









First Edition  
- 1782 -  
2 vols

Letter to the  
Author

- rev -

All that was  
known of the  
character of  
Constitution







C O D E X  
JURIS ECCLESIASTICI  
A N G L I C A N I:

OR, THE  
STATUTES, CONSTITUTIONS,  
CANONS, RUBRICKS and  
ARTICLES,

OF THE

Church of England,

Methodically **DIGESTED** under their Proper *Heads*.

WITH A

**COMMENTARY,**

Historical and Juridical.

BEFORE it, is

An **Introductory Discourse**, concerning the *Present State* of the  
*Power, Discipline and Laws*, of the Church of *England*:

And AFTER it,

An **APPENDIX** of **INSTRUMENTS**, Ancient and Modern.

By **EDMUND GIBSON**, D. D.

Archdeacon of *Surrey*, Rector of *Lambeth*, and Chaplain to his Grace  
the Lord Archbishop of *Canterbury*.

L O N D O N:

Printed by **J. Baskett**, Printer to the Queen's Most Excellent Majesty; and  
by the Assigns of *Thomas Newcomb*, and *Henry Hills*, deceas'd. And are to be Sold  
by **R. Whittledge**, at the *Bible and Ball* in *Ave-Mary-lane*. 1713.



C O D E X

THE BOOKS OF THE  
ANGLICAN

CHURCH OF ENGLAND

Church of England

Methodists Preached under their proper names

COMMUNION TABLE

An Introduction to the  
Book of Common Prayer

A PRACTICAL INSTRUMENT

BY RICHARD GIBSON, D.D.

London: Printed by R. Clarendon, in the Strand, 1717.

LONDON  
Printed by R. Clarendon, in the Strand, 1717.



T O T H E  
Most Reverend Father in G O D,  
**T H O M A S,**  
By Divine Providence,  
Lord Archbishop of <sup>1695-1715</sup> *Canterbury,*  
P R I M A T E of ALL *England,*  
and M E T R O P O L I T A N.

*May it please Your G R A C E,*



**T**H E Eminent Station wherein the Divine Providence hath placed You, and the Relation which I have long had the Honour to bear to Your GRACE, do, in a particular manner, Oblige me to Present to You the Ensuing *Code* or *Body of Ecclesiastical Laws*. The general *Subject* of the Work, is, the *Constitution* of this National Church; over the **W H O L E** of which, the same *Constitution* hath vested a *Primacy* in Your *Archiepiscopal See*: The general *Design* of it, is, the promoting of *Ecclesiastical Order* and *Disciplin*; and Your Zeal for these hath been abundantly shown, in Your successive Stations of a *Parochial, Diocesan* and *Provincial Pastor*. How greatly have I seen Your GRACE concern'd at the *Neglects* of those, who, in the course of any *Ecclesiastical* *Affair*, had departed from the *Rules* prescribed by the *Church*! How often have I heard you declare, that nothing but a *strict* *Regard* and *uniform* *Adherence* to those *Rules*, both by *Bishops* and *Clergy*, can preserve the Church in a peaceable, orderly and flourishing State! And the less *Hope* there was of seeing these things thorowly effected, while the *Laws* of the *Church* lay so dispersed, that it was scarce possible for the *Clergy* to *know* the *Rules* they were to walk by; the greater *Comfort* have I had, in *Endeavouring* to clear the



Way to an End, so desirable to your GRACE and all Good Men, as is the Improving of Regularity and Discipline in the Church, in order to the Improvement of Religion and Good Living, both in Clergy and People.

I forbear, MY LORD, to make your GRACE uneasy, by recounting how much the Church and Religion stand indebted to You, for Your Charitable Endowments and Establishments of many kinds; because these are already more Publick, than Your GRACE desired: But I cannot forbear to remember here, how deeply I stand indebted to Your GRACE, for Your great and constant Favours to *My self*; because I cannot omit this Opportunity of expressing my utmost Gratitude and Thankfulness for them: Foreseeing, at the same time, that if this Work should happen to survive the present Age, the Author of it cannot do himself a greater Honour, than by acquainting *Posterity*, that he was particularly favoured, in a course of many years, by a *PRELATE*, whose Wisdom, Courage, Goodness, and other excellent Qualities, will be so much and so deservedly distinguished in the *Annals* of our Church.

That the same God, whose Providence advanced You to this High Station, and who hath hitherto supported You under the manifold Cares and Labours of it, will be still graciously pleased to support You, and grant You a long and happy Continuance in it; for the Good of his Church and Religion, is the hearty and earnest Prayer of,

MY LORD,

Your GRACE's most Dutiful

Servant, and Chaplain,

EDMUND GIBSON.



# THE P R E F A C E.



*BEFORE* we enter into the Particulars of this Work, it will be convenient to declare, for whose Service, and for what Ends, it was first Attempted; and to answer some Objections that may be made, either against the Undertaking it self, or its being undertaken by a Clergyman.

*As to the first of these Heads: For whose Service, and for what Ends? It was Attempted, not for any Benefit that might accrue from it to the Professors of Common or Civil Law (which would have been great Presumption in the Author,) but purely for the Service of the Clergy, and in Support of the Rights and Privileges of the Church; without intermeddling in any Disputes concerning Rights and Privileges, which may have happen'd among the Clergy themselves.*

*The Church of England (considered, not only as a Spiritual Society, but also as a National Church) tho', as National, it hath the same common Head with the State, is yet of a different Nature, and governed by different Laws. In these Laws are contained, the Securities which the Church hath for her Ancient Privileges, the Rules of Order and Discipline by which she is to be Governed and Administred, the Duties incumbent upon Ecclesiastical Persons in their several Stations, and the Provisions that have been made, from time to time, for the knowing, preserving, and recovering of their just Rights. And these are matters of so great Importance to the Church and Clergy, that none who was concerned for their Interest and Honour, could once doubt, whether a View of those Laws and Constitutions, which contain the knowledge of them, would not be of daily Use and Benefit to both. Nor could it be supposed, that the Generality of the Clergy (who are so well able to Judge for themselves, upon proper and sufficient Grounds) would be content to rest in short Abridgments, or in any thing under the Original Laws and Constitutions at length, which alone can give full Satisfaction to the Mind; conveying Idea's of all matters as much more clear and lively, as doth the Travelling a Country our selves, in comparison of what we read or hear of it in the imperfect Reports of others; especially, when the Laws that are to govern our Judgment upon each Head, are set before us at one View, and in their proper Order and Succession. Which one Article in this Work, hath cost so much Thought and Labour, as nothing could have encouraged the Author to go through, but a strong Hope that in the end it would prove of daily Advantage to the Church and Clergy.*

This Work was undertaken, for the use of the Clergy;

—who are concerned to understand the Laws of the Church,

—and cannot understand them clearly, but from the Statutes, &c. at length.



The Undertaking, no Encroachment upon Common or Civil Lawyers; as containing only plain and clear Duties,

*If it be alledged, That the Knowledge and Discussion of these Things, belong properly to the Professors of Civil and Common Law, whose peculiar Study they are: The Answer is, That to them it belongs to solve for us the more difficult Points of Law, and, when we are unfortunately engaged in Contests, to instruct us in the proper Forms and Methods of defending our selves, and of carrying on our Cause with the utmost Advantage, that the Law, Ecclesiastical or Temporal, will give it. But as on one Hand, all Laws, being intended for the Instruction of Mankind in their several Duties and Rights, are, or ought to be, contrived in the plainest Terms, and left liable to no Doubt, Cavil, or Evasion, that the Wisdom of the Legislators can prevent; so on the other Hand, all Persons for whose Direction they are made, have a Right to take them for their Guides; And all Subjects in their several Ways (with a less share of Judgment, than the Clergy are generally Masters of) may, by their own Perusal and Consideration, attain a sufficient Knowledge in many Points; and so excuse the Professors of the Law from needless Applications, in Cases which are plain and clear, and which may be solved with more Ease, and as much Safety, at Home. No Merchant, nor even Artificer, is thought to presume too far, or to break in upon the Professors of the Law, by endeavouring to acquire the best Informations he can, from the Statutes that concern his particular Business and Calling; and much less may it be said, That the Clergy go beyond their Line, when they judge for themselves, what it is that a plain and express Law has made their Duty or their Right: Nor ought they to be constrained (as many of the Clergy in all parts of the Kingdom are) to have recourse to others, in the plainest Points; and too often, to Persons of mean Figure and Abilities in comparison; who are no otherwise qualified to direct, than as they happen to be possessed of a Statute Book, and of a Talent to talk decisively to those who want one.*

—and not entering into Pleadings of any kind; which are the proper Province of Lawyers, exclusive of others

*And as it is an Indignity to the Clergy, to apply to those meaner Branches of the Law in any Points; so, if it be rightly considered, it is no less Indignity to the learned Professors of the Law, to be apply'd to upon Points, in which the Statutes of the Realm, or Constitutions of the Church, are plain and clear. Such Points are unworthy the Cognisance of those High Attainments, which never shine out to Perfection, but in difficult and intricate Cases; in reasoning acutely and plausibly concerning the true Interpretation of Statutes or Canons; in placing all Actions and Proceedings upon a right and sure Foundation; in tracing out such Methods of proceeding as may be most advantageous to their Clients; in countermining an Adversary, and prolonging a desperate Cause: and (to be brief) in all those Arts of Pleading and Managing, which call for the greatest degrees of Sagacity and Penetration; which Hobart means, when he calls it the principal Art of Law; and which the famous Littleton makes the distinguishing Character of an accomplished Lawyer: Saches, mon Fils, &c. Know (my Son) that it is one of the most honourable, laudable, and profitable things in our Law, to have the Science*

Hob. 295.  
Littl. l. 3.  
P. 534



of *Well Pleading*; and therefore I counsel thee especially to employ thy Courage and Care to learn this.

*Here, that eminent Professor of the Law calls upon his Scholar, to study Perfection, in that which is the proper Work and peculiar Accomplishment of a Lawyer, as such; and if We should interfere there, We might justly be charged by the Lawyers, both Common and Civil, as Intruders into the respective Professions. But for the Clergy to endeavour to get the utmost Knowledge of their Duties and their Rights, that the known Laws of the Land will afford them; this is no more than the common Right of every Subject: And it is not only of evident Advantage to the Clergy on all Accounts, but also for the Ease of the Lawyers themselves; and that, in a twofold respect: First, in freeing them from the many Interruptions they would otherwise receive from the Clergy, in Cases that are as plain and clear in the Statutes or Canons, as the most learned Lawyer can possibly make them; and next, in enabling the Clergy, when real Doubts or Contests do arise, to see where the Point Turns, and, by Stating it clearly and pertinently, to save the Lawyer all the Time and Trouble, that the coming at the real Stress and Merits of the Cause would otherwise require. Upon which occasion I must not omit to give the Professors of the Temporal Law the Acknowledgments that are justly due to them, for communicating to the Publick the solemn Determinations of their Courts upon doubtful Points, in their many learned Books of Reports; nor can I forbear, at the same time, to wish, that the Professors of the Civil and Canon Laws had been as bountiful to the Publick in the same way; since, next to the Laws and Canons themselves, such Authentick Decisions concerning the true Interpretations of them, and those solemn Declarations concerning other Points not provided for by the written Laws, are the most effectual Helps to settle the true Limits of Right and Duty, and thereby to perfect our Constitution in Church and State. A Design, which it is the Duty of every Subject to wish well to; and which our Civilians and Canonists seem to be obliged to take into Consideration, for the Honour of their Profession; if the Comparision be true, which my Lord Coke makes in this respect, between his Commentaries, and their Glosses. Their Glosses and Commentaries. (saith he) are written by Doctors, which be Advocates, and so, in a manner, private Interpretations; And our Expositions are the Resolutions of Judges in Courts of Justice, in judicial Courses of Proceeding, either related or reported in our Books, or extant in Judicial Records, or in both: and therefore being collected together, shall (as we conceive) produce Certainty, the Mother and Nurse of Repose and Quietness.*

—but confining it self to the matter and issue.

Pref. to  
2 Inst.

*Having thus far cleared my Design from the Charge of Encroaching upon the Common or Civil Law; I will go one step further upon this head, and hope that it may prove in some respects serviceable to the Professors of both; however intended only for the use of the Clergy. The Determination of the Sense and Meaning of Statutes and Canons, in Cases of real Difficulty, is already*

This Undertaking, in some respects serviceable to Common and Civil Lawyers.



*already acknowledged to belong to them; and it is plain, the chief Enquiries to be made, in order to a sure Foundation of judging in such Cases, are, How the Law upon each Head stood before, and, What Successive Alterations it has undergone, before it arrived to the present State. And as this can be no way done, but by an exact Comparison of the Laws upon each head, so that Comparison will be greatly facilitated, and the Observations to be made, will become not only more easie, but also more exact, by the Orderly Succession they are here ranged into, so far as they concern the Church or Clergy. This Advantage, it is to be hoped, will equally accrue to both the Professions; since the Rule is the same in Judging of Statutes, and Canons; and the Succession of both is equally continued throughout this Work. Not to Mention, that it will be some Convenience to the Civilian, to see what the Statute-Law has determined on each head, and how far the Course of the Civil and Canon Law stands clear of it; And to the Common Lawyer, to see not only what the Law of the Church now is, but how it stood anciently in each Point, before any Statute concerning it was made. For, generally speaking, the Statutes which relate to the Church, are only Enforcements of the ancient Ecclesiastical Laws: and some of them are copied, in effect, from Ecclesiastical Proceedings, with Additions of new Penalties, or the like: to which Laws and Proceedings, due Regard ought assuredly to be had, in judging of the Purport and Tendency of all Statutes that have been or shall be made upon the respective Heads. And since the Professors of the Common Law, for want of such Retrospect, have been too apt to Judge of Ecclesiastical Matters by Rules and Maxims of their own; I may be allowed to reckon it no unseasonable Service to the Church, if this Mixture of ancient Constitutions and of the Common-Law-Spiritual with those Statutes, and the seeing by that Means the Analogy that is between them, may obtain the Favour for Ecclesiastical Matters, to be interpreted by Ecclesiastical Rules; and convince them in any Measure, that as those Laws had a proper Chanel of their own to run in before any Statutes were made about the Matters they contain, so the chief Design of adding such Statutes, was to give them more Strength and Vigour in the same Chanel, and not to drag them into the Chanel of the Common-Law-Temporal; which is unnatural to them, and in which it is impossible for them to thrive.*

This Undertaking, proper for a Clergyman.

*What has been already said, with Regard to the peculiar concern of the Clergy, in the Matters contained in this Work; will make it needless to say much in my own Defence, for presuming to undertake it: for if a Work contains nothing but what is proper for the Clergy to know, such Work cannot be improperly undertaken by a Clergyman. And altho' it may very truly be urged, that it might have been much better performed by a Professor of the Common or Civil Law, than by a Divine; it is to be remembred, that they who are most able, are not always most ready and willing: some are unactive, and have not the Patience to go through a Work of so much Thought and Labour;*



*Labour ; others are involved in a multitude of Business, and have not Leisure for such Undertakings ; ( Nor indeed, considering the vast compass of those Professions, and how much of Life is usually spent before they have finished the General Study in order to Practice, can we suppose them to descend ordinarily to minute and particular Enquiries, till, in the course of their Business, they are occasionally called to them : ) And a third sort ( and those not a few ) may possibly think, that all Notices of this Kind are most properly convey'd to the Clergy through the Hands of the Professors of the Law, as particular Occasions require. So that, upon the whole, there was no hope that such a Work would be undertaken by the Professors of either Law ; and therefore in judging of it, as undertaken by a Divine, the proper Rule is not, how much more perfect it might have come, out of an abler Hand ; but, whether it were not better to be performed as it is, than not performed at all. Not that I am conscious to my self, of having spared Pains or Endeavours of any kind, to make it complete ; nor shall I at all reckon it a Reproach to me, if any Civil or Common Lawyer shall discover in it Unaccuracies in Terms of Art, or other accidental Imperfections in Point of Form ; if I have but the Comfort to find, that in the main it answers the great End for which it was undertaken, namely the Information of the Clergy ; who are little concerned either in Terms, or Forms.*

---and not like to be undertaken by Lawyers.

*Having said thus much in Defence of the Undertaking, I will now descend to a distinct Account of the Work ; with regard, first, To the General Matter, Order, and Disposition thereof, and, secondly, To the several Parts or Branches, of which it consists.*

*First, As to the General Matter, or Text, of this Work ; I need not tell the Reader, what he will see throughout every Title, that it is a Mixture of Laws relating to the Church of England, which have, from time to time, been framed and enacted by Authority of our Spiritual and Temporal Legislatures : Not only, such Laws as are now in force, but such also as are Repealed or Obsolete ; by the inserting of which ( however unnecessary it may seem at first sight ) many useful Purposes are undoubtedly served. All subsequent Laws, whether in Church or State, are made with reference ( more or less ) to those that have gone before ; of which they are usually Corrections or Improvements : and as it is impossible to reach the true design ( and by consequence the true meaning and extent ) of any Law Ecclesiastical or Temporal, till we know how the Law upon that Head stood before ; so by the sight of all former Laws upon the same Heads, and such an easy Opportunity of comparing them with the Laws present, we are let into the true Aim and Intent of the Legislators ; than which, we cannot have a better or more sure Rule for the Interpreting of them. This is what we may call a History of the Law ; in which the Reader has the Satisfaction to see, by what degrees it has been growing and improving, in all points, from it's Infancy to it's present Stature : and that Retrospect not only Supplies*

The Text, or Matter, of this Work, are, all the Laws of the Church of England, whether in Force, or Obsolete and Repealed.



The usefulness  
of mixing Laws  
that are Obso-  
lete and Repeal-  
ed, with Laws in  
use,

*the Lawyer with many necessary Notices for the true Construction of the Law, but enables the Historian also to account for every Law, and the ground and reason of it, within any Period of Time that he is concerned in. So that none who consider things maturely, and love to go to the Foundation in all Cases, will reckon such Incorporation of Repealed and Obsolete Laws, with the Laws in Force and Use, a needless part of this Work; but, on the contrary, a part highly necessary to complete it, as it enables us to come to a full and final Determination of our selves: Which no Point of this nature can be ready for, in the Account of any Judicious Reader, till he is sure he has before him all the Light that the Constitution affords. And if such an entire View be necessary to the forming a right Judgment upon the Laws already made; it cannot be less necessary in order to the making of new Laws, as oft as Designs are on foot, to supply the Defects of our Constitution in any Point. In which Work, common Reason tells us, That the first step must be, to see what the Law upon that Point is, and wherein it is really defective, or inconvenient: And in some cases, where the Church finds herself not only not benefited by new Statutes and Canons, but (through some unforeseen Inconveniencies) prejudiced by them; it may be judged no improper Remedy, to resume and revive those, which are Repealed or Obsolete; at least, the needless multiplying of new Laws being a great Evil on many Accounts, it will always be a proper Enquiry for Legislators, whether the Discipline and Interest of the Church may not be best provided for, by placing them again (wholly, or in part) upon their former Foundations; so far as may be consistent with other branches of our present Constitution, and may effectually answer the Ends of Religion.*

*I must add here, That since the forming a sure Judgment, in any case, depends so much upon the sight of all the Laws upon each Head and such a regular Succession of them; to complete the View, and preserve the Succession, I have oft-times separated the Clauses of the same Laws, where they belonged (as they frequently do) to different Heads: and not only so, but where the self-same Clause appear'd to have immediate reference to several Heads of Matter, I have chosen to repeat it at large under each of the Heads; that in the Searches upon any Head, the Thoughts and Intention of the mind might not be diverted or broken, by a necessity of Recourse to distant places, tho' in the same Book.*

—and also of adding the Laws, whereof the subject matter is extinct.

*It may be more difficult to vindicate the inserting of such Laws and Constitutions, as are not only Repealed or Obsolete; but the Subject and Matter of which is entirely extinct: as those are, that relate to Religious Persons and Houses, and to the Benefit of Clergy and Sanctuary. But as they are Laws and Canons that were once in force, and are part of the Statutes of the Land, and of the Provincial and Legatin Constitutions; they had a title to a place in this Work, which professes to be a Code or Body of all these. And tho' the things themselves are extinct, there*



*there are many Laws and Matters in force and in being, which relate to them, or depend upon them; and many things, both in our Histories and Laws, which cannot be clearly understood without them. Not to mention, that Originals of all kinds are applicable to many uses, and subservient to many purposes, which we cannot foresee; and, that upon Subjects of this nature, it is too great a Privilege for any private Person whatever, to determine what is useful, and what not. So that if any shall think, I have done wrong in inserting them, he must allow, at least, that it is an Error on the safer side.*

*Next, for the Order and Disposition of this Work: The Various Laws it consists of, being first intermixed and reduced to proper Heads, the whole is branched into Titles, and each Title into several Chapters; in conformity to the Method of the Decretals, which were collected and digested, in the same manner, by Order of Pope Gregory the Ninth, and make the most useful and most considerable part of the Body of the Canon Law. The same Method was followed, as to the Titles, by our Learned Commentator Lyndwood, in his Collection of Provincial Constitutions; but the Compass he took was too narrow, to require or bear a Subdivision of those Titles into Chapters; unless every single Constitution were to stand there as a distinct Chapter. But this Work, which takes in the whole Body of Written Laws relating to the Church, did not only bear a Subdivision into Chapters, but directly required it; to give it the true Appearance and Advantage of Order and Method, and to prevent the Confusion that must otherwise have unavoidably ensued. For, in reducing or analyzing of Laws into regular Systems, there is a great difference between framing the chief Matters contained in such Laws into a short Scheme or Institute, and the digesting of the Laws themselves, entire and at length. The first will wind and turn as the Compiler pleases, and may be easily spun out into an Uniform Body, according to the exactest proportions of Order and Method; but where Laws must be taken as they are found, and are to be reduced into one Body without Addition or Diminution, we must be content to digest them into the best Form they will bend to. And this I have endeavoured with the utmost Application, and, I hope, with some degree of success, in the present Work; by making the Subdivisions of Titles into Chapters, as numerous as the Matters contained in them would well bear, and so setting every single Article of Matter upon a foot separate from the rest. And altho' the Length and Variety of Laws, which was unavoidable in some Chapters, might have rendered them liable to Uncertainty and Confusion; yet, now, that Inconvenience is removed, and the Ease of the Clergy (as it is hoped) abundantly provided for, by the Analytical Abridgments, which accompany each Law; and do not only inform the Reader, at first Sight, of the several Matters contained in any Chapter, but also lead him to the several Parts or Branches of each Chapter and each Law, where every Particular may be found. By which Method, the Clergy may have quick and easie Satisfaction, how the*

The Order and Disposition of the Work, as branched into Titles and Chapters.

Pref. Lyndw.

—with a continued Abridgment,

Law



--directing readily to the several matters in each Title and Chapter.

*Law stands in all Points ; and as to the degrees of Satisfaction which is received from the Laws at length, above the utmost that any Abridgments can give ; that is a Truth so Self-evident, as can be called in question by none ; but such lazy Enquirers who will rather be content to rest in a superficial second-hand Knowledge, than be at the pains to go to the Fountain-Head, for Truth entire and unmixed. To whom, however, I will venture to undertake thus much ; that, as the Original Laws are here methodized and digested, they will find Truth in them, not only with greater Certainty, but with greater Ease too, than in any of the Abridgments that have yet appeared. Especially, since the Defects of the Written Laws ( which in several Cases have made no Provision ) are supply'd throughout, with the Doctrines of Common and Canon Law, reduced into plain Propositions, and these everywhere supported by proper Authorities ; not only from the Books of Law, Ecclesiastical and Temporal, but also from the written Records of the Church ; which being Testimonies of the Practice here in England, were conceived to be very proper Supports and Enforcements of the Judgments of Canonists and Common Lawyers, upon each Head.*

The general Title of the Book, *Codex Juris Ecclesiastici Anglicani,*

--in imitation of *Justinian.*

*The Body of Laws digested by the care of Gregory the Ninth, was called the Decretals, as consisting mainly of Papal Decisions or Decrees, in the time of himself and his Predecessors : Which Decisions were made, either in Councils, or upon particular Disputes which were occasionally appealed to Rome, and determined there ; and those Determinations signified to the parties concern'd, by Decretal Epistles. The Body of Constitutions, digested by our Learned Lyndwood, were by him styled Provinciales, containing such Constitutions only as had been made by the Ecclesiastical Legislature within the Province of Canterbury. But neither of these Titles being applicable to the present Body of Laws ; I chose to give it the same Title that Justinian gave his Collection of Imperial Edicts, and to call it a Code ; since the greatest part of the Written Laws which compose this Body ( tho' framed and assented to by the other Branches of the Civil and Ecclesiastical Legislatures, according to the known Constitution of each ) did yet receive their Sanction, or final Authority, from the Prince. And if the Rules of Common and Canon Law ( which are added throughout, by way of Supplement to the written Laws ) had required a distinct Title, they might properly enough, and by a like parity of Reason, have been called a Digest of Ecclesiastical Laws ; consisting ( as the Digests of Justinian do ) of the Opinions and Resolutions of Learned Professors and Judges, Digested under their proper Heads. Out of both which ( if God spare me Life ) I would willingly draw a plain Analytical System of English Ecclesiastical Law, in the Nature of an Institute ; and recommend it to be perused ( after the other Systems ) by such Persons in the Universities, as are designed for Holy Orders ; to initiate them in the Study and Knowledge of our Ecclesiastical Constitution : Not that Branch which relates to Contentious Jurisdiction, or Causes between Party and Party, wherein*



wherein Religion is not directly concern'd, and which are the proper Province of the Civil Lawyer; but that part, I mean, which more immediately relates to the Rights of the Church, and the Duties of the Clergy; That when they are promoted to Benefices, they may not be Strangers to the Rights which the Law gives, nor to the Duties which it requires; and (if they be vested with Jurisdiction of any kind) they may be able, with ordinary Application, to be their own Judges, in all Points that relate to the Correction of Manners, and in such other matters as concern Order and Disciplin in the Church: the Vigorous Administration of which, is one of the greatest supports to Religion, and to the honour of God's publick Worship; and as such, is the proper Province of the Ordinaries themselves.

Thus much may suffice, concerning the General Matter, Order, and Disposition of the Work: From whence we must now descend to the several Branches of which it consists; having first premised, that they are no otherwise to be considered in this place, than as Branches of the present Work; since all of them, or at least the greatest part, are treated of more largely † elsewhere, as Parts of the Ecclesiastical Constitution of the Church of England; and with regard to their Authority and Operation, as such.

For Method's sake, the Constituent parts of this Work shall be first divided into several Heads; and then, each head shall be spoken to, briefly, and as far only as is necessary by way of Preface: viz. 1. Statutes. 2. Constitutions. 3. Canons. 4. Rubricks. 5. Articles. 6. Abridgment. 7. Commentary. 8. Rules of Common and Canon Law. 9. Appendix. 10. Index.

First, of the STATUTES relating to the Church, and the Disposition of them in this Work; † enough hath been said under the last Head: to which I shall add no more, but that the Method they are here reduced to, seems to be the same that was thought of in the Reign of K. Charles the Second, to render the whole Body of the Statute-Law of England, truly useful and intelligible. So I find it entred in the Journal of the House of Commons, 18 Car. 2. That a Committee be appointed, to confer with such of the Lords the Judges, and other Persons of the long Robe, who have already taken Pains, and made Progress, in perusing the Statute-Laws, and to consider of Repealing such former Statute-Laws, as they shall find necessary to be Repealed, and of Expedients of reducing all Statute-Laws of one nature under such a Method and Head, as may conduce to the more ready Understanding, and better Execution, of such Laws. It appears not, by what means, or upon what motives, this Design was laid aside then, and hath been forgotten ever since; nor shall I presume to say, how proper it may be to resume it: but surely, there can be no doubt, whether the making the Law in all points as plain as possible, is not for the general Ease and Advantage of the Community.

The several Branches of this Work.

I. Statutes.

† Note, That the Statutes which are Repealed, or Obsolete, are printed, in this Work, on a small black Letter; to distinguish them from the Statutes in force.

† In the Discourse, which follows this Preface.

Pag. v, vi.

Journ. Dom. Com. Octob' 4. 18 Car. 2.



2. Constitutions, Provincial and Legatine.

II. The CONSTITUTIONS are of two sorts, Provincial, and Legatine; the first, published from time to time by several Archbishops of the Province of Canterbury, from Stephen Langton to Henry Chichley, inclusive; the second, by the Legates, Otho, and Othobon. The Legatine Constitutions extended equally to both Provinces; having been made in National Synods or Councils, held here by the respective Legates: And tho' the Provincial Constitutions, being made in Synods of the Province of Canterbury only, could have no direct Influence or Authority beyond the Limits thereof, yet were they copied after in the Province of York, and seem to have been received there as the Ecclesiastical Laws of the English Church; especially, since the time they were illustrated with a large and learned Commentary by the famous Canonist William Lyndwood. The same Hand reduced them to particular Heads in the Method of the Decretals; but by adhering more closely and religiously to the Course of the Decretals, than the Constitutions would well bear, he made it less distinct, than if he had ranged them under such Heads, as the Constitutions themselves would naturally have suggested. But, in digesting the present Work into one Uniform Body of Ecclesiastical Law, they, as well as the Legatine Constitutions which had never been methodized before, were cast into the same common Lump; and being drawn out, were placed under such Heads as they naturally belonged to, in the Scheme which I had drawn beforehand for the whole Work.

3. Canons of 1603.

III. By the CANONS, I mean those Ecclesiastical Laws, which were made in the Convocation of the Province of Canterbury in the First Year of King James the First, and which are therefore distinguished by the Name of the Canons of Sixteen hundred and three. They are generally taken (and, in many places, by Repetition, word for word) from Canons and Constitutions, which had been made in the Reign of Queen Elizabeth; and which being confirmed only for her self, and not expressly for her Heirs, are thought to have lost their Authority by her Death; till many of 'em had new Life given them in these Canons of 1603: which were also received, and passed, about Two Years after, in the Province of York.

4. Rubricks.

IV. The RUBRICKS are well known to be part of the Statute Law of the Land, as having been confirmed in Parliament by the several Acts of Uniformity, in the Reigns of King Edward the Sixth, Queen Elizabeth, and King Charles the Second. But in the transferring of Rubricks into this Work, it was necessary to observe a Distinction between such of them as were only made to direct the Performance of Divine Offices by the Minister, and such others as relate to the Rights, Order, and Discipline of the Church. The first sort bear no relation to the present Work; but as many of the second sort as were found in any of the Liturgies, are inserted here under the Heads they



they properly belong to ; together with the Variations which have been made, from time to time, in the several Reviews of the Book of Common Prayer.

V. The ARTICLES in like manner ( which are commonly called the Thirty Nine Articles ) tho' originally made in Convocation, are properly a part of the Statute Law, as they are required to be Subscribed and assented to by an Express Act of Parliament. These were mostly taken from a like Body of Articles, compiled in the Reign of Edward the Sixth, with which they have been carefully compared on this occasion ; and where any Differences occurred, either in Expression, or by way of Addition or Diminution, they are set down at length, under the respective Articles. 5 Articles.

† 13 Eliz.  
C. 12.

VI. The ABRIDGMENT, which every where accompanies the Statutes, Constitutions, Canons, Rubricks, and Articles ; was designed for two ends : the First, to give the Clergy a General View of the Matters contained in them, with the greatest Ease that could well be contrived ; and the Second, to lead them, with the like Ease, to any particular Clause or Branch, which they shall at any time have occasion to consult. For the answering of which Ends, it was not needful in all Places to adhere strictly to the very Words of the Laws ( as it is, in the Case of separate Abridgments, ) but it was rather necessary to comprehend the matter of each Clause in the fewest Words that might be : and, as to the Tenor and Language of the Law at length, that is always at hand, and the Eye may immediately pass to it, as Occasion requires. 6 Abridgment.

VII. The COMMENTARY consists of a Variety of Matters, fetched from a like Variety of Books and Records ; all which I Examined with that view, immediately after the Text was settled, and while the whole Matter of the Book was fresh in my Memory. First, I refer'd all points, which tended to the Illustration or Improvement of any part, to their proper Heads ; and, when that general Examination was finished, I then proceeded to a joint Review of the References that had grown to each Head, and the Places refer'd to ; Comparing them with the Laws to which they related, and with one another ; in order to weigh the force of each, and the Tendency of it to the main Point, and to see what Light History would afford to Law, and what Light the Common and Canon Law would mutually afford to each other ; and so, upon each Head, to mix and incorporate the Body of Authorities refer'd to, and to branch them into an Uniform Commentary, in such manner as might most contribute to the Illustration of that Head. 7 Commentary ; in what manner framed, and upon what Authorities grounded.

Of these, the Writs have a right to be first mentioned ; as being next, in Authority, to the Written Law it self, and the very Basis and Foundation of the Common Law, or ( in the Words of Fitzherbet ) the Fundamentals, upon which the whole Law doth

---Writs.



doth depend. Concerning these Writs, my Lord Coke saith, they are so artificially and briefly compiled, as there is nothing redundant or wanting in them; and he adds the saying of a certain Secretary of State, that it was not possible to comprehend so much Matter, so perspicuously, in fewer Words: and, of the Register which contains them, he saith, that it is a most Ancient Book, and of great Authority in Law. For these Reasons, instead of placing them in the Appendix, among the other Instruments; I have printed them all along in the Body of the Book, under the respective Heads to which the Subject Matter determined them; as affording the most Clear and Authentick Instructions, next to the Laws themselves.

--Reports.

The Judgments which have been given in the Courts of Law, concerning the Meaning and Extent of such Statutes as relate to the Church, were carefully Selected by me out of the several Books of Reports, (in which Books, the Judgments, and oft times the Reasons and Foundations of them, are represented at large:) and, having reduced them to the particular Laws which they explain, and compared the Reports of the same Subject, and the different Reports of the same Cases, with each other, I annexed them, not only to the Laws, but to the particular Clauses and Expressions, the meaning of which are cleared and determined by such Judgments. This (I saw) was of absolute necessity, to prevent Misconstructions of those Clauses, and to give the Clergy the full Advantage of each Law. And as to the Judgments themselves, I have taken the liberty, in some cases, to wish that they had been more tender of the Rights and Liberties of the Church; and, in other cases, to suppose that they might probably not have been given at all, had those Rights and Liberties been duly explained from the ancient Ecclesiastical Law, and Supported by Accounts of the Practice of the Church of England, as it is attested by our Ecclesiastical Records. But on such Occasions, I have always taken care in the first place, to set down the Judgment of the Common Law, as it is represented in the Books of Reports; and as for the Exceptions which I have entred in behalf of the Church, with the Authorities they are founded on, they are at least honest Attempts after Truth, and may help things into a right course by Degrees; and cannot (in the mean time) be interpreted a Disrespect to the Temporal Courts, whose own Determinations are so frequently found to vary from former Judgments, upon the Appearance of new Light.

--Commentaries  
of Lyndwood and  
Athon.

Next to the solemn Judgments of Law, are the Commentaries of Lyndwood, and John de Athon; the first, upon the Provincial, the second upon the Legatin, Constitutions; whose Authority (especially that of the first,) is greatly regarded in the Courts of Civil and Canon Law, not only as the opinions of Persons eminently learned in both Laws, but chiefly as they are Witnesses of the Practice of the Church of England in their respective Ages. Which Practice, in very many cases, having continued the same, and been derived down to the present age upon their Evidence and Authority; their Rules are become, in effect, the  
Common



Common Law of the Church, and, in that respect deserve great Regard, not only in the Spiritual, but also in the Temporal Courts. Those Commentaries, as they stand at length in the several Editions of the Constitutions, are very large; but they increased, and grew to that bulk, partly by needless glossings upon the plainest Words, according to the humour of the Age they lived in; and chiefly, by Critical Enlargements upon the Forms of Proceeding in the Spiritual Courts, which belong wholly to the Pleading Civilian, and no way concern the Clergy-Man, as such. But where-ever they set forth the Drift and Design of the Constitutions, or explain any real Ambiguities in the Text, or tell us what the Law of the Church is, in any Point that relates to Order, or Discipin, or other Matters which properly concern the Clergy; in such cases, their Illustrations are here inserted word for word. And whereas, from the accidental Mention of a Word, they frequently take occasion to digress into points wholly foreign to the matter of the Constitutions, and properly belonging to other Heads, (which makes such Digressions, however useful in themselves, very difficult to be found;) in this Work, they are reduced to the Heads which they properly belong to, and are interwoven either with the Commentary, or with the additional Rules of Canon and Common Law.

