councill of the Nobles, married to *Francis* Dolphine of *France*. In the meane time there hapning some troubles and warres about the reformed Religion, which many of the Nobles and people there contended for; the *Queene Mother*, granting those of the Religion, a confirmation of their liberties and Religion by way of Truce for 6 moneths, she in the meane time sends for Souldiers out of *France*, where with she endeavoured to suppress Religion, with the remaining liberty of the Scots, and to subject them to the *French*. Whereupon the Nobles of *Scotland* who stood for the defence of their Religion and Liberties, by a common decree in Parliament, deprived the *Queene Mother* of her Regencie, make a league with our *Queene Elizabeth*, being of the reformed Religion, and receiving ayde both of men and money from her, besieged the *Queene Mother* in *Edenburgh* Castle, where she dyed of griefe and sicknesse. After which they expelled the *French*, and procured free exercise of the Reformed Religion. In the meane time *Francis* dying, the *Queene* sends for *Henry Steward* out of *England*, where he and his Father had bene Exiles; marries and proclaimes him king, *July* 29. 1564. which done, she excluded the Nobility from her Councill, and was wholly advised by *David Ric-*

Buchanan
l. 12. p. 417. 10
430. 441. 10
456. *Heylin*
p. 510.

Buch. l. 16. to
the end of 20.
Holin. Chytr.
Chron. Saxor.
l. 21. p. 640.
641. 642. 836.
Speed, in the
life of *Queen*
Mary, and
Queene Elizabeth
Camb-
dens Elizabeth, and
others. See
Knocks his
History of
Scotland.

ziss, a *Subardian*, whom she brought with her out of *France*, and did all things by his Councell; wherewith the Nobles being much discontented, finding him supping with the *Queene* in a little Chamber, commanded him to rise out of the place, which did little become him, and drawing him out of the Chamber, stabbed him to death, *Anno. 1565.* The *Queene* soone after was delivered of a sonne and heire, *James the 6.* and then admits *James Hepburne Earle of Bothwell* into most intimate familiarity with her, setting him over all affaires of the Realm, granting nothing to any petitioner almost but by him; and her husband *Steward* being dead (whether of a naturall death or poyson is yet in controversie) she married *Bothwell* openly, without the Lords and Parliaments consents. Hereupon the Nobles tooke up armes against *Bothwell* and the *Queen*, besieged the *Queen* till she rendred her selfe prisoner, upon this condition; that she should abjure and resigne her interest in the Crowne and Kingdome to her infant sonne; which they compelled her to performe, and appointed *James Earle of Morton* Vice-roy, and Protector during the Kings Minority. In the meane time the *Queene* was committed prisoner to the Castle of the Isle of the *Lake Leuine*; where corrupting *Du-glasse* her keeper, the Earle of *Mortons* Nephew, and a shipmaster, she escaped to the *Hamiltons* in safety, who having raised Forces to free her, waited her comming on the shoare: But the Vice-roy scattering these forces soone after, the *Queene* thereupon fled into *England.* *Anno. 1568.* Where *Queene Elizabeth* taking her expulsion ill, laboured that she might be restored to the Crowne, which could not be effected, but by Armes, or mediation; and neither of them without knowledge of the cause. Whereupon the *Queene* sent for the Vice-roy and Councell of *Scotland* into *England*, to answer the complaints of their *Queene* against them; which they did in a writing, (composed by *Buchanan*, and afterwards Printed both in Latine and *Englissh*,) wherein they shewed the grounds and order of their proceedings against their *Queene*; wherewith the *Queene* and Councell were satisfied, that they had proceeded rightly and orderly: yet to keepe both sides in suspence, she pronouncd no definitive sentence: The Vice-roy departing into *Scotland*, was afterwards murdered by the *Hamiltons*, and *Matthew Steward* Earle of *Lennox* made Vice-roy in his stead. The *Queene* in the interim treated with *Thomas Howard* Duke of *Northfolke*, about a match with him, and to seise upon the Realm of *Scotland*, whereupon he was committed to the Tower, and she restrained; after which she was solemnly arraigned and condemned to death by the Parliament of *England* for conspiring *Queene Elizabeths* death, &c. and for it beheaded at *Fotheringham* Castle, *Feb. 8. 1587.* The History of which *Queenes* life is more at large related by *Buchanan* and others; and her imprisonment and Deposition professedly justified as lawfull by his Treatise, *De Inre Regni apud Scotos* (compiled for that purpose) to which I shall referre the Reader.

What the Lords and Realm of *Scotland* have done within these 5. yeers last past in defence of their Religion Lawes, Liberties, by holding generall Assemblies, Parliaments, taking up armes, seising the Forts and Ammunition of the Realm, and marching into *England*, against the Kings consent and Proclamations, is so fresh in memory, so fully related in the *Acts of Oblivion and Pacification*, made in both Parliaments of *England* and *Scotland*, ratified by the King himselfe; and in particular Histories of this Subject, that I shall not spend time to recite particulars,

but:

8 Retum. Scoti
Hist. 1. 15. 16.
17. 18. 19. 20.

Rerum Scot.
l. 20. p. 746,
747.

but will rather conclude from all the premises with the words of Buchanan; The Ancient custome of our Ancestors in punishing their Kings, suffers not our forcing of the Queene to renounce her right unto the Crowne to her sonne, to seeme a Novelty; and the moderation of the punishment, shewes it proceeded not from envie: for so many Kings punished with death, bonds, banishment by our Ancestors, voluntarily offer themselves in the ancient Monuments of Histories, that we neede no forraigne examples to confirme our owne act: For the *Scottish* Nation, seeing it was free from the beginning, created it selfe Kings upon this very Law, that the Empire being conferred on them by the suffrages of the people, if the matter required it, they might take it away againe by the same suffrages; of which law many footsteps have remained even to our age: for in the Islands which lye round about us, and in many places of the Continent, wherein the Ancient language and constitutions have continued, this very custome is yet observed in creating Governours: likewise the Ceremonies which are used in the Kings inauguration have also an expresse image of this Law; out of which it easily appears, that a Kingdome is nothing else, but the mutuall stipulation betweene the people and their Kings: the same likewise may be most apparently understood out of the inoffensive tenor of the ancient Law, preserved from the very beginning of raigning among the *Scots* even unto our age; when as no man in the meane time hath attempted, not onely not to abrogate this Law, but not so much as to shake it, or in any part to diminish it: Yea, whereas our Ancestors have deprived so many Kings as would bee tedious to name, of their Realme; condemned them to banishment, restrained them in prisons, and finally punished them with death, yet there was never any mention made of abating the rigor of the Law; neither perchance undeservedly, since it is not of that kinde of Lawes which are obnoxious to the changes of times, but of those ingraven in the mindes of men in the first originall of mankinde, and approved by the mutuall consent well-nigh of all Nations, which continue unbroken and sempiternall together with the Nature of things, and being subject to the commands of no man; domineere and rule over all men. This law (which in every action offers it selfe to our eyes and mindes, and dwells in our breasts will we, nill we) our Ancestors following, were alwayes armed against violence, and suppressed the unrulinesse of Tyrants. Neither is this Law proper onely to the *Scots*, but common to all well-ordered Nations and People: as the *Athenians*, *Lacedemonians*, *Romanes*, *Venetians*, *Germanos*, *Danes*: which he there manifests by examples. So that I may hence infallibly determine, the Realme, Parliament, and Nobles of *Scotland*, collectively considered, to be the Sovereigne power in that Realme, superiour to the Kings themselves: from whom I shall proceede to Scripture Presidents, in the Kings and Kingdomes of the *Gentiles*, *Israel*, and *Judah*, recorded in Scripture.

The Kings of the *Gentiles*, *Israel*, and *Judah*.

Now

Now least any should object, that all the forecited Examples and Authorities are but humane, and no convincing evidences to satisfie the Conscience, That whole Kingdoms, States, and Parliaments are above their kings, and of greater power then they, I shall therefore (to close up this Posterne Gate of Evasion) conclude with Scripture Presidents, ratifying this truth beyond all contradiction. To begin with Heathen kings and States therein recorded. I read in the 1 Sam. 29. and 1 Chro. 12. 19: *That when David with his men offered to go with Achish and the Philistines against King Saul (his Sovereign) and the Israelites to Battell, and passed on in the reuerard with Achish; the Princes of the Philistines seeing it, said, what do these Hebrews here? To whom Achish answered, Is not this David the servant of Saul King of Israel, which hath been with me these years, and I have found no fault in him since he fell unto me unto this day? Hereupon the Princes of the Philistines were wroth with him, and taking advice together, said to their King Achish, Make this fellow returne that he may goe againe to his place which thou hast appointed him, and let him not go down with us to Battell, lest in the Battell he be an aduersary to us; for wherewith should he reconcile himself to his Master? should it not be with the Heads of these men? Is not this David, of whom they sang one to another in dances, saying, Saul slew his thousands, and David his ten thousands? Then Achish called David, and said unto him, Surely as the Lord liveth, thou hast been upright, and thy going out and coming in with me in the Host is right in my sight, for I have not found euill in thee since the day of thy coming; nevertheless the Lords fauour thee not; wherfore now return and go in peace, that thou displeasest not the Lords of the Philistines.* And when David replied, *What have I done, &c. that I may not fight against the Enemies of my Lord the King? Achish answered him, I know thou art good in my sight as an Angell of God, notwithstanding the Princes of the Philistines have said, HE SHALL NOT GOE VP WITH VS TO BATTELL; wherfore rise up early in the morning with thy Masters servants that are come with thee, and as soon as ye have light, depart; wherupon they returned.* Here we see the Lords of the Philistines did peremptorily overrule their king against his will, who durst not contradict them; therefore they had a Power superiour to his: as will further appear by 1 Sam. 5. 7, 8, 9, 10, 11. and ch. 6. 1, to 13. where when the Ark of God was taken by the Philistines, the Lords and People of the Philistines (not the King) met, consulted, and ordered, how it should be removed from place to place, and at last sent it back again. So Ahasuerus the great Persian Monarch, was advised, overruled by his Councell of State, as appeareth by the case of Queen Vashti, Ester 1. and what his Princes thought meet to be done, that he decreed and proclaimed, verse 19, 20, 21, 22. So Artaxerxes king of Persia did all things of moment, by the advise of his Counsellors and Princes, Ezra 7. 28. and Chap. 8. 25. Great Nabuchadnezzar King of Babylon, (Dan 3. 2, 3, 24. chap. 4. 32, to 36.) was for his pride driven from men, put to eat grasse with Oxen for a space, till he knew that the most High ruleth in the Kingdoms of men: After which his understanding and reason returned to him, and the glory of his Kingdom, and his Counsellors and Lords sought unto him, and established him in his Kingdom, he being over-ruled and counselled afterwards by them. So Daniel 6. Darius King of the Medes and Persians, was over-ruled by his Lords and Princes, even against his will, to Signe a Decree, and to cast Daniel into the Lyons Den for breach of it; and though the King were sore displeas'd with himself for Signeing this Decree, and set his heart on Daniel, and laboured till the going down of the Sun

(s) Dan. 6. 14. 20. to deliver him; yet the Princes assembling and telling the King, (a) Know O King, that the Law of the Medes and Persians is, that no Decree nor Statute which the King establisheth, (by the advice of his Nobles) may be changed, (to wit, by the king alone, without their advise: a clear evidence, that the greatest Persian Monarchs were subject to the Laws of their Kingdoms, as well as other Princes;) Whereupon the King commanded, and they brought Daniel and cast him into the Den of Lyons, and a stone was brought and laid upon the mouth of the Den, and the King Sealed it with his own Signet, and with the Signet of the Lords, **THAT THE PURPOSE MIGHT NOT BE CHANGED** concerning Daniel. Here this great king was even against his will constrained to be subject both to his Laws and Lords. The like we read of Pharaoh king of Egypt, Exod. 1. 8, 9, 10, 11. who consulted with his people how to oppresse the Israelites, as being unable to do it without their consents. And Exod. 10. Pharaohs Councillors and Lords, (after sundry Plagues on the Land) said unto him, How long shall this man (Moses) be a snare unto us? Let the men go that they may serve the Lord their God; Knowest thou not that Egypt is destroyed? Whereupon Moses and Aaron were brought before Pharaoh, who said unto them, Go serve the Lord your God. And Esay 19. 11. to 16. Surely the Princes of Zoan are fools, the counsell of the wise Counsellors of Pharaoh is become brutish: They have also seduced Egypt, even they that are the stay of the Tribes thereof. They then had an overruling power above their kings. So the great King of Nineveh, Ionah 3. 7, 8, 9. proclaimed and published a generall fast thoroughout the City, by the Decree of the King, and of his great men, making no publike Laws, but by their advice and assents. In like manner we read in the 2 Sam. 5. 3, 4, 5. That the Princes of Hanun King of the Ammonites counselled and overruled him (out of overmuch suspicion) to abuse Davids messengers sent to him in love. And in the 1 Kings 22. 47. There was then no King in Edom, a Deputy was King; the kingdom appointing a Deputy then to rule them instead of a king, and giving him royall authority: And in the 2 Kings 8. 22. 2 Chron. 21. 8. In the dayes of Ioram, Edom revolted from under the hand of Iudah (which had conquered it) and **MADE A KING OVER THEMSELVES**; and though Ioram smote the Edomites, who encompassed him, yet they revolted from under the hand of Iudah till this day: The electing and constituting of a king being in their own power. See Gen. 23. 3. to 20. and e. 34. 20. to 25. to like purpose.

These being all Pagan Kings and States, I come to the Israelites themselves; wherein for my more orderly proceeding, and refutation of the many grosse erroneous Assertions of * Court Doctors and Royallists touching the estate and Sovereignty of their Kings, whom they would make the world beleve to be absolute Monarchs, subject to no Laws, to derive all their royall authority from God alone, and no wayes from the people; to be meerly hereditary and elective, to be above all their people; irresistible in their Tyrannicall wicked proceedings, and no wayes subject to their Realms and Congregations overruling controll, much lesse to their defensive opposition or deprivation; I shall digest the whole History of their Kings and Kingdoms Jurisdictions and power into these ensuing propositions, which I shall clearly make good out of Scripture, as I propound them in their order.

First, That the originall Creation and Institution of the Israelites Kings and Kingdoms proceeded onely from the power and authority of the people, and that solely by Divine permission, rather than institution: This is most apparent by Deuter. 17. 14, 15.

When thou art come unto the land which the Lord thy God giveth thee, and shalt possess it and dwell therein, and shalt say, I WILL SET A KING OVER ME, like as ALL THE NATIONS THAT ARE ABOUT ME; THOU SHALT in any wise SET HIM KING OVER THEE, whom the Lord thy God shall chuse; one from among thy brethren SHALT THOU SET OVER THEE, THOU MAIST NOT SET A STRANGER OVER THEE, which is not thy Brother. Where God himself by way of * prophesie of what afterwards should come to passe, expressly declares, first, that the primary motion of changing the government of the Jews from Iudges and an Aristocracy into a Kingdom, should proceed from the peoples inclination, as the words, and shalt say, I will set a King over me, &c. import. Secondly, that the authority to change the Government into a Regality, to create and make a King, resided in, and the authority of the King proceeded merely from the people, as the words, I will set a King over me, Thou shalt set him over thee; (four times recited in two Verses;) manifest beyond dispute. Thirdly, that all Nations about them who had Kings, had the like power to create and make their kings, as the words, Like as all the Nations that are about me, witness. All which is evidently confirmed by Iosephus, Antiqu. Iudaeorum, l. 4. c. 8. by Carolus Sigonius de Repub. Hebraeorum, l. 7. c. 3. Bertram, Cusanus,* Sebikardus, and * divers Commenta-

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tors on this Text: The History of the change of their State into a Kingdom, and of their Iudges into kings, added to this Prophecie and precept, will leave no place for any scruple. We read in the 1 Sam. 8. that the people growing weary of Samuels government who judged them, by reason of the ill government of his sonnes, who tooke Bribes, and perverted judgement; thereupon ALL THE ELDERS OF ISRAEL GATHERED THEMSELVES TOGETHER, and came to Samuel unto Ramah, and said unto him, Behold, thou art old, and thy sons walk not in thy wayes, now MAKE VS A KING TO IVDGE VS LIKE ALL THE NATIONS: But the thing displeas'd Samuel, when they said, Give us a King to judge us; and Samuel pray'd unto the Lord; And the Lord said unto Samuel, HEarken vnto the VOYCE OF THE PEOPLE IN ALL THAT THEY SAY VNTO THEE; for they have not reject'd thee, but they have reject'd me that I should not reign over them; According to all the works that they have done since the day that I brought them out of Egypt, even unto this day; wherewith they have forsaken me, and served other gods, so do they also unto thee: Now therefore hearken to their voyce; howbeit, yet protest solemnly unto them, and shew them the manner of the King that shall reign over them. And Samuel told all the words of the Lord unto the people that asked of him a King; and he said, This will be (not ought to be) the manner of the King that shall reign over you, he will take your sons, and appoint them for himself, &c. and ye shall be his servants: and ye shall crie out in that day because of YOUR KING WHICH YE SHALL HAVE CHOSEN YOU, and the Lord will not hear you in that day. Never the less, the people refused to obey the voyce of Samuel, and they said, Nay, BUT WE WILL HAVE A KING OVER US, that we also may be like all the Nations, and that our King may judge us, and go out before us, and fight our battels. And Samuel heard all the words of the people, and rehearsed them in the ears of the Lord: And the Lord said unto Samuel, Hearken unto their voyce, and make them a King. After which, when God had appointed Saul to be their King, (b) Sa-

muel called the people together unto the Lord in Mizpeh, and recapitulating the great

* See Cumerus de Repub. Heb. l. 2. c. 19.

* Ius. Regium Heb.

* See Steph. Iulianus Brutus, Vindic. Contre Tyrannos, p. 3. p. 83. 10. 92. De Iure Magistr. in Subditos, p. 272. 273.

(b) 1 SAM. 13. 12. 13. 14. 20.

deliverances God had done for them, added, And ye have this day rejected your God, who himself saved you out of all your adversities and tribulations, and ye have said unto him, Nay, **BVT SET A KING OVER VS, &c.** And Samuel said unto all the people, See ye him whom the Lord hath chosen, that there is none like him among all the people? And all the people shouted and said, God save the King. After which he
 (c) *expostulated again with them thus, And when ye saw that Nahash King of the Children of Ammon came against you, ye said unto me, Nay, BVT A KING SHALL REIGN OVER VS, when the Lord was your King; Now therefore behold the KING WHOM YE HAVE CHOSEN, AND WHOM YE HAVE DESIRED, &c. that ye may perceive and see that your WICKEDNESSE is great which ye have done in the sight of the Lord, IN ASKING YOV A KING. And all the people said unto Samuel, Pray for thy servants unto the Lord thy God that we die not, for we have added unto all our sins this evil, TO ASK A KING. Which compared, with H. f. 13. 10, 11. I will be thy King, where is any other that may save thee in all thy Cities? and thy Judges of whom thou saidst, GIVE ME A KING AND PRINCES? I gave thee a King in mine anger, and tooke him away in my wrath: with Acts 13. 21. And afterward THEY DESIRED A KING, and God gave them Saul the son of Cis, by the space of forty years. All these concurring sacred Texts will infallibly demonstrate, that this change of the Judges into Kings, and the original creation of their Kings and kingdoms proceeded only from the importunity and authority of the people, who would not be gainsaid herein, nor from Gods institution, or Samuels approbation, who censured and disavowed this their motion, though they at last condescended to it; all which is elegantly related, confirmed by Iosephus, Antiqu. Indæorum, l. 6. c. 4, 3, 6, 7. By all this it is apparent, that the congregation and people of the Jews had the Sovereign power in themselves, as well as other Nations, because the authority to alter the whole frame of their former Aristocraticall Government into a Monarchy, resided in them, though they were taxed for changing it in Samuels dayes, who had so justly, so uprightly judged them.*

2.

Secondly, it is apparent, that the Judges and kings of the Israelites were not properly hereditary, but oft elective by the people: and though God did sometimes immediately nominate the persons of those that should reign over them, as is apparent by Saul, David, Ieroboam, Iehu, others; yet the people did constantly confirm, make them kings, and gave them their royall authority, none being made kings by Divine appointment, but such as they willingly accepted, approved, confirmed for their kings; Gods previous designation being but a preparative to their voluntary free (not restrained or limited) election. The first king among the Israelites (though but over part of them) was Abimelech the son of Ierubbaal, who was made king by the peoples election, Judges, 9. 1, 10. 7. who having perswaded those of Sechem to elect him for their king, thereupon **ALL THE MEN** of Sechem gathered together, and **ALL THE HOVS** of Milio went and **MADE ABIMELECH KING**: whence Iotham thus upbraided them and him, Verse 14. to 19: Then said all the trees unto the Bramble, come thou and reign over us: And the Bramble said unto the trees, If in truth ye annoint me king over you, then come and put your trust in my shadow, &c. Now therefore if ye have done truly and sincerely in that: **YE HAVE MADE Abimelech KING, &c.** And that ye have risen up against my fathers house this day, and have **MADE Abimelech king, &c.** We read Iudg. 8. 21, 23. that after Gideon had slain Zebah and Zalmunna, with the Midianites,

The men of Israel said unto Gideon, Rule thou over us, both thou and thy sons, and thy sons son also, for thou hast delivered us from the hand of Midian. And Gideon said unto them, I will not rule over you, neither shall my son rule over you, the Lord shall rule over you. Where we clearly see, the power and right to elect a Ruler, and to limit the government to him and his Issue, for three Generations only, to reside in the peoples free election. So Judges 10. 17, 18. and Chap. 11. 1. to 12. When the Children of Ammon were gathered together and encamped against Gilead, the people and Princes of Gilead said one to another, What man is he that will begin to fight against the children of Ammon, he shall be Head over all the Inhabitants of Gilead. And the Elders of Gilead went to fetch Iephthah out of the Land of Tob, and said unto him, Come and be our Captain that we may fight with the Children of Ammon, and be our Head over all the inhabitants of Gilead: Upon promise of which dignitie, he went with them to Gilead; and **THE PEOPLE MADE HIM HEAD AND CAPTAIN OVER THEM.** That the election and making of their Kings belonged of right to all the people, is past dispute, being so resolved by God himself, Deuter. 17. 14, 15. When thou art come into the land, &c. and shalt say, I WILL SET A KING OVER ME, like as all the Nations that are about me, THOU shalt in any wise SET HIM KING OVER THEE whom the Lord thy God shall choose; one from among thy Brethren shalt THOU SET OVER THEE, THOU MAIST NOT SET A STRANGER OVER THEE: Where the power of creating and electing the King, is left wholly to the peoples free choice, with these generall restrictions, that he should be one of their brethren, not a stranger, and particularly qualified as is there expressed. And though God did sometime design and nominate their Kings, yet he left the power of approbation and ratification of them free to the people, as is apparent by 1 Sa. 8. 18. And ye shall cry in that day, because of the King WHICH YE SHALL HAVE CHOSEN you. Hence Saul their first King, though nominated and designed by God and Samuel, was yet approved, confirmed and made King by the People. who shouted and said, God save the King, when Samuel presented him to them; 1 Sam. 10. 24. (d) But the children of Belial ^{(d) 1 Sam. 11, 12, 13, 14} despising and bringing him no presents, Verse 27. after Saul had conquered the Ammonites, who besieged Iabesh Gilead; The people said unto Samuel, who is he that said, Shall Saul Reign over us? bring the men that we may put them to death. Then Saul said, There shall not a man be put to death this day; for this day the Lord hath wrought salvation in Israel. Then said Samuel to the people, Come let us go to Gilgal, and renew the Kingdom there. And **ALL THE PEOPLE** went to Gilgal, and there **THEY MADE SAUL KING** before the Lord in Gilgal: Where Samuel useth this speech to the people, concerning Saul, (e) Now therefore behold **THE KING WHOM YE HAVE CHOSEN**, and whom **Ye** have desired, the Lord hath set a King over you: (So that the choice and election of him, was as well theirs as Gods:) And Verse 25. he calls him **Your King**, because chosen and made by, as well as for the people.

Saul being slain by his owne hands, the Crown descended not to his sonne by way of descent, but David succeeded him by Gods designation, and the Peoples election too; by whose authority he was made and crowned king, being formerly * annointed ^{+ 1 Sam. 16. 1, 10, 14.} by Samuel to succeed Saul. This is irrefragable by the 2 Sam. 2. 4. Where David going up to Hebron by Gods direction, the men of Judah came, and there they annointed David King over the House of Judah. After which 2 Samuel, 5. 7.

to 5. **ALL THE TRIBES OF ISRAEL** came to David to Hebron, and spake saying, Behold we are thy bone and thy flesh. Also in time past, when Saul was King over us, thou wast he that leddest out and broughtest in Israel; And the Lord said to thee: Thou shalt feed my people Israel, and thou shalt be a Captain over Israel. So **ALL THE ELDERS** of Israel came to the King at Hebron, and King David made a League (or Covenant) with them before the Lord; and **THEY ANNOINTED DAVID KING OVER ISRAEL**. And in the 1 Chron. 12. 23. to 40. Wee have a particular recital of the numbers of the bands that were ready armed to the Warre, and came to David to Hebron to **TURN** the Kingdome of Saul **TO HIM**; and came with a perfect heart to Hebron **TO MAKE DAVID KING OVER, ALL ISRAEL**; and **ALL THE REST** also of Israel were **OF ONE HEART TO MAKE DAVID KING**: Whose title to the Crown being afterwards shaken by his sonne Absalom, who cunningly usurped it, (and that by the election of the people too; as is evident by Hushai his speech unto him, 2 Sam. 16. 18. Nay, but whom the Lord, and **THIS PEOPLE, AND ALL THE MEN OF ISRAEL CHOOSE**, his will I be, and with him I will abide, compared with 2. Sam. 29. 9, 10. And all **THE PEOPLE** were at strife thorow all the Tribes of Israel, saying; Absalom whom **WE ANOINTED OVER US** is dead, &c. A cleare evidence the kingdome was then held elective, and that the people had the

(f) 2 Sam. 19.
9. to 43.

Sovereign power of electing and creating their kings;) (f) all the people throughout all the Tribes of Israel and the men of Judah, to re-establish David in his Throne, being fled out of the Land, sent this Message to him; Returne thou and all thy servants: Whereupon the King returned, and all the Tribes went as farre as Jordan to meet and bring him back again to Gilgal.

(g) 1 King. 1.
5. to 13.

David growing old, his son (g) Adonijah, against his consent, accompanied with some great Officers and Courtiers of his party, usurped the Crown, and was by them saluted King; but David hearing of it, by Gods election and choise, commanded Solomon (though not his eldest sonne) to be annointed and proclaimed King, and to sit upon his Throne in his life time: As soon as he was annointed and the Trumpet blew;

(h) 1 Chron. 23.
1. c. 28. 5. 6. 7.
8. c. 29. 1. 2.

ALL THE PEOPLE said, God save king Solomon. And **ALL THE PEOPLE** came up after him, and piped with flutes, and rejoyced with great joy, so that the earth rent with the sound of them; So that all Adonijah his company forthwith deserted him, and he and Joab were glad to flee to the hornes of the Altar for shelter. After which, David assembled all the Princes of Israel, the Princes of the Tribes, the Captaines of Companies, thousands and hundreds, the Stewards, Officers, and mighty men, with all the valiant men of his kingdome, to Jerusalem; then he declared to all the Congregation, that God had chosen Solomon to sit upon the Throne of the kingdome of the Lord over Israel, and to build him an house, &c. exhorting them to contribute liberally towards this building, which they did; and when they had blessed the Lord, and offered Sacrifices to him **ALL THE CONGREGATION MADE Solomon** the sonne of David **KING THE SECOND TIME, AND ANOINTED HIM** unto the

(i) 1 Chron. c.
28. & 29.

(k) 1 Chron. 29.
20. to 26.

Lord, **TO BE THE CHIEFE GOVERNOR** (his first Coronation being but private without the presence and consent of the whole Realme, but of those only then present in Jerusalem :) Then Solomon sate on the Throne of the Lord, as king, instead of David his Father, and **ALL ISRAEL OBEYED HIM**; and all the Princes, and mighty men, and likewise all the sonnes of David submitted themselves to him

him as their king: after he was thus generally elected and crowned king the 2. time by all the Congregation. And after *Dauids* death, he was (l) established and strengthened in his kingdom by the peoples voluntary admission and free submission to him. From which History of *Solomon* it is cleare. 1. That though *David* caused *Solomon* to be first crowned King privately to prevent *Adonijah* his usurpation; yet hee thought that title not sufficient without a second Election, admission, and Coronation of him by all the People and generall Congregation. 2. That till this his second inauguration by all the people, he was not generally acknowledged, nor obeyed by all as their lawfull king. 3. That Gods and *Dauids* designation of *Solomon* to the Crown, did not take away the peoples liberty, right and power, freely to nominate, make, and choose their kings; their preuius designation being thus accompanied with this tacit condition, that the people likewise should freely elect, constitute, and crown him for their king, else what need of this their subsequent concurrent acceptance and second coronation of him for their king, by all the congregation, if their consents and suffrages were not necessary? or how could he have reigned over them as their lawfull king, had not the people generally chosen, accepted, admitted him for their Sovereigne?

(l) 2 Chron. 2. 1.
1 King. 2. 46.

Solomon deceasing, (m) *Rehoboam* his eldest sonne went up to *Sechem*: (what to doe? not to claime the crown by discent from his Father, but by election from the people, as the following History manifests;) FOR ALL ISRAEL were come to *Sechem* TO MAKE HIM KING: if to make him king, then he was no king before they had made him, as many Divines most sottishly averre against the very letter of the Text (n) and *Iosephus*; (who writes, That it pleased the Assembly of the *Israclites* there held, that hee should receive the kingdom by the Peoples consent.) And *Ieroboam* and ALL THE CONGREGATION OF ISRAEL came and spake unto *Rehoboam*, saying, Thy Father made our yoke grievous: now therefore make thou the grievous service of thy Father, and his heavy yoke which he put upon us lighter, AND WE WILL SERVE THEE: (because naturally subjects delight in mild Kings, who will somewhat descend from their altitudes, saith (n) *Iosephus*.) This was the condition they propounded to him before they would accept him for their king, and upon this condition only would they admit him to reigne over them; therefore doubtlesse the disposall of the Crown and limitation of the kings royall power resided in all the congregation, who had authority to prescribe their kings what equall and just conditions they pleased. And he said unto them, depart yet for three dayes, then come again to me; and the people departed. Hereupon *Rehoboam* consulted with the old men that stood before *Solomon* his Father, while he lived, and said, how doe you advise that I may answer this people? And they spake unto him, saying; If thou wilt be A SERVANT unto this people this day, and wilt SERVE THEM and answer them, and speak good words to them THEN THEY WILL BE THY SERVANTS FOR EVER; But he forsooke the Counsell of the old men, which they had given him, and consulted with the young men that were grown up with him, and which stood before him, and following their ill advise: when *Ieroboam* and all the People came to *Rehoboam* the third day, as he had appointed; the King answered the people roughly; and forsaking the old mens Counsell, he spake unto them after the Counsell of the young men, saying; My Father made your yoke heavy, and I will add so your yoke; my Father chastised you with whips, but I will chastise

(m) 1 King. 12.
2 Chron. 6. 10.
v. 1.

(n) Antiq. 1. 6.
l. 8. c. 3.

you with scorpions. Wherefore the King HEARKNED NOT UNTO THE PEOPLE, for the cause was from the Lord, &c. SO WHEN ALL ISRAEL SAW THAT THE KING HEARKNED NOT VNTO THEM the People answered the King (through indignation with one voyce, writes Iosephus;) saying; What portion have we in David; NEITHER HAVE WEE INHERITANC) IN THE SONNE OF IESSE, (that is, we have not intailed our Subject ionnor the inheritance of this our Realme to David and his seed for ever, but are still free to elect what King we please;) to thy Tents O Israel. Now see to thine House, David: so Israel departed to their Tent. But as for the children of Israel which dwelt in the Cities of Judah, Rehoboam reigned over them: (the Tribes of Judah and Benjamin CHOOSING HIM THEIR KING BY THEIR COMMON SVFFRAGES, writes Iosephus.) Then King Rehoboam sent Adoram who was over the Tribute (to excuse saith Iosephus, the petulancy of his young tongue, and to appease the mindes of the enraged vulgar:) And all Israel stoned him with stones that he dyed: therefore King Rehoboam (imagining truly, that himselfe was stoned in his servant, and fearing lest the once conceived hatred should be poured out on his own head, tremblingly getting up into his chariot, as hastily as he could) made speed to flee to Ierusalem. So Israel fell away from the house of David unto this day. And it came to passe when ALL ISRAEL heard that Ieroboam was come again, that they sent and called him unto the Congregation, AND MADE HIM KING OVER ALL ISRAEL, &c. (it being so preordained by God, 1 King. 12. 26. to 41.) Loc here the whole Congregation, or Parliament of Israel, if I may so stile it, had full and free power to reject Rehoboam from the Crown, for refusing to subscribe to their conditions; to elect Ieroboam for their lawfull King, and erect a new Kingdome of their owne, divided ever after from that of Judah: which action I shall prove anon to be lawfull, warranted by Gods owne divine authority, and no sinne, nor rebellion at all in the People; who never admitted Rehoboam for, or submitted to him as their lawfull Sovereigne. So Iehu having slain King Ioram, Ahabs eldest sonne, sent a Letter to Samaria where his other 70. sonnes were brought up, to the Rulers and Elders there, wishing them to look out THE BEST AND MEETEST of their Masters sonnes, and set him on his Fathers throne, and fight for their Masters house: But they being exceedingly afraid, said; two Kings could not stand before him, how then shall we stand? and sent word to Iehu, We are thy servants, and will doe all that thou shalt bid us; WE WILL NOT MAKE ANY KING. A clear evidence that the kingdom was then elective, and that they had power to choose the meetest man (not eldest brother) for their king.

(q) 1 King. 16. After this, (q) Zimri slaying Baasha king of Israel, and usurping the Crown, the people then encamped about Gibbethon hearing of it, that Zimri had conspired and also slain the King; Wherefore ALL ISRAEL MADE OMRI Captain of the Host king over Israel that day in the Campe, who burnt Zimri in his Palace: then were the People divided into two parts: halfe of the People followed Tibni to make him king, and halfe followed Omri: But the people that followed Omri prevailed against the people that followed Tibni; so Tibni dyed, and Omri Reigned, being made king onely by

(r) 2 King. 11. the peoples free election, without any divine designation. So (r) Ioash the sonne of 2 Chron. 22. 10. Abaziah, when Athaliah had usurped the Crowne and kingdome of Judah neer seven & 23. Iosephus Antiq. Iud. l. 9. yeers space, was MADE KING, anointed and crowned by Jehoiadah the High Priest, the Captaines of hundreds, and ALL THE PEOPLE OF THE LAND, (who

(who rejoiced at it) when he was but 7. yeeres old, and Achabiah was apprehended, deposed, and murdered by them as an Vsurpresse.

(f) So Amaziah King of Iudah being slain by a Conspiracie at Lachish, ALL THE PEOPLE OF IYDAH tooke Uzziiah who was but 16. yeers old, and MADE HIM KING instead of his Father. (c) Uzziiah king of Iudah being smitten with Leprosie unto the day of his death, dwelt in a severall house, Iotham his son (in the mean time by common consent) was over this house, judging the people of the Land: (v) Ammon king of Iudah being slain by his own servants, the people of the Land slew all them that had conspired against Ammon: And THE PEOPLE OF THE LAND MADE Iosiah his sonne King in his stead. And after (x) Iosiah his death, the PEOPLE OF THE LAND took Jehoabaz the sonne of Iosiah and MADE HIM KING in his Fathers steadin Jerusalem. From all which sacred Texts and Precedents; as likewise from Hosea 8. 4. THEY HAVE SET VP KINGS, But not by mee; THEY HAVE MADE PRINCES, and I knew it not; it is most apparant, that the kings of Israel and Iudah, were usually elected by, and derived their Royall authority from the people, who made them kings, and received not their kingdomes and Crowns immediatly from God himself by a divine right: which may be further commed by the 1. Macab. 9. 28. 29. 30. After the death of Iudas Maccabews; all Iudas his friends came unto Jonathan his brother, and said unto him, since thy brother Iudas dyed, we have none like to him to goe forth against our enemies: Now therefore WEE HAVE CHOSEN THEE this day TO BE OUR PRINCE and Captain in his stead, that thou maist fight our battells. Upon this Jonathan took the Government on him at that time. After Ionathans death, the People said unto Simon his brother with a lowd voyce, 1 Mac. 13. 8. 9. Thou shalt be our Leader instead of Iudas, and Ionathan thy brother; fight thou our battels, and whatsoever thou commandest us, wee will doe. And the Lewes and Priests were well pleased that Simon should be their Governour, Captain, and High Priest; and Simon accepted thereof, 1 Mac. 14. 41. to 49. Hence Carolus Sigonius de Repub. Hebraeorum, l. 7. c. 3. writes, That the kings of the Israelites were created by the Suffrages of the People; that the Kingdome of Israel was translated to divers Families for their idolatry; that although the kingdome of Judah were in some sort hereditary, yet it was confirmed by the Suffrages of the People (which he proves by the example of Rehoboam and others) and that they obtained the Royall dignity not onely by inheritance, but likewise by the Suffrages of the People, as every one may clearly know, who shall but consider the Histories of their kings; Which plainly refutes the wild, impudent, false assertion of the Author of *An Ap- peale to thy Conscience*, newly published, p. 13. where thus he writes: *Observable it is, that thorowout the whole Scriptures we read not of Any King* (I doubt hee never read the Scriptures, else he could not be so grossely mistaken) *THAT WAS CHOSEN BY THE VOYCE OF THE PEOPLE: Nor of an Aristocracy, that is, where the Nobles govern, nor of a Democracy, that is where the people govern. And therefore let them consider how they can answer it at the last day, who shall endeavour to change an hereditary kingdome into an elective, or any other forme of Government whatsoever: that the people doe properly and absolutely make a king is false, &c.* But had this illiterate ignoramus seriously perused the precedent or subsequent Texts here cited, with the best Commentators on them, or read over advisedly, 1sb. 22. Judges 17. 6. c. 18. 1. c. 19. 1. c. 21. throughout; with the

Books of Ezra, Nehemiah, Judges, Esther, Maccabees, the four Euangeliſts touching Christs arraignment and death, Acts 4. 5. 22. 23. 24. and 25 chapters or consulted with Josephus, Philo, Paul Eber, Godwin, Cunaus, Sigonius, Bertrā, or any others who have written of the Jewish Antiquities or Republike, he could not have had the impudency to have published such grosse untruths, and should have found not onely divers kings in Scripture created by the voyce of the people, but an hereditary kingdom oft changed into an elective, yea into an Aristocraticall and no Royall government; and an Aristocracie and Democracy to, even among the Jews themselves, whose government before their kings: was merely Aristocraticall, as Josephus Antiqu. Jud. l. 4. c. 8. Carolus Sigonius de Repub. Hebr. l. 1. c. 5. Cunaus, Schickardus, Bertram, Paul Eber, and all * others that I have seen, except this *Animal irrationale risibile*, punctually determine, they having no kings of their own before Saul, nor any after Zedekiah. Therefore I shall spend no more waste paper to refute this palpable error, so confidently asserted by parishicall Court Doctors, who make no conscience of writing any, though the grossest untruths, which may advance the absolute Sovereign Arbitrary tyrannical government of kings, to oppresse and inflave the people.

* See Iure Magistratus in Subditos; & Iunius Brutus Vindicia contr. Tyrannos qu. 1. 2. 3. pag. 67.

3. * See Iunius Brutus Vindicia contr. Tyrannos qu. 3. 4. p. 46. to 66. 194. 165, 166. where this is largely manifested; & de Iure Magistratus in Subditos qu. 6. p. 272. 273. 274.

Thirdly, that the Kings of Iudab and Israel were * no absolute Sovereign Princes, but took their Crown with and upon such Divine conditions, for breach whereof they and their posterities were oft times by Gods command, just judgement, and speciall approbation deposed, disinherited, destroyed, and the Crown translated to other families.

This is evident by direct Scriptures, Deuter. 17. 14. to the end. Thou shalt in any wise set him King over thee whom the Lord thy God shalt chuse; one from among thy Brethren shalt thou set King over thee; thou maist not set a stranger over thee, which is not thy Brother. Here is an expresse limitation and condition in respect of the person of the King; the conditions in regard of his royall administration follow, which are partly Negative, partly positive, But he shall not multiplie Horses to himself, nor cause the the people to return to Egypt, &c. Neither shall he multiply wives to himself, that his heart turn not away; neither shall he greatly multiply to himself silver and gold. And it shall be when he sitteth on the throne of his Kingdome, that he shall write him a Copie of this Law in a Book, out of that which is before the Priests the Levites; and it shall be with him, and he shall read therein all the dayes of his life, that he may learn to fear the Lord his God, to keep all the words of this Law, and these Statutes to do them; That his heart be not lifted up above his brethren, and that he turn not aside from the Commandment to the right hand or to the left, to the end that he may prolong his dayes in his Kingdome, he and his children in the midst of Israel. Here all the kings of the Israelites when their kingdoms should be erected, are strictly bound by God himself to negative and positive conditions, upon performance whereof, they and their children should prolong their dayes in the kingdom, and perpetuate their thrones in the midst of Israel; and upon breach whereof they and their posterity should lose both their lives and kingdom to; as the last clause insinuates, and the subsequent Texts in direct terms averre. But what if the king should violate these conditions, might the people lawfully resist him? (a) Josephus in his paraphrase on this very text, which I shall cite at large, resolves they might; Truly the government of the best men (or Aristocraticall government) is best; and to live in a Republike thus administred, nor is there cause why you should desire any other kinde of government, but it is best, that contenting yoursel ves wish this, you continue within the power of your Laws. and of your selves.

(a) Antiqu. l. 8. 479. 8.

But if the desire of a King shall possesse you, let there be none unlesse he be of your stock, and blood, and one to whom justice, with other vertues, are cordiall: He whosoever he shall be, let him attribute more to the lawes and unto God, than to his own wisdom, AND LET HIM DO NOTHING WITHOUT THE HIGH PRIESTS AND SENATES ADVICE; neither may he nourish many wives, nor possesse very much money, and many Horses, with the plenty of which things he may easily become a contemner of the laws; and if he shall addēt himself to these things more then is meet, *OBSTANDVM EST*, ne potentior fiat quam rebus vestris expedit, HE IS TO BE RESISTED, lest he become more potent then is expedient for your affairs: So he. Yea (b) Zuinglius with (c) B. Bilson expressly resolve, that the people were bound to resist, question and depose their kings for their idolatry, and breach of these conditions; and that God himself justly punished them for Manasses sins and wickednesse, because they resisted and punished him not for them, as they were obliged to do; as I have (d) elsewhere manifested, to which I shall refer you.

(b) Explained
Artic. 42.
Tom. 1. f. 84.
(c) True Dis-
ference be-
tween Christian
Subjection, &c.
part. 3. p. 513.
514.
(d) Part. 3. p. 99
100.