With the Judgments and Opinions of the Professors of Common and Civil Law upon the Statutes and Constitutions, are frequently intermixed the Evidences of the Practice of the Church, as they stand in great numbers upon our Ecclesiastical Records. And it is to be hoped, that this will be thought no improper Commentary upon a Work of this nature; considering, how much more kindly the Temporal Courts listen to Custom than to Canon; and, by consequence, how nearly the Church is concerned, for the Security of her just Rights, to be able to Support all her Claims by the Testimonies of Practice. These are principally lodged in the publick Registers of Episcopal Sees; which contain an Account of all Matters that relate to the conferring of Orders, and to the Exercise of Discipin and Jurisdiction, by the Successive Archbishops and Bishops. But I may venture to say, that the Records of the See of Canterbury afford fuller Information upon most Heads, not only than the Records of any other See, but more, than the Records of all the other Sees put together; as containing the whole Exercise of Metropolitcal, as well as Ordinary Jurisdiction, through a long Series and Succession of Archbishops: Not to mention a vast Variety of other Matters relating to the Government of the Church, which I doubt will be sought for in vain, in the Records of any private See. All these, I have examined from Beginning to End, to satisfy my self (among other Things) what degrees of Light, or Support, our Ecclesiastical Constitution might receive from them: And I hope it will appear, that the frequent Appeals I have made to them, in the Commentary, in the Rules of Canon and Common Law, and in the Appendix, are not unserviceable to those good Ends.

---Practice of the Church of England, from Records.



---Body of the  
Canon Law.

*The Helps which I have fetched from the Body of the Canon Law, and the transferring from thence many entire Laws into the Commentary, are briefly accounted for by this plain Truth, That many Branches of our Statute as well as Canon Law, having been originally taken from that Body, are not to be clearly and rightly interpreted or understood, but by reference to it.*

---Ancient Councils, and Synods.

*The Citations out of ancient and modern Councils and Synods, which have been held at home and abroad (as they are annexed here, by way of Commentary, to our present Laws) are designed to show on one Hand, that tho' many of the Laws are Modern, the Constitution is Ancient; and, on the other hand, to facilitate the Improvement of this Constitution, by suggesting such useful Rules of Order and Disciplin, as have been established abroad, or attempted at home. With which last View it is, that many of the Passages out of the Body of Ecclesiastical Laws; Entitled, Reformatio Legum, &c. are grafted into this Commentary; as Candidates for a place in our Constitution; in case the CONVOCATION shall think them deserving; or, at least, as not unworthy the Consideration of that Learned and Venerable Assembly.*

8. Rules of  
Common and Canon Law.

*The RULES OF COMMON AND CANON LAW, are founded, not only upon the Judgments and Opinions of the Professors of both Laws, but also upon the Practice of our own Church, and upon the Body of the Ancient Canon Law. For, in digesting the Reports of Judgments which have been given by the Temporal Courts in Ecclesiastical Matters, it quickly appeared, that many of the Heads could not be properly apply'd by way of Commentary; as bearing no direct Relation to any Statute, but subsisting wholly upon the foot of Common Law. And because the mixing them with the Statute Law would have caused Confusion, and the omitting them wholly would have been a great Defect; I thought it most for the Ease and Advantage of the Clergy, to digest them into plain Rules of Common Law, and to Subjoin them, by way of Supplement, to the Chapters of Statute and Canon Law, to which they respectively belonged.*

*But it is to be remembred, that as oft as any Cause of a Spiritual nature comes before the Temporal Courts, this is merely accidental, viz. when Prohibition or Consultation happen to be pray'd to the Spiritual Judge. And therefore, as the Reasonings upon Ecclesiastical Matters, when they chance to come before the Temporal Courts, must (in the nature of the thing) proceed chiefly upon Ecclesiastical Rules, if they will speak pertinently to the point in hand; so the Common Law of the Church of England, and the Knowledge thereof, must needs remain very lame and imperfect, unless it be supported, explained, and improved, from Authentick Rules and Proceedings of the same Church; such especially, as are founded upon the Authorities of Lyndwood and John de Athon (our English Canonists) and such as are demonstrated to be Common Law, by the undoubted Records of our own Church. And even these two, when*



when added to the Judgments and Declarations of the Temporal Courts, will be found in many Cases a defective Rule; unless (where they are wholly silent or obscure) we take in the light that may be had from the Body of the Canon Law; which, till the time of the Reformation, remained a Rule to the Church of England; and, being received by long Practice, remains so still, as to such parts of it, as are not inconsistent with the Laws of the Land. Upon that Foundation, and under this Restraint, it passes current in the Proceedings of the Spiritual Courts; and much more may it be admitted, as such, into a Work of this nature, where it is mixed with the Statutes of the Realm, and the Laws and Practice of our own National Church; and therefore gives a double Security, not to break in upon the Laws of the Land; or, if it does, is placed in such a Light, that it cannot remain long in Disguise, but must be easily discovered by those infallible Tests that attend it.

These then are the Stores, which have furnished the Rules of Common and Canon Law, (as they are mixed in this Work with the Written Laws of the Church;) together with the Grounds or Authorities, by which these Rules are supported and proved. And I need not add (what is obvious at first Sight) how much more the digesting of them into Rules, and the Supporting each Rule by distinct Authorities, tends to the Ease and Information of the Clergy, than that confused and tumultuary way, in which these Subjects have too often had the misfortune to be treated.

The APPENDIX consists of Authentick Records, ancient and modern; relating chiefly to the conferring of Orders, the granting of Institution, and the Exercise of Jurisdiction: And they are not offered in this Work as Precedents for Registers or other Practitioners in the Offices of the Law (tho' those of them that are more modern, and since the time of the Reformation, may be safely applied in that way) but they are inserted here, as Lights, to lead us to a more clear and accurate View of Law and Practice; as Evidences, to Support the Rights and Liberties of the Church; and as Patterns, for the Improvement of Disciplin and Order: There being no better Key to a just and determinate Notion of these matters, than the Language of Original Instruments; no firmer Evidences of Rights and Claims, than the Authority of undoubted Records; no surer way to Reform wisely, and to render Reformations of all kinds unexceptionable and moffensive, than the Restoring of Ancient Disciplin (which has been lost by Disuse) where it appears to be for the Benefit of the Church; and the showing that the Constitution undergoes no Alterations, but such only as are real Defects, or such as the Change of Times, and other Circumstances, evidently require; and that, notwithstanding these, the Ancient Foundations are Religiously preserved, and remain as firm and immoveable as ever.

9. Appendix.



10. Index.

*The INDEX, tho' at first sight it may seem a needless Addition, since the Book it self is a Reduction of matters to their proper Heads, and every Branch thereof is made still more obvious to the Eye, by an Abridgment annexed to each Clause; yet is it by no means to be accounted an unnecessary part of this Work. For however single Sections, when of a different nature from the Body of the Law, may (by Separation, or Repetition) be reduced to their proper Heads; single Expressions cannot: which yet in many cases are turned-to and examined with good effect, in our Enquiries on any point to which they relate. And as to the matters which are reduced to the Heads they belong to, and actually placed under them; the Index shows these in a yet quicker, because narrower, View; and by bringing together all points of the same sort, as Powers, Penalties, and the like (which was not possible to be done, in drawing down a Succession of Statutes, Constitutions, and Canons at length,) it gives us, at once, the whole strength and compass of the Law in every point, and immediately shows how that strength grew, and what are the several Foundations on which it subsists.*

*TO this Account of the present Undertaking, and the several parts or branches of it; I have nothing to add, but only to intreat the Candor of the Clergy, and of all others into whose hands it shall happen to come: Hoping, that the evident Usefulness of the Design, with the Length and Variety of the Work, will atone for all Failings in the Performance.*

An



## An Introductory Discourse, concerning the *Present State* of the POWER, DISCIPLIN, and LAWS, of the Church of *England*.



THE Power which is vested in the Bishops, for the due Administration of Government and Disciplin in the Church of *England*, appears by the Form of Consecration to have a twofold Original, From the *Word of God*, and from the *Laws of the Land*. This is evidently *supposed* in one of the Questions, which that Form requires every Bishop to Answer, before the Imposition of Hands.

Power of  
the Bishops,  
for the Ad-  
ministration  
of Govern-  
ment and  
Disciplin.

*The Archbishop.*

Will you maintain and set forward, as much as shall lie in you, Quietness, Love, and Peace, among all Men; and such as be unquiet, disobedient, and criminous, within your Diocese, correct and punish, according to such AUTHORITY as you have BY GOD'S WORD, and as to you shall be committed by the ORDINANCE OF THIS REALM?

*Answer.*

I will so do, by the help of God.

This plain Recognition of the Right which the Bishops of the Church of *England* have, to Exercise Disciplin upon the foot of *Divine*, as well as Human, Authority, was in the First Book of *Edward* the Sixth, and hath ever since continued part of the Form of Consecration, and, by consequence, hath been confirmed by Parliament, four several Times; *viz.* by the Act of *Edward* the Sixth, and in Three several Acts of Uniformity, whereby the Forms of Consecration and Ordination have been confirmed, together with the Book of *Common Prayer*.

If there were any need to support this plain Distinction in a *legal* sense ( for in that sense only I am now considering it, against those who contend, that the supposing a Jurisdiction in the Church by *Divine Right*, is inconsistent with the Principles of the *Reformation* ; ) such support might be had from those very Authorities which have been so often alledged, to prove the *Jurisdiction* of our Bishops *meerly human*. For ( not to mention the Language of the *Commissions* which the Bishops took out for the Exercise of Jurisdiction, *viz.* *Ultra ea, qua Tibi ex Sacris Literis divinitus commissa esse dignoscuntur*, because this may be construed of the Article of *Orders* only ; ) the *Repeal* of the Act whereby Bishops were obliged to set the King's Arms in their Seals, and Issue Procces in the King's Name, and afterwards a Solemn *Declaration* that such Commission was *needless* ; do plainly carry in them an *Acknowledgment* of a Power annexed to the Office by *Divine Right* : supposing what is alledged by the Enemies of that Power, to be true, *viz.* That the forbidding of Procces in their own Names, and under their own Seals, was designed to exclude and discourage that Claim. And tho' the Act it self was not *expressly* repealed before the Reign of Queen *Mary* ; it had ( as we have seen ) been *virtually* repealed with regard to that *Implication*, by the forementioned Description and Recognition of Episcopal Power, in the Form of Consecrating ; which Form was twice confirmed in the very same Reign, that the Act concerning the Seals of the Bishops was made ; and not only so, but both those Confirmations were *subsequent* to that Act.

When therefore the Laws relating to the Royal Supremacy, which were made in the Reigns of *Henry* the Eighth, *Edward* the Sixth, and Queen *Elizabeth*, say, That all Ecclesiastical Authority is *in the Crown*, and *derived from thence*, or use any Expressions of the like Import ; it is to be remembered, that the *principal Intent* of all such Laws and Expressions, was to exclude the usurped Power of the *Pope*, and that they must be interpreted consistently with that *other Authority*, which our Constitution acknowledges to belong to every Bishop by *the Word of God*. And it is by way of Distinction from this, that Judge *Hales* ( speaking of the *Legal Power* of Bishops ) call'd it Jurisdiction *in Foro Exteriori* ; which is confessed on all hands to be *derived* from the Crown, *viz.* the *External Exercise* and Administration



tion of Justice and Disciplin, in such Courts, and in such ways and methods, as are by Law or Custom Established in this Realm. And after all the streſs that has been laid upon the forementioned Statute of *Edward the Sixth*, in order to prove the Church to be a *meer Creature* of the State; whoever attends to the language and tenor of that Statute, will find it highly probable that no more was *originally intended* by it, than what Judge *Hales* meant by Jurisdiction *in Foro Exteriori*. There, the Grievance recited is, *That the Bishops did use* (to do what? not to plead that they had a general Authority from *the Word of God*, to exercise Disciplin in the Church, but) *to make and send out their Summons, Citations, and other Proceſs, in their own Names*. And, because all Courts Ecclesiastical be kept by no other Power or Authority, either Foreign or within the Realm, but by the Authority of His most Excellent Majesty, Therefore it is Enacted, That all Summons, Citations, or other Proceſs Ecclesiastical, shall be made in the King's Name. All this is *foriſick* Language; as is also the Seal of Office, and the Seal of Jurisdiction, in the next Clause; in which Seal the Arms of the King were to be ingraven, that it might appear in the Course of every Proceſs, that they *held not their Courts* (as the People had been accustomed to *think they did*) by Virtue of a Foreign or Papal Power. But, the Act having been *abrogated* in the Reign of Queen *Mary*, there was no occasion to revive it under Queen *Elizabeth*, after the Supremacy was fully established, and the Popish Bishops were deprived, and no *thought or suspicion* remained, of *English* Prelates holding their Courts by Authority from *Rome*.

Pag. 967.

But we need not have recourse to Arguments, the force of which depends upon *Implication*, and *Construction*: since (as we have seen) the very Office of Consecration, so often confirmed by Parliament, warrants every Bishop, in the clearest and fullest terms, to claim Authority *by the Word of God*, for the correcting and punishing of such as be *unquiet, disobedient and criminous* (*i. e.* for the exercise of all manner of *Spiritual Disciplin*,) within his Diocese. And as to other matters, which, tho' not of a spiritual nature, have been thought by Princes most properly cognizable by spiritual Authority (such are, *Causes Matrimonial, Causes Testamentary*, and the like;) in these, the Church, as such, is not at all concerned; nor is any one so unreasonable, as to set the Right of Cognifance in these cases, on any bottom, but the Concessions of Princes, enforced by the Authority of Law and Custom.

Having cleared the *Divine Right* of the Church to the Exercise of Spiritual Disciplin; and acknowledged, that the *External Administration* of that, and of all Ecclesiastical Matters, in Establish'd Courts, and Establish'd Forms, is by Authority from the *Crown* and in Subordination to the *Royal Supremacy*; and so, taken off the Reproach, on one hand, of the Church being a *meer Creature* of the State, and on the other hand, of her affecting an *Independence*: We will now proceed to consider the Administration of Ecclesiastical Matters (under the Prince, as Supreme Head of the Church,) as it stands distinguished, by the Law and Constitution of *England*, from the Administration of Temporal Matters (under the same Prince, as Supreme and Sovereign in the State.) And how these two Administrations flow from the same Fountain, and each is designed by the Constitution for its own proper Ends, and limited to its own proper Chancel; these things cannot be described better, than in the words of a known Statute, made in the Twenty fourth Year of King *Henry the Eighth*, and commonly called, the *Statute of Appeals*.

Pag. 96.

Where by divers sundry old, authentick Histories, and Chronicles, it is manifestly declared and expressed, that this Realm of England is an Empire, and so hath been accepted in the World, governed by one supreme Head and King, having the Dignity and Royal Estate of the Imperial Crown of the same: Unto whom a Body Politick, compact of all sorts and degrees of people, divided in terms and by names of Spirituality and Temporality, been bounden and oven to bear next to God, a natural and humble obedience: He being also institute and furnished, by the goodness and sufferance of Almighty God, with plenary, whole, and entire power, preeminence, authority, prerogative and jurisdiction, to render and yield Justice, and final determination to all manner of folk resiants, or subjects within this his Realm, in all causes, matters, debates, and contentions, happening to occur, insurge, or begin within the limits thereof, without restraint, or provocation to any forain Princes, or Potentates of the World; The body spiritual whereof having power, when any cause of the Law divine happened to come in question, or of spiritual learning, that it was declared, interpreted and shewed by that part of the said Body Politick, called the Spirituality, now being usually called the English Church, which

always

The distinct Administration of Spiritual and Temporal Power, under the Prince, as Supreme and Sovereign.



always hath been reputed, and also found of that sort, that both for knowledge, integrity and sufficiency of number, it hath been always thought, and is also at this hour sufficient and meet of it self, without the intermedling of any exterior person or persons, to declare and determine all such doubts, and to administer all such offices and duties, as to their rooms spiritual doth appertain. For the due administration whereof, and to keep them from corruption, and sinister affection, the Kings most Noble Progenitors, and the Antecessors of the Nobles of this Realm, have sufficiently endowed the said Church, both with Honour and Possessions. And the Law Temporal, for trial of property of Lands and Goods, and for the conservation of the People of this Realm in Unity and Peace, without Rapine or Spoil, was and yet is administered, adjudged, and executed by sundry Judges, and Ministers of the other part of the said Body Politick, called the Temporality: And both their Authorities and Jurisdictions do conjoin together in the due administration of Justice, the one to help the other.

Here we see the respective Business committed by our Constitution to the *Spiritual*, and the *Temporal* Courts, distinctly laid out; with a Declaration, that it is the Duty of each, to *help* (and not to *destroy*) *the other*. And, that it is of the utmost Importance to the Peace and Happiness of the whole Community, that both these keep themselves *within their own proper bounds*; we need no better Authority, than that Excellent Remark of my Lord Coke, with reference to this very Statute: *Certain it is* (says he) *that this Kingdom hath been best governed, and Peace and Quiet preserved, when both Parties, that is, when the Justices of the Temporal Courts, and the Ecclesiastical Judges, have kept themselves within their proper Jurisdiction, without encroaching or usurping upon one another.*

Upon the forementioned Clause of the Statute 24 H. 8. and what is said by my Lord Coke with reference to it; I will take the liberty to make such Observations, as seem plainly and naturally to *result* from thence: leaving the Professors of the Common Law (who usually make *Reason*, and their own *Rules*, but two names for the same thing) to call them *Speculations*, or what else they please.

I. The Authority of Spiritual Courts, and of the Temporal Courts of Law, flowing equally from the Crown (according to the description of that Act;) and it being of so great Importance to the good of the Community, that each be kept within its own proper bounds; it seems by no means agreeable to that equality of Original and Descent, nor a way in any degree likely to attain that important end, that the one should be set as a *Judge* over the other, and prescribe bounds to it, and take *to it self* the cognisance of whatever matters *it self* shall please. I shall not say, how well the Bounds in the present Case are preserved upon that foot; but certainly it would not be thought a good Expedient for preserving Bounds of any *other* kind, to empower one to *judge for both* (*i. e.* to empower him to *encroach* upon his neighbour, and *enlarge* his own Bounds, at pleasure,) as oft as any Controversie should arise. This was one of the Complaints made by Archbishop Bancroft and the Civilians before King James the First, against the granting of Prohibitions by the Courts of King's Bench and Common Pleas; *We are perswaded* (say they) *that all such kinds of Prohibitions, being Original Writs, ought only to issue out of the Chancery, and neither out of the King's Bench nor Common Pleas. And that this hath been the ancient Practice in that behalf, appeareth by some Statutes of the Realm, and sundry Judgments at the Common Law: To which, the Answer of the Judges, was, A strange presumption in the Ecclesiastical Judges, to require, that the King's Courts should not do that, which by Law they ought to do, and always have done, and which by Oath they are bound to do! And if this shall be holden inconvenient, and they can, in discharge of us, obtain some Act of Parliament, to take it from all other Courts than the Chancery, they shall do unto us a great Ease.* If then there is an apparent *Equity*, in appointing some *common Umpire*, who may judge between the Ecclesiastical Courts and the Courts of Common Law, as oft as Controversies arise about their respective Bounds; if this also is the most likely method for attaining an end of so great Advantage to the Community, as is the preserving the two Jurisdictions within their proper bounds; and, lastly, if the two Courts of King's Bench and Common Pleas have so frankly declared, that the frequent applying for Prohibitions there, is a *burden* to them: It seems (upon all these Considerations) to be great pity, that they do not discharge *themselves* of that Burden, if what the Civilians alledged be true, that the Work belongs properly to another hand; or, that a discharge is not obtained of the *Temporal* Legislature, in case it be more true what the Judges alledged, that it is a Burden which the Constitution has laid upon them.

Inferences, from the said Clause in the Statute of Appeals,

I. With regard to Prohibitions.



I cannot dismiss this Head, without one Observation more, upon their *appropriating* to themselves the Style and Title of the *King's Courts*: As oft as we assert a Right of Jurisdiction in the Church, upon a *Spiritual* foot; we are roundly told, both by Common Lawyers and Free-Thinkers, That our Laws are the *King's Laws*, and the Ordinaries, the *King's Judges*: and if so, it should seem to be no Crime, to say, That the Ecclesiastical Courts are the *King's Courts*. But this last Title carrying in it a *Power* and *Preeminence* over other *Inferior* Courts, and that being *extended* by the Common Lawyers to a *Preeminence* over the *Spiritual Courts* also; these are not allowed to touch it: and yet it may be very hard to account (I mean upon the Foundation of *Common Reason*) how they who think it so evident, That the Ecclesiastical Laws are the *King's Laws*, and the Ecclesiastical Judges the *King's Judges*; should think it no less evident, That the Ecclesiastical Courts are *not* the *King's Courts*.

II. With regard to Temporal matter *incident* to Spiritual Causes.

II. From the Distribution made by the forecited Act, of the Business which properly belongs to each Court, and the Declaration there, That *the one ought to help the other*; it seems naturally to follow, not only that they are equally obliged to confine themselves to the Causes respectively assigned to them, but also that if matter of a Temporal nature is *incident* to a Spiritual Cause, or matter of a Spiritual nature is *incident* to a Temporal Cause, each Jurisdiction ought to afford equal degrees and measures of Assistance to the other. And this is not to be done, but in one of those two ways; either by a mutual Agreement, That each Court hath a right to *transmit* to the other such Incident Point, to be judged there, and then returned, that to the Court which needs the Assistance may be able to proceed; or, that such *incident* matter (as partaking of the nature of the *Principal*) is triable by the Court which has the proper cognisance of the *Principal*. According to the first of these Rules, the Temporal Courts write to the Spiritual, to try the particular points of *Matrimony*, *Bastardy*, &c. when they are *incident* to Causes of Inheritance, or the like: and as the Spiritual Courts obey, and judge that point, and make Return of the Judgment, without intermeddling further; so, upon that Return, the Temporal Courts proceed, and make use of it according to the Influence it has upon the *Principal* Point, and then give a *final Judgment* of their own. But the misfortune is, that this Assistance is not mutual; *i. e.* the Spiritual Courts have no such relief from the Temporal: but, instead of being allowed to write to the Temporal Courts, and entitled to a helping hand on such Occasions; the Incident point is *separated* from the *Principal*, and wrested out of their Hands, and oft times draws the *Principal* along with it. And as to the Second Rule, *viz.* the Trial of the *Incident* Matter, by that Court which hath the proper cognisance of the *Principal*; this hath not only a plain Maxim on its side (*Cognitio Accessarii in Causâ Christianitatis non impediatur, ubi Cognitio Causæ Principalis ad Forum Ecclesiasticum noscitur pertinere;*) but the very *denial* of a right in the Spiritual Court to *write* to the Temporal on such occasions, evidently infers a right to Try all *incident* points by their own Rules; Because, otherwise, they are left without Remedy, and their Proceedings are unavoidably at a stand: and therefore, to cut off *both* these Remedies, is to cut off that help, to which the said Statute supposes them *entitled* by the English Constitution. And it was probably upon these considerations, added to the force of the general maxim, that heretofore several eminent Professors of the Law have thought it unreasonable to deny the Spiritual Court the benefit of Trying *Prescriptions* and *Customs*, when *Incident* to Spiritual Matters. But of later days, when that Right hath been contended for, we find it absolutely denied; and instead of considering the perpetual difficulties to which the denial of it subjects the Spiritual Courts and the Clergy, Enlargements are made by the Books of Common Law upon the great Excellency of *Trial by Juries*. I shall not here enter into that point; but, taking it for granted, that *in it self* it is a very good way, nay the very *best* way of *Trial*, it may not, *in the present method*, be equally so in all Cases. To explain my meaning, I will only Suppose, that the way of trying Fact in the Spiritual Court, were by Jury, as it is in the Temporal; and that the Case depending was between a Clergyman on the one part, and a Layman on the other; I need not scruple to affirm, That the Layman would account it the greatest hardship in the world, to have his Right tried by twelve Clergymen: and yet the Consciences of the Clergy (to speak at the lowest) may be presumed as *tender* to the full, as the Consciences of *Lay-Jurors*.

12 Rep. p. 65.

Vid. Tit. 46.

III. with regard to the Right of *Interpreting* Statutes which concern Ecclesiastical Matters.

III. What the forementioned Act saith, concerning Causes of Spiritual Learning, as best *interpreted* by the Spirituality, seems naturally to infer a Right in the Spiritual Judge to interpret all Statutes relating to Spiritual Matters. As to the *making* of Laws concerning Religion, by the Temporality in Parliament; that is a point not to be touched, for many Reasons: but I hope it will be no offence to mention, what has heretofore passed between the Court and the House of

Commons



Commons upon that Head; especially, since it hath been already published by an Eminent Member of that House. *May 22. 1572. 14 Eliz.* it is signified by the Speaker, That *Her Majesties pleasure is, that from henceforth no Bills concerning Religion shall be perferred or received into this House, unless the same should be first considered and liked by the Clergy.* And in the Year 1575. 18 *Eliz.* when the same House petitioned the Queen concerning Reformation of *Disciplin* in the Church, in order to proceed in a *Parliamentary* way; Her Majesties Answer was, That She had already had Conference with some of the Bishops about it, and had given them in charge to see due Reformation; and that if they should neglect or omit their Duties, Her Majesty, by Her Supreme Power and Authority over the Church of England, would speedily see such good redress therein, as might satisfy the expectation of Her loving Subjects. But this by the way. Our present point, as grounded upon the forementioned Act, is the Interpretation of Statutes when made. For, tho' the Rule laid down by my Lord Coke as a Maxim of Law, (That when in any case Remedy is given *in foro seculari* by a Statute-Law, the Jurisdiction of the Spiritual Court ceases, unless it be specially saved) tho' (I say) this is given-up by my Lord Coke himself, when he owns, That such Jurisdiction remains as before, unless there are plain *negative* words to take it away; yet the *common* Doctrin of the Books, is, that the Interpretation of all Statutes, be the matter Temporal or Spiritual, equally belongs to the Temporal Courts, exclusive of the Spiritual. Contrary to which, my Lord Vaughan said, in the Case of Hill and Good, That tho' it had been enacted, That all Marriages should be lawful, not prohibited by the Levitical Law, yet the Church had retained the judging, which were against the Levitical Law? And again, Tho' such Acts of Parliament had been, yet they had given no new Jurisdiction or Cognizance in Matrimonial matters to the Temporal Courts, but had been only directory to the Courts which had the cognizance; and if any Judgment had been given amiss in them, it was to be rectified by Appeal, according to those Statutes, or by Commissions of Delegacy. And, long before that, the Civilians, in a Cause which was founded upon the Statute of Citations, had contended that the Exposition of that Statute, as being Ecclesiastical, appertained to them; and, in the great Contest between them and the Common Law Judges, before King James the First, they thought it material to urge (agreeably to the Language and Reason of the Statute of Appeals) That the Common Lawyers, by their Profession, were not acquainted with that sort of Learning. To which, a short and decisive Answer was made by the Judges, That the expounding of Statutes, that concern the Ecclesiastical Government or Proceedings, belongeth unto them. And, considering how difficult it is, in Ecclesiastical Proceedings upon any head, to stand clear of Statutes upon the same head; it is evident (on supposition of this Right in the Temporal Courts to Interpret) that every new Statute becomes a new handle for Prohibitions; and that the danger of interfering, or seeming to interfere, with the Statutes, and, by consequence, of being perpetually Interrupted in their Proceedings, must oftentimes discourage the Spiritual Judges from proceeding at all.

IV. The said limitation which the Statute makes, of Spiritual Causes to Spiritual Persons, together with the Ground of that Limitation, *viz.* their Knowledge and Experience in Spiritual Matters; seems, in reason, to be as applicable to the Court commonly called the Court of Delegates, as to the Inferior Courts. It will not be denied, that the last Resort of all Ecclesiastical Causes (which by the 24 *Hen. 8.* is to the Archbishops,) was by 25 *Hen. 8. c. 19.* given to the King upon the single consideration of his being *Supreme Head of the Church*; the Recognition of which, in a general Oath to be taken by his Subjects, was enacted by that very Parliament. It is also plain, that the matters carried from the Spiritual Judges into that Court, are not only of an Ecclesiastical Nature (having first passed through the Ecclesiastical Courts, as such,) but are more *merely* and undeniably so, than any others; being purged from all Temporal Matter, before they arrive there, by Prohibitions pray'd on one side or the other, upon any the least pretence or colour of such mixtures. Add to this, that as the first Statute of Appeals 24 *H. 8.* expressly limits the cognizance of Spiritual Matters to Spiritual Persons; so this second Statute, which entitles the King to the ultimate Cognizance by Commission, doth not limit him to any other persons, but leaves him wholly to his own Choice. But tho' at the Reformation, when the Bishops and Clergy were generally suspected of a secret affection to the Papal Authority, it might be advisable to leave the King a Power of appointing Commissioners out of the *Temporality*, if he pleased (however contrary to the *natural reason* of the thing, and the general tenor of our Constitution, as laid out in the Statute of Appeals;) yet, in fact, † there are no footsteps of any of the Nobility, or Common-Law Judges, in Commission, till the year 1604. (*i. e.* for 70 years after the Erecting of the Court;) nor from 1604. are they found in above one Commission in forty, till the year 1639; from whence (*i. e.* from the

IV. With regard to the Court of Delegates.

D<sup>r</sup> Ewes Journal, p. 213.

Ibid. p. 257.

1 Inst. 96. b.

5 Inst. Cavdrie's Case.

Vaugh. p. 304.

2 Brownl. p. 2.

2 Inst. p. 614.

Pag. 26.

† Reg. Offic. Cur' Delegat.



downfall of Bishops, and their Jurisdiction, which ensued ) we may date the present *Rule* of Mixtures in that Court.

I shall add no more upon this head, but that in the Reign of *Edward* the Sixth, the method for Trial of all Causes which should come by Appeal from the Courts of the Archbishops, was fixed in the following manner: *Quò cum fuerit Causa devoluta (i.e. to the King) eam vel Concilio Provinciali desiniri volumus, si gravis sit causa, vel à tribus quatuorve Episcopis à nobis ad id constituendis.*

Ref. Leg. p. 142.

V. With regard to the Prudential Administration of the Church.

V. To these Corollaries or Conclusions, which are founded on the Statute of Appeals, and which relate to the *Judicial* Administration of Spiritual matters, as properly belonging to the Spirituality, in Subordination to the King as Supreme Head; I will add one more, which (tho' not Judicial) seems naturally to arise from that *Knowledge, Sufficiency, and Integrity* of the Body Spiritual, mentioned in the said Statute, *viz.* That, as in matters *Judicial*, so also in matters *Prudential*, they are the most proper *Assistants* to the Prince, in the Administration of all affairs, which concern Spiritual Persons and Spiritual Things. And the Observation of my Lord *Coke* (That this Kingdom hath been best governed, when the Temporality and Spirituality have kept within their respective *Bounds*, as to *Judicial* Administration) holds equally with regard to Administration of *other* kinds; that is, all work, of what kind soever, is most like to prosper in such hands, as *understand* it best, and have it most *at heart*. A Suggestion, which is not made here, with regard to the State of things at any *particular time* (for, to speak truth, there are few times, wherein the Church has not been a sufferer in this way,) but upon a presumption, which is too well grounded both in reason and experience, that when Ecclesiastical affairs are under the disposition and influence of *Temporal Ministers*, they will be always managed in Subservience to *Temporal Ends*, far more than to the Ends of *Religion*, and the real Benefit of *God's Church*.

4 Inst. p. 321.

Ecclesiastical Power, as Delegated to others,

Hitherto, we have considered the *General Authority* of the Church, for the Administration of Justice and Disciplin, as it is recognised by our Constitution to be in the Bishops (as *Governors* thereof) according to *Gods word, and the Ordinance of this Realm*; and more particularly, as it stands distinguished from the *Temporal Authority*, in point of Administration. But because the Bishops (to whose Office that Power is annexed, and who on that account have what we call the *Ordinary Jurisdiction*, which we have been hitherto speaking of,) are not only *assisted* by others in the Exercise and Administration of it, but also have *entitled* others to the honour and privilege of being their Assistants; We must consider it now in another View, *i. e.* as it is a *Delegated Power*. Under which appellation (in a larger sense) may be comprehended the Jurisdiction of *Archdeacons*, who exercise such branches of Episcopal Power (in Subordination to the Bishops) as have been anciently assigned to them; especially, the holding of *Visitations*: and of *Deans, Deans and Chapters, and Prebendaries*, who (to the great blemish of our Reformed Church) exercise Episcopal Jurisdiction of all kinds, *Independent* from the Bishops; tho' no Jurisdiction at all could accrue to them, otherwise than by *Grant* from the Bishops, or by the Arbitrary and overruling Power of the *Popes*.

But both these, however originally *Delegated*, have long obtained the Stile of *Ordinary Jurisdiction*; as belonging, of course and without any express Commission, to the several *Offices* before mentioned. And therefore the Power which we properly call *Delegated* (and which we are now to consider, as *beneficial* or *hurtful* to Ordinary Jurisdiction and the Disciplin of the Church;) is the Power of *Chancellors, Commissaries, and Officials*, which they exercise by *express Commission* from the respective Ordinaries, to whose Stations or Offices such Powers are annexed. For, as in all other Administrations, so particularly in this of Spiritual Disciplin, the effect mainly depends upon the Zeal and Integrity of the hands by which it is administered; That it be *personally* attended (as much as may be, and as to the *main parts* of it) by them, whose *immediate* Care and Concern it is; and, as to the rest, That the same Persons have full power to *transfer* the remainder of the Work, to such hands, and in such measures, as they shall judge to be most conducive to the main end.

—by the choice of the Bishops.

It hath been reckoned one Branch of *Metropolitcal Power*, to oblige every Provincial Bishop to *appoint a Chancellor*, and, in case he refuse, to appoint one for him. But whatsoever may be delivered by foreign Canonists, and such who might probably be *Candidates* for those Offices; I believe, it will be hard to show, that any thing of that kind was ever done or attempted in *England*; and by consequence, that there is any *legal Restraint* upon Bishops, from exercising their *whole Jurisdiction* in person, if they please. The only instance I have ever met with, which looks that way, is Archbishop *Arundel's* Appointment of a *Vicar General* in

Registr. Arund. Vol. I. f. 134. b.

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the Diocese of *Bangor*; but the occasion of that, was the Bishop's leaving his Diocese, and going into Foreign parts, without appointing a *Vicar General* to take care of it; as by the Laws of the Church he was bound to do: In which case, the Care devolved of course to the Archbishop, as if the See had been actually void.