This condition most clearly appears in other Texts; as in the 1 Sam. 12, 13, 14, 15, 25. Where when Saul the first king of the Israelites was crowned at their earnest importunity, against Gods and Samuels approbation, Samuel used these speeches to them, Now therefore behold the King whom ye have chosen, and whom ye have desired, &c. If ye will fear the Lord and serve him, and obey his voyce, and not rebell against the commandment of the Lord, then shall both ye and also the King that reigneth over you continue following the Lord your God. But if ye will not obey the voice of the Lord, but will rebell against the voyce of the Lord, then shall the hand of the Lord be against you, as it was against your fathers, &c. But IF ye shall do wickedly, ye shall be consumed both ye and your King. After this Saul being distressed by the Philistines, weary of staying for Samuel, and presuming to offer sacrifice without him, hereupon (e) Samuel said to Saul, Thou hast done foolishly, for thou hast not kept the Commandment of the Lord thy God, which he commanded thee, for now would the Lord have established thy kingdom upon Israel for ever; but NOW THY KINGDOM SHALL NOT CONTINUE, for the Lord hath chosen him a man after his own heart, and the Lord hath commanded him to be captain over his people, BECAUSE THOU HAST NOT KEPT THAT WHICH THE LORD COMMANDED THEE. Lo here the breach of Gods conditions by king Saul, forfeited his Kingdom, and disinherited his posterity of it. So when he performed not Gods command, in utterly destroying Amalek, sparing Agag and the best of the things; Samuel sharply reprehending him for this offence, said unto him, (f) Behold, to obey is better then sacrifice, and to hearken than the fat of Rams; for Rebellion (namely, king Sauls rebellion against Gods command, not subjects rebellion against their Prince, not so much as once dreamed off in this Text as Court Doctors grossly mistake, and so miserably pervert this Scripture contrary to the sence and meaning, translating it from kings to subjects, from king rebellion against God, to subjects rebellion against men) is as the sin of Witchcraft, and stubbornnesse is as iniquity and Idolatry. BECAUSE thou hast rejected the Word of the Lord, he hath also REJECTED THEE FROM BEING KING: I will not return with thee, for thou hast rejected the word of the Lord, and the Lord HATH REJECTED THEE FROM BEING KING over Israel; the Lord HATH RENT THE KINGDOM of Israel FROM THEE this day, and hath given it to a neighbour of thine, that is better then thou. Also the strength of Israel

(e) 1 Sam. 13:
13:14

(f) 1 Sam. 15:
22, 23, 26, 28, 30,
29, 30.

will not lie nor repent, for he is not as men, that he should repent; (to wit, of renting the kingdom from him) though he repented that he had made Saul king over Israel, because he turned back from following him, and performed not his Commandments;

(g) 1 Sam. 16. 10 I Sam. 15. 11. 35. After which (g) God said to Samuel, How long wilt thou mourn for Saul, seeing I have reiected him from Reigning over Israel? Fill thine horn with Oyl, and I will send thee to Iesse the Bethlemite, for I have provided me a king among his sons; whereupon he went and annoynted David, who succeeded him in the kingdom, Sauls posterity being utterly disinherited for his recited sins.

After this when God setled the kingdom upon David and his seed after him, it was upon condition of obedience, and threatning of corrections even by men, if they transgressed: (h) The Lord telleth thee, that he will make thee an house; and when thy dayes be fulfilled, and thou shalt sleep with thy fathers, then I will set up thy seed after thee, which shall proceed out of thy bowels, and I will establish the Throne of his kingdom for ever; I will be his father, and he shall be my son; If he commit iniquity, I will chastise him with the Rod of men, and with the Stripes of the Children of Men: (that is, I will not chasten him immediately by my self, but by men my instruments, even by Ieroboam, and his own subjects the ten Tribes, or other enemies whom I will raise up against him and his posteritie, 1 Kings 11. 9, to 41.) But my mercy shall not depart away from him, as I took it from Saul, whom I put away before thee: And thine house and thy kingdom shall be established for ever before thee: yet still upon condition of obedience, as is most apparent by Davids speech to king Solomon, 1 Chron. 28. 5, 6, 7, 8, 9. And the Lord hath chosen Solomon my son, to set him upon the throne of the kingdom of the Lord, over all Israel; And he said to me, &c. Moreover, I will establish his kingdom for ever, If he continue constant to do my Commandments, and my judgements, as at this day. Now therefore in the sight of all Israel, the Congregation of the Lord, and in the audience of our God, keep, and seek for all the Commandments of the Lord your God, that ye may possess the good land, and leave it for an inheritance for your Children after you for ever. And thou Solomon my son, know thou the Lord God of thy father, and serve him with a perfect heart, and with a willing minde; for the Lord searcheth all hearts, and understandeth all the imaginations of the thoughts; If thou seek him, he will be found of thee, but if thou forsake him, he will cast thee off forever; notwithstanding the former Covenant and establishment, which was but conditionall, not absolute, as the renting of the ten Tribes from his son, and the determining of the very (i) kingdom of Iudah it self in Zedekiah, (after which it never returned any more to Davids Line) infallibly evidence. Hence we read in the 1 Kings 11. that Solomons idolatrous wives, turning away his heart from following the Lord, and drawing him to commit idolatry in his old age; hereupon the Lord grew angry with Solomon; wherefore the Lord said unto him; for as much as this is done of thee, and thou hast not kept my Covenant and my Statutes which I have commanded thee, I will surely rend the Kingdom from thee, and will give it to thy servant; Notwithstanding in thy dayes I will not do it, for David thy fathers sake; but I will rend it out of the hand of thy son: Howbeit I will not rend away all the kingdom, but will give one Tribe to thy Sonne, for my servant Davids sake, and for Ierusalem sake which I have chosen. In pursuance whereof the Prophet Ahijah rending Ieroboams garment into 12 peeces, said to Ieroboam, Take thee ten peeces, for thus saith the Lord the God of Israel, Behold, I will rend the kingdom out of the hand of Solomon, and will give

ten Tribes to thee; BECAUSE THAT THEY HAVE FORSAKEN ME, and have worshipped the Goddesse of the Zidonians, &c. AND HAVE NOT WALKED IN MY WAYES, to doe that which is right in mine eyes, to keep my Statutes and my judgements, as did David his Father; howbeit I will not take the whole Kingdome out of his hands; but I will make him Prince all the dayes of his life, for David my servants sake whom I chose, because he kept my Commandements and my Statutes: But I will take the Kingdome out of his sonnes hand, and give it unto thee, even ten tribes. And unto his sonne will I give one tribe, that David my servant may have a light alway before me in Ierusalem, the City which I have chosen to put my name there. And I will take thee, and thou shalt reigne according to all that thy soule desireth, and shalt be King over Israel. (But what, without any limitation or condition at all think you? No such matter.) And it shall be IF THOU WILT HEARKEN UNTO ALL THAT I COMMAND THEE, and wilt walk in my wayes and doe that is right in my sight, to keep my Statutes and my Commandements, as David my servant did, that I will be with thee, and build thee a sure house, as I built for David, and will give Israel to thee: And I will for this afflict the seed of David, but not for ever. Loe here both Kingdomes of Iudah and Israel, are given and entailed on David, Solomon, and Ieroboam onely upon condition of good behaviour; which not performed, they shall be rent from either: And was this only a vain idle condition, as some deem the Covenants and Coronation oathes of Kings to God and their Kingdoms? Surely no, for we read experimentall verifications of them in King Rehoboam; (k) Who answering all the people and Ieroboam when they came to Sechem to make him King, roughly, according to the Counsell of the young men, and threatening to adde to their yoake, instead of making it lighter; and hearkning not unto the people, (FOR THE CAUSE WAS FROM THE LORD, that he might perform his saying, which he spake by Abijah the Shilomite unto Ieroboam the sonne of Nebat;) thereupon, when all Israel saw, that the King hearkned not unto them, the people answered the king, saying; What portion have we in David; neither have we inheritance in the son of Iesse; to your tents O Israel; now see to thine own house David; so Israel departed to their tents, stoned Adoram who was over the tribute, whom Rehoboam sent to appease them; Whereupon Rehoboam made speed to get him into his Chariot to flee to Ierusalem: So all Israel fell away from the house of David to this day; and calling Ieroboam unto the congregation, made him King over all Israel: there was none that followed the house of David, but the tribe of Iudah onely. Vpon this revolt, when Rehoboam was come to Ierusalem, he assembled all the House of Iudah, with the tribe of Benjamin, an hundred and fourscore thousand chosen men which were Warriors to fight against the house of Israel, to bring the Kingdome again to Rehoboam the sonne of Solomon: But the Word of God came unto Shemaiah the man of God, saying, speake unto Rehoboam the sonne of Solomon King of Iudah, and unto all the house of Iudah and Benjamin, and to the remnant of the people, saying: Thus saith the Lord; TEE shall not goe up, nor fight against your brethren the children of Israel: return every man to his house, for this thing is done by mee. They hearkned therefore unto the word of the Lord, and returned to depart, according to the word of the Lord. Behold here an experimentall forfeiture of a kingdome, and translation of the major part of it to another family, for Solomons idolatry, executed by the people through Gods appointment; which being fore-threatened in the generall by God himselfe to David,

(k) 1 Kin. 12. 2.
Chron. 10 & 11.

and by *David* to *Solomon* in case he transgressed, predicted by way of menace to *Solomon* and *Ieroboam*, by *God* himselfe and his Prophets after *Solomon*s transgression, executed by the people by *God*s speciall direction and approbation; and thus owned and justified by *God* in the peoples behalfe after the execution, when *Rehoboam* would have made war against them for this revolt, must certainly be acknowledged, not onely a iust and warrantable action in respect of *God* himselfe, but likewise of the people, unlesse we will make *God* himselfe the Author and approver of rebellion. By all which it is apparant, that *Solomon* and *Rehoboam* held their Crownes onely upon condition from *God*, the breach whereof might and did forfeit them to the people in some measure: And so did *Ieroboam* too, hold the kingdome of *Israel* newly created by the people after this revolt, upon the conditions of obedience, already mentioned, which being violated by his (l) setting up 2 calves in *Dan* and *Bethel*, out of an unwarrantable policy to keep the people from returning to *Rehoboam* if they went up to *Ierusalem* to worship; this thing became sin to the house of *Ieroboam*, even to cut it off and destroy it from off the face of the earth, 1 King. 13. 34. For *Ieroboam* committing idolatry with the Calves, *Abijah* the Prophet sent him this sharp message by his wife, 1 K. 14. 7, 8, 9, 10, 11. Go tell *Ieroboam*, Thus saith the Lord God of *Israel*, for as much as I exalted thee from among the people, and made thee prince over my people *Israel*, and rent the Kingdom away from the house of *David*, and gave it thee, yet thou hast not been as my servant *David*, who kept my Commandements, and who followed me with all his heart, to do that onely which was right in mine eyes, but hast done evill above all that were before thee; for thou hast gone and made thee other gods, and molten images, to provoke me to anger, and hast cast me behinde thy backe; Therefore behold I will bring evill upon the house of *Ieroboam*, and will cut off from *Ieroboam* him that pisseth against the wall, and him that is shut up and left in *Israel*, and will take away the remnant of the house of *Ieroboam*, as a man taketh away dung till it be gone: Him that dieth of *Ieroboam* in the the Citie shall the dogs eat, and him that dieth in the field shall the fowls of the ayre eat, for the Lord hath spoken it. Moreover, the Lord shall raise him up a King over *Israel*, who shall cut off the house of *Ieroboam* in that day. Neither was this an unexcuted commination, for *Ieroboam* dying, and (m) *Nadah* his sonne succeeding him both in his kingdom and idolatrius, wherewith he made *Israel* to sinne, *Baasha* (by *God*s just judgement) conspired against him, slew him, reigned in his stead; and when he reigned he smote all the house of *Ieroboam*, so that he left not to him any that breathed; according to the saying of the Lord which he spake by his servant *Abijah*; because of the sins of *Ieroboam* which he sinned, and which he made *Israel* sin, by his provocation wherewith he provoked the Lord God of *Israel* to anger. After which (n) *Baasha* walking in the wayes and sins of *Ieroboam* notwithstanding this exemplary judgement of *God* on him and his posteritie, the word of the Lord came to *Iehu* sonne of *Hannani*, against *Baasha*, saying, Forasmuch as I exalted thee out of the dust, and made thee Prince over my people *Israel*, and thou hast walked in the way of *Ieroboam*, and hast made my people of *Israel* to sinne, to provoke me to anger with their sins; behold, I will take away the posterity of *Baasha*, and the posteritie of his house, and will make his house like the house of *Ieroboam* the son of *Nebat*; him that dieth of *Baasha* in the City shall the dogs eat, and him that dieth in the field shall the fowls of the Ayre eat: which judgement was actually executed upon his evill sonne king *Elah*, whom *Zimri* the Captain of his Chariots slew, as he was drinking himself drunk in the house of *Arza*

(l) 1 King.
6. 12. & 13.

(m) 1 King. 15.
25. 30. 31.

(n) 1 King. 15.
34. 6. 16. 1. 10. 14.

Steward of his House, and resigned in his stead; and as soon as he sat in his Throne, he flew all the house of Baasha, he left him none that pissed against the wall, neither of his kinsfolks, nor of his friends. Thus did Zimri destroy all the house of Baasha, according to the word of the Lord, which he spake against Baasha, by Iehu the Prophet, for all the finnes of Baasha, and the sins of Elah his son, by which they sinned, and by which they made Israel to sinne, in provoking the Lord God of Israel to anger with their vanities.

(n) King Omri and Ahab his sonne going on in the finnes of Ieroboam, serving Baal to boot, persecuting Gods prophets, putting Naboth most injuriously to death for his Vineyard, by Iezabels instigation, and setting himself to work evill in the sight of the Lord, above all that were before him: Hereupon the Prophet Elijah tells him, (o) Thou shalt be as the house of Baasha the sonne of Ahijah, for the provocation wherewith thou hast provoked me to anger, and made Israel to sinne: And of Iezabel also spake the Lord, saying, The Dogs shall eat Iezabel by the wall of Iezreel; him that dieth of Ahab in the City the Dogs shall eat, and him that dieth in the field shall the Fowls of the Ayre eate. Neither was this a vain threatenng, for Ahab being slain at Ramoth Gilead,

(p) the dogges licked up his blood in the place where they licked the blood of Naboth; and Iehoram his son succeeding him, both in his Throne and sins, (q) God himself annoyned Iehu King over Israel, of purpose to execute this his vengeance against the house of Ahab and Iezabel; who in execution thereof flew both King Iehoram, Ahaziah King of Iudah, Iezabel, and all Ahabs sons and posteritie, his great men, Nobles, with all the Priests and worshippers of Baal, till he left none of them remaining: For which severe execution of Gods Justice, the Lord said unto Iehu, (r) Because thou hast done well in executing that which is right in mine eyes, and hast done unto the house of Ahab according to all that was in mine heart, thy children of the fourth generation, shall sit on the Throne of Israel. Which action of Iehu being thus specially commanded, commended, and remunerated with such a temporell reward by God himself, must questionlesse be lawfull, and no Treason nor Rebellion in Iehu, unlessse we will charge God to be both the Author, Approver and Rewarder of those finnes.

After this (s) Iehu walking in the sins of Ieroboam, though God deprived him not for it, yet he stirred up Hazael to spoil and waste his Countrey, during all his reigne, and the reigns of King Iehoahaz his son and Ioash his Granchilde, who succeeded him in his idolatries; and Zechariah the last king of Iehu's Race, going in his Ancestors finnes, was slain by Shallum, who reigned in his stead. (t) Shallum, Pekahiah, and Pekah three wicked idolatrous kings of Israel, were by Gods just judgement, successively slain one of another, and by Hoshea. So that all the Kings of Israel, who violated Gods Covenants and conditions annexed to their Crowns, did for the most part lose their lives, Crownes, and underwent the utter extirpation of their posterities, being totally cut off by the sword, neither succeeding their Parents in their Crowns nor inheritances. And though the royall Crown of Iudab continued in Davids Line till the Captivity of Zedekiah, the last king of his Race; yet when ever they infringed the conditions which God annexed to their Crownes, and turned Idolaters or flagitious persons, God presently (by way of revenge) either brought in forraigne enemies upon them, which mastered, conquered them, and sometimes deposed and carried them away

(n) 1 King. 16.
16. 10. 11.

(o) 1 King. 21.
19. 10. 25.

(p) 1 King. 21.
19. 1. 23. 37. 38.
(q) 2 King. 9. 7.
& 10.

(r) 2 King. 10.
30.

(s) 2 Kings
c. 12. 10. 16.

(t) 2 King. 16.

away Captives, or made them Tributaries, as the example of King (v) *Rehoboam*, afflicted by *Shisbak* King of *Egypt*, for his finnes and idolatry, and by *Ieroboam* all his dayes; (x) of *Abijam*, (y) *Iehoram*, (z) *Ataziah*, (a) *Ioasb*, (b) *Amaziah*, (c) *Ahaz*, (d) *Manasseh*, (e) *Iehoahaz*, *Iehoiakim*, *Iehoiachin*, and *Zedechiah*, (whole Histories, troubles, captivities and punishments you may reade at large) with others witness: or else caused their own servants, subjects, enemies to rise up against them, to slay them, as is evident by (e) King *Ahaziah*, *Ioasb*; *Amaziah*, *Amnon*, and others. All which are unanswerable evidences and experimentall demonstrations, that the Kingdoms of *Judah* and *Israel* were both held of God upon conditions, and that for the breach of these conditions they might be, and oft times were (by Gods Justice on them) both lawfully deprived of their Crownes, and their posterities, disinherited, yea, totally cut off for ever; and in conclusion, both these most eminent Kingdoms, for the sins of kings and people, were invaded, destroyed, and both Kings with people carried away captives by their enemies, into forraigne Countries, from whence the whole Nation never afterwards returned, nor ever after attained to a king and kingdom of their own: So fatall is it for Kings, or Kingdoms to break these Covenants, Laws, Conditions which God himself hath prescribed them; and so far are any Kings from being exempted from all Laws, and left at libertie to do what they please, that the breach of them proves destructive to them and theirs.

I shall onely adde to this by way of Corollary, that all the *Israelites* Rulers, Kings, (f) *Deut.* 10. 16. *Iosh* 24. every of them in particular, frequently enter into solemn Vowes and Covenants with God, to serve the Lord, to be and continue his people; to seek the Lord God of their fathers with all their hearts, and with all their soul; that whosoever would not seek the Lord God of *Israel*, should be put to death, whether small or great, whether Man or Woman, (not the King or Queen excepted;) and they sware unto the Lord with a loud voice, and with shouting, and with trumpets, and with Cornets, and all rejoiced at the Oath, for they had sworn with all their hearts. Witness the (g) Covenaut made by *Iosua* and all the people, *To serve the Lord*; by *Samuel*, *Saul*, and all the people at *Sauls* Coronation, and by king *Asa* and all his people, *To seek the Lord*, &c. (who in pursuance thereof removed his mother *Maacha* from being Queen, because she had made an idol in a Grove, and cut down her idol, and stamp't it, and burnt it at the brook *Kidron*, 2 *Chron.* 15. 16. of King *David*, (h) *Solomon*, and all the people at *Solomons* Coronation; between (i) King *Iehoash*, *Iehoiada* and all the Congregation at his inauguration, that they should be the Lords people: in pursuance whereof all the people went to the house of *Baal*, and brake it down, and brake his altars and images in pieces, and slew *Mattan* the Priest of *Baal* before the altars; between (k) *Hezekiah* and all his subjects and God; between (l) *Iosiah* and all that were present in *Ierusalem* and *Benjamin* and *Gad*, who made a covenant before the Lord, to walk after the Lord, and to keep his Commandments, and his Testimonies, and his Statutes, with all their heart, and with all their soul, to perform the words of the Covenant formerly written in the Book of the Covenant that was found in the house of the Lord; in execution whereof *Iosiah* tooke away all the abominations out of all the Countrey that pertained to the children of *Israel*, and made all that were present in *Israel* to serve the Lord their God, and not to depart from following the Lord God of their Fathers all his dayes: Together with the like sollemn publike Covenants made by (m) *Ezra*, (n) *Nehemiah* and all the People unto

unto God; which Covenant the Princes, Levites, Priests and all the people sealed, and entered into a Curse and into an Oath to walk in Gods Law, and to observe and doe all the Commandments, judgements and Statutes of the Lord, &c. And that God himself expressly commanded them, That if any Prophet or Dreamer of dreams, or thy Brother (o) Deut. 13, & or son of thy Mother, or thy daughter, or the wife of thy bosom, or thy friend which is as 17. thine own soul, should secretly intice them to commit idolatry, or serve other gods, they should neither consent nor hearken to, nor pity, nor spare, nor conceal him, but shalt surely kill him; thy hand shall be first upon him to put him to death, and after the hand of all the people, and thou shalt stone him with stones, that he die, onely for this secreet inticement to idolatry: And all Israel shall hear, and fear, and do no more such wickednesse as this is. And if they should bear, that the inhabitants of any City were seduced to serve other gods, then they must diligently search and inquire after it; and if it be truth and the thing certain, that such abomination was wrought among them, then they shall surely smite the inhabitants of that City with the edge of the sword, destroying it utterly, and all that is therein, and the cattell thereof with the edge of the sword; and gather all the spoil of it into the midst of the street thereof, and burn the City with all the spoile thereof every whit for the Lord their God, and it shall be an heap for ever, and shall not be built again: In pursuance whereof the (p) ten tribes and a half, assembled to warre (p) 10sb. 21. 9. 10 against the Reubenites, Gadites, and half Tribe of Manasseh, for their supposed idola- 34. rous Altar; and (q) all the children of Isiael assembled together as one man, and made (q) Judg. 20, & warre against the men of Gibeah and the Benjamites, for not punishing the grosse Rape 21. of the Levites Concubine, destroying the City utterly, and the Tribe of Benjamin too welnigh. And upon this ground, the City of (r) Libnah revolted from under the hand of (r) 2 Chr. 21. 18 Ichoram the idolatrous King of Judah, Be cause he had forsaken the Lord God of his 11. ffathers. And as some learned men conceive (s) the people made a Conspiracie against (s) 2 King. 19. King Amaziah in Jerusalem, and he fled to Lachish, but they sent after him to La- 20. 2 Chro. 17, chish and slew him there; ,, (t) not privately but openly, as acted by publike au- 18, 19, 20, 21. thoritic consent, and meditated deliberation, not out of any private hatred, but (t) De Jure in Magistratus in ,, for his impietic, whereby he violated the chiefest part of his Oath and Cove- Subditos, p. 272. nant; whereupon we read not of any complaint, or inquisition, or proceedings, or 10275: ,, punishment inflicted on those that slew him after his death, either by the people, ,, or his children, as there was upon those who slew King Ammon; but being slain, ,, they brought him back on horses, and he was buried at Jerusalem with his Fathers ,, in the Citie of David, out of reverence to his royall dignity and family; And All ,, the People of Judah took Azariah, and made him King in stead of his father Ama- ,, ziah; which plainly shewes, that what was formerly done by the greater part of ,, the States at Jerusalem, was afterwards confirmed by common consent, as done up- ,, on a just cause, and executed by command of those who might lawfully doe it. Whence they conclude, That the Orders or States of the People of Israel had right to chuse what King they would themselves, out of the family of David; and being elected, afterward to correct and punish him as there was cause: that they were obliged by this Covenant made to God, both to reprehend, resist, oppose, yea, depose, if not put to death their King for his open incorrigible idolatries and sins, by common consent, as their king was obliged to punish and put them to death for their idolatries and crimes, their kings being included within their Covenants; and Gods inhibition of idolatry under pain of capitall punishments, extending so Kings, as well as others, if not more then to any, because

their examples were most pernicious; and they were as far forth bound by their joynt Covenants made to God with their Kings to hinder their Kings from, and to proceed against them for their idolatries, as their kings were to impedit and punish them for their breach of Covenant, and because God himself did punish them for their Kings idolatries, as is evident by Ier. 15. 1. to 6. and the History of the Kings, and Chronicles every where, which God would not in justice have done, had not the people both iust right and power to resist, hinder, censure, punish, depose their Kings by publike consent of the State and people for their idolatries and breach of Covenant, as (v) Zuinglius, (x) Stephanus Iunius Brutus, the author of the Treatise (y) De Iure Magistratus in Subditos, with others, prove at large, and (z) Master Calvin, yea (a) Bishop Bilson himself, assents to. Such a Sovereign power had the whole State and Congregation of Israel and Iudab over their kings themselves, whose estates in their Crownes and Kingdoms by Gods own institution, was not absolute, but onely conditionall, and subject unto forfeiture, upon breach of these Covenants and Conditions by which they did enjoy them.

Fourthly, The Kings of Iudab and Israel were no absolute Sovereign Princes paramount their whole Kingdoms, the generall Congregation of the people, Senate or Sanhedrin, but inferiour to them in power, and not onely counselled, but over-ruled usually by them in matters of publike concernment: This is evident not onely by Iosh. 22. 11. to 34. and Iudges 20. and 21. where the whole Congregation of Israel, as the Sovereign power, in the dayes of Ioshua and the Iudges assembled about the great causes of the Reubenites, Gadites, and halfe the Tribe of Manasseh, concerning their Altar, and of the Gibeonites and Benjamites, concluding both matters of publike war and peace; But likewise by the peoples refusing Ionathan out of the hands and power of King Saul his father, that he died not, though Saul had twice vowed that he should be put to death, 1 Sam. 14. 38. to 36. And the people said unto Saul, Shall Ionathan die who hath wrought this great salvation in Israel? God forbid; as the Lord liveth there shall not one hair of his head fall to the ground, for he hath wrought with God this day: So the people rescued Ionathan that he died not. By the 1 Chron. 13. 1. to 7. where thus wereade: And David consulted with the Captains of thousands and hundreds, and with every Leader, and David said unto all the Congregation of Israel, If it seeme good unto you, and that it be of the Lord our God, let us send abroad unto our brethren every where that are left in all the land of Israel, and with them also to the Priests and Levites which are in their Cities and Suburbs, that they may gather themselves unto us; and let us bring again the Ark of our God to us, for we enquired not at it in the dayes of Saul. And all the Congregation said, that they would do so, For the thing was right in the eyes of all the people. And David went up and all Israel to Baalah, to bring up thence the Arke of God the Lord. Compared with the 1 Samuel 18. 2, 3, 4. where when David sent out the people to battell against Absalon under three Commanders, the King said unto the people, I will surely goe forth with you my selfe also: But the people answered, * Thou shalt not goe forth; for if we flee away, they will not care for us, neither if halfe of us die will they care for us; but now thou art worth ten thousand of us, therefore now is better that thou succour us out of the Citie: And the king said unto them, Whatsoever seemeth you good that I will doe; and thereupon stayed behinde in the City, as they advised him. So he likewise followed Iobabs advice, to goe forth and sit in the gate, and speak comfortably to the People after his mourn-

(v) Explanatio
Arctic 42. &
Epist. 1
Zuing & Oecol.
f. 186.

(x) Vindicie
contra Tyrannos,
quaest. 2. p. 43
to 70.

(y) Page 271.
to 275.

(z) Instit. 1.4.
c. 20. sect. 31.

(a) The True
Difference, &c.
part. 3. p. 513,
514.

* So 2 Sam.
21. 17, 18. Da-
vid being like to
be slain by Ithi-
banoth the
Giant whom
Abishai slew.
The men of
David swore
to him, (yirg,
Thou shalt
go no more
out with us
to battell, that
thou quench not
the light of
Israel.

ing for Absalons death, else not one of the People would have carried with him that might, 2 Samuel. 19. 1. to 20. and by this means all the people came before him though they had formerly fled every man to his tent; and he so engaged them to him, **That all the people were at strife throughout all the Tribes of Israel, to bring the King back again to Gilgal, whence Absalon had chased him.** Adde to this the 1 Kings 12. 1. to 25. and 2 Chron. c. 10. and 11. where we finde, that after Solomons death, **All Israel came to Sechem to make Rehoboam King; and all the Congregation of Israel spake unto Rehoboam, saying, Thy father made our yoke grievous, now therefore make thou the grievous service of thy Father, and his heavy yoke which he put upon us, lighter, and we will serve thee.** And he said unto them, **Depart ye for three dayes, and then come again; and the people departed.** In the mean time he consulted first with the old men, after that with the young men about him, what answer he should return; who giving contrary advice, **Ieroboam and all the people coming to him again the third day, the King answered the people roughly, after the counsell of the young men, saying, My Father made your yoke heavy, and I will adde to your yoke; My Father chastised you with whips, but I will chastise you with scorpions: So when all the people saw that the King hearkned not to them, the people answered the King, saying, What portion have we in David? neither have we inheritance in the son of Iesse, to your tents o Israel; now see to thine own house David: So Israel departed to their Tents, and fell away from the house of David unto this day: And all Israel called Ieroboam unto the Congregation, and made him King over all Israel: And the Text expressly addes this memorable observation, **Wherefore the King hearkned not unto the people, for the cause was from the Lord, that he might perform his saying, which the Lord spake by Abijah the Shilonite to Ieroboam the son of Nebat.** Where we see the Kings not hearkning to the people and congregation of Israel in their just request, and giving them an harsh answer, was a sufficient ground and occasion for them, to cast off his government, and elect another King to reign over them, and that with Divine approbation from God himself: Such was the whole peoples and congregations Sovereigne power over their Kings. We read in the 1 Kings 20. 1. to 10. that when Benhadad king of Syria gathered a great Host, and sent to Ahab king of Israel, to resign up all his silver, gold, Wives, Children, and pleasant things into the hand of his servants: Then the king of Israel called all the Elders of the Land, and said, **Heark, I pray you, and see how this man seeketh mischief, for he sent unto me for my wives and for my Children, for my silver, and for my gold, and I denyed him not: And all the Elders, and all the people, said unto him, Hearken not unto him, nor consent.** Wherefore he said unto the messengers of Benhadad, **tell my Lord the King, all that thou didst send for to thy servant at first, I will do, but this thing I may not do.** Where the Elders and people both advise and over-rule the King in this matter of great importance both to the Kingdom and King, who returned no answer to this publique case without the congregations publique advise. So**

* Hezekiah king of Iudah sent to all Israel and Iudah, and wrote Letters also to Ephraim and Manasseh, that they should come to the house of the Lord at Ierusalem, to keep the Passover unto the Lord God of Israel; For Hezekiah had taken counsell, and his Princes, and all the Congregation in Ierusalem, to keep the Passover in the second moneth, for they could not keep it at that time, because the people had not sanctified themselves sufficiently; neither had the people gathered themselves together at Ierusalem; and the thing pleased the King And all the Congregation, **So they established a Decree,**

to make Proclamation throughout all Israel, from Berseba even to Dan, that they should come to keep the Passover unto the Lord God of Israel at Jerusalem, for they had not done it of a long time, in such sort as it was written. So the Posts went with the Letters from the King and the Princes, throughout all Israel, and Judah, &c. vers. 12. Also in Judah the hand of God was to give them one heart to doe the Commandment of the King and of the Princes, by the word of the Lord; and vers. 23. And the whole Assembly took Councell to keep other seven dayes; and they kept other seven dayes with gladnesse; and All the Congregation of Judah and Israel rejoysed: vers. 25. When all this was finished All Israel that were present, went to the Cities of Judah and brake the images in pieces, and cut down the Groves, and threw downe the high places and the Altars out of all Judah and Benjamin, in Ephraim also and Manasserh, untill they had utterly destroyed them all. Then all the Children of Israel, returned every man to his possession into their owne City: In the 2 Chron. 32.3. When Hezekiah saw that Senacherib was come, and that he was purposed to fight against Jerusalem; He took Councell with his Princes and his mighty men, to stop the waters of the Fountaine which were without the City, and they did help him, and there was gathered much people together, who stopped all the Fountaines, &c. Adde hereunto that notable Text, Jer. 38. 4. to 28. Where when the Prophet Jeremy had prophesied, that Jerusalem should be given into the hands of the King of Babylons Army which should take it; Therefore the Princes hereupon said unto the King; we beseech thee, let this man be put to death; for thus he weakneth the hands of the men of Warre that remain in this City, and the hands of all the people, in speaking such words unto them; for this man seeketh not the welfare of this people, but the hurt: Then Zedechiah the King said; Behold he is in your hand; For the King is not he that can doe any thing against you. And Jer. 26. 8. to 29. Now it came to passe when Ieremiah had made an end of speaking all that the Lord had commanded him to speake unto all the people, that the Priests, the Prophets, and all the people tooke him, saying; thou shalt surely dye, &c. So Ezra 10. 1. to 20. There assembled unto Ezra a very great Congregation of men, &c. And they said unto Ezra, we have trespassed against our God, and have taken strange wives of the people of the land; yet now there is hope in Israel concerning this thing. Now therefore let us make a Covenant with our God to put away all the strange wives, &c. and let it be don according to the Law: and All Israel said that they would doe according to this word. And they made Proclamation throughout Judah and Jerusalem unto all the children of the Captivity, that they should gather themselves unto Jerusalem; and that whosoever would not come within 3. dayes According to the Councell of the Princes and the Elders, all his substance should be forfeited, and himselfe seperated from the Congregation of those that had been carryed away: Then all the men of Judah and Benjamin gathered themselves together unto Jerusalem, within three dayes, and all the people sate in the street of the house of God trembling, because of this matter and for the great raine. And Ezra the Priest stood up and said unto them, Ye have transgressed and taken strange wives to encrease the trespassse of Israel; Now therefore make confession unto the Lord God of your fathers, and doe his pleasure, and seperate your selves from the people of the Land, and from the strange wives. Then All the Congregation answered, and said with a lowd voyce; As thou hast said, so must we doe; but the people are many, and it is a time of much raine, and we are not able to stand without, neither is this a worke of one day or two; for we are many that have.

have transgressed in this thing: let now our rulers of all the Congregation stand, and let them which have taken strange wives in our Cities, come at appointed times, and with them the Elders of every City and the Judges thereof, untill the fierce wrath of our God for this matter, be turned from us: And the Children of the Captivity did so. Where we see the whole Congregation determine and direct all that was done in this grand common businesse: And Esther 9. 17. to 32. the Jewes (upon Mordecaies and Esthers Letters, after the slaughter of their Enemies) Ordained and took upon them and upon their seed, and upon all such as joynd themselves unto them, so as it should not faile, that they would keep the 13. and 14. day of the month Adar, and make it a day of feasting and gladnesse, according to their writing, and according to their appointed time every yeare: And that these dayes should be kept and remembered throughout every generation, every Family, every Province, and every City, and that these dayes of Purim should not faile from among the Jewes, nor the memoriall of them perish from their seed: And the Decree of Esther confirmed those matter of Purim, as they had decreed for themselves and their seed.

From all these Texts (compared with Prov. 11. 14. c. 15. 22. c. 25. 5.) it is most apparant; that the Kings of Judah and Israel were no absolute Sovereigne Princes paramount their whole Kingdomes, or the generall Senate and Congregation of the people, or their Sanhedrin, but inferiour to them in power; and not onely counselled but over-ruled usually by them, in all matters of publike concernment. A truth so pregnant, that (c) Bp. Bilson himself from some of these Texts confesseth, That it is a question among the learned; what Sovereignty the whole people of Israel had over their Kings; And that these Scriptures have perswaded some, and might lead Zuimglius to thinke, that the people of Israel, notwithstanding they called for a King, yet reserved to themselves sufficient Authority to over-rule their King, in those things which seemed expedient and needfull for the publike wellfare, else God would not punish the people for their Kings iniquity, which they must suffer and not redresse. Hence that eminent Jew (d) Josephus (a man best acquainted of any, with his owne Nations Antiquities, Lawes, and the Prerogatives of their kings) resolves in direct termes; that their King, whosoever he were, ought to attribute more to the Lawes, and to God, then to his own wisdom, And to doe nothing without the advice of the High Priest and Senate; and that if he multiplied horses, and many more then was fitting they might resist him, lest he became more potent then was expedient for their affaires. Hence Petrus Cunaeus de Repub. Hebr. l. 1. c. 12. p. 101. 102. writes thus of the Sanhedrin or Parliament among the Jewes. Thus the Prophets, who grievously offended, were nowhere else punishable but in this Assembly; which (Quod summæ potestatis est) as it is an Argument of The Supreme power did both constitute the King: ac de Bello gerendo deque hostibus prosligandis & de proferendo Imperio deliberabaut. Sed quoniam hæc ejusmodi erant in quibus salus omnium, & summa Reipublicæ vertebatur, Consultatum de his plerumque cum populo est; indicta enim Comitia sunt, in quibus solis populus partem aliquam caperet regende reipublica, &c. De Rege igitur deque Bello, ut dixi, decreta facta interdum Populi auctoritate sunt. Cætera omnia Senatores Sanhedrin Per se expedire. So that the Sanhedrin and Congregation of the people were the highest Sovereigne power, and principall determiners of publike matters concerning warre and peace, by Cunaeus his resolution: Who debating this weighty controversie, (d) What the

(c) The third part of the True difference between Christian Subjection, &c. p. 513. 514

(d) Antiqu. Jud. l. 4. c. 8.

(d) Cunaeus de Repub. Heb. 6. l. c. 9. p. 75. 76. 77.

Scepter of Iudah was (propheſied of Gen. 49. 10.) and what and whoſe the Maieſty of the Empire was? determines thus. I ſuppoſe the Scepter to be nothing elſe, but the Maieſty of the Empire or Government, to wit that, *Una ipſi Reipublicæ aſſidet*, which belongs to the Republike it ſelfe. Wherefore whoſe the Republike is, the Scepter ought to be ſaid theirs. Now the Hebrew Republike from Moſes his time till the Kingdome of Rehoboam, was not of the Iewes (or tribe of Iudah) but of the twelve Tribes, from whence it followes, that even the Scepter for all thoſe times was of all the Iſraelites. Now of this Scepter, which was long common to all the twelve Tribes, the divine Patriarke ſpake not in that moſt famous Oracle: for he looked at latter yeeres, and future ages, when as the Tribe of Iudah, the people being divided into contrary parts, began to have its Republike apart from the Iſraelites, which God approved and loved; and would have to be called Iewiſh, from the Tribe of Iudah alone, untill hee (to wit Chriſt) ſhould be given to the aſſemblies of men, to whom not onely the Empire of the Iewes, but Gentiles alſo was deſtinated. And verily this Maieſty of the Scepter, from the time it once began to be of the Iewes, we ſay continued to be theirs, although the ſtate of the Commonweale was ſometimes changed, and the ſovereignty of the Empire was ſometimes in the Elders and High Priests, ſometimes in the Kings and Princes. They doe too fooliſhly, who here dance in a narrow compaſſe, and ſuppoſe that the honour of this name appertaines not but to Kings? For what people ſoever, uſeth its owne Republike and its Lawes, *As recte Gloſiari de Imperio deque ſcep'to poteſt*, it may rightly boaſt of Its Empire and Scepter. It is recorded, that at Ieruſalem even at that time, when not the Princes but the Elders governed the people, in the miſt of the great Councell, which they called the Sanhedrin, there hung a Scepter, which thing verily was a certain Enſign of its Maieſty; which Marcus Tullius in a particular Oration, ſaith, *Esſe magnitudinem quandam Populi, in ejus poteſtate ac jure retinendo, quæ vertitur in imperio, atque omnis populi dignitate*. Not Kings, not Princes, but Conſuls and the Senate managed the Roman Common-wealth; whence this Law of Truce was given to the *Ætolians*, which Livy reports, That they ſhould conſerve The Maieſty of the People of Rome without mal-engin: And the very ſame thing was commanded all free People, who by any league, but not equall, would come into the friendſhip of the Romanes, as Proculus the Lawyer witneſſeth, in l. 7. *F. de Captiu: & Poſt. revertiſis*. Neither think we it materiall to our purpoſe, of what Nation or Tribe they were, who moderated and ruled the Iewiſh affaires; for although the *Haſmonean* *L* *vites* held their Kingdome for many yeeres, yet the Republike was of the Iewiſh people. That moſt wiſe Maſter Seneca ſaid to Nero Cæſar, That the Republike was not the Princes, (or of the Prince) But the Prince the Republikes. Neither verily was the opinion of *Vlpian* the Lawyer otherwiſe; for he at laſt ſaith, that That is Treason, which is committed againſt the Roman People, or againſt their ſafety, l. 1. f. 1. *F. ad Legem Iul. Maj:ſt*. Now *Vlpian* lived in thoſe times, when the people had neither command nor ſuffrages left them, but the Emperours held the Empire and Principality; and yet he who is wont moſt accurately to define all things, ſaith, That Maieſty is of the People; From all which it is apparant, that not onely in the Roman Empire and other Kingdomes, but even among the Iewes themſelves; the Maieſty, and Sovereign Power, and Scepter reſided not in the Kings, but in the whole State and People. Hence *Will. Schickardus* in his *Ius Regium Hebræorum*, Argent. 1625. p. 7. determineth thus. The ſtate of the Iewiſh Kingdome was not Monarchicall

(as our Court Doctors fallibly dream) but mixt with an Aristocracie for the King without the assent of the Sanhedrin Could determine nothing in great causes. They constituted not a King but in it, &c. attributing the Sovereignest power to the Congregation and Sanhedrin, who had power to create, elect, and in some cases to resist, and depose their Kings. Hence (e) Huldricus Zuinglius writes expressly, That the Kings of the Jewes and others, when they dealt perfidiously, contrary to the Law of God and the rule of Christ, might be lawfully deposed by the People. This the example of Saul manifestly teacheth, whom God rejected, notwithstanding he had first elected him King: Yea, whiles wicked Princes and Kings were not removed, all the people were punished of God; as is evident by Ier. 15. 1. to 6. where they were punished with four judgments and plagues for Manassehs sinnes. In summe, if the Jewes had not permitted their King to be so wicked without punishment, they had not bene so grievously punished by God. By what means he is to be removed from his Office, is easily to conjecture; thou maist not slay him, nor raise any war or tumult to do it, but the thing is to be attempted by other means, because God hath called us in peace, 1 Cor. 7. If the King be created by common suffrages, he may again be deprived by common Votes, unless they will be punished with him; but if he be chosen by the election and consent of a few Princes, the people may signify to them the flagitious life of the King, and may tell them, that it is by no means to be endured, that so they may remove him, who have inaugurated him. Here now is the difficulty, for those that do this, the Tyrant will proceed against them according to his lust, and slay whom he pleaseth; but it is a glorious thing to die for justice and the truth of God; and it is better to die for the defence of justice, then afterwards to be slain with the wicked by assenting to injustice, or by dissembling. Those who cannot endure this, let them endure a lustfull and insolent Tyrant, expecting extreame punishment together with him; yet the hand of the Lord is stretched out still, and threatneth a stroke: But when with the consent and suffrage of the whole, or certainly of the better part of the multitude a Tyrant is removed, Deo fit auspice, it is done by God approbation. If the Children of Israel had thus deposed Manasseh, they had not been so grievously punished with him. So Zuinglius. Hence (f) Stephanus Innii Brutus in his *Vindicia contra Tyrannos*, in answer to Machiavel's *Princeps* (a most accursed mischievous Treatise) and justification of the Protestant defensive wars in France to preserve their Religion and Liberties, Anno 1589. determines positively, That as all the people are Superiour to the King, so are those Officers of State and Parliaments, who represent them, Superiour to Kings collectively considered, though every of them apart be inferiour to them. In the Kingdom of Israel, which by the judgement of all Politicians was best instituted, by God, there was this order, The King had not onely private Officers who looked to his family but the Bingdom likewise had 71 Elders and Captains elected out of all the Tribes, who had the care of the Commonweale both in time of peace and war, and likewise their Magistrates in every Town, who defended their severall Cities, as the others did the whole Kingdom. These when ever they were to deliberate of greatestt affairs, assembled together, neither could any thing be determined without their advice, which much concerned the commonwealth: Therefore (g) David called these all together when he desired to invest Solomon in the Kingdom, when he desired the policy restored by him should be examined and approved, (h) when the Ark was to be reduced, &c. And because they represented all the people, all the people are then said to have assembled together. Finally, the same (i) rescued Jonathan, condemned to death by Sauls sentence; from whence it appears,

(e) *Explicatio Artic. 42. Tom 1 Oper. Tiguri, 1581. f. 84, 85.*

(f) *Quest. 3. p. 94. 1097.*

(g) 1 *Chro. 29. 25.*

(h) 1 *Cl. 1. 3. 1.*

(i) 1 *Sam. 14. 45.*

that

that an appeal lay from the King to the people: But from the time the Kingdome was divided, through the pride of Rehoboam, the Synedrion of Ierusalem consisting of 71 men, seems to be of that authoritie, that they might judge the King in their assembly, as well as the King judge them when they were apart. The Captain of the House of Iudah was (l) President over this assembly, that is, some chief man chosen out of the Tribe of Iudah, as even the chief man for the City Ierusalem, was chosen out of the Tribe of Benjamin: This will be made more evident by examples: (m) Ieremie being sent by God to denounce the overthrow of the City Ierusalem, is for this, first condemned by the Priests and Prophets, that is, by the Ecclesiasticall judgement or Senate; after this, by all the People, that is, by the ordinary Iudges of the Citie, to wit, by the Captains of thousands and hundreds; at last by the Princes of Iudah, that is, by the 71 men sitting in the new Porch of the Temple, his cause being made known, he is acquitted. Now they in that very judgement expressly condemn King Iehoiakim, who a little before had most cruelly slain the Prophet Uriah, threatening like things. Also we reade (n) elsewhere, that King Zedekiah, did so much reverence the Authoritie of this Sanhedrin, that he durst not free the Prophet Ieremie, thrust by these 71 men into a filthy prison, but likewise scarce dared to translate him into the Court of the Prison from thence; yea, when they perswaded him to consent to Ieremiah his death, he answered, that he was in their hands, and that he could not contradict them in any thing; Yea, he fearing lest they should enquire into the conference which he privately had with Ieremie, as if he were about to render an account of the things which he had spoken, forgeth a lie. Therefore in this Kingdom the States or Officers of the Kingdom were above the King; I say, in this Kingdome which was instituted and ordaintd, not by Plato or Aristotle, but by God himself, the Author of all order, and the chiefe institutor of all Monarchy: Such were the seven Magi in the Persian Empire, the Ephori in the Spartan Kingdom, and the publike Ministers in the Egyptian Kingdome, assigned and associated to the King by the People to that onely end, that He should not commit any thing against the Lawes. Thus, and much more this Author, together with Con. Superantius Vasco, who published this Treatise to all pious and faithfull Princes of the Republike, giving large Encomiums of its worth; as also the Author of the Treatise *De Iure Magistratus in Subditos*. p. 253, 254, 255, 256, 268, to 275. whose words for brevity I pretermit; Bp. Bilson in his forecited passages: and Hugo Grotius *De Iure Belli & pacis*, l. 1, c. 3. sect. 20. p. 63, 64. where he confesseth, That if the King of the Israelites offended against the Lawes written concerning the Office of a King, he was to be scourged for it; and that the Sanhedrin had a power above their king in some cases.

5. Finally, the Kings of Israel and Iudah were not superior to, nor exempted from the Lawes, but inferiour to and obliged by them, as well as Subjects: This is evident, not onely by the premises, but byundry impregnable Texts, As *Deut. 17. 18. 19. 20.* where God himselfe in the very description of the office and duty of their King, prescribes this in direct termes, as a part of his duty. And it shall be when He sitteth on the Throne of this Kingdome, that he shall write him a Copy of **This Law** in a Booke, out of that before the Prieste and Levites: And it shall be with Him, and He shall read therein All the dayes of his life, that he may learn to feare the Lord his God, To keep all the words of the Law, and these Statutes to doe them, that his heart be not lifted up above his brethren; and that He turn not aside from the Commandement, to the right hand or to the left: seconded by *Iosb. 7. 8.* This Booke of the Law shall not depart out

out of thy mouth, but thou shalt meditate therein day and night; that thou maist observe to doe according to all that is written therein: turne not to it from the right hand, or to the left: for then thou shalt make thy way prosperous, and then thou shalt have good successe. Hence it was, that as soon as ever Saul was elected and made King by Samuel and the people, he being the first of their Kings) Samuel told the people the manner of the Kingdom, and wrote it in a Booke, and laid it up before the Lord: which Booke, contained not the exorbitances and oppressions that their Kings would exercise over them, mentioned in the 1 Sam. 8. 11. to 19. as Iosephus mistakes; but as Petrus Curcius and (q) others more rightly observe, the Law of God concerning Kings, prescribed by him, Deut. 17. 14. to the end; and such Lawes which commanded Kings to use Iustice and equity; to govern the Common-wealth well, for the peoples benefit; to abstaine from fornication and lusts; to retain modesty in a great fortune, &c. Hence Samuel enioyned both Saul and the People, to feare the Lord, and serve him, and obey his voyce, and follow him, and not rebell against his Commandement, &c. 1 Sam. 12. c. 15. p. 612. 14, 15. 20. to 25. Hence King (r) David did alwayes meditate in the Law of God, day and night, accounting it more deare unto him then thousands of Gold and silver: And withall pronounceth from Gods own mouth; (s) The God of Israel said, the Rocke of Israel spake to me, he that ruleth over men must be just, ruling in the feare of God. Hence the (t) Qu. of Sheeba used this speech to king Solomon, Because the Lord loved Israel for ever, therefore made he thee King (what? so dominicere at his pleasure? no verily, but) To doe Judgement and Justice. Vpon this ground, (v) King Iosiah made a covenant before the Lord, to walke after the Lord, And to keepe his Commandements, and his testimonies and his statutes with all his heart, and with all his soul; And King (x) Asa, with other Princes and Governors did the like, as the premises evidence: From all which, (y) and infinite other Scriptures, obliging Kings to reign in righteousness, to doe justice and judgement to all, and (z) reprehending them exceedingly for their injustice, tyranny, oppressions, idolatries, and other sinnes; it is inefragable; that their kings were as much, if not more obliged to keepe both Gods and the kingdomes Lawes, as the Subiects; and had no arbitrary power to doe what they pleased.

All that is, or can be colourably objected to the contrary, to prove the kings of Israel absolute Monarchs, exempt from Lawes, and paramount their Sanhedrin or people collectively considered, is, First, that passage of Psal. 51. 4. where king David confessing his sinnes of Adultery and Murther to God, useth this expression; Against thee, **Thou onely have I sinned, and done this evill in thy sight**: Of which (a) Hierom renders this reason, *Quod Rex erat & alium non timebat: alium non habebat super se*: which Ambrose thus seconds, *Rex erat, nullis ipse legibus tenebatur, quia liberi sunt: Reges a vinculis delictorum: Neque enim ullis ad poenam vocantur legibus, Tutum Imperii potestate, Homini ergo non peccavit, cui non tenebatur obnoxius* (c) Arnobius & Cassiodor, adde, *De populo si quis erraverit, & Deo peccat & Regi: quando Rex delinquit, soli Deo reus est: Alerio ergo Rex, Deo tantum se dicit peccasse; quia solus erat qui ejus potuisset admissa discutere*. The like we finde in Isidoror. Epist. 383. which some Iewish Rabbins back with this saying of Barnachmon, *situlo de Iudicibus Nulla creatura iudicat Regem, sed Deus benedictus*: Therefore the Iewish kings were above all Lawes, and not subiect to the censures of their Congregations, States, or Sanhedrin.

(q) *Uin. Brutus Vindic. Contr. Tyrannos qu. 3. p. 121, 122. Albericus Gentilis de Iure Belli. l. 3. c. 15. p. 612.*
 (r) *Ps. 1. 1, 2. Ps. 19. 10. Ps. 119. 1b ought out.*
 (s) *2 Sam. 23. 3.*
 (t) *1 King. 10. 9. 2. Chron. 9 8.*
 (v) *2 Chron. 34. 31.*
 (x) *2 Chron. 15. 12. to 17. E. 1. 10. 3. Ec. 1. 9. 38. c. 10. 1. to the end.*
 (y) *Isa. 9. 7. c. 16. 5. c. 32. 2. 2 Sam. 5. 12.*
 (z) *Eccl. 45. 8, 9.*
 (a) *Isay 1. 23. c. 12. 14, 15. Zeph. 3. 3. Mich. 3. 9. to 12. Eccl. 22. 6. 10. 28. Is. 14. 4. 10. 23. 6.*
 Object. 1.
 (a) *Com. in Ps. 50. & Epist. ad Rufinaw.*
 (b) *In Psal. 50. 2.*
 (c) *In Psal. 50. 2.*
 (d) *Gregorius de Iure Belli & Pacis, l. 1. c. 3. sect. 20. p. 63, 64.*

Answer To this I answer first, That no doubt, *David* by his adultery and murder (being
 (e) *1 Sam. 2. 25.* sinnes against the second Table) did sinne not onely against God, but (e) against
 2 *Chron. 6. 22.* *Uriah* and his wife too, their children and kinred; yea (f) against his own soule and
Deut. 22. 23. 24. body, though he were a king; That of *Iustus Eccardus, De Lege Regia*, being an ir-
Ezek. 18. 6. 7. 11 refragable truth, granted by (g) all *Lawyers and Divines* whatsoever, that the abso-
 (f) *Prov. 20. 2.* luteft *Emperors, Monarchs, Kings, that be, are subject to the Lawes of God, of Nature,*
1 Cor. 6. 18. of Nations, and cannot justly doe any thing against them to the hurt of pietie, chastity,
 (g) See *Grotius* fame, life, or what is contrary to good Manners. Secondly, No doubt every king
de Iure Belli, l. 1. is bound in conscience by the Law of God and man, to give satisfaction and recom-
 2. c. 14. f. 20. pence to his Subjects against whom he sinneth in this nature, as *David* himselfe de-
Marius Sala- termines in this his own case, 2 *Sam. 12. 5, 6, 7.* Thirdly, For this very sin against *V-*
capituli. Rebus *Uriah* God threatens, that the sword should never depart from *Dauids* house; that hee
Prefat. ad Rubr would raise up evil against him out of his own house, that he would take his wives before
de Collationibus, his eyes and give them unto his Neighbour, who should lyewith them in the sight of the
 p. 583. Sunne, before all *Israel*, 2 *Sam. 12. 10, 11, 12.* which was actually fulfilled in and by
Absalom his sonne, 2 *Sam. 16. 22.* The glosse therefore of these Fathers, that *David*
 was exempt from all Lawes being a King, and that he could not sinne against a Subject,
 is point-blank against the History, and Text it selfe; and manifested to be apparantly
 false by all the premised Scriptures and Authorities. Fourthly, the true reason of
 this speech of *David*, Against thee, **Thou onely have I sinned**, and done this evill in
 thy sight, as *Augustine* (b) and others truly observe was: 1. Because *David* had
 plotted and contrived the murder of *Uriah*, and abusing of his wife so closely, that
 no man did or could take notice of it; whence *Nathan* the Prophet tells him, 2 *Sam.*
 12. 12. Thou didst it secretly, but I will do this before all *Israel*: sed forte erat quod
 homines latebat, & non inveniebant illi quod erat quidem, sed manifestum non erat,
 writes *Augustine*: 2. Because *Uriah* being slain, and his wife a party consenting to
Dauids sinne, his sinne now might in this sence be said, to be against God alone. 3.
 sinne, quatenus sinne, and as it deserves eternall punishment, is properly com-
 mitted against none but God, whose Law and prohibition only makes it sinne; therefore
 in this regard, *David* now confessing his sinne to God himselfe, useth this expression
 and rhetoricall ingemination, Against thee, thee onely have I sinned. 4. Because none
 was free from sinne, and so fit to be his Judge in that respect but God onely. 5. Only,
 is many times taken for principally or especially; as we usually say, such a one is the
 onely man; such a salve or medicine, is the onely remedy; and the Scripture useth this
 phrase in this sence in *Dauids* owne case, 1 *King 15. 7.* *David* did that which was
 right in the eyes of the Lord, and turned not aside from any thing that he commanded
 him all the dayes of his life, save ONELY in the matter of *Uriah*, that is princi-
 pally, for he committed divers sins besides, as in numbring the people, in giving *Me-*
 (k) 2 *Sam. 24.* phiboseths land to *Ziba* upon a false suggestion, himselfe confessing (m) that his ini-
 10. 10 20. quitities were gone over his head, and his sinnes more then the haire of his head: but yet
 (l) *Sam. 18. 20* this was his ONLY, to wit, his principall sinne: so in divers others Texts, onely is
 19. 28, 29. used for principally; as *Iosh. 1. 7. 18.* Onely be thou strong; 1 *Sam. 18. 17.* Onely be
 (m) *Psal. 40. 12* thou valiant; So here, against thee, thee onely have I sinned; that is, I have principally
Psal. 38. 3, 4. sinned against thee alone, not excluding his sinne against himselfe, *Uriah*, and others,
 (n) see *De Iure* whom he injured thereby. 6. This sinne against (n) *Uriah* was but a personall and
Magistratus in private injury, into which *David* fell out of humane frailty, it was the first and onely
subditos. p. 301, sinne
 302.

in of this kinde that ever he committed, for ought we read; he made no trade of it, he repented for it, and never relapsed again into it: in this regard therefore these Fathers interpretations may be Orthodox, that for such a private sin of infirmitie onely, David was not responsible nor punishable by the Congregation or Sanhedrin: But had he made a common trade of murdering his subjects, ravishing their wives, and the like; or giving himsefve over to the open practice of grosse Idolatry, (a sin onely against God himself) and not repented of, or humbled himself solemnly for it, as he did for these sins here, no doubt the Congregation or Sanhedrin might upon complaint, have questioned, reprehended, and censured him for it, as the premises plentifully manifest, notwithstanding the priviledge of his regalitie, which, as it exempted him not from the guilt, so not from the punishment due unto such Crimes, whether temporall or eternall: not from the (o) eternall, which is the greatest, that is certain, therefore not from the temporall, which is the lesse. Finally, God himself threatens, that (p) If Solomon or any Kings of Davids Seed should forsake his Law, and not keep his Commandments, but commit iniquity against him, he would chasten them with the Rod of Men, and the Stripes of the Children of Men; whence the (q) Rabbins write, That if their Kings transgressed against the Law of the King, they were and might be scourged for it, without dishonour, by a man whom themselves made choice of: Therefore they might be justly censured and punished by men for their transgressions against God alone, notwithstanding this glosse of these Fathers, true only in some sence in private cases, and sins of infirmitie against private men, not of publike habituall transgressions.

(o) 1st 32. 33.
Rom. 6. 15. 16.
(p) 2 Sam. 7. 14
Psa. 89. 30, 31,
32.
(q) Hugo Grotius de iure Belli & pacis. l. c. 3 sect. 20. p. 64.

The second Objection, is that Speech of Samuel to the people, 1 Sam. 8. 11. to 19. *This will be the manner of the King that shall reign over you; He will take your sons and daughters, and appoint them for himself, &c. And he will take your fields, and your Vineyards, and your Oliveyards, even the best of them, and give them to his servants. And he will take the tenth of your seed, and of your Vineyards, and give to his servants: And he will take your manservants, your maidservants, your goodliest young men and your Asses, and put them to his service; he will take the tenth of your sheep, and ye shall be his servants; And ye shall crie out in that day, because of the King whom yee have chosen you, and the Lord will not hear you in that day.* Therefore their Kings were absolute Monarchs, not bound to Laws, nor responsible to their subiects for their oppressions, nor yet resistible by them.

Object.

To which I answer, that this is a direct description of a Tyrant, and not of a lawfull King; as is evident,

First, by the very occasion of the words; Uttered purposely by Samuel to dissuade the People from electing a King, & changing their former Aristocraticall Government, into a Monarchicall; because their kings would many of them prove more oppressive, Tyrannicall and burthensome to them then their Iudges or his sons were, whose bribery and perverting of judgment, moved the people thus earnestly to affect a change of Government, as is evident by the 1, 2, 3, 4, 5, 6, and 9 Verses; (f) Iosephus, and the consent of all Expositors.

Ans. 1.

(f) Antiqu. Ind. 6. c. 4.

Secondly, by the introduction to, and the words themselves, *This will be the manner of the King that shall reign over you, He will take, and he will do thus and thus;* not this ought to be the manner, he ought to do, or lawfully may do thus and thus.

2.

Thirdly, by the things themselves which he would do, which are directly contrary to Deuter. 17. 14. to the end; and all other Scriptures, expressly enjoying Kings

(t) 2 Sam 23.3 (t) to judge their people righteously, to do justice and judgement, and not any wayes to oppress or spoyle them. I shall instance onely in two particulars.

9. 1 say. 32. 1.
2 Chron 9. 8.
(v) Exod. 20.
17. Deut. 5. 21.

First, the law of God expressly prohibits (v) all men (and Kings as well as others) to covet their neighbours House, his menservants, his maidservants, his Oxe, or his Ass, or any thing that is his Neighbours: If their Kings then might not lawfully so much as desire or covet, much lesse might they lawfully take away their Houses, Sonnes, Daughters, Manservants, Maidservants, Asses, Sheep, Corn, Vineyards, or any thing else that was theirs, without their free consents, as Samuel tells them their King would do; this therefore must needs be onely a declaration of what their Kings would Tyrannically do, not of what they might lawfully or justly execute.

Secondly, it is Gods expresse Edict, Ezek. 46. 18. *The Prince shall not take the Peoples inheritance by oppression, to thrust them out of their possessions, but he shall give his Sons inheritance out of his own possession, that my people be not scattered every one from his possession. And Ezek. 45. 8, 9. The Land shall be the Princes possession in Israel, and my Princes shall no more oppresse my people, and the rest of the Land shall they give to the house of Israel according to their Tribes: Thus saith the Lord God, Let it suffice you, O Princes of Israel; remove violence and spoile, and execute judgement and justice; take away your exactions (or expulsions) from my people, saith the Lord. Whence*

(x) 1 King. 21.
22. 25.

(x) Ahab King of Israel for coveting, and unjustly depriving Naboth of his Vineyard, which he refused to sell him, because it was the inheritance of his Fathers, and taking possession thereof after his unjust condemnation, had a most severe judgement denounced against him, even the utter extirpation of himself, Jezabel, and their posterity, afterwards executed: Which punishment God would never have inflicted on them, had it been lawfull for the Kings of Israel to take the peoples Fields, Vineyards, Oliveyards, &c. and possess or give them to their servants, as Samuel here tells them their Kings will do: This clause then of taking their Fields, Vineyards, &c. from them, by the King, without their consents, being thus diametrically contrary to these Texts of Ezekiel, and such a capitall Crime in King Ahab, (yea, contrary to the practise of Ioseph, and the Egyptian Heathen King Pharaoh, who took not away, but bought the Egyptians Cattell and Lands for Corne, Gen. 47. 14, to 27.) can no wayes be warranted as a just royall prerogative lawfull for their Kings to use, but must needs be branded for a Tyrannicall Oppression.

Fourthly, this is evident by the consequences of it, *Ye shall be his servants, (not subjects;) And ye shall crie in that day because of your King which ye have chosen you, and the Lord will not hear you in that day, Verse 17, 18.* Certainly the people neither would nor ought to crie to god against the proceedings of a just upright King, but onely of a Tyrant and Oppressour; therefore this Text must needs be meant of such a one, who should be a scourge and punishment to them, as Tyrants are, not a blessing as good Kings alwayes be.

Fifthly, consult we with all Politicians whatsoever, this description suites onely with a Tyrant, not with any lawfull King: and that it is meant of such a one, we have the testimony of (y) Iosephus, the generall concurring suffrage of all Commentators and Expofitors one the place (see Lyra, Hugo de Sancto Victore, Carthusian, Angelomus Lexoviensis, Calvin, Brentius, Bugenbadius, Beda, Bercorius, Martin Borrhaus, Peter Martyr, Zanchius, Piscator, Serrarius, Strigelius, Doctor Willet, Deodate, the English Bibles notes, with others) and of sundry who descant on this Text in other writings;

(y) Antiqu.
Iud. 1. 6. c. 4. 5.

writings; by name, of *M. John Calvin, Instit.* 4 c. 20. *sect.* 26. *Bishop Ponet* his *Politieall Government.* p. 44. *Iunius Brutus Indicia contra Tyrannos,* qu. 3. p. 121. 122. 134. 135. 153. 154. 155. 159. *De Iure Magistratus in Subditis,* p. 270. 271. *Bucholcers Chronicon.* p. 268. *Petrus Cunaeus, de Repub. Hebraeor. l. 1. c. 14.* *Bertrami, Politia Iudaic.* p. 53. *Shickardus jns Regium Iuda.* p. 64. *Albericus Gentilis de jure Belli, l. 3. c. 15. p. 613.* *Hugo Grotius de jure Belli & Pacis, l. 1. c. 3. Adnotata.* p. 72. *Governado Christiano,* p. 87. *Georgius Bucananus de jure Regni apud Scotos,* p. 44. *Dolt-man,* p. 68 70. *Hanon, disp. polit.* p. 432. *Weemse 2 Vol. 2. Part. p. 14.* *Hotomani, Franco-Gallia, c. 10.* *Amesius de Casibus Conscientiae,* p. 306. and (to name no more in so plain a case) of *Doctor Ferne* himself, in his *Resolving of Conscience, sect. 2. p. 10.* where heo writes, *That Samuel here tels the people, how they should be oppressed under Kings; yet all that violence and injustice done unto them, is no cause of resistance, &c.* This Text then being clearly meant of their Kings Oppression, violence, injustice against Law, right, and a clear description of a Tyrant, not a King; I may safely conclude from all the premises, that even among the Israelites and Jews themselves, their Kings were subject to the Lawes, and that the whole Congregation, Kingdom, Senate, Sanhedrin, not their Kings, were the Supreme Sovereign power, and Paramount their Kings themselves, whom they did thus freely elect, constitute, and might in some cases justly censure, resist, depose, (if not put to death) by common consent, for notorious grosse Idolatries and publike multiplied crimes, as the forecited authors averre. All which considered, eternally refutes, subverts, confonnds the erroneous false Positions and Paradoxes which *Doctor Ferne, Griffith Williams Bishop of Ossery, the Authour of The necessitie of Subjection,* with other late ignorant Pamphletters, have broached to the contrary, without either ground or presidents to warrant what they affirm, touching the absolute Sovereignty, Monarchy, irresistibilitie, incorrigibility of the Kings of Iudah and Israel by their whole States, Congregations, Kingdoms generall assents, and utterly takes away those sandy fabulous foundations upon which their impertinent Pamphlets against the Sovereign Power of Parliaments, Kingdoms, and the illegality of Subjects taking up defensive Arms against Tyrannicall Princes, bent to subvert Religion, Laws, Liberties, the Republike, are founded; which must now needs vanish into nothing, before this Catholike, irrefragable clear-shining verity, abundantly ratified by innumerable presidents in all eminent Kingdoms, States, Nations, that either have been in any former ages, or are yet extant in the world; which must and will infinitely over-sway, swallow up the inconsiderable contrary opinions of some few privadoes, who (either out of flattery, hopes of getting, or keeping undemered preferments, fear of displeasing greatnesse, or inconsiderate following of other reputed learned mens mistakes, without due examination of their erroneous Tenents) have engaged themselves in a Polemicall blinde Combate against these infragable transparent Verities; whose defence I have here made good against all their misprisions, and bootlesse assaults.

Having now Historically ran over the most eminent Empires, Kingdoms of ancient and present times, in a kinde of confused method, their copious vastnesse and varietie being so boundlesse, and my time to collect them so small, that I could hardly marshall them into any comely distinct Regiments, or reduce them to the particular Heads debated in the premises; I shall therefore for a conclusion deduce these distinct Conclusions from them, to which the substance of all the recited Histories may be apr-

ly reduced, and are in truth abundantly confirmed by them beyond all contradiction, annexing some new punctuall Authorities of note, to ratifie and confirme them.

Observ. 1.

First, it is undeniably evident from all the premises, That all Monarchies, Empires, Kingdoms, Emperours, Kings, Princes in the world, were originally created, instituted, ordained, continued, limited, and received all their jurisdiction, power, Authority both from, by, and for the people, whose Creatures, Ministers, Servants they are, and ought to be. If we survey all the severall Lawfull Monarchies, Empires, Principalities, Emperours, and Kings, that either have been, or yet are extant in the world; we finde all sacred and prophane Histories concur in this, that they had their originall erections, creations from, by, and for the People; Yea, we read the very times when, the most Monarchies of note were instituted, the Names of those on whom the first Monarchies were conferred, (by the peoples free election onely) yet extant on record in most Histories, and wichall expresse relations, of many different kinds of Kingdoms, Kings, in respect of succession, continuance, Power, jurisdiction, scarce any two kingdoms, or their Kings, being alike in all things in regard of Prerogatives & jurisdictions; all Histories & Politicians concurring, resolving with (2) Peter, that Kings are humane Creatures or Ordinances, instituted, diversified thus by men, and the people alone, out of Gods generall or speciall providence, not one of them all being immediately or directly ordained by God, as the onely efficient cause, without the free concurrence, consent and institution of the people. This truth, is not onely ratified by *Lex Regia*, whereby the Roman Emperours were created, yea, invested with all their power; registred by *Iustus Eccardus de Lege Regia*, & *Marius Salamonijs de Principatu*, l. 6. (a) formerly transcribed; by *Plato*, *Aristotle*, *Xenophon*, *Berosus*, *Polybius*, *Cicero*, *Livy*, *Iustin*, *Plinie*, *Strabo*, *Plutarch*, *Dionysius Hallicarnassens*, *Diodorus Siculus*, *Pausanias*, *Solinus*, *Alexander ab Alexandro*, *Hermannus Schedell*, *Herodotus*, *Boëmus*, *Pomponius Mela*; forecited, and generally by all Historians, Chronologers, Antiquaries, Lawyers, Politicians whatsoever; but directly averred and proved by *Franciscus Hotomannus* (a famous Lawyer) in his *Franco-Gallia*, c. 1. 6. 10, 13. the Author of *De Iure Magistratus in subditos*, *Quest. 5. p. 239. 240*, & c. *Thomas Garzonius Emporijs Emporiorum*, Pars 1. *Discursus 1. de Dom. p. 13. Vasquius Controvers. Illustrum*, 12. n. 133. 59. n. 8. 61. n. 22. 80. n. 4. 108. n. 29. 141. n. 2. *Covarrunius*, *Quest. Illustr. T. 2. 396. n. 2. 4. Hugo Grotius de Jure Belli*, l. 1. c. 4. sect. 7. l. 2. c. 14. sect. 11. and elsewhere; *Marius Salamonijs de Principatu*; *Eccardus de lege Regia*, with others cited by them: *Hookers Ecclesiasticall Polity*. l. 1. sect. 10. p. 69, 70, 71. (a pregnant place) *Albericus Gentilis de Iure Belli*, l. 3. c. 10. 15. *Ioannes Mariana de Rege & Regum Instit.* l. 1. c. 1. to 10. *Sparsim*, & *Iunius Brutus, Vindicia contra Tyrannus*, *Quest. 3. p. 83. to 94.* with whose words I shall close up this observation, (having (b) elsewhere particularly proved the verity thereof, and answered all Objections against it from misinterpreted Scriptures:)

, We say now (writes he) that the people constitute Kings, deliver Kingdoms, approve Kings elections, with their suffrages; which God would have to be thus, that, so whatsoever authority and power they should have, they should, next to him, referre it to the people, and therefore should bestow all their care, thoughts, industrie, for the peoples profit; neither verily should they think themselves advanced above other men for their excellency of nature, no otherwise then men are over Heards, and Flocks, but should remember, that being born in the same condition with others,

(2) 1 Pet. 2. 13.

(a) Part. 3. p. 110, 111.

(b) Part 3. p. 115, 10 122.

, others, they were lifted up from the ground unto that condition by the suffrages, as it
 , were, by the Shoulders of the people, upon whose Shoulders the burthen of the Com-
 , mon-weale should for a great part rest: After which he proves by *Deut. 17.* and
 , divers forecited presidents in Scripture, that God gave the Election and Constituti-
 , on of the kings of Israel to the people; and that notwithstanding the succession of the
 , kingdom of *Judah* was by God entailed afterwards to the Linage of *David*, yet
 , the Kings thereof actually reigned not before they were ordained by the people.
 , Whence we may conclude, that the Kingdom of Israel, if we respect the stock, was
 , certainly hereditary, but if we regard the persons, altogether elective. But to what
 , end was this, if the Election appear, as it is confessed, but that the remembrance of
 , so great a dignitie conferred by the people, should make them alwayes mindefull of
 , their duty: So likewise among the Heathens we read, that Kings were constituted by
 , the people; for when they had wars abroad, or contention at home, some one man, of
 , whose fortitude and justice the multitude had a great opinion, was by common con-
 , sent assumed for King. And among the *(c)* *Medes*, saith *Cicero*, *Deioces* was of an
 , Arbitrator made a Iudge, of a Iudge created a King; and among the *Romans* the first
 , Kings were elected. Therefore when *Romulus* being taken away, the *Inter-regnum*
 , of the hundred Senators was displeasing to the Romans, they accorded, *(d)* that af-
 , wards Kings should be chosen by the Suffrages of the people, the Senate approving
 , it: And *Tarquin* the proud was therefore reputed a Tyrant, for that being created
 , neither by the people nor Senate, he held the Empire onely by force and power:
 , Wherefore *Cesar* although he invaded the Empire by force, yet that he might cosen
 , the people at least with some pretext of Law, would seem to have received the Em-
 , pire from the Senate and people: But *Augustus* although he was adopted by *Ca-*
 , *sar*, yet he never bare himselfe as heire of the Empire, by divise; but rather re-
 , ceived it as from the Senate and people; as did also *Caligula*, *Tiberius*, *Claudius*;
 , whereas *Nero*, who first invaded the Empire by force and wickednesse without any
 , colour of Law, was condemned by the Senate. Since then no man could be born an
 , absolute King, no man can be a King by himselfe, no man can reigne without the
 , people: Whereas on the contrary, the people may both be, and are by themselves, and
 , are in time before a King; it most certainly appears, that all Kings were first constitu-
 , ted by the people. Now albeit that from the time that Sons or Nephews imitated the
 , vertues of their parents, they seem to have made kingdoms as it were hereditary
 , to themselves in certain Countries, where the free power of Election may seem in
 , some sort to have ceased, yet that custome hath continued in all well constituted
 , kingdoms, that the children of the deceased kings should not succeed untill they
 , were as *de novo*, newly constituted by the people, nor should not be acknowledged
 , as heires to their Fathers, but should onely then at length be reputed kings, when
 , they had as it were received investiture of the Realme from those who represent the
 , Majesty of the people, by a Scepter and Diadem. In Christian kingdoms which at
 , this day are said to be conferrd by succession, there are extant most evident footsteps of
 , this thing. For the kings of *France*, *Spain*, *England*, and others are wont to be inau-
 , gurated, and as it were put into possession of the Realm by the States, Senators, No-
 , bles and great men of the Realm, who represent the universality of the people, in the
 , same manner as the Emperours of *Germany* are by the Electors, and the kings of
 , *Poland* by the *Vayuods* or *Palatines*, where the intire right is onely by election, nei-
 , ther

(c) *Hered. l. 1.*
Cicero, l. 1. Offic.

(d) *Livius, l. 1.*

* See here, par. I
 p. 53. to 78.

ther is royall Honour yeelded to them in the Cities of the kingdomes, before they have been duly inaugurated: Neither also heretofore did they compute the time of the reigne, but from the day of the inauguration, which computation was accurately observed in *France*: And that we may not be deceived by reason of any continued stories of succession; even in those very kingdomes, the States of the Realme have oft times preferred a kinsman before a sonne, the second sonne before the eldest; as in *France*, (e) *Lewis*, the brother, before *Robert* Earl of *Dreux*; also *Henry*, the second brother, before *Robert Capet* the Nephew, with others elsewhere: Yea, and the same kingdome by Authority of the People, hath been translated from one Nation and Family to another, whiles there were lawfull heires extant; from the *Merovingi*, to the *Carlingi*, from the *Carlingi* to the *Capets*; which hath been likewise done in other Realms, as it sufficiently appears out of the truest Histories. And that we may not recede from the kingdome of *France*, which hath ever been reputed the pattern of the rest, in which, I say, succession seemes to have obtained greatest strength; We read that *Pharamond* was elected, Anno 419. *Pipen*, An. 751. *Pipens* sonnes, *Charles* the great and *Charlemain* 768. not having respect of the Father; *Charlemain* being at last taken away 771. the Brothers part did not immediatly accreue to *Charles* the Great, as is usually done in inheritances, but by the determination of the people and publike Councell: and by them *Ludovicus pius* was elected, An. 812. although he were the sonne of *Charles* the great. Yea, in the very Testament of *Charles*, which is extant in *Naucerus*, he Intreats the People by the Common Councell of the Realm to elect one of his nephews who they pleased; as for his Vncles he bids the rest satisfied with the Decree of the people. Whence *Charles* the bald, Nephew by *Lewis* the godly and *Judith*, professeth himselfe An elected King in *Simoinius* the Historiographer. In summe, all kings whatsoever, from the beginning were Elective; and those who at this day strive to come to the kingdome by succession, must of necessity be first ordained by the people. Finally, albeit the people by reason of certain egregious merits, hath in certain Realms used to chuse kings out of the same stock, yet they chuse the stock it self, nor the branch; neither do they so chuse it, but if it degenerates, They may elect another: But even those who are neere of that stock, are not so much born, as made kings; are not so much accounted kings as the Attendants of kings; which *Franciscus Hotomanus* in his *Franco-Gallia*, cap. 6. 7. & 10. prosecutes more at large, and manifests by sundry pertinent Presidents and Authorities.

Observ. 2. Secondly, that it is apparant by all the premised Histories; That in all Empires, Monarchies, the whole Empire, State, Kingdome, with the Parliaments, Senates, States, Diets, publike Officers and generall Assemblies which represent them, are the Supreme Sovereign power, superiour to the Emperours, Kings and Princes themselves; who are subordinate Ministers and servants to them, elected, created by them for their common good; and not absolute Sovereign Lords or Proprietors to rule & domineer over them at their pleasure: Which conclusion you shall find abundantly ratified, and professedly maintained by *Marinus Salaminius*, de *Principatu*, in six severall Books; by *John Mariana*, de *Rege & Regis Instit.* l. 1. c. 8. *Stephanus Iunius Brutus*, his *Vindicia contra Tyrannos*, throughout, especially p. 91. to 110. the Treatise, *De Iure Magistratus in Subditos*, throughout: *Iustus Eccardus*, de *Lege Regia*: *Henricus Ranzovius*; *Commentarii Bellici*, lib. 1. c. 3. and elsewhere: *Georgius Obrechtus*

(an eminent Civill Lawyer) *Disputationes Iuridicae, de Principiis Belli, sect. 115.* to 200. where he thus resolves, (f) *The inferiour Magistrates, as in Germany the Electors, Princes, Earles, Imperiall Cities; in France the Peers of France, in Poland the Vaynodes or Palatines, and in other Kingdomes the Nobles, Senators, and Delegates of the Estates, as they are severally inferiour to the Emperour or King, Ita Univerſi Superiores eriant, ſo collectively They are ſuperiour to them; as a Generall Councell is above the Pope, the Chapter above the Biſhop, the University above the Chancellor; The Prince, ſaith (g) Pliny the ſecond, even the greateſt, is obliged to the Commonwealth by an Oath, as its ſervant, ac ipſa Republica ſeu Regno* (g) *Peneg. Trojan. diſcus.*
Quino, eſt, and is leſſe then the Republike or Kingdome it ſelfe:) by *Franciſcus Hotomanus* a learned French Lawyer, in his *Franco-Gallia, c. 6, 7, 10, 11, 14, 15, 16, 18, 20.* *Aquinas, de Regimine Principum, c. 6.* by *Hemingius Arnſauſus, De Auctoritate Principum in populum, &c.* and *De Iure Majeſtatis, Sebaſtianus Foxius, De Regni Regiſque Inſtitutione; Vaſquiſ Controverſ. Illuſtrium paſſim, Cavarnuius Contr. Illuſtr. T. 2. 505. n. 1. 399. n. 6. Haron Diſp. Polit. p. 179. &c. Aluſius Polit. c. 4. p. 146. to 154.* with *Iohn Calvin Inſt. l. 4. c. 20. ſect. 31,* and divers others forecited: Heare (h) *Iunius Brutus* inſtead of all the reit to this particular, being a Frenchman by birth, and writing his mind herein both freely, accutely and ingeniouſly, in theſe words:

, Now verily, ſince Kings are conſtituted by the people, it ſeems neceſſarily to follow, *populum univerſum Rege potiorem eſſe*, That all the people are better and greater then the King. For ſuch is the force of the word, that whoever is conſtituted by another, is reputed leſſe then him; he who receiveth authority from another, is inferiour to his Author. (i) *Potiſpher* the Egyptian appointed *Ioseph* over his family, (k) *Nebuchadonzer* ſet *Daniel* over the Province of *Babylon*; (l) *Darius* ſet an hundred and twenty Princes over the Kingdome. Verily Maſters are ſaid to appoint ſervants; Kings Miniſters; ſo likewise the people appoints the King, as the Miniſter of the Commonweale; which title good Kings have not contemned, and ill Kings have affected, ſo that for ſome ages, none of the Roman Emperours, but an apparant Tyrant, ſuch as *Nero, Domitian, Caligula*, would be called *LORD*. Moreover it appeares, that Kings were inſtituted for the peoples ſake; neither wilt thou ſay, that for an hundred Homuncies more or leſſe, (for the moſt part far worſe then the reſt) all interiours whatſoever were created, rather then they for them. Now reaſon requires, that he for whoſe ſake another exiſts, is to be accounted leſſer then he. Thus the Governour of a Ship is inſtituted by the owner for the Shippes ſake, who ſits at the Helme, leſt the Ship ſhould be broken on the Rocks, or ill hold her courſe. And verily whiles he intends this buſineſſe, the other Mariners ſerve him, and the owner himſelfe obeyes him; and yet he is a ſervant of the Ship, as well as any mariner, neither differs he from a mariner in gender, but in kind: In the Republike, which is uſually compared to a Ship, the King is in place of a Maſter, the people of an Owner: Therefore to him ſeeking the publike ſafety, the people obey and ſubmit; when notwithstanding he is, and ought no leſſe to be accounted a ſervant to the Republike, as well as any Judge or Captain, neither differs he from thoſe in any thing, but that he is bound to beare greater burthens, and undergoe more dangers: Wherefore verily what things ſoever the King acquires in warre, or when he gaineth adjoining Coaſts by right of warre or by ſentence of Law, as thoſe things

(g) Peneg. Trojan. diſcus.

(h) *Vindicie Contr. Tyrannos* printed 1589. *Queſ. 3. p. 2. 91. to 111.*

(i) *Gen. 39. 4.*
 (k) *Dan. 2. 48.*
 (l) *Dan. 6. 1.*

which are brought into the Eschequer, he acquires to the Kingdom not to himselfe; to the people, I say, which constitute the kingdome, no other wise then as a servant (purchaseth) to his Lord; neither can any obligation be contracted with him, but by their authority. Furthermore, innumerable people live without a king, but thou canst not conceive a King without a people, so much as in thy mind. Neither have some attained a Royall Dignity because they differed in kind from other men, and ought to rule over others by a certain excellency of nature, as shepherds doe over their Flocks; but rather, the people created out of the same Masse, have advanced them to that degree, that to if they enjoyed any authority, any power, they should acknowledge it received from them, and possesse it as during their pleasure; which the ancient custome of the French aptly sheweth, who * lifting their King up on a Buckler, proclaimed him King. For why, I pray, are Kings said to have innumerable eyes, many eares, long hands, most swift feet? what, because they are like to Argus, Gerion, Midas, or to those whom fables have feined? verily no, but indeed because all the people whom it concerns, lend all their eies, their eares, their hands, feet, and faculties to the king for the use of the Republike. Let the people recede from the King, he who even now seemed eyed, eared, strong and flourishing; will suddenly wax blind, deafe, and fall to nothing; he who ere while did magnificently triumph, will in one moment become vile to all: he who even now was adored almost with divine honours, will be compelled to play the Schoolmaster at Corinth: Overturn only the basis of this Giant-like heape, and like the Rhodian Colossus, it will of necessity fall, and be broken into pieces. Since therefore a King exists by and for the people, and cannot consist without the people; to whom may it seem strange if we conclude, **That the People are greater then the King.**

Moreover, what we say of all the People, we will have spoken also, as in the second Question, of those also who lawfully represent all the people in every kingdome or City, who verily are commonly reputed the Officers of the Kingdome, not King. The Officers of the King, are created or discharged by the King at his pleasure; Moreover, when he dyeth they are out of place, and are in some sort accounted dead men. Contrarily, the Officers of the kingdome, receive their authority from the people, to wit, In a publike Councell, or at least, **Here tofore were wont to receive it, neither can they be cashiered without the same.** Therefore those depend on the King, these on the kingdome: they, from the Supreme Officer of the kingdome, who is the king himselfe; these, from the Supreme Dominion of the People, from whom the king himselfe, as well as they, ought to depend. Their Office is, to take care of the king: these mens duty, to take heed that the Commonwealth receiue no detriment any where; Theirs to be present and serue the King, as any domestick servants doe their Masters; these mens, to defend the rights and priuiledges of the people, and diligently to prouide, that the Prince himselfe commit, or omit nothing to their destruction. Finally, those are the Kings seruants, Ministers, domesticks, instituted only to obey him; these contrarily, are as the kings Assessors in judging according to Law and Consorts of the Royal Empire; so as all these are bound to govern the Commonweal, no other wise then the king is; yet he, as a president among them, may onely hold the first place. Now as All the People are superiour to the King; so euen these, although single, every of them be inferiour to the King, yet All of them are to be deemed superiour to him. How great the power of the first Kings.