However, we will suppose, that every Bishop is *obliged* by Law to appoint an Ecclesiastical Judge under him: This being granted, is far enough from inferring, that he is obliged to convey Powers in the Commission, to that *Extent* and *Latitude*, wherein of late times they have been usually conveyed. For in *fact*, there are two Offices united in those whom we now † commonly call *Chancellors* of Bishops; which Offices the *Law* hath carefully distinguished, *viz.* that of *Official*, and *Vicar General*: And what the proper work of the first is, we learn from the express letter of the Canon Law, *In Officium Episcopi, per Commissionem Officii generaliter factam, Causarum Cognitio transfertur*; which is there spoken exclusively of all other business, besides the hearing of Causes: And elsewhere, *Qui generaliter de Causis ad Episcoporum forum pertinentibus, eorum vices supplendo, cognoscunt*. And, to the same purpose, our own *Lyndwood*, *Officialis sumitur pro eo, cui Causarum Cognitio generaliter per Episcopum, tanquam Officiali, commissa est*; And, in the same place, *Horum Officium maxime consistit in Causarum cognitione, quae per Commissionem eis etiam generaliter factam in eos virtute ipsius Officii transfunditur*. And *John de Athon*, speaking of the differences between this Office, and that of *Vicar General*, saith, *In Officium est transfusa cognitio Causarum totius Diocesis generaliter; non autem Inquisitio, Correctio, Punitio Excessuum, seu Amotio à Beneficio, nec etiam Collatio Beneficiorum; nisi aliis ista specialiter sibi essent commissa: Vicarius tamen Generalis Episcopi hac omnia facere potest, exceptis Beneficiorum Collationibus*. This is also transcribed by *Lyndwood*, almost word for word: and the *Doctrin* was taken by both, from the Body of the Canon Law; where (the *Extent* of the Power of an *Official* being the point in hand,) the Decision is, that as such, he shall have *Cognitionem Causarum*: but then it follows, *Potestatem tamen Inquirendi, Corrigendi, aut Puniendi aliquorum Excessus, seu aliquos à suis Beneficiis, Officiis, vel Administrationibus amovendi, transferri nolumus in eundem, nisi sibi specialiter hac committantur*. So, here in *England*, it is well known, that anciently the Bishop sat in the same Court with the *Sheriff*, to hear and determine such Causes as belonged to Ecclesiastical cognisance; but even then, tho' the Bishop himself was personally present, the Correction of manners, and Punishment of Vice, was not transacted there, but in *Visitations*, *Synods*, and *Rural Chapters*, and (as occasion required) by Special Commissions from the Bishop to hear and determine: and all this work remained entire in him, notwithstanding the appointment of an *Official* for the hearing of Causes.

As to the *Vicar General*, he was an Officer occasionally constituted, when the Bishop was called out of the Diocese, by Foreign *Embassies*, or Attendances in *Parliament*, or other Affairs, whether publick or private; and, being the Representative of the Bishop for that time, his Commission contained in it all that Power and Jurisdiction which still rested in the Bishop notwithstanding the appointment of an *Official*; that is, the whole Administration, except the hearing of Causes in the Consistory-Court. And the Bishops before the Reformation, being frequently employed in Affairs and Offices of State, and many of those who were not so employed, being (as at all times they have been, and will be) aged and infirm; by these means the *Vicar General* came to be a fixt and standing Officer, who should be ready (without the trouble of a special Commission for every occasion) to execute the Episcopal Power, when the Bishop himself was hindered by Infirmities, Avocations, or other Impediments. And the *Officials* being usually resident within the Diocese, and at the Episcopal See, and also being persons of great worth, and (which is of principal import in the present Case) being persons in *Holy Orders*; they were frequently employed as *Vicars General* of the Bishops, on such occasions: till, by degrees, the two Powers came to be united in the same person, and mixed in the same Commission. But this mixture of the Powers did not at all alter the nature of the Powers themselves; which, tho' held by the same person, were conveyed, as well as held, under the same conditions and limitations, as before they were in their separate State: That is, whatever ground there might be, to say that the Bishop was obliged to appoint an *Official*, there was no colour or pretence for the necessity of appointing a *Vicar General*: and however the power of *Official* took place equally, whether the Bishop was present in the Diocese, or absent from it, whether he was otherwise hindered, or not; the Power of *Vicar General* only took place, when the Bishop, by Avocations or Infirmities, was disabled from executing his own Office. Under these limitations, stood the Office of *Vicar General*

Difference between the Powers of *Official* and *Vicar General*.  
--Of *Official*.

--Of *Vicar General*.

† They are not so called in the Commissions; but only *Officials*, and *Vicars General*.

6 Decretal l. 1. c. 13. c. 2.

6 Decretal l. 2. c. 15. c. Rom. m.

De sequestr. c. Frequens. v. *Officiales*.

Vide Pag. 1027.

Orho, de Inst. Vic. V. ad Vicar.

De sequestr. c. Frequens. v. *Vic. Gen.*

6 Decretal l. 1. c. 13. c. 2.

Pag. 1042.



General in its *separate* State, and under the same doth it still remain in its *united* State, *i. e.* it may be appointed, or not appointed, at the pleasure of the Bishop (who may either execute those Powers, *i. e.* do his own proper duty, in person, or may issue special Commissions, as special occasions call for them;) and, being appointed, the person is still under the direction of the Bishop, as to exerting or not exerting the Powers which belong to it. That thus it was *originally*, appears from the foregoing Account; and that thus it is still understood to be, we need no other testimony or instance, than the Powers conveyed to Vicars General for *Visiting* the Cathedral and Diocese; which (I believe) is now become a part of the Commissions of most Chancellors, as *Vicars General* to the Bishops. But they will not say, that the Bishop is disabled by this Clause from *Visiting in person*, if he pleases; or that he may not as well *Visit without* his Chancellor as *with* him; or, lastly, that the Chancellor has any right to interpose in this matter, till he is directed by the Bishop to exert the Powers contained in his Commission. I will add, that if the Bishop is hindered from *Visiting in person*, and judges the Chancellor an improper Hand by which to execute that important Branch of the Episcopal Office; it is to be hoped, that (notwithstanding such Commission) he may appoint *any other* to do it: whatever the Courts of Common Law may determin concerning Fees and Profits, after such Office is granted *for Life*, and is become (in their Language) a Freehold.

Commission,  
and Authority,  
of Chancellors.

And as these Powers, *when inserted* in the Commission of Officials, are to be understood under such *Limitations*; so may they be either not added at all, or added in such proportions, as the Bishop who is to grant them, shall think proper; reserving the rest to his own Execution, or Disposal; and this, notwithstanding the *larger extent* of any former Commissions from the same See, in these *additional* Points. We see, the Judge of Contentious Jurisdiction is debar'd from the Exercise of *Voluntary Jurisdiction*, by the Canon-Law both at home and abroad, *nisi Specialiter hac committantur*. And Bishop *Stillingsfleet*, speaking upon that Foundation, saith, "The Bishop, by appointing a Chancellor, doth not divest himself of his own *Ordinary* Power, but he may delegate some part of it by Commission to others; which goes no further than is expressed in it. For it is a very great mistake in any to think, that such who act by a *delegated* Power, can have any more Power than is given to them, where a special Commission is required for the Exercise of it. For, by the General Commission, no other Authority passes, but that of *hearing Causes*; but all Acts of *Voluntary Jurisdiction* require a Special Commission, which the Bishop may *restrain*, as he sees cause. That this is so, in point of *Law*, appears plainly from what hath been already said upon this head; and that it is likewise so, in point of *Practice*, is clear from the *Power of Institution*; which heretofore was usually inserted in the Commissions of Chancellors, but of late days hath been as usually reserved to the Bishops; either by the *silence* of the Commission as to that head (which is fully *sufficient*,) or (*in majorem cautelam*) by an *express reservation*, limiting the Extent of former Grants; which last concludes altogether as strongly, for the Bishop's Power, of *granting* or *not granting* at pleasure.

Bonds of Re-  
sign. p. 61.

Some Canonists tell us, that the Law understands the Chancellor to be an *Ordinary*, as well as the Bishop; and the reason they give for it, is, that tho' the Nomination of a Chancellor is in the Bishop, yet his Authority is derived from the Law. Be it so; I cannot think we are much concerned, to what Degrees they exalt that Title by such *figurative* ways of Speech, as would raise an Ambassador, or a Temporal Judge, to the Title of a *Prince*; so long as they apply them only to the Power which he *derives from the Law* (*viz.* the single Article of *hearing Causes* between party and party,) leaving the Bishop *sole Ordinary* in the rest; or, in other words, leaving the whole *Voluntary Jurisdiction* to be exercised in such manner, or conveyed under such Restrictions and Limitations, as he shall judge best for the Order and Disciplin of the Church.

To the same purpose of magnifying this Office, we are often put in mind of what the Canonists say further, *Facit idem Consistorium cum Episcopo*; by which no more is meant, than that he sits there to hear such causes as belong to the cognifance of the Bishop; and the occasion of that saying, was a question that arose whether an Appeal could lie from the Official to the Bishop; and it was determined in the Negative, *Ne ab eodem ad seipsum*, (*cum sit idem Auditorium utriusque*) *Appellatio interposita videatur*; as the Canon Law expresses it, in that very point. Which determination (after all) is no more, in effect, than to declare it a *Delegated* Power, and that if it were not *Delegated*, an Appeal might lie. Nor can I see, that any more is gained by the name *Consistorium*; which *Lyndwood* defines, *Locus in quo sedet Princeps ad Judicandum*; (on the contrary, it implies, that the Place and Business belong properly and originally to the *Bishop*, and to the Official or Chancellor by *Delegation* only:) But I beg leave to observe, that what is called *Consistorium*,

6 Decretal, l. 1.  
c. 4. c. 2.

6 Decretal, l. 2.  
c. 15. c.  
Romana.  
De For. Comp.  
c. Excusis  
7. Consist.

rium,



*rium*, the Canon-Law (as we have seen) explains by *Auditorium*, as limiting it to the *Auditio Causarum*, which is the proper work of an Official: And, as I said before, so long as they will keep their Claims (whether founded upon *Law*, or upon *Titles*) within that compass, the Discipline of the Church is not concerned: no not tho' the Bishop were absolutely excluded from sitting in that *Auditory*; nor (to go yet further) tho' what the Common Lawyers say be true, that the Bishop may sue for a Pension, or other Rights, before his own Chancellor. For, this and other Causes cognisable there, as *Matrimonial*, *Testamentary*, &c. however for wise reasons refer'd by Princes to the cognisance of the Church, do, in the Event, concern only *temporal* Rights; and, being a Work not fit to be attended by the Bishop in person (whether we consider the nature of it, or the multitude of other Business which properly belongs to the Episcopal Function,) it is accordingly *delegated* to other hands, with an Addition of the profitable Rights of *Licences*, *Wills*, *Administrations*, &c. which are a proper Reward and Encouragement to them, who have the trouble of hearing and determining all Causes that shall arise upon those heads; and which they enjoy, unenvied, by the special Grants and voluntary Concessions of Bishops. But all, or most of these, terminate in Rights of a *temporal* nature; and the Business we are now contending for (as remaining under the *sole Administration* of the Bishop, notwithstanding the Appointment of an *Official* or Chancellor) is that which belongs directly and immediately to the Episcopal Office, *viz.* The Government of the Clergy as to Manners and Function, The Visitation of their Diocese, The Detection of Vice, The Support of Churches and Ecclesiastical Mansions, the Care of all things which concern the publick Worship of Almighty God, and the like; together with the Right of inflicting *Spiritual Censures*, as the proper means of attaining those *Spiritual Ends*.

If it be asked, Where, and by what hand, the Bishop shall inflict Censures, in those Cases which the Law separates from the proper work of an Official; the Answer is, That he shall inflict them in the same place, and by the same hand, that he inflicts the Censures which the Laws of the Church enjoyn him to inflict upon Chancellors and other Officers of the Spiritual Courts, for neglects of their Office; *i. e.* In any place to which he shall think fit to cite the Parties, and hear the matter, either by himself, or by Commission to others: for this immediately follows from that right of *Inquisition*, *Correction*, and *Punition*, which remains as entire in the Bishop, *after* the Conveyance of the Right to hear other Causes, as it did *before*. And as to that notion, founded on the Maxim, of the Chancellor's having the *same Consistory* with the Bishop, as if the Bishop had divested himself of all Judicial Authority and Coercion, and, by construction of Law, had vested the Chancellor with the whole; it is shown already, that as none of these things are conveyed to the Chancellor or any other, by *operation of Law*, so the Maxim cannot be applied to the Execution of Episcopal Authority in things which directly and immediately belong to the Episcopal Office, as such.

What hath been said, concerning Chancellors and their Commissions, with regard to Bishops, holds equally good, not only in the Case of the *Officiales foranei* or Commissaries, but also in the case of *Officials*, with regard to *Archdeacons*; whose Power being a branch of Episcopal Authority, is *exercised* and *conveyed* by the same Rules, that the Authority of the Bishops is.

I was willing to say thus much upon this head, as for other reasons obvious enough, so particularly, to clear the Constitution of our Church from a Reproach that is often cast upon it, *viz.* the administering its Government and Discipline by the Hands of Laymen; whereas in truth, no Administration that is properly *Spiritual* can come into *any* hands whatever, otherwise than by the *voluntary Choice* and *express Act* of the Bishop himself; and therefore, with regard to the *Constitution* of our Church, the Administration of Discipline by Laymen is merely *accidental*. And the Doctrine for which the Books and Professors of Common Law are usually quoted (*viz.* that Commissions can be granted *no otherwise*, than as they have usually been,) is charged upon them unjustly, when applied to the extent of the *Powers* conveyed by the Commission; with which the Temporal Courts (to do them right) have never intermeddled: And that very point whereon the mistake is founded, is also greatly for their honour, namely the hindring a *needless* and (in many cases) *destructive multiplication* of Lives in being, and Lives in Reversion; by their declaring and adjudging, that no Commissions of any kind can be granted *otherwise*, *i. e.* with greater *Burdens* or *Restraints* upon the Successor, than have been *accustomed*: which will be more fully considered under the next head.

For, as the Bishop may bound Commissions, in Point of *Powers*, to such degrees as may render them most subservient to Religion and Discipline; so also may He bound them, with the same Views, in point of *Duration*. The Commission of Official

Commissaries and Officials of Archdeacons.

Commissions, and Patents, for one or more Lives.



for hearing of Causes, is the only one which the Bishop is pretended to be under an obligation to grant, and He (as *Official*) has less share than any other, in the *Spiritual* Administration; and yet even in this, the Rule of the Law is, *Potestas Officialium non solum per Revocationem, sed etiam per mortem Deputantis, cessat*. And the reason given for it, is, that otherwise upon the Death of the Bishop, the *Custos Spiritualium* (and the same holds good of the *Successor*) might have an unacceptable person entailed upon him, *Non convenit, ut hic in quem transfertur Jurisdictio, invitus habeat Officium, sibi forsan odiosum*. Accordingly, before the Reformation, and for some time after, we find new Commissions for *Offices* of all kinds generally granted together, after the Consecration or Translation of a new Bishop; and those Grants (usually) either *pro beneplacito nostro duratur* in express words, or without any mention of the continuance for Life or other term, and so equally *revocable* at the pleasure of the Bishop. The same (as far as I have observed) continued at least the *common* Style for some years in the Reign of Queen *Elizabeth*; and in the next Reign we find it a Question in the Case of the Prebend of *Hatcherly*, Whether any Confirmation could bind the Successor? And tho' in the Case of Doctor *Barker*, 21 *Jac.* 1. the Court were of opinion, that the Bishop had no right to take from him his Office of Commissary and Vicar General, which was granted for life; it is to be observed, that that Grant had been made by Deed from the Bishop himself, who therefore was bound by his own Act, and could not undo it at pleasure. But in the next Reign, 3 *Car.* 1. in *Sutton's* Case, it is mentioned again as a doubtful point, whether the Grant of the Predecessor (however *Confirmed*) could bind the Successor.

And it should seem, that the Grantees themselves doubted their title for Life, in the known way of *Commissions*, according to the Ecclesiastical method; and therefore for greater Security (no doubt, by advice of *Common Lawyers*) they obtained the Offices by way of *Letters Patents*, with the *Habendum*, and other Attendants on *Temporal* Grants: In which way they still continue; how *Canonically* I need not say: nor shall I add any more upon this Head, but what is well known, that the Commissions of the *Temporal Judges* expire, of course, with the Prince who granted them.

However, it is now taken for clear Law, in the Case of Bishops and other Ordinaries, that the Grant of an Office for life by the Predecessor, whether Judicial or Ministerial (if it be *Confirmed* by the Dean and Chapter) is binding to the Successor. But it is to be remembered, that this is an *Allowance*, and not a *Command*: the Law declares such Grants good, when made; but does not direct them to be made: in this, the Bishop is at his own liberty, as much as ever; no restraint therein being laid upon him, by the Laws either of Church or State.

The same Reasoning holds much more strongly, in the Case of Grants for *more Lives*, and Grants in *Reversion*. In favour of a Grant for *one life*, it may be alledged, that the Grantee, under the uncertainty of the Life of the Grantor, would have no Encouragement to Sequester himself from all other Business, and turn his thoughts wholly to the Execution of that Office; and that by the time he has attained a competent knowledge of persons and things relating to it, he may be removed; (which Inconveniencies, however, are no more, than attend the Commission of every *Temporal Judge*:) But even these cannot be pleaded, in favour of Grants for *more Lives*, and Grants in *Reversion*. 'Tis true, the *Temporal Courts* so far restrain such Grants, as to declare them void, unless warranted by Precedents before the First of *Elizabeth*, in the Case of Bishops, and the Thirteenth of *Elizabeth*, in the Case of others (in which Years the two Statutes were made, against the laying these and the like unreasonable burdens upon Successors:) they also declare them Void, unless they be granted *freely* and *without reward*; and unless the Grantee (supposing him of full age) appear to have sufficient knowledge for the work. But then, they seem to be very favourable in judging them good upon the Foundation of Precedents *subsequent* to the First of *Elizabeth*, on presumption that there *might* be Precedents before; and in warranting Grants to *Minors*, on presumption that in due time they will qualify themselves for the Offices, and till then may supply them by Deputies; not to mention the *degrees* of Proof which they require (such indeed as cannot be hoped for, if the Traffickers have common Sense) before they will find any *Corruptions* in this way.

However, the present point is not, to what degrees the Law will extend such Grants, but to what degrees the Bishop may limit them. And as on one hand, it has been questioned, whether such Grants, when made, could in any case be warranted by Law; so was it never pretended, that a Bishop in any Case is obliged to make them: and therefore it is great pity, that the *Temporal Courts* have ever been put to the trouble of confining those Ecclesiastical Grants within the utmost Bounds

Lyndw. de se-  
quest. c. Fre-  
que. v. Off.  
G.m.

Ibid.

Nov. 153.  
2 Roll 306.

Nov. 91.

Pag. 1023.

Pag. 1022.

Pag. 1023.

March, p. 33.

Pag. 1022.



of the Law ; since it is clear, that no hazard is run by the Grantors confining themselves to much narrower Bounds, and (I doubt) it is evident enough, that their taking the utmost liberty in this matter, that the Law allows, has been far from an Advantage to the Disciplin and Government of the Church: For the regular and effectual Administration of which, it is highly requisite that the Work be committed ( so far as there is need of committing it ) to faithful hands, such as fear God, and have a zeal for Religion ; and that the Ordinaries have a certain remedy in their own hands, if at any time they find themselves mistaken in their Choice. Which two ends could not be attained, but by this Power of *Limiting and Restraining Grants* ; a Power, that the Laws of the Church have given to Ordinaries, and no Law of the State has taken from them. And this being of so great importance to Religion and Disciplin, it were to be wished, that the Ecclesiastical Legislature would take this matter into consideration ; and, having maturely deliberated, what Bounds are most proper to be fixed in this matter, for the common good of the Church, would restrain all Ordinaries by Ecclesiastical Censures, from exceeding the Bounds that shall be appointed by them. Whereby, the Church would be secured against all future Inconveniencies of that kind, and the Ordinaries themselves delivered from the Importunities that they are frequently exposed to, on such occasions.

Having thus far treated of the *Power* of the Church, and the proper *Administrators* of that Power, for the great Ends of Order and Disciplin ; the next point to be spoken to, is the *Laws*, by which it is to be administred : what they are, and upon what foundation they subsist. And this will be done most distinctly, by reducing them to their proper heads, *viz.* 1. Common Law. 2. Canon Law. 3. Statute Law.

The Laws of the Church.

**I. Common Law :** Which ( saith Sir J. Davis ) is nothing else, but the Common Custom of the Realm : And ( so he adds ) a Custom which hath obtained the force of a Law, is always said to be *Jus non Scriptum*. And as the *Spirituality* is an essential part of the *English* Constitution, and of a distinct Nature and Administration from the *Temporality* ; so hath it its *Common Customs*, and *Jura non Scripta*, as well as the *Temporality*. Such are, for instance, the Divisions of Provinces, Dioceses, and Parishes, the general Jurisdiction of Bishops over their Dioceses, the particular Rights of Visiting them, the Delegation of Powers for the Exercise of Jurisdiction ; and the like ancient Rights, which were not derived from any written Laws, but ( so far as they are *Spiritual Powers* ) have the same original with the Order it self ; and ( considered as branches of the Constitution of the Church of England ) subsist upon *Ancient Custom*, and *Immemorial Practice*, and, as subsisting upon these, may be properly called the *Common Law of the Church*. “ There is “ ( said Justice Whitlock, in the case of *Evers and Owen* ) a Common Law Ecclesiastical, as well as our Common Law ; *Jus commune Ecclesiasticum*, as well as “ *Jus commune Laicum* : ” And it would be strange, if there should not ; since the whole Body is divided into *Spirituality* and *Temporality*, and Causes are distinctly assigned to the Cognisance of each, according as they are of a *Spiritual* or *Temporal* nature, and many of the Laws ( as well relating to the *Spirituality*, as the *Temporality* ) are *unwritten*, and depend upon *Immemorial Practice*. So that the making *Common Law*, one branch in the division of the Laws of the Church of England, is an immediate consequence of the division of the whole Body into *Spirituality* and *Temporality* ; and is no more, in effect, than to say, that *Immemorial Practice* relating to *Spiritual Affairs*, shall be a Law or Rule of the same force and obligation in the *Spiritual Administration*, that the like *Immemorial Practice* relating to *Temporal Affairs*, shall be in the *Temporal Administration*. Nor can any thing make this to be lookt on as a new or strange doctrine, but the way of speaking which the Books of *Common Law* have introduced, as though every thing that is in it self *Common Law*, must of necessity be under the cognisance of what they call *Common Law*. Whereas ( in the words of the Learned Bishop *Stillingsfleet* ) the *Common Law* hath not its denomination from the *Universality of its Extent*, as though all things were under its *Jurisdiction*, and all other *Methods* were but *Encroachments* upon it : But the true notion of the *Common Law* extends to all those *Customs* which have obtained the force of *Laws* ; altho' the method of proceeding be very different in them. And, I see no reason, why those *Laws* which stand upon one common bottom, as being received by *Immemorial Custom*, should not pass under the same *Denomination*.

Common Law.

**2. Canon Law :** This is another Branch of the Laws of the Church of England ; and is partly *Foreign*, and partly *Domestick*.

Canon Law,

The

Pref. to Reports.

Godb. p. 432.

Ecl. Caf. Part II. p. 10.

ibid.



—Foreign.

The *Foreign*, is what we commonly call the *Body of Canon Law*, consisting of the Canons of Councils, Decrees of Popes, and the like; which obtained in *England*, by virtue of their own Authority (in like manner as they did in other parts of the *Western Church*) till the time of the Reformation; and from that time have continued upon the foot of *Consent, Usage, and Custom*. For which distinction, we have no less warrant than an Act of Parliament, made at the very time when those Foreign Laws were declared to be no longer binding by *their own Authority*.

Where this your Graces Realm, recognizing no Superior under God, but only your Grace, hath been, and is free from Subjection to any mans Laws, but only to such as have been devised, made, and obtained, within this Realm, for the Wealth of the same, or to such other as by sufferance of your Grace and your Progenitors, the People of this your Realm have taken at their Free Liberty by their own consent to be used amongst them, and have bound themselves by long use and custom to the observance of the same, not as to the observance of the Laws of any Foreign Prince, Potentate, or Prelate, but as to the customed and ancient Laws of this Realm, originally established as Laws of the same, by the said sufferance, consents, and custom, and none otherwise.

Here, we have a plain Declaration, that Foreign Laws become part of the Law of *England*, by long use and custom. And as the Church of *England*, in many cases both of Voluntary and Contentious Jurisdiction, had no other Rule by which to proceed; so in admitting and practising the Rules which they found there, they had no Restraints upon them, save these two, That they were adapted to the Constitution of this Church, and so were *proper Rules*; and not contradicted by the Laws of the Land, and so were *legal Rules*. Which last was the *Condition* of their being received and practised here, as well before the Reformation, as since: Witness the Canon for *the Legitimation of Children born before Marriage*, which was openly rejected, as contrary to the Laws of *England*; together with the reckoning of the Six-Months-lapse by *Weeks*, and the allowance of four Months only to a *Lay Patron*; neither of which could obtain here, against the contrary *Usages*, of reckoning by *Calendar Months*, and allowing the full six Months to the Laity as well as Clergy. And our own Canonist, *John de Athon*, in his Commentary upon the Constitution of *Otho*, *De habitu Clericorum*, on the words *Cappis Clausis*, saith, that the General Council which was the rule of that Constitution, had not been *received*, and therefore seemed not to be binding: *Hac Constitutio, vel Concilium, nunquam acceptabatur à Subditis in hac parte: igitur non videtur arctare*: And, on the Constitution of *Othobon*, concerning the Delegation of Causes to Dignified Persons and *no others*, according to the *foreign Canons*, he saith, *Sed quicquid hic statuatur, hac tamen Constitutio à Subditis non est acceptata; unde non videtur arctare: Maxime, cum de Jure communi, quilibet hujusmodi Ordinarius, in Causarum Cognitionibus committere valeat vices suas; i. e. to commit them to what hands they pleas'd*. As therefore in all Cases, where no Rule was provided by our own *Domestick Laws*, the *Body of the Canon Law* was received by the Church for a Rule; so there was no objection against their receiving it in any instance whatever, unless it appear'd, in that particular instance, to be *foreign* to our Constitution, or *contrary* to our Laws. And if there were any necessity (after such an express Declaration of Parliament) to add further proof, that the Foreign Law being received, and not abrogated by any *Domestick Law*, is still in force; we have the Declaration of the Judges in the famous Case of *Evans and Ascuith*, 3 *Car. 1.* which was, on one hand, That no Foreign Canons bind here, but such as have been *received*; and, on the other hand, that being received, they are become *part of our Laws*. One of the positions which they there unanimously agreed in, was, *That if a Parson or Dean in England, take a Bishoprick in Ireland, the first Promotion is void by Cession*; and the reason given for it was, that so is the General Rule of the Canon Law, and there was but *one Canon Law in the Church*; and therefore where-ever the Authority of the Pope extended, the acceptance of a Bishoprick voided all other Promotions, whether in the same or in different Realms. A Reasoning, which plainly proceeds on a Supposition, and Allowance, that the Canon there refer'd-to, having been *received* in these Realms, was good Law; Agreeable to what *Vaughan* said in a later Case of the same kind, *If Canon Law be made part of the Law of this Land, then it is as much the Law of the Land, and as well, and by the same Authority, as any other part of the Law of the Land*: And elsewhere, concerning a Voidance by Cession upon promotion to a Second Benefice, he saith, *The ancient Canon Law received in this Kingdom, is the Law of the Kingdom in such Cases*.

25 H. 8. c. 21.  
S. 1.

Pag. 1129.

Pag. 809.

Jones (W.)  
160.  
Palm. 458.

Vaugh. p. 21.

Ibid. 132.

Domestick



*Domestick* Canons, are those which have been made from time to time by Ecclesiastical Authority, *within* this Realm, whether before or since the *Reformation*. —Dome-  
sttick.

We have already observed, that *England* is governed by two distinct Administrations: one *Spiritual*, for matters of a Spiritual nature; and the other *Temporal*, for matters of a Temporal nature. And for the same ends, hath it two *Legislatures*, the one consisting of persons Spiritual, and the other of persons Temporal; whose business it is, to frame Laws for the Government of Church and State: and these Laws being Enacted and Confirmed by the Prince, as *Sovereign*, and *Supreme Head*, become obligatory to the People, and Rules for the Administration of Justice in Spiritual and Temporal Matters. Before the Reformation, such Canons and Constitutions as were made in Provincial Synods, received their *last* Confirmation from the Metropolitan; who also had full power to publish and promulge them. And tho' it was provided by a Statute, in the 25th of *Henry* the Eighth, that no Constitutions should be thenceforth *enacted*, or *promulged*, without the King's Royal *Assent* and *Licence*; yet did not that Statute alter the Ecclesiastical Legislature in *other* respects, but; on the contrary, *supposed* the *legal* and *ancient* Authority of the Church, in that point. Altho' therefore this Statute is a *Recognition* and *Affirmance* of the Legislative Power of the Church, yet may not the authority of Canons and Constitutions be *solely* founded upon it, as some of the Books of Common Law do; since the ancient Ecclesiastical Power was not thereby *extinguished*, or *laid aside*, but only subjected to greater *Restraints*, than it had been before. The same thing is to be said concerning the Authority of Provincial Constitutions made *before* the Reformation; for altho' it is provided by the fore-mentioned Statute, *That such Canons, Constitutions, Ordinances, and Synodals Provincial, being already made, which be not contrariant or repugnant to the Laws, Statutes, and Customs of this Realm, nor to the damage or hurt of the King's Prerogative Royal, shall now still be used and executed, as they were afore the making of that Act, till such time as they shall be viewed, searched, or otherwise ordered, and determined, by the two and thirty persons, to be appointed by the King; yet did they not lose their Ecclesiastical Nature and Obligation, but (as I conceive) would have remained good Laws, under the Limitations there mentioned, tho' that Proviso had not been made.*

Under the same Limitations, do the Canons and Constitutions that have been made *since* that Statute, enjoy their Force and Authority: upon which foundation, it is every where held in the Books of Common Law, that no Canon can destroy or weaken any Custom that was in being when such Canon was made. But on the other hand, it is held, that when the *matter* of the Canon is merely Ecclesiastical, and not contrary to the Prerogative Royal, nor to the Statutes and Customs of the Realm; such Canon is properly part of the Law of the Land. So, in the Case of *Bird and Smith*, 4 *Jac.* the first, the Court resolved, *That the Canons of the Church made by the Convocation and King, bind in matters Ecclesiastical, as much as an Act of Parliament.* And *Vaughan* said, in the case of *Hill and Good*, *A lawful Canon is the Law of the Kingdom, as well as an Act of Parliament; and whatever is the Law of the Kingdom, is as much the Law, as any thing else that is so; for, what is Law doth not suscipere magis & minus.* And, in the Case of *Grove and Elliot*; *Canons in England are the Laws which bind and govern, in Ecclesiastical Affairs.*

As to the Obligation of Canons, in point of *Extent*; my Lord Coke says, in his 12th Report, *That a Convocation may make Constitutions, by which those of the Spirituality shall be bound (for this, that they all, or by representation, or in person, are present,) but not the Temporality.* Upon which, I beg leave to observe, 1. That, elsewhere, his Lordship (arguing against the necessity of the *Consent* of the Clergy to Acts of Parliament, in order to be bound by them) tells us, that *in many cases, multitudes are bound by Acts of Parliament, which are not Parties to the Election of Knights, Citizens, and Burgesses; as, all they that have no Freehold, or have Freehold in ancient Demesne; and all Women having Freehold or no Freehold; and Men within the age of one and twenty years:* Which Passage was probably out of his Lordship's Memory, when he infer'd from the like want of Consent by the Temporality, that Ecclesiastical Canons could only bind the Spirituality. 2. The making of Canons by the Clergy, in all matters which concern the Church, being the *ancient Constitution* of the Realm, received here, and established by long usage; every Canon that is legally made by them, has the Consent of the Laity *Virtually*, and in effect; especially, since the same is recognised to be the Ecclesiastical Constitution, by an express Statute which was made by the Laity themselves, and with reference to which, it hath been said, that the Canons of 1603. are *warranted by Act of Parliament.* 3. That notion of my Lord Coke hath been rejected, and the contrary doctrine maintained, by an eminent person of the same Profession. *The Convocation (said Vaughan) with the Licence and Assent of the King under the Great Seal, may make Canons for regulation of the Church; and*

Pag. 975.

Mo. 783.

Vaugh. 327.

2 Ventr. p. 44.

12 Rep. p. 72.

4 Inst. p. 4.

25 H. 8. c. 19.

Vaugh. 327.

2 Ventr. p. 44.



that as well concerning Laicks, as Ecclesiasticks. And again, All that is required of them, in making of new Canons, is, that they confine themselves to Church matters. To which I will add the Authority of my Lord Coke himself, in the case of Sir Richard Vernon, That a Convocation hath Power to make Constitutions for Ecclesiastical things, or persons; he saith not, for things as far as they concern Ecclesiastical persons, but for things absolutely. And in the Case of Bird and Smith, he cited a Resolution of both Houses upon Conference, "That when the Convocation make Canons concerning matters which properly appertain to them, and the King hath confirmed them, they are binding to the whole Realm."

Noy 139.

Mo. 783.

Statute-  
Law.

The Statute-Law, tho' reckoned the first in point of Authority, comes properly in the last place, when it is considered as part of the Ecclesiastical Law of the Church of Eng'land. For, as Canons were made from time to time, to supply the defects of the Common Law of the Church; so were Statutes added, to enforce both Common and Canon Law; and they are therefore to be considered as Supplemental to both. The Clergy, being devoted and consecrated to the immediate Service of Religion, have ever been the peculiar care of Christian States; who have expressed that care, in providing for their Quiet and Security against Oppressions and Invasions of all kinds. And, accordingly, the greatest part of the Statutes made before the Reformation, which concern the Church and Clergy, are directly levelled against Violences committed upon their possessions or persons, by the Ministers of the King; and against the Encroachments of the Temporal Courts upon the Spiritual Jurisdiction. In like manner, since the Reformation, the State hath interposed by many Acts, for the better ordering of the Possessions of the Church, and the more easie Recovery of her just Rights. And, whereas, in the Administration of Disciplin, and Correction of Vice, the Church can go no further than Spiritual Censures; in this part also she hath been assisted from the State by Additions of Temporal Penalties; in cases which those Censures could not easily reach, or in which they were like to prove ineffectual.

But if these additional Helps are imposed, when there is no need of them (that is, where the Ends may be attained as well, or better, in the present Ecclesiastical way;) or are given upon such terms, as destroy or weaken the Ecclesiastical Jurisdiction; or transfer Business of a Spiritual nature from Spiritual to Temporal hands: in such cases, the Interpositions of the State either wholly cease to be real Assurances to the Church, or at least the Benefit which the Church might otherwise reap from them, is greatly abated. The Clergy themselves may well be presumed the best Judges, what are the proper methods for promoting Religion and the Interest of the Church, in all kinds; how far their own strength will carry them in that way, and when it is, that, in order to those ends, they need the Assistance of the State. And therefore the greatest part of our ancient Laws, in favour of the Church and Clergy, were made upon special Petitions of the Clergy themselves, to the King in Parliament; and we have already observed, that Queen Elizabeth thought it no unreasonable Message to the Commons in Parliament (for we are now speaking upon the foot of Reason only) that no Bills concerning Religion should be preferred or received there, unless the same should be first considered and liked by the Clergy. It is evident from the several Messages which came from the Court on that occasion, that the Queen thought this a point, which nearly concerned Her own Supremacy; but the view with which I mention it here, is not upon a Question of Law, but of Expedience only; Whether in matters Spiritual, the Spirituality may not be presumed the most proper Judges, as of the Assistance which the Church really needs, and the several degrees of it, so of the methods by which that Assistance may be most effectually conveyed and applyed. In this point, the Constitution of the Ecclesiastical Body, is not unlike the Constitution of the Body Natural; in the Care of which, its own strength is to be tried in the first place; and when it appears that nature cannot do the work, then is the time for Medicines, to be prepared and administered by Skilful hands, in such measures as Nature needs them, and in such methods as are most likely to assist her. But to put Nature out of her own course without cause, or to force upon her unnecessary Assurances, is not the way to preserve, but to destroy, the Constitution. Medicines (like other Experiments) promise many things, which they do not perform; or however they may seem, for the present, to make the work more quick and short, it is frequently found in the end, that it had been far better to have left Nature, tho' somewhat more slow, to do the Work in her own way.

So, in our present case, if the Helps which the Temporal Legislature affords the Church, happen to be unnecessary, or applied in an undue manner; they do not only do no service, but a manifest disservice, to the Church: by taking the Suppression of Vice out of the hands of the Spirituality (whose proper Province it is, and who

are



are most like to pursue it,) and putting it into the hands of the *Laity*, who (to say no more) are generally too much taken up with secular Cares and Diversions, to attend the work, with those degrees of Application which it deserves and requires.

If it be said, that in such Statutes there may be (as in fact there frequently have been) express *Provisoes* for the Ecclesiastical Jurisdiction, or, tho' there are no such *Provisoes* for it, that it is supposed in Law to remain entire, unless there are *express words* to take it away; the Answer is, that however the Ecclesiastical Jurisdiction may preserve its *Being* upon this or that head, after a Temporal Law has put the Work into Temporal hands; yet it certainly loses its *Vigour* and *Effect*. The Temporal Courts claim an absolute right to the Interpretation of all Statutes whatsoever; where therefore a Statute is made on any head, the Spiritual Judge (finding himself exposed to *Prohibitions*, almost in every Step he takes) reckons it oft-times more adviseable, not to pursue it at all, than to pursue it with so small probability of Effect. In the next place, after Temporal Penalties are annexed to Spiritual Crimes, the inflicting of Spiritual Censures together with the Temporal, is in danger to be inveighed against, as a *double* Punishment for one and the same Crime: and such is the Credit and Authority of *Statutes*, that no matter in which they interpose, how Spiritual soever in its *nature*, is, in *common* Opinion, reckoned any longer a *Spiritual* Care. From all which, it seems very evident, that the Correction of Vice and of other Defects and Irregularities of a Spiritual nature, is most like to succeed in those hands to which the General Frame of our Constitution has assigned it, that is, in *Spiritual* hands; and, as to Temporal Penalties, that the only way to make them truly Beneficial to Religion, is to provide them, as a *further* Terror and Punishment, to be *called-in*, as oft as the Censures of the Church are disobeyed.

But our *present* Rule of Government and Disciplin in the Church, are the *Laws in being* of all kinds: and these, as they are now digested under proper Heads, may possibly be found a more *complete* Rule, and more effectual for those ends, than is generally imagined; supposing them to be duly *actuated*, and every Person to be constrained to a vigorous Execution of the part which belongs to him. And whatever *Improvement* may be needful in particular cases; the consideration of them falls not within the *design* of this Discourse (which was only to account for the *present State* of our Ecclesiastical Laws) nor indeed does it fall within the Province of any Person whatsoever in his *private* Capacity; and therefore all such Suggestions are to be reserved, till that matter shall be made the subject of *Synodical* Enquiries and Debates.



The first step in the analysis of a sample is to determine its composition. This is done by measuring the amount of each element present. The most common method for this is gravimetric analysis, which involves weighing a sample and then measuring the weight of each element after it has been separated. This is done by converting the element into a compound with a known weight, such as a precipitate or a gas. The weight of the element is then determined by measuring the weight of the compound and dividing it by the weight of the element in the compound.

Another method for determining the composition of a sample is volumetric analysis. This involves measuring the volume of a solution of a known concentration that reacts with the sample. The volume of the solution is then measured, and the amount of the element is determined by the volume of the solution that reacts with it.

A third method for determining the composition of a sample is titrimetric analysis. This involves measuring the amount of a solution of a known concentration that reacts with the sample. The amount of the solution is then measured, and the amount of the element is determined by the amount of the solution that reacts with it.

The most accurate method for determining the composition of a sample is atomic absorption spectroscopy. This involves measuring the amount of light that is absorbed by the sample. The amount of light absorbed is then measured, and the amount of the element is determined by the amount of light that is absorbed.

Element	Amount (g)	Percentage (%)
Carbon	12.01	12.01
Hydrogen	1.008	1.008
Oxygen	16.00	16.00
Nitrogen	14.01	14.01
Sulfur	32.06	32.06
Chlorine	35.45	35.45
Calcium	40.08	40.08
Iron	55.85	55.85
Copper	63.55	63.55
Zinc	65.38	65.38
Lead	207.2	207.2
Mercury	200.59	200.59
Gold	196.97	196.97
Silver	107.87	107.87
Platinum	195.08	195.08
Palladium	106.38	106.38
Rhodium	102.91	102.91
Ruthenium	101.07	101.07
Rosetta	101.07	101.07
Rhenium	186.21	186.21
Rubidium	85.47	85.47
Strontium	87.62	87.62
Tantalum	180.95	180.95
Tellurium	127.60	127.60
Thallium	204.38	204.38
Thoron	232.04	232.04
Thorium	232.04	232.04
Tin	118.71	118.71
Tungsten	183.84	183.84
Uranium	238.03	238.03
Vanadium	50.94	50.94
Xenon	131.29	131.29
Yttrium	88.91	88.91
Zirconium	91.22	91.22



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# T I T. I.

## RIGHTS, PRIVILEGES, and IMMUNITIES of the CHURCH and CLERGY.

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### C A P. I.

#### *Privileges and Immunities of the Church and Clergy, by MAGNA CHARTA.*

9 Henr. III. Cap. 1.

*A Confirmation of Liberties.*

A.D:1225.

*Privileges, &c. by Magna Charta.*

Co. 2. Infl. p.2.

ibid. p. 2, 3.

ibid. p. 3.



**I**R S C, We have granted <sup>a</sup> to God, and by this our present Charter have confirmed for Us and our heirs for ever, That <sup>b</sup> the Church of England <sup>c</sup> shall be free, and shall have all her whole rights and liberties inviolable.

**Abridgment.**

Church of England shall be free, and have her Rights, &c. inviolable.

<sup>a</sup> **TO GOD.]** When any thing is granted for God, it is deemed in Law to be granted to God; and whatsoever is granted to his Church for his Honour, and the maintenance of his Religion and Service, is granted for and to God.

<sup>b</sup> **The Church of England]** That is, all Ecclesiastical Persons within the Realm, their Possessions, and Goods. But my Lord Coke observes, that the word *Ecclesia* was more properly used, than *Ecclesiastici*; because *Ecclesiastical Persons* die, but the *Church* never dies.

<sup>c</sup> **Shall be free]** That is, shall be restored to all her lawful Rights, and freed from all Usurpations and Encroachments upon

those Rights: *Habeat omnia jura sua integra, & libertates illasas,* in the Record.

Of the like import are the Imperial Laws, in favour of the Church: That, particularly, which we find in the first Book of the Code, *Privilegia quæ generalibus Constitutionibus universis Sacrosanctis Ecclesiis orthodoxæ Religionis retro Principes præstiterunt, firma & illibata in perpetuum decernimus custodiri.* And another, *Cassa & irrita esse denunciari per totam Italiam præcipimus, omnia Statuta & Consuetudines, contra libertatem Ecclesiæ, ejusque personas, inductas, adversus Canonicas & Imperiales Sanctiones, & ea de Capitularibus penitus aboleri mandat nova Constitutio.*

Tit. 2. c. 12.

ibid.



Abridgment.

9 Henr. III. Cap. 37.

## A Confirmation of the Great Charter, witnessed by the Bishops, Abbots, &amp;c.

Privileges, &c. by  
Magna Charta.  
A D. 1225.

King promises that he, and all others, shall observe the Charter,

----and a fifteenth is given in Consideration thereof ;

----and he grants, that neither he nor his Heirs will infringe it.

Witnesses to the great Charter.

---- Bishops, and Abbots,

--Temporal Lords.

—All these customes and liberties aforesaid, which we have granted to be holden within this our Realm, as much as appertaineth to us and our heirs, we shall observe. And all men of this our Realm, as well spiritual as temporal (as much as in them is) shall observe the same against all persons in like wise. And for this our gift and grant of these Liberties, and of other contained in our Charter of Liberties of our forest, the Archbishops, Bishops, Abbots, Priors, Earls, Barons, Knights, Freeholders, and other our Subjects, have given unto us the fifteenth part of all their moveables. And we have granted unto them on the other part, that neither we nor our heirs shall procure or do any thing, whereby the Liberties in this Charter contained, shall be infringed or broken. And if any thing be procured by any person, contrary to the premises, it shall be had of no force nor effect. These being witnesses, *d* Lord B. Archbishop of Canterbury, E. Bishop of London, J. Bishop of Bath, P. of Winchester, H. of Lincoln, R. of Salisbury, W. of Rochester, W. of Worcester, J. of Ely, H. of Hereford, R. of Chichester, W. of Exeter, Bishops: the Abbot of St. Edmonds, the Abbot of St. Albans, the Abbot of Bello, the Abbot of St. Augustines in Canterbury, the Abbot of Evesham, the Abbot of Westminster, the Abbot of Bourgh St. Peter, the Abbot of Reding, the Abbot of Abindon, the Abbot of Malmesbury, the Abbot of Winchcomb, the Abbot of Hyde, the Abbot of Certesey, the Abbot of Sherburn, the Abbot of Cerne, the Abbot of Abbotebir, the Abbot of Middleton, the Abbot of Seleby, the Abbot of Cirencester: H. de Burgh Justice, H. Earl of Chester and Lincoln, W. Earl of Salisbury, W. Earl of Warren, G. de Clare Earl of Gloucester and Hereford, W. de Ferrars Earl of Derby, W. de Mandeville Earl of Essex, H. de Bygot Earl of Norfolk, W. Earl of Albemarle, H. Earl of Hereford, J. Constable of Chester, R. de Ros, R. Fitzwalter, R. de Vyponde, W. de Bruer, R. de Muntefichet, P. Fitzherbert, W. de Aubenie, J. Gresly, F. de Breus, J. de Moyenne, J. Fitzallen, H. de Mortimer, W. de Beuchamp, W. de St. John, P. de Mauly, Brian de Lisle, Thomas de Multon, R. de Argenteyn, G. de Nevil, W. Manduit, J. de Balun, and others.

*d* Lord B. Archbishop] There was no Lord B. Archbishop about this time, but Boniface; and he was not made Archbishop till 1244. This therefore is a Mistake for S, that is Stephen (Langton) who was Archbishop at that time; and so is the reading of the Copy of Magna Charta in the Burton Annals.

37 Henr. III.

## The sentence of Curse given by the Bishops against the breakers of the great Charter.

A.D. 1253.

The Names of the Lords present ;

**T**HE yeere of our Lord a thousand CC. liii. the third day of May, in the great Hall of the King at Westminster, in the presence and *e* by the assent of the Lord Henry by the grace of God, King of England, and the Lord Richard Earle of Cornewall his brother, Roger Bygot Earle of Norfolk and Suffolke, Marshall of England, Humfrey Earle of Herford, Henry Earle of Oxford, John Earle Warren, and other estates of the Realme of England: we Boniface, by the mercy of God Archbishop of Canterbury, Primate of all England, F. of London, H. of Elye, S. of Worcester, E. of Lincolne, W. of Norwiche, P. of Herford, W. of Salisbury, W. of Durham, R. of Excester, M. of Carlyle, W. of Bath, E. of Rochester, T. of Saint Davids, Bishops apparelled in pontificals, with tapers burning, against the breakers of the Churches

----and of the Bishops Excommunicating the breakers of the great Charter,

2. Inst. p. 527.

*e* By the Assent] My Lord Coke observes, on the Statute of Confirmation, 25 Edward I. That the Authority of Parliament was necessary to warrant the Prelates in pronouncing the Sentence, because it concern'd Temporal Causes, as well as Spiritual.

liberties,



Privile-  
ges, &c. by  
Magna  
Charta.

liberties, and of the liberties or other customes of the Realme of England; and namely of those which are contained in the Charter of the common liberties of England, and Charter of the Forrest, haue denounced the sentence of excommunication in this forme: By the authoritic of Almighty God, the Father, the Sonne, and the holy Ghost, and of the glorious Mother of God, and perpetual Virgine Mary, of the blessed Apostles Peter and Paul, and of all Apostles, and of all Martyrs, of blessed Edward King of England, and of all the Saints of heauen: wee excommunicate, accurse, and from the benefits of our holy Mother the Church, we sequester all those that heereafter willingly and maliciously depriue or spoile the Church of her right. And all those that by any craft or wylineffe doe violate, breake, diminish, or change the Churches liberties and free customes, contained in the Charters of the common liberties and of the Forrest, granted by our Lord the King, to Archbishops, Bishops, and other Prelates of England: and likewise to the Earles, Barons, Knights, and other freeholders of the Realme. And all that secretly, or openly, by Deede, Word or Councell doe make Statutes, or observe them being made, and that bring in Customes, or keepe them when they bee brought in, against the said Liberties, or any of them, the Writers, Law-makers, Councillours, and the Executors of them, and all those that shall presume to judge against them. All and euery which persons before mentioned, that wittingly shall commit any thing of the Premisses, let them well know that they incurre the foresaid sentence *Ipsa Facto. i. e.* vpon the deede done. And those that commit ought ignorantly, and be admonished, except they reforme themselues within xv. dayes after the time of the admonition, and make full satisfaction for that they haue done at the will of the Ordinarie, shall be from that time fourth wrapped in the same sentence. And with the same sentence we burden all those that presume to perturb the peace of our Soueraigne Lord the King, and of the Realme. To the perpetuall memorie of which thing, we the aforesaid Prelates haue put our Seales to these presents.

Abridgment.

---with the so-  
lemn Form of Ex-  
communication,

---of all who shall  
break or change  
the Church's Li-  
berties and free  
Customs,

---or make, bring  
in, and observe  
Statutes and Cu-  
stoms contrary  
thereunto;

---all which Per-  
sons shall be Ex-  
communicated *ip-  
so facto*,

---as well as those,  
who being admo-  
nished, do not re-  
form.

Confirmation un-  
der the Seals of  
the Prelates.

A.D. 1297.

25 Edw. I. Cap. 1.

A Solemn Confirmation of the great Charter.

Edward by the grace of God, King of England, Lord of Ireland, and Duke of Guian, to all those that these present Letters shall hear or see, greeting. Know ye that we to the honour of God, and of holy Church, and to the profit of our Realm, have granted for us and our heirs, That the Charter of Liberties, and the Charter of the Forrest, which were made by common assent of all the Realm, in the time of King Henry our father, shall be kept in every point without breach. And we will that the same Charters shall be sent under our Seal, as well to our Justices of the Forrest, as to others, and to all Sheriffs of Shires, and to all our other Officers, and to all our Cities throughout the Realm, together with our Writs, in the which it shall be contained, That they cause the foresaid Charters to be published, and to declare to the People, that we have confirmed them in all points, and that our Justices, Sheriffs, Mayors, and other Ministers, which under us have the Lawes of our Land to guide, shall allow the same Charters pleaded before them in judgment in all their points, that is to wit, the great Charter asg the Common-law, and the Charter of the Forrest, for the wealth of our Realm.

Edward I. con-  
firms the great  
Charter, &c.

---and Wills, that  
it be publish'd  
throughout the  
Realm,

---and allow'd in  
all Pleadings.

P. 526. 2 Inf.

Shall be sent] Before Printing, and by the King's Writ proclaimed by the She-  
till the Reign of K. Henry the Seventh, riff of every County.  
Statutes were engross'd on Parchment, and [Common Law] That is, the Law  
common to all.

ibid.

Cap. 2. Judgments given against the said Charter, shall be void.

AND we will that if any judgment be given from henceforth contra- ry to the points of the Charters aforesaid by the Justices, or by any other our Ministers that hold Plea before them, against the points of the Charters, it shall be undone, and holden for nought.

All the Judgments  
contrary to the  
Great Charter shall  
be null.

Cap.



## Abridgment.

The great Charter shall be sent to Cathedral Churches, and read to the People twice a Year.

Archbishops and Bishops shall pronounce Excommunication, twice a Year, against all that break it,

---which if the Prelates neglect, the two Archbishops shall compel them.

The King having granted the foresaid Articles, for him and his Heirs, --Admonition was given 1°, 2°, 3°, by the Archbishop, ---and all Persons were enjoined to maintain them ;

---and Excommunication denounc'd against the Breakers.

The great Charter shall be perpetual,

---and every Article thereof inviolably observed.

Cap. 3. *The said Charter shall be read in Cathedral Churches twice in the Year.*

**A**ND we will that the same Charters shall be sent, under our Seal, to Cathedral Churches throughout our Realm, there to remain, and shall be read before the people two times by the year.

Cap. 4. *Excommunication shall be pronounced against the Breakers of the said Charter.*

**A**ND that all Archbishops and Bishops shall pronounce the Sentence of Excommunication against all those that by word, deed, or counsel, do contrary to the foresaid Charters, or that in any point break or undo them. And that the said Curses be twice a year denounced and published by the Prelates aforesaid. And if the same Prelates, or any of them, be remiss in the denunciation of the said Sentences, the Archbishops of Canterbury and York, for the time being, shall compel and restrain them to the execution of their duties in form aforesaid.

25 Edw. I.

*The Sentence of the Clergy given against the breakers of the Articles above written.*

**I**N the Name of the Father, the Sonne, and the holy Ghost, Amen. Whereas our Souveraign Lord the King, to the honour of God, and of holy Church, and for the common profit of the Realme, hath granted for him and his Heires for ever these Articles above written, Robert Archbishop of Canterbury, Primate of all England, admonished all his Prouince once, twice, and thrice. Because that shortnesse will not suffer so much delay, as to giue knowledge to all the people of England of these Presents in writing: We therefore enjoyne all persons, of what estate soever they be, that they and euery of them, as much as in them is, shall maintaine and vphold these Articles granted by our Souveraign Lord the King in all points. And all those that in any point doe resist or breake, or in any maner hereafter procure, counsel, or any wise assent to, resist or breake those Ordinances, or goe about, by word or deed, openly or priuily, by any maner of pretence or colour: We the foresaid Archbishop by our authority in this writing expressed, do excommunicate and accurse, and from the Body of our Lord Jesus Christ, and from all the company of heauen, and from all the Sacraments of holy Church, doe sequester and exclude.

28 Edw. I.

*A Solemn Confirmation of the Great Charter.*

**W**E ratifying and approbing these gifts and grants aforesaid, confirm and make strong all the same for us and all our heirs perpetually; And by the tenour of these presents do renew the same, willing and granting for us and our heirs, that this Charter, and all and singular his Articles for ever, shall be stedfastly, firmly and indiolably obserbed. And if any Articles in the same Charter contained yet hitherto peradventure hath not been kept, We will, and by authority royal, command from henceforth firmly they be obserbed. In witness whereof we have caused these our Letters Patents to be made. T. Edward our Son at Westminster, the twenty ninth day of March, in the twenty eighth year of our Reign.

<sup>b</sup> These gifts and grants] In this Ratification, the Great Charter, as granted by King Henry III. was recited at length, and the Articles thereof are the Gifts and Grants here refer'd to.

] Letters Patents] Acts of Parliament are many times in form of Charters or Letters Patents; as we see in this Instance, and in the precedent Confirmation, 25. Edw. I.

Privileges, &c. by Magna Charta.

A.D. 1297.

A.D. 1300.

Co. 2. Inst. p. 527. & 8. Rep. Prince's Case.



Privileges, &c. by several Kings in Parliament.

Abridgment.

CAP. II.

Privileges and Immunities of the Church and Clergy, further confirmed by several KINGS in PARLIAMENT.

A.D. 1340.

14 Edw. III. Cap. 1.

A Confirmation of Liberties.

First, That Holy Church have her Liberties, in quietness, without Interruption, or Disturbance.

First, That] Besides the many Confirmations of the Great Charter in Parliament, (which included a Confirmation of the Rights and Liberties of the Church and Clergy,) and besides other general Confirmations of the Rights of the Clergy, in Conjunction with those of the Laity; here are (we see) divers Acts and Clauses, specially in favour of the Church and Clergy. And this is pursuant to a Maxim in our Laws, Ecclesia est infra atatem, & in custodia Domini Regis, qui tenetur Jura & hereditates suas manu tenere & defendere. And elsewhere, Ecclesia, quae semper est infra atatem, fungitur semper vice minoris; nec est juri consonum, quod

infra atatem existentes, per negligentiam Custodum suorum exheredationem patiantur.

Accordingly, divers of our Kings before the Conquest (particularly, Edward the Elder, Edgar, Canutus, and Edward the Confessor) begin their Laws in like manner, with special Provisions for the Liberties of the Church and Clergy; of which therefore this usage since, is only a Continuance. And it is further observable, that many of the following Confirmations were made at the special Request of the Commons in Parliament, whose Petitions frequently begun with such a general Clause in favour of the Church and Clergy.

Spelm. Con. Vol. p. 391, 444, 539.

Rot. Parl. 17, & 51. E 3 -- 2, 3, 5, 6, 7, 8, 17. R. 2. -- 1, & 4. H. 4. -- 2. 5, 7, 8, H 5. -- 2 H. 6.

2 Inst. p. 3.

A.D. 1350.

25 Edw. III. Cap. 1.

All Privileges granted to the Clergy, confirmed.

First, That all the Privileges and Franchises granted heretofore to the said Clergy be confirmed and holden in all points.

Confirmations to the Church-----of Privileges and Franchises.

A.D. 1376.

50 Edw. III. Cap. 1.

A Confirmation of the Liberties of the Church.

First, It is ordained and established, That holy Church have all her Liberties and Franchises in quietness, without impeachment or other disturbance.

---of Liberties and Franchises, in quietness, &c.

A.D. 1377.

1 Ric. II. Cap. 1.

A Confirmation of the Liberties of the Church.

First, It is agreed and established, That holy Church shall have and enjoy all her Rights, Liberties, and Franchises wholly and without blemish.

---of Rights, Liberties, and Franchises, wholly and without blemish.

A.D. 1379.

2 Ric. II. Cap. 1.

A Confirmation of the Liberties of the Church.

First, That holy Church have and enjoy her Franchises and Liberties in all points, in as ample manner, as she them had in the time of his Noble Progenitors Kings of England.

---of Franchises and Liberties, in as ample manner, &c.

A.D. 1379.

3 Ric. II. Cap. 1.

A Confirmation of the Laws of the Church.

First, It is ordained and established, That holy Church have and wholly enjoy her Franchises and Liberties, by the manner as she hath had and enjoyed them in the time of the Kings Noble Progenitors.

---of Franchises and Liberties, by the manner, &c.



## Abridgment.

5 Ric. II. Cap. 1.

*A Confirmation of the Liberties of the Church.*Confirmation to the Church.  
---of Liberties and Franchises, wholly.**F**irst, It is assented and accorded, That holy Church have and enjoy all her Liberties and Franchises wholly.

Privileges, &amp;c. by several Kings in Parliament.

A.D. 1381.

6 Ric. II. Cap. 1.

*A Confirmation of the Liberties of the Church.*

---of Liberties to be whole and unhurt.

**F**irst, It is ordained and accorded, that our holy mother the Church of England, have all her Liberties whole and unhurt, and the same fully enjoy and use.

A.D. 1382.

7 Ric. II. Cap. 1.

*A Confirmation of the Liberties of the Church.*

---of Liberties and Franchises, as wholly, &amp;c.

**F**irst, It is assented and accorded, That holy Church have and enjoy all her Liberties and Franchises, as wholly as she hath had and enjoyed them in the time of the Kings Noble Progenitors.

A.D. 1383.

8 Ric. II. Cap. 1.

*A Confirmation of the Liberties of the Church.*

---of all her Liberties.

**F**irst, It is ordained and enacted, That holy Church have all her Liberties.

A.D. 1384.

12 Ric. II. Cap. 1.

*A Confirmation of the Liberties of the Church.*

---of Liberties and Franchises.

**F**irst, It is accorded and assented, that holy Church have all her Liberties and Franchises.

A.D. 1388.

1 Henr. IV. Cap. 1.

*A Confirmation of the Liberties of the Church.*

---of Liberties and Franchises, entirely, and without imblemishing.

**F**irst, That holy Church have and enjoy all her Rights, Liberties and Franchises, entirely, and without imblemishing.

A.D. 1399.

2, 4, 7, 9, &amp; 13 Henr. IV. &amp; 3 Henr. V. Cap. 1.

*A Confirmation of the Liberties of the Church.*

---of Liberties and Franchises.

**F**irst, That holy Church have all her Liberties and Franchises.

A.D. 1400.

1402.

1405.

1407.

1411.

1415.

4 Henr. IV. Cap. I.

*A Confirmation of the Liberties of the Church and Clergy.*

---of all Statutes made for the Conservation of the Liberties, Privileges, and Immunities, formerly granted to the Clergy.

**I**tem, By the same assent our Lord the King doth will and grant, and hath ordained and established, That all the Statutes, Ordinances, & Grants, made or granted by his Noble Progenitors or Predecessors Kings of England to the Clergy of England, for the conservation of their Liberties and privileges, and for the conservation of the Liberties and immunities of holy Church, not revoked, be firmly holden, observed and kept, and put in due execution according to their form and effect.

A.D. 1402.



Privileges,  
&c. by several  
Kings  
in Parlia-  
ment.

A.D. 1688.

1 Will. & Mar. Cap. 6.

In an Act Entituled, *An Act for establishing the Coronation-Oath.*

§. III. **W**ILL You Preserve unto the Bishops and Clergy of this Realm, and to the Churches committed to their Charge, all such Rights and Privileges as by Law do or shall appertain unto them, or any of them?

*King and Queen.* All this I Promise to do.

Abridgment.

Promise of the Prince at Coronation, to preserve the Rights and Privileges of the Church and Clergy.

C A P. III.

*Answers in Parliament to the ARTICLES of the CLERGY.*

9 Edw. II.

*i Articuli Cleri, made at Lincoln, Anno 9 Edw. 2. and Anno Dom. 1315.*

A.D. 1315.

Answers,  
&c. to the  
Articles of  
the Clergy.

**T**He King to all whom, &c. sendeth greeting. Understand ye, That whereas of late in times of our Progenitors sometimes Kings of England, *k* in divers their Parliaments, and likewise after that we had undertaken the governance of the Realm, *l* in our Parliaments, many articles containing divers grievances (committed against the Church of England, the Prelates and Clergy) were propounded by the Prelates and Clerks of our Realm, and further great instance was made that convenient remedy might be provided therein. And of late in our Parliament holden at Lincoln the ninth year of our Reign, we caused the Articles underwritten, with certain answers made to some of them heretofore to be rehearsed before our Council, and made certain answers to be corrected; and to the residue of the Articles underwritten, answers were made by us and our Council: of which said *†* Articles, with the Answers of the same, the tenors here ensue.

Preface to *Articuli Cleri*, setting forth the Complaints and Grievances of the Clergy.

---and the King's Answers.

Coke, 2. Inst.  
p. 599.

[*†* Note, The Articles and Answers are severally inserted in their proper Places, according to the Matter and Subject of each.]

—We desiring to provide for the state of the holy Church of England, and for the tranquillity and quiet of the Prelates and Clergy aforesaid, as far forth as we may lawfully do to the honour of God, & emendation of the Church, Prelates and Clergy of the same: Ratifying, confirming, & approving all and every of the articles aforesaid, with all and every of the answers made and contained in the same; do grant and command them to be kept firmly, and observed for ever, willing and

Ratification of the foresaid Articles of the Clergy, and Answers of the King.

*i Articuli Cleri*] My Lord Coke found the fragment of a Parliament-Roll, (as he calls it) containing some Answers to the *Articles of the Clergy*, many Years before this, *viz.* ann. 51 Henr. III. These Answers (so far as he has copy'd that Fragment) are Restraints upon the Spiritual Courts, and (as he thinks) were levell'd against the Constitutions of Archbishop *Boniface*; which were made about six Years before, and carry'd the Immunities of the Church very high. But the Answers being but a *Fragment*, and nothing of them appearing among our Acts of Parliament, nor in our Histories, so far as I have observ'd; it may well remain a doubt,

whether they really were confirmed in Parliament; however willing my Lord Coke may be (in his Zeal for *Prohibitions*) to take it for granted, that they were.

*k* In divers their Parliaments] Particularly, in the 51st Year of Henr. III. as before.

*l* In our Parliaments] Particularly, the Articles entituled, *Articuli contra Prohibitionem Regis*; which, tho' of no certain date, my Lord Coke supposes to have been presented, and answered, in the beginning of Edw. I. and to be referred to in this Statute. They may be found afterward printed together, in the Chapter of *Prohibitions*.

Ibid.

granting



Abridgment.

granting for us and our heirs, that the foresaid Prelates and Clergy and their successors shall use, execute and practise for ever the jurisdiction of the Church; in the premises, after the tenour of the answers aforesaid, without quarrel, inquieting, or vexation of our heirs, or any of our officers whatsoever they be. T. R. at York, the 24 day of November in the x. year of the reign of King Edward, the son of King Edward.

Answers,  
&c. to  
the Arti-  
cles of the  
Clergy.

14 Edw. III.

A.D. 1340.

¶ Here beginneth the Statute for the Clergy made at Westminster, the 14th year of King Edward the Third.

Preface to the Statute for the Clergy, setting forth the breaches of Magna Charta, and Complaints of the Clergy thereupon,

---with the Remedy granted by the King.

Edward by the grace of God, &c. greeting, &c. Know ye, that whereas in the first article of the great Charter it is contained, that the Church of England be free, & have all her rights entirely & franchises not blemished, and also in all the whole establishments made as well in the times of our Progenitors, as in our own time, the same article is often ratified & confirmed: Nevertheless in our Parliament holden at Westminster, the wednesday next after the Sunday of middle Lent, it is shewed to us by the reverend father in God, John Archbishop of Canterbury, Primate of all England, & the other Prelates & Clergy of our Realm, how some oppressions & grievances be done in divers manners by some our servants, to people of holy Church, against the franchise of the great Charter, & the establishments aforesaid; which oppressions they shew in petition, praying upon the same remedy. Wherefore we, their petition seene and regarded, & thereupon deliberation had with the Peeres of our Realme, & other of our Councell, and of the Realme, summoned to our said Parliament, and having regard to the great Charter, and to other Statutes aforesaid, and at the request of the said Prelates and Clergie, which have much aided us, and daylie doe, by the assent and accord of the said Peeres, and of all other summoned, and being in our said Parliament, have granted and do grant for us and our Heires and successors to the saide Prelates and Clergie, the † things underwritten perpetually to endure.

[ † Note, These are severally inserted in their proper Places, according to the Matter and Subject of each.]

Ratification of the foresaid Statute for the Clergy.

—In witness of which things, &c. Dated at Westminster, &c. the viiii. yeere of our raigne of England, and the first of France.

18 Edw. III.

A.D. 1344.

Here beginneth the Statute for the Clergy, made at Westminster the said 18th year.

Preface to the Statute for the Clergy, setting forth

Edward by the grace of God, &c. greeting. Know ye, that our Parliament holden at Westminster, the Monday next after the Uzas of the holy Trinity, the yeere of our Reigne of England the xviii. and of France the v. amongst other things shewed, assented, and accorded in the said Parliament, there were shewed assented and accorded these things underwritten.

--the Occasions the King had for Aid against France,

First, whereas many things have bene attempted, by the partie our aduersary of France, against the truce late taken in Britaine, betwixt us and him, and how that he enforceth himselfe, asmuch as he may, to destroy vs, and our Allies, Subjects, Lands, and Places, and the tongue of England: And thereupon we prayed the Prelats, great men, and the Commons, that they would give vs such counsell and aide, as should need in so great necessitie. And the said Prelates, great men, and Commons, having thereof good deliberation and aduice, and seeing openly the subversion of the land of England, and of our great businessse, which God defend, if speedy remedy be not provided: have counselled joyntly and severally, and with great instance prayed us, that

in



Answers, &c. to the Articles of the Clergy.

in assurance of the aide of God, and our good quarrel, we should make us as strong as wee might, to passe the Sea, and by all the good meanes that we might, at this time to finish our warres. And that for letters, words, nor faire promises, we should not lett our passage, till we did see the effect of our businesse. And for this cause the great men aforesaid granted to passe, and to adventure themselves with vs. And the said Prelates and procuratozs of the Clergie, have granted to us for the same cause, a Triennall Disme, to be paid at certaine dayes, that is to say, of the Province of Canterbury, at the feasts of the purification of our Lady, and of Saint Barnabe the Apostle: And of the Province of Yorke, at the feasts of Saint Luke, and the Nativity of Saint John Baptist. And wee for this cause, in maintenance of the estate of holy Church, and in ease of the saide Prelates, and all the Clergie of England, by assent of the great men, and of the Commons, do grant of our good grace the † things underwritten.

Abridgment.

And that the Clergy had granted him a triennial Disme for that end.

[† Note, These are severally inserted in their proper Places, according to the Matter and Subject of each.]

— In witness whereof, at the request of the said Prelates, to these present Letters we have set our seal. Dated at London, the eighth day of July, the year of our reign of England the eighteenth, and of France the fifth.

Ratification of the foresaid Statute for the Clergy.

A.D. 1350.

25 Edw. III. (St. 3.)

A Statute for the Clergy.

Our Lord the King, seeing and examining by good deliberation the Petitions and Articles delibered to him in his Parliament holden at Westminster in the feast of St. Hilary, the year of his reign of England the five and twentieth, and of France the twelfth, by the honourable Father in God, Simon Archbishop of Canterbury, and other Bishops of his Province, upon and for certain grievances, which they alledged to be done to holy Church, and to the Clergy, against the privileges of holy Church; and then they prayed, that a convenient remedy might be thereof ordained, to the reverence of God and of holy Church: by the assent of his Parliament, for him and his heirs, willeth and granteth the † points under-written.

Preface to Statute for the Clergy, setting forth the Complaints and Grievances of Church and Clergy.

---and their Prayer for Remedy.

[† Note, These are severally inserted in their proper Places, according to the Matter and Subject of each.]

Immunities of the Clergy, as to their Persons.

A.D. 1236. 20 H. 3.

C A P. IV.

Immunities of the Clergy, as to their PERSONS.

Edmundus.

Quicumque rectorem aut ejus vicarium aut occiderit aut occidi fecerit, omni beneficio ac officio spoliatur; ejusque posteritas ad quartam usque generationem ad beneficia inhabilis habeatur.

Sacri provisione m Concilii, Statutum est, quod si Patroni, Advocati, aut n Feudatarii, aut o Vice-domini Rectorem Ecclesie, Vicarium, vel Clericum ipsius Ecclesie per se vel per alios occidere vel mutilare ausu nefario presumpserint, Patroni Patronatum, Advocati Advocatiam, Feudatarii Feudum, Vice-domini Vice-dominatum prorsus amittant, & Posteritas talium p in Collegium

Patrons, Advocates, &c. killing or maiming their Rector, &c.

---shall forfeit their respective Rights and Stations.

---and their Posterity, to the fourth Generation, shall not be capable of Benefices, nor of Prelacy in Religious Houses.

m Concilii] sc. Generalis. Extra de Pœnis. c. In quibusdam, Lindw. n Feudatarii] Tales scil. qui aliquas terras tenent in feudum ab Ecclesia. Lindw.

o Vice-Domini] Vice-Dominus ponitur quandoq; pro Patrono, quandoq; pro Vicario in temporalibus generali. Lindw. p In Collegium] Sc. quoad Beneficia Ecclesiastica obtinenda. Lindw.

OBS. Edit. Oxon. p. 307.



Abridgment.

Clericorum usque ad quartam generationem nullatenus assumatur, nec in Regularibus domibus alicujus Prælatiæ assequatur honorem, & hoc Volumus sæpius in Ecclesiis denunciari:

Immunities of the Clergy, as to their Persons.

A.D. 1267.

52 Henr. III. (Stat. Marl.) Cap. 10.

Ecclesiastical Persons are not bound to appear at Sheriffs-Turns.

FOR the Turns of Sheriffs, it is provided, That Archbishops, Bishops, Abbots, Priors, Carls, Barons, nor any Religious Men or Women, shall not need to come thither, except their Appearance be especially required thereat, for some other Cause.

ll Bishops] Nor any other Ecclesiastical Persons at Turns, or at Frankpledge; as appears by the two following Writs, founded upon this Statute:

visum francipleg' in hundredo de N. non distr' contra consuetudinem prædictam. Et distr' &c.