(*) *Hotomani*
France-Gallia
6.6.

kings was, appears sufficiently from this; that *Ephron* king of the *Hittites*, durst not grant the right of a sepulcher to *Abraham* without the peoples consent; nor *Hamor* (m) 6 ca. 23. the *Hittite* king of *Sechem*, make a league with *Jacob*, the more weighty affaires being usually referred to the people. And vetyly in those kingdomes, which at that time were circumscribed almost with one City, this was easie: But from that time kings began to enlarge their Territories, neither could all the people assemble in one place without confusion, Officers of the kingdom were appointed, who should ordinarily defend their rights; yet so, as when there should be need, either all the people, or at least a certain Epitome of them should be extraordinarily assembled. Most of this order to have been in the kingdom of *Israel*, which by the judgement almost of all politicians, was best of all constituted. The king had his Bakers, Butlers, Chamberlaines, Masters and Stewards of his House, who overlooked his Family; the kingdom had likewise its Officers, 71. Elders and Captains chosen out of every tribe, who might take care of the Republike in time either of peace or warre: and finally its Magistrates in every Town, who were every one to defend their Rites, as the others the whole kingdom (which he proves to be above their kings, and to overrule them, in the * forecited passage.) Such were the 7. (n) *Magi*, or wise men in the *Persian Empire*, being as it were Consorts of the Royall Honor, and who were called the kings eyes and eares, with whose judgement we read the kings rested satisfied: Such were the *Ephori* in the *Spartan* Realm, to whom they appealed from the king, and who did likewise judge the kings themselves; as it is in *Aristotle*; In the *Egyptian* kingdom the publike Ministers were elected and assigned to the king by the people, onely to this end, that he should commit nothing against the Lawes. Now as (o) *Aristotle* every where calls those lawfull kings, to whom such Officers are adioyned, so likewise he feares not to say, where they are wanting, that there is not a Monarchy, but either plainly a barbarous tyrannie, or a domination next to Tyrannie. In the *Roman* State the Senators obtained this place, and the Magistrates usually chosen by the people, the Tribune of the Consuls, the president of the City, and the rest, so as there lay an appeal from the king to the people, which *Seneca* cites out of *Tullies* Book of the Republike, and the History of *Horatius Tergeminus*, condemned by the Royall Judges for the murder of his sister, and absolved by the people, sufficiently evidenceth: But under the Emperours, the Senate, Consuls, Pretors, Pretorian Perfects, Presidents of Provinces, which were given to the people and Senate, weretherefore all called the Magistrates of the people of *Rome*. Therefore when as by the Decree of the Senate, *Maximinus* the Emperour was iudged an enemy of the Republike, (p) and *Maximus* and *Albinus* were created Emperors by the Senate against him, the *Souldiers* took an oath, that they would Faithfully obey the people of *Rome*, the Senate & Emperors, howsoever this law might be violated under tyranny. As for the Empires at this day (as the *Turkish* & *Muscovitisb*, and others of this kind, which are rather great Robberies, then Empires) there is not one of them, which if not at this time, was not at least in times past governed in this manner. But if it be come to passe through the Magistrats fault and sloathfulness, that in some places posterity have received a worser Commonweal, notwithstanding those who at this day possesse these Offices, are bound as much as in them is, to revoke all things to their ancient state. In the *German Empire* which is conferred by election, there are Princes, and Electors, as well Laicks as Ecclesiasticks, Earles, Barons, Cities, Embassadors of Cities, who as they have the care of the Commonweal in their severall

(m) 6 ca. 23. and 34.

* Her p. 143

144. (n) Estbor 16

(o) Arist. Politic. l. 5. c. 11. & 6. 3. c. 7.

(p) Herodian. l. 8. in Orat. Maxim & Albin ad Milites.

places, so like wise in generall Assemblies (or diets) when there is needs, they represent the Majesty of the whole Empire, where they are bound to care, that the Republike sustain no detriment by the private endeavours or hatreds of the Emperour. Therefore there is one Chancellour of the Empire, another of the Emperour; other and different Officers besides, both of the one, and other: divers Exchequers, divers Treasurers; and therefore it is a comon saying, that **the Empire is preferred before the Emperour**, so as (g) the Emperour may be every where said to do homage to the Empire. Likewise in the Realm of Poland, the Bishops, Palatines, Castellans, Nobles, Deputies of Cities and Counties are extraordinarily assembled; in whose assembly onely new constitutions are made, and wars decreed. But ordinarily the councillers of the Realm of Poland, the Chancellor of the Polish Repub. &c. although the King in the mean time hath his own Chamberlains, Stewards, Ministers, & Domesticks. But he who will dispute among the *Polonians*, whether the King or the whole people of the Kingdom, represented by the Estates of the Realm, be greater: doth just like him who should dispute at *Venice*, whether the Duke or the Republike were the superior? But what shal we say of those Kingdomes which are wont to be carried by succession? Verily the thing is no otherwise there. The Realm of *France*, which not long since was preferred before the rest both for the excellency of Laws and Orders, was thus constituted in times past; and although those who hold that place do not sufficiently discharge their duty, yet they are not thereby the lesse obliged to do it: The king verily hath his great Master, or Arch-Steward; his Chamberlains, Hunters, Guard, Butler, and the rest, whose Offices heretofore did so depend on the King that he dying, themselves seemed also to die in their Office; so that even yet, after the end of the mourning royall, the great Master or Arch-Steward, is wont to pronounce certain conceived words, wherewith he dismisseth the royall family, and bids every one provide for himself: Yet notwithstanding the Kingdom of (*r*) *France* hath its Officers, the master of the Palace, who afterwards was stiled the Earl of the Stable, the Marshals, Admirall, Chancellour, or great Referendary, Secretaries, Treasurers, and Officers, who verily heretofore **WERE NOT CREATED, BUT IN THE GREAT-PUBLIKE CONV-CELL** of the three Orders of the Clergie, Nobilitie and people; but since the standing Parliament was ordained at *Paris*, they are not thought settled in their Offices, before they be received and approved by the Senate of *Paris*, neither can they be cashier'd without their consent and authority: Now all these, first plight their faith **TO THE KINGDOM**, that is, *to all the people*, after that to the King, as the Guardian thereof; which is perspicuous even from the very form of the Oath. But especially the Earl of the Stable, when he is girded by the King with the Liliated sword (as appears by the words which he pronounceth,) is girded to that purpose, **THAT HE MAY DEFEND AND PROTECT THE REPVBLIKE**. Moreover the Realm of *France* hath its Peers, as Consuls of the King, or its Senators; as the Fathers of the Republike, every of them denominated from the severall Provinces of the Kingdom, to whom the King, being to be crowned, is wont to plight his faith, as to the whole Kingdom: from whence it appears, **THAT THEY ARE SUPERIOR TO THE KING**; These again likewise swear, that they will defend, not the King, **BUT THE ROYALL CROWN**; that they will assist **THE REPVBLIKE** with their councill, and that for this end, they will be present in the sacred Council of the Prince in time of Peace or Warre, as manifestly appears out of the formulary of the Peership: Therefore by the Law of (*r*) *Lombardy*, in giving sentences, they did not onely

(g) Speculum
Saxon. cap.

(r) Aimonius,
l. 5, c. 6. in Ca-
rulo Caluo.
See Heromani
Franco-gallia,
l. 5, c. 10. &c.

(P) P. Filius,
fam. Inst. quibus
mod. in Patrie
pot. solvitur.

(r) Revallus,
Crappinus.

only sit with the Lord of the Fee as Peers, but likewise heard the Causes oft times between the Superiour Lord and his Vassall. We likewise see these Senators of *France* to have oft times judged between the King and Subjects, so that when *Charles* the 6. would have pronounced sentence against the Duke of *Britain*, they withstood him, and said, *THAT THE JUDGEMENT WAS NOT THE KINGS, BUT PEERS, FROM WHOSE AVTHORITY HE COULD DEROGATE NOTHING.* Hence even at this day the Parliament at *Paris*, which is called the Court of Peers or Senators, is in some sort constituted a Judge between the King and People, yea, between the King and every private man, and is bound, as with an obligation to right every one against the King Procurers, if he invades any thing against Law; Besides, if the King determines any thing, or makes any Edict at home, if he make any compact with neighbour Princes, if any Warre be to be waged, if any Peace be to be made, as of late with *Charles* the fifth, The Parliament ought to approve, and be Authour of it, and all things which appertain to the Common-wealth, ought to be registred among its acts; which verily are not ratified, untill they shall be approved by it. Now that the Senators might not fear the King, heretofore none could be preferred into that Order, but such who were nominated by the Senate, neither could they Lawfully be removed, but by its Authority, for a lawfull cause.

Finally, even the Kings Letters, unlesse they be subscribed by the Kings Secretary, and rescripts, unlesse they be signed by the Chancellour, (who hath a power of cancelling) have no authority. There are likewise Dukes, Marquesses, Earles, Vintcounts, Barons, Castellanes; also in Cities Maiors, Deputies, Consuls, in Sindedes, Auditors, and the like, to whom some particular Region or City are severally commended, that they may defend the People so farre forth as their jurisdiction extendeth, although some of these dignities at this day are reputed Hereditary: And besides this, yearly heretofore, at leastwise as often as necessity required, there was held an (v) Assembly of the three Estates, wherein all the Countries and Cities of any note, did send their Deputies, namely Commons, Nobles, Ecclesiasticks in each of them apart; where they publicly determined of those things which appertained to the Republike: Now such was evermore the authority of this Assembly, that not only those things which were therein accorded, were reputed sacred and holy, & whether Peace were to be concluded, or War to be waged, or the Guardianship of the Realm to be committed to any one, or a Tax to be imposed, was there concluded; but even Kings themselves for their luxury, slothfulness or tyrannie, were thrust into Monasteries, & by their authority, even all their Offsprings deprived of the succession of the Kingdom, no other wise then at first, when as they were called to the kingdom, by the peoples authority: verily those who consent had advanced, dissent did pull down again; those whom imitation of paternall vertues had as it were called into that inheritance, a degenerate and ungratefull minde, as it had made them incapable and unworthy, so it did make them to be disinherited: From whence verily it appears, that succession truly was tolerated to avoid competition, succession, an interregnum, and other incommodities of Election; but truly when greater damages would follow; where Tyranny should invade the Kingdom. where a Tyrant the Throne of a King, the lawfull Assembly of the people perpetually reserved to themselves an Authority of expelling a Tyrant or slothfull King; and of deducing him to his Kindred, and of substituting a good

(v) *Amomius.*

(x) *Caesar*, l. 5.
& 7. de *Bello*
Galliso.

Note.

King in his place. Verily peradventure the French received this from the *Gauls*,
(x) *Caesar* in the fifth Book of the *Gallic War*, being the Author; For *Ambiorix* King
of the *Eburoni*, confessed, that all that time the Empires of the Kings of *Gallia* were
such, that the people duely assembled, had no lesse authoritie over the King, then
the King over the people; which also appears in *Vercingetorix*, who pleaded his cause
before an assembly of the people. In the Kingdoms of *Spain*, especially in *Valentia* and
Catteloigne of the *Arragonians* it is even thus, for the Sovereignty of the Realme, is
in the Justice of *Aragon*, as they call it; therefore the great men, who represent the
people, fear not to tell the King in direct terms, both in his very Coronation it self,
and likewise every third year in the generall assembly of their Estates, *Tantum va-*
temus nos, quantum vos; *We are as powerfull as you*, but the Justice of *Aragon* is
above us both, who rules more than you. Yea, oftentimes what things the King hath
asked, what he hath injoyn'd, the Justice hath prohibited; nay, he never dares to impose
any tribute without the authority of that Assembly. In the Realms of *England* and
Scotland, the Supreme power is in the Parliament, usually wont to be held almost
every year. Now they call a Parliament, the Assembly of the Estates of the Realme,
where the Bishops, Earls, Barons, Deputies of the Cities and Counties by common
suffrage determine of the Republickes affairs, whose authority is so sacred, that what
things soever it shall once establish, it is unlawfull (or a wicked act) for the king to
abrogate. Likewise all the Officers of the Realme are wont to receive their Offi-
ces from that Assembly, and those who ordinarily assist the King or Queen in Coun-
sell. In brief, other Christian Kingdoms, as *Hungary*, *Bohemia*, *Denmarke*, *Swe-*
den, and the rest, have all their Officers of the Realm, or Consuls of the Royall Em-
pire, who by their own Authority have sometimes used even to depose their Kings
themselves, as Histories teach, or fresh memory sufficiently manifests: Neither is
there verily any cause that we should think the Royall Authority to be thereby de-
minished, or that Kings should hereby suffer as it were a diminution of their heads;
Truly, we deem not God the lesse potent for this, because he cannot sin by himself,
nor his Empire more restrained, because it cannot be ruined, nor grow worse; there-
fore not a King, if that he who may offend by himself, be sustained or kept from sin-
ning by anothers help; or if peradventure he had lost any Empire by his own negli-
gence or fault, that he may retain by anothers prudence. What? do you think any
man lesse healthy, because Phisicians sit round about him, who dehort him from in-
temperance, who interdict him the eating of hurtfull meats, who likewise oft-times
purge him against his will, and resisting? Or whether doest thou think those Phisicians
who take care of his health, or flatterers who obtrude the most unwholsome things,
to be more his friends? Therefore this distinction is altogether necessary to be adhi-
bited: Some are friends of the King, others of *Caesar*; those are friends of *Caesar*, who
serve *Caesar*; those friends of the King or Emperour, who serve the Kingdom: For
since any one is called a King, for the Kingdoms sake, and the Kingdom consists in
the people; but the Kingdom being lost or decayed, the King must altogether cease to
be a King, or, at least, be lesse a King: those verily who shall study the profit of the
Kingdom, are truly the Kings friends; those who neglect, or subvert the profit of the
Realm, are truly his Enemies: and as thou canst by no means separate the Kingdom
from the people, nor the King from the Kingdom; so neither the friends of the King
from the friends of the Kingdom or people; yea verily, as those who truly love *Ca-*

Note.

far

,*far* would rather have him to be a King then a private man, nor can they have him a King without a Kingdom, in good sooth those shall be the Kingdoms friends who are *Casars*; and those who would seem to be more the friends of *Cesar*, then of the Kingdom or people, are truly to be reputed Flatterers and most pernicious enemies. But, and if they be true friends, is it not manifest, that the King will become more powerfull and stable, (as *Theopompus* said of the *Ephori* when instituted) by how much those shall be more, and more powerfull, to whom the profit of the people or Realm shall be commanded and committed?

, But perchance thou wilt say, You tell me of the Senators, Peers, and Officers of the Realm, but I, on the contrary, see nothing but Ghosts, and as it were ancient Cote-Arms in Tragedies, but I scarce any where discern any foot-steps of ancient libertie and authoritie. Finally, you may see most men every where to look to their own affairs, to flatter kings, to cheat the people; scarce any where maist thou finde one who takes pity of the mascerated people, much lesse who will give help to the miserable; but if there be any who are truly of that minde, or thought to be so, they are judged Rebels, or Traitors, they are banished, and they are compelled to begge even their very food. What? the thing is thus: It seems almost alwayes and in every place the audacitie of Kings, or partly the prevarication, partly the slothfulnesse of the Nobility hath been such, that kings may seem to have usurped that licentiousnesse, wherewith most of them at this day seem to wax insolent, by a long prescription of time, but the people may seem to have determined their Authority, or to have lost it by not using it: For so it happens for the most part, that no man takes care for that which all are bound to take care of, that which is committed to all, no man thinks it is commended to him. Yet notwithstanding, against the people, neither this prescription nor prevarication doth any thing. It is a vulgar saying, that no prescription can hurt the king, or Exchequer, much lesse all the people, who are potenter then the King, and for whose sake the Prince hath this priviledge; for why else is the Prince only the administrator of the Exchequer, but for the people, the true proprietors, as shalbe after proved? Furthermore, is not this a known truth, that no violence, no not in the longest lasting servitude, can be prescribed against liberty? But and if thou objectest, that Kings were constituted by the people, who perchance lived above five hundred yeer since, not by the people extant at this day; I answer, that although kings doe die, the people in the mean time (as niether any other Universitie) never dyeth; for as flowing waters make a perpetuall river, so also the vicissitude of birth and death an immortal people: Therefore as the *Rheine*, *Seine*, *Tyber*, is now the same as it was above a thousand yeeres agoe, so likewise the Germane, French, Roman people are the same, (unlesse Colonies shall have casually intervenen) neither can their right be any wayes changed, either by the flux of water, or change of individuals. Besides, if they attribute the Kingdom received, not to their people, but to their Father, & he to his Grandfather, and so upwards, could he transfer more right to another then himself first had? But and if he could not, (as it is certain he could not) is it not manifest, whatsoever he shall arrogate to himself besides, that he cannot any more usurp it then any thief? But on the contrary the people have a right of perpetuall eviction. Therefore that the Nobles have been for a long space oppressed, in any Kingdom, can no way prejudice the people; but rather, as the servant should not be heard, who in that he hath a very long time detained his Lord captive, should boast, that he was not onely a Free-man, but would likewise arrogate to himself a

Note.

(y) I. propono-
batur, G. D. de
Judicis, C. qui
res suas 98. pa-
rag. ult. de fo-
lition l. inter
Sicul 93. parag.
Sacram. D. de
Verbor. oblig.
Nipin. de
Reg. Iuris, l. 54.

power of life and death over his Lord: nor yet a Theefe, who because he hath robbed 30. yeers, or is the sonne of a Theefe, should think himselfe to be without fault, yea rather, by how much the longer he hath been such a one, the more severely should he be punished: So likewise a Prince is not to be heard or endured, who because he hath succeeded to a Tyrant, or hath for a long time used the people like a bond-slave, from whom he hath received his kingdome, or hath offered violence to the Nobles, should think that what ever he lusted should be lawfull to him, and ought to be granted of right. Neither doe yeers substract any thing from the peoples right, but adde to the injury of the King. But what, if the Nobles themselves have colluded with the King? what, if in betraying the cause, they have betrayed the people as it were bound, into the hands of a Tyrant? shall the authority of the people by this prevarication or treason seem to be plainly transferred upon the King? whether I say, by this fact is any thing taken away from the liberty of the people, or adjoynd to the licentiousnesse of the Prince? You will say, they may impute it to themselves, who made choise of such men of perfidious faith. But yet these are as patrons to patronize the publike profite, and the peoples safety and liberty: Therefore as when an Advocate shall make a compact with the adversary of his Client, concerning the value of the suit as they speake, if he had betrayed his cause, he should not hurt him at all; so this conspiracie of the Nobles, as it were made to the dammage and destruction of the people, cannot verily detract any thing from their right; but even they themselves shall fall into the penalty of the Law, which is promulged against prevaricators, and the Law permits the people to chuse another patron, and to prosecute their right againe: For if the Roman people condemned their Emperors to punishment, who at the Caudine Gallows had dishonourably contracted with the enemies, although by compulsion, and reduced to greatest straits; and judged that they were no wayes obliged by that paction; shall not the people be much lesse bound to suffer that yoke, which not by force, but willingly; not for feare of death, but out of desire of gain, hath been thus treacherously put upon them? Or if those who ought to shake it off shall impose it, or those who might doe it, shall tolerate it? He hath many other pertinent passages to the same effect, which brevity enjoynes me to omit; those that please may read them at their leisure in the Author himselfe; whose opinion is fortified by *Alphonsus Menesius* his poems, annexed to his Treatise.

Observed 2.
(a) In his speech
in Parl. in his
works, p 531 c. 9

(b) A Collecti-
on, &c. p. 320,
321. and else-
where.

(c) l. 1 c. 8. l. 3.
c. 9. (f) l. 1. c.
17. (g) c. 9. to
15. (h) See
Cooks Epist. to
the 5. Report. &
Calvins case.

(i) par. 1. & 2.
(k) Fox Aft. &
Mon. Edit. 1.
in one Vol. p.
741.

Thirdly, it is abundantly manifest from all the premises; That Kings and Emperours alwayes have been, are, and ought to be subject to the Lawes and Customes of their Kingdomes, not above them, to violate, breake, or alter them at their pleasures, they being obliged by their very Coronation Oathes in all ages and Kingdomes inviolably to observe them. This verily is confessed (a) by K. James, by our (b) K. Charles himselfe in his late Declarations to all his Subjects; resolved by (c) Bracton (f) Fleta, (g) Fortescue, our (h) Common and Statute Laws (i) forecited; by the Year Book of 19. H. 6. 63. a. where Fray saith, That the Parliament is the highest Court which the King hath, and the Law is the highest inheritance which the King hath, for by the Law he himselfe and all his Subjects are ruled; and if the Law were not, there could be no King nor inheritance; This is proved by (k) Stephen Gardiner Bp. of Winchester in his Letter to the Lord Protector; where he writes, That when he was Embassadour in the Emperours Court he was faine there, and with the Emperours Embassadour to defend and main-
taine,

rain, by Commandment * in a case of Jewels, That the Kings of this Realme were not above the Order of their Laws, and therefore the Jeweller although he had the Kings Bill signed, yet it would not be allowed in the Kings Court, because it was not obtained according to the Law; and generally averred by Aristotle, Polit. l. 3. c. 11. 13 Marius Salomonius de Principatu. in fixe speciall Books to this purpose, by Justus Eccardus de Legē Regia, Thomas Garzonius Emporū. Emporiorum, Pars 1. Discursus 1. de Dominiis seit. 6. p. 9, 10. Joannis Carnotensis Episc. lib. 4. Policrat. c. 1. Bochellus Decreta, Eccles. Gal. l. 5. Tit. 1. Cap. 3. 15, 16. Hanon. Dissat. Polit. p. 428. to 442. Fenestella de Magistratu. p. 149. Joannis Mariana de Rege & Regis Instit. l. 1. c. 9. (an excellent discourse to this purpose) Petrus Rebuffus, Prafat. ad Rubr. de Collationibus. p. 583, 584. Sebastianus Foxius de Rege, &c. part. 1. p. 103, 109 part. 2. 192 & c. Buchanan de Iure Regni apud Scotos passim, Junius Brutus Vindicia contra Tyrannos, quaest. 3. p. 116. to 129. (an accurate discourse to this effect) Grimalius de Optimo Senatore, p. 33, 201, 205. Vasquius contr. Illustr. 16. n. 15, 19, 21, 17. n. 1, 23, 20. n. 3, 44. n. 3, 73. n. 12, 13 15, 72. n. 7. and elsewhere. De Iure Magistratus in subditos, passim, Polanus, in Ezech. p. 824, 854. Pareus in Rom. 13. p. 138. Francis. Hotomani, Franco Gallia. c. 6. to the end of Cap. 20. Sparfim, Governado Cristiano, p. 108. Cuneus de Republ. Hebr. l. 1. c. 1. 14. Schickardus Ius Regum Hebra. p. 54. Hugo Grotius de Iure Belli, l. 1. c. 4. f. 7. l. 2. c. 14. and elsewhere thorowout his second Book, with infinite others of all sorts: This all good Emperours and Kings in all ages have professed, as these Authors prove. Thus the good Emperour Trajan practised and professed; That the Prince was not above the Laws; Hence (i) Apollonius Thyaneus writing to the Emperour Domitian, saith, These things have I spo'ken concerning Lawes, which if thou shalt not think to reign over thee, then thy self shalt not reign: Hence (e) Antiochus the third, King of Asia is commended, that he writ to all the Cities of his Kingdom, if there should be any thing in his Letters he should write, which should seem contrary to the Laws, they should not obey them. And Anastatius the Emperour made this wholesome sanction, admonishing all the Judges of his whole Republike, that they should suffer no Rescript no pragmaticall sanction, no sacred adnotation which should seem repugnant to the generall Law or the publike profit, to be produced in the pleading of any suite or controversie; enough eternally to shame and silence those flattering Courtiers, Lawyers, Divines, who dare impudently, yea, impiouly suggest the contrary into Princes Ears, to excite them to Tyrannize and oppresse their subjects against their expresse Oathes (inviolably to observe and keep the Laws) their Duties, the very Lawes of God and man; of which more in the seventh and eighth Observation.

Fourthly, That Kings and Emperours can neither annull nor change the Lawes of their Realms, nor yet impose any new Lawes, Taxes or Impositions on them, without the consent of their People; and Parliaments: This I have largely manifested in the first Part of this Discourse, and the premised Histories, with the Authors here quoted in the three precedent Observations, attest and prove it fully; for if the whole Kingdom, Parliament and Lawes themselves be above the King or Emperour, and they receive (l) their Sovereign Authority from the People, as their publike servants: It thence infallibly follows, that they cannot alter the old Lawes which are above them, nor impose new Lawes or Taxes to binde the whole Kingdom, people, without their assents, they being the Sovereign Power. This point being so clear in it self, so plentifully proved in the premises, I shall onely adde this passage out of (m) Junius Brutus, to ratifie it; If Kings cannot

* From Henry the eight and his Councell. (g) Ponet. Polit. Government, p. 22. De Man. p. 72. and others. (h) Pinius 2. Panegy. Traian. ad A. Eccardus, de Iure Regia.

(i) In Philo- crato, l. 8 & Eccardus de Legē Regia. (k) Dionys. Hall car. l. 1. Eccardus de Legē Regia Junius Brutus p. 122.

Observ. 4.

(l) Joanni's Man- nor Dissert. 24. qu 3. Lit. Bo- chellus Decreta, Eccles. Gal l. 5. Tit. 4. c. 3. p. 728. (m) Vindicia contra Tyrannos qu 3. p. 124. 125, 126.

innocentius ad
Regem, Tarrat.
in c. quando de
Iure Jurando.

, by Law change or extenuate Laws once approved without the consent of the Repub-
, like, much lesse can they make and create new Laws; therefore in the German Em-
pire, if the Emperour think any Law necessary, he first desires it in the generall assem-
blyes; if it be approved, the Princes, Barons, and Deputies of Cities subsigne it, and
then it is wont to be a firme Law: Yea, he swears, *that he will keep the Laws Enacted,*
and that he will make no new Laws but by common consent. In the Kingdom of Poland
there is a Law, (renewed, *An. 1454,* and 1538.) That no new Laws or Constitu-
tions shall be made, but onely by publike consent, or in any place but in Parliament.
In the Realm of France, where yet commonly the authority of Kings is thought most
ample, Laws were heretofore enacted in the Assembly of the three Estates, or in the
Kings ambulatory Councell; but since there hath been a standing Parliament, all the
Kings Edicts are void, unless the Senate approve them; when as yet the Arrests of that
Senate or Parliament, if the law be wanting, even obtain the force of a Law: So in
the Kingdoms of England, Spain, Hungarie, and the rest, there is, and of old hath been
the same Law: For if Kingdoms depend upon the conservation of their Laws, and the
Laws themselves should depend upon the lust of one Homuncio, would it not be
certain, that the Estate of no Kingdom should ever be stable? Would not the King-
dom necessarily stumble, and fall to ruine presently, or in a short space? But if as we
have shewed, the Lawes be better and greater than Kings, if Kings be bound to obey
the Laws, as servants are to obey their Lords, who would not obey the Law rather
then the King? who would obey the King violating the Law? who will or can refuse
to give ayd to the Law thus infringed?

Observ. 5. Fifthly, that all publike great Officers, Judges, Magistrates, and Ministers of all
Realms, are more the Officers and Ministers of the Kingdom, than the Kings, and anci-
ently were, and now ought to be of right elected onely by the Kingdom, Parliament,
people, and not removable but by them: which is largely proved by *Iunius Brutus Vin-*
dicia contr. Tyrannos, qu. 1, 2. *De Jure Magistratus in Subditos, qu. 5, 6, 7, 8, 9.* with
others, the Histories forecited, and *Hotomani Francogallia, c. 6, 11, 12, 13, 14.*

Observ. 6. *6. That Kings and Emperors have no absolute power over the lives, liberties, goods, estates*
of their subjects, to dispose of them, murder, imprison, or strip them of their possessions at their
pleasure; but ought to proceed against them in case of Delinquency according to the known
Laws and Statutes of their Realmes: This truth is abundantly evidenced by all the pre-
mises; by *Magna Charta, c. 29.* and all Statutes, Law-Books in affirmance of it; by
resolution of the Judges in *Henry 8.* his reigne, *Brook, Corone 29.* That it is Felony to
slay a man in justing, and the like, notwithstanding it be done By command of the
King, for the command is against the Law and of Judge *Fortescue, 19. H. 6. 63.*
That if the King grant to me, that if I kill such a man, I shall not be impeached for it, this
grant is void and against Law. By *Junius Brutus, Vindicia contra Tyrannos, Quast. 3.*
p. 126, to 137. and the Treatise *De Jure Magistratus in subditos* in sundry places, where
this undeniable verity is largely proved, confirmed, and by others forecited.

Observ. 7. Seventhly, That Emperours, Kings, Princes are not the true Proprietary Lords or
Owners of the Lands, Revenues, Forts, Castles, Shipp, Jewels, Ammunition, Treasure
of their Empires, Kingdoms, to alienate or dispose of them at their pleasures; But onely
the Guardians, Trustees, Stewards, or Supervisors of them: for their Kingdoms use and
benefit, from whom they cannot alien them, nor may without their consents or privities law-
fully

fully dispose of them or any of them, to the publike prejudice; which if they doe their grants are void and revocable. This proposition (n) formerly ratified by many reasons, authorities, & sundry Histori-
 cally Passages in this Appendix, is not only evident by the Metropolitans usuall speech to all elected Kings, (prescribed by the Roman Pontificall, ratified by the Bull of Pope *Clement the eight*, (o) where the Metropolitan, when any King is presented to him to be Crowned, first demands of the Bishops, who present him; Do you know him to be worthy of and profitable to this dignitie? to which they answer, We know and beleve him to be worthy and profitable to the Church of God, and for the Government of this Realme: After which the Metropolitan among other things, useth this speech unto him, Thou shalt undeniably administer Justice, without which no society can continue towards all men, by rendering rewards to the good, punishment to the evil, &c. and shalt so carry thyself that thou maist be seen to reign not to thine own, but to all the peoples profit, and to expect a reward of thy good deeds, not in earth but in heaven; which he immediately professeth with a solemn Oath, to perform to the uttermost of his power and knowledge; but likewise professedly maintained by *Iustus Eccardus de Loge Regia*, *Marius Salamoni- us de Principatu*, *Hugo Grotius de Iure Belli, & Pacis*, l. 1. c. 4. sect. 10. Lib. 2. c. 13. 14. *Hotomani Franco-Gallia*, c. 6. 10. 14. *Ruibingius*, l. 2. Class. 11. c. 8. n. 26. *Ioannis Mariana*, Hist. l. 10. c. 16. l. 27. c. 11. l. 35. c. 16. *Albericus Gentilis*, de Iure Belli, l. 3. c. 15. *Cuiacius*, c. 33. de Iure Iurando, Decius, Conf. 564. 689. *Cephalus*, Concil. 618. *Alciatus*, l. 3. de v. s. l. 15. c. de pact. *Baldus Proam. Digest.* and by *Iunius Brutus Vindicia contra Tyrannos*, qu. 3. p. 136. to 256. who handles this question professedly, whether that the King be the proprietary Lord of the publike Royall Patrimony of his Kingdom, or the Vsfrauctuary of it? determining clearly that he is not. I shall transcribe the most of his Dicourfe; This Head we must handle a little more accurately. This is first to be observed, that the Patrimony of the Exchequer is one thing, of the Prince another thing; I say, the things of the Emperour, King, Prince are one thing, the things of *Antonine*, *Henry*, *Philip* another: The things of the King are those, which he as king possesseth; the things of *Antonine*, those which he hath as *Antonine*, and those verily he received from the people, the other from his Parents. This distinction is frequent in the Civill Law, wherein the patrimonie of the Empire is said to be one thing, of *Cesar* another, the Exchequer of *Cesar* one thing, the Treasury of the Re- publike another, the Treasurer of *Cesar* one person, of the Emperiall Exchequer another, the Courts of sacred donations, others from those of private things; so that he who as Emperour is preferred before a private man in a pledge, may sometimes be placed after him as *Antonine*. Likewise in the German Empire, things of *Mari- milian* of *Austria* are one kinde of things, of *Maximilian* the Emperour another; the Treasurers of the Empire others, and of himself other from them; Likewise by another Law, the hereditary possession of Princes are different, from those which are annexed to the dignities of the Electorship. Yea, even among the Turks the Patri- moniall Grounds or Gardens of *Selymus* are one thing, the fiscall Ground another; and those verily are spent on the Princes Table, these onely in sustentation of the Empire. Yet there are Kingdoms, as the French, English, and the like, wherein Kings have no private Patrimonie, but onely the Republike received from the people, in which therefore this distinction is not used. Now as for the private goods of Prin- ces, if there be any, there is no doubt but they are the proprietors of them, no other- wise then private Citizens; and by the civill Law they may sell and divide them

(n) Part. 1. p. 62. part. 2. p. 1017.
 (o) Rom. 1611. f. 62. 07. and trans. in M. Seldens Tit. 1. 1. of Honour, first Part Chap. 2. p. 157, 150.

(p) L. bene a Ze- none c. de quad. pres. l. 1. v. 15. de quest. Mag. l. 12 c. 1. fisci D. de Iure fisci.

L. cum servis
39. to ult. D. de
Leg. 1. l. Vni-
versi 9 x. l. f. q.
E de fundo pa-
trimon.

, at their pleasure; But verily of the Exchequer, Kingdom, Royall Patrimony, which
, is usually called Demefnes, they can with no reason be cal'ed the proprietary Lords.
, For what? whether because one hath made thee a Shepheard for his Flocks sake,
, hath he delivered it thee to fley, divide, doe with it, and strike it at thy pleasure?
, whether because the people have constituted thee a Captain or Judge of some Citie
, or County, have they given thee power of alienating, selling destroying that Citie or
, County? And surely there is made an alienation of the people together with the Re-
, gion or Countie, have they therefore given thee authority of severing, prostituting,
, enslaving them to whom thou wilt? Furthermore, is the Royall dignitie a possession,
, or rather a function? If a function, what community hath it with a propriety? If
, a possession, whether not at least such an one, that the same people by whom it is de-
, livered, may perpetually retain the propriety to it self? Finally, if the patrimonie of
, the Eschequer, or demaines of the Republike, be truly called a Dower, and truly
, such a Dower, by whose alienation or delapidation both the Republike it self and
, Kingdom, and king himself finally perisheeth; by what law at last, shall it be law-
, full to alienate this Dower? Therefore let *Wenceslaus* the Emperour be infatuated,
, let *Charles* the sixth king of *France* be distracted, and give or sell the kingdom or a
, part thereof to the English; let *Malchom* king of *Scotland* prodigally spend the
, Crown land, and royall Treasure, what will follow? Those who have chosen a
, king against the invasions of Forraigners, by the folly or madnesse of the king shall
, be made the servants of Forraigners; those who by this means would severally desire
, to secure their Estates, shall all of them together be exposed to a prey; those things
, which every one shall take from himself or from his pupils, as in *Scotland*, that he
, might endow the Commonwealth, some Bawd shall riotously consume. But if, as we
, have already often said, kings be created for the peoples use, what use at all shall
, there be, if not onely the use, but even the abuse be granted? To whose good are so
, many evils? to whose benefit so many losses, so many perils? If, I say, whiles I de-
, sire to look after my liberty or safetie, I make my selfe a slave, I expose my selfe to
, the lust of one man, I put my self into Fetters and Stocks? Therefore we see this Law,
, as it is infused by nature, so likewise it is approved by use almost among all Nations,
, that it is not lawfull for the king to diminish the Commonwealth at his pleasure;
, and he who doth contrary, is censured to play not the king, but Tyrant. Certain-
, ly where kings were created, there was a necessity to give them some Revenues, by
, which they might both support their Royall State, but most principally sustain the
, Royall burthens, for so both honesty and profit seemed to require. It pertained to the
, Royall Office to see Judges placed every where, who should not take gifts, and who
, should not prostitute the Law to sale; Moreover, to provide a force ready at hand
, which should assist the Law when ever there should be need; to preserve the wayes
, safe, Commerce safe, &c. but if warre were feared; to fortifie Cities with a Garrison,
, to inviron them with a Trench against enemies, to maintain an Army, to furnish
, Armories. Now this is a know proverb, that peace cannot consist without warre,
, nor war without souldiers, nor souldiers without wages, nor wages without tribute:
, Therefore to sustaine the burthens of Peace, the demesne was instituted, (which
, among the Lawyers is called Canon) to defray the charges of warre, tribute; yet so,
, as if some more heavy charge should accrue, an extraordinary ayde given by Parlia-
, ment should supply; the end of all which verily, is the good of the Commonwealth.

, so as he that converts it to his private use, is plainly unworthy the name of a King.
 , For a Prince, saith *Paul*, is the Minister of God for the peoples good, and Tributes
 , and Customs are paid to him, that he may continually attend thereto; And truly
 , heretofore almost all Customs of the *Romanes* seem to have had this Originall, that
 , the precious Merchandize used to be brought out of *India, Arabia, Ethiopia* might
 , be secured against piraticall invasions, for which cause a Navie was furnished; of
 , which kinde was the tribute of the Red-sea, *Pedarica, Navigia, Portoria*, and the
 , rest; that the publike wayes, (which were therefore called *Pretorian, Consular,*
 , *Royall*) should be rendred safe from theeves, plain and easie; which charge even now
 , lieth upon the kings Attorny; that the publike Bridges should be repaired, as ap-
 , pears out of the Constitution of *Lewes* the godly; twelve over *Seyne*; that Ships
 , should be ready at hand to transport men over Rivers, &c. There were no Tributes of
 , Salt pits, yea, most of them were in the Dominion of private men; because what
 , things nature did voluntarily give, they thought ought no more to be sold, then
 , Light, Ayre, water. And whereas a certain King named *Lycurgus*, had begun to
 , impose a Tax on Salt pits, as if nature would not suffer her liberality to be restrai-
 , ed, they are said to have been presently dried up; although at this day,

Rom. 13.

Piny, l. 19. c. 4.

Archid. in Can.

si quis competitas

et peregr. 24 qu.

3. Baldus in c.

1. scilicet. Com-

mea. de pace iure

infr. l. 2. D. ne

quid in loco pub.

Viarum l. magis

puro D. de rebus

eorum.

*If we believe Palpur or Armitot,
 Whatever good, or faire thing can be got
 Out of the Whole Sea, in each Realme it flowes,
 Some custome to the Kings Exchequer owes.*

invenal.

, He who first instituted this custome at *Rome*, was *Livius Censor*, whence he obtai-
 , ned the surname of *Salinator*, which he did for the most present necessity of the Com-
 , monwealth. For that very cause truly, King *Philip* obtained it onely for five
 , yeares, whose continuation what commotions it hath produced, every man know-
 , eth: Finally, that tributes were instituted to pay Souldiers wages in warres, ap-
 , pears even from this, that to make a Province stipendary or tributary, is the selfe-
 , same thing indeed. Thus *Solomon* imposed Tributes to fortifie Cities, and to furnish
 , a publike Armory, which because they were finished, the people under *Rehoboam*
 , desired to be eased thereof: Yea, the *Turkes* themselves call the Tribute of Prin-
 , ces, *The sacred blood of the People*, which profusely to spend, or to convert to any
 , other use, but to defend the people, is a cursed act. Therefore what things soever a
 , King acquires in warres in every Nation, because he gains it by the common trea-
 , sure, he acquires it to the people, not to himselfe, as a factor doth to his Master:
 , Moreover if perchance he gaine any thing by marriage (which I say, is pure and
 , simply his wives) he is thought to acquire it to the Kingdome, because he was pre-
 , sumed to marry that wife, not as he is *Philip* or *Charles*, but as he is King. On the
 , contrary, as Queenes have part of those things which their husbands not yet co-
 , opted into the Kingdome have gained during the marriage; so plainly they have
 , no part of those things they get after they have obtained the Kingdome, because they
 , are reputed gained to the publike Treasures, not to the private meanes of the King,
 , which was judged in the Realme of *France*, between *Philip Valoyes* and *Ioan* of
 , *Burgundy* his wife. Now, lest the monies should be extorted to some other use, the
 , Emperour swears, that he will impose no customs, nor enjoyne no taxes, but by

2 King. 9. & 12.

Poffellus l. 3. de

Rep. T. nr.

the Authority of a publike Assembly. The Kings of *Poland, Hungary, Denmarke, England* doe the like out of the Lawes of *Edward the first*. The French Kings heretofore demanded Tributes in the Assemblies of the three Estates; Hence also is that Law of *Philip Valoyes*; That impositions should not be imposed but upon great and urgent necessity, and that by the consent of the Three Estates: Moreover in times past those taxes were laid up in Castles throughout every Diocesse, and delivered to selected men (they even now call them Elected) to be kept, by whose hand the Soldiers enrolled in every Town, should receive their wages, which was also usually done in other Countries, as in the Belgick; At this day at least, whatsoever things are commanded, are not confirmed, unlesse the Parliament consent. Now there are some Provinces, which are not bound by covenant, but by the consent of the Estates, as *Languedoc, Britain, Province, Dolphenie*, and some others; and in the *Netherlands* clearly all. Finally, lest the Eschequer, swelling like the spleen, whereby all the other Members do pine away, should draw all things to it self, every where a due proportion is allotted to the Eschequer. Since therefore at last it appears, that the tributes, customs, demesall, that which they call demesnes, (under which names Portages, Imposts, Exposts, Royalties, wrecks, forfeitures, and such like are comprehended) which are ordinarily or extraordinarily given to Kings, were conferred on them for the benefit of the people, and supportation of the kingdom, and so verily; that if these nerves should be cut in sunder the people would fall to decay, these foundation being under-mined, the Kingdome must needs fall to the ground; it truly followes, that he who to the prejudice of the people burthens the people, who reaps a gain out of the publike losse, and so cuts their throat with their own sword, is not a King, but a Tyrant: contrarily, that a true King, as he is a surveyor of the publike affaires, so likewise an Administrator of the publike riches, but not a proprietary Lord, who can no more alienate or dissipate the Royall Demesnes, then the kingdom it selfe; but if he shall demene himselfe otherwise; verily as it is behoovefull to the Republike, that every one should use his own proper goods well, much more is it beneficiall for the Commonweal, that every one should use the publike estate well. And therefore if a Lord who prodigally spends his Estate, is by publike authority deduced to the Wardship of his kinsmen, and Family and compelled to abstaine from his possessions; then truly much more justly, the Guardian of the Republike, who converts the publike Administration of all wealth into the publike destruction, or utterly subverts it, may justly be spoiled, by those whom it concernes, and to whom it belongeth out of Office, unlesse he desists upon admonition. Now that a King in all lawfull Empires is not a proprietary Lord of the Royall patrimony, is easie to be manifested. That we may not have recourse to those most ancient ages, whose Image we have in the person of *Ephron* king of the *Hittites*, who durst not verily sell his field to *Abraham*, without the peoples consent; that very law is at this day used in all Empires. The Emperour of Germany before he is Crowned, sacredly swears, That he will alienate, distract, or mortgage nothing of those things which appertin to the Empire, and the patrimony of the Empire; but if he recovers or acquires anything by the publike Forces, that it shall come to the Empire, not to himself. Therefore when *Charles* the fourth, that *Wenceslaus* his sonne might be designed Emperour, had promised an 100000 Crowns to every one of the Electors, and because he had no ready monies, had obliged to them

Gen. 23.

Steiden. l. i. &
Bulla aurea.