Cum personæ ecclesiasticæ non habeant necesse venire ad turnum vic' vel ad visum franciplegii, nisi eorum præsentia ob aliam causam specialiter exigatur, juxta formam provisionis de communi consilio regni nostri Angliæ in consimili casu pro viris religiosi factæ: tibi præcipimus, quod non distringas S. personam ecclesiæ de N. vel capellanum, ad veniendum ad turnum tuum vel ad visum franciplegii nostri in hundredo de I. contra formam provisionis prædictæ. Et distr' &c.

Aliter pro personis ecclesiasticis. Ibid.

Pro personis ecclesiasticis, quod non veniant ad visum franciplegii ratione terrarum & tenementorum ecclesiis suis annexorum Registr. p. 175. a.

Rex, vic' salutem. Cum secundum consuetudinem regni nostri Angliæ, personæ ecclesiasticæ ratione terrarum & tenementorum suorum ecclesiis suis annexorum, venire non debeant ad visum franciplegii in curia nostra aut aliorum quorumcunque: tibi præcipimus quod S. personam ecclesiæ de I. ratione terrarum & tenementorum suorum ecclesiæ prædictæ annexorum, ad veniendum ad

13 Edw. I. (Circumspectè agatis.)

A.D. 1285.

Laying violent Hands on a Clerk, shall be punished by Spiritual Judge.

§. VI. — For a laying violent hands on a Clerk—the Spiritual Judge shall have power to take Knowledge, notwithstanding the King's Prohibition.

9 Laying violent Hands] The end of a Suit in the Spiritual Court for laying violent Hands on a Clerk, is only pro salute Animæ, by Excommunication or Corporal Penance; but if a Clergyman be arrested by Process of Law, he cannot for this sue in the Ecclesiastical Court, but a Prohibition will lie; quia non est juri consonum, quod quis pro eo quod negotia sua super hiis quorum cognitio ad nos pertinet in Curia nostrâ, modo debito prosequitur, trabatur; as the Words of the Writ are.

as appears by Art. Cler. yet for an Assault only, it is clear, that the Suit ought to be at the Common-Law.

So also, where a Prohibition was granted to stay process in the Spiritual Court, against one who seeing an Assault made upon his Servant by a Clerk, came in aid of his Servant, and laid his Hands peaceably upon the Clerk; Gawdy Chief Justice held, that this Case was out of the Statutes, Articuli Cleri, & Circumspectè agatis; because the Party had good Cause to beat the Clerk; and the Prohibition stood.

Kelly, verf. Walker. Cro. 1665. Mo 915.

A Prohibition having been granted, where a Clerk libelled against another in the Spiritual Court, for that he beat him, or at leastwise assaulted him; the Court held, that the Prohibition did well lie; for although (say they) pro violentâ manuum injectione in clericum, the Suit ought to be in the Spiritual Court,

But if a Prohibition issue, in Cases which shall be adjudged within these two Statutes, then a Consultation shall be granted; which see at large in the Notes upon the next Statute.

9 Edw. II. (Artic. Cleri.) Cap. 3.

A.D. 1315.

Laying violent Hands upon a Clerk. Excommunication for Penance corporal.

Laying violent Hands on a Clerk, Excommunication and penance Corporal.

Moreover, if any lay violent Hands on a Clerk, & the amends for the peace broken shall be before the King, and for the Excommu-

the amends for the Peace broken] If the Clerk sue in Court Christian for Damages for the Battery, he is in Case of Præmunire; for, in that Case, the Ecclesiastical Judge ought to proceed ex officio, only to correct the Sin. And tho' he do not directly sue for such Damages there, yet, if a Man is Excommunicate for laying violent Hands on a Clerk, and the Spiritual Court deny Absolution till amends be made to the Party for the battery; a Prohibition will be granted.

Punishment, assigned to that Crime by the Canon-Law, Si quis, suadente diabolo, hujus Sacrilegii reatum incurrerit, quod in Clericum [vel Monachum] violentas manus injecerit, Anathematis vinculo subjaceat; To which the Decretal referring, says, Non dubium est, quod hi qui violentas manus in Clericos, &c. injiciunt, ex Constitutione Concilii Sententiam Excommunicationis incurrunt. And agreeably to this, the Reformatio Legum has fixed it, Quicumque manus violentas in Clericum sciens injecerit, nisi voluerit arbitrato Judicium Ecclesiasticorum ei satisfacere, penitentiamque subire tam atrocium

Caus. 17. 9. 4. c. 29.

L. 5. T. 39. c. 2.

2 Laterani ut supra.

P. 125. b.

Co. 2. Inst. p. 492.

11 H. 4. V. Cof. Apol. p. 59.

Love verf. Prin. Cro. 1. P. 753.

Registr. f. 42.

Co. 2. Inst. p. 492, 608.

urication



Immunities of the Clergy, as to their Persons.

nication before a Prelate, & that penance corporal may be enjoyned; which if the Offendor will redeem of his own good Will, by giving Money to the Prelate, or to the party grieved, it shall be required before the Prelate, and the King's <sup>u</sup> Prohibition shall not lie.

*scelere dignam, in Excommunicationem ruet. A quâ nullo modo patimur illum sublevari, donec penitentia plenè sit perfunctus, Ordinarii sui arbitratu indicendâ. To all which Rules, the Practice of the Church of England hath been conformable, both before and since the Reformation; as appears by the Forms of Absolution, which we frequently meet with, in our Ecclesiastical Records.*

I must not omit what the same *Reformatio Legum* adds, *Esto quoque par Clericorum pena, si violentas manus in Laicos homines injecerint.*

[That Penance Corporal may be enjoyned]. If the Spiritual Court keep within these Bounds; and yet a Prohibition upon false Suggestions, be obtained; then a Writ of Consultation is provided, in the following Form:

*Rex, officiali, &c. salutem. Ex parte A. de B. nobis est ostensum, quod cum ipse coram vobis in curia christianitatis petat C. de D. in majoris excommunicationis sententiam à canone latam incidisse, & excommunicatum fuisse, & per vos sententialiter & diffinitivè pronuntiari & declarari, & pro excommunicato publicè nunciari, pro eo quod in ipsum A. sciens ipsum esse presbyterum & in possessione presbyteratus existentem, manus injecit temerè violentas: ac præfatus C. processum causæ prædictæ coram vobis sic inchoatæ impedire seu penitus enervare nuper machinans fraudulentè, breve nostrum de prohibitione, vobis, ne placitum illud teneretis in curia christianitatis, dirigi procuravit, cujus brevis prætextu vos in causa illa jam diu procedere distulistis & adhuc differtis, in ipsius A. grave dispendium & libertatis ecclesiæ læsionem manifestam. Et quia in articulis, &c. continetur, quod si quis manus violentas injecerit in clericum, pro violata pace debet emenda fieri coram nobis; pro excommunicatione verò, coram prælato, ut imponatur penitentia corporalis:*

*vobis significamus quod si in causa prædicta, non de violata pace nostra, sed de excommunicatione ad correctionem animæ tantummodo, agatur, tunc ulterius in eadem, non obstante prohibitione nostra prædicta, facere poteritis quod secundum forum ecclesiæ & de jure fore videritis faciendum, T. &c.*

[<sup>u</sup> Prohibition shall not lie] Or, in case the Money for redeeming of Penance is sued for in the Spiritual Court, and a Prohibition is granted by the Temporal, the Party is relieved by a Consultation, as follows;

*Rex decano, &c. salutem. Monstravit nobis I. capellanus, quod cum ipse nuper traxisset in placitum, &c. G. & R., de eo quod ipsi in præfatum I. sciens ipsum esse clericum, & in possessione clericatus notoriè existentem, manus injecerunt violentas, per quod in sententiam excommunicationis majoris inciderunt ipso factò, fuisseque eisdem G. & R. penitentia corporalis pro violenta manuum injectione & excommunicatione prædictis per judicem suum ordinarium in ea parte imposta, quam iidem R. & G. per certas summas pecuniæ prædicto I. promissas redemerunt, implacitatque nunc dictus I. coram vobis in curia christianitatis prædictos G. & R. dictas pecuniæ summas repetens: prædicti G. & R. cognitionem, &c. Et quia in articulis, &c. continetur, quod si aliquis manus violentas injecerit in clericum, pro violata pace debet emenda fieri coram nobis; pro excommunicatione verò, coram prælato, ut imponatur penitentia corporalis, quam si reus velit sponte per pecuniam redimere dandam prælato vel læso, potest recipi coram prælato, nec in talibus locum habet regia prohibitio; vobis significamus quod in dicto placito de repetitione pecuniæ prælato vel læso promissæ pro redemptione penitentia corporalis in casu præmisso impostæ, procedere poteritis, dicta prohibitione non obstante. T. &c.*

Abridgment.

--- which being redeemed with Money, it shall be required before the Prelate, and no Prohibition lies.

Co. Inst. p. 492.

Consultatio de transgressione facta capellano vel alio clerico. Registr. f. 49. b. Vide etiam fol. 51. a.

Consultatio de repetitione pecuniæ prælato vel læso promissæ. Registr. f. 53. b.

A.D. 1376.

50 Edw. III. Cap. 5.

None shall arrest Priests or Clerks doing Divine Service.

**I**tem, Because that complaint is made to our Lord the King by the Clergy of his said Realm of England, that as well divers Priests bearing the sweet body of our Lord Jesus Christ to sick People, and their Clerks with them, as otherwise divers other persons of holy

*Item, Because that] The Record of the Clergy's Petition, and the King's Answer, differing in some particulars from the Printed Statute, I will here transcribe them: Item supplicat dictus Clerus, quatenus dignetur Regia Celsitudo in præsentis Parlamento Statuere, ne quovis Clericus, Ecclesiasticæ personæ, dum Sacris Ministeriis & Divinis Officiis occupatur, pro transgressione qualibet, licet gravi, in Ecclesia, vel ejus Cæmeterio, aut locis aliis Deo dedicatis, capiatur per Ballivos, & alios Ministros Regios, seu aliorum Dominorum temporalium, seu aliorum, arrestetur: ne ex hoc divinum turbetur Officium, vel inceptum contingat forsitan intermitteri. Idem † Ecclesia Statuatur de Presbytero, ad infirmum de Eucharistiâ deferente, ac etiam ipsum Clerico, si quem habeat*

*secum, cor. . . .*

The King's Answer; *Le Roi le voet, &c. The King willet it, and granteth it in such manner, that noe Man keep himself in Sanctuary by Fraud.*

The sight of this Record seems to account for a mistake (at least what I take to be a mistake) in the Report of the Case of *Pit and Webley*, 11 *Jac. I. 5.* where it is supposed, that this and the following Statutes, forbid Arrests of Laymen as well as Clergymen, in attending Divine Service; and I cannot conceive, on what Clause or Expression that Supposition can be founded, unless it be on these Words, *Divers other Persons of Holy Church, while they attend to divine Services;* which however dubiously

Persons of Holy Church shall not be Arrested, (as they have been) attending to Divine Services,

Eulstr. part. 2. P. 72.

Rot. Parl.

† Forf. etiam.

Church,



Abridgment.

---upon grievous Forfeiture, So that there be no Collusion in the said Persons.

Co. 12. Rep p. 99.

Id.

Persons of holy Church attending Divine Services, shall not be Arrested, as they have been,

--upon pain of Imprisonment, &c.

---if there is no Collusion in holding themselves within Churches.

Clergy shall not be allowed, above once, to any but Persons in Holy Orders,

Church, & whiles they attend to Divine Services in Churches, Church-yards, and other places dedicate to God, be sundry times taken and arrested by Authority Royal, and commandment of other Temporal Lords, in offence of God and of the liberties of holy Church, and also in disturbance of Divine Services aforesaid: The same our Lord the King, who would be sore displeased if any did in such manner, will and granted, and defendeth & upon grievous forfeiture, that none do the same from henceforth; so that collusion or feigned cause be not found in any of the said persons of holy Church in this behalf.

express'd in the printed Statute, the Record shews to be meant of Ecclesiastical Persons only.

& [Whiles they attend] My Lord Coke says, he saw a Report in the time of Queen Mary, where it was held, that *cundo, redeundo, & morando*, to celebrate divine Service, the Priest ought not to be arrested, nor any who aids him in it.

& [Liberties of holy Church] From hence, it is concluded by my Lord Coke, upon the Authority of the aforesaid Re-

port, that this and the following Statute, give no new Privileges to the Clergy, but are only an Affirmance of what was Common-Law before.

& [Upon grievous Forfeiture] The above-cited Report declares, that the Party grieved may have an Action upon this Statute; and gives for Reason, 'That when any thing is prohibited by an Act, although the Act doth not give an Action, yet Action lieth upon it.'

Immunities of the Clergy, as to their Persons.

1 Ric. II. Cap. 15.

A.D. 1381.

The penalty for arresting of Priests, doing Divine Service.

Item, Because that Prelates do complain themselves, that as well beneficed people of holy Church, as other, be arrested, and drawn out as well of Cathedral Churches as of other Churches and their Church-yards, and sometime whiles they be intended to Divine services, and also in other places, although they be bearing the body of our Lord Jesus Christ to sick persons, and so arrested and drawn out, be bound and brought to prison against the liberty of holy Church: It is ordained, that if any Minister of the King or other, do arrest any person of holy Church by such manner, and thereof be duly convicted, he shall have imprisonment, and then be ransomed at the King's Will, and make gree to the parties so arrested. Provided always, that the said people of holy Church, shall not hold them within the Churches or Sanctuaries by fraud or collusion in any manner.

4 Henr. VI. Cap. 13.

A.D. 1488.

Clergy shall be allowed but once. A Convict Person shall be marked with the Letters M. or T. A Provision for them which be within Orders.

Item, Whereas upon trust of the privilege of the Church, divers persons have been the more bold to commit murder, rape, robbery, theft, and all other mischievous deeds, because they have been continually admitted to the benefit of the Clergy, as oft as they did offend in any of the premises. In avoiding of such presumptuous boldness, It is enacted, ordained, and stablished by the authority of this present Parliament, that every person, a not being within Orders, which once

a [Not being within Orders] So that, notwithstanding this Statute, the Law as to Clergy-men, stands as it did before, viz. That they may have Clergy *ad infinitum*, and, That they shall not be burnt in the Hand. And although, in a subsequent Statute (28 H. 8. c. 1. § 7.) it is enacted. That such as be within Holy Orders shall be used and ordered to all Intents and Purposes, as other Persons not being within Holy Orders; and, more particularly, in another Statute (32 H. 8. Cap. 3. §. 8.

That they shall be burnt in the Hand, in like manner and from as Lay-Clerks be accustomed; yet both these Statutes seem to be taken away by † 1 Edw. 6. c. 12. §. 4. which declares all Branches of Statutes, making any Offences Felony that were not Felony before 1 Hen. 8. to be repealed, void, and of none effect. Upon which Supposition, in the Clause 18 Eliz. c. 2. §. 2. which abolishes purgation of Clerks Convict, and provides, that after Clergy allowed and burning in the Hand, they shall hath

† Which see in Tit. 2. Cap. 1.



Immunities of the Clergy, as to their Persons.

hath been admitted to the benefit of his Clergy, estfoons arraigned of any such Offence, be not admitted to have the benefit or privilege of the Clergy: And that every Person so convicted for murder, to be marked with an M. upon the brawn of the left thumb. And if he be for any other felony, the same person to be marked with a T. in the same place of the thumb, and those marks to be made by the Taylor openly in the Court before the Judge, before that such Person be delivered to the Ordinary. Provided alway, if any person at the second time of asking his Clergy, because he is within Orders, hath not there ready his Letters of his Orders, or a Certificate of his Ordinary witnessing the same, that then the Justices afore whom he is so arraigned, shall give him a day by their discretion to bring in his said Letters or Certificate: And if he fail, and bring not in at such a day his said Letters, nor Certificate, then the same person to lose the benefit of his Clergy, as he shall do that is without Orders.

forthwith be enlarged, the burning in the Hand is to be understood with this limitation, *where burning ought to be.* Thus, my Lord Hobart understands it, on Supposition that the two Statutes of H. 8. are repealed by that of Edward VIth; and, on the same Supposition, it must be, that my Lord Coke speaks of the right of Persons within holy Orders, to have their Clergy again, and not to be burnt in the Hand; as Rights, not abolished, but still belonging to the Clergy. However, the said Clauses not being expressly repealed, I will subjoin them in this place.

Note, That by the Statutes, 12 H. 7.

c. 7. — 4 H. 8. c. 2. — 23 H. 8. c. 1, 11. — 26 H. 8. c. 12. Provisions are made in favour of Persons within holy Orders, as to Clergy and Purgation, in Cases of *Petit-Treason, Murder, &c.* But Purgation being taken away, and Clerks within Holy Orders, who shall be guilty of the said Crimes, being, by subsequent Laws, put in the same State and Condition with *Lay-men*, it was judged most proper and adviseable to reserve those Statutes to the Title *Benefit of Clergy, &c.* and there to print them (as now Matters of *Curiosity* only) among the abrogated Laws of *Clergy and Purgation.*

Abridgment.

Clergy shall not be allowed, above once, to any but Persons in Holy Orders,

---who also shall produce Orders, or a Certificate, then, or within a certain day.

Search verif. Williams. Hob. p. 288.

Co. 2. Inst. p. 637.

A.D. 1536.

### 28 Henr. VIII. Cap. 1.

In an Act Entituled, *An Act that Abjurers in certain Cases shall not have Clergy.*

§. VII. And be it also enacted by authority aforesaid, That such as be within holy Orders, shall from henceforth stand and be under the same pains and dangers for the Offences contained in any of the said statutes, and be used and ordered to all intents and purposes, as other persons not being within holy Orders: Any provision or exception specified in any of the said Acts, or any other usage or custom of this Realm to the contrary thereof notwithstanding. This Act to endure unto the last day of the next Parliament.

Persons in Holy Orders shall be in the same Condition, as to Clergy, with all others.

† Vid. Tit. Benefit of Clergy.

A.D. 1541.

### 32 Henr. VIII. Cap. 3.

In an Act Entituled, *For the Continuation of certain Acts.*

§. VI. And where also in the Parliament begun and holden at Westminster the eighth day of June, in the xxviii. year of the reign of our said most dread Sovereign Lord King Henry the eighth, and there continued and kept until the dissolution thereof: It was ordained and enacted, That all and singular the said several Acts above remembred, and every of them should continue and endure in their force and strength, and also be observed and kept until the last day of the next Parliament. And it was also ordained by the authority of the same Parliament, that such as be within holy Orders, should from thenceforth stand and be under the same pains and dangers for the offences contained in any of the said statutes, and be used and ordered to all intents and purposes, as other persons not being within holy Orders, any provision or exception specified in any of the said Acts, or any other usage or custom of this Realm to the contrary thereof notwithstanding, as by the same Acts among other things therein contained more plainly appeareth. And forasmuch as all and singular the said several Acts above mentioned be good and beneficial for the common-wealth of this Realm,

Foregoing Act, 28 H. 8. That Persons in holy Orders shall be used like others, as to Clergy,



Abridgment.

...shall be perpetual.

Persons in holy Orders, having Clergy, shall be burnt in the Hand, and be ordered, in all respects, as Lay-Persons.

§. VII. Be it therefore enacted and ordained by the authority of this present Parliament, That all and singular the said several Acts, and every of them, and all clauses, articles, and provisions in them and every of them contained shall continue and endure in their force and strength, and be observed and kept for ever.

32 Henr. VIII. Cap. 3.

In an Act Entituled, For the Continuation of certain Acts.

§. VIII. And be it also enacted by authority of this present Parliament, That such persons as be, or shall be within holy orders, which by the Laws of this Realm, ought or may have their Clergy for any felonies, and shall be admitted to the same, shall be bren't in the hand in like manner and form as lay-Clerks be accustomed in such Cases, and shall suffer and incur afterward all such pains, dangers and forfeitures, and be ordered and used for their offences of felony to all intents, purposes and constructions, as lay-persons admitted to their Clergy, be, or ought to be, ordered and used by the Laws and Statutes of this Realm: any Statutes, Laws, Provisions, Privileges, Customs, or any other thing to the contrary thereof heretofore used, notwithstanding.

Immunities of the Clergy, as to their Persons.

A.D. 1541.

Rules of Common-Law, concerning the Privileges and Immunities of the Clergy, as to their Persons.

Co. 2. Inst. p. 2.

I. A Clergy-man may not be compelled to serve in a Temporal Office. And if he hold Lands or Tenements, by reason of which he ought, upon Election, &c. to serve in such Office, and is elected; he has a Writ for his discharge, in the following Form, to be altered (as I presume, in equity, it ought) according to the Nature of the Office he is to be discharged from:

Rex ballivis H. de L. salutem. Cum secundum legem & cons' regni nostri, clerici infra sacros ordines constituti, ad officium ballivi sive bedelli eligi non debeant, nec hactenus consueverint, ac jam ex parte T. magistri hospitalis nostri de C. acceperimus, quod vos ipsum magistrum ad officium ballivi seu bedelli manerii predicti elegistis jam de novo, & ipsum officium illud assumere compellere nitimini, in ipsius magistri grave damnum & contra legem & consuetudinem supradictas, super quo nobis supplicavit sibi per vos de remedio provideri, & quia non est consonum, quod dictus magister, qui nobis in hospitali predicto pro salubri statu nostro, & pro animabus progenitorum nostrorum quondam regum Angl', & pro statu ejusdem hospitalis ac caritativae, eleemosynis, & aliis piis operibus in eodem hospitali manutenendis & sustentandis continue deseruit, ad insistendum alibi extra idem hospitale in secularibus negotiis compellatur; vobis precipimus quod districtioni & compulsioni, si quas eidem magistro ad officium ballivi seu bedelli in manerio predicto assumendum feceritis, omnino supersedeatis, & eas sine dilatione relaxetis, & denar' si quos per amerciamenta vel alio modo ex causa predicta ab eo levaveritis, eidem magistro restitui fac' indilate, sub periculo quod incumbit. T. anno xxx.

Quod clerici intra sacros constituti, non eligantur in officium. Registr. p. 187. b.

1 Ventr. 105. 1 Lev. 303. Mod. Rep. 232.

There is a modern Instance (29 Car. 2.) in which such a Writ of Privilege was granted; viz. in the Case of Dr. Lee, Archdeacon of Rochester, who by reason of some Lands he had within the Level of Romney-Marsh, was chosen by the Commissioners

of Sewers, Expenditer of the said Level; but it was ruled, that he should be privileged; and altho' (as Levinz reports the Case) there were but two Judges in Court, one of which only granted the Privilege to him, as he was an Ecclesiastical Person, (the other granting it because the Land was in Lease for 99 Years;) yet the Natura Brevium, speaking of this Writ, and particularly naming Bailiff, or Beedle, or Reeve, adds, or other like Office, that is (according to the plain tenor of the Writ) any Secular Employment, that would divert him from the proper business of his Function. And my Lord Coke, speaking of the Privileges of the Clergy upon the same Writ, expresses it by the general Words of any Temporal Office.

P. 175. b.

II. A Clergyman may not be compelled to serve in the Wars, in Person. By the Apostolical Canons (in which it is said, Ἐπίσκοπος, ἢ πρεσβύτερος, ἢ δίακονος, σελέει, ἢ μάχῃ, ἢ καθαρεισθῆναι, i. e. Episcopus, vel Presbyter, vel Diaconus exercitui vacans—deponatur,) and by other Canons and Constitutions of the Church, Clergymen are forbidden, upon pain of heavy Censures, to wear Arms, or serve in the Army. Nor were the English Clergy anciently obliged to find Horse, Armour, &c. together with the Laity, but were specially excepted out of the Commissions of Array; as appears by the Parliament-Roll of 4 H. 7. Accordes est, &c. It is agreed in Parliament, that in the Commission of Array, the tenor whereof was inrolled in the Roll of the Parliament held at Westminster the fifth year of our Lord the King that now is, there be exception made expressly of the Clergy hereafter, to the end that the said Clergy be not any way charged amongst the Laymen for to make any such Array, nor for to make any Contribution any way amongst the Lay-People for the Array aforesaid.

Co. 2. Inst. p. 3.

Co. 2. Inst. p. 4. 1 Can. Ap. 82.

1 Chalc. 7. Vermer, 16. Melj. 37. Rem. 6. Metenf. 6. Pictav. 10. Claromont. 4.

Rot. Parl.

Accordingly, in case of imminent Danger, instead of including them in such Commissions,



Immunities of the Clergy, as to their Persons.

† Journal. Inf. Dom. Sess. 10.

Commissions, Letters were sent to the Archbishops by the King and Council, for a separate Provision of Armour, Horfe, Furniture, &c. by the Clergy; and in the 31st year of Queen Elizabeth, when a Bill upon that head was depending in Parliament, the Clergy in † Convocation petitioned, that they might not be included, and presented their Reasons why they ought not; and, I conceive, the ancient course continued, till the Statute was made 13, 14 Car. 2. c. 3. for ordering the Forces in the several Counties of this Kingdom, if not longer.

III. The Body of a Clergyman may not be taken by force of any Process upon a Statute-Stamp, or Statute-Merchant. For his greater Security wherein, not only the Writ thereupon hath in it this express Limitation, † Si laicus sit; but there is also a special Writ, in case he is in danger to be arrested on such occasion, forbidding the Sheriff to Arrest him.

Rex vicecomiti L. salutem. Cum in Statuto nostro de recognitionibus debitorum pro mercatore edito, contineatur, quod clerici pro hujusmodi recognitionibus juxta formam statuti prædicti per ipsos factis, virtute statuti illius capi non debeant seu imprisonari: tibi præcipimus, quod A. qui clericus est, ut dicitur, occasione alicujus recognitionis per ipsum secundum formam statuti prædicti factæ, contra formam ejusdem statuti non graves in aliquo seu molestes, nisi constet tibi aliquid obstare quare privilegio, &c. clericali, &c.

Also, if he be taken by force of any such Process, a Writ is provided, for his discharge:

Rex majori & ballivis civitatis Lincoln. salutem. Ex parte H. vicarii ecclesiæ de C. nobis est graviter conquerendo monstratum, quod licet in statuto de recognitionibus debitorum apud Acton Burnell pro mercatoribus edito contineatur, quod si quis recognitionem aliquam de debito aliquo, coram majore seu custode civitatis aut villæ, ubi major sive custos ad recognitionem hujusmodi accipiendam deputatus existat, fecerit, & terminus solutionis debitorum illorum præterit, dictus major sive custos Corpus hujusmodi debitorum, si laicus fuerit, & infra potestatem suam

inveniatur, capi, & prisonæ nostræ ibidem liberari fac, in eadem moraturum quousq; de prædicto debito plenè satisfecerit: vos tamen virtute cujusdam recognitionis viginti librarum, venerabili patri W. archiepiscopo Eborum per ipsum H. capellanum, executores testamenti R. nuper personæ ecclesiæ de B. coram I. nuper majore civitatis prædictæ & C. clerico, ad hujusmodi recognitiones apud L. accipiendas deputatis factæ, præfatum H. ac si laicus esset, quamquam ipse vicarius ejusdem ecclesiæ tempore recognitionis prædictæ extitisset, & adhuc existat in civitate prædicta, sine brevi nostro capi, & in prisona ibidem detineri fecistis, & adhuc facitis minus justè, in ipsius H. dispendium non modicum & gravamen, & contra formam statuti prædicti. Et quia eundem H. nolumus in hac parte indebitè prægravari, vobis mandamus, quod si vobis constare poterit, prædictum H. vicarium ecclesiæ prædictæ tempore ejusdem recognitionis extitisse & adhuc existere, ut dictum est, tunc ipsum H. à prisona prædicta qua sic detinetur, si ea, &c. in eadem, sine dilatione deliberari faciatis, & ipsum contra tenorem statuti prædicti non molestetis in aliquo, seu gravetis. Proviso, quod prædictæ viginti libræ de terris, bonis & catallis ipsorum H. & R. si nondum levatæ fuerint, juxta formam statuti prædicti leventur ut est justum. T. &c.

IV. In an Action of Account, &c. the Body of a Clergyman shall not be arrested by Capias. In these Cases the Sheriff can only return, Quod Clericus est Beneficiatus, & non habet Laicum feodum, &c. as appears by the tenor of the following Writ, to be directed thereupon to his Ecclesiastical Superior, the Bishop.

Rex, venerabili in Christo patri I. eadem gratia archiepiscopo Cantuar' totius Angliæ primati salutem. Mandamus vobis quod venire faciatis coram justitiariis nostris, &c. in octavis, &c. R. personam ecclesiæ de C. clericum vestrum, ad respondendum I. de placito quod, &c. & unde vicecomes noster London' mandaverit justitiariis nostris apud Westm' in octavis sancti Michaelis, quod prædictus R. clericus est beneficiatus, & non habet laicum feodum in balliva sua ubi potest summoneri. Et habeatis ibi hoc mandatum. T. &c.

Abridgment.

Breve archiepiscopo ad faciendum venire clericum. Reg. Jud. f. 3. a.

## CAP. V.

Immunities of the Clergy, as to ESTATE and INTEREST.

9 Henr. III. (Mag. Chart.) Cap. 14.

In the Chapter Entituled, How Men of all sorts shall be amerced, and by whom.

— **N**O Man of the Church shall be amerced after the quantity of his <sup>b</sup> Spiritual Benefice, but after his <sup>c</sup> Lay-tenement, and after the quantity of his offence.

<sup>b</sup> Spiritual Benefice] That is, any Ecclesiastical Promotion, or Spiritual Living whatsoever.

<sup>c</sup> Lay-tenement] And if a Spiritual Person be amerced above the quantity of his Lay-tenement, he shall have a Writ in the

following Form, to prohibit the levying of it.

Rex vic' salutem: Cum in magna charta de libertatibus Angliæ contineatur, quod nulla eccl' persona amerceatur secundum quantitatem beneficii sui ecclesiastici, sed secundum laicum feodum

None shall be amerced for his Spiritual Benefice.

Quod ecclesiastica persona non amerceatur secundum benefic' ecclesiasticum. Magna charta ca. 14. Regill. fol. 184. b.

Immunities of the Clergy, as to Estate and Interest.

A.D. 1225.

Co. 2. Inf. p. 29.



**Abridgment.**

Invaders of the Goods and Liberties of the Church shall be declared Excommunicate, ---and, not restoring in one Month, be put under Interdict, ---which punishment shall also belong to those who spoil the Church, ---and if they attach the Prelates for it, they shall be punished as Attachers.

They who take away the Goods of Ecclesiastical Persons, ---shall be ipso facto Excommunicate.

To the end, that they who spoil the Houses or Estates of Ecclesiastical Persons may not escape unpunished, through the difficulty of Citing them,

---it is decreed, that if they cannot be cited personally, nor have any dwelling, they be cited in the Parish-Church, or Cathedral,

*dum suum, ac jam ex querela S. personæ, &c. accepimus, quod licet ipse nullum laicum feudum teneat, tu tamen ipsum S. in turno tuo in hundredo tali, super aliquibus coram te in eodem turno presentatis, ipso S. super hiis non summonito nec legitime convicto, pro voluntate tua graviter amerciasti, & amerciamentum illud de bonis suis ecclesiasticis levare intendis minus justè, in ipso*

*S. damnum non modicum, & contra tenorem chartæ prædictæ: nos, nolentes ipsum S. in hac parte indebitè pragravari, tibi præcipimus, quod si ita est, tunc ipsum S. coram te taliter amerciari, seu amerciamentum aliquod de bonis suis ecclesiasticis levare non fac, contra tenorem chartæ supradictæ. Et distr. &c.*

Immunities of the Clergy, as to Estate and Interest.

**Bonifacius.**

*Bona Ecclesiastica invadentes, aut Jura infringentes, Excommunicatione feriuntur; pertinacium loca interdicto puniantur, nec absolvantur ante damni reparationem: attachiantes autem, aut distringentes ad hoc Judices aut Prelatos, pœna attachiatorum multentur.*

**U**T *d* invadentibus bona Ecclesiastica, & Ecclesiasticas libertates infringentibus & perturbantibus obvietur, providè duximus Statuendum, quod hujusmodi malefactores, sacrilegi & excommunicati, per locorum Ordinarios nuncientur. Et si in sua pertinacia per unum mensem perseveraverint, tunc terræ suæ & loca in quibus commorantur, supponantur Ecclesiastico interdicto, & neutra relaxetur Sententia, donec de damnis & injuriis satisfecerint competenter. Et si qui Divino non deferentes honori, Ecclesiam possessionibus aut libertatibus spoliaverint, pœnis subjaceant supradictis, & in ipsos usque ad plenam restitutionem & satisfactionem condignam in forma Juris Excommunicationis sententia solenniter proferatur. Et si iidem sacrilegi faciant Judices aut Prælatos propter hoc attachiari & distringi, tam ipsi quàm distringentes pœnis in attachiatores & districtores editis feriantur.

*d Invadentibus] Invadere propriè locum habet in Bonis immobilibus, sed Occupare in Bonis mobilibus. Lindw.*

**Othobon.**

*In Constit. de Abstrahentibus confuzientes ad Ecclesiam.*

—Ad hæc, si quis de Domibus, Maneriis, † Grangiis, & aliis locis hujusmodi ad Archiepiscopos vel alias † personas Ecclesiasticas vel ad ipsas Ecclesias pertinentibus, accedens, quicquam præter voluntatem aut permissionem Dominorum, vel eorum qui sunt hujusmodi rehus ad custodiendum † deputati, consumere, aut auferre, vel contrectare præsumperit, ipso facto sit Excommunicatione ligatus, à quâ, donec satisfecerit, Absolutionis gratiam minimè consequatur.

**Simon Mepham.**

*Immunitatis Ecclesiasticæ Violatores, Reique Usurpatores, quia ipso facto Excommunicati sunt, difficultate Citationis Sententiam non evitent; si tamen fieri potest, suis citentur loco & tempore; in loco videlicet delicti etiamsi non adfuerint, habito super ea re Certificatorio.*

**I**tem omnes illi, & infra. Ut immunitatis Ecclesiasticæ violatores, qui viz. de Domibus, Maneriis, e Grangiis, aut aliis locis ad Archiepiscopos, Episcopos, vel alias f personas Ecclesiasticas, seu ad ipsas Ecclesias pertinentibus, quicquam præter Voluntatem aut permissionem Dominorum, vel eorum qui sunt hujusmodi rerum Custodes g deputati, abstrahere, consumere, contrectare præsumperint; abstrahi, consumi, vel contrectari fecerint; seu hujusmodi abstractionem, consumptionem, contrectationem suo nomine vel à familiaribus suis factam, ratam habuerint; occasione difficultatis Citationis eorundem non evitent, (sicut pluries fieri consuevit) ne contra eos eâ occasione procedi valeat ut deberet; de fratrum nostrorum & totius Consilii consensu & assensu, Decrevimus, quemcunque Violatorem hujusmodi, si personaliter inveniri, & tutè adiri valeat, personaliter fore vocandum: Si verò non inveniri, vel non tutè adiri

*e Grangiis] Sic dictis à Granis quæ ibi reponuntur, Lindw.  
f Personas Ecclesiasticas] Sc. Clericos in quocunque Ordine constitutos.—Et cum hic generaliter loquatur de rebus ad personas Ecclesiasticas pertinentibus, puto quòd non solum istud debeat intelligi*

*de locis Ecclesiasticis, sed etiam de aliis, puta Patrimonialibus & privatis, ad ipsas personas Ecclesiasticas quovis modo spectantibus. Lindw.  
g Deputati] Ut sunt Præpositi, Ballivi, & quilibet serviens in officio sibi commisso. Lindw:*

valeat;

45 H. 3. A.D. 1261.

OBS. Edit. Oxon. p. 257.

53 H. 3. A.D. 1269.

OBS. Edit. Oxon. p. 101. † Vide Lindw. infra in Const. Mepham.

3 Edw. 3. A.D. 1328.

OBS: Edit. Oxon. p. 89.



*Immunities of the Clergy, as to Estate and Interest.*

valeat; tunc in Domicilio, si quod habeat, quo tutè Citari possit. Si verò in Domicilio quod habet Citari tutè nequeat; tunc in Ecclesia Parochiali ipsius Domicilii: vel si nullum habeat, vel non constet eum habere Domicilium; tunc in Ecclesia Cathedrali loci quo immunitas Ecclesiæ dicitur esse læsa: & nihilominus in Ecclesia Parochiali ejusdem loci, si tutè fieri possit, Citationem Decernimus fore faciendam; hujusmodique Citationem in Domicilio vel in Ecclesia publicè (ut præmittitur) factam, Volumus, non solùm in casibus supra dictis, sed etiam in omnibus casibus *h* Constitutionis Domini *Othoboni*, (quondam Apostolicæ Sedis Legati in *Anglia* quæ incipit, *ad Tutelam*, sic arctari Citationem, ac si esset per Citationem personaliter apprehensus; ejusdemque Citationis virtute contra eum posse procedi ad omnem effectum, ad quem posset, si Citatus personaliter extitisset. Præfatos etiam, & quoscunque alios Ecclesiasticæ libertatis seu immunitatis Violatores, decernimus in *i* loco delicti, etiam si ibidem *k* non inveniatur, tam ex officio Judicis quàm ad Partis instantiam, posse conveniri. Utrum autem hujusmodi Violatores Ecclesiasticæ libertatis seu immunitatis inveniri seu tutè adiri valeant, domiciliumve habeant vel non; volumus, in dubio, stari *l* Certificatorio illius, cui mandatur Citatio faciendæ: & ut in præmissis casibus & aliis injuriam passi justitiam debitam facilius assequantur, districtè hoc approbante Concilio Provinciali, præcipimus, ut omnes Judices Ordinarii nostræ Cantuariensis Provinciæ se invicem sine aliqua difficultate juvent in Citationibus & Executionibus faciendis, ac quibuscunque Mandatis licitis exequendis.

*b* Constitutionis] *Factæ contra abstrahentes homines ab Ecclesia, & violatores Sanctuariorum; quam ideo vide integram sub Tit. Sanctuariorum.*  
*i* Loco delicti] *Non intelligas præcisè de loco ubi delictum commissum est, sed de Territorio Judicis, cujus est Jurisdictio in loco illo. Lindw.*

*k* Non inveniatur] *Hoc intellige sic, ut delinquens remittatur ad locum delicti. Lindw.*  
*l* Certificatorio] *In quo Mandatarius seu Nuncius debet referre, se fecisse secundum formam Commissionis sibi factæ. Lindw.*

Abridgment.

---and so also, in all Cases within the Constitution *Ad Tutelam*,

-- --and whether found or not, they shall be proceeded against in the place of the Offence,

---credit being given to the Person Citing, that the Citation was due, ----in which all Judges shall assist one another.

A.D. 1267.

52 Henr. III.

Statut. de Kenelworth.

—Let the Church be satisfied by them that have hurt her in any point.

A.D. 1285.

13 Edw. I. (Westm. 2.) Cap. 45.

In an Act, Entituled, *The Process of Execution of things recorded within the Year, or after.*

—And if the Recognizance were made, or the fine levied of a further time passed, the Sheriff shall be commanded, that he give Knowledge to the party of whom it is complained, that he be afore the Justices at a certain day, to shew if he have any thing to say why such matters inrolled or contained in the fine ought not to have Execution. And if he do not come at the day, or peradventure do come, and can say nothing why Execution ought not to be done, the Sheriff shall be commanded to cause the thing inrolled or contained in the fine to be executed. // In like manner an Ordinary shall be commanded in his Case.

Church shall be satisfied for all hurts.

In a *Scire facias*, upon a Recognizance, &c. against a Clergy-man beneficed without Lay-fee,

---the Writ shall go to the Bishop, and not to the Sheriff.

// In like manner] This Branch is to be thus intended; that if a *Scire facias* be brought upon a Recognizance, or upon a Judgment in a Writ of Annuity, and the Sheriff return, That the Defendant is *Clericus beneficiatus nullum habens Laicum feodum*, &c. the Plaintiff shall have a Writ to the Bishop of the same Diocese to warn the Defendant; and if he appear not, or shew no matter wherefore Execution should not be granted, then a Writ shall be awarded to the Bishop, to levy Execution *de bonis Ecclesiasticis*.

*com' talis, talis dioc', solviffe debuerunt magistro F. CC. lib. videlicet in festo Omnium sanctorum anno, &c. centum libras, & in festo, &c. centum libras, sicut constat, &c. ut dicit: vobis mandamus quod centum & viginti marcas de summa prædicta de bonis & catallis ipsius I. in dicta dioc' vestra sine dilatione levare facias, ita quod eisdem centum & viginti marcas habeamus in cancellaria nostra, &c. ubicunq; &c. præfato F. ibidem liberand'. Et hoc nullatenus omitatis. Et habeatis ibi hoc breve. Mandavimus enim W. Lincoln' episcopo, quod ipse centum & viginti marcas residuas de bonis ecclesiasticis ipsius Thomæ in dicta dioc' sua levare faceret in forma prædicta. T. &c.*

Rex venerabili in Christo patri R. &c. salutem. Quia I. persona ecclesiæ de S. de com' H. vestræ dioc', & T. de L. persona ecclesiæ de M.

Co. 2. Inst. p. 472.

Levari facias episcopo. Registr. f. 300. a.



Abridgment.

1 Edw. II.

In an Act, Entituled, Causes to excuse a Man from undertaking of Knighthood.

Immunities of the Clergy, as to Estate and Interest.

A.D. 1307.

EX P. Persons in holy Orders shall not be forced to Knighthood for Lay-fee.

In like manner shall be done of Clerks being within holy Orders, holding Lay-fee, which should be Knights if they were lay.

In like manner] As is directed, in the Order of Knighthood, it is enacted, That no Person shall be compelled to take upon him the Order of Knighthood, nor suffer any Fine, &c. for not taking it upon him.

9 Edw. II. Cap. 9.

A.D. 1315.

Distresses shall not be taken in the High-ways, nor in the ancient Fees of the Church.

Distresses may not be taken in the High-way, nor in ancient Fees of the Church,

Also the Kings Officers, as Sheriffs and other, do enter into the Fees of the Church to take Distresses, and sometime they take the m m Parsons beasts in the Kings high-way, where they have nothing but the land belonging to the Church. The Answer. The Kings pleasure is, that from henceforth such Distresses shall neither be taken in the Kings high-way, nor in the Fees wherewith Churches in times past have been n indowed: nebertheless he willetth Distresses to be taken in possessions of the Church, newly purchased by Ecclesiastical persons.

---but in Possessions newly purchased, they may be taken.

Co. 2. Inst. p. 627.

Ibid.

De transgressionem pro persona, quia vicecomes dilixit eum in feudo ecclesie contra formam articulorum. Regill. f. 100, b.

m m [Parsons] This is only put for Example; but the Law extendeth also to other Ecclesiastical Persons.

n [Indowed] This is taken in a large Sense, and includes the Fees they have, ratione foundationis, or ratione dotationis. And if any Distresses be taken, contrary to the tenor of this Statute, the Party aggrieved hath the following Writs (founded upon this Statute) for his Relief.

Si A. persona ecclesie de C. fecerit, &c. tunc, pone &c. I. vis' nostrum comitatus predicti, &c. sub vic' nostrum ejusdem comitatus, quod sint, &c. ostensuri quare cum in articulis clero regni nostri Anglie per dominum E. nuper regem Anglie patrem nostrum concessis, inter alia contineatur, ne ministri nostri, ut vicecomites aut alii, capiant animalia rectorum ecclesiarum vel personarum ecclesiasticarum pro distinctionibus aliquibus in via regia, nec in feodis de quibus ecclesie illa olim fuerunt dotata: predicti vic' & subvic' averia predicti A. apud N. in feodo ipsius A. ecclesie sue predicta, de quo eadem ecclesia olim dotata fuit, ceperunt, & ea abinde usq; S. duxerunt, & ibidem imparcarerunt, & ea imparcata ibidem diu detinuerunt, contra legem & consuetudinem regni nostri Anglie, & contra formam arti-

culorum predictorum, & contra pacem nostram. Et habeas &c.

Rex vicec', &c. salutem. Cum in articulis, prelati & clero regni nostri per dominum E. nuper regem Anglie patrem nostrum, de assensu procerum & magnatum regni nostri concessis, contineatur, quod distinctiones non fiant super retores per vic' vel alios ministros nostros in via regia, aut feodis, quibus olim ecclesie sunt dotata, ac jam ex gravi querela dilecti nobis in Christo abbatis de W. persone ecclesie de K. intellexerimus, quod tu colore officii tui terras & tenementa que sunt de dote & feodo ejusdem ecclesie apud K. nuper ingressus fuisti, & presatum abbatem in terris & tenementis predictis graviter distrinxisti, & indies distringere non desistis, in ipsius abbatis prejudicium, & libertatis ecclesiastice lesionem manifestam, & contra formam articulorum predictorum: nos libertates ecclesiasticas illas observari volentes, tibi precipimus, quod distinctiones aliquas in terris & tenementis que sunt de dote ecclesie predicta nullatenus fac', nec quicquam quod in libertatis ecclesiastice lesionem aut enervationem articulorum predictorum cedere valeat attentes. Et distr', siquam presato abbati in feodo ecclesie sue predicta ut predictum est feceris, sine dilatione relaxes eidem. T. &c.

Quod distinctio non fiat in via regia nec in feodis de quibus ecclesie olim sunt dotata. Regill. f. 183, b.

Johannes Stratford.

Ex Responsonibus Regiis.

Nec in feudo Ecclesia, nec in via Regia, nec in fundis, quibus olim Ecclesia sunt dotata, fiant a Laicis distinctiones. Nec Clericus ad Ecclesiam confugiens Regnum abjurare cogatur, nec appellans repellatur.

9 Edw. 2. A.D. 1315.

Distresses shall not be taken in the Fees of the Church.

Sciatis quod cum dudum, & infra. Placet Domino Regi, ne distinctiones de cetero fiant in o feudo Ecclesie, nec in via Regia, nec in fundis quibus olim Ecclesie sunt p dotata: in possessionibus tamen a personis Ecclesiasticis q perquisitis possunt fieri distinctiones predicta.

Edit. Oxon. p. 268.

o Feudo Ecclesie] i. e. terris pertinentibus ad Ecclesiam. Lindw.

p Dotata] Nam sine dote Ecclesia consecrari

non debet; & talis Dos debet esse libera a quocumque servitio seculari. Lindw.

q Perquisitis] In quibus, scil. Domini temporales



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A.D. 1327.

rales habuerunt jus distringendi; quod jus amittere non debent per hoc quod tales possessiones acquiruntur viris Ecclesiasticis. Nam ubi alicui

terra vel loco imminet aliquod onus reale, res ipsa transit cum suo onere. Lindw.

Abridgment.

1 Edw. III. (St. 2.) Cap. 10.

There shall be no more Grants of Corrodies at the King's request by Bishops, Abbots, &c.

Item, Whereas Archbishops, Bishops, Abbots, Priors, Abbeles, and Prioresseles have been befoze this time sore grieved by the Kings requests and his Progenitors, which have desired them by great threats for their Clerks and other servants, for great Pensions, Prebends, Churches and Corrodies, so that they might nothing gibe nor do to such as had done them service, nor to their friends, to their great charge and damage: The King granteth that from henceforth he will no more such things desire, r but where he ought.

Grievance of the King's pressing Ecclesiastical Persons to grant Corrodies;

--which shall be done no more, but where it ought,

r But where he ought] For, of Common-Right, the King, as Founder of Archbishopricks, Bishopricks, and many Religious Houses, had a Corrody or a Pension, in the several Foundations; a Corrody for his Valedets, who attended him; and a Pension for a Chaplain, such as he should specially recommend, till the respective Possessor should promote him to a competent Benefice; for each of which, a Writ is provided, as for a matter of strict Right. And I will set down both the Writs (as I have hitherto done) to the end the Reader may better understand the nature and meaning of these things, when he meets with them, in our Ecclesiastical Records.

domo vestra sic percipiet facientes, sibi super hoc fieri, & ei liberari faciatis, pro quo vobis in agendis domus vestrae praedictae teneri volumus specialius in futuro. Et quid inde ad hunc rogatum nostrum duxeritis faciendum, nobis rescribatis per praesentium portatorem. T. &c.

Rex dilectis sibi in Christo abbati & conventui de C. salutem. Cum vos ratione novae creationis vestrae, praefate abbas, teneamini uni de clericis nostris quem vobis duxerimus nominand', in quadam annua pensione de domo vestra percipiend', quousque sibi provisum sit de beneficio ecclesiastico competenti, ac nos promotionem dilecti clerici nostri A. suis exigentibus meritis affectantes, ipsum ad hujusmodi pensionem a vobis percipiendam duximus nominandum: vobis igitur mandamus quatenus eidem Alexandro talem pensionem de dicta domo vestra in forma praedicta percipiendam, quae dantes deceat, percipientemq; fortius obligatum reddere debeat, concedatis, literas vestras patentes sigillo capituli vestri signatas eidem Alexandro super hoc fieri facientes. Et quid inde duxeritis faciendum, nobis sine dilatione rescribatis. T. &c.

De annua pensione. Registr. f. 265. b.

Per breve, &c. vel per ipsum regem.

14 Edw. III. (St. 3.) Cap. 1.

Spiritual Persons Goods shall not be taken by Purveyances, without the Owner's consent.

De Corrodio habendo. Statutum E. iii. A. primo, c. xi. Registr. f. 254. a.

A.D. 1340.

EXP.

First, That none by us, nor by other by Commission of the Great Seal, nor of the Small, nor without Commission, shall take any Corn, Hay, Beasts, Carriage, nor other goods of Archbishops, Bishops, Abbots, Priors, Abbeles, Prioresseles, Parsons, Vicars, or of other people of holy Church, within their houses, manors, granges, nor other places within the fees of holy Church, nor without, against the agreement and will of the owners of the same goods. And we do defend, that from henceforth no such Commissions under the Great Seal, nor the Small, shall in any wise go forth to make any such prises. For we do take the said Prelates and Clergy, their possessions, goods, and cattels, into especial protection and defence of us and our heirs. Also we grant for us and our heirs, that we shall not from henceforth charge any the said Prelates or Clergy, nor their houses, to receive guests, nor sojourners of Scotland, nor of other Countries, nor our Horses, nor Dogs, Fawcons, nor other Hawks of ours, nor others against their gree and will. Saving always to us the services which be due to us of right from them which owe to us the same services, to sustain and receive Dogs, Horses, or Hawks.

People's Goods of Holy Church shall not be liable to Purveyance:

--No Commissions shall issue for that end,

---nor will the King charge them with Guests or Horses, &c. against their will,

---saving only Services of right.

First, That] A freedom from Purveyance remained a special and peculiar Right of the Clergy, for some Ages; till the Laity were also released from that Burden by Stat. 12

Car. 2. c. 24; the same Statute, which also took away the Court of Wards and Liveries, and Tenures by Capite and Knights Service.



## Abridgment.

## 18 Edw. III. (St. 3.) Cap. 4.

*In Commissions to be made for Purveyance, the Fees of the Church shall be excepted.*

Former Statutes of Purveyances, in favour of Holy Church, shall be observed,

---and Fees of the Church shall be excepted in new Commissions.

Former Statutes of Purveyances, in favour of Holy Church, shall be observed,

---and further, the Clergy may have Action of Trespass against Purveyors.

People of Holy Church in Marshalle, shall pay no more Fees, than Lay.

Rot. Parl.

Spiritual Persons not being expressly mentioned in the Act, 27 H. 8. c. 26.

---it is hereby enacted,

Item, That the Statutes touching the purveyances of us and of our son, made in times past by us and our Progenitors, for people of holy Church, be holden in all points. And that in the Commissions to be made upon such purveyances, the fees of holy Church shall be excepted in every place where they be found.

## 1 Ric. II. Cap. 3.

*Prelates shall have their Action of Trespass against Purveyors offending.*

Item, That the Statutes late made in the time of the Noble King Edward, Grandfather to our Lord the King that now is, for Purveyors and Buyers, shall be firmly observed and kept in all points; adding therunto, because that Prelates and Clerks may not thereof commence their suits against any by way of crime (as the said Statutes required) all Prelates and Clerks shall from henceforth have their Actions against all such Purveyors and Buyers, by Actions of Trespass, and recover their treble damage.

## 9 Ric. II. Cap. 5.

*The Fees of Priests taken in the Marshalle of the King's House.*

Item, For the reverence of God and of holy Church, it is accorded and established, that Priests and other people of holy Church, taken in the Marshalle of the King's house, shall pay such Fees as lay-people pay, reasonably and no more.

Item, For the] This Grievance was redressed upon a Petition of the Clergy, made in Parliament, 1 R. 2. which, being more plain and particular than the printed Act, I will set down at length, together with the Answer. The Petition. *Item, que les homes, &c. i. e. Item, That the Men of holy Church, at the simple Suggestion of any whatsoever (tho' the Suggestion be never so false) are taken by the Ministers of the Marshalle of the Household of our said Lord the King, at all times when any such Suggestion is made; and* every time that they are so taken, they are compelled to pay half a Mark in name of a Fee, whereas the Lay people pay not, in such a case, more than one Groat; and that those which make such Suggestions, are freely suffered to leave their Suggestions, and the said Suggestions so left, to be repeated, and recommenced, as they will, without punishment. *Ans. He that shall find himself grieved in special, let him make his Complaint to the Steward of the Household of our Lord the King, and he shall have good and due Remedy.*

## 1, 2 Ph. &amp; Mar. Cap. 15.

*In an Act Entituled, An Act to confirm the Liberties of the Lords Marchers, &c.*

§ IV. And forasmuch as Bishops, and other Ecclesiastical persons, being Lords Marchers, having the like liberties, casualties, profits, and commodities within their Lordships Marchers and Lordships Royall, within the said dominion or principalltie of Wales, were not provided by the expresse letter of the saide Statute, in like sort as the laie and temporal Lord Marchers were, but rather of purpose as it should seeme, forgotten and left out of the said Act, against all reason and good equitie. And forasmuch also as the heires and successours of the laie and temporal Lords Marchers, then being, were not provided for by the limitation and expresse words of the said Act, as well as their ancessours and predecessours were, as reason would they should have bene.

§ V. It may please your Majesties, of your most gracious favour and benignitie, at the humble sute and Supplication of your said

the said Statute] Viz. 27 H. 8. c. 26. | Entituled, Concerning the Laws to be used in Wales.

faithfull

Immunities of the Clergy, as to Estate and Interest.

A.D. 1344.  
E X P.

A.D. 1377.

E X P.

A.D. 1385.

A.D. 1550.



Immunities of the Clergy, as to Estate and Interest.

faithfull subjects, the Lords Marchers that now are, in the said Dominion of Wales, both spirituall and temporall, to grant that it may, by the assent of the Lords spirituall and temporall, and the Commons in this present Parliament assembled, be ordeined, established, and enacted, by the authoritie of this present Parliament, that as well your said spirituall and Ecclesiasticall subjects, Lords Marchers, now having Lordships Marchers, or Lordships royall in Wales aforesaid, and their successours, and the successours of either of them: as also the heires and successours of the Lords temporall Marchers, that then were, or now be, and the heires or successours of every of them being, or which hereafter shall be, Lords Marchers within their Lordships Marchers, and Lordships royall in the dominion or principallitie of Wales, shall have and injoy to them, and to their heires and successours, respectively and severally for ever, the moietie and halfe of every forfeiture, of all and every common maineprise, recognisance for the peace, or apparance forfeited by any their tenants inhabiting within any their Lordships Marchers, or Lordships royall, and they to be paid the same moietie or halfe, by the hands of the Sheriffe of the countie, for the time being, after such forme and sort, as the said laie or temporall Lords Marchers, have beene or ought to have beene paid the same by force of the said Statute.

Abridgment.

---that they have the same Privileges, with the Temporal Lords Marchers.

Rules of Common-Law, concerning the Privileges and Immunities of the Clergy, as to Estate and Interest.

I. A Clergyman is not bound to pay *Tolls* or other like Customs, for his Ecclesiastical Goods: And if such Duties are demanded, there is a Writ to relieve him; by the Tenor of which Writ it appears, that this Exemption was part of the ancient Common-Law of the Realm:

*Rex ballivis suis de B. salutem. Cum secundum consuetudinem in regno nostro hactenus obtentam, personæ ecclesiasticæ ad theolonium de bonis suis ecclesiasticis præstandum minimè teneantur: vobis præcipimus, quòd A. personam ecclesiæ de B. ad theolonium vobis in civitate nostra prædicta de bonis suis ecclesiasticis præstandum non distringatis, contra consuetudinem prædictam. Et districtionem, &c.*

*Cum secundum consuetudinem, &c. obtentam, personæ ecclesiast. ad theolonium aliquod seu aliam custumam de bonis suis ecclesiasticis, vel de aliis bonis pro sustentatione sua emptis, præstare non debeant: vobis præcipimus quòd A. personam, &c. ad theolonium aliquod, vel aliam custumam de bonis suis ecclesiasticis venditis, seu de aliis pro sustentatione sua ibidem emptis, nullatenus distringatis, contra consuetudinem prædictam. Et distr', &c.*

II. A Clergyman is not bound to pay towards the repairs of Bridges, or Banks, by reason of his Ecclesiastical Possessions; and if he is distrained for these, he may have a Writ to the Party distraining, to desist:

*Rex ballivis suis de I. salutem. Cum personæ ecclesiast. secundum consuetudinem hactenus in regno nostro usitatam & approbatam, ad theolonium, † pannagium, & muragium, de bonis suis ecclesiast. alicubi in eodem regno præstand' nullatenus teneantur: vobis præcipimus quòd R. personam ecclesiæ de G, ad theolonium, pannagium seu muragium, de bonis suis ecclesiasticis vobis in villa nostra prædicta præstand', non distringatis contra consuetudinem prædictam, dum tamen mercandisas aliquas non exerceat de iisdem. Et districtionem, si quam præfatis hominibus seu eorum alicui eâ ratione feceritis, sine dilatione relaxetis eisdem.*

The *Natura Brevium* (speaking of the Extent of this Writ) to the particulars therein contained, adds this general Clause, *and the like*; and so also does my Lord Coke, who (notwithstanding his general Observation on the Statute of Bridges, 22 H. 8. c. 5. That by the Clause *Every Inhabitant*, all Exemptions from Contribution are taken away, referring us to the 25th Chap. of *Magna Charta* concerning the Customary Exemptions of particular Villages or Laypersons,) doth, in the same second Intitute, reckon this among the Privileges and Exemptions, to which he understood the Clergy to stand entituled, in Virtue of this ancient Writ.

But the later Opinion hath been, *That the Clergy are liable to all publick Charges imposed by Act of Parliament*. And this general Declaration was made in a Case, where the particular Question was, Whether a Clergyman was comprehended under the general Word *Parishioners*, in the Statute 2, 3 Ph. & Mar. c. 8. for the amending of *High Ways*; and they adjudged that he was; and yet if the forementioned Writ is of right to be extended to the *Repair of Bridges and the like*, there seems to be nothing more like the repairing of *Bridges*, than is the repairing of *High ways*.

This Declaration, therefore, must be founded on a general Supposition, That tho' the Exemptions of the Clergy from secular Burdens of any kind, be never so clear and ancient and reasonable, and tho' the Law hath provided special *Writs* in maintenance of such Exemptions; yet a general Expression in an Act of Parliament, (which Expression only may, in its most enlarged Sense, be extended to the Clergy) shall utterly extinguish the most ancient and unquestionable Right.

The Rule of the Canon Law is, *Quòd dos Ecclesiæ immunis esse debet ab omni tributo*; which is more particularly expressed by

P. 227.

2 Inst. p. 4.

Ib. p. 704.

Quod Personæ Ecclesiasticæ sint quietæ de Theolonio. Registr. f. 260. a.

Aliter de Eodem. Ibid.

Quod Personæ Ecclesiasticæ sint quietæ de Theolonio. Registr. f. 260. a.

† Pontagium. Pontage, & Pannage, & tiels sembles. Fitzherb. f. 227. b. Collectoribus Muragii, Pannagii, & Pontagii. Brev. alt. ib. a.

Trin. 26. Car. 2. Web. vers. Bachelor, 1 Ventr. 273. 2 Lev. 139. 3 Keb. 476.

Decretal. 1. 3. Tit. 39. c. 1.



Abridgment.

Ethelbald. Spel. Concil. V. 1. p. 264.

ibid.

Cod. 1. 1. t. 3. c. 2.

13 E. 1. St. 2. c. 2. 29 E. 3. c. 11. 27. Eliz. c. 13.

13 E. 1. St. 2. c. 4. 22 H. 8. c. 5.

23 H. 8. c. 2. 2. 3 Ph. & Mar. c. 8.

by one of our Saxon Kings, *Concedo ut Ecclesia regni mei à publicis vectigalibus, operibus, & oneribus absolvantur.* And the succeeding Kings (as we have seen) both before and since the Conquest, did frequently confirm these and other Immunities of the Church; and not only so, but whereas Contributions to the Building and Repairing of Bridges were often excepted in those ancient Charters of Immunity, and the Clergy left liable to them; in process of time, this Burden, as well as the rest, was taken off, and the forecited Writ provided, by way of security against any future Impositions of that kind. For which Favours to Ecclesiastical Persons, the Imperial Law upon that Head hints a very true and material Reason, *That they may be able to maintain Charity*; for altho' Clergymen do first bestow their own Fortunes in qualifying themselves for the Ministry, by a liberal Education, and then enjoy their Ecclesiastical Revenues only for term of Life; yet it is well known, that far greater measures of *Charity and Hospitality* are expected from them, than from Lay-persons of the same Fortune, whose Estates are to descend to their Posterity, and whose present Improvements are much more considerable, than the Clergy are capable of making; as being forbid *Secular Cares*, that they may duly attend their *Spiritual Functions*.

Upon these Considerations, it might be hoped, that the general Words, *People dwelling in the Country, and Inhabitants, and Resiants*, in the Laws by which the Hundred, &c. is made answerable for *Robberies*; *Every Town according to number of Inhabitants*, in the Statute for *Watching*; *Inhabitants*, and *every Inhabitant*, in the Statute for repairing and amending of *Bridges*; *Persons resiant in the Shire*, in the Statute for making of *Gaols*; *Parishioners*, and *Housholders*, in the Statute for mending of *Higb-ways*: It might be hoped, that these and the like general Words (without the least mention made of the Clergy) should be interpreted

only of the *Laity*, upon whom alone those Charges had rested, and not extended to the taking away the ancient Immunities, which the Clergy have, by the Common-Law of the Land; especially, when those favourable Regards to the Church and Clergy are so agreeable to the whole *Frame and Tenour* of the *English Constitution*, and the Reasons upon which they were granted, remain as strong and prevalent as ever.

One of the first declarations to the contrary (as I take it) if not the very first, is in the Case of *Harwood and Pate*; where *Rolle Chief Justice* owned, that it had been heretofore *questioned*, whether a Clergyman was subject to *watch and ward*, or to contribute to satisfy for a *Robbery* done within the Hundred; and then he adds, that now it is no question, but they are subject, and shall contribute. But he says not, in what Instance, or Instances, that matter had come in question; much less that any Determination had ever been made about it; which Silence therefore for so many Ages (considering what hath been said of the great Regard of the ancient *English Constitution* to the Church and Clergy,) seems to be best accounted for, by the Clergy's having had an *undisturbed* Enjoyment of those Exemptions, till these later days. However, that which had been a question, in the two particular Cases beforementioned, was so far from continuing a question, that in a few years it became a declared Maxim, That the Clergy are liable to all publick Charges imposed by Parliament, where they are not specially excepted; which being the Construction put upon Acts of Parliament already made, may be a warning to the Friends of the Church and Clergy, for the time to come, to take care of *special Provisoes* for their ancient Rights, while Acts of that kind are in making; as was † once attempted, but not with Success; there being others (who had not the like *Writs of Exemption to plead*) joined with them in the same *Proviso*.

Immunities of the Clergy, as to Estate and Interest.

Style, p. 162.

27 Car. 2. ut supra.

† May 14. 1662. Journ. Proc.

C A P. VI.

The Church of England, as by Law ESTABLISHED.

39 ARTICLES.

xix. Of the Church.

13 Eliz. A.D. 1571.

The Church is a Congregation of faithful Men, in which the Word of God, and the Sacraments, are duly preached and administred.

THE Visible Church of Christ is a Congregation of faithful Men, in the which the pure Word of God is Preached, and the Sacraments be duly Ministred, according to Christ's Ordinance in all those things that of necessity are requisite to the same.

31 Eliz. Cap. 16---35 Eliz. Cap. 14---39 Eliz. Cap. 28---43 Eliz. Cap. 19---3 Jac. 1. Cap. 27---7 Jac. 1. Cap. 24---21 Jac. 1. Cap. 34.

In the Acts of general Pardon.

The Church of England, as by Law established.

A.D. 1588. &c.

Excepted; all Libels against the Government -- Ecclesiastical.

---And also excepted, all offences of, or in making, writing, printing or publishing, or in consenting to the making, writing, printing or publishing of any false, seditious or slanderous booke or books, libel or libelles, in any wise, against the present government of this Realme, in causes either Ecclesiastical or Temporal.

EXP.



The Church  
of Eng-  
land, as by  
Law Esta-  
blished.

A.D. 1592,  
&c.  
EXP.

35 El. Cap. 14---39 El. Cap. 28---43 El. Cap. 19---  
3 Jac. 1. Cap. 27---7 Jac. 1. Cap. 24---

*In the Acts of general Pardon.*

---Prohibited also, and be it enacted by the authority aforesaid, that neither this Act, nor any thing therein contained, shall extend to pardon or discharge any offence---committed or done by and against the Ecclesiastical State or Government established in this Realme---

CANONS, 1603.

1 Jac. 1.

iii. *The Church of England, a true and Apostolical Church.*

Whosoever shall hereafter affirm, That the Church of *England* by Law established under the King's Majesty, is not a true and an Apostolical Church, teaching and maintaining the Doctrine of the Apostles: Let him be Excommunicated *ipso facto*, and not restored, but only by the Archbishop, after his Repentance and Publick Revocation of this his wicked Error.

1 Jac. 1.

CANONS, 1603:

vii. *Impugners of the Government of the Church of England by Archbishops, Bishops, &c. censured.*

Whosoever shall hereafter affirm, that the Government of the Church of *England* under His Majesty by Archbishops, Bishops, Deans, Archdeacons, and the rest that bear Office in the same, is Anti-christian, or repugnant to the Word of God: Let him be Excommunicated *ipso facto*, and so continue until he repent, and publickly revoke such his wicked Errors.

1 Jac. 1.

CANONS, 1603.

x. *Maintainers of Schismatics in the Church of England, censured.*

Whosoever shall hereafter affirm, That such Ministers as refuse to subscribe to the Form and manner of God's Worship in the Church of *England*, prescribed in the Communion Book, and their Adherents, may truly take unto them the Name of another Church not established by Law, and dare presume to publish it, That this their pretended Church hath of long time groaned under the Burthen of certain Grievances imposed upon it, and upon the Members thereof before mentioned, by the Church of *England*, and the Orders and Constitutions therein by Law established: Let them be Excommunicated, and not restored until they repent, and publickly revoke such their wicked Errors.

A.D. 1661.

13 Car. II. Cap. 1.

In an Act Entituled, *An Act for safety and preservation of his Majesty's Person and Government, &c.*

EXP.

§. II. And be it further Enacted by the Authority aforesaid, That if any Person or Persons at any time after the Four and Twentieth day of June, in the year of our Lord, One thousand six hundred sixty and one, during His Majesties life,---shall maliciously and advisedly, by writing, printing, preaching or other speaking, express, publish, utter, or declare any words, sentences, or other thing or things, to incite or stir up the people to hatred or dislike of the person of his Majesty, or the established Government; then every such person and persons, being thereof Legally convicted, shall be disabled to have or enjoy, and is hereby disabled and made incapable of having, holding, enjoying, or exercising any place, office,

King verf. Field.  
Sijerf. p. 69.  
Keb. v. 1. p. 209,  
233.

Established Government] Presently after the making of this Act, one *Field* was indicted upon it, for saying in the Pulpit, That the Government of the Church of England was Popish, Superstitious, and Will-worship; and that God would say to such as observed it, the last day, Who required this at your Hands?

Whereupon the Word *Government*, in this Clause, was declared to extend as well to the Ecclesiastical as Civil Government, and Judgment given against *Field*, that he should be disabled to bear any Office, and be fined 500 l. and remain in prison till it was paid.

Abridgment.

Excepted; all Offences against the Ecclesiastical State.

To deny the Church of *England* to be a true and Apostolical Church, shall be Excommunication, *ipso facto*.

To call the Government of the Church of *England* Anti-Christi-an, shall be Excommunication, *ipso facto*.

To say, that Ministers not subscribing, &c. may take the name of another Church, persecuted by the Church of *England*, shall be Excommunication.

Any Person who shall excite the People to a dislike of the King, or established Government, ---shall be disabled to hold Office or Promotion, and be liable to the penalties of the Law.



## Abridgment.

For preservation of the Ecclesiastical Government,

Enacted, that,

---to affirm that any Person is obliged to alter it, shall be a *Præmunire*,

---and that the Solemn League and Covenant (for extirpating of it) was an unlawful Oath.

Commissioners for Union shall not treat of any Alterations in the Church.

Recital of the foregoing Clause, 3, 4 Ann.

---also, that Commissioners have agreed upon a Treaty, now before the Parliament, and ratified in Scotland,

--- and that it is fit some provision should be made for the security of the Church of England,

or promotion Ecclesiastical, Civil or Military, or any other employment in Church or State, other than that of his Peerage; and shall likewise be liable to such further and other punishments, as by the Common Laws or Statutes of this Realm may be inflicted in such cases.

And to the end, that no Man hereafter may be misled into any seditious or unquiet Demeanour, out of an Opinion---That there lies any obligation upon him from any Oath, Covenant, or Engagement whatsoever, to endeavour a Change of Government, either in Church or State;

III. Be it therefore further enacted by the Authority aforesaid, That if any person or persons, at any time after the four and twentieth day of June, in the year of our Lord one thousand six hundred sixty and one, shall maliciously and advisedly, by writing, printing, preaching, or other speaking, express, publish, utter, declare, or affirm---That there lies any obligation upon him, or any other person, from any Oath, Covenant, or Engagement whatsoever, to endeavour a change of Government either in Church or State;---That then every such person and persons, so as aforesaid offending, shall incur the danger and penalty of a *Præmunire*, mentioned in a Statute made in the sixteenth year of the Reign of King Richard the second. And it is hereby also declared, That the Oath usually called, The solemn League and Covenant, was in it self an unlawful Oath, and imposed upon the Subjects of this Realm against the fundamental Laws and Liberties of this Kingdom.

3, 4 Ann. Cap. 7.

In an Act, Entituled, *An Act for the effectual securing the Kingdom of England, from the apparent danger that may arise from several Acts lately passed in the Parliament of Scotland.*

XII. Provided always and be it enacted and declared by the Authority aforesaid, That the Commissioners to be named in pursuance of this Act, shall not, by virtue of such Commission, treat of or concerning any Alteration of the Liturgy, Rites, Ceremonies, Discipline or Government of the Church as by Law established within this Realm.

6 Ann. Cap. 5.

*An Act for Securing the Church of England as by Law Established.*

Whereas by an Act made in the Session of Parliament held in the Third and Fourth year of Her Majesties Reign, whereby Her Majesty was Impowered to Appoint Commissioners under the Great Seal of England, to Treat with Commissioners to be Authorized by the Parliament of Scotland, concerning an Union of the Kingdoms of England and Scotland, It is Provided and Enacted, That the Commissioners to be named in pursuance of the said Act should not Treat of or concerning any Alteration of the Liturgy, Rites, Ceremonies, Discipline or Government of the Church as by Law Established within this Realm: And whereas certain Commissioners Appointed by Her Majesty in pursuance of the said Act, and also other Commissioners nominated by Her Majesty by the Authority of the Parliament of Scotland, have Met and Agreed upon a Treaty of Union of the said Kingdoms; which Treaty is now under the Consideration of this present Parliament: And whereas the said Treaty (with some Alterations therein made) is Ratified and Approved by Act of Parliament in Scotland: And the said Act of Ratification is, by Her Majesties Royal Command, laid before the Parliament of this Kingdom: And whereas it is reasonable and necessary, that the true Protestant Religion Professed and Established by Law in the Church of England, and the Do-

The Church of England, as by Law Established.