, by way of pawne to this end, the Imperiall Customs, Tributes, Townes, Proprieties
 , and Rights; there arose a most sharp dispute about it, and the most judged the mor-
 , gage to be void; which verily had not availed, unlesse that morgage had been gain-
 , full to those very men, who ought to defend the Empire, and principally to oppose
 , that morgage: Yea, therefore *Wenceslaus* himself was compelled, as incapable, to de-
 , prive himself of the Empire, because he had suffered the Royall Rights, especially the
 , Dukedome of *Millain* to be taken from him. In the Polish kingdom there is an anci-
 , ent Law, of not alienating the Lands of the Kingdom of Poland, renewed *An. M. cccclxv*
 , by king *Lewes*: There is the same Law in the Realm of *Hungary*, where we reade,
 , that *Andrew* king of Poland, about the year *M. ccxxi*. was accused before Pope *Ho-*
 , *norius* the third, that neglecting his Oath, he had alienated the Crown Lands. The
 , like in *England* in the Law of *K. Edward*, *An. M. ccxcviii*. Likewise in *Spain* by the
 , Constitution made under *Alphonso*, renewed again *c1010lx* in the Assembly at
 , *Toledo*; which Lawes verily were enacted, when as custome for a long time before
 , had obtained the force of a Law. But verily in the kingdom of *France*, wherein, as in
 , the pattern of the rest, I shall longer insist, this Law was ever sacrosanct: It is the
 , most ancientest Law of the Realme, I say, the Law born with the Kingdom it self,
 , Of not alienating the Crown (or demesne) Lands, renewed in the year *c10,10,66*.
 , although it be ill observed. Two cases onely are excepted, Panage or Apennage (ali-
 , ments) to be exhibited to his children or brethren, yet so as the clientelary right be
 , alwayes retained; again, if warlike necessitie require it, yet with a pact of reddition,
 , Yea in the interim both of them were heretofore reputed void, unlesse the Assembly
 , of the three Estates had commanded it; but at this day, since a standing Parliament
 , was erected, it is likewise void, unlesse the Parliament of *Paris*, which is the Senate
 , of *Peers*, and the Chamber of publike accounts shall approve it, and the *Presidents* of
 , the *Eschequer* also by the Edict of *Charles* the 6 and 9. And this is so farre forth
 , true, that if the ancient Kings of *France* would endow any Church, although that
 , cause then seemed most favourable, they were bound to obtain the consent of the No-
 , bles; as king *Childebert* may be for an example, who without the consent of the
 , *French* and *Normans*, durst not endow the Monastery of *S. Vincents* in *Paris*, as nei-
 , ther *Clodovens* the second, and the rest. Moreover, they cannot release the Royal-
 , ties, or the right of nominating Prelates to any Church; but if any have done it, as
 , *Lewes* the eleventh in favour of the Church of *Sennes*, and *Philip* the fourth of *Augi-*
 , *ers*, *Philip Augustus* of *Naverne*, the Parliament hath pronounced it void. The king
 , of *France*, when he is to be Crowned at *Rhemes*, sweares to this law, which if he
 , shall violate, it avails as much as if he contracted concerning the Turkish or Persian
 , Empire. Hence the Constitutions, or as they call it, the Statutes of *Philip* the sixth,
 , *John* the 2d, *Charles* the fifth, sixth, eighth, of resuming those things which were alienated
 , by their Ancestors, (of which resumptions there are many instances cited by *Hugo*
 , *Grotius de Jure Belli & Pacis*, l. 2. c. 14. n. 12. 13. & *Adnotata Ibid.*) Hence in the As-
 , sembly of the three Estates at *Towres* (*An. 1323. 1360. 1374. 1401. 1483.*) in which
 , *Charles* the eighth was present, many Towns of the alienation of *Lewes* the eleventh
 , his Father, which he had by his own Authoritie given to *Tancred Castellan*, who de-
 , merited well of him, were taken from his Heirs; which even in the last assembly of
 , the three Estates held at *Orange*, was again decreed. Thus concerning publike Lands.
 , But that it may the more evidently appear, that the Kingdom is preferred before

L. 1. & passim,
 c de Com. Rev.
 alienat.
 Nauclerus in
 Chron. Gen. 46
 C. intell. Clo de
 l. reurando
 in Decret.
 Polydor Virgil.
 in Cod Hispan.
 par. 5. l. Con-
 sent. 9.

Papon Ar flor.
 l. 5. Tit. 20.
 art. 4.

Paragr. 11. &
 16. Leg. 3 Reg. e
 Lat. 1566.

Aimoi &c.
 Aimoi. l. 4. c. 43.

L. Petr. 69. pa-
 rog. prad. sumi.
 D. de Oy. 2.

An. 1483. 1512.
 1531. Arelis
 Curie. l. 60.

, the.

the king, that he cannot by his private Authoritie diminish the Majestie which he hath received from the people, nor exempt any one from his Empire, nor grant the right of the Sovereign Dominion in any part of the Realm; *Charles* the great once endeavoured to subject the Realm of *France* to the *German* Empire; but the *French* vehemently withstood it, a certain *Vascon* Prince making the Oration: The matter had proceeded to Arms, if *Charles* had proceeded further. Likewise, when some part of the Realm of *France* was delivered to the English, the supreme right was almost perpetually excepted; but if Force extorted it at any time, as in the *Brittish* League, wherein king *John* released his Sovereign Right in *Gascoigne* and *Poytiers*, the king neither kept his Contract, neither could or ought he more to keep it, then a Captain, Tutor or Guardian, as then he was; who that he might redeem himselfe, would oblige the goods of his Pupils. By the same Law the Parliament of *Paris* rescinded the agreement of the *Flusheners*, wherein *Charles* of *Burgundy* extorted *Ambian*, and the neighbour Cities from the king; and in our time the agreement of *Madrit*, between *Francis* the first a Captive, and *Charles* the first the Emperour, concerning the Dukedome of *Burgundy* was held void; and the Donation of *Charles* the sixth of the kingdom of *France* by reason of death, conferred on *Henry* king of *England*, may be one apt argument of his extreme madnesse, if others be wanting. But that I may omit other things which might be said to this purpose, by what right at last can a king give or sell his kingdom or any part thereof, seeing they consist in the people, not in the walls? now there is no sale of free men, when as *Land-Lords* cannot so much as constrain their free Tenants, that they should settle their Household in any other place then where they please; especially seeing they are not servants, but Brethren; neither onely are all kings Brethren, but even all within the Royall Dominion ought to be so called.

But whether if the king be not the proprietorie of the Realme, may he not at least be called the usufructuary, or receiver of the profits of the Crown Lands? Truly, not so much as an usufructuary. A usufructuary can Pawn his lands, but we have proved, that kings cannot mortgage the Patrimony of the Crown. A usufructuary can dispose or give the profits at his pleasure; contrarily, the great gifts of the king are judged void, His unnecessary expences are rescinded, his superfluous cut off; what ever he shall convert into any other but the Publike use, he is thought to have violently usurped. Neither verily is he lesse obliged by the *Cincian* Law, then any private Citizen among the *Romanes*, especially in *France* where no gifts are of force without the consent of the Auditors of the Accounts. Hence the ordinary Annotations of the Chamber under prodigall kings; This Donation is too great, and therefore let it be revoked. Now this Chamber solemnly swears, that whatsoever rescript they shall at any time receive from the king, that they will admit nothing which may be hurtfull to the kingdom and Commonweale. Finally, the Law cares not how a Fructuary useth and enjoyeth his profits; contrarily, the Law prescribes the king in what manner, and unto what use he ought to put them. Therefore the ancient kings of *France* were bound to divide the Rents into four parts; one part was spent in sustaining the Ministers of the Church, and the poor, another upon the kings Table, the third on the Wages of his household servants, the last in the reparaire of royall Castles, Bridges, Houses; the residue, if there were any, was laid up in the Treasury. Verily what stirs there were about the year 1412 in the Assembly of the three Estates at *Paris*, because

Paulus Emil.
 l.3.

An 1795, 200.
 1269, 1297,
 1303, 1315,
 1330.
 An. 1360.
 An. 1465, &
 1525.

An 1420.
 Monstrelet c.
 225.

L. Liber homo
 103. D. de verba.
 obligat. l. si fmp.
 34. § I. D. de con.
 tra. Emp. l. pe.
 C. de oper. libert.

An lex sit Regni
 v'st fructuaris?

Monachus in
 Carlo 6.

cause *Charles* the sixth had converted all things into his and his Officers lusts, and that the Domestick accounts, which before had not exceeded 94 thousand French Crowns in such a miserable estate of the republike, had increased to the sum of five hundred and forty thousand Crowns, is sufficiently evident out of Histories: Now as the rents of the Crown were thus lessened, so also the oblations and subsidies were spent upon the Warre, as the taxes and tallages were onely destinated to the stipends of Souldiers. In other Realms the King verily hath not any more Authority, yea, in most he hath lesse, as in the Germane and Polish Empire: But we would therefore prove this to be so in the Realm of *France*, lest by how much any man dares to doe more injury, by so much also he might be thought to have more right. In summe, what we have said before, the name of a King sounds not an inheritance, not a propriety, not a perception of profits, but a function, a procuration. As a Bishop is instituted for the cure and salvation of the soul, so the King of the body, in those things which pertain to the publike goods; as he is the dispenser of sacred goods, so the King of prophane, and what power he hath in his Episcopall, the same, and no greater hath the King in his dominicall Lands; the alienation of the Episcopall Lands without the consent of the Chapter, is of no validitie, so neither of the Crown Land without a publike Parliament or Senate of the Estates; Of sacred revenews one part is designed to edifices, another to the poor, a third to Companions, a fourth to the Bishop himself; the same verily almost we see the King ought to do in dispensing the revenews of the Kingdom. It hinders not, that the contrary every where is at this day usurped: For the duty of Bishops is not any way changed, because many Bishops sell those things from the poor, which they spend upon Bawds, or wast all their Mannors and Woods; nor yet that some Emperours have attributed all kinde of power to themselves, for neither can any one be judge in his own Cause. But if any *Caracalla* hath said, *That so long as his sword remains, he would want no money*; *Adrianus Caesar* will also be present, who shall say, *That he would manage the Principality, so as all should know, that it was the peoples goods, or inheritance, not his own*; which one thing almost distinguisheth a King from a Tyrant: Not, that *Attalus* King of *Pergameni*, ordained the people of *Rome* Feits of his Realme; that *Alexander* bequeathed the kingdom of *Aegypt*, *Ptolomie* of the *Cyrenians*, to the people of *Rome*, or *Prasutagus* of the *Iceni* to *Caesar*, verily this great power cannot debilitate the force of the Law, yea, by how much the greater it is, by so much the lesse it hurts our law; for what things the *Romanes* seized upon by pretext of law, they would notwithstanding have seized on by force, if that pretext had been wanting: Yea, we see almost in our times, the *Venetians*, by pretext of a certain imaginary adoption, which without force had been plainly ridiculous, to have taken the Kingdom of *Cyprus*. Nor yet doth the Donation of *Constantine* to Pope *Sylvester* hinder, for this Chaffe seemed obsolete long since to *Gratian*, and is damned to the fire. Not the donation of *Lewes* the godly to *Paschall*, to wit, of *Rome*, with part of *Italy*, because *Pius* gave that which he possessed not, and no man resisted; But *Charles*, his Father, willing to subject the Realm of *France* to the *German* Empire, the *French* resisted him by law; and if he had gone further, they prepared to resist by force. Not, that *Solomon*, as we read, delivered twenty cities to *Hiram* King of *Tyre*, for he did not give them, but pawned them as a Creditor till he paid him, and within a short time recovered them, which appears out of the Text; Moreover also they were barren grounds, cit-

Ex Concil. 1^o al
l. ni. n. c. de his
que finit. a Pre-
latis alique cony
capit.

Florus l. 2 Livy
l. 70. Tacitus l.
14.

Volaterran, Abb
Greg 3.

1 King c. 9.
2 Chron. c. 3.

led by Reliques of the Heathens, which he receiving again from *Hiram*, gave them, at last to the Israelites to be tilled and inherited. Neither can this more hinder, that in certain Kingdoms this condition perchance doth not so expressly intervene betweene the King and his people; for albeit it were not at all, yet it appears by the law of Nations, that Kings are not subverters, but Moderators of the Republique, that they cannot change the right of the Commonwealth by their passions; that they are Lords onely when they take care of their Pupils, that they are to be accounted no other, then Guardians; and that he is not to be esteemed a Lord, who spoils the City with liberty, and selleth it like a slave. Not finally, that certain Kingdoms are gained by Kings themselves, for they acquired not Kingdoms by their owne, but by publike hands, forces, treasures; now nothing is more consonant to reason, then that those things which are gotten by the publike riches, and common dangers of the Citizens, should not be alienated without common consent, which holds place even amongst Theeves themselves; he destroyeth humane society, who doth the contrary: Therefore though the French have by force seized on the German Empire, and they also on the Realm of *Franoe*, yet the same law holds in both. In sum, at last we ought to determine, that Kings are not Proprietors, nor Fruictuaries, but onely Administratours; and since it is so, that verily they can much lesse attribute to themselves the propriety and profits of every mans private Estate, or of the publike wealth which belongeth to every Town. Thus and much more this acute learned Lawyer, to the conviction and refutation of all opposite *Ignoramusses* in this case of grand concernment, which will put a period to our unhappy controversies concerning the *Militia*, (* formerly discussed) without further debate.

*Part. 2. p. 1. 10
41.

Observ. 8.

Eighthly, *That Emperours and Kings are most solemnly obliged by a Covenant and Oath, usually made to, and before all the people at their Coronations, to preserve their peoples lawes, liberties, lives, estates; by breach whereof in a wilfull excessive manner, they become perjured Tyrants, and the people and Magistrates are in some sort thereby absolved from their Allegiance, and all obedience to them.*

(9) Part. 1. p. 5.
29. 78.

This is evidently and plentifully confirmed by the (9) forecited Coronation Oathes, and Covenants of our own English Kings to their subjects, by *De Jure Magistratus in Subditos, quæst. 10. p. 321. 322. and quæst. 6. p. 260. to 300.* *Andrew Favine* his Theatre of Honour, lib. 2. c. 11. 24. *Francisci Hotomani Franco-gallia, cap. 6. 10. &c.* *Hugo Grotius de Jure Belli & Pacis, l. 2. c. 13. 14. Pontificale Romanum, Rome 1611. fol. 162. 163. Descriptio Coronationis Maximiliani Imperatoris, Anno 1486. inter rerum Germanæ Scriptorum, Tom. 3. p. 32. Olaus Magnus de Gent. Septentrionalibus Hist. l. 14. c. 6. Laur. Bochellus decreta Ecclesiæ Gallicanæ, l. 5. Tit. 2. c. 1. p. 703. M. John Seldens Titles of Honour, part. 1. ch. 8. sect. 5. p. 198. 214. 225; 226. (where the Coronation, Oathes of the Emperour, French King, of all the Northern Kings, and of most Elective and Successive Kings and Queens to their Subjects, are at large recorded:) *Alhusius Polit. c. 4. Justus Eccardus de Lege Regia; Thomas Aquinas de Reg. Principis, c. 6. & 2. qu. 2^a. 12. art. 2. John Ponet Bishop of Winchester in his Politicall Government. Arnisæus de Authoritate Principum, p. 50. to 123. Sparsim. Vasquius contro. Illustr. passim. Ioannis Mariana de Rege & Regis Instit. l. 1. c. 6. 7. 9. Georg. Buchanan de Jure Regni apud Scotos. Simancha Pacensis de Catholica. Instit. Tit. 23. n. 11 p. 98. Franciscus Tolletus in summa l. 5. c. 6. Huldericus Zwinglius; Explan. Artic. 40. 41. 42. And, to omit all others, *Junius Brutus* in his *Vindicie contra Tyrannos, quæst. 3. p. 156.***

to 167. with whose words I shall fortifie and irradiate this position : , We have
 , said, that in constituting a King a double Covenant is entred into ; the first between
 , God, the King and people, of which before ; the second, between the king and the
 , people, of which we are now to treat. *Saul* being ordained king, the royall law was
 , delivered to him, according to which he should rule. *David* made a Covenant be-
 , fore the Lord in *Hebron* ; that is, calling God to Witnesse, with all the Elders of
 , *Israel*, who represented all the people, and then at last he was annointed king. *Joas*
 , also made a Covenant with all the people of the land in the house of the Lord, *Ichoia-*
 , *da* the high Priest going before them in words : Yea, the testimony is said to be
 , imposed on him together with the Crown ; which most interpret the Law of God,
 , which every where is called by that name. Likewise *Iosiah* promised, that he would
 , observe the Precepts, Testimonies and Statutes comprized in the boock of the Cove-
 , nant ; by which names we understand the Lawes which appertained as well to pie-
 , ty as to justice. In all which places of Scripture, a Covenant is said to bee
 , made with all the people, the whole multitude, all the Elders, all the men of *Judah* ; that
 , we may understand, which is likewise severally expressed, not onely the Princes of
 , the Tribes, but likewise all the Chiliarques, Centurions, and inferior Magistrates were
 , present, in the Name of the Cities, which every one a part by themselves made a Co-
 , venant with the king. In that Covenant they consulted of creating the king, for the
 , people did make the king, not the king the people. Therefore there is no doubt, but
 , the people made the Covenant, and the King promised to perform it. Now the part
 , of him that makes the Covenant is reputed the better Law : The people demanded
 , of the King, whether he would not rule justly and according to the Lawes ? Hee
 , promised that he would doe so : wherupon the people answered, That hee reigning
 , justly, they would faithfully obey him. Therefore the King promised absolutely ;
 , the people, but upon condition ; which if it were not fulfilled, the people by the
 , Law it selfe should bee reputed absolved from all obligation. In the first covenant
 , or Pact, Pietie comes into the obligation, in the second, Iustice : In that, the king pro-
 , miseth, that he will seriously obey God ; in this, that he will justly rule the people ;
 , in that, that he will take care of the glory of God ; in this, of the benefit of the people ;
 , in that there is this condition, *If thou shalt observe my Law* ; in this, *If thou shalt render*
 , *Iustice to every one* : Of that, if it be not fulfilled, God properly is the avenger ; of
 , this, lawfully all the people, or the Peers of the Realm, who have taken upon them
 , to defend all the people. Now in all just Empires, this hath been perpetually observed.
 , The *Persians* having duely finished their sacrifices, made this agreement with *Cyrus*,
 , *Thou first, O Cyrus, if any make warre with the Persians or violate the Lawes, doest*
 , *thou promise to ayde thy Countrey with all thy might ?* And as soon as he had promi-
 , sed, *We Persians, say they, will be aiding to thee, if any will not obey thee, defending*
 , *thy Countrey* : *Xenophon* calls this agreement *συνμαχίαν*, that is, a Confederati-
 , on, as *Socrates* an Oration of the duty of Subjects towards their Prince *μαχίων λόγον*
 , Between the kings of *Sparta* and the *Ephori*, a Covenant was renewed every month ;
 , and as the kings did swear, *That they would reign according to the Lawes of the Coun-*
 , *tre* ; so the *Ephori*, *If they did so, that they would establish the Kingdom in their hand.*
 , Likewise in the kingdom of the Romanes, *Romulus* made this contract with the Se-
 , nate and people, *That the People should make Lawes, that the king himself would*
 , *keepe the Lawes made ; That the People should decreé Warre, himself wage it.*

Deut. 17. 1 Sa.
10. 25. 2 Sam.
5. 3. 1 Chron.
11. 3. 2 King.
11. 17. & 12.
2 Chron. 23. 3.
2 King. 23. 3.

Xenoph. lib. Pa.

Xenophon. de
Repub. Lace-
dem.

Dionys. Hall-
car lib. 1.

See *Eccardus de Lege Regia & Marini Salamensis de Principatu* l. 6. where this Law is recorded.

Speculum Saxoniæ, l. 1. art. 54. See *Descript. Conventionum Maximilianii Imperatoris* 1486. in *Rerum Germanicarum* Tom. 3 p. 32.

Elucidar, l. 1. c. 2.

(f) See *Pontifical Romanum* Romæ 1611. f. 161. 162. Mr. Seldens *Titles of Honor* par. 1. c. 8. p. 196. to 206.

(g) See *Bochellius Decreta Ecclesie Gallicane* l. 5. tit. 2. c. 1. & Mr. Seldens *Titles of Honor* par. 1. c. 8. p. 201. to 206.

And although many Emperours obtained the Empire of the Romans rather by force, and ambition, then by any right, and by the *Royall Law*, as they call it, arrogated all kinds of power to themselves; yet the* fragments of that Law, which are extant, as well in Books as in Roman inscriptions, sufficiently teach; that a power was granted them, of caring for and administering, not of subverting the Common-wealth, and oppressing it by tyranny. Moreover, even good Emperours professed, that they were bound by the Lawes, and acknowledged their Empire received from the Senate, and referred all the weightiest affaires to the Senate, and they judged it unlawful to determine any thing of great publike concernment without their advice. But if wee behold the present Empires, there is not one of them which may be thought worthy of that name, wherein there is not some such Covenant intervening between the Prince and Subjects. In the *German Empire*, not long since, the King of Romanes being to be crowned Emperour, was wont To make Fealty, and Homage to the Empire, no other wise then a vassall (or tenant) to his Lord, when he received investiture of his Lands. And although the conceived words, to which he sware, be a little changed by Popes, yet the same thing remains perpetually. Therefore we know that *Charles the 5. of Austria* was created Emperour upon certain Lawes and conditions, as likewise others, who have succeeded him; of which the summe was; *That he would keep the Lawes enacted; That he would make no new Lawes, without the Electors consents; that he would determine publike affaires in a publike Counsell; that he would alienate or pervert none of these things which pertained to the Empire;* with other things which are severally recited by Historiographers: And when as the Emperour is crowned at *Achen*, the Archbishop of *Colen* first demands of him; *Whether he will not defend the Church, administer justice, preserve the Empire, protect Widowes, Orphans, and all worthy of pittie?* which when he hath solemnly sworn to perform before the Altar, the Princes and those who represent the Empire, are demanded, *whether they will promise to fealty him?* Neither yet is he first annointed, or receives a sword, (of purpose to defend the Republicke) or other Ensignes of the Empire, before that he shall have taken that Oath. From whence verily it is manifest, that the Emperour is purely obliged, the Princes of the Empire upon condition onely. No man will doubt but that the same is observed in the kingdom of *Poland*, who shall understand the ceremonies very lately observed in the Election and Coronation of *Henry of Angiers*: especially, the condition propounded to him of conserving both Religions, as well the Evangelicall as Roman, which the Nobles thrice demanding of him in set forme of words, he thrice promised to perform. In the *Hungarian, Bohemian*, and other kingdomes, which would be over-long to recite, the very same is done. Neither onely, where the right of Election hath continued yet entire hitherto, but likewise where meer succession is commonly thought to take place, the very same stipulation is wont to intervene. When the (f) King of *France* is crowned, the Bishops of *Laudune* and *Belvace* ecclesiasticall Peers, first demand of all the people that are present, *Whether they desire and command him to be King?* Whence even in the very forme it self of inauguration, he is said To be elected by the People. When the people seem to have consented, he swears: *That he will universally defend all the Lawes, Priviledges, and Rights of France, that he will not alienate his demesnes, and the like* (I shall here insert the Oath out of *Bochellius*, Mr. *Selden*, and others intirely, thus:

Archbi-

Archiepiscopi Ammonitio ad Regem dicendo ita (in the name of all the Clergy.)
A vobis perdonari petimus, ut unicuique de Nobis & Ecclesiis nobis Commissis, Canonitum privilegium, & debitam legem atque justitiam conservatis, & defensionem exhibeatis, sicut Rex in Regno suo debet unicuique Episcopo, & Ecclesia sibi Commissa.

Responsio Regis ad Episcopos.

Promitto vobis & perdono, quia unicuique de vobis & Ecclesiis vobis commissis Canoniticum privilegium, & debitam legem atque justitiam conservabo, & defensionem quantum potuero exhibebo, Domino adjuvante, sicut Rex in suo Regno unicuique Episcopo & ecclesia sibi commissis per rectum exhibere debet.

Item, hæc dicit Rex, & promittit & firmat juramento.

Hæc populo Christiano & mihi subdito, in Christi nomine, promitto: In primis, Ut Ecclesia Dei, omnis Populus Christianus veram pacem nostro arbitrio in omni tempore servet; & superioritatem, jura, & Nobilitates Corona Francie inviolabiliter custodiam, ET ILLA NEC TRANSPORTABO NEC ALIENABO. Item, ut omnes repacitates & omnes iniquitates omnibus gradibus interdiciam. Item, ut in omnibus judiciis equitatem & misericordiam præcipiam, ut mihi & vobis indulgeat per suam misericordiam clemens & misericors Dominus. Item, de terra mea ac jurisdictione mihi subdita universos Hæreticos Ecclesia denotatos, pro viribus bona fide exterminare studebo. Hæc omnia prædicta firmo juramento.

Tum manum apponat Libro & librum osculetur) These things, though they have been altered, and are farre different from the ancient forme of the Oath which is extant in the Library of the Chapter of *Belvace*, to which *Philip* the first is found to have sworn; yet notwithstanding they are plainly enough expressed: Neither is the King girt with a sword, annointed, crowned by the Peeres (who even themselves are adorned with Coronets) or receives the Scepter or rod of Justice, or is proclaimed King, before THE PEOPLE HAVE COMMANDED IT; Neither doe the Peeres themselves swear fealty and homage to him, untill he shall have given his faith unto them, *That he will exactly keep the Lawes: Now thole are, that hee shall not waste the publike Patrimony; that he shall not impose nor enjoyn customs, Taxes, Tributes at his owne pleasure, Nor denounce warre, or make peace; Finally, that he shall determine nothing concerning the publike affaires, but in a publike Councell: Also, that the Senate, the Parliaments, the Officers of the Kingdome shall constantly enjoy their severall authorities; and other things which have been alwayes observed in the Realm of France. Yea verily, when he enters into any Province or City, hee is bound to confirm their priviledges, and he binde himselfe by Oath to preserve their Lawes and Customes: Which custome takes place by name among those of Tholouse, Dolphenie, Britanny, Province and Rochel; whose agreements with Kings are most expresse; all which should be frustrate, unlesse they should be thought to hold the place of a condition in the contract. * Yea Charles the 7. made a peace with Philip Duke of Burgundy (whose Father John he had treacherously slain) with this expresse clause contained in it, confirmed with the Kings own Seale, *That if he should break this Agreement, his Tenants, feudataris, and subjects present and to come, should not be thenceforth bound either to obey or serve him, but rather the Duke of Burgundy and his Successours, and that they should be freed and absolved from all the fealty, Oathes, promises, obligations and duties whatsoever, under which they were**

See Hoteman's
 Franco-Gallia
 c. 6. §. 10.

* De Jure Magist. in Subditos, 290, 29, 292.
 See the French Hist. in Hist. (*).
 Bodin Com. mor. l. 6. c. 2.
 p. 632, 633.

formerly obliged by *Charles*. The like we read between King *Lewis* and *Charles* the Bald. Yea, Pope *John* the 22, in the Treaty between *Philip* the long of France, and the *Flemmings*, caused it to be set downe, *That if the King did infringe the Treaty*, it might be lawfull for his Subjects to take Armes against him; And it was usuall among the first Kings of *France* in their Treatises with other Princes, to swear, that if they brake the Treaties made by them, their Subjects shall be free from their obedience, as in the Treaty of *Arras* and others. The Oath of the ancient kings of *Burgundy* is extant in these words, *I will conserve Law, justice, and protection to all men*. In *England*, *Scotland*, *Sweden*, *Donmarke*, there is almost the same custome as in *France*, and verily no where more directly then in *Spain*. For in the Kingdome of *Arragon*, many ceremonies being dispatched between him who represents the justice of *Arragon*, or publike Majesty, who sits in an higher Throne, and having read the Lawes and conditions, which he is to observe who is to be crowned King, **Who doth fealty and homage to him**, the Nobles at last speake thus to the King in their owne language; **We, who are as powerfull as you**, (for so the Spanish Idiom imports) **and can doe more then you, have chosen you King upon these and these conditions, Between you and us there reignes one greater then you**; (to wit, the Justice of *Arragon*.) Now lest he should think he had sworn those things onely perfunctorily, or onely for to observe the old custome, these very words are wont to be repeated every third yeere in the publike Assembly: But if he shall grow insolent trusting to his Royall power, shall violate the publike Lawes, finally, shall neglect the Oath he hath taken; then verily by the Law it selfe, he is deemed excommunicated with that grandest excommunication (or Anathema) wherewith the Church in former times excommunicated *Iulian* the Apostate; whose force truly is such; that no more prayers may be conceined for him, but against him; and they themselves are clearly absolved from their Oath and Obligation by that Law, whereby a vassall out of duty ought not to obey an excommunicated Lord, neither is bound to do it by his Oath; which is ratified among them by the Decree both of a Councell, and of a Parliament or publike Assembly. Likewise in the kingdome of *Castile*, an Assembly being summoned, the King that is to be crowned, is first publicly admonished of his duty; after which, most expresse conditions are read, which pertaine to the profit of the Republike: Then the King swears, *that he will diligently and faithfully observe them*; then at last the great Master of the Knights binds himselfe to him by Oath, whom the other Princes and Deputies of Cities afterwards follow every one in his order; which also is in like manner observed in *Portugall*, *Leon*, and the other kingdomes of *Spain*. Neither verily, were lesser principalities instituted by any other Law. There are extant most expresse agreements of the *Brabanders*, of the other people of *Belgia*, *Austria*, *Carintha*, and other provinces, made with their princes, which verily have the place of conditions; But the *Brabanders* expressly, that place might not be left to any ambiguity, have expressed this condition. For in inaugurating their Duke, in ancient convention, wherein there is almost nothing wanting for the preservation of the Republike, they being all read over before the Duke, they protest openly and plainly to him, that unlesse he shall observe them all, **That it shall be free for them to chuse another Duke at their pleasure**: Which conditions he embracing and willingly acknowledging, he then binds himselfe by Oath to observe them, which was also observed in the inauguration of *Philip* the last

In Annal, Burg.

In concil. Tol.
4. c. 74. & Tol.
6. l. 2. feud. tit.
28. par. 1.

La ioyeuse en-
trée.

Ludovic. Guic.

last King of *Spaine*. In sum, no man can deny, but that there is a mutuall binding contract between the King and subjects, to wit, That he reigning well, shall be well obeyed: Which verily is wont to be confirmed with an Oath by the King first, afterwards by the people. Now verily I demand here, why any man should swear, but that he may shew that he speaks from his heart and seriously? whether truly is there any thing more agreeable to nature, then that those things which have pleased us, should be observed? Moreover, why doth the King swear first, at the peoples stipulation or request, but that he may receive either a tacit or expresse condition? But why is a condition annexed to a contract, but onely to this end, that if it be not fulfilled, the contract should become voide in Law it selfe? But if through default of performing the condition, the contract be voide in Law it selfe, who may call the people perjured, who shall deny obedience to a King, neglecting that condition which hee might and ought to fulfil, & violating that law to which he hath sworn? Yea, who on the contrary would not account the King fædistragous, perjurious & altogether unworthy of that benefit? For if the Law freeth the Vassall from the bond of his Tenure, against whom the Lord hath committed felony or perjury, although the Lord truly doth not properly give his faith to his Vassall, but his Vassall to him: if the Law of the twelve Tables commands a Patron who defrauded his Client to be detestable: if the civil laws permit a villain enfranchised an action against the outragious injury of his Lord; if in these cases they free a seruant himself from his Masters power, whereas yet there is only a naturall not civill obligation therein, (I shall adde out of * *Dejure Magistratus in subditos. If in Matrimony, which is the nearest and strictest obligation of all other between men, wherein God himselfe intervenes as the chief Author of the contract, and by which those who were two are made one flesh, if the one party forsakes the other, the Apostle pronounceth the party forsaked to be free from all obligation, because the party deserting violates the chief condition of marriage, &c.*) Shal not the people be much more absolyed from their Allegiance which they have made to the King, if the King, who first solemnly swears to them, as a Steward to his Lord, shall break his faith? Yea verily whether if not these Rights, not these Solemnities, not these Sacraments or Oathes should intervene, doth not nature it selfe sufficiently teach, that Kings are constituted by the people, upon this condition, that they should reign well? Judges, that they shall pronounce Law? Captaines of warre, that they should lead an Army against enemies? But and if so be they rage, offer injury, so as themselves are made enemies, as they are no Kings, so neither ought they to be acknowledged by the people. What if thou shalt say, that some people subdued by force, the Prince hath compelled to swear to his commands? What, say I, if a Thiefe, a Pyrate, a Tyrant, with whom no society of Law or Right is thought to be, should with a drawn sword violently extort a deed from any one? Is it not known, that fealty extorted by force bindeth not, especially if any thing be promised against good manners, against the law of nature? Now what is more repugnant to nature, then that a people should lay chains and setters upon themselves, then that they should lay their own throats to the sword? then that they should lay violent hands upon themselves? (or which is verily the same thing) promise it to the Prince? Therefore there is a mutuall obligation between the King and people, which whether it be only civill or naturall, tacit, or in expresse words, can be taken away by no agreements, violated by no Law, rescinded by no force: Whose force only is so great, that the Prince who shall contemp-

L. 1. D. d. pass.
l. non minor em.
20 D. de transf.
act.

Liq. 2. fendor 2.
26. § 4. tit. 47.

* Dionys. Hal.
l. 2 pag. 303. 3. 4.

1 Cor. 7. 15.

Cic. 1. Offici.

, tuously break it, may be truly called a Tyrant, the people who shall willingly infringe, it seditious: So this grand acute Lawyer determines. I shall close up this with the unanimous resolutions and notable decree of the United *Netherland Provinces*. Anno Dom. 1581. declaring *Philip King of Spain* to be fallen from the Seigniorie of the *Netherlands* for his Tyranny and breach of Oath, which is thus recited by *Grimstone*, and recorded in his generall History of the *Netherlands*, page 658, to 667.

, In the alterations which happen sometimes in an Estate betwixt the Sovereigne Prince and a people that is free and priviledged, there are ordinarily two points, which make them to ayme at two divers ends: The one is, when as the Prince seeks to have a full subjection and obedience of the people, and the people contrariwise require, that the Prince should maintaine them in their freedoms and liberties, which he hath promised and sworne solemnly unto them, before his reception to the principallitie. Thereupon quarrels grow: the Prince will hold a hard hand, and will seek by force to bee obeyed; and the subjects rising against the Prince, oftentimes with dangerous tumults, rejecting his authority, seek to embrace their full liberty.

, In these first motions there happen sometimes conferences, at the instance of neighbours, who may have interest therein, to quench this fire of division betwixt the Prince and his subjects. And then if any one of the parties groweth obstinate, and will not yeeld, although he seeme to be most in fault, it followeth of necessity, that they must come to more violent remedies, that is to say to armes. The power of the Prince is great, when thee is supported by other Princes, which joyn with him for the consequence of the example, else it is but small: but that of the people (which is the body, whereof the Prince is the head) stirred up by conscience (especially if the question of Religion be touched) the members ordained for their function, doing joyntly their duties, is farre greater. Thereupon they wound, they kill, they burne, they ruine, and grow desperately mad: but what is the event? God (who is an enemy to all tyranny and disobedience) judgeth quarrels, weigheth them in his ballance of justice, helping the rightfull cause, and either causeth the Prince for his rigour and tyranny to be chased away, and deprived of his estate and principality; or the people for their contempt and rebellion are punished and reduced unto reason; which causeth the alterations to cease, and procureth a peace: whereof we could produce many examples, both antient and moderne, if the relation of this history did not furnish us sufficiently.

See *Meteranus*
Relig. lib. 6. c. 11.

, So the generall Estates of the united Provinces, seeing that King *Philip* would not in any sort (through his wilfulnesse) yeeld unto their humble suite and petitions; and notwithstanding all the offers they could make to purchase a good, firme, and an assured, peace, (notwithstanding all the intercessions both of the Emperour, the French King, the Queen of *England*, and other great Princes and Potentates of Christendom) yet would he not give care to any other reason, but what himselfe did propound: the which the said Estates did not only find unjust and unreasonable, directly repugnant to their liberties, constitutions, and freedoms of the Countrey; but also contrary to their consciences, and as it were so many snares layed to catch them, which were in no sort to be allowed of, nor received, considering the qualitie of their affaires and his, according to the time. In the end, rejecting all teare of his power and threats, seeing they

, they were forced to enter into all courses of extremity against a Prince, which held himselfe so hainously offended, as no reconciliation could be expected, relying upon the justice and equitie of their cause, and sinceritie of their consciences (which are two brazen bulwarks) they were fully resolved (without dissembling) to take the matter thus advanced in hand, and opposing force against force, meanes against meanes, and practises against practises, to declare him quite fallen from the Seigniorie, preheminance, and authority, which before the troubles, the breach of their priviledges, rights, freedoms, and immunities, so often and so solemnly sworne by him, and dispensation of his Oaths, he had or was wont to have in the said Provinces respectively. Whereof they made open declaration by a publick Edict, the tenour whereof followeth.

, The Generall Estates of the united Provinces of the Netherlands, to all those that these presents shall see, reade, or heare, greeting As it is well known unto all men, that a Prince and Lord of a Countrey is ordained by God, to be Sovereign and head over his subjects, and to preserve and defend them from all injuries, force, and violence, even as a shepheard for the defence of his sheep, and that the subjects are not created by God for the Prince, to obey him in all he shall command, bee it with God, or against him, reasonable or unreasonable, nor to serve him as slaves and bondmen; but rather the Prince is ordained for his subjects (without the which he cannot be a Prince) to governe them according unto equity and reason, to take care for them, and to love them even as a father doth his children, or a shepheard his sheep, who putteth both his body and life in danger, to defend and preserve them. If the Prince therefore faileth herein, and in stead of preserving his subjects, doth outrage and oppress them, depriveth them of their priviledges and ancient customes, commandeth them, and will be served of them as of slaves, they are no longer bound to respect him as their Sovereign Prince and Lord, but to esteem of him as a Tyrant; neither are the subjects (according unto Law and Reason) bound to acknowledge him for their Prince; so as without any offence, being done with deliberation and the authority of the Estates of the Countrey, they may freely abandon him, and in his place chuse another for their Prince and Lord, to defend them: especially, when as the subjects by humble suit, intreatie, and admonitions, could never mollifie their Princes heart, nor divert him from his enterprises an tyrannous designs: so as they have no other meanes left them to preserve their antient libertie, their wives, children and posterity, for the which (according to the lawes of nature) they are bound to expose both life and goods; as for the like occasions, we have seene it to fall out often in divers Countries, whereof the examples are yet fresh in memory. The which ought especially to be of force in these Countries, the which have alwayes been and ought to be governed, according unto the oath taken by their Princes, when they receive them, conformable to their priviledges and antient customes, having no power to infringe them: besides that, most part of the said Provinces have alwayes received and admitted their Princes and Lords upon certaine conditions, and by sworn contracts; the which if the Prince shall violate, hee is by right fallen from the rule and superiority of the Countrey. So it is, that the King of *Spain* (after the decease of the Emperour *Charles* the fifth, his father of famous memory, from whom all these Countries were transported unto him) forgetting the services, which as well his father as himselfe

The Edict of the generall Estates declaring the King of *Spain* to be fallen from the Seigniorie of the Netherlands.

See *Meteranus* and others.