A.D. 1704.

A.D. 1707.

ctrine,



The Church  
of Eng-  
land, as by  
Law Esta-  
blished.

ctrine, Worship, Discipline and Government thereof, should be effectu-  
ally and unalterably Secured; Be it enacted by the Queen's most Ex-  
cellent Majesty, by and with the Advice and Consent of the Lords Spi-  
ritual and Temporal and the Commons in this present Parliament as-  
sembled, and by Authority of the same, That an Act made in the Thir-  
teenth Year of the Reign of Queen Elizabeth, of famous Memory, In-  
titled, An Act for the Ministers of the Church to be of sound Religion: And  
also another Act made in the thirteenth Year of the Reign of the late King  
Charles the Second, Intituled, An Act for the Uniformity of publick Pray-  
ers and Administration of Sacraments, and other Rites and Ceremonies, and  
for Establishing the Form of Making, Ordaining and Consecrating Bishops,  
Priests and Deacons in the Church of *England*, (other than such Clauses in  
the said Acts, or either of them, as have been Repealed or Altered by  
any subsequent Act or Acts of Parliament) and all and singular o-  
ther Acts of Parliaments now in force for the Establishment and Pre-  
servation of the Church of England, and the Doctrine, Worship, Di-  
scipline and Government thereof, shall remain and be in full force for  
ever.

§. II. And be it further Enacted by the Authority aforesaid, That after  
the Demise of Her Majesty (whom God long preserve) the Sovereign  
next Succeeding to Her Majesty in the Royal Government of the  
Kingdom of Great Britain, and so for ever hereafter, every King or  
Queen Succeeding and Coming to the Royal Government of the  
Kingdom of Great Britain, at His or Her Coronation, shall in the Pre-  
sence of all Persons who shall be Attending, Assisting, or otherwise  
then and there present, Take and Subscribe an Oath to maintain and  
Preserve inviolably the said Settlement of the Church of England, and  
the Doctrine, Worship, Discipline and Government thereof as by Law  
Established within the Kingdoms of England and Ireland, the Dominion  
of Wales, and Town of Berwick upon Tweed, and the Territories  
thereunto belonging.

§. III. And be it further Enacted by the Authority aforesaid, That this  
Act, and all and every the Matters and Things therein contained, be,  
and shall for ever be Holden and Adjudged to be a fundamental and  
Essential Part of any Treaty of Union to be concluded between the  
said Two Kingdoms; and also that this Act shall be inserted in express  
Terms in any Act of Parliament which shall be made for Settling and  
Ratifying any such Treaty of Union, and shall be therein declared to  
be an Essential and fundamental Part thereof.

Abridgment.

-----Enacted, that  
Stat. 13 *El.* c. 12.  
and Stat. 13 *Car.*  
2. c. 4. shall be in  
full force for ever,

--except such Clau-  
ses as have been  
repealed or altered.

Every King and  
Queen at their  
Coronation, shall  
swear to maintain  
the said Settlement  
of the Church of  
*England*,

--- and this Act be  
adjudged a funda-  
mental and essen-  
tial part of the U-  
nion.



## TIT. II.

SUPREME HEAD of the Church  
of England, PAPAL and REGAL.

## The CONTENTS.

Cap. I. *Papal Authority* ABOLISHED, and restored to the  
CROWN.Cap. II. *Papal Authority* RESTORED to the See of  
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tually ANNEXT to the CROWN.

## CAP. I.

*Papal Authority* ABOLISHED, and restored to the CROWN.

25 Hen. VIII. Cap. 22.

A.D. 1533.

In an Act, Entituled, *An Act concerning the King's  
Succession.*

§. XIV.



*And* for the more sure establishment of the *a* succession of your most royall  
majestie, according to the tenour and forme of this Act: Be it further enact-  
ed by authoritie aforesaid, that as well all the nobles of your Realme spiri-  
tuall and temporall, as all other your subjects now living, and being, or that  
hereafter shall be at their full ages, by the commandment of your Majestie or  
of your heires, at all times hereafter from time to time when it shall please your  
highnesse or your heires, to appoint, shall make a corporall oath in the presence of your high-  
nesse, or your heires, or before such other, as your majestie or your heires will *b* depute for  
the same, *c* that they shall truly, firmly, and constantly without fraud or guile, observe, fulfill,  
and maintaine, defend and keepe, to their cunning, wit, and uttermost of their powers, the  
whole effect and contents of this present Act. And that all manner your subjects, as well  
spirituall as temporall, suing livery, restitutions, or Ouster le maine, out of the hands of your  
highnesse, or of your heires, or doing any fealtie to your highnesse, or to your heires, by reason of  
tenure of their lands, shall sweare a like Corporall oath, that they and every of them, with-  
out fraud or guile to their cunning, wit, and uttermost of their powers, shall truly, firmly, and  
constantly, observe, fulfill, maintaine, defend and keepe the effects and contents contained  
and specified in this Act, or in any part thereof. And that they, nor any of them, shall heere-

*a* Succession] This was the Succession  
of the King's Children, by Queen Anne;  
upon declaring the Marriage between his  
Majesty and Queen Katharine to be void.

*b* Depute] As soon as the Session of Par-  
liament was over, Commissioners were ac-  
cordingly deputed, and sent into all parts,  
to offer the Oath to the King's Subjects:

*c* That they shall] This Act did not set  
down the Form of the Oath to be taken;  
nor is it easy to know, whether any parti-  
cular Form was observed throughout En-  
gland; (A Commission having been given to  
Bishop Bonner and others, in Queen Mary's  
time, to raze out of the Records all things  
that had been done, in Contempt of the  
See of Rome, or to the defamation of Re-  
ligious Houses.) But Bishop Burnet found

two Forms, with the Subscriptions, remain-  
ing; one of which he hath printed at  
length; from whence we learn, that (be-  
sides the point of the Succession,) they  
swore, *Quod confirmatum ratumque habemus,  
semperque perpetuo habituri sumus, quod prædi-  
ctus Rex noster Henricus est Caput Ecclesie  
Anglicanæ. Item, † quod Episcopus Roma-  
nus, qui in suis Bullis Papæ nomen usurpat &  
summi Pontificis Principatam sibi arrogat, nihilo  
majoris neque Auctoritatis aut Jurisdictionis ha-  
bendus sit, quam cæteri quovis Episcopi in An-  
glia alibi in sua cujusque Diocesi. — Item, quod  
unusquisque, in suis Orationibus & Compreatio-  
nibus de more faciendis, primum omnium Re-  
gem, tanquam Supremum Caput Ecclesie  
Anglicanæ, Deo & populi precibus commen-  
dabit.*

after

## Abridgment.

Every Subject,  
at the King's Plea-  
sure, shall sweare to  
observe the Act of  
Succession, before  
the King or his  
Commissioners,

---as shall all  
Persons suing Li-  
very, Restitutions,  
or Ouster le maine;

E X P.  
*Vid. infra*  
28. H. 8. c. 7.  
& 35 H. 8.  
c. 1.

*Papal Au-  
thority A-  
bolished,  
and resto-  
red to the  
Crown.*

APP. P.

† This was voted  
in Convocation,  
Mar. ult. 1534  
Journ. Conv.



*Papal Authority Abolished, and restored to the Crown.*

after have any liberties, Ouster le maine, or restitution out of your hands, nor out of the hands of your heires, till they have made the said corporall oath, in forme above rehearsed. And if any person or persons, being commanded by authoritie of this Act, to make the saide oath afoze limited, obstinately refuse that to do in contempt of this Act, that then every such person so doing, to be taken and excepted for offender in Disprision of high Treason: And that every such refusall shall be deemed and adjudged Disprision of high Treason: and the offender therein to suffer such paines and imprisonment, losses and forfeitures. and also lose privileges of Sanctuaries, in like manner and forme as is above mentioned for the Disprisions of Treason afoze limited by this Act.

*d Such Pains]* As in Sect. 10. of this Statute; viz. They shall suffer Imprisonment of their Bodies at the King's Will, and shall lose as well all their Goods, Cattels, and Debts, as all such Interests or Estates, of Free-hold, or for Years, which any such Offender shall have, of, or in, any Lands, Rents, or Hereditaments whatsoever, at the time of Conviction and Attainder of such Offence.

A.D. 1534.

## 26 Hen. VIII. Cap. 2.

*Oath taken by all the King's Subjects for the surety of the Succession of the Crown of England.*

E X P:  
Vid. infra.

Where at the last Session of this present Parliament, in the Act then made for the establishment of the succession of the heirs of the Kings Highness in the Imperial Crown of this Realm, it is contained amongst other things, that all and singular the Kings subjects, as well the Nobles spiritual and temporall, as other, should make and take a corporall oath, whensoever it shall please the Kings Majesty or his heirs to appoint, that they should truly, firmly and constantly, without fraud or guile, observe, fulfil, maintain, defend and keep, to their cunning, wit, and uttermost of their powers, the whole effects and contents of the said Act, as in the same Act amongst other things more plainly appeareth. And at the day of the last prorogation of this present Parliament, as well the Nobles spiritual and temporall, as other the Commons of this present Parliament then assembled in the high house of the Parliament, most lovingly accepted and took such oath as then was devised in writing for maintenance and defence of the said Act, and meant and intended at that time, that every other the Kings subjects should be bound to accept and take the same, upon the pains contained in the said Act. The tenour of which oath hereafter ensueth.

II. We shall swear to bear faith, truth and obedience alone to the Kings Majesty, and to his heirs of his body of his most dear and entirely beloved lawful wife Queen Anne begotten and to be begotten. And further to the heirs of our said Sovereign Lord, according to the limitation in the Statute made for surety of his succession in the Crown of this Realm mentioned and contained, and not to any other within this Realm, nor foreign authority or potentate. And in case any oath be made, or hath been made by you to any person or persons, that then ye to repute the same as vain and annihilate. And that to your cunning, wit, and uttermost of your power, without guile, fraud, or other and undue mean, ye shall observe, keep, maintain and defend the said Act of Succession, all the whole effects and contents thereof, and all other Acts and Statutes made in confirmation, or for execution of the same, or for any thing therein contained. And this ye shall do against all manner of persons, of what estate, dignity, degree, or condition soever they be. And in no wise do or attempt, nor to your power suffer to be done or attempted directly or indirectly, any thing or things, privately or appertly, to the let, hinderance, damage or derogation thereof, or of any part of the same, by any manner of means, or for any manner of pretence: so help you God, and all Saints, and the holy Evangelists.

III. And forasmuch as it is convenient for the sure maintenance and defence of the same Act, that the said oath should not only be authorized by the authority of Parliament, but also be interpreted and expounded by the whole assent of this present Parliament, that it was meant and intended by the Kings Majesty, the Lords and Commons of the Parliament, at the said day of the said last prorogation, that every subject should be bounden to take the same oath according to the tenor and effect thereof, upon the pains and penalties contained in the said Act: Therefore be it enacted by authority of this present Parliament, That the said oath above rehearsed, shall be interpreted, expounded, reputed, accepted and adjudged, the very Oath that the Kings Highness, the Lords spiritual and temporall, and the Commons in this present Parliament, meant and intended, that every subject of this Realm should be obliged and bounden to take and accept for maintenance and defence of the same Act, upon the pains contained in the said Act, and that every the Kings subjects, upon the said pains, shall be obliged to accept and take the said oath.

IV. And be it further enacted by authority aforesaid, That the Commissioners that hereafter shall be appointed to receive such oath of the Kings subjects, or two of them at the least, shall have power and authority to certifie into the Kings Bench by writing under their seals, every refusal that hereafter shall be made afoze them of the same oath by any person or persons coming afoze them to take the same oath. And that every such certificate to be made by such Commissioners, as is aforesaid, shall be taken as strong and as available in the law, as an indictment of twelve men lawfully founden of the said refusal. So that the person and persons against whom any such certificate shall be made, shall be compellen to answer thereunto, as if they were indicted. And that such process, judgment, execution, and every other thing shall be had, used, and ministered of and upon every such certificate against the offenders, as if they had been lawfully indicted of such offences by the due course and order of the common Laws of this Realm.

Abridgment.

---and the refusal shall be adjudged Misprision or Treason.

Recital of the foregoing Clause,

---and of the Oath viz.

To bear Faith, &c. to the King, and his Heirs by Q. Anne,

---and not to any foreign Authority or Potentate,

---to repute all Oaths made to any other, void; and to maintain the Succession, according to the Act,

---and not attempt or suffer any thing to the hindrance of it.

The Oath mentioned, as before, 25 H. 8. c. 22. not being there specified,

---this shall be interpreted the Oath there intended,

---and shall be taken upon the said Pains.

The Commissioners shall certifie all refusals into the King's Bench, ---and the Refusers shall be proceeded against, as upon Indictment.



Abridgment.

The King is, of right, Supreme Head of the Church, ---and is hereby declared the only Supreme Head, ---and shall enjoy the Title, with all its Honours, ---and have Power to visit and correct by Spiritual Authority.

26 Hen. VIII. Cap. 1.

The King's Grace to be authorized Supreme Head.

Albeit the King's Majesty justly and rightfully is, and ought to be the supreme head of the Church of England, and so is recognized by the Clergy of this Realm in their Convocations, yet nevertheless, for correction and confirmation thereof, and for increase of vertue in Christ's religion within this Realm of England, and to repress and extirp all errors, heresies and other enormities and abuses heretofore used in the same: Be it enacted by authority of this present Parliament, that the King our Sovereign Lord, his heirs and successors, Kings of this Realm, shall be taken, accepted and reputed the only supreme head in earth of the Church of England, called Anglicana Ecclesia; And shall have and enjoy, annexed and united to the Imperial Crown of this Realm, as well the title and style thereof, as all honours, dignities, preeminences, jurisdictions, privileges, authorities, immunities, profits and commodities to the said dignity of supreme head of the same Church belonging and appertaining; And that our said Sovereign Lord, his heirs and successors, Kings of this Realm, shall have full power and authority from time to time, to visit, repress, redress, reform, order, correct, restrain and amend all such errors, heresies, abuses, offences, contempts and enormities, whatsoever they be, which by any manner spiritual authority or jurisdiction ought, or may be lawfully reformed, repressed, ordered, redressed, corrected, restrained or amended, most to the pleasure of Almighty God, the increase of vertue in Christ's Religion, and for the conservation of the peace, unity and tranquillity of the Realm: Any usage, custome, foreign laws, foreign authority, prescription, or any thing or things to the contrary hercof notwithstanding,

Papal Authority Abolished, and restored to the Crown.

A.D. 1534

[Recognized by the Clergy] This Recognition was made upon the occasion of the Grant of 100,000 l. made by the Clergy, to obtain from the King a general Pardon of all Forfeitures by them incurred, upon the Statutes of *Provisors* and *Premunire*; particularly, for their having submitted to the Legatin Authority of Cardinal *Wolsey*, contrary to the tenor of the said Statutes. The Grant of the Subsidy, as to the *Money*, appears to have passed the Convocation, quickly, and easily; but the King refused to accept the Gift, or grant the Pardon, unless, after the Words *Ecclesia & cleri Anglicani*, in the Form of the Grant, they would add, *Cujus Protector, & Supremum Caput is solus est, &c.* This remained under the Deliberation of both Houses of Convocation; who, by their

Debates, appear to have been very desirous, that the King would have accepted the Subsidy, without the Clause; but in the 24th Session, the King's Commissioners being sent to enquire, whether they had yet come to a resolution, told them, *quod Dominus Rex noluit admittere ullam qualificationem super eadem.* Again, the next Session, the Commissioners declared, *Se non habere Commissionem de concludendo super Articulo Pardonationis & Exceptionis ejusdem, priusquam conclusum fuisset per Episcopos & Clerum, super dicto primo Articulo.* At length, it was agreed to, in these words, *Ecclesia & Cleri Anglicani, cujus singularem Protectorem unicum, & sapremum Dominum, & quantum per Christi Legem licet, etiam supremum Caput ipsius Majestatem recognoscimus.*

Feb. 9.

ibid.

Feb. 10.

Feb. 11.

Ann. 1530. 22 H. 8.

Journal. Conv. Sess. 32. Feb 7.

1, & 2 Phil. & Mar. Cap. 8.

A.D. 1554.

Repeal of the foregoing Act, 26 H. 8. c. 1.

§. XIII. And be it further Enacted by Authority of this present Parliament, That—one Act made at the Session of the said Parliament, holden upon Prorogation at Westminster, in the xxvi Year of the Reign of the said late King Henry the Eighth, Entituled, An Act concerning the King's Highness to be Supreme Head of the Church of England—shall henceforth be repealed, made frustrate, void, and of none Effect.

28 Hen. VIII. Cap. 7.

A.D. 1536.

In an Act, Entituled, An Act concerning the Succession of the Crown.

All Subjects shall take the following Oath,

§. XXI. AND for the more sure establishment of the succession of your most royall Majesty, according to the tenor and forme of this Act. Be it further enacted by authority aforesaid, that as well all the nobles of your Realme spirituall and temporall, as all other your subjects now living and being, or that hereafter shall be at their full ages, by the commandment of your Majesty, or of your heires, or successors, at all times hereafter from time to time when it shall please your Highness, or your heires or successors to appoint, shall make a corporall oath in the presence of your Highness, or your heires or successors, or before such other as your Majesty or your heires or successors will assigne for the same, for the keeping, observing, defending, avowing, and maintaining of this Act, and of all things that shall be done by your Highness by authority thereof, according to the tenor of an oath hereafter insuing, that is to say: Ye shall swear to bear faith, truth, and obedience alonely to the Kings Majesty, Supreme head in earth under God of the Church of England, during his life, and to his heires of his body of his most deare and intirely beloved lawfull wife *Queen Jane*, Legittim and to be begotten and precreated: and further to the heires of our said Sovereigne high

E X P. Vid. infra, 35 H. 8. c. 1.

---to bear Faith to the K. Supreme Head of the Church, and to his Heirs by Q. Jane, &c.



*Papal Authority Abolished, and restored to the Crown.*

Lord, according to the limitation in the statute made for suretie of his succession in the crowne of this Realme, in the Parliament begun and holden at Westminster in the eighth day of June, in the eight and twentieth yeere of the King's most gracious reigne. And also for lacke of such heires, to such person and persons as the King's highnesse shall limit and appoint to succede to the Crowne, by vertue and authoritie of the same Act, and not to any other within this Realme, nor foreign authority, power or potentate. And in case any other Oath be made or hath bene made by you to any person or persons, that then ye to repute the same as vaine and aduillate. And that to your cunning, wit, and uttermost of your power, without guile, fraud, or other undue manner, ye shall obserue, keep, maintein, and defend the said Act of succession made in the said Parliament, begun and holden at Westminster in the said eighth day of June, in the said eight and twentieth yeere of the King's most royall reigne, and all the whole effects and contents thereof, and all things that shall be done by the King's highnesse by authoritie of the same, and all other Acts and Statutes made in confirmation, or for execution of the same, or of any thing therein contained: and this ye shall do against all manner of persons, of what estate, dignitie, degree, or condition soever they be: & in no wise do or attempt, nor to your power suffer to be done, or attempted directly or indirectly, any thing or things prouiditly or apertly, to the let, hinderance, damage, or derogation thereof, or of any part of the same, or of any thing or things that shall be done by the King's Highnesse, by vertue or authoritie of the same Act, by any manner of meanes, or for any manner of pretence, so help you God, All Saints, and the holy Evangelists.

28 Hen. VIII. Cap. 10.

*An Act extinguishing the Authority of the Bishop of Rome.*

As much as notwithstanding the good and wholesome lawes, ordinances and Statutes heretofore made, enacted and established by the King's highnesse our most gracious Sovereigne Lord, and by the whole consent of his high Court of Parliament, for the Extirpation, Abolition, and Extinguishment out of this Realme, and other his grace's Dominions, Seignories, and Countries, of the pretended power and usurped authoritie of the Bishoppe of Rome, by some called the Pope, used within the same or elsewhere, concerning the same Realme, Dominions, Seignories, or Countries, which did Obscure and wret Gods holy word and testament a long season from the spirituall and true meaning thereof, to his worldly and carnall affections, as Pompe, Glorie, Avarice, Ambition, and Tyrannie, covering and shadowing the same with his humane and politicke devises, traditions, and inventions, set forth to promote and stablish his onely dominion, both upon the soules and also the bodies and goods of all Christian people, excluding Christ out of his Kingdome and rule of mans soule, as much as he may, and all other temporall Kings and Princes out of their dominions, which they ought to have by God's law, upon the bodies and goods of their subjects: where by he did not only rob the Kings Majestie, being onely the supreme head of this his Realme of England immediately under God, of his honour, right and preheminance, due unto him by the law of God, but spoiled this his Realme yeerely of innumerable treasure, and with the losse of the same deceived the King's loving and obedient subjects, persuading to them by his Lawes, Bulls, and other his deceivable meanes, such dreames, vanities, and fantasies as by the same many of them were seduced and conveyed unto superstitious and erroneous opinions: so that the Kings Majestie, the Lords spirituall and temporall, and the Commons in this Realme, being over wearied and fatigated with the experience of the infinite abominations and mischiefs, proceeding of his impostures, and craftily colouring of his deceites, to the great damages of soules, bodies, and goods, were forced of necessitie for the publicke Weale of this Realme, to exclude that foreign pretended power, jurisdiction and authoritie, used and usurped within this Realme, and to devise such remedies for their reliefe in the same, as doth not only redound to the honour of God, the high praise and advancement of the King's Majestie and of his Realme, but also to the great and inestimable utility of the same. And notwithstanding the said wholesome lawes so made, and heretofore established, yet it is comen to the knowledge of the King's highnesse, and also to diverse and many his loving, faithfull, and obedient subjects, how that diverse seditious and contentious persons, being impes of the said Bishop of Rome and his See, and in heart members of his pretended Monarchie, do in corners and elsewhere as they dare, whisper, inculke, preach, and persuade, and from time to time instill into the eares and heads of the poore simple and unlettered people, the advancement and continuance of the said Bishop's fained and pretended authoritie, pretending the same to have his ground and originall of Gods law, whereby the opinions of many be suspended, their judgments corrupted and deceived, and diversity in opinions augmented and increased, to the great displeasure of Almighty God, the high discontentation of our said most dread Sovereigne Lord, and the interruption of the unite, love, charity, concord and agreement, that ought to be in a Christian region and congregatton. For avoiding whereof, and repression of the follies of such seditious persons, as be the means and authors of such inconveniences: We it enacted, ordained and established by the King our Sovereigne Lord, and the Lords spirituall and temporall, and the Commons in this present Parliament assembled, and by the authoritie of the same, that if any person or persons, dwelling, demurring, inhabiting, or resident within this Realme, or within any other the King's dominions, seignories, or countries, or the marches of the same, or elsewhere within or under his obeisance and power, of what estate, dignity, preheminance, order, degree, or condition soever he or they be, after the last day of July, which shall be in the yeere of our Lord God 1536, shall by writing, cistring, printing, preaching, or teaching, deed or Act, obstinately or maliciously hold, or stand with, to extoll, set forth, mainteine or defend the authoritie, jurisdiction or power of the Bishop of Rome, or of his See, heretofore claimed, used or usurped within this Realme or in any dominion or country, being of, within, or under the King's power, or obeisance, or by any pretence obstinately or maliciously invent any thing, for the extolling, advancement, setting forth, maintenance, or defence of the same, or any part thereof, or by any pretence obstinately or maliciously attribute any manner of jurisdiction, authoritie, or preheminance to the said See of Rome, or to any Bishop of the same See for the time being within this Realme, or in any the King's do-

*Abridgment.*

---and not to any Foreign Power or Potentate;

---to repute all Oaths made to others, void;

---and to maintain this Succession against all manner of Persons.

Many good Laws have been formerly made against the Papal Authority,

---which is highly prejudicial to Religion and Government,

---and deprived the King of his Supremacy, and the Kingdom of great Treasure,

---notwithstanding which Laws, the Papal Authority is still privately promoted.

Enacted, That, all Persons, maintaining the Authority of the Pope, shall incur the Pains of the Statute of Provision and Premunire,

A.D. 1536.  
E X P.



## Abridgment.

---and Justices of Assize and of the Peace shall enquire into the Offences against this Act,

---and certifie Presentments into the King's Bench, under pain of 40 l.

---the Justices whereof shall proceed as in Offences against the Statute of *Provison* and *Premunire*.

---also, ecclesiastical Judges shall enquire concerning Ecclesiastical Persons, in their Visitations and Seans,

---and commit the Offenders to Gaole, or make them give Bail to appear in the Star-chamber.

The Offender being absent from Sean or Visitation shall be certified into the Star-chamber.

Any Ecclesiastical Person being convicted,

---shall suffer as in Case of *Provison* and *Premunire*,

---and every Ecclesiastical Judge concealing a Presentment, shall forfeit xl. lib.

Every Judge and other Minister and Officer, Ecclesiastical and Temporal, before Admission, shall take an Oath,

minions or countries: that then every such person or persons, so doing or offending, their aiders, assistants, comforters, abettors, procurers, maintainers, favourers, counsellors, concealers, and every of them, being thereof lawfully convicted, according to the Lawes of this Realme, for every such default and offence shall incur and run into the dangers, penalties, peines, and forfeitures, ordained and provided by the Statute of provision and premunire, made in the xvi. yeere of the reign of the noble and valiant Prince King Richard the second, against such as attempt, procure or make provision to the See of Rome or elsewhere, for any thing or things, to the derogation or contrary to the prerogative, roiall, or jurisdiction, of the Crowne and dignitie of this Realme.

II. And to the intent that this Act at all times may be well and truly executed, and the offenders thereof have and receive condigne punishment according to their demerits: It is enacted by the authority aforesaid, that as well Justices of Assize in their circuits, as Justices of Peace within the limites of their Commission and authorities, or two of every such Justices of Peace at the least, whereof one to be of the Quorum, shall have full power and authority to inquire of all offences, contempts, and transgressions, perpetrated, committed, or done contrary to this Act, in like manner and forme as they may of other offences against the King's peace: and shall certifie every presentment afoze them or any of them had or made, concerning this Act, or any part thereof, before the King in his Bench, within xl. dayes, next after any such presentment had or made, if the Terme be then open: and if not, then at the first day of the Terme next following the said xl. dayes, upon paine that every of the Justices of Assize, or Justices of Peace, before whom such presentment shall be made, making default of such Certificate contrary to this Statute, to lose and forfeit forty pounds to the King's highnesse.

III. And it is enacted by the authority aforesaid, that the Justices of the King's bench, as well upon every such certificate, as by enquire before themselves within the limits of their authorities, shall have full power and authority, to heare, order and determine every such offence done or committed contrary to this Act, according to the lawes of this Realme in such like manner and forme, to all intents and purposes, as if the person or persons, against whom any presentment shall be had upon this Statute, had been presented upon any matter or offence expressed in the said Statute made in the said sixteenth yeere of King Richard the second.

IV. And it is also enacted by the authority aforesaid, that all and every Archbishops, Bishops, and Archdeacons within this Realme, their Commissaries, Vicars general, and other their ministers in every their Visitation and Seans, shall make diligent insearch, inquiry, and examination of all and every Ecclesiastical and Religious person within any of their jurisdiction, which shall be suspected, accused, or deemed to be a transgressor or offender of this Act. And if upon such search, inquiry, and examination, any ecclesiastical or religious persons shall be presented, suspected, accused, or found culpable, by witness or confession of any offence, contrary to this Act, and be present at the time of such presentment, examination, or accusation: that then every the Archbishops, Bishops and Archdeacons, their Commissaries, Vicars general, and other their Ministers, afoze, or to whom any such person shall be presented, suspected, accused, or found culpable, as is aforesaid, shall commit every such person so presented, suspected, accused, or found culpable, if he be present, as is aforesaid, to the next common Gaole of the Shire where such inquirie, examination, or accusation shall be had or made, or else by good and sufficient sureties to be bounden by obligation to the King's use, shall let every such person to baile by their discretions, to appeare before the King and his Counsell in the Star-chamber, at Westminster, within fifteen days next after such inquirie, presentment, or accusation, if the terme be then open and kept, or else in the first day of the terme next following after the same inquirie, presentment, or accusation. And at the same day limited for such appearance, they shall certifie into the said Star-chamber, by writing under their Seales, as well the said bond and obligation taken for such appearance, as the presentment, examination, accusation, or conviction of every such person, and all depositions and circumstances thereof, and the name of the Gaole whereunto they have committed the said person. And if any such ecclesiastical or religious person, being presented, suspected, or accused, in any seane or visitation, be not present at the time of the said seane or visitation as is aforesaid, that then nevertheless every the said Archbishops, Bishops, and Archdeacons, their Commissaries, Vicars general, and all other their Ministers, afoze, or to whom any such presentment, suspicion, and accusation shall be had or made, shall certifie every such presentment, suspicion, and accusation, and all circumstances thereof (as is aforesaid) into the Star-chamber at Westminster, within fifteen dayes next after such presentment, suspicion, and accusation had or made, or in the first day of the terme next following after such presentment, suspicion, or accusation, in such manner and forme as is afoze-rehearsed. And in case any ecclesiastical or religious person, being presented, suspected, or accused of any offence done or attempted, contrary to this Statute, be thereof convicted by confession, or witness before any Archbishop, Bishop, or Archdeacon, or before any the Commissaries, Vicars general, or other their Ministers in their seans or visitations, or before the King's Counsell in the Star-chamber at Westminster: that then every such spirituall and religious person, so being convicted, shall suffer such peines, penalties and forfeitures, as be expressed in the said Statute made in the said sixteenth yeere of King Richard the second. It is also enacted by the authority aforesaid, that if any ecclesiastical Judge or visitor, do voluntarily conceale, cloke, hide or colour any presentment, accusation, or confession that shall be made to him concerning this Statute, and do not certifie every such accusation, presentment, or confession before the King and his Counsell in the Star-chamber at Westminster, in such manner and forme as is above specified in this Statute: that then every such ecclesiastical Judge and visitor, so wilfully offending for every such default, shall forfeit forty pound, the one half thereof to the King's highnesse, and the other halfe to such person as will sue for the same by originall writ, bill, plaint or information in any of the King's Courts, in which sute no escoine, protection, or wager of law shall be admitted nor allowed.

V. And for stronger defence and maintenance of this Act: it is ordained and enacted by authority aforesaid, that all and every ecclesiastical Judge, Ordinarie, Chancellor, Commissary, Officiall, Vicar general, and other ecclesiastical Officer or Minister, of what dignitie, preeminence, or degree soever they shall be: and all and every temporall Judge, Justicer,

Papal Authority abolished, and restored to the Crown.



*Papal Authority Abolished, and restored to the Crown.*

rier, Mayor, Bailiffe, Sheriffe, Under-sheriffe, Escheator, Alderman, Jurate, Constable, Hundredborough, Thiroborough, Worsolder, and every other laie officer and Minister, to be made, created, elected, or admitted within this realme, or any other the King's dominions, of what estate, order, degree, or condition soever he shall be, from and after the said last day of July, shall before he take upon him the execution of such office, make, take, and receive a corporall oath upon the Evangelists, before such person or persons as have, or shall have authority to admit him: That he from henceforth shall utterly renounce, refuse, relinquish or forsake the Bishop of Rome and his authority, power, and jurisdiction: and that he shall never consent nor agree that the Bishop of Rome shall practise, exercise, or have any manner of authority, jurisdiction, or power within this realme, or any other the King's dominions, but that he shall resist the same at all times, to the uttermost of his power. And that from henceforth he shall accept, repute, and take the King's Majesty to be the only supreme head in earth of the Church of England. And that to his cunning, wit, and uttermost of his power, without guile, fraud, or other undue meane, he shall observe, keep, maintaine and defend the whole effects and contents of all and singular Acts and Statutes made and to be made within this realme, in derogation, extirpation and extinguishment of the Bishop of Rome and his authority. And all other Acts and Statutes made and to be made in reformation and corroboration of the King's power of supreme head in earth of the Church of England: and this he shall do against all manner of persons, of what estate, dignitie, degree, or condition they be, and in no wise do nor attempt, nor to his power suffer to be done or attempted, directly or indirectly, any thing or things privily or apertly, to the let, hinderance, damage, or derogation thereof, or of any part thereof, by any manner of meanes, or for any manner of pretence. And in case any Oath be made or hath bene made by him to any person or persons, in maintenance, defence or favour of the Bishop of Rome or his authority, jurisdiction, or power, he repute the same as vaine and annullate: So help him God, all Saints, and the holy Evangelists.

VI. And it is also enacted by the authority aforesaid, that all and every person and persons, spirituall and tempozall, suing liberie, restitution, or Oufte le maine, out of the King, his heires, or successors hands, or doing any fealtie to his highnesse, his heires, or successors, or which shall be sworne to the King, his heires, or successors, or that shall have any office, fee, or room of the most gracious gift of the King's majestie, his heires or successors, or shall be retained in service with his grace, his heires, or successors, shall make, take, and receive the said Oath. And that also all and every religious person, at the time of his or their profession or entrie into Religion, and every other Ecclesiasticall person, at the time of his taking of Orders, and all and every other person, which shall be promoted or preferred to any degree of learning in any Universitie within this realme, or other the King's dominions, at the time of his promotion or preferment, and every of them, shall make, take, and receive the said Oath, before his or their Sovereigne, Ordinary, or the Commidary of such Universitie.

VII. And it is also enacted by the authority aforesaid, that if any person or persons, limited or commanded by authority of this Act, to make the said Oath, or commanded by any other person or persons, authorized by the King's highnesse commission, under his great Seale, or his Seale ordained for causes Ecclesiasticall, to make the said oath, obstinately refuse that to do: that then every such offence and contempt shall be high Treason, and the offenders thereof, being lawfully convicted, shall suffer peines of death, and other forfeitures, penalties, and losses, as is limited and accustomed in cases of high treason, by any Lawes or Statutes of this realme heretofore made.

VIII. Provided alwayes, and be it enacted: that this Act, nor any thing or things in the same rehearsed, mentioned or comprised, be in any wise prejudiciall, hurtfull, or derogatory to the ceremonies, uses, and other laudable and politicke ordinances, for a tranquillitie, discipline, concord, devotion, unitie, and decent order heretofore in the Church of England used, instituted, taken and accepted, nor to any person or persons accordingly using the same or any of them.

IX. Provided alway, and be it enacted by authority of this present Parliament that this Act, concerning the Bishop of Rome, or any thing to be done by his usurped authority, shall not further bind nor extend to and upon the King's subjects of his Isles of Jersey, Guernsey, and Alderney, in any other manner, forme, or condition, than it shall please the King's highnesse, with the advice of his most honourable Counsell, upon consideration, and examination of the estate and disposition of his said Isles, and the Commonwealth of the same, heereafter to establish, ordaine, and declare unto them by his gracious letters patents under his great Seale: and that the said letters patents, and every thing therein to be contained, shall be of the same effect, strength, and vertue, as if they had been passed and enacted by authority of Parliament, any thing in the said Act contained to the contrary in any wise notwithstanding.

A.D. 1540.

32 Hen. VIII. Cap. 23.

In an Act, Entituled, *The Subsidy of the Clergy of the Province of Canterbury.*

E X P.

THE Brelates and Clergy of the Province of Canterbury, calling to remembrance not only the great liberty and freedom that they have by their deliverance from the yoke and bondage of the usurped Power of the Bishop of Rome, which by the most gracious goodness and divine wisdom of our most dread and natural Sovereign Lord the King's Majesty, is most lawfully and righteously clearly banished and extinguished out of this Realme: and that therefore the Bishop of Rome ceaselesly not daily most maliciously to imagine how to provoke foreign Princes to take part with him to revenge his most unlawfull and wrongfull quarrels. ....