Note.

had received of these Countries, and the inhabitants thereof, by the which especially
 the King of *Spain* had obtained such glorious and memorable victories against his
 enemies, as his name and power was renowned and feared throughout all the world;
 forgetting also the admonitions which his said Imperiall Majesty had heretofore
 given him: and contrariwise, hath given eare, believe, and credit unto them of the
 Councill of *Spain* which were about him; the said Councill having conceived a
 secret hatred against these Countries and their Liberties (for that it was not lawfull
 for them to command there, and to govern them, or to merit among them the
 chiefe places and offices, as they doe in the Realm of *Naples*, *Sicilie*, *Millaine*, at the
 Indies, and in other Countries which are subject to the Kings command, being also
 moved thereunto by the riches of the said Countries, well knowne to the most of
 them;) the said councell, or some of the chiefe of them, have oftentimes given the
 King to understand, That for his Maiesties reputation and greater authority, it were
 better to conquer the *Netherlands* anew, and then to command absolutely at his
 pleasure, than to govern them under such conditions, which he at his reception to the
 Seigniory of the said Countries had sworn to observe. The King of *Spain* follow-
 ing this counsell, hath sought all meanes to reduce these countries (spoiling them of
 their ancient Liberties) into servitude, under the government of Spaniards: having
 under pretext of Religion sought first to thrust in new Bishops into the chiefe and
 greatest Townes, indowing them with the richest Abbeyes, adding to every Bishop
 nine Chanons to serve him as Councillors, wherof three should have a special charge
 of the Inquisition. By which incorporation of the said Bishops, being his creatures,
 and at his devotion (the which should happily have been chosen as well of strangers,
 as of them which were born in the Country) they should have the first place and the
 first voyce in the assemblies of the Estates of the Country. And by the adiunction of
 the said Chanons, had brought in the Inquisition of *Spain*, the which had also bin so
 abhorred, and so odious in these Countries, even as slavery it selfe, as all the world
 doth well know: So as his Imperiall Majesty having once propounded it unto these
 Countries, upon due information given unto His Majesty, ceased from any more
 speech thereof, shewing therein the great affection which he bare unto His Subjects.
 Yet notwithstanding divers Declarations which were made unto the King of *Spain*,
 as well by the Provinces and Townes in particular, as by some other of the chiefe
 Noblemen of the Country, namely, by the Baron of *Montigny*, and afterwards by
 the Earle of *Egmont*, who by the consent of the Dutchesse of *Parma* (then Regent of
 the said Countries) by the advice of the Councill of Estate, and of the Generality,
 had to that end been successively sent into *Spain*: And notwithstanding that the king
 had by his own mouth given them hope, that (according to their petitions) hee
 would provide for the contentment of the Country; yet that he had since by his let-
 ters done the contrary, commanding expressly, and upon pain of his indignation, to
 receive the new Bishops presently, and to put them in possession of their new Bi-
 shopricks and incorporated Abbeyes, to effect the Inquisition, where they had be-
 gun to practise it, and to observe the Decrees and Canons of the Councill of *Trent*,
 the which in divers points doe contradict the priviledges of the Countrey. The
 which being come to the knowledge of the Commons, hath given just occasion of
 so great an alteration among them, and greatly diminished the love and affection,
 the which (as good subjects) they had alwayes borne unto the King, and to his pre-
 decessors.

deceffours. For they called chiefly into consideration, that the King not onely pretended to tyrannize over their persons and goods, but also upon their consciences, whereon they held themselves not to be answerable, nor bound to give account to any one but to God only. For this cause, and for the pittie they had of the poor people, the chiefe of the Nobility did in the yeare 1566. exhibit certain admonitions by way of a Petition, beseeching him, that for the pacifying of the Commons, and to avoid all tumults and seditions, it would please his Majesty, (shewing the love and affection, which as a mild and mercifull Prince he bare unto his Subjects) to moderate the said points, and especially those which concerned the rigorous Inquisition, and punishments for matters of Religion. And to informe the King more particularly thereof, and with more authority, and to let him understand, how necessary it was for the good and prosperity of the Countrey, and for the maintenance of peace and tranquility, to abolish and disannull those innovations, and to moderate the rigour of publike Edicts, for matter of Religion; the said Marquesse of Berges, and Baron of Montigny, at the request of the said Lady Regent, the Councell of Estate, and the Generall Estates of all the Countries, went into Spain as Embassadors: whereas the King, instead of giving them audience, and to prevent the inconveniences delivered by them, (the which, for that they were not redressed in time, as urgent necessity required, began in effect to discover themselves throughout the whole Countrey) by the perswasion and advice of the Councell of Spain, hee hath caused all them to be proclaimed Rebels, and guilty of high Treason, and to have forfeited body and goods, that presented the said Petition. And moreover (thinking himselfe to be fully assured of the Countrey, by the Forces of the Duke of Alva, and to have reduced them under his full power and subiection) he had afterwards, against the Lawes of Nations, (the which have been in all ages inviolably observed, yea among the most barbarous and cruell Nations, and most tyrannous Princes) imprisoned, and caused the said Noblemen Embassadors to be put to death, confiscating all their goods. And although that all this alteration (which had hapned in the yeare 1566. upon the foresaid occasion) was in a manner pacified by the Regent and her councell, and that the greatest part of them which had presented themselves unto her for the Liberty of the Countrey, were retired, or chased away, and the rest brought under obedience: yet not to lose the opportunity which the Councell of Spain had long expected (as it appeared plainly the same yeere 1566. by Letters intercepted, which were written by the Embassador Alana to the Duchesse of Parma) to have meanes under some pretext to overthrow all the priviledges of the Country, and to govern them tyrannously by the Spaniards (as they did the Indies and other Countries which had been newly conquered by them) he by the advice and councell of the said Spaniards (shewing therein the small affection which he bare unto his Subjects of these countries, contrary unto that whereunto he was bound, as their Prince, protector and good Shepheard) sent into these countries the Duke of Alva, very famous for his rigour and cruelty, and one of the chiefe enemies of these countries, with a councell of the same Humour and disposition. And although that the said Duke of Alva entred with his Army into this countrey, without any let or opposition, and was received of the poore Inhabitants with all reverence and Honour, expecting all mildnesse and clemencie, according unto that which the King had so often promised by His Letters fainedly written; yea, that He was resolved to

, come himselfe in person into the Countrey, and to order all things to every mans content; the said King having besides all this (at the very instant of the Duke of Alva his departure) caused a fleet of ships to be armed in *Spain*, to bring him hither, and another in *Zeeland* to goe and meet him (as the brute was) to the great charge of the Countrey, the better to abuse his poore subjects, and to draw them more easily into his snares: notwithstanding, the said Duke of Alva presently after his arrivall (although he were a stranger, and not any way of the blood Royall) gave it out, that hee had a Commission from the King, of Governour Generall of the Countrey, the which was quite contrary to the priviledges and antient Customes thereof: and discovering his designs plainly, he suddenly put garrisons into the chiefe Townes and Forts of the Countrey, and then he built Citadels in the richest and strongest Townes, to keep them in subjection. And by commandement from the King (as they said) he friendly called unto him, as well by letters, or otherwise, the chiefe Noblemen of the Countrey, pretending, that he had need of their counsell and assistance, for the service of the King, and the good of the Countrey: who (having given credit to his letters) were come unto him, whom, contrary to the priviledges, hee caused to bee carried prisoners out of *Brabant*, where they had been apprehended, causing their processe to bee informed before him and his Councell (although they were no competent Iudges;) and before any due proofes were made, and the Noblemen that were accused, fully heard in their defences, they were condemned to have committed Rebellion, causing them to be publicly and ignominiously put to death. Others, who for that they were better acquainted with the Spaniards dissembling, were retired and kept out of the Countrey, were declared Rebels, and guilty of high treason, and to have forfeited bodies and goods: All which was done, to the end the poor inhabitants should not aide themselves in the just defence of their liberty, against the oppression of the Spaniards and their forces, by the help and assistance of these Noblemen, & Princes. Besides, an infinite number of Gentlemen & rich bourgers, whereof some he hath put to death, others he hath chased away & forfeited their goods, oppressing the rest of the good inhabitants, as well by the insolence of the souldiers, as by other outrages in their wives, children, and goods; as also by divers exactions and taxes, forcing them to contribute for the building of new Citadels, and fortifications of towns, which he made to oppresse them, & also to pay the hundredth and the twentieth peny, for the payment of souldiers, wherof some were brought by him, and others newly levied, to employ them against their Countrey men, and themselves, who with the hazard of their lives sought to defend the liberties of their Countrey: to the end that the subjects being thus impoverished, there should be no meanes to frustrate his designs, for the better effecting of the instructions which had been given him in *Spain*: which was, to use the Countrey as newly conquered. To which end, in some places and chiefe Townes, he changed their forme of government, and of justice, and created new Consuls after the Spanish manner, directly contrary to the priviledges of the Countrey. And in the end (thinking himselfe free from all feare) he sought to bring in by force a certaine imposition of the tenth peny, upon all marchandise and handi-works, to the absolute ruine of the Commons, whose good and prosperity consists chiefly in traffique and handi-works; notwithstanding many admonitions and perswasions made to the contrary, as well by every one of the *Provinces* in particular, as by all in generall. The which he had effected

, by force, if it had not bene that soon after by the means of the Prince of Orange, (and a good number of Gentlemen, and others borne in these Countries) banished by the Duke of Alva, following the party of the said Prince, and being for the most part in his service, and other inhabitants affected to the libertie of their Countrey, the Provinces of Holland and Zeeland had not revolted, and put themselves under the Princes protection. Against which two Provinces the Duke hath since during his Government, and after him the great Commander of Castile (sent in his place by the King, not to moderate any thing of his Predecessors Tyrannie, but to pursue it more covertly and cunningly than he had done) forced those said Provinces, who by their Garrisons and Citadels, were made subject to the Spanish Yoke, to imploy their persons and means to helpe to subdue them : yet no wayes easing the said Provinces, but intreating them like enemies, suffering the Spanyards under the colour of a mutinie, in view of the said Commander, to enter by force into the Town of Antuerpe, and there to continue six weeks, living at discretion at the poore Bourgers charge; forcing them moreover (to be freed from their insolencies) to furnish foure hundred thousand florins, to pay the said Spanyards: which done, the said Souldiers (growing more bold through the sufferance of their Commanders) presumed to take Armes against the Countrey, seeking first to surprize Bruffels, and in the place of the ancient and ordinary seate of Princes, to make it a nest and den of theeves. The which not succeeding according to their designe, they tooke Aloft by force, and soone after forced the Towne of Maestricht. And since being violently entred into Antuerpe, they spoyled it, sacked it, and wasted it with fire and sword, in such sort, as the most barbarous and cruell enemies could not have done more, to the unspeakable losse, not onely of the poore inhabitants, but in a manner of all the Nations of the world, who had their Merchandise, debts, and money there. And although the said Spanyards by a Decree of the Councill of Estate (to whom the King by the death of the great Commander, had conferred the generall Government of the Countrey) were in the presence of *Ieronimo de Rhoda*, proclaimed enemies to the Countrey: yet the said *Rhoda* of his owne private authority (or as it is to bee presumed, by vertue of some secret instruction which he had from Spaine) took upon him to be the head of the said Spanyards, and their adherents, so as without respect of the Councill of Estate, he usurped the kings Name and Authority, counterfeited his Seale, and carried himself as a Governour, and the Kings Lieutenant in these Countries. The which moved the Estates at the same instant to agree with the Prince of Orange, and the Estates of Holland and Zeeland: which accord was allowed by the Councill of State (as lawfull Governours) that they might joyntly with their common forces, make warre against the Spanyards: Omitting not as good subjects, by divers humble petitions, to beseech the King to have regard unto the troubles, oppressions and insolencies which had happened, and werelike to follow: and that hee would bee pleased with all convenient speed possible, to command the Spanyards to depart out of the Countrey, and especially those which had been the cause of the sack and ruine of the chiefe Towns of his Countrey, and other innumerable insolences and violences which his poore subjects had endured, to the comfort and ease of them which had endured them, and to the example of all others: yet notwithstanding; the King (although that he made shew by words, that what had hapned, displeased him, and was against his will, and

, that he had an intent to punish the heads and authors , and to provide for the quiet
 , of the Countrey with all clemency, as it behoved a mercifull Prince) hath not one-
 , ly neglect. d to punish the said Heads and Authors : but contrariwise, (as it appear-
 , eth) all was with his consent and former resolution of the councill of Spain, as cer-
 , tain letters of his, intercepted soon after, do plainly shew : by the which it was
 , written unto *Rhoda*, and to the other Captains, authors of all the mischief, That
 , the King did not blame that action, but did allow thereof, and commend it , pro-
 , mising to recompence them, especially the said *Rhoda*, as having done him a singu-
 , lar service: The which, at his return into Spaine, and to all other ministers of the
 , oppressions that were used in these Countries, he did shew by effect. At the same
 , time, the King thinking the better to blinde the eyes of his subjects, sent into these
 , Countries for Governour Generall, *Don Iohn* of Austria, his base brother, as
 , being of his blood: who (making shew unto the Estates, that he did allow of the
 , Pacification of Gant, promised to send away the Spanyards, to punish the authors
 , of all insolencies and disorders which had hapned in the Countrey, and to take an
 , order for the generall peace, and the restoring of their ancient liberties) sought to
 , divide the Estates, and to subdue one Countrey after another. By the permission
 , and providence of God, who is an enemy to all oppression, he was discovered by
 , the intercepting of certain letters, where he was commanded by the King to govern
 , himself in these Countries, according to the Instructions that should be given him
 , by *Rhoda* : and to cover this practice, the King had forbidden *Don Iohn* to speake
 , with him, commanding him to carry himselfe unto the chiefe Noblemen with all
 , mildenesse and courtesie , to winne their loves, untill that by their assistance and
 , meanes, he might reduce Holland and Zeeland, and afterwards work his will of the
 , other Provinces. Whereupon *Don Iohn*, notwithstanding that he had solmly sworn
 , in the presence of all the Estates of the Countrey, to observe the said Pacification of
 , Gant, yet contrary thereunto he sought by meanes of their Colonels (whom he had
 , already at his devotion) and great promises, to winne the Germane souldiers who
 , were then in Garrison, and had the guard of the chiefe Townes and Forts of the
 , Countrey, whereof by that meanes he made himselfe master, holding himselfe assu-
 , red of those places they held, and so by that meanes to force them that would not
 , joyne with him , to make warre against the Prince of Orange, and them of Hol-
 , land and Zeeland , and so to raise a more boody and intestine warre, than had been
 , before. But as all things that are treated cunningly and with dissimulation, can-
 , not be long kept secret, *Don Iohns* practises being discovered, before hee could effect
 , what he had designed, hee could not bring his conceptions and enterprises to the
 , end that he pretended : Yet he revived a new warre, the which continues unto this
 , day, in stead of rest and an assured peace, whereof hee did so much vaunt at his
 , coming. Which reasons have given us great occasion to forsake the King of Spain,
 , and to seeke some other mighty and mercifull Prince , to helpe to defend these Coun-
 , tries, and to take them into his protection : and the rather for that these Coun-
 , tries have endured such oppressions, received such wrongs, and have been forsak-
 , ken and abandoned by their Prince for the space of twenty years and more; du-
 , ring the which the Inhabitants have beene intreated not as subjects, but as ene-
 , mies, their naturall Prince and Lord seeking to ruine them by armes. Moreover,
 , after the death of *Don Iohn*, having sent the Baron of Selles, who (under colour
 of

propounding some meanes of an accord) declared sufficiently, That the king would not avow the Pacification made a Gant (which *Don Iohn* notwithstanding had sworne to maintaine) setting downe more hard conditions. Yet for that we would discharge our selves of our duties, wee have not omitted to make humble suite by writing, imploying moreover the favour of the greatest Princes of Christendome, seeking by all meanes without intermission, to reconcile our selves unto the King; having also of late kept our deputies long at Cologne, hoping there (by the intercession of his imperiall Majestie, and some Princes Electors) to have obtained an assured peace, with some moderate toleration of Religion (the which doth chiefly concerne God and mens consciences) as the estate of the affairs of the Country did then require : But in the end we found it by experience, that nothing was to be obtained from the King, by the Conference at Cologne : and that it was practised and did onely serve to disunite and divide the Provinces, that they might with the more facility vanquish and subdue first one, and then another, and execute upon them their first designs. The which hath since plainly appeared, by a certain proscription, which the King hath caused to be published, whereby we and all the Inhabitants of the united Provinces, and Officers that hold their partie, are proclaimed Rebels, and to have forfeited lives and goods : Promising moreover, a great summe of money to him that should murder the said Prince, and all to make the poore Inhabitants odious, to hinder their Navigation and Traffique, and to bring them into extreme despaire. So as despairing of all meanes of reconciliation, and destitute of all other succours and ayde we have according to the Law of nature (for the defence of us and other Inhabitants, the Rights, priviledges, ancient customes, and libertie of the Country, and the lives and honours of us, our wives, children, and posterity, to the end they fall not into the slavery of the Spanyards, leaving upon just cause the King of Spaine) beene forced to seeke out some other meanes, such as for the greater safety and preservation of our Rights, Priviledges, and liberties, we have thought most fit and convenient.

We therefore give all men to understand, That having duely considered, all these things, and being prest by extreme necessitie, We have by a generall resolution and consent, declared, and doe declare by these presents, the King of Spaine, *ipso jure*, to be fallen from the Seigniory, Principallitie, jurisdiction, and inheritance of these Countries : And that we are resolved, never to acknowledge him any more, in any matter concerning the Prince, jurisdictions or demeanes of these Netherlands, nor to use hereafter, neither yetto suffer any other to use his Name as Sovereigne Lord thereof. According to the which we declare all Officers, private Noblemen, Vassels, and other inhabitants of these Countries, of what condition or qualitie soever, to be from henceforth discharged of the Oath which they have made in any manner whatsoever, unto the King of Spaine. as Lord of these countries, or of that wherby they may be bound unto him. And for the above-named reasons, the most part of the said united Provinces, by a common accord and consent of their Members, have submitted themselves under the command & government of the high and mighty Prince, the Duke of Anjou and Alanfon, &c. upon certain conditions contracted and accorded with his Highnesse: and that the Archduke of Austria, *Matthias*, hath resigned into our hands the government generall of these Countries,

Countries, the which hath been accepted by us. We enjoyn and command all Iudges, Officers, and all others, to whom it shall appertain, That hereafter they forbear to use any more, the name, titles, great seal, or signet of the K. of *Spain*: and instead thereof, whilst that the Duke of *Anjou*, for his urgent affaires, concerning the good and welfare of the Country, shall be yet absent, for as much as shall concern the Provinces which have contracted with his Highnesse, and touching the rest by way of provision, they shall use the title and name of the chiefe and Counsell of the Country. And untill that the said heads and Counsellors, shall be named, called, and really established in the exercise of their charges, and offices, they shall use our name, except Holland and Zeeland, where they shall use as they have formerly done, the name of the Prince of Orange, and of the Estates of the said Provinces, untill that the said Councell shall be in force, and then they shall govern themselves as it is agreed, touching the instructions given for the said Counsell, and the accords made with his Highnesse. And instead of the Kings seales, they shall hereafter use our Great Seale, counter Seale, and Signet, in matters concerning the government generall, for the which the Councell of the Country, according to their instructions shall have authority. And in matters concerning the policie, administration of Justice, and other private acts of every Province, the Provinciaall Councils and others, shall respectively use the name and Seale of the said Province, where the matter shall be in question, and no other, upon pain of nullity of the said Letters, or Dispatches which shall be otherwise made or sealed. And to the end these things may bee the better observed and effected, we have enjoyned and commanded, and do enjoyn and command by these presents, That all the King of Spaines Seales, which are at this present within these united Provinces, shall be delivered into the States hands, or to him that shall have commission and authority from them, upon pain of arbitrary punishment. Moreover, We ordain and command, that from henceforth the name and armes of the King of Spain, shall not be put nor stamp in any coynes of these united Provinces: but there shall be such a figure set upon them, as shall be appointed for the coining of new peeces of Gold and Silver. In the like sort we enjoyn and command the president and Lords of the privie Council, and all other Chancellors, presidents, Provinciaall Consuls, and all Presidents and chiefe Masters of accounts, and others of all chambers of accounts, being respectively in these countries, and also all other Iudges, and Officers (as holding them discharged of the oath which they have made unto the King of Spain, according to the tenor of their Commissions) that they shall take a new oath in the hands of the Estates of the Province where they are, or to their Deputies, by the which they shall swear to be faithfull to us against the King of Spain, and his adherents, according to the form set down by us: and there shall be given to the said Councillors, Masters of accounts, Iudges and Officers, remaining in the Provinces which have contracted with the Duke of Anjou, in our name, an act of continuance in their Offices, containing in stead of a new commission, a cessation or disannulling of their former, and that by way of provision, untill his coming. And to Councillors, Masters of accounts, Iudges, and Officers, being resident in Provinces, which have not contracted with his Highnesse, a new Commission shall be given under our name and Seale, if the petitioners were not found faulty, to be of bad behaviour, to have done against the priviledges of the Countrey, or to have committed some other disorder.

We also command the President and them of the privie Councill, the Chancellour and Councill of Brabant, the Governour, Chancellour, and Councill of Gueldres, and the Countie of Zutphen, the President and councell in Flanders, the President and councell in Holland, the Governour, President and Councill in Friseland, the President and Councill at Vtricht, the Bayliff at Tournay and Tournesis, the Receivors or chiefe Officer of Beoostercheldt and Bewestercheldt Zeeland, the scout of Macklyn, and all other Iudges and Officers whom it shall concerne, their Lieutenants, and every of them, presently without any delay, to publish this our Decree in all places of their jurisdictions, and wheresoever they are accustomed to make proclamations, to the end that no man may pretend any cause of ignorance: And that they may keep and observe, and cause to be kept and observed inviolably this our Decree, without any favour, support, or dissimulation; for wee have so thought it fit and convenient for the good of the Countrey. For the effecting whereof, we give to every one whom it shall concerne, full power and authority, and speciall Commission. In witnesse whereof, we have caused our seale to be hereunto annexed. Given at the Hage, in our assembly the 26 of Iuly 1581. Underneath was written, By the ordinance and decree of the said Estates, and signed *I. Tau Asseliers.*

According unto this declaration of the Estates, there was a new forme of an Oath drawn, in manner of an abjuration of the King of *Spaine*, and promise of duty and obedience which every one should owe unto the said Estates, by the publike Officers, and Magistrates of every Town and Province, as followeth.

I swear, That hereafter I shall not serve nor yeeld obedience to *Philip* King of *Spaine*, nor acknowledge him for my Prince and Lord, whom I doe renounce by these presents, and doe hold my selfe freed from all Oaths, and bonds, by the which I might bee formerly tyed unto him: whereof finding my selfe presently delivered I swear anew and binde my selfe to the united Provinces, and namely, to them of Brabant, Gueldre, Holland, Zeeland, and their allies, and to the sovereign Magistrates that are appointed, to bee faithfull and loyall unto them, to yeeld them all obedience, aide, and comfort, with all my power and meanes, against the King of *Spaine* and his adherents, and against all the enemies of the Countrey. Promising as a good vassall of the Countrey, to carry my self faithfully and loyally, with shew of all obedience to my superiors; So help me the Almighty God.

This decree being thus proclaimed, all the seales, counter-seales, and secret signers of the King of *Spaine*, were broken and cancelled with solemnity, by all the consuls of the said Provinces, and others new made, by order of the generall Estates, for that which concerned the Government, and the affaires of the generality. And as for matters of justice and policie, they used the seales, names, and titles of private governours, and Provinciaall consuls. From that time there was no coynes of gold, silver, or copper made with the name or titles of the King of *Spaine*, but upon stamps which the Estates had caused to be made in every Povince. All governours, superintendents, Presidents, Chancellours, Councillours, and others Officers, were discharged and absolved from their precedent oathes, and did sweare fidelity to the generall Estates, against the King of *Spaine* and his adherents, according to the forme above mentioned, to whom an act was sent for the continuation of the Commissions;

Observ. 5.

Ninthly, it is evident from the premises; That if Emperours and Kings shall degenerate into Tyrants violate their Oathes and Covenants made unto the people, invade their Lawes, Liberties persons with armed violence, and instead of protecting, make warre upon them; that the Nobles, Magistrates, Estates, Parliaments and people in such cases, may without any guilt of Treason, Rebellion, Sedition, not only disobey, but Lawfully resist them with force of Armes, both in point of Lawe & conscience, & are obliged under paine of treachery and perfidiousnesse to their Countrey, thus to resist; and in cases of incorrigibility for the publike weale, and preservation, may justly if they see it necessary, depose them from their Royall Dignities as Enemies, or Traytors to their Kingdoms and people. * The reason is, Because no Kingdome or Nation under Heaven, ever elected or voluntarily submitted themselves unto any Emperour or King whatsoever (for ought can be proved or imagined) but upon this tacit condition; that they should justly governe, defend and protect them for their good, not tyrannize over, pillage, murder, oppresse, or make warre upon them at their pleasures, contrary to the Lawes of God, nature, nations; Nor yet actually obliged themselves under paine of Treason, Rebellion, death, or damnation, not forcibly to resist or deprive their Princes in any wise, though they with open violence should sit themselves to subvert their Religion, Lawes, Liberties, and Republike; to which unreasonable condition, no Nation certainly would have consented, had it been propounded to them by their Kings at first, as Grotius well observes. This point of greatest difficulty and concernment, I have largely debated and confirmed already, in the third part of this Discourse, where all contrary Objections against it, are refuted; Yet because it still seemes a seditious unchristian Paradox to many Malignants and Royallists, I shall ratifie it with such new Authorities, of all sorts, which may happily convince, if not convert them from their inveterate wilfull error.

My first Authority of this kinde, is that passage of *Sozomon* (an ancient Ecclesiasticall Historian) *Eccles. Hist. l. 6. ch. 2.* recited and approved by *Nicephorus Callistus Eccles. hist. l. 1. c. ch. 34.* where he thus writes of the death of *Iulian the Emperour* (who turned both a Tyrant, Apostate, and Persecutor of the Christians) reputed to be slaine by a Christian Souldier of his own Army, for his Tyranny and impiety. Whereas *Libanius* writes in this manner; Hee seemes to say, that the slayer of *Iulian the transgressor* was a Christian, which peradventure was true; Neither is it incredible, that some one of the Souldiers who marched under his colours had considered these things thus in his minde: That not only the Heathens, but likewise ALL OTHERS are wont to applaud those even unto our Age, who slew Tyrants heretofore, as those who for the liberty of all, feared not to undergoe the danger of death, and likewise for the safety of their Citizens, Kindred and friends, with willing minds. And verily hee CANNOT WELL BE REPREHENDED BY ANY MAN, especially since hee should shew himselfe so valiant and strenuous FOR GOD AND that RELIGION which hee did approve, &c. However it is certaine that he was taken away by Gods divine judgement. * *Nicephorus* addes, that his death was predicted by the Christians, and that his death WAS ACCEPTABLE AND PLEASANT TO ALL CHRISTIANS, especially to those of Antioch, WHO FOR THIS HIS MURDER, INSULTED A PVBLIKE TRIVMPH, wherein they also reproached *Maximus the Philosopher*, singing thus, where are thy divinations O foolish *Maximus*? A pregnant evidence, that even the Primitive Christians (on whose examples and practise our Auragonists so much depend, though

* De jure Magistratus in subdito. p. 2. 3. 294
295. Hugo Grotius de Jure Belli. l. 1. c. 4. § 7. p. 87.

* Eccles. Hist. l. 1. c. 34.

to no purpose, as I have * elsewhere manifested) held it not only lawfull for them to resist, but even in some cases to slay a persecuting Apostatized Tyrant, bent to subvert Religion, Lawes, Liberties; as may be further evidenced by (a) *Constantine the great his ayding the oppressed Christians, and Romans against the Tyranny and Persecution of the Emperors Maxentius, Maximinus and Licinius, even with force of Armes, with which he Conquered these Persecutors in sundry open bartels fought against them, at the Christians earnest importunity.*

* Part 3. p. 137.
10143.
(a) Hist. lib. 2.
vita Constant. &
Eccles. Hist. l.
c. 9. 10. Sacrat.
Scholast. Hist. l.
1. Sozomon.
Nice. b. Cal.
Eccles. Hist. l. 7.
c. 29. 37. 39. 44.
45. Grinslan
Eutopius Zo-
ara Sabelli-
cus Valerianus
in the Lives of
Constantine
Maximus and
Maxentius.

To descend to later Authorities, it is the received Doctrine of all Popish Schoolmen, Doctors, Lawyers, That tyrannicall Princes who oppresse and invade their subjects persons, liberties, estates, or religion, may both lawfully with good conscience be forcibly resisted by their Subjects, and likewise by the major part of their People, Nobles, Parliament, for preservation of the Republike and Religion, be justly deposed, and put to death; yea, as some of them adde, even murdered by private men, though the generality of their Writers justly deny it. Their St. Thomas of Aquin, in his Book, *De Regimine Principum* (dedicated to the King of Cyprus) * cha 6. determines thus, *If it belong to the multitude to provide themselves of a King; the King made by them, may not unjustly be removed, destroyed, or his power restrained, if he abuse the power of the Realm tyrannically; Neither is such a multitude to be esteemed, TO DEALE DISLOYALLY;*

* Operum. Arist.
verbie. 1612.
Tom. 17. f. 163.

IN DEPOSING A TYRANT ALTHOUGH THEY HAD PERPETUALLY SUBIECTED THEMSELVS TO HIM BEFORE, BECAUSE HIMSELFE HATH DESERVED IT, in not carrying himselfe faithfully in the Government of the people, as the Office of a King required, because herein he kept not his Oath and Covenant with his subjects. And he further affirms, *2 Distinct. Art. 44. qu. 2. 2. 5^m. 1. 2^x. Dist. 44. qu. 2. 2. 5^m. 1. 2^x. qu. 79. 4. 3^m. 22^x. qu. 12. art. 2. & qu. 42. 2. 3^m. Opusc. 10. l. 4. c. 1. That in every Countrey, Cities are governed politickly; the power of Kings and Emperours being circumscribed by the Lawes and people, That a Tyrannicall Prince, if hee invade his Subjects, may lawfully be resisted and slaine even of private persons in their own necessary defence, and in reference to the publike safety; but much more by the Nobles and peoples generall consent: And that the deposition or perturbation of the regiment of a Tyrant, **HATH NOT THE REASON (or nature) OF SEDITION,** unlesse it be done by private persons, or so disorderly, that a greater detriment should ensue, **BVT IT IS THE TYRANT RATHER WHO IS SEDITIOUS.** The same Doctrine is taught by *Dominicus Soto, de Iustitia. l. 5. quest. 1. art. 3. Ludovicus Molina Tom. 4. De Iustitia & Iure Tract. 3. disp 6. to 20. Dominicus Bannes, 2^a. 2^x quest. 64. Art. 3. Dub. 2. Petrus de Aragen. 2^a qu 64. art. 3 Explicatio. art. p. 248. Michael Ba tholomæus Salon, de Iustitia & Iure in 2. 2^x Tom. 1. qu. 64. art. 3. cont. 1. pag. 385. Petrus de Lorca in 2^a D. Thoma quest. 40. art. 3 sect. 3. throughout, specially Disput. 50. n. 2. & Disp. 52. 53. Azorius, Tom. 2. l. 21. disp 5. qu. 8. & 5. Franciscus Victoria. Relatio De Iure Belli. n. 9. 14. Alphonus Salmeron in cap. 13. Epist. ad Romanos. Disp 5 Fran. Suarez. in Defensione fidei l. 3. cha. 3. & l. 6. chap. 4. throughout specially, num. 5. 6. 13. 14. 15. 16. Ioan Gerson de Auferribilate Pape; when also he avers (confid. 6. that one who is truly Pope may lawfully be bound, imprisoned, and put to death for his offences, (though the head of the Church as Papi s hold, as well as Kings the head of their Realmes.)**

Dionysius Cathusianus de Regim. Polit. Artic. 1. Franciscus Toller, in summa, l. 5. c. 6. Leonardus

Leonardus Lessius de Iustit. & Iure, c. 9. dub. 4. Tannerus, Tom. 3. disp. 4. qu. 8. dub. 3. Emanuel Sa. in Aphorism. Verb. Tyrannus, n. 2. Iohannis Mariana: De Rege & Regis Instit. l. 1. c. 5, 6, 7, 8. Alvarus Pelagius de Plan. Eccles. l. 1. c. 21. Simancha Pacensis, de Cathol. instit. tit. 23. n. 11. p. 98. tit. 45. n. 25. p. 209. Gregorie de Valencia, Tom 3. p. 444. Cardinall Bellarmine, de Pontif. Rom. l. 5. c. 6. 7. 8. & Tract de Potest. Sum. Pontif. advers. Gul. Barcl. p. 97. Iac. Gretzerus Pharetra Tertulliana, & Vespertilio Haritico-Politicus, Ludovicus Richehom. Expostulatio Aplogetica, pro Societate Ies. Vincentius Filicius Tra. 28. p. 2. dis. 4. pra. Dec. n. 12. Mart. Becanus Anglicana de Potestate Regis & Pontificis, Caspar. Schoppius. Alexi Pharmacum Regium, & Collyrium Regium. Valentine Jacob. An. 1524. and John Tanquorel. Anno. 1561. whose opinions are recorded by Bochellus Decreta. Eccles. Gal. l. 5. tit. 4. c. 6. 8. the Cardinall of Como his Letter from Rome, 30. January, 1584. to Doctor Parrey to murder Queen Elizabeth; Franciscus de Verona Constant. in Apolog. pro Io: Chastel, p. 133. Bonarscius the Iesuite, Amphith. p. 101. Barclay l. 3. advers. Monarch. c. 8. l. 6. c. 23. & 24. Serarius in c. 3. Indicum. Hieronymus Blanca Rerum Aragonens. Commentarius, passim. Cajetan: upon Aquinas his forecited Summes. the Doctors of Salamanca in their Determination, Anno 1602. recorded by G. Blackwell, qu. Bip. p. 56. and Doctor John White his Defence of the Way, c. 6. p. 16. Governado Christiano, p. 43. Antonius Massa Tract. contra Duell. n. 78. 79. Baldus 3. Consid. 313. Cavarruvias Quaest. Illustr. T. 2. 505. n. 1. 399. n. 6. Vasquius contro. Illustr. 16. n. 15. 19. 21. 17. n. 1. 23. 20. n. 344. n. 3. 73. n. 12. 13. 5. 72. n. 7. and elsewhere Hemingius Arnisaus de Autoritate Principum p. 18. 50. 77. 80. 83. 95. 122. Fran. Hotomani Franco-Gallia, c. 6. 7. 10. 13. 15. 18. 19. &c. To which I might adde our English Priests and Iesuites, as Doctor Nicholas Saunders, Visib. Monarch. p. 70. 71. Doctor Allen, Parsons, Creswell, Philopater, Rossaus, Doleman, p. 32. to 74. sparsim, with sundry others, all professedly averring Aquinas his Doctrine, and the premisses, yea, farre exceeding them in sundry particulars; many or most of them attributing sufficient Authority and power to the Pope and Prelates alone, without the Parliaments, Nobles, Peers, or Peoples assent, to depose, adjudge Hereticall or tyrannicall Kings to death, and devote them to assassination, which all Protestants unanimously disclaim. But wee need not fish in these unwholesome Romish Streams of Tyber, or make use of these Popish Champions, whom I have onely named, to stop the mouthes of all Papists, Priests, Iesuites, who now much exclaim against the Parliaments present defensive Warre, condemning all for Rebels and Traitors who assist the Parliament against their invading traitorous, Rebellious armed Forces both in Ireland and England, they being in verity such themselves, yea, the originall contrivers, fomenters, the principall abettors of the present bloody, destructive, civill Wars in both our Realms. And that which most confirms me in this believe, is a particular late Discovery of the horrid Conspiracy of Con the Popes late Nuncio here, and his Iesuited Popish Confederates, to undermine and extirpate the Protestant Religion, to raise the Scottish, and succeeding Irish, and English Wars, thereby to ingage the King to resort to them for assistance; & under pretence whereof to rise up in arms, and work him to their own conditions, or else to poyson him with a Indian poysoned Nut after the example of his Father, and then seize upon the Prince, and train him up in their Antichristian Religion, as you may reade at large in Romes Masterpeece, to which I shall referre you for fuller satisfaction, from one of the chief Conspirators own Confession. But passing by all these, I shall

shall proceed to Authorities of Lawyers and Divines, professing the Protestant Religion. *Georgius Obrechtus*, a publike Professor of Law, and Advocate to the City of *Strasburge* in his *Disputatio Juridica*, 1. *De Principiis Belli*, layes down these severall Positions for Law, Num. 125. to 139. That all the Inferiour Magistrates in the Empire or other Kingdoms, collectively considered, are above the Emperour and Kings themselves; that if they be unjustly assaulted with unjust violence by any, whomsoever, they may by a necessary and just warre, defend both themselves and theirs, and repell and prosecute the unjust assailants. That if the Superiour Magistrate neglect to do his duty, (as if the *Turke* should invade any Countrey, and the Supreme Magistrate would not resist him,) the inferiour Magistrate may call the people to Arms, raise an Army, and exercise all forces policie and devices against the common enemy of Christians: Or if the Supreme Magistrate should exercise manifest Tyrannie, it is verily lawfull to the Inferiour to undertake the care of the Republike, which he endeavours to oppresse with all his power: That those who represent all the people, as the Electors, Palatines, Nobles, Parliament, may admonish the Prince of his duty, and ought to seek by all means to divert him from his Tyrannicall and impious purpose; but if he proceeds, and repenteth not, being frequently admonished, but wilfully subverts the Common-wealth, obstinately perverts Laws; hath no care of faith, covenants, justice, piety; and tends onely to this, that he may perpetrate any thing with impunity, and impiously reign over mens consciences, then verily he is accounted a Tyrant, that is, an enemy of God and man; whence, if he hath proceeded to that hight of malice, that hee cannot bee expelled but by armed force, It is Lawfull for the Electors, Palatines and others, to call the people to Arms, and not onely to defend themselves and others against such a one, but plainly to deject him from his Throne: For the intire Government of the Realm is not committed by the people to the Prince alone, as neither the Bishopprick of the whole Church to the Pope, but to every one of the Nobles or Magistrates according to his power: For the Nobles, as they are called into part of the honour, so of the burthen of the Common-wealth; which is committed to the Prince, as to the Supreme Tutor, but to them as Fellow-tutors, he having the first, they the second place in governing the Republike. The Prince swears that he will seek the good of the Realm, and all the Nobles promise the same: therefore if he doth ill, they ought not to do so likewise; if the Republike go to ruine, they shall not continue: For the Common-wealth is no lesse committed to them, than to the King, so as they ought not onely to do their duty, but also to contain the Prince within the limits of his duty: For if the Prince doth ought against his Oath, they are not absolved from their Oaths, but rather then especially ought to manifest their fidelity, when the Republike requires it, because they were specially instituted for that end, as the Ephori, and every thing ought to be reputed just, when it attains its end. Hence *Brutus* the Tribune, and *Lucretius* the Governour of the City, called the people to Armes against *Tarquin* the proud, and by their authority expelled him the Ringdom. So the Roman Senate judged *Nero* an enemy of the Republike, and condemned him to the Gallowes; punished *Vitellius* with death, ignominiously mutilated, and dragged thorow the City, and spoyled *Maximinus* of the Empire, setting up *Albinus* in his place. Thus the French by Authority of a publike Councell, thorow the care of the Officers of the Realme deprived

, Childericke the first, Sigebert, Theodoric, and Childericke the third of the government of the Realm. Neither is it impertinent to pronounce the same sentence of such a one, as was given of *Manlius Capitolinus*, * *Thou wast Manlius whiles thou diddest cast down the Senons headlong; Now because thou art become one of the Senons, thou thy selfe art to be precipitated from whence thou diddest cast them down.* But if perchance most of the Nobles collude and connive, and being unmindfull of their duty, take no care of the people; let there at least be one who may admonish and detest the invading Tyrant, and take care that the Republike sustain no detrimen; For the care of the Republike is no lesse committed to him, than to the Prince and his Collegues, and he hath plighted his faith to the Republike no lesse than they. If many have promised the same thing, the obligation of the one is not taken away by the negligence or periury of the other. If there be many Trustees, Executors, or Guardians the negligence default or fraud of some of them, doth not discharge or disingage the rest; yea, unlesse they to their power discharge their trust and Oath, they become perfidious, yea guilty of the same crime, and are subiect unto actions for their neglect as well as the others: Therefore those who are bound to the whole Kingdom and Empire, as the Peers of *France*, the Electors, or to some certain Countey or City which makes a part of the Realme, as Dukes, Marqueses, Earles, Constables, Admirals, and the like, are obliged to ayde the whole Common-wealth, or that part committed to them, against the tyranny of the Prince, if they be able, &c. Thus and much more this Lawyer, almost *verbatim* out of *Iunius Brutus*.

I might add to him the like determinations of *Henricus Bocerus*, *De jure pugnae, hoc est, Belli & Duelli, Tractatus Methodicus, Tubinge, 1591. lib. 1. cap. 5. & 29. p. 141* *Justus Eccardus, De Lege Regia*, the last Edition. *Albucius Polit. c. 4. p. 146. to 153. Hanon, Disputat. polit.* The Treatise *De Jure Magistratus in Subditos*; (where this Position is largely and learnedly debated, confirmed, both from Law, History, Theology, Reason) *Hugo Grotius de Jure Belli & pacis, lib. 1. c. 4. sect. 7. to the end. p. 87. &c. Albericus Gentilis de Jure Belli, l. 1. c. 11. p. 84. c. 25. p. 205. l. 3. c. 9. 22. p. 546. 686.* with others. But since *Iunius Brutus* compriseth the quintessence of all the rest, I shall trouble you onely with his Discourse. *Vindicia Contr. Tyrannos, Quast. 3. p. 177. to 106.* To passe by his Discourse concerning the resisting of Tyrants, who usurp a Dominion without any Title, whom every man may justly resist and suppress, and are bound in duty so to do*, as he there proves at large; I shall onely transcribe what concernes them who have a lawfull Title. First (saith he) we ought to consider, that all Princes are born men. We cannot therefore expect to have only perfect Princes, but rather we ought to thinke it well with us, if we have gained but indifferent ones. Therefore the Prince shall not presently be a Tyrant, if he keep not measure in some things, if now and then he obey not reason; if hee more slowly seek the publike good; if he be lesse diligent in administering Justice, or lesse fierce in propulsing warre. For seeing a man is not set over men, as if he were some God, as he is over beasts; but as he is a man, born in the same condition with them; as that Prince shall be proud, who will abuse men like Beasts, so that people shall be unjust, who shall seek a God in a Prince, and a Divinity in this frail Nature. But truly if he shall willingly subvert the Republike; if he shall wilfully pervert the Lawes, if he shall have no care of his faith, none of his promises, none of Justice, none of piety; if himselfe become an enemy of his people, or shall use all or the chiefest

, notes we have mentioned, then verily he may be iudged a Tyrant, that is, an enemy of
 , God and men. Therefore we treat not of a Prince, lesse good; but of the worst;
 , not of one lesse prudent, but of a malicious and subtile one; not of one unskillfull
 , in Law, but of a contemner of Law; not of an unwarlike one, but of an enemy of
 , the people and waster of the Realme. A Senate may assist him with prudence, a
 , Iudge with the knowledge of the Law, a Captain in the skillfulnesse of warre; but
 , this man wiseth the Nobles, Senators, Captains of Warre one neck, that he might
 , cut them off at one stroake, neither hates he any more then them. The first verily,
 , though he may lawfully be removed, yet however he may be tolerated; the latter
 , contrarily, by how much the longer he is tolerated, the more intollerable he be-
 , comes. Moreover, as euery thing is not lawfull to a Prince; so often times, that
 , which is lawfull to the people, is not expedient. For frequently it may fall out, that
 , the remedy which is used, may be worse than the disease. Therefore it becomes a
 , wise man to try all things, before he use the hot Iron; and use all remedies, before
 , he take up armes. If therefore those who represent the people perceiue any thing to
 , be done against the Republike by force or fraud, let them first admonish the Prince;
 , neither may they expect, till the mischief grow heauie, and acquire forces. Ty-
 , ranny is like an heptick Feauer, which at first is easie to be cured, difficult to be dis-
 , cerned; afterward it becomes easie to be known, but very difficult to be cured.
 , Therefore they shall withstand the beginnings, neither should they pretermitt any
 , thing, though the smallest. But if he shall proceed, and not repent though frequent-
 , ly admonished, but tend onely to this, that he may commit any thing without
 , punishment; then verily he is really guilty of Tyranny, and they may act against
 , him, whatsoever they may use against a Tyrant, either by Law or just force. Tyran-
 , ny is not onely a crime, but the head, and as it were, the heap of all crimes. A
 , Tyrant subverts the Republike, makes a prey of all, lyeth in wait for the life of all,
 , violates faith to all, contemnes all the Religion of a sacred Oath. Therefore is he so
 , much more wicked then any Theefe, murderer, sacrilegious person, by how much
 , it is the more grievous, to offend many and all, then particular persons. Now if all
 , these be reputed enemies, if they be capitally punished, if they suffer paines
 , of death, can any one invent a punishment worthy so horrid a crime?
 , Moreover, wee have proved, that all Kings receive their Royall Dignity from
 , the people; that all the people are better and higher then the King, that the King is
 , onely the superior minister and Ruler of the kingdome, the Emperour of the Em-
 , pire, but the people are the true head. Therefore it follows, that a Tyrant who commis
 , felony against the people as the Lord of the see, burts the sacred Majesty of the Realm
 , and Empire. Becomes a Rebel, and therefore falls into the danger of the same Lawes,
 , and demerits more grievous punishments. Therefore, saith *Bartolus*, he may be deposed
 , by a Superior; or be most justly punished by the Julian Law, for publike violence.
 , Now all the people, or those who represent them, as Electors, Palatines, Nobles
 , the Assembly of the Estates, &c. are his Superior. But and if he shall proceed so
 , farre, that he cannot be expelled but by armed violence, then verily it shall be law-
 , full for them, to call the people to Armes, to raise an Army, and to practise force,
 , policy, stratagems, as against an adjudged enemy of his Country and of the Com-
 , mon-weale. Neither shall the Officers of the Realm in this case fall into the crime
 , OF SEDITION; For in a sedition there must needs be two points, which when

Nota

In Tractat. de
 Tyranno, & in
 Tr. de reg.
 Civit.

* Bartolus Tract.
de Guelfis &
Gibell Ang. l. 3.
S. cum igitur D.
de vi & viar.
Thom. Aquinas
in 2. 2e q. 12.
Art. 11. in fine
l. 1. D. ad leg.
Jul. magistr. Cib.
Parid. 4.

for the most part they contend about contradictories, it followes, that the cause of one is just, the other unjust; That cause must verily be just which defends the Laws; which protects the common good, which shall preserve the Realme, especially by this meanes; contrarily, that cause is unjust, which violates the Laws, defends the breakers of the Lawes, protects the subverters of the Countrey. * That is just which will destroy tyrannicall government, that unjust which would abolish iust government. That lawfull which tends to the publike good, that unlawfull which tends to the private. Therefore, saith *Thomas*, because a tyrannicall kingdome which is not ordained to the common good, but principally for the benefit of the Governour, is most unjust; therefore the disturbance of this Kingdome hath not the reason of Sedition, nor doe they fall into the crime of Treason. This crime is committed against a lawfull Prince; Now a lawfull Prince is nothing but a living Law: therefore he who kills the Law as much as in him lyeth, cannot be called by that name; therefore those who take up Arms against him shall not be guilty of that crime. It is likewise committed against the Common-wealth, but because the Repub. is there only where the authority of the Law prevails, not where the private lust of a Tyrant swalloweth the Republike, a Tyrant shall be guilty of that crime which offends the publike Maiesty, & those be Vindicators of the Republike, who shall oppugne a Tyrant *Ex Officio*, supported with their own authority. Neither in this case, I say, doth every one, but all the Subiects, but the Lords seem to require an account of the government from their agent: no more shall they be accounted perfidious for doing it; there is every where between the Prince & people a mutuall & reciprocal Obligation; he promiseth, that he will be a iust Prince: they, that they will obey him, if he shall be such a one. Therefore the people are obliged to the Prince under a condition: the Prince, purely to the people: Therefore if the condition be not fulfilled, the people are unbound, the Contract void, the Obligation null in Law it selfe: Therefore, the King is perfidious if he reign unjustly; the people perfidious, if they obey not him who reignes iustly: But the people are free from all crime of perfidioufnesse, if they publicly renounce him who reignes unjustly; or if they endeavour to evict him with Armes who desires to retain the kingdome unlawfully. Therefore it is lawfull for all or many of the Officers of the Realme to remove a Tyrant. Neither is it onely lawfull; but it lyeth so upon them of duty, that unlesse they doe it, they can no way be excused. Neither may Electors, Palatines, Senators, and other Nobles think, that they were created and instituted onely for that end, that they should shew themselves once peradventure in the Kings inauguration, attired after the ancient manner, that they might act a certain palliated Fable, or put on the person of *Rowland, Oliver, Renald*, and other Nobles on that day, as if in a Scene, they should in some shew represent the Round Table of *Arthur*, as they call it; so as after that the multitude is dismissed, and *Calliopus* hath said, Farewell, they should think they had excellently played their parts. These things are not spoken in jest, these things are not perfunctorily done; these things are not the pastimes of children, who as it is in *Horace*, created a King in a Play; but rather of Nobles, & Magistrates, who as they are called unto part of that honor, so likewise of the burthen, and shew, that the Republike is committed and commended to the King, as to the supreme and chiefest Tutor, so also to the mas fellow-Tutors (even Honorari) assigned to him as observers of his actions who hath the chief tutelage, who may daily exact an account of him, and

L. 160. D. de reg
Jur.

Vip. l. 3. D. de
adm. & peric.
Tut. & curat.

, diligently

'diligently take heed, in what manner he reverseth; so even these, that they might
 'observe the King (who, as to his tutelary providence, is onely reputed in the place
 'of a Lord) that he doe nothing to the detriment of the people. Therefore as the
 'fact of him who acts the Gardian, is imputed to the Co-gardians, unlesse where
 'they ought and are able, they suspect and likewise take care to remove him; to wit,
 'when he communicates not the administration with them, if he doe not faithfull-
 'ly manage the tutelage or care, if he admits fraud, if he doth any thing sordidly
 'or perniciously to the Pupill, if he intercept any of the Pupils goods, if he be-
 'come an enemy to the Pupill; finally, if he be over rude, sloathfull, unskillfull,
 '&c. So even the Nobles shall be held guilty of the Princes deed, unlesse they re-
 'move, or prevent his tyranny, or supply his sloathfulnesse, with their vigilance
 'and diligence. Finally, as oft as the Gardian doth not doe in the name of the Pu-
 'pill, that which any fit Master of a family would doe, he may not seeme to be de-
 'fended; but that he may be the better defended, his Co-gardians are bound to
 'foresee: So much more justly, if the Prince doth not act the householder but the
 'Enemy, the Nobles may and ought to act against him, since they are bound by
 'his deed, no lesse then by their owne. Moreover the Nobles may consider, that
 'the King in governing the Republike, holds the first part, but they the second,
 'third, and every one in his place. Therefore if he doth his part ill, they may not
 'follow him: if he destroy the Republike, they may not connive; for it is com-
 'mitted to them, as well as to him; and in such sort truly, that not onely they
 'themselves ought rightly to execute their office by themselves, but to containe the
 'Prince within the bounds of his office. Finally, as the King promiseth, that he
 'will take care of the benefit of the Commonweale, so also doe they. Therefore
 'if he breakes his oath, they may not thinke, that they are absolved from theirs,
 'no more then Bishops, if the Pope should defend heresie or destroy the Church:
 'yea, they should thinke themselves so much the more obliged to performe their
 'oathes, by how much the more he shall violate his. Therefore if they collude, they
 'are reputed in the number of prevaricators; if they connive, of desertors; and
 'TRAITORS, if they vindicate not the Republike from the tyranny of tyrants:
 'as finally they become Patrons, Defenders, little Kings, if they by all meanes pro-
 'tect and defend the Republike, which they have undertaken to protect. These
 'things, though they are sufficiently firme of themselves, yet they may be demon-
 'strated by examples. The Canaanitish Kings, who oppressed the people of Israel
 'with hard servitude, as well corporall as spirituall, (interdicting them both
 'commerce and armes) were true tyrants, I say in practice, yet not without a title;
 'for Eglon and Jabin reigned quietly almost twenty years: Now God extraordinari-
 'ly stirred up Ehud, who slew Eglon craftily; and Deborah, who routed the army of Ja-
 'bin; and by that meanes freed the people from tyranny: This was not verily, be-
 'cause it was lesse lawfull to the ordinary Magistrates and Princes of the Tribes, and
 'the rest to doe it, but Deborah rather objecteth their sloathfulnesse and carelesnesse
 'to them, and curseth some of them for this cause. But truly God, pitying his
 'people, extraordinarily supplied the negligence of ordinary officers. Rehoboam
 'the sonne of Solomon, refuseth to ease the people of unnecessary Tributes, being
 'intreated to doe it in a generall Assembly of all the people, he groweth insolent,
 'and assisted with the counsell of flatterers, even arrogantly threatens more grievous
 'burdens;

L. 27. D. eodem.

L. 14. D. de ad-
min. & peric.
tur.

L. 3. de suspens.
tur. & cur.

L. 10. & 33. D.
de admin. &
peric. tutor. &
Curat.

Judg. 5.

2 Chron. 10. &
11.

August. l. 1. 7. de
Civ. Dei. c. 22.

'burdens; No man doubts, but that according to the covenant first made betweene
'the King and people, the Nobles might have restrained this pride: But the sinne
'was in this, that they did by secession, which was to be done in the Assembly; and
'did a just and lawfull thing unjustly. Frequent examples of this thing occurre in
'other Kingdomes: he instanceth in *Tarquin* the proud, expelled by *Brutus* and
'*Lucretius*; who confiscated his goods, and would have publikely sentenced him-
'selfe, had they apprehended his person, because he consulted not with the Senate
'as former Kings usually did, because he made warre, peace, and truces at his plea-
'sure without the Senates and peoples advice, violated the Lawes which he should
'observe, and neglected the covenant established betweene the King and people: in
'*Nero* the Emperour, publikely sentenced by the Senate, *Vitellius*, *Maximinus*; and
'the speech of *Trajan* (forecited): Likewise the **French*, by authority of a publike
'Councell through the care of the Kingdomes officers, expelled *Childericke* the first,
'*Sigibert*, *Theodoricke*, *Childericke the third*, from the Crowne, for their tyranny, and
'set up others of another stocke in their places. Yea, for sloathfulnesse, negli-
'gence, madnesse, as also for injuries to Forrainers, and yeelding to the impoten-
'cie or lust of flatterers, or women, they have deposed some, and as it were taken
'away the reins from *Phaeton*, lest all men should be burnt with the same fire; as
'*Theodoricke* for *Ebroines* sake, *Dagobert* of *Plegrude*, and *Theobald* his Mignons,
'with others; reputing it to be all one, whether a woman or an effeminate Prince
'reigned; or whether a tyrant, or petite tyrants under a sloathfull Prince do-
'mineered: or finally, whether he himselfe were a Devill, or possessed by the Devill
'himselfe. Thus not long since they compelled *Lewes* the eleventh, a most imperi-
'ous Prince to receive 36. Governours, by whose counsell he was bound to governe
'the Republike. Yea, what other right had either the *Carlingi*, adopted into the
'Kingdome in place of the *Meruingi*; or the *Capets* who at this day hold it, prefer-
'red before the *Carlingi* by the Decree of a publike Councell: but from the people, re-
'presented as it were in an Epitome, by the Councell of the Realme, which they call
'an Assembly of the three Estates, who might lawfully of right both depose those,
'and by their owne authority establish these in the Throne? In the same manner we
'read *Adolpbm* deprived of the *German* Empire, *An. 1296.* because corrupted with me-
'ny, he had made war with *France*, in favour of the *English*: and *Wenceslaus*, *An. 1400.*
'although these may be called, not so well evill, as lesse good Princes. Thus in the
'Realme of *England*, *Edward* the second, for his tyranny to his Subjects, especially
'the Nobles, whom he destroyed without hearing their cause, was at his *Queenes*
'request, adjudged unworthy of his Crowne by the Parliament. Not long since,
'*Christierne* in *Denmarke*, *Ericus* in *Sweden*, *Queene Mary* very lately in *Scotland*, were
'deprived: which Histories worthy credit testifie, hath bene frequently done in the
'Kingdome of *Poland*, *Hungary*, *Spaine*, *Portugall*, *Bohemia*, and the rest. But what
'concerning the Pope himselfe? The Cardinals, they say, because they have cho-
'sen him, or if they doe not their duty, the Patriarks, who are Primates next after
'the Cardinals, may against his will, for certaine causes call a Councell, and in it
'judgethe Pope, if he shall scandalize the Church by his notorious offences; if he
'be incorrigible, if reformation be necessary as well in the head as members; if con-
'trary to his Oath he will not assemble a Councell, and the like: and *de facto*, we
'read that many Popes have bene deposed by authority of a Councell. But if (saith:

* See *Hotoman*.
Francogallia. c.
6. to 14.

Froissard. l. 1. c.
1. & sequ.
Ant. de But.
Consl. quod pos-
sium inter Con-
sil. Paul. de
Castro vol. An-
tiqu. nu 412.
incip. Viso pun-
do. Martini.
Laudensis in
Tract. de Car-
din. in 2. qu. 35.
Phil. De in: quo-
dam consilio, cu-
jus verba fac-
runt Andr. Bar-
bar. in D. conf.
l. 2. c. 6. Bald.
in l. Olim. col.
peri. de rescri.
in Decretal. Bo-
nifac. 8. de Mai.
& obed.

* *Baldus*.

Baldus) they be pertinaciously abused; at first they must use words, secondly,
 herbes, that is, medicines; lastly, stones; and where the truth of vertue sufficeth
 not, there the defence of weapons ought to prevaile. But and if by the suffrages
 almost of all learned men, the Decrees of Councils, and the Acts themselves done,
 it be proved, that a Councell, as they speak, may lawfully depose the Pope, who
 yet boasts himselfe to be the King of Kings, and claimes as much to be above the
 Emperour, as the Sunne is above the Moone; yea, also arrogates to himselfe
 an authority of deposing Kings and Emperours at his pleasure; who at last can
 doubt, but that by the publike Councell of every Realme, not onely a tyrant, but
 a King, pernicious to his Kingdome for his madnesse or folly, may be deposed or
 removed?

Goe to now, in this our politicke Ship, the Master gluts himselfe with wine;
 most of his assistants either asleepe, or drunke with mutuall cups sportingly behold
 an imminent Rocke. The Ship in the meane time, either holds not that course
 which is expedient for the owner, or seemes speedily to be wracked; what thinkest
 thou is here to be done under the Master, by one who is vigilant and sollicitous?
 Shall he pull those by the eares who are asleepe, or onely jogge them by the sides?
 but in the meane time, lest he should seeme to doe ought without their command,
 shall he not a ford his helpe and assistance to the indangered Ship? Truly what
 madnesse, or rather impiety will this be? Seeing then (as Plato saith) tyranny is
 a certaine phrenie and drunkenesse, the Prince may utterly subvert the Republike,
 the most of the Nobles may collude, connive, or at least are fast asleepe: the peo-
 ple who are Lords of the Republike, by the fraud or negligence of these ministers,
 which is their fault, are reduced into greatest straights: in the meane time there is
 one of the Nobles which considers the inroaching tyranny, and detests it from
 his soule, what thinkest thou is now to be done against him by this man? Shall he
 onely admonish his Colleagues of their duty, who themselves doe as much hurt
 as they may? But, besides, as it is perillous to admonish, and in that state of things it
 may be deemed a capitall crime, shall he do like those, who contemning other helps,
 casting away their armes, shall cite Lawes, and make an Oration concerning justice
 among theeves, in the midlt of a wood? but this truly, is that which is commonly said, to
 be made with reason: What then? shall he grow deafe at the peoples groanes?
 shall he be silent at the entrance of theeves? or shall he finally grow lasie, and put his
 hands into his bosome? But if the Lawes appoint the punishment of a Traytor
 against one wearing buskins on his legs, who counterfeits sicknesse for fear of the e-
 nemies, what punishment at least shall we decree against him, who either through
 malice, or sloathfulnesse, shall betray those whom he hath undertaken to protect?
 But rather he shall command those things that are needfull to such as are wary by
 a Mariners shout; he shall take care lest the Common-wealth receive any detriment,
 and shall preserve the Kingdome even against the Kings wil and resistance, by which
 he himselfe becomes a King; and shall cure the King himselfe as a frantick man, by
 binding his hands and feet, if he may not otherwise doe it. For, as we have said, the
 universall government of the Realme is not committed by the people to the King,
 as neither the oversight of the whole Church to the Pope, but to every one of the
 Nobles according to his power. But certainly, because concord proceeds from u-
 nity, that there should be no emulation among Peeres, a King was intituled, who

Plato. l. 8. c. 9.
de Repub.

L. 3. c. 1 omne
delictum. Scilicet
ut D. de remi-
ssis.

C. nullus in Car-
thagin. Concil.
Doctores Pen-
sificii.

should hold the supreme place in the administration of the Common-wealth. The King swears that he will seeke the safety of the Realme; the Nobles swear every one the same by himselfe: whether therefore the King or most of the Nobles neglecting their oath, shall either destroy the Commonweale, or desert it being in danger, ought the rest therefore to desert the Republique, or at least be lesse bound to defend it, as if they were absolved from their oath? But rather then especially they ought to shew their fidelity, when as others neglect it, especially since they were principally instituted for that end, like the Ephori; and every thing may then be reputed just, when it attaines its end: whether truly if many have promised the same thing, is the obligation of the one dissolved by the perjury of the other? whether if many be guilty of the same sinne, are the rest freed by the fraud of one? Whether, if many Co-guardians ill defend their Pupill, shall one good man be lesse bound with the burthen of the wardship through their default? But rather, neither can they avoyd the infamy of perjury, unlesse they endeavour to satisfie their trust as much as in them lieth; neither can those exempt themselves from the danger and judgement of a Guardianship ill administred, unlesse they implead the other Guardians suspected; when as verily one Guardian may not only implead the rest suspected, and take care of those to be removed, but also remove them. Therefore those who have promised their aide and assistance to all the Realme or Empire; such as Earles of the stable, Marshals, Senators, and the rest; or those who have done it especially to any County or City which may make a part of the Realme; as Dukes, Marquesses, Earles, Majors, and the rest, are bound to aide the whole Commonweale oppressed with tyranny, or that part thereof, which the people have committed to them next after the King. And these truly ought to vindicate the whole Commonweale from tyranny, if they be able; those as Guardians assigned throughout Counties, that part of the Realme whose defence they have undertaken: These I say, are bound to retaine a tyrant, those to drive him out of their coasts. Therefore *Mattathias* as one of the Nobles, the rest partly conniving, partly colluding, when *Antiochus* tyrannically oppressed the Kingdome of *Judab*, speaks thus to the people ready to take up armes: Let us restore the state of our people; let us fight for our people, and our holy places: whence it plainly appears, that we may not onely lawfully fight for Religion, but for our Country; for an hearth I say, no less justly then for our Altars, and take up armes against such a tyrant as he was: neither are they blamed by any, for recovering the Kingdome, but that they claimed the royall dignity to themselves, which pertained to the Tribe of *Judab*. Many pertinent examples to this purpose occur in Historians. *Arbastes* governor of *Media*, slew *Sardanapalus* spinning among women, and spending the royall treasure among whores. *Vindex* President of the *French*, and *Galba* of the *Spaniards* revolted from *Nero*, together with all *France* and *Spaine*, the Senate conniving at his tyranny. But especially that *Laconick* judgement is observable, which verily proceeding from that Senate, ought to passe into a thing adjudged among all Nations. When the *Licedæmonians* possessed *Byzantium*, they made *Clearches* Captaine of the Army, Governour of the City, who taking corne from the Citizens, distributed it to the forraine souldiers; but in the meane time the families of the Citizens perished with famine. *Anexilans* therefore, one of the Magistrates of the City, moved with that tyranny, agreed with *Alcibiades* about the yeelding up of

L. 3. D. de ad-
 ministr. & peric.
 tutor. & cur. l. 2.
 D. de suspect. int.
 & cur. ar.

Maccab. lib. 1.
 c. 3. v. 45.

Justin. l. 1.
 Diodor. l. 2. c.
 37.

his Countrey to him, and he soone after is received into the City. *Anexilans* being accused at *Sparta* for yeelding up of *Byzantium*, pleaded his cause himselfe, the *Spartanes* absolved the man; because they said, warres were to be waged with enemies, not with the nature of things; now nothing is more repugnant to nature, then, if those who are bound to defend a City, became more unjust then the enemies. Thus the *Lacedæmonians* determined justly, to whom scarce any good Kings will not assent; verily those who desire to rule well, care not at all what is determined concerning tyrants, or what the Nobles or people themselves may doe by Law. But we must yet proceed further. Every one of the Mariners is bound, if the Ship be endangered through the default or negligence of the Ship-master, to put to his helping hand: every one of the Nobles is bound, if the Republike perish by the wickednesse or carelesnesse of the Prince and his Colleagues, to helpe it, being like to fall, and to vindicate the whole Kingdome, or at least that part thereof which is committed to him, from tyranny. But then shall it be lawfull for every ordinary slave to doe the like? or peradventure shall it be lawfull to *Herdonius Sabinus*, *Euno Surianus*, *Spartacus* the fencer, or, I say, to any private man to enfranchise servants, to stirre up Subjects to armes, finally to combate with the Prince, if tyranny urge them? No verily. The republike is not committed to single or private men, yea they themselves are committed to the care of the Nobles and Magistrates no otherwise then Pupils. Therefore they are not bound to defend the Republike, who cannot defend themselves. The sword is not committed to every man neither by God, nor by the people; therefore if they draw the sword without command, they are seditious, although the cause may seeme to be just. Finally, private men doe not make the Prince, but all. Therefore they ought to expect the command of all, or of those, I say, who represent all in a Realme, Countrey or City, which may make a part of the Realme, or at least of one of them, before they attempt any thing against the Prince. For as a Pupill cannot bring an action without authority of his Tutor, although the Pupill be truly a Lord, and the Tutor onely is reputed for the Lord, as farre forth as appertaines to his tutelary providence: So neither may the people doe ought, but by the authority of those, on whom they have transferred their authority and power; whether they be ordinary Magistrates, or extraordinarily, created in a publike Assembly; whom, I say, they have giured with the sword for this purpose, to whom they have delivered themselves up to be governed and cared for; who finally like that Pretor of *Rome*, who judged betweene servants and masters, are truly constituted in that place, that if any contention arise betweene King and Subjects, they may shew themselves Judges and Redressors, lest the Subjects themselves should pronounce sentence in their owne cause. Therefore if unjust customes or grievous taxes be imposed, if things be done against pacts or fraudulently, and yet not one of the Nobles speakes against or resists it, let them thinke they must then sit still, and thinke, that the best Physitians to prevent or take away a disease, doe oft-times prescribe the opening of a veine, the evacuation of humours, yea and scarification. For such is the nature of things, that scarce any mischiefe can be cured without another; scarce any good may be acquired without diligent labour. They have the example of the people under *Solomon*, who refused not the grievous tributes imposed on them for the building of the Temple, and fortifying the King-

L. 1. c. de Sedi-
iis.

L. 11. 9. D. de
aut. et consil.
iur. et curat.

Seneca l. 8. de
Benefic.

dome; because they judged those things to be imposed by the publike Councell,
 to the glory of God, the beauty and ornament of the Republike. They have like-
 wise the example of Christ our Saviour, who although he were the King of Kings;
 yet because he then sustained a private person, he payed tribute willingly. If the
 Nobles and Magistrates themselves favour apparent tyranny, or at least oppose it
 not, they may remember, that for the sinnes of the people, God suffers Hypocrites
 to reigne; whom, unlesse they turne themselves to God with all their heart, cannot
 be overturned with any engines. Therefore there is no need of feet or hands,
 but bended knees. Finally, they must suffer evill Princes, wish for better, and
 thinke, they must beare that tyranny with a patient minde as they doe haile,
 stormes, tempests, and other naturall calamities, or change their habitations. *Da-
 vid* retired into the Mountaines, and spared *Saul* a tyrant, because he was none of
 the Nobles of the people: *Christ*, because he was not of this world fled into *Egypt*,
 to avoyd *Herods* tyranny. *Paul*, because he describes the office of private Christi-
 ans, not of Magistrates, teacheth that they must obey *Nero* himselfe. But if all the
 Nobles, or most of them, or at least one of them endeavour to reitraine apparent
 tyranny, or the Magistrate to drive it from that part of the Realme which is
 committed to him, if he be such a one, as under pretext of expelling it, may not
 introduce another tyranny; then verily assembling together, they may run who
 shall goe fastest to this choyce man, they may earnestly assist with their feete and
 hands, and as if God himselfe had given a signe from Heaven, of a fight against
 tyrants, endeavour to free the Kingdome from tyranny. For as God punisheth
 and chastiseth the people by tyrants, so likewise tyrants by the people: and that
 is a perpetuall truth which *Syrach* saith; that Kingdomes are translated from Na-
 tion to Nation, for the iniquities, injuries, and wickednesse of Princes; and that
 every tyranny continues but a short space. Thus the Captaines and souldiers care-
 fully executed all the commands of *Ibojada* the High Priest, in revenging the ty-
 ranny of *Queene Athaliah*: Thus all the godly men of *Israel* went to the *Macca-
 bees*, partly that they might defend the true worship of God, partly that they
 might free the Republike against the impious and unjust attempts of *Antiochus*;
 yea God favoured their just endeavours, and gave them prosperous successe. What
 then? May not God likewise out of private men themselves raise up some aven-
 ger of tyranny? Cannot the very same who raiseth up tyrants out of the people,
 backed with no title, no pretext, to punish the people, likewise raise up deliverers
 also out of the lowest of the people? Cannot the same who enthralled the people
 to *Jabin* and *Eglon*, deliver the same people by *Ehud*, *Barac*, *Deborah*, and as it
 were manumit them when they were deserted by the Nobles? What therefore
 should now hinder, thou wilt say, but that the same God who hath sent Tyrants
 on us at this time, should likewise extraordinarily send revengers of tyrants?
 Why, if *Ahab* rageth against good men, if *Jezabel* suborne false witnesses against
Naboth, shall not there be also a *Iebu*, which may extirpate the family of *Ahab*,
 who may avenge the bloud of *Naboth*, who may cast downe *Iezabel* to be torne
 in peeces of Dogges? Verily, what I have answered before, as nothing hath de-
 parted from the justice of God at any time, so not from his mercy. But yet
 since those evident signes, by which God was wont to confirme these extraordina-
 ry vocations of those Worthies, are for the most part wanting to us in this age,
 let

John 34. v. 30.

Eccles. 10.

let the people take heed, lest whiles they seeke to passe over Sea with a drie foote, some Impolitor being their Captaine, they fall not headlong into a gulfe, which we read sometimes to have hapned to the Jewes: lest whiles they seeke a reuenger of tyranney, they perchance follow one, who, that tyrant being expelled, will translate the tyrannye it selfe unto himselfe: lest finally whiles they seeke to deserve well of the Common-wealth, they militate to the private lust of any, so as that may fall out which hath hapned to many Republiques, especially the *Italian*, whiles that they endeavour to remove the present euill, they bring in a farre greater. I shall close up this with three Authorities more; the first, of Mr. *John Calvin*, who pleads as much for obedience to Tyrants and unjust Magistrates as any man: *Instit. lib. 4. c. 20. sect. 31. I alwayes speake of private men: For if there be any popular Magistrates constituted to moderate the lust of Kings (such as heretofore were the Ephori, who were opposed to the Lacedemonian Kings, or Tribunes of the people against the Roman Senate, or the Demarchi against the Athenian Senate, and which power peradventure, as now things stand, The three Estates in all Kingdomes enjoy, when they assemble) I am so farre from inhibiting them to withstand the raging licentiousness of Kings, according to their duty: that if they conniue at Kings outrageously encroaching upon, and insulting over the inferiour common people, I shall affirme, that their dissimulation wants not nefarious perfidiousness, because they fraudulently betray the liberty of the people of which they know themselves ordained protectors by Gods ordinance.* The second is, *Huldericus Zuinglius: Explanatio Artic. 42. Quando vero perfide & extra Regulam Christi (Principes) egerint, possint cum Deo deponi, consensu & suffragiis totius, aut certe potioris partis multitudinis. Queris quando id fiet, ut major pars populi bono consentiat? Ad hoc dico quod antea; si non consentiunt ut malum tollant, ferant jugum Tyranni, & demum cum eo pereant. Nec querantur sibi fieri injuriam, cum sua culpa id mereantur ut quidvis patiantur. Quis ergo miretur si populus ob flagitia & scelera Principum penam luat? Primum, cur non juxta naturæ regulam cum proximo agimus? Sic enim omnes fratres essemus, & Principe nullo esset opus. Deinde, cur non summo studio justitiam sectamur, & exosam habemus injustitiam omnes? Sic enim facile fieret ut unanimi consensu tyrannorum officio moreremus. Nunc cum tam tepidi sumus in tuenda justitia publica, sinimus ut impune vitia Tyrannorum hodie regnent. Merito ergo ab illis comerimur, & tandem cum illis luimus. Non ergo desunt viæ per quas tyranni tollantur, sed deest publica justitia. Carete vobis, O Tyranni, Evangelium enim Jesu Christi late sparsum vitam multorum innovabit ut innocentie & justitie plurimi fideant, cui & si vos studueritis, summo honore vos prosequantur, sin furere & vim facere terrexeritis, omnium pedibus conculcabitur.* So he

The last is the generall Union of the States of the united Provinces, to defend their Liberties and Religion, made at *Brussels*, the tenth of *January 1577.* thus related by *Grimston* in his *Hiltory of the Neiberlands l. 10. p. 492. 493.*

The States seeing themselves engaged in warre on all sides against the Spaniards, (who were proclaimed enemies to the Countrey) fearing some dis-union amongst themselves, by the inticing perswasions of such as sought to dismember them, they resolved, before that *Don John* should enter into the Countrey, to make a generall union among themselves, as well Prelates, Noblemen, and Townes, as of others of the seventeene Provinces: which was allowed by the Lords of the Councell of State, deputed by the King, for the government generall of the said Counties; whereof,

the Originall remains in the custody of the States of Brabant. Of which Union, the Tenor followeth.

A generall Union of the States.

WE who have signed these presents; Prelates, Church-men, Noblemen, Gentlemen, Magistrates of the King, Townes, Castles, and others, making and representing the States of the seventene Provinces, being presently assembled in this Towne of Brussels, and others, being under the obedience of the most high, mighty, and famous Prince, King *Philip*, our Sovereigne Lord and naturall Prince; we give all men to understand, both present and to come, That seeing our common Countrey afflicted by a more then barbarous and tyrannous oppression of Spaniards, we have beene forced and moved to unite our selves together, and with Armes, Counsell, Men, and Money, to assist one another against the said Spaniards, and their adherents; being declared Rebels to his Majesty, and our enemies. And that this union and conjunction hath beene since confirmed by the Pacification last made; and all by the authority and consent of the Councell of State, committed by his Majesty for the generall government of the said Countreies: And as the pretended end of this Union requires all fidelity, constancie, and naturall assistance for ever; and that we would not by any misprision have cause of jealousie or mistrust, and much lesse of any bad affection or disposition of any of us; but contrariwise, to have the affaires of the said Union effected with all the sincerity, fidelity, and diligence that may be, so as not any of the subjects and inhabitants of the said Countreies and Province may have any just cause to be discontented, or to doubt of us:

For these considerations and reasons, and that nothing may be treacherously done, to the prejudice of our common Countrey, and just defence; or that omitted by negligence, which shall be necessary for our just and lawfull defence; We have by vertue of our power and commission respectively, and otherwise for us and our successors, promised and doe promise, by the faith of Christians, of honest men and true Countrey-men, to keepe and entertaine inviolably for ever the said Union and Association; so as not any one of us may breake or fall from it, by dissimulation, secret intelligence, or in any sort whatsoever. And that for the preservation of our holy, Catholike, and Romish Faith, and the accomplishment of the Pacification, as also for the expulsion of Spaniards and their adherents (with all due obedience to his Majesty) for the good and quiet of our Countrey, and the maintenance of our Priviledges, rights, Freedomes, Statutes, Customes, and antient uses: For the effecting whereof, we will use all meanes possible; imploying both Money, Men, Counsell, and goods, yea and our lives, if it were necessary. And that none of us may in private give any counsell, advice, or consent, nor have any secret conference with them that are not of this Union, nor yet reveale unto them in any sort what hath or shall be treated of in this Assembly, or resolved; but shall wholly conforme himselfe according to our generall and common resolution.

And in case, that any Province, Estate, Countrey, Towne, Castle, or House, were besieged, assaulted, invaded, or oppressed in any sort whatsoever: yea, if any
of

of us, or any others (having indeavoured himselfe for his Countrey and the just defence thereof, against the Spaniards, or for other causes depending thereon, as well in generall as particular) should be sought after, imprisoned, ransomed, molested, or disquieted in his person, and goods, honour, and estate, or otherwise; we promise to give him assistance by all the said meanes; yea, and to procure the liberty of them that shall be imprisoned, either by force, or otherwayes; upon paine to be degraded of their Nobility, Name, Armes, and Honour, and to be held perjured, disloyall, and enemies to our Countrey, before God and men, and to incurre the note of Infamy and cowardise for ever. And for the strengthening of this our holy Union of Association, we have signed these presents the tenth of *January, 1577.*

Underneath were the signatures of the Deputies of every Province, Prelates, Noblemen, and Commissioners for Townes; and underneath them, was written the agreement of the Councill of State, as followeth: The Deputies of the generall Estates here under-written, having required them of the Councill of State, committed by his Majesty for the government of the Netherlands, to consent unto and allow of that which is contained in the Union above written: The Councill, in regard of the said request, and the reasons therein contained, have as much as in them lay, allowed, and doe allow by these presents, the said Union, according to the forme and tenor. Made at *Brussels* in the State-house, in the Assembly of the said States, the tenth of *January, 1577.* And underneath was written:

By the commandement of the Lords of the Councill of State:

Signed; *Berrii.*

If any shall here object; that (a) Kings are of divine institution; whence, *Dei gratia,* (By the grace of God) is peculiarly annexed to their Titles; and not communicated unto Subjects. Therefore though they prove never so flagitious or tyrannicall, they may in no wise be forcibly resisted, or questioned by their Nobles and Parliaments for their crimes.

I answer briefly (because I have (b) elsewhere largely dissipated this objection) First, that Kings are no more of divine institution, then any other inferiour Magistrates, Officers, or Princes whatsoever; as the (c) Scriptures abundantly evidence. But all other inferiour Magistrates, Officers, and Princes whatsoever are resistible, questionable, censurable, and depicable for their tyranny, wickednesse, and misgovernment by the Parliaments censure, as I (d) have proved, notwithstanding their divine institution; therefore such degenerating Kings too, as well as they in such cases.

Secondly, all (e) Ministers of the Gospel, are as much, (if not farre more) *Jure divino,* and by Gods owne ordination, as Kings are; a truth undeniable. But they for their offences and misdemeanors contrary to their function, may be both forcibly resisted, censured, deprived, degraded, yea and executed, notwithstanding their divine right and institution; as the Canons of most Councils, the practise of all ages, yea, the expresse letter of the 26. Article of the Church of England, with all our Episcopall Canons and Canonists attest: Therefore tyrannicall degenerating Kings may be so too, by the selfe-same reason, in some cases.

Object. I.
 (a) *Obassanum in consuetud. Burg. Rebuffus ad const. Reg. Tom. 2. & Bossuet. art. 2. Bordin. de repub. l. 1. c. 10.*
 (b) *Parl. 3. p. 115. 10 123. 1, 2, 24, 5, 6. Prov. 8. 15. 16.*
 (c) *Rom. 13. (d) Parl. 2. p. 44. 45. (e) Eph. 4. 11. 1 Cor. 12. 28. c. 4. 1. 2 Cor. 3. 6. c. 11. 23. 2 Tim. 4. 6.*

Thirdly, this Title of *Dei gratia*, in *publike Writs*, anciently hath bene, and yet is common to *Bishops, Prelates, inferiour Magistrates and Subjects*, as well as to *Kings*; as sundry precedents (f) in our *Law bookes*, (g) *Matthew Paris*, (h) *Salon*, with others attest, and *Mr. John Selden* in his *Titles of Honour*, part. 1. chap. 7. Sect. 2. p. 123. professedly proves at large, to whom I shall referre you: But these both lawfully may be, and alwayes have bene forcibly resisted, questioned, convented, deprived, censured for their tyranny and misdemeanors, notwithstanding this their stile of *Dei gratia*, or pretence of divine institution: yea, we know that *Bishops* have bene lately thrust out of many Churches, notwithstanding their long pretended *Ius Divinum* to support their Hierarchy; and *John Gerson* a *Papist*, hath writ a particular Treatise *De Auferibilitate Papa*, notwithstanding the *Popes* pretended Divine Title to his Monarchy, which may be now, and one day shall be totally abolished. Therefore tyrannicall degenerous Kings, may be justly resisted, censured, deprived, as well as they, and royalties changed into other governments, by the peoples and kingdomes common consents, if they see just cause.

If any secondly object: * *That Kings are annoynted at their Coronation*; Therefore their persons are sacred, irresistible, unquestionable, unpunishable, for any tyrannicall or exorbitant actions whatsoever.

I briefly answer: first, that every Christians Baptisme, (being a Sacrament of Christs owne institution) at least his spirituall unction and sanctification; (as I have (i) formerly proved) makes a person as sacred, yea more holy; then Kings annoynting (being no Sacrament) can, or doth of it selfe make the person of any King whatsoever. A truth which no Christian can without blasphemy deny. But Baptisme, and the inward unction of the spirit of grace and sanctification; exempts no Christians from resistance, censure, punishments of all sorts, in case they commit any exorbitant or capitall crimes; as experience tels us: Therefore Kings Coronation annoyntings cannot doe it.

Secondly, (k) *Priests anciently were and at this day too in the Roman Church, are annoynted as well as Kings*; and so are children and sicke persons (that I say not *Altars, Bels, &c.*) with *Chrisme* and extreme *Uction*: But these *Uctions* conferre no such immunity to *Priests*, children, sicke men, others, &c. Therefore neither can this annoynting doe it to *Kings*, especially now, being no divine institution.

Thirdly, The annoynting of *Kings*, is not common to all Christian *Kings* (many of them especially in former times, having bene crowned without any annoynting at all) but peculiar to *Emperours*, and to the *Kings of Ierusalem, France, England, and Sicily*, the foure annoynted *Kings*, onely, as (l) *Albericus*, (m) *Restaurus Castaldus*, (n) *Antonius Corserus*, (o) *Azorius*, (p) *Cassianus*, and (q) sundry others affirme, out of the old *Roman Provinciall*: though some other *Kings* have now and then bene annoynted when they were crowned, as *Mr. Selden* proves. Since therefore all *Kings* persons are reputed sacred, as well as these foure who are annoynted; and these *Kings* as soone as the *Crowne* descended to them, even before their *Uctions* and *Coronations* were deemed as sacred and inviolable as before; it is certaine, that their very enoyling of it selfe makes no addition to their personall immunities from just resistance, publike censures, or deprivations for grosse unsufferable publike crimes.

Fourthly, the annoynting of Christian *Emperours* and *Kings* is not very ancient;

Charles the great being the first annoynted Emperour if we (1) beleeve Mr. Selden. The first annoynted King in France, was Pipin about the yeare 750. the annoynting of their (v) Clovis the first, about the yeare 500. with that holy Vial of never-decaying Oyle (reserved at Rheimes to annoynt their Kings) which they say a Dove brought downe from Heaven to annoynt him with, (a ridiculous Monkish fable, much insisted on by (x) Bocbellus and other French-men, who relate the grand solemnity used in the carrying and recarrying of this fabulous Vial, at the French Kings Coronations) being not at his Coronation, as many fondly mistake, but onely at his baptisme, as Mr. Selden manifestly by pregnant authorities; The annoynting of Kings is farre more ancient in England then in any other Realme, (y) as Mr. Selden notes out of Gildas; yet Egfert is the first of whose annoynting there is any intimation in our Histories, about the yeare 790. To adde to the holinesse of which ceremony, some of our (z) Monkes in latter ages have forged a Legend (as good as that of the holy Vial at Rheimes) that the Virgin Mary gave to Thomas Becket, Archbishop of Canterbury (during his exile under Henry the second) a golden Eagle full of precious Oyle, inclosed in a stone vessell, commanding him to preserve it: foretelling him, that the Kings of England annoynted with this Oyle, should be Champions of the Church, and honourfull, and victorious as long as they had this Eagle, & oyle. How late the Unction of Kings began in other Realmes, you may read at large in (a) Mr. Selden; and how the later Kings of Judah were annoynted, and with what unguent or Oyle, the curious may read at leisure in (b) Cuneus. This annoynting therefore of Kings being not of divine institution, of such puny date in most Realmes, and no wayes necessary nor essentiall to the constitution or Inauguration of any Christian King; can adde no immunity, or priviledge at all to the persons of Kings, much lesse exempt them from all forcible resistance, just censures, or deprivation it selfe, if there be just and reall cause to proceed criminally against them in case of incorrigibility, as I have elsewhere more fully demonstrated, and therefore shall no further expatiate in this particular here: onely I shall conclude with one notable History which proves it.

I read in * Gulielmus Neubrigensis; that for an hundred yeares space and more, though there were a numerous succession of Kings in Norway, yet none of them ended his life by o'd age or sicknesse, but all of them perished by the sword, leaving the soveraigne power of the Realme to their murderers, as to their lawfull successors, so as to all those who are known to have reigned there for so long a time, that which is written might seeme to have reference; Hast thou slaine, and also taken possession? The Nobles of this Land out of a pious endeavour, desirous to heale this infamous mischief, obtaining now the rigour of a Law as it were through long custome, decreed, That the new King should be solemnly annoynted with a mysticall unction, and crowned, so as no man should dare from thenceforth to lay hands on the Lords annoynted: For till that time none in that Nation hath ever beene consecrated King after an Ecclesiasticall manner, but whosoever had Tyrannically slaine a King, put on the person and power of a King thereby, and lest the same likewise after a little fortune to his murderer, by a Law of inveterate custome, which verily, out of a certaine Christian simplicity, was thought by many to have beene therefore so frequently done, because none of the former Kings had deserved to be initiated with the solemnitie of a Royall Unction. Therefore Haco being slaine who had succeeded King Inge slaine by him, when the succession of the Crowne seemed to belong to one Magnus a child, Nephew to Inge, the Wisemen and Nobles of the Realme by a common De-

(1) Titles of Honour, part. 1. c. 8. Sect. 1.
(2) See Selden, *Ibid.* p. 143.

149.
(x) Decreta Eccles. Gal. lib. 5. Tit. 2. c. 1. 2, 3, 4, 5, 6. Mr. Selden *Ibid.* p. 143.

149.
(y) *Ibid.* p. 149
150, 151, 152.
(z) Tho. Wallingham. in Initio, H. 4. See Selden. *Ibid.* p. 153.

(a) Titles of Honour, part. 1. c. 8. Sect. 11.

(b) De Republ. Hebra. l. 1. c. 14

* Rerum Anglicarum, l. 3. c. 6.
See Saxo grammaticus Dan. Hist. l. 8. p. 140

creed, caused the said child to be solemnly consecrated to be the **Lords annoyned**, and crowned with a Diadem. By which deed they thought that they had a Prince made sacred to them, and that the disgrace of the ancient custome was thereby abolished. But when Magnus had reigned some few yeares in great prowesse and happinesse, a most infamous Priest Suerus, surnamed Birkebain, usurped a Tyranny, twice defeated Magnus by warlike stratagemes, and at last utterly routed and slew him in battell; (notwithstanding his annoyning) and usurping the Crowne, renounced his holy orders, married a wife, and would have beene crowned by the Archbishop of that Land; but he being a great man, would neither be moved with prayers nor threats, to annoyn a execrable head with sacred **Unction**, for which he was banished the Countrey: at last after two great victories against two competitors who were slaine, Suerus obtained the Royall Crowne, with mytticall **Unction**, by the hands of a certzine Bishop compelled thereunto under paine of death, as it were secure by his frequent successes, from the uncertaine end of a long prospering tyranny, &c. By which History it is evident, that it is but a childish simplicity to believe, that the ceremony of annoyning Kings can of it selfe make Kings persons *sacro-sancti*, or preserve them from violence or assassinations, since it no way prevented this mischief in this Realme, (nor yet in any other) the very first King for whose personall safety this ceremony of annoyning and crowning was introduced among the Norwegians and Danes, being not long after slaine by his Subjects and competitor in battell.

I shall close up this with the notable sentence of deprivation solemnly given and executed against *Wenceslaus* the Emperour, notwithstanding his annoyning.

E Chronico Jacobi Congshanni, & Germaniae Historiarum. Tom. 2. p. 180. 181, 182.

The sentence of Degradation and Deprivation of the Emperour *Wenceslaus* King of *Romans*, pronounced by the Electors of the Empire in the yeare of our Lord. 1400.

IN the name of God Amen: We John by the grace of God, Archbishop of the Church of Mentz, Arch-chancellor of the sacred Roman Empire throughout Germany, make knowne to all men present and to come. What various, manifold, and grievous, as well incommodities as discords, have for many yeares since beene brought into the holy Church continuing even to this present, and daily sprouting up more abundantly to the most grievous convulsion, imminution, and dissipation of the sacred Roman Empire, (which ought to be a Garrison to the Church of God and the Christian world) as they cannot be all written, so the mischiefs daily increasing do manifestly enough teach and confirme. And for this cause the Lords Electors of the sacred Roman Empire, the ardent petitions of the holy Church, Princes, Nobles, Cities, Provinces, and Subjects of the sacred Empire, intreating, desiring a prudent Moderator, have long agoe very often and seriously, together with us admonished the most illustrious Prince Lord *Wenceslaus* King of Bohemia, both by their owne and their friends labour, and finally by letters; and have diligently set before his eyes, privately and publikely, his unbecoming and detestable manners and actions in governing, as also the defects, incommodities and discords of the said Church and Christian world, likewise the most grievous avulsions and diminutions of the members of the sacred Empire, hurtfully done, and permitted to be done, against the dignity of his name: to wit, that he hath not promoted peace in the Church, although the great necessity of the Christian world, as likewise his

office of Advocate and Defendor of the Church, earnestly required it, and he hath also bene frequently desired, required, and admonished to doe it: he notwithstanding perniciously mutilated the Empire, and permitted it to be maimed in some members. In the number whereof are Millain, and the Province of Lombardy, which were of the right of the same Roman Empire, most ample emoluments returning thence to the Empire: in which Dominion the Millaincr, like a Minister, enjoyed it as a part of the Roman Empire; when as He, contrary to that which became his sublimity and dignity, receiving money, created a Duke of Millain, and an Earle of Papia. Moreover, he hath alienated divers Cities and Lands belonging to the Empire, as well in Germany as in Italy, some whereof had returned to the same, having little consideration, that he ought to retaine them with the sacred Empire.

Moreover, he hath sold for money to his friends, very many naked and unwritten Parchments, ratified notwithstanding with the Seale of his Majesty; wherein it was lawfull both for them and others into whose hands these Parchments came, to write what things they pleased under the royall Seale. Out of which thing, for the hurtfull diminution and dissipation of the rights and emoluments of the sacred Roman Empire, great complaints are risen up. Moreover he never had any care of the controversies and warres, which (alas for griefe!) have miserably afflicted and ruined Germany, and other lands of the sacred Empire. Hence spoylings, burnings, and robberies have sprung up, with such lamentable encreases even at this day, that none, neither Clarke nor Laicke, neither husbandmen nor Merchants, neither men nor women, whether by land or sea, may converse in safety. Temples, Monasteries, and religious houses, which the sacred Empire ought with its hand to assist and defend, are exposed to rapines, and burnings, and reduced to destruction. Things are gone to this passe, that every one might have handled, and may even now handle another at his pleasure, against the reason of right and equity, without any feare of the sacred, and long despised Imperiall authority, so as even the place of conventing any one, where the defence and patronage of right may be undertaken in the name of the Empire, is altogether unknowne. Finally, which is horrible and dreadfull to be spoken, both with his owne hand, and the hand of other wicked instruments he hath with him, he hath put to death, drowned in the waters, burned in the fire, miserably and cruelly destroyed, the reverend Bishops of holy things, Priests, and spirituall Pastors, likewise many other men of honest note, against the rule of right, otherwise then became the King of Romans. Which mentioned things verily, and many other grievous wickednesses and damages are so divulged and openly knowne, that they can be no wayes excused or concealed. Therefore we, as we have fore-written, have frequently very earnestly beseeched, admonished, and required him, that renouncing this unbecoming kind of life, he would take the study and labour to himselfe, whereby he might recover to the holy Church, oft-times imploring his aide, as King of Romans, and her Advocate, peace and tranquillity, and to the sacred Empire, its prestine honours, Dominions, and finally its emoluments; to the assistance and consolation of the Christian world, grievously debilitated and oppressed in this regard.

Now albeit we have most clearly explicated to the foresaid Lord Wenceslaus, and exhibited to him in writing, these and other more grievous defects, concerning him as King of Romans, and the Empire; yet having heard his answers, and having reiterated our serious exhortations, moreover having communicated the businesse to the sacred Roman See, we have never as yet found him, to have amended his manners as became a King of Romans; namely to recover peace to the Church, principally necessary to the Christian world; also to the sacred Empire, its dignities, lands, and Dominions: a thing which is most ne-

toriously knowne throughout all the Provinces of the Empire.

Therefore because we could no longer neither conceale, nor endure the remembred and many other defects, touching the sacred Church and Empire, with grievous lasse and mourning; by reason of the instant petitions of the persons aforesaid, but especially by reason of the Oath wherewith we are obliged to the same, as the next superiour members of the sacred Empire; therefore as of bounden duty, we were to advise and endeavour how the sacred Empire might be more rightly and wholesomly provided for, (by whose madde and negligent administration those inconveniences have crept in) to the safegard and consolation of the Christian world. And verily as He in obeying us, had performed an acceptable thing, so we have sufficiently and seriously called and cited him, so as wee have signified to him; that unlesse he should be present at the place and day appointed, it would come to passe, that both in respect of the petitions exhibited to us, as likewise in respect of our Oath, we should be compelled to take and enter into such counsels, whereby the sacred Empire might be better settled: most clearly attesting it in our letters. For this purpose we appeared at the place and time prescribed, together with our Coelecteds sufficiently summoned, also with the other Princes and of the sacred Empire, expecting from day to day, whether the foresaid Lord Wencellaus would appeare, to apply a remedy to the foresaid diseases, and from thenceforth more rightly to consult about the affaires of the sacred Empire. But he neither vouchsafed to appeare, nor yet to send any one to us in the name of a Proctor. Wherefore when as by reason of so many pregnant and pernicious defects, we had admonished and reprov'd him very often in private and in friendly manner, but after that, when we could doe no good, before the Princes and Nobles, and Cities of the Empire, in divers Assemblies, not without great and grievous expences, yet without any fruit; therefore we referred all the fore-mentioned things to the sacred Roman See. But when as neither then, he no whit regarded all those things, we could conjecture nothing else from thence, but that he had laid downe the care both of the Church and Christian world, but especially of the sacred Empire. Therefore resolving, that this mischiefe, destructive to the whole Christian Republike, was by no meanes to be any longer borne and tolerated, with a minde well confirmed, after many and various debates and consultations, both betwixe our selves, as also with other Princes and Nobles of the sacred Empire, seriously had, for the safety of the Church, the consolation of the Christian world, the honour and profit of the sacred Empire, we have thought meet, that the foresaid Lord Wencellaus, should at this time be wholly removed from the Roman sacred Empire and all its dignity, as one that is negligent and a destroyer of the Empire, and unworthy of it.

Therefore we John, Archbish. in the name of the foresaid Lords Coelecteds of the sacred Empire, and our owne, moved both with the commemorated, as also with many other notable defects and causes, by this our sentence, which we give and pronounce by this our present writing, **DEPRIVE** and **REMOVE** the foresaid Lord Wencellaus, as an unprofitable, negligent waster, and unworthy Defender of the sacred Empire, from the foresaid Roman Empire, and from all his degree, dignity, and Dominions appertaining to the same: denouncing to all the Princes, Nobles, Knights, Gentlemen, Cities, Provinces and Subjects of the sacred Roman Empire, that they are altogether free from all homage and Oath made to the person of Wencellaus in the name of the Empire: requiring and admonishing them under the faith of the Oath, wherewith they are obliged to the sacred Empire, that they doe not henceforth, obey, and submit to the said Lord Wencellaus, as the King of Romans, nor exhibit or suffer to be exhibited to him any right, obedience,

dience, tribute, rent, or any other revenue, by what name soever it may be called; but reserve the said duties, for a profitable and idonous King of Romans, hereafter to be substituted by Gods gracious assistance.

In assurance and testimony of all which things, We John Archbishop of Mentz, have caused this present Instrument to be made by the subscribed Notaries, in this patent forme, and our great Seale to be affixed therewnto. This premised sentence was read and pronounced by us John Archbishop of Mentz, in our name, and the names of the Lords, Colectors before remembered, under the Castle Lonstein at the Rhene, in the Diocesse of Triers, reaching towards Brubachiuni, out of a publike Throne, erected for the use of a Tribunal, the Lords Colectors sitting there in judgement, in the yeare of our Lords Incarnation, 1400. the eight indiction, on Saturday the twentieth day of the month of August, a little before the time of the Nones; in the eleventh yeare of the Papacy of our most holy Father and Lord in Christ, Lord Boniface the ninth, Pope, by divine providence; in the presence of the most illustrious Princes and Lords, John, sonne of the most illustrious Prince and Lord Rupert, Duke of Bavaria and Count Palatine of Rheine, Fredericke Burgrave of Norimberge, the Noble Philip Lord of Nassau, and Sarbrucke, Emichon of Luringen, John of Zigenhaim, Cunrade Burgrave, our Canon of Mentz, Earles: Bernhard of Welterburg, John of Limpurge, Rinchard of Honowe, Barons: Mr. Nicholas Berwin of the sacred Page, John of Witenburg, and Nicholas Burgman, of the Decrees; Mr. Herman President of Saint Gerion of Colen, Doctors of the Law: likewise the valiant Knight Sigfride of Lindow, our Vice-Commander in Ringaugia; John Boffen of Waldeck, our Buggrave Beckelnheim; and our trusty Henry Kulman, of Dadenberg, Gerard of Emerberg, Lord in Lantferon, Fredericke of Sachenheim, Culman of Coneren, John of Dalburg, Rudolfe of Zeissikon, as also many other Lords, Knights, and Gentlemen, spirituall and secular, standing by in great number, called and requested to the things above written.

And I Nicholas Berchtoldi Fridberg, Clerke, publike Notary of the Diocesse of Mentz, by Episcopall and Emperiall authority, and sworne Scribe of my foresaid most gracious Lord, Lord John Archbishop of Mentz, because at that time I was personally present when this sentence which we have fore-writ, was given and pronounced, together with the publike Notaries and witnesses commemorated, and saw and heard all these things to be done; therefore at the command and request of my foresaid most gracious Lord of Mentz; have reduced this publike instrument faithfully put in writing, into publike forme, and have subscribed and ratified it with my accustomed signe of Notariship, having likewise annexed the great Seale of my foresaid Lord of Mentz, in assurance and testimony of all the premises.

The names of the Notaries are,

Nicholaus Berchtoldi Fridburgensis.

Joannes Meier junior Gasterveldensis.

Conradus a Leiborn, Clericus, Padebornensis diocesis.

Henricus Stalberg Rotenbergensis.

Tilmannus a Hmberg.

Conradus Coler Zuffenst, Coloniensis diocesis.

Finally,

Finally, it is evident, that the Nobles, Magistrates, Parliament, and representative body of the people, or some part of them in default of the rest, may lawfully take up defensive armes to resist their Princes, endeavouring to abrogate the Law of God, to waste the Church, and extirpate the true Religion settled among them by the Lawes, and usher in Idolatry, And, that in such a case as this, neighbour Princes and States lawfully may, yea and ought in point of conscience, to aide the Subjects of other Princes, afflicted for the cause of pure Religion professed by them, or oppressed by open Tyranny.

These propositions are largely and professedly debated by *Junius Brutus* in his *Vindiciæ contra Tyrannos: quæst. 1. 2. & 4.* throughout, in the Treatise intituled *De Jure Magistratus in Subditos*, spent wholly in this Theame. *Georgius Obrechtus: Disput. Jurid. de Principiis Belli. Num. 125. to 199.* by *Vasquius. Contr. Illustr. 36. n. 30.* and elsewhere, by *Albericus Gentilis*, and sundry others forecited: I shall onely fortifie the later part thereof, with the observation of the * Duke of Rhoan, who acquaints us; that it is, and hath beene of later yeares the very true interest, honour, and greatnesse of the Kings and Queenes of England, both in point of policy and Religion, to protect and assist with armes all Princes of the Reformed Protestant Religion, in France, Germany, and other parts; as it is the true interest of the Kings of Spaine, to protect and releve all oppressed or grieved Roman Catholicks under the Dominion of other Princes: and that their honour, safety, and greatnesse principally consists in the observation and maintenance of this their interest: and with the words of *Junius Brutus*; who thus states and debates the Question.

* Interest of Princes.

Vindiciæ contr. Tyrannos, qu. 4. p 207. &c.

An Jure possint, aut debeant Vicini Principes auxilium ferre aliorum principum subditis, religionis causa afflictis, aut manifesta tyrannide oppressis?

In defining this question (saith he) there is more need of conscience, then science, which would be altogether idle, if charity obtained its place in this world. But because as the manners of the times are now, there is nothing more deare or rare among men, then charity it selfe, we thinke meete briefly to discusse it. The Tyrants as well of soules as bodies; as well of the Church as Common-wealth or Realme, may be restrained, expelled, and punished by the people. Both these we have already proved by reasons. But, because such is the fraud of Tyrants, or such the simplicity of subjects for the most part; that they are scarce known before that they have spoyled; or these scarce thinke of their safety, till they have almost perished, and are reduced into those straits, out of which they cannot get out with their owne forces, so as they are compelled to implore the aide of other; it is questioned, *Whether they defending the cause of Religion or of the Common-wealth, of the Kingdome of Christ, or of their owne Kingdome, other Christian Princes may lawfully assist them?* And truly many, whiles they have hoped to increase their wealth by aiding the afflicted, have presently judged it to be lawfull. For thus the *Romans*, *Alexander* the great, and many others, under pretext of suppressing Tyrants, have frequently enlarged their Dominions: and not long since we have seene *Henry* the second, King of *France*, to have made warre with the Emperour *Charles* the fifth: and that under pretext of succouring and defending the Princes of the Empire, and of the Protestants too; as also *Henry* the eighth, King of *England*, was ready to aide the Protestants in *Germany*, to make worke for *Charles* the fifth: But if any danger may be feared from thence, or little gaine may be expected, then verily they must heare most Princes disputing, whether it be lawfull or no? And as those under

der a pretext of piety, did cover either ambition or gaine; so these pretend justice
 for their sloathfulness; when as verily neither did piety exhort them, which
 seeks onely the good of others, nor yet justice ought to dehort these, which looks
 wholly abroad, and is as it were, cast out of its owne doores. Therefore, dischar-
 ging both these, let us see first in the cause of Religion, what true piety, and what
 true justice may perswade. First, let it be agreed, that there is but one Church,
 whose head is Christ, and whose members so cohere and agree among themselves,
 that none of them, even the smallest can suffer violence or hurt, but the rest are
 hurt and suffer griefe, as the whole Scripture teacheth. Therefore the Church is
 compared to a body. Now the body is oft-times affected not onely with
 the hurt of the arme, or legge, but even of the very the least finger, or perisheth
 with its wound. Therefore in vaine may any one boast, that he is cordially affected
 with the safety of the body, who when he may defend the whole, yet suffers it to
 be torne and mangled limb after limb. It is compared to a building: Now, where
 mines are made against any part of the building, the whole building oft-times falls
 downe to the ground; and the flame which invades any part thereof endangers
 the whole. Therefore he should be ridiculous, who because he dwels in the cellar
 perchance, should delay to drive the flame from the top of the house: He should
 be scarce in his wits, who would not prevent mines with countermines, because
 they are made against this wall, not against that. It is also compared to a Ship:
 Now the whole Ship is endangered together, the whole perisheth together: There-
 fore those are equally safe who are in the fore part, as those who are in the puppe;
 those who are in keel, as safe as those in the shrouds, if the storme rage: when ve-
 rily even in the common proverb, those who are conversant in the same danger, are
 said to be in the same Ship: These things laid downe, verily he who is not moved
 with its griefe, burning, tossing, is not of that body, is not accounted of the fa-
 mily of Christ, hath no place in the Arke. Yet he who is but a little moved,
 ought no more to doubt, whether he ought to aide the afflicted members of the
 Church, then whether he may helpe himselfe, since in the Church all are one; but
 rather every one is bound in his place to afford his helpe and assistance to them; and
 so much the more helpe, by how much the more riches he hath received from
 God, not so much to be possessed, as expended.

This Church as it is but one, so likewise it is universally and intirely commit-
 ted, commended to all Christian Princes severally: For because it had bene dan-
 gerous to commit the whole Church to any one; and to commit the severall parts
 thereof to particular persons, had bene clearly contrary to its unity; God hath
 committed all of it to every of them, and its particular parts to any of them: Nor
 yet so, as that they should onely defend it; but also, that they should have a care
 to propagate it, as much as they are able. Therefore if the Prince of the Coun-
 trey, takes care of one part thereof, perchance the German or English; but yet
 deserts and neglects the other oppressed part, if he be able to relieve it; he is judg-
 ed to have deserted the Church, since the spouse of Christ verily is but one, which
 he ought to defend and protect with all his might, lest it should be violated or
 corrupted any where. The int'auration of this universall Church as private men
 are bound to promote with bended knees, so Magistrates, I say, are obliged to doe
 it with their feet, hands, and all their strength. Neither is the *Ephesian Church*

one, the *Colossian* another, and the rest; but all these particular Churches are parts
 of the universall; now the universall is the Kingdome of Christ, which all pri-
 vate men ought to desire; but Kings, Princes, Magistrates, are bound to amplify,
 dilate, defend, and propagate every where, and against all whomsoever. Therefore
 among the Jewes there was one onely Temple built by *Solomon*, which represented
 the unity of the Church. Now he should be a ridiculous Churchwarden, and to
 be punished, who should take care onely to preserve one part safe and sound, but
 suffer the rest to fall to decay; likewise all Christian Kings when they are inaugu-
 rated, receive a sword, of purpose to defend the Catholike or universall Church;
 which taking into their hand, they point out all the quarters of the world, and
 brandish it towards the East, West, South and North, lest any part thereof should
 be thought excepted. Since then they receive the protection of the Church in
 this manner, without doubt they understand the true, not false Church. There-
 fore they ought to doe their endeavour to defend, and to restore intirely, that
 Church, which they professe to be true and pure. Now that thus it was observed
 by pious Princes, examples may teach us. In the time of *Hezekiah* King of *Ju-*
dab, the Kingdome of *Israel* was long before enthralled to the King of *Assyria*, to
 wit, from the time of King *Hoshea*: therefore if that Church of God onely which
 is in the Kingdome of *Judab*, and not also the universall, had beene committed to
Hezekiah; and if the bounds of the Realmes had been to be kept in defending the
 Church, in the same manner as they are in imposing tribute; without doubt *Heze-*
kiab, especially at that season wherein the Assyrians enjoyed the Empire of the
 world, would have contained himselfe: But we see that he invited by posts all *Is-*
rael, the subjects, I say, of the King of *Assyria*, to celebrate the passeover in *Jerusa-*
lem; and moreover that the godly in *Israel* helped them in pulling downe the high
 places, even in the territories of *Ephraim*, *Manasser*, and the rest. So likewise we
 read that King *Josiah*, a most godly Prince, purged not onely his owne Kingdome,
 but the *Realme* of *Israel* likewise, then wholly subje& to the King of *Assyria*, from
 the worship of Idols. Verily where the glory of God, where the Kingdome of
 Christ are in question, no limits, no bounds, no railes ought to exclude or keepe off
 the zeale of pious Princes. But if peradventure some greater feare hangs over their
 heads, they may remember by the example of these, that those who truly feare
 the Lord, can feare no man. These examples of pious Princes, since the time that
 the Church, which was first circumscribed in *Palestina*, hath beene spread over all
 the world, many Christian Princes have followed: *Constantine* and *Licinius* were
 both Emperours, he of the East, this of the West: they were likewise colleagues
 endued with equall power: Now it is known, what is commonly spoken; That
 one equall hath no Empire over another equall: Yet notwithstanding *Constantine*
 made warre with *Licinius*: who being vexed, slew the Christians, and among them
 many of the Nobles, either for the cause, or for the pretext of Religion; by force
 obtaines free profession of Religion for the Christians; and finally breaking his
 faith, and reverting to his pristine cruelty, he commanded him to be put to death
 at *Thessalonica*. This I say did *Constantine* the great, whose piety is so much cele-
 brated by the Divines of that age, that some of them will have that spoken of
 him, written in the Prophet *Esay*; *That Kings should become nursing fathers and Pa-*
stors of the Church. He being dead, the Roman Empire was divided between both his
 sonnes

2 King 22.

2 Chron. 34. 6.

7. & 35.

'sonnes by equall right, no prerogative being annexed to either of them. Of them,
 ' *Constantius* fostered the Orthodox, *Constantius* the elder, the Arrians; and he verily
 ' expelled *Athanasius* the enemy of the Arrians, out of *Alexandria*. Truly, if any
 ' rules of bounds ought to have beene kept, it ought to have beene betweene bre-
 ' thren: Yet in the meane time *Constantius* threatned his brother, if he restored not
 ' *Athanasius*; being ready to doe it by force, unlesse *Constantius* had speedily resto-
 ' red him intirely; Now if so be he doubted not to doe this, onely for the resto-
 ' ring of one Bishop, might he not much more justly doe it, where some part of the
 ' people is oppressed, when they implore assistance, when they desire to defend their
 ' Religion by the Nobles approbation? So likewise *Theodosius*, by the perswasion
 ' of Bishop *Atticus* undertook a warre against *Chosroes* King of *Persia*, that he might
 ' releve the Christians persecuted for Religion sake, although they were truly privat
 ' men, which surely those most just Princes, who enacted so many Lawes, and who
 ' had so great a care of Law, had never done, if they had imagined, that by this their
 ' Act others territories and the Lawes of Nations had beene violated. Yea, to what
 ' end were so many expeditions of Christian Princes into *Syria* against the *Saracens*;
 ' to what end were those *Saladinian* Dismes so oft imposed; to what end so many
 ' sociall warres against the Turkes, so many *Crossadoes* indicted against them, if it
 ' be not lawfull for any Christian Princes, even the most remote, to free the Church
 ' from Tyranny, and Christian captives from the yoke of bondage? Now with
 ' what arguments were they impelled to the warre, with what reasons were they ur-
 ' ged? unlesse these, that the Church was one? that Christ called all whatsoever from
 ' all quarters to this service? that common dangers were to be repulsed with com-
 ' mon armes? all which likewise doe plainely suite with this our cause. Now and
 ' if this were lawfull for them against *Mahomet*; yea, not onely lawfull, but like-
 ' wise as a reward was appointed to the indultrious, so a punishment both to the
 ' sloathfull, and delayers; why not also against the enemy of Christ? If I say, a-
 ' gainst the *Gracians* besieging our *Troy*; why not also against *Simon* the incendiary?
 ' Finally, if it be a pious act to free Christians from bodily servitude, (for the
 ' Turkes compell no man to it) is it not much more so, to manumit the soules of
 ' miserable men, and to restore them to liberty? And verily these so many examples
 ' of pious Princes may be instead of a Law. But now heare what God himselfe by
 ' the mouth of his Prophets doth every where threaten against those, who promote
 ' not the instauration of the Church, or neglect its affliction. The *Gadites*, *Reu-*
 ' *benites*, and halfe Tribe of *Manasses*, desire of *Moses* that their portion might be
 ' given to them and their families on this side *Jordan*: and *Moses* truly gave it them;
 ' but with this Law and condition; that they should not onely helpe their brethren,
 ' the other *Israelites*, in conquering the Land of *Canaan*, but, because they had first
 ' obtained their portion, that they should goe before them, and be placed in the
 ' forefront of them: Which if they should not doe, he accurseth them, smites them
 ' with anathema, and compares them to those who had beene judged Rebels at
 ' *Cadesbernea*: For what? saith he, shall your brethren goe to warre, and you in
 ' the meane time sit still here? But rather you shall passe over *Jordan*, neither shall
 ' you returne againe hither to your houses before that God hath expelled his ene-
 ' mies from before his face, and given rest to your brethren, as he hath given unto
 ' you: Then verily you shall be innocent before the Lord of *Israel*; verily those on

Sexton. 7. 18

 Num. 32.
 Josh. 4. 7. 12.
 Deut. 3. 20.

when the great and good God hath bestowed so great a benefit, unlesse they assisted their Brethren, unlesse they were companions of their labours, unlesse they went before them, should without doubt receive most grievous punishments.

- Judg. 5. Likewise, when under the conduct of *Deborah*, those of *Nephtali* and *Zebulon* had taken up armes against the Tyrant *Jabin*, and in the meane time the Tribe of *Reuben*, which ought to be first in Armes, delighted themselves with the Pipes among the Pastures of the flockes, *Dan* boasted of the Empire of the Sea, *Asher* finally trusted in the asperity of Mountaines, all of them are most expressly condemned by the Spirit of God, speaking by the Prophetesse; Curse ye *Meroz*, saith the Angel of the Lord, curse ye bitterly the Inhabitants thereof, because they came not to the helpe of the Lord against the mighty. But blessed above women shall *Jael* the Wife of *Heber* the *Kenite* be, who (although she might have pleaded a truce with the heathens) yet notwithstanding shee slew *Sisera*, the Captaine of the enemies Hoast. Therefore piously spake *Uriah*, The Arke, and *Israel*, and *Judab* abide in tents, and oft times passe the night without sleepe in the open fields; shall I then feast with my Wife, eate, drinke, and follow my pleasures? As the Lord liveth, I will never doe this. Contrarily the Princes of *Israel* did impiously, who trusting in the difficulty of the mountaines of *Samarina*, and in the munition of *Sion*, flowed with luxury, feasted, dranke, slept on beds of Ivory, anoynted their heads; but in the meane time wonderfully despised contrite, cruciated, afflicted *Joseph*, neither were any way moved with his affliction. Therefore saith the Lord of Hoasts, I abhorre the excellency of *Jacob*, and hate his palaces; I have sworne by my soule that I will deliver up the City; and all that is therein, yea, these who so greatly rioted shall soone goe with the first into captivity. Impiously also did the *Ephramites*, who did not onely not gratulate *Gideon* and *Jephtha*, attaining the victory and triumphing, but likewise envyed them, though yet they deserted them when they were in danger. Likewise the *Israelites*, who when *David* reigned, cryed out; saying: Behold we are thy flesh and thy bones; when he was reduced into straites, said: We have no part in *David*, nor in the Sonne of *Jesse*. Impiously doe all those Christians onely in name, who will communicate in the sacred feasts of the Church, and yet will not so much as taste the cup of bitternesse with their Brethren, who seeke salvation in the Church, and yet take no care for the salvation and safety of the Church and of its Members. Finally, they acknowledge one Father, God; one Family, the Church; professe themselves to be one body in Christ; yet neither yeeld any aide to Christ afflicted in his Members, or bestow their wealth on him being poore.
- Num. 31. What thinke we shall be the future punishment of their impiety? *Moses* compares the deserters of their Brethren, to the Rebels at *Kadesbarnea*: now none of those by Gods owne decree, entred into *Canaan*. Therefore they can seeke no place for themselves in the celestiall *Canaan*, who assist not Christ most miserably crucified, and dying a thousand times every day, and implores as it were their helpe from doore to doore. Christ himselfe condemnes those to eternall fire, who harboured him not when he was a stranger, who fostered him not when he was a cold, who cloathed him not when he was naked, who relieved him not when he was poore, who freed him not when he was captive. Therefore they ought to know, that eternall fire is prepared for them, who passe him by with a deafe eare daily, suffering such things, as though in the meane time they may seeme to worke great miracles;

'races; and therefore verily it shall be easier for certaine infidels, than for them;
 'For what doe the Jewes, the Scribes and Pharisees properly crucifie Christ? Doe
 'the Ethnickes, Turkes, finally some Christians, persecute, crucifie, vex Christ in
 'his Members? The Jewes professe and beleve him an Imposter; the Ethnickes a
 'malefactor; the Turkes an Infidell; others an Heretique. Therefore if they con-
 'sider the minde of them all, from whom we commonly measure the crime, they all
 'seeme to persecute noxious, impious men deserving punishment, not properly to
 'slay Christ; But they onely doe truely prosecute, truely slay him, who willingly
 'suffer him whom they professe their Me'siah, Redeemer, God, to be tortured and
 'crucified in his Members, when they might hinder it. In summe, he who deli-
 'vers him not from death, when he may, is equally guilty with him that slayes
 'him: For because he would not helpe him, he willed he should be slaine; Now in
 'a crime the will it selfe ought to be regarded. But certainly, the murder, especial-
 'ly of Christian Princes, who helpe not those who are persecuted for Religion, is
 'so much the more grievous, by how much the more they slay, whom they might
 'set free, and by how much it is more wicked to slay a brother, than any other per-
 'son. A wickednesse more horrid than that of the Tyrants themselves; by how
 'much it is worse to slay a good, just, pious, innocent man, than a Theefe, imposter,
 'sorcerer, Hereticke; more flagitious to assault God, than any man: and finally, by
 'how much perfidiousnesse in an equall fact exceeds ignorance.

*Augustin in Psal.
 82. Annot. l. 1.
 de Offic. Gratian
 in Le. rei.*

'But whether shall it be lawfull to determine the same of those, who give no as-
 'sistance to those who are oppressed with Tyranny, or defend the Republicke against
 'Tyranny? since a reason cannot be given of so strait an alliance, of so strict a Co-
 'venant; when as, I say, we doe not here discourse of the Church, which is but
 'one of all men; which being one and universall, is committed to every one; But
 'of the Republicke, which may be different from that of others; and being diffe-
 'rent, is committed severally to others? A Neighbour, saith Christ, is not a Jew
 'to a Jew onely, but to a Samaritan, and to any man. Now we ought to love our
 'Neighbours as our selves. Therefore a Jew, if he would discharge his duty, is bound
 'to deliver from a theefe, if he be able, not a Jew onely, but likewise every stranger,
 'yea likewise one unknowne. Neither will any one dispute, whether it be just to
 'defend himselfe; seeing verily it is more just to defend another than himselfe in this
 'respect, wherein things are more just, which meere charity doth, than those which
 'either anger, or revenge, or other perturbation of the minde doe: and no man
 'holds a meane in revenging his owne injuries; but in other mens, although more
 'grievous, even the most immoderate may hold a meane. But we may learne from
 'the heathens themselves, what humane society, and what the common nature of
 'all men require of us in this thing. For Cicero saith, there is one nature of all men;
 'that even nature it selfe prescribes this, that a man ought to take care of a man,
 'who ever he be, even for this very cause, that he is a man. If otherwise, all hu-
 'mane consociation must necessarily be dissolved. Therefore, as there are two foun-
 'dations of justice: first, that no hurt be done to any; next, that the profit of
 'all, if it may be done, be advanced: So also there are two kinds of injustice; one
 'of those who offer injury; the other of those who propulse not wrong from
 'those to whom it is offered, if they be able. For he who doth unjustly against any
 'one, incited either by anger, or other perturbation, he seemes as it were to offer

*Cicero l. 1. & 3.
 Offic.*

violent hands to his companion; but he who doth not defend, or resist an injury if he can, is as much in fault, as if he deserted either his Parents, or Friends, or Country. So that what the one doth, anger is judged to doe, which is reputed a short fury; what the other, an evill minde truely, which is a perpetuall tyranny. And however his fury may be excused, the others destinated counsell can by no meanes be excused. Thou wilt say, I feare that while I repulse an injury from him, I should doe an injury to the other. Yea verily, thou wilt cover thine injustice with a pretext of Justice; Whereas if thou consultest with thy selfe, not justice moves thee to desert thy duty, but rather some other cause. For, as he saith in another place, either thou wilt not undertake enmities, or labour, or cost; or else thou art so hindered with negligence, sloathfulness, idleness, or with thy studies, or certaine employments, that thou sufferest those to be deserted, whom thou oughtest to protect. But while thou sayest, thou dost thine owne businesse, lest thou mightest seeme to doe wrong to any, thou runnest into another kinde of injustice. For thou desertest the society of life, because thou bestowest on it nothing of thy study, nothing of thy paines, nothing of thy goods. These things Ethnickes, Philosophers, and Politicians hold, truely more piously than many Christians in this age. Hence a neighbour is bound by the Lawes of the Romans, to take away a servant from a cruell Master. But among the Egyptians, he who had casually found a man to be beaten by Theeves, or to suffer any injury, and had not rescued him, if he could, was guilty of death: if not, hee was bound to accuse the Theeves before the Magistrate: Which if he had neglected, he was beaten with a certaine number of stripes, and punished with a three dayes fast. Now if this verily be lawfull in one neighbour towards another, yea, lyeth upon him out of duty to assist every one he meets against a Theefe; shall it not be much more lawfull to a good Prince, not onely to ayde and patronize servants against a raging Master, or children against a furious Father; but a Kingdome against a Tyrant, a Republike against the private lust of one man; a people, a Lord, I say, against a publike servant and agent? Yea, verily, if he shall neglect it, shall not he merit the name and punishments of a Tyrant, as the other of a theefe? Hence *Thucydides* saith, *Not onely those are tyrants who reduce others into servitude, but much rather those who when they may repulse that violence, take no care to doe it: but especially those who will be called the defenders of Greece and the Common Country, but yet helpe not their oppressed Country: and rightly; for a Tyrant is in a sort compelled to retaine violently the Tyranny which he hath violently invaded; because, as Tyberius said, he seemeth to hold a Wolfe by the eares, which he cannot retaine without force, nor yet let goe without danger. Therefore that he may extinguish one crime with another, hee commits many wickednesses, and is compelled to injure others, lest he should be injurious to himselfe. But that Prince who idly beholds the wickednesses of a tyrant, and the ruine of the blood of innocents which he may hinder, because he doth as it were take pleasure in the gladiatory sport, is by so much more criminous than the Tyrant, as he who sets sword-players to fight, is guiltier than the man-slaying Gladiator; as much as hee who slayes a man for pleasure sake, is more criminous than he who doth it by constraint, or out of feare or necessity. If some oppose; But it is a fault for any to intermeddle with, or thrust himselfe into anothers businesse: *Terentian Chromes* may answer; I am a man, I thinke no humane*

*Diodor. Sic. l. 2.
c. 2.*

Thucyd. l. 2.

Object.

Answer.

humane

humane thing strange unto me. If others (that they may seeke lurking holes for their impiety) object; that there are distinct limits, distinct jurisdictions; now it is not lawfull to thrust a sickle into anothers Corne: Neither truly do I advise, that by this pretence thou shouldst invade anothers territories, usurpe anothers jurisdiction to thy selfe, draw thy neighbours corne into thine owne floore, which most doe under this pretext. I doe not say, that by the example of that arbitrator, of whom *Cicero*, thou thy selfe shouldst judge the thing controverted to thy selfe; but rather that thou shouldst restraine a Prince invading the Kingdome of Christ, containe a tyrant within his limits, stretch out an helping hand to an afflicted people, and a prostrated Commonweale; But thou must do it in such sort, that thou mayest not looke after thine owne profit, but the good of humane society altogether. For since Justice wholly lookes abroad, injustice onely regards it selfe, thou shalt at last doe this justly, if thou shalt have no regard of thine owne profits. Briefely, if a Prince violently passeth over the fixed limits of piety and justice, a neighbour may piously and justly leape over his limits, not that he should invade anothers, but that he should bid him be content with his owne: yea, he shall be impious and unjust, if he neglect it. If a Prince exercise tyranny over the people, he may no lesse, or lesse slackly afflict them, than him, if the people should move sedition: yea, he ought to doe it the more readily, by how much it is more miserable, that many suffer, than one. If *Porsera* reduce *Tarquin* the proud to *Rome*, much more justly may *Constantine*, sent for by the people and Senate of *Rome*, expell *Maxentius* the Tyrant out of the City. Finally, if a man may become a Wolfe to a man, nothing truly forbids, but that a man may be a God to a man, as it is in the Proverbe. Therefore antiquity hath enrolled *Hercules* among the number of the gods, because he punished and tamed *Procrustes*, *Busiris*, and other Tyrants, (the pests of mankinde, and monsters of the world) in every place. So also the *Roman Empire*, as long as it stood free, was often called, *The Patrocinie against the Robberies of Tyrants*, because the Senate was the haven and refuge of Kings, People, Nations. So *Constantine* sent for by the *Romans* against *Maxentius* the Tyrant, had God the Captaine of his Army, whose expedition the Univerfall Church exalted with powerfull prayes; when yet *Maxentius* had the same authority in the West, as *Constantine* in the East. Likewise *Charles* the Great, undertooke a Warre against the *Lombardes*, being called by the Nobles of *Italy* to their aide, when as yet the Kingdome of the *Lombards* was long before established, and he could claime no right to himselfe over them. Likewise, when *Charles* the Bald King of *France*, had by Tyranny taken away the President of that Country, which lyeth betweene *Seine* and *Liger*, Duke *Lambert*, and *Jamsfus*, and the other Nobles of *France* had fled to *Lewis* King of *Germany*, *Charles* his Brother by another mother, to crave aide against *Charles* and his mocher *Judith*, a most wicked Woman: He in a most ample Assembly of the *Germane* Princes, heard these suppliants, by whose unanimous Counsell, a warre was publickely decreed against *Charles*, for to restore the exiles. Finally, as there have beene some Tyrants in every place, so likewise among all Historians there are every where examples extant, of tyranny revenged, and people defended by neighbour Princes; which the Princes now at this day ought to imitate, in curbing the tyrants both of bodies and Soules of the Republicke, and of the Church of Christ, unlesse they themselves will be named Tyrants, by

Paraphrase de reg. lxxv. 36.

Cic. 2. Offic.

Cic. lib. 2. Offic.

Joan. Avent. in Anal. Boyerum.

‘by a most deserved right. And (that we may at last conclude this Treatise in one
 ‘word) piety commands the Law of God to be observed, and the Church to be
 ‘defended, justice, that Tyrants and the subverters of Law and the Republique should
 ‘be curbed; charity, that the oppressed should be releevd, and have a helping
 ‘hand extended. But those who take away these things, take away piety, justice,
 ‘charity from among men, and desire them to be altogether extinguished.
 ‘So he:

* See Speed &
 Cambden Hi-
 story of Queen
 Eliz. Morinus
 and Grimstons
 Histories of the
 Netherlands.
 The Noble
 Acts of Prince
 Maurice of Nas-
 sau, and the Bills
 of Subsidies in
 Qu. Eliz. King
 James, & King
 Charles his
 reigns.

If this then be an irrefragable verity, that forraine States and Princes are so farre
 obliged to assist and relieve those of the same Religion, and all others whose liber-
 ties, rights, priviledges, are forcibly invaded *(which our Parliament and State by
 their assistance, if the Netherlands and other Protestant States, both in Quæne, *Eliz-
 zabeths*, King *James*, and King *Charles* his reigne, approved and justified both by
 words, Acts of Parliament, and reall performances) then certainly those of the
 self-same Church, Nation, Kingdom, and fellow Subjects, under the self-same Prince,
 betweene whom there is a farre nearer relation, much stricter obligation, and
 more strong ingagements, ought mutually to aide and assist each other to the utter-
 most of their abilities, when their Religion, Lawes, Liberties, be violently invaded,
 their dearest native Countrey wasted, sacked, plundered, burned, ruined, in a hos-
 tile warre-like manner, with open force of Armes, either by the King himselfe, or
 a prevailing Malignant Popish faction, who have surreptitiously possessed them-
 selves both of his person and affections which they have gotten into their owne
 over-ruling power. How much then it now concernes every reall Protestant with-
 in this Realme of *England*, and all other his Majesties Dominions to unite all their
 common forces together, unannimously to protect, defend, maintaine, and propa-
 gate our established reformed Religion, fundamentall Lawes, Liberties, the very
 Priviledges of Parliaments, their estates, liberties, lives, the peace, welfare, and
 common good of their dearest native Countrey, and our three united Realmes a-
 gainst all Popish Malignant forces now in armes to invade, eclipse, impaire, sub-
 vert, sacke, ruine them; and how monstrously, unnaturally, unchristianly, and
 detestably impious, treacherous, perfidious, all those English, Irish, and Scottish
 Protestants proclaime themselves to the present and future age, who now trayterous-
 ly joyne their forces with the Malignant Popish party, or prove uncordiall, false,
 treacherous, and perfidious to their Religion, Liberties, Countrey, and the Parli-
 ment (who have not onely waged, imployed, but confided in them) and contribute
 their uttermost endeavours to betray, enslave, undermine, and to sacke, burne, and
 totally overturne them (as many we finde have done to their eternall infamy) I
 here referre to every mans judgement and conscience seriously to determine. Cer-
 tainly such unnaturall monsters, such trayterous Judasses, such execrable infamous
 Apostates as these, can expect no other reall remuneration of this their treachery
 and perfidiousnesse, but the ruine of their credits, the detestation of their persons,
 memories; the confiscation of their estates, the extirpation of their families, the
 execrations of all good men, the severest judgements of God, and utter confusion
 with horrors of conscience tormenting them constantly day and night, whiles
 they continue languishing under all these miseries here, and the sharpest tor-
 ments, the very largest dangers, the hottest flames in hell for ever hereafter: and
 those Antichristian Papists who now are and have bene so faithfull, active, zealous,

courageous, industrious, liberal, bountifull, if not prodigall to prosecute their
 owne interelsts, designes to maintaine and propagate their false, erroneous, detestable
 Religion, superstitions, idolatries, both in *England* and *Ireland* with the effusion
 of their blood, exence, and forfeiture of all their estates, and never yet deserted, or
 became treacherous to their false execrable cause or Religion in the least degree, shall
 all joyntly rise up in judgement against them, both here and hereafter, to their sempiternall
 infamy, reproach, and most just condemnation. O consider this all yee
 who now so much forget, neglect, betray both your God, your Christ, Religion,
 Lawes, Liberties, Countrey, Parliament, yea your very selves, your soules, bodies, e-
 states, posterities; Consider with your selves the bitter curse denounced by God him-
 selfe against *Meroz*, *Judg. 5. 23.* Consider the fatall, disimall end of treacherous *Judas*,
Matth. 27. 3. 4. 5. *Acts 1. 18. 19, 20.* Consider that dreadfull speech of our Savi-
 our Christ, *Marke 8. 35. 36, 37, 38.* *Whosoever will save his life shall lose it, but who-
 soever shall lose his life for my sake and the Gospels shall save it: For what shall it profit
 a man if he shall gaine the whole world and lose his owne soule? or what shall a
 man give in exchange for his soule? Whosoever therefore shall be ashamed of me and of my
 word, in this adulterous and sinfull generation, of him also shall the sonne of man be a-
 shamed when he commeth in the glory of his Father, with the holy Angels.* * *If we sies-
 ter with him, we shall also reigne with him; if we deny him, he will also deny us: If
 we be but fearfull in the cause of Christ, we shall be sure to have our part in the lake
 that burneth with fire and brimstone, Rev. 21. 8.* O what then will be our portion, if
 we be unzealous, negligent, perfidious to it, or professed enemies (especially in
 open armes) against it, when it cries out to us for our necessary assistance every
 where? If *Jesus Christ* will render tribulation to them which doe but trouble his peo-
 ple, yea, and shall be very shortly revealed from Heaven, with his mighty Angels, in fla-
 ming fire, taking vengeance on all them that (onely) know not God, and that obey not the
 Gospel of *Jesus Christ*, who shall be punished with everlasting destruction from the pre-
 sence of the Lord, and from the glory of his power, *2 Thes. 1. 6. to 10.* O where shall all
 these ungodly sinners, Rebels, and Traytors appeare, who now every where murder,
 plunder, persecute, extirpare Gods dearest Saints; and not onely refuse to owne,
 but even desert, betray the cause of God and their Countrey? who refuse
 not onely cordially to maintaine the very truth of God, the Gospel of Christ,
 which themselves in shew not onely pretend to know, but professe; but also joyne
 with Papists, and Malignants openly to fight against, and totally to suppress it?
 Certainly if judgement shall beginne at the house of God it selfe, as now it doth,
 and if the righteous shall defend the cause of God and the Kingdom shall scarce-
 ly be saved, what these in dreadfull end, and judgement at last shall be, trans-
 scends my thoughts to conceive, my expressions to relate; all I can say is this, it
 will be so superlatively miserably grievous, that an eternity of incomprehen-
 sible torments will onely be able to demonstrate the infinity and execrablenesse of
 their sinne. O then let all of all forewarned consider seriously of this, and all the pre-
 mises, and the Lord give them understanding and botnd grace to keepe a good conscience,
 and discharge their severall trusts and duties faithfully, cheerefully to
 their God, Religion, King, Countrey, and the Duties faithfully, cheerefully to
 may enjoy the honour, comfort, benefit, of all that in all things, that so they
 defend, promote, propagate our Religion, Lawes, and their endeavours to de-
 fend, promote, propagate our Religion, Lawes, and the publike wel-

† 1 Tim. 2. 12.



This Oath should have come in the Appendix, page 73. line. 17.

The Oath of CHARLES; King of Navarre at his Coronation, An. 1390. recorded in the generall History of Spaine, bk 17. p. 615. 626.

WE D. CHARLES by the grace of God, King of Navarre, &c. doe sweare unto our people of Navarre upon the holy Evangelist toucht by us, and to the Prelates and rich men of the Cities and good Townes, and to all the people of Navarre, for all your Rights, Lawes, Customes, Freedomes, Liberties, and Priviledges, that every one of them as they are, shall be maintained and kept to you and your successors, all the time of Our life without corrupting them, bettering, and not impairing them, in all, or in part: and that the violence and force which hath beene done to your Predecessors, whom God pardon, and to you by Us, or Our Officers, We shall hereafter command it to cease, and satisfaction to be made according unto right as they shall be made manifest by good men of credit. After which the Deputies of the State swore, in their owne names, and for all the Realme; faithfully to guard and defend the Kings person, and their Countrey; and to aide him, to keepe, defend, and maintaine the Lawes and Customes, with all their power.

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