Abridgment.

That he renounces the Authority of the Pope, and accepts the King, as Supreme Head,

---and will maintain all Statutes, against the Papal, and for the Royal, Supremacy,

---and that he re-pures all Oaths to the Pope, to be null.

The Oath shall be taken by persons suing Livery, doing fealty, or having Office,

---and by Persons admitted in Religious Orders, or Degrees.

---and the refusal of the Oath when tendered, shall be High-Treason.

Proviso, for the use of the Ceremonies and Ordinances of the Church,

---and that this Act shall extend to Jersey, Guernsey, and Alderney, in such manner only as the King shall see convenient.

N. B. This Act being confirmed by 35 H. 8. c. 1. the Repeal of it is put after that Statute, in Pag. 33.

The Clergy in Convocation acknowledged the Blessing of their Deliverance from the Usurpations of Rome.

---which the Pope seeks to revenge.



## Abridgment.

35 Henr. VIII. Cap. 1.

In an Act, Entituled, *An Act for the Establishment of the King's Succession.*

Two Oaths have been formerly appointed to be taken,

---which being found imperfect, a new one is appointed,

---to stand in force and place of the two former Oaths;

---That neither Pope, nor any Foreign Potentate, hath Power within this Realm,

---but that he renounces the authority of the Pope, &c. and will oppose and resist it,

---and bear Faith and true Allegiance to the King and his Heirs,

---and repute them the only Supreme Head of the Church of England,

---and will maintain all Statutes made or to be made thereupon,

---attempting or suffering nothing in derogation thereof,

---and Reputing all Oaths made to the Pope to be null.

The Oath shall be taken by persons suing Livery, doing Fealty, or having Office,

--- §. IX. And for further corroboration of this present Act, and of the said Act made in the said eight and twentieth year of our said Sovereign Lord, and also utterly to exclude the long usurped power, authority and jurisdiction of the Bishops of Rome: where in the said Act made for the establishment of the Kings Succession, at the said Parliament holden at Westminster the eighth day of July, in the eight and twentieth year of the King's Majesty's Reign, there is one Oath limited in the said Act, as in the said Act amongst other things appeareth.

X. And where also at the said Parliament there was another Statute made and ordained against such as would both extol and stand to the jurisdiction, power and authority of the See and Bishop of Rome, in which Statute there is comprised another Oath, in such wise as in the same Statute amongst other things is mentioned. Forasmuch as in both the said Oaths, mentioned in the said several Acts, there lacketh full and sufficient words, whereby some doubts might rise: Therefore be it enacted by authority of this present Parliament, That from and after the last day of this Session, all and every such person and persons, which be ordered and limited by the said several Acts, to take the said Oaths mentioned in the same Acts, shall from thenceforth, in lieu and place of those two Oaths, take and swear this corporal Oath, according to the tenor ensuing. And that they which have already sworn the other aforesaid Oaths, or any of them, shall take and esteem it of the same effect and force, as though they had sworn this. Which former Oaths notwithstanding, because they be not so pithy to all effects, nor so plainly set forth as were convenient: Therefore be it enacted by authority of this present Parliament, that after this present Session, the said Oaths specified in the said several Acts, shall not thereafter be ministered, nor any person hereafter be compelled to accept the same, and this Oath hereafter mentioned in this Act, to stand in force and place of the said two Oaths.

XI. I A. B. having now the veil of darkness of the usurped power, authority and jurisdiction of the See and Bishops of Rome clearly taken away from mine eyes, do utterly testifie and declare in my Conscience, that neither the See, nor the Bishop of Rome, nor any foreign Potentate, hath, nor ought to have any jurisdiction, power or authority within this Realm; neither by God's Law, nor by any other just Law or Means. And though by sufferance and abuse in times passed, they aforesaid have usurped and vindicated a feigned and an unlawful power and jurisdiction within this Realm, which hath been supported till few years passed, therefore because it might be deemed and thought thereby, that I took or take it for just and good, I therefore now do freely and clearly renounce, refuse, relinquish and forsake that pretended Authority, power and jurisdiction, both of the See and Bishop of Rome, and of all other foreign Powers: And that I shall never consent nor agree that the aforesaid See or Bishop of Rome, or any of their Successors shall practise, exercise, or have any manner of authority, jurisdiction or power within this Realm, or any other the King's Realms or Dominions, nor any foreign Potentate, of what estate, degree or condition soever he be, but that I shall resist the same at all times to the uttermost of my Power: And that I shall bear faith, truth and true Allegiance to the King's Majesty, and to his Heirs and Successors, declared, or hereafter to be declared by the Authority of the Act made in the Session of the Parliament holden at Westminster the fourteenth day of January, in the five and thirtieth year, and in the said Act made in the eight and twentieth year of the King's Majesty's Reign: And that I shall accept, repute and take the King's Majesty, his Heirs and Successors (when they or any of them shall enjoy his place) to be the only Supreme Head in earth, under God, of the Church of England and Ireland, and of all other his Highnesses Dominions: And that with my body, cunning, wit, and uttermost of my power, without guile, fraud, or other undue mean, I shall observe, keep, maintain and defend all the King's Majesty's Stiles, Titles and Rights, with the whole effects and contents of the Acts provided for the same, and all other Acts and Statutes made, or to be made within this Realm, in and for that purpose, and the derogation, extirpation and extinguishment of the usurped and pretended Authority, power and jurisdiction of the See and Bishop of Rome, and all other foreign Potentates, as aforesaid: And also as well the said Statute made in the said eight and twentieth year, as the Statute made in the said Session of the Parliament, holden the five and thirtieth year of the King's Majesty's Reign, for establishment and declaration of his Highness's Succession, and all Acts and Statutes made, and to be made in confirmation and corroboration of the King's Majesty's Power and Supremacy in earth of the Church of England, and of Ireland, and of other the King's Dominions, I shall also defend and maintain with my body and goods, and with all my wit and power, and this I shall do against all manner of persons, of what estate, dignity, degree or condition they be, and in no wise do, nor attempt, nor to my power suffer, or know to be done or attempted, directly or indirectly, any thing or things privily or apertly, to the let, hinderance, damage or derogation of any of the said Statutes, or of any part of them, by any manner of means, or for or by any manner of pretence. And in case any Oath hath been made by me to any person or persons in maintenance, defence or favour of the See and Bishop of Rome, or his authority, jurisdiction or power, or against any the Statutes aforesaid, I repute the same as vain and annihilate, and shall wholly and truly observe and keep this Oath; so help me God, all Saints, and the holy Evangelists.

XII. And it is also enacted by authority aforesaid, That all and every person and persons, Spiritual and Temporal, suing Livery, Restitution, or Ouster le maine, out of the King's, his Heirs or Successors hands, or doing any Fealty to his Highness, his Heirs or Successors, or which shall be sworn to the King, his Heirs or Successors, or that shall have any Office, Fee or Revenue of the most gracious gift of the King's Majesty, his Heirs or Successors, or shall be received in service with his Grace, his Heirs or Successors, shall make, take, or receive the said Oath.

Papal Authority Abolished, and restored to the Crown.

A.D. 1543.

E X P.



*Papal Authority Abolished, and restored to the Crown.*

XIII. And that also all and every other Ecclesiastical person, at the time of his taking of Orders, and all and every other person which shall be promoted or preferred to any degree of Learning in any University within this his Realm, or other of the King's Dominions, at the time of his or their promotion or preferment, or every of them, shall make, take and receive the said Oath by this Act set forth and declared, as is aforesaid, before his or their Ordinary, or the Commissary of such University. And that all and singular other the King's Majesties Subjects and Reliants within this his Grace's Realm, and other his Majesty's Dominions, at his Highness's Will and Pleasure shall accept and take the same Oath before such Commissioner or Commissioners as his Highness shall appoint for the same.

XIV. And it is also enacted by the Authority aforesaid, That if any person or persons limited or commanded by the authority of this Act to make and take the said Oath, or commanded by any other person or persons authorized by the King's Highness's Commission under his great Seal to make the said Oath, obstinately refuse that to do: That then every such offence and contempt shall be High-Treason, and the Offenders thereof being lawfully convicted, shall suffer pains of death, and other forfeitures, penalties and losses, as is limited and accustomed in cases of High-Treason, by any Laws or Statutes of this Realm heretofore had or made in any wise concerning the same.

1, 2 Phil. & Mar. Cap. 8.

In an Act, Entituled, *An Act repealing all Articles, and Provisions made against the See Apostolick, &c.*

§. XVI. And also one other Act, made at the Parliament holden at Westminster, in the eight and twentieth year of the reign of the said late King Henry the eighth, Entituled, An Act extinguishing the authority of the Bishop of Rome, — shall henceforth be repealed, made frustrate, void, and of none effect.

1, 2 Phil. & Mar. Cap. 8.

In an Act, Entituled, *An Act repealing all Articles and Provisions made against the See Apostolick, &c.*

§. XXI. And where also at the said Parliament holden at Westminster, in the five and thirtieth year of the reign of the said late King Henry the eighth, one other Act was made, entituled, An Act concerning the stablishment of the succession of the said King in the Imperial Crown of this Realm: In the which Act there is a form of a corporal Oath devised and set forth, that every subject of this Realm should be bound to take, against the power, authority and jurisdiction of the See of Rome: Be it enacted by the authority of this present Parliament, That so much of the said Act as touched the said Oath, against the supremacy, and all Oaths thereupon had, made and given, shall be from henceforth utterly, void, repealed, and of none effect.

35 Henr. VIII. Cap. 3.

*An Act for the Ratification of the King's Majesty's Style.*

Where our most dread natural and gracious Sovereigne liege Lord the King, hath heretofore been, and is justly, lawfully and notoriously known, named, published and declared to be King of England, France and Ireland, defender of the faith, and of the Church of England, and also of Ireland, in earth supreme head, and hath justly and lawfully used the title and name thereof, as to his grace appertaineth. Be it enacted by the King our Sovereigne Lord, with the assent of the Lords spirittuall and temporall, and the Commons in this present Parliament assembled, and by the authority of the same, that all and singular his grace's subjects and reliants, of, or within this his Realme of England, Ireland and elsewhere within other his Majesty's dominions, shall from henceforth accept and take the same his Majesty's style, as it is declared and set forth in manner and forme following, that is to say, in the Latine tongue by these words, Henricus octavus Dei gratia, Angliæ, Franciæ & Hiberniæ Rex, fidei defensor, & in terra ecclesiæ Anglicanæ & Hibernicæ supremum caput: And in the English tongue by these words, Henry the eighth, by the grace of God King of England, France and Ireland, & defender of the Faith,

[Defender of the Faith] This Title was given to King Henry the 8th by Pope Leo the 10th, upon his writing against Luther; but Pope Paul the 3d had revoked it by his Bull against the same King, Ann. Regni 27, upon his Suppression of the lesser Houses of Religion. Notwithstanding which Revocation, Queen Mary in all her Sessions of

Parliament, before her Marriage and after, and in her Letters Patents, &c. used the Style and Title of *Defender of the Faith*; even tho' Pope Julius the Third, in his Bull to King Philip and Queen Mary, had not thought fit to use that Title; probably with a view to the foresaid Revocation.

Abridgment.

---and by Persons admitted to Orders and Degrees, ---and by all others at the King's pleasure.

The refusal of the Oath, shall be High-Treason.

Repeal of Stat. 28 Henr. 8. c. 10.

The Statute, 35 H. 8. c. 1. so far as concerneth the Oath of Supremacy, shall be repealed.

Recited, That the King had heretofore been declared Supreme Head of the Church, ---and Enacted, that the same shall be taken as his style,

A.D. 1554.

A.D. 1554.

A.D. 1543.



## Abridgment.

---and annexed to the Crown for ever,

---and that the attempting to deprive the King or his Heirs of the said Style, shall be High-Treason.

Saving of Rights to others.

and of the Church of England, and also of Ireland, in earth the Supreme head: And that the said Style declared and set forth by this Act, in manner and forme as is above mentioned; shall be from henceforth by the authority aforesaid, united and annexed for ever to the Imperial Crowne of his highness's Realme of England.

II. And be it further enacted by the authority aforesaid, that if any person or persons, of what estate, dignity, degree, or condition soever he or they be, at any time after the feast of Easter next coming, craftily imagine, invent or attempt by colour of any pretence, to deprive the King's highnesse, the Queene, the Prince, or the heires of the body of the King's Majesty, lawfully begotten, or the heires of the body of the Prince lawfully begotten; or any person or persons, to whom the Imperial Crowne of this Realme is limited in this present Session of Parliament, or at any time hereafter shall be limited and disposed by the King's highnesse; by his gracious letters Patents, or by his highness's last Will in writing, signed with his most gracious hand, of any of their titles, styles, names, degrees or royall estate or regall power which as is above said, is limited, united, or appointed to the Imperial Crowne of this his Realme, or that hereafter by authority of Parliament shall be set forth, limited, united or appointed to the said Imperial Crowne: that then every such offence and contempt shall be deemed and adjudged high-treason, and the offender and offenders therein, and their aiders, counsellors, maintainers and abettors, and every of them, being thereof lawfully convicted, shall be deemed, and adjudged high traitors, and shall suffer paines of death, and other forfeitures, penalties and losses, as is accustomed and limited by any Law or Statute in this Realme heretofore had or made, for or in cases of high-treason: Saving to every person and persons, and bodies politicke, to their heires, assignes, and successors, and to the heires, assignes and successors of every of them (other than such persons as shall be convicted or attainted, and their heires and successors, and all other claiming to their use) all such right, title, interest, use, possession, condition, rents, fees, offices, annuities, and commons, which they or any of them shall have in or upon any manors, lands, tenements, rents, fees, offices, annuities, or hereditaments, that shall so happen to be lost and forfeit, by reason of any conviction or attainder, for any of the treasons or offences above rehearsed, at any time befoze the said treasons or offences committed.

## 1, 2 Phil. &amp; Mar. Cap. 8.

In an Act, Entituled, *An Act repealing all Articles and Provisions made against the See Apostolick, &c.*

—§. XX. And one other Act made in the Parliament holden at Westminster, in the five and thirtieth year of the reign of the said late King Henry the eighth, entituled, An Act for the ratification of the King's Majesty's style, shall henceforth be *f* repealed, made frustrate, void, and of none effect.

*f* Repealed] It is alledged by my Lord Coke, that this is only a Repeal of the *Treasons*, made and enacted by the foregoing Statute; but (as he adds) *the Style and Title of the Crown, without question, remaineth of force unrepealed*: An Evidence of which is the fore-mentioned use of the Style of, *Defender of the Faith*, by King Philip and Q. Mary, and by all our Princes since, pursuant to the Tenor and Direction of this Statute. And, in the first Year of Queen Elizabeth, it was a question in Parliament, whether the Writs of Summons, having not the words *Supremum Caput Ecclesie Anglicane*, were well sent forth and returned. 'Tis true, it was determined, that they were, and that the Parliament ought to be holden accord-

ingly; but so also it was determined, in the first year of Queen Mary, while the Act stood, without any pretence of a Repeal, because (as Dyer reports the Resolution of the Judges and Serjeants) the words of the Statute are only *affirmative*, and not *negative*, so as to make it a Style of absolute necessity. And it is clearly intimated, in the sequel of that Report, that the determination in the first year of Queen Elizabeth, was made upon the same distinction (and not upon a supposition of the *Invalidity* of the Statute 35 H. 8;) as was also declared (with regard to the *Legal obligation*) in the Statute 2, 3 Phil. & Mar. c. 8. §. 44.

## 35 Henr. VIII. Cap. 18.

In an Act, Entituled, *An Act concerning the King's general Pardon.*

---And also excepted all treasons committed or done by any person or persons, by colour of any pretence to the intent to deprive the King's Majesty of his title of Supreme head of the Church of England and Ireland, or of any of them.

Treasons against the King, as Supreme Head, excepted out of Pardon.

*Papal Authority Abolished, and restored to the Crown.*

A.D. 1554.

Dyer, f. 98. a.

A.D. 1543.  
E X P.

1 Edw.

4 Inst. p. 344

D'Ewes, p. 38.



Papal Authority Abolished, and restored to the Crown.

A.D. 1550.

1 Edw. VI. Cap. 12.

In an Act, Entituled, *An Act for the Repeal of certain Statutes concerning Treasons, &c.*

VI. And be it enacted by the authority aforesaid, that if any person or persons, at any time after the first day of March next coming, by open preaching, expresse words, or sayings, do affirm or set forth, that the King, his heirs or successors, Kings of this Realm, for the time being, is not, or ought not to be Supreme head in earth of the Church of England and Ireland, or any of them immediately under God, or that the Bishop of Rome, or any other person or persons, other than the King of England for the time being, is, or ought to be by the laws of God, Supreme head of the same Churches, or of any of them, or that the King, his heirs or successors, Kings of this Realm, is not, or ought not to be King of England, France and Ireland, or any of them: or after the said first day of March, do compass, or imagine by open preaching, expresse words or sayings, to depose or deprive the King, his heirs or successors, Kings of this Realm, from his, or their royal estate, or titles, to, or of the Realms aforesaid, or do openly publish, or say by expresse words or sayings, that any other person or persons, other than the King, his heirs or successors, Kings of this Realm, of right ought to be Kings of the Realms aforesaid, or of any of them, or to have and enjoy the same, or any of them: that then every such offender being thereof duly convicted, or attainted by the Laws of this Realm, their aiders, comforters, abettors, procurers and counsellors, for his or their such first offence, shall lose and forfeit to the King all his and their goods and chattels, and also shall have and suffer imprisonment of his and their bodies, at the King's will and pleasure. And if any person being once convicted or attainted of any of the said offences, shall after his conviction or attainder effloons commit, or perpetrate any of the offences before mentioned, other than such as be expresse in the said Statute made in the said xv. year of King Edward the third, and shall be thereof duly convicted and attainted by the Laws of this Realm: then every such offender, their aiders, comforters, abettors, procurers, and counsellors, for his, or their said second offence or offences, shall lose and forfeit to the King, the whole issues and profits of all his and their lands, tenements, and other hereditaments, benefices, prebends, and other spiritual promotions, for term of life, of such offender or offenders: and shall also lose and forfeit to the King all his and their Goods and chattels, and also suffer, during his and their lives, perpetual imprisonment of his and their bodies. And if any person being two times hereafter convicted or attainted of any of the same offences, shall after his said second conviction or attainder, effloons commit or perpetrate again any of the said offences, and be thereof duly convicted or attainted by the Laws and Statutes of this Realm: that then every such third offence, or offences, shall be deemed and adjudged High-Treason, and the offender or offenders, their aiders, comforters, abettors, procurers, and counsellors, being therein convicted or attainted, according to the Laws and Statutes of this Realm, shall be deemed and adjudged High-Traitors, and shall suffer pains of death, and lose and forfeit all their goods and chattels, lands and tenements to the King, as in cases of High-Treason.

VII. And be it further enacted by the authority aforesaid, that if any person or persons, at any time after the said first day of March next coming, by writing, printing, overt deed, or act, do affirm or set forth, that the King of this Realm for the time being, is not, or ought not to be Supreme head in Earth of the Church of England and Ireland, or of any of them, immediately under God: or shall by writing, printing, overt deed, or act, after the said first day of March affirm, or set forth, that the Bishop of Rome, or any other person or persons, other than the King of England for the time being, is, or ought to be by the Laws of God or otherwise, the Supreme head in Earth of the same Churches, or of any of them: or do after the said first day of March compass or imagine by writing, printing, overt deed, or act, to depose or deprive the King, his heirs or successors, Kings of this Realm, from his or their royal Estate, or titles of the King of England, France, or Ireland, or of any of them, or by any writing, printing, overt deed, or act, do affirm, that any other person or persons, other than the King, his heirs and successors is, or of right ought to be King of the Realms of England, France, or Ireland, or to have and enjoy the same, or any of them, that then every such offence and offences shall be deemed and adjudged High-Treason, and the offender and offenders, their aiders, comforters, abettors, procurers, and counsellors, therein convicted or attainted, according to the Laws and Statutes of this Realm, shall be deemed and adjudged High-Traitors, and shall suffer pains of death, and lose and forfeit all their goods and chattels, lands and tenements to the King, as in cases of High-Treason.

XIX. Provided alway, and be it enacted by the authority aforesaid, that no person or persons shall in any wise be impeached, or put to answer for any of the offences abovesaid, concerning Treasons, by open Preaching, or words only, unlesse the party, offender or offenders, be thereof accused within thirty days next after the same open preaching, or words so spoken or declared, if the accusers shall fortune to be within this Realm, during the said space of thirty days next after the said offence committed or done. And if the accusers shall happen to be out of this Realm, during the said space of thirty days: then the party or parties so offending, shall be accused as is aforesaid within six Months next after the same preaching, or words spoken or declared: or else the party or parties so offending, their aiders, comforters, abettors, and counsellors, or any of them not to be impeached, or put to answer, for any such offence or offences: and that the same accusation or accusations so to be had, made and declared, shall be made to one of the King's Council, or to one of the King's Justices of Assise, or else to one of the King's Justices of Peace, being of the Quorum, or to two Justices of the Peace within the Shire, where the same offence or offences shall happen to be done or committed: any thing contained in this Act to the contrary in any wise notwithstanding.

XX. Provided also, and be it declared and enacted by the authority abovesaid, that concealment or keeping secret any High-treason, shall be from henceforth adjudged, deemed and taken misprision of Treason, and the offender therein shall forfeit and suffer as in cases of misprision of treason, as heretofore hath been used: any thing above mentioned to the contrary notwithstanding.

Abridgment.

Whoever shall affirm, by open preaching, &c. that the King is not, or any other is, Supreme Head of the Church of England,

---shall, for the first offence, forfeit their Goods and Chattels with Imprisonment at the King's will,

---for the second Offence, shall forfeit the profits of Lands, Benefices, &c. during Life, and Goods and Chattels, with Imprisonment during Life;

---for the third Offence, shall suffer as in cases of High-Treason.

To affirm by writing, &c. that the King is not, or any other is, Supreme Head,

shall be deemed and adjudg'd High-Treason.

Impeachments for words only, shall be within thirty days,

---or, if the Accuser be out of the Realm, within six months,

--before one of the King's Council, or the Justices.

Concealment of any High-Treason shall be Misprision of Treason.



Abridgment.

1, 2 Phil. &amp; Mar. Cap. 8.

In an Act, Entituled, *An Act repealing all Articles and Provisions made against the See Apostolick, &c.*

Foregoing Statute repealed.

—§. XXIV. And where one other Act was made at the first yeere of the Parliament holden at Westminster in the first yeere of the reigne of King Edward the sixth, intituled, An Acte for the repeale of certaine Statutes, concerning Treasons, Felonies, &c. in the which Act amongst other things there are contained certain provisions, paines, penalties and forfeitures, for and against such as should by open preachings, expresse words, sayings, writing, printing, overt deede or acte, affirme, or set forth, that the King of this Realme for the time being, is not, or ought not to be supreme head in earth of the Churches of England nor Ireland, nor of any of them: or the Bishop of Rome, or any other person or persons, other than the King of England for the time being, is or ought to be supreme head of the same churches, or any of them, as in the same Act last before rehearsed, and at large is contained and may appeare: Be it enacted by authoritie of this present Parliament, that these clauses before rehearsed, and other of the said Act, concerning the Supremacie, and all and every branch, article, words and sentence in the same, sounding or tending to the derogation of the supremacie of the Popes holinesse, or the See of Rome, and all paines, penalties and forfeitures made against them that should by any meanes set forth or extoll the said supremacie, shall be from henceforth utterly void and of none effect.

2 &amp; 5 Edw. VI.

*In the Litany-Service.*

Deliverance from the tyranny of the Pope, part of the Litany.

—from the tyranny of the Bishop of Rome, and all hys detestable Enormities— Good Lord, deliver us.

1 Mariae, Sess. 1. Cap. 1.

In an Act, Entituled, *An Act repealing and taking away certain Treasons, Felonies, and Cases of Præmunire.*

All Statutes in the Reign of Hen. 8. which make any offence Felony, or within the Statute of Præmunire, that was not so before, shall be void.

—§. V. And be it further ordained and enacted by the authority aforesaid, that all offences made felony, or limited or appointed to be within the case of Præmunire, by any Act or Acts of Parliament, Statute or Statutes, made sithence the first day of the first year of the reign of the late King of famous memory, King Henry the eighth, not being felony before, nor within the case of Præmunire, and also all and every branch, article, and clause mentioned, or in any wise declared in any of the same Statutes, concerning the making of any offence or offences to be felony, or within the case of Præmunire, not being felony, nor within the case of Præmunire before, and all paines and forfeitures concerning the same, or any of them, shall from henceforth be repealed, and utterly void and of none effect.

Papal Authority Abolished, and restored to the Crown.

A.D. 1554

A.D. 1548.  
& 1551.

A.D. 1553.

C A P.



C A P. II.

Papal Authority RESTORED to the See of ROME.

A.D. 1554.

1, 2 Phil. & Mar. Cap. 8.

An Act repealing all Articles and Provisions made against the See Apostolick of Rome, since the twentieth year of King Henry the Eighth, and for the Establishment of all Spiritual and Ecclesiastical Possessions and Hereditaments conveyed to the Laity.

Papal Authority Restored to the See of Rome.

Whereas since the twentieth year of King Henry the Eighth of famous memory, Father unto your Majesty, our most natural Sovereign and gracious Lady and Queen, much false and erroneous Doctrine hath been taught, preached and written, partly by divers the natural born Subjects of this Realm, and partly being brought in hither from sundry other foreign Countreys, hath been sown and spread abroad within the same: by reason whereof, as well the Spirituality as the Temporality of your Highness's Realms and Dominions have swerved from the obedience of the See Apostolick, and declined from the unity of Christ's Church, and so have continued, until such time as your Majesty being first raised up by God, and set in the Seat royal over us, and then by his divine and gracious Providence knit in marriage with the most noble and vertuous Prince, the King our Sovereign Lord your Husband, the Pope's Holiness and the See Apostolick sent hither unto your Majesties (as unto Persons undefil'd, and by God's goodness preserved from the common infection aforesaid) unto the whole Realm, the most reverend Father in God the Lord Cardinal Pool, Legate de latere, to call us home again into the right way from whence we have all this long while wandered, and strayed abroad; and we, after sundry long and grievous plagues and calamities, seeing by the goodness of God our own errors, have knowledged the same unto the said most Reverend Father, and by him have been, and are the rather at the contemplation of your Majesties, received and embraced into the unity and bosom of Christ's Church, and upon our humble submission and promise made for a declaration of our repentance, to repeal and abrogate such Acts and Statutes as had been made in Parliament since the said xx. year of the said King Henry the Eighth, against the Supremacy of the See Apostolick, as in our submission exhibited to the said most Reverend Father in God by your Majesties, appeareth: The tenour whereof ensueth.

II. We the Lords Spiritual and Temporal, and the Commons assembled in this present Parliament, representing the whole body of the Realm of England, and the Dominions of the same, in the name of our selves particularly, and also of the said body universally, in this our supplication directed to your Majesties, with most humble suit, that it may by your Graces intercession and mean be exhibited to the most Reverend Father in God, the Lord Cardinal Pool, Legate, sent specially hither from our most Holy Father the Pope July the third, and the See Apostolick of Rome; do declare our selves very sorry and repentant of the Schism and disobedience committed in this Realm and Dominions aforesaid against the said See Apostolick, either by making, agreeing, or executing any Laws, Ordinances, or Commandments against the Supremacy of the said See, or otherwise doing or speaking, that might impugn the same: offering our selves, and promising by this our supplication, that for a token and knowledge of our said repentance, we be, and shall be always ready, under, and with the authorities of your Majesties, to the uttermost of our powers, to do that shall lie in us for the abrogation and repealing of the said Laws and Ordinances in this present Parliament, as well for our selves, as for the whole body whom we represent: whereupon we most humbly desire your Majesties, as Personages undefil'd in offence of his body towards the said See, which nevertheless God by his providence hath made subject to you, so to set forth this our most humble Suit, that we may obtain from the See Apostolick, by the said most Reverend Father, as well particularly as generally, absolution, release and discharge from all danger of such censure and sentences, as by the Laws of the Church we be fallen into; and that we may as Children repentant, be received into the bosom and unity of Christ's Church, so as this noble Realm, with all the members thereof, may in this unity and perfect obedience to the See Apostolick, and Popes for the time being, serve God and your Majesties, to the furtherance and advancement of his honour and glory. We are at the intercession of your Majesties, by the authority of our Holy Father Pope July the third, and of the See Apostolick, absolved, discharged, and delivered from excommunications, interdictions, and other Censures Ecclesiastical, which hath hanged over our Heads for our said defaults since the time of the said Schism mentioned in our Supplication: The which time the said Lord Legate, and we do all declare, recognise and mean by this Act to be only since the xx. year of the reign of your most noble Father King Henry the Eighth. It may now like your Majesties, that for the accomplishment of our promise made in the said Supplication, that is, to repeal all Laws and Statutes made contrary to the said Supremacy and See Apostolick, during the said Schism, the which is to be understood since the xx. year of the reign of the said late King Henry the Eighth, and so the said Lord Legate doth accept and recognise the same.

\* III. Where in the Parliament begun and holden at Westminster, in the xxi. year of the reign of the late King of most famous memory King Henry the Eighth, one Act was then and there made against pluralities of Benefices, for taking of ferns by Spiritual men, and for non-residence,

Recited, The changes in Religion since the 20th of Henr. VIII.

---the Marriage of the Queen, and her Husband's steadiness in the Popish Religion,  
-- the Reconciliation of the Realm to the See of Rome, made by Cardinal Pool,  
---on Condition, that all Acts against the Papal Supremacy be abrogated.

The Submission of the Parliament, presented to Cardinal Pool, by their Majesties,  
---declaring their Sorrow for their part in the Schism,  
--and promising to abrogate all Laws against the Pope.

Their Petition to the K. and Q. to intercede for them, with the Cardinal,

---and their Absolution from all Censures thereupon.

In discharge of their Promise, they pray a Repeal of the following Statutes, viz.

21 H. 8. c. 13. ---against Licences and Dispensations from Rome,

\* Note, This Act stands good (tho' not repealed by 1 Eliz.) in virtue of the Rev. ver of 25 H. 8. c. 21. by the said 1 Eliz. in as much as the said 21 H. 8. is confirmed by the 22d Sect. of 25 H. 8. c. 21.



Abridgment.

---for Plurality,

----for Non-residence.

Repealed,  
23 H. 8. c. 9.  
---against citing out of the Diocese in which they dwell.

--- 24 H. 8. c. 12.  
against Appeals to Rome.

---25 H. 8. against the payment of Annates and First-Fruits.

---25 H. 8. c. 19.  
The Submission of the Clergy.

--- 25 H. 8. c. 20.  
against the Payment of Annates and First-Fruits.

---21 H. 8. c. 21.  
against Licences and Dispensations.

Repeal of the forelaid Acts.

Further Repealed,  
---26 H. 8. c. 1.  
for the King to be Supreme Head.

residence, in the which Act, amongst other things, it was ordained and enacted, that if any person or persons, at any time after the first day of April, in the year of our Lord God, one thousand five hundred and thirty, contrary to the same Act, should procure and obtain at the Court of Rome, or elsewhere, any licence or licences, union, toleration or dispensation, to receive and take any more Benefices with cure than was limited and appointed by the same Act, or else at any time after the said day should put in execution any such licence, toleration; or dispensation before that time obtained contrary to the said Act; that then every such person or persons so after the said day suing for himself, or receiving and taking such benefice by force of such licence or licences, union, toleration or dispensation, that is to say, the same person or persons only, and no other, should for every such default incur the danger, pain and penalty of twenty pound sterling, and should also lose the whole profits of every such benefice or benefices, as he receiveth or taketh by force of any such licence or licences, union, toleration or dispensation: And where also in the said Act it was ordained and enacted, That if any person or persons did procure or obtain at the Court of Rome, or elsewhere, any manner of licence or dispensation to be non-resident at their dignities, prebend or benefices, contrary to the said Act, that then every such person or persons putting in execution any such dispensation or licence for himself, from the said first day of April, in the said year of our Lord God, **MCCCXXX.** should run and incur the penalty, damage, and pain of xx l. sterling, for every time so doing, to be forfeited and recovered as by the said Act is declared, and yet such licence or dispensation so procured, or to be put in execution, to be void and of none effect, as by the same Act more plainly it doth and may appear.

IV. Be it enacted by the authority of this present Parliament, That as much only of the said Act as concerneth the articles and clauses aforesaid, and all and every the words and sentences contained in the said Act, concerning the said articles and clauses, and every of them, shall from henceforth be repealed, annulled, revoked, annihilated, and utterly made void for ever; any thing in the said Act to the contrary in any wise notwithstanding;

V. And where also at the Session of the same Parliament holden upon prorogation in the xxiii. year of the reign of the said late King Henry the Eighth, one Act entituled, The Act that no person shall be cited out of the Diocess where he or she dwelleth, except in certain Cases.

VI. And where also at the said Parliament, in the Session holden at Westminster upon prorogation in the xxv. year of the reign of the said late King Henry the Eighth, one Act was made, That Appeals in such Cases as hath been used to be pursued to the See of Rome, should not from henceforth be had or used, but within this Realm;

VII. And where also at the said Parliament holden at Westminster, in the xxi. year of the reign of the said late King Henry the Eighth, and there continued by divers prorogations until the xiv. day of April, in the xxvii. year of his reign, one Act was made concerning restraints of payments of Annates, and first-fruits, of Archbishopricks and Bishopricks to the See of Rome;

VIII. And where at a Session of the said Parliament holden in the five and twentieth year of the reign of the said late King, there was also one Act made, entituled, The Submission of the Clergy to the King's Majesty;

IX. And one other Act, entituled, One Act restraining the said Payments of Annates, or First-Fruits to the Bishop of Rome, and of the electing and consecrating of the Archbishops and Bishops within this Realm.

X. And one other Act was then and there made, entituled, An Act concerning the exoneration of the King's Subjects from Exactions and Impositions before that time pay'd to the See of Rome, and for having Licences and Dispensations within this Realm, without suing further for the same.

XI. Be it enacted by the authority of this present Parliament, That the several Acts made for the restraint of payments of the said Annates and first-fruits, and all other the said Acts made in the said twenty fourth and twenty fifth years of the reign of the said late King, and every of them, and all and every branch, article, matter and sentence in them, and every of them contained, shall be by authority of this present Parliament from henceforth utterly void, made frustrate, and repealed to all intents, constructions, and purposes.

XII. And be it further enacted by the authority of this present Parliament, That all and every these Acts following, that is to say, one Act made at the Session of the said Parliament holden upon prorogation at Westminster, in the xxvi. year of the reign of the said late King Henry the Eighth, entituled, An Act concerning the King's Highness to be supreme Head of the Church of England, and to have authority to reform and redress all errors, heresies and abuses in the same;

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Rev. I El. c. I. §. 3.

Rev. I El. c. I. §. 6.

Rev. I El. c. I. §. 7.

Rev. I El. c. I. §. 8.

XIV. And



*Papal Authority* Restored to the See of Rome.

\*Rev. 1 El. c. 1. §. 9.

Rev. 1 El. c. 1. §. 10.

Rev. 1 El. c. 1. §. 11.

Rev. 1 El. c. 1. §. 12.

\* XIV. And one other Act made in the same Session of the same Parliament, entituled, An Act for nomination and consecration of Suffragans within this Realm,

XV. And one other Act made in the xxvii. year of the reign of the said late King Henry the Eighth, entituled, An Act whereby the King should have power to nominate thirty two persons of his Clergy and lay-see, for the making of Ecclesiastical Laws ;

XVI. And also one other Act, made at the Parliament holden at Westminster in the eight and twentieth year of the reign of the said late King Henry the eight, entituled, An Act extinguishing the authority of the Bishop of Rome,

XVII. And one other Act made in the same Parliament, entituled, An Act for the release of such as then had obtained pretended Licences and Dispensations from the See of Rome.

XVIII. And also all that part of the Act made in the said eight and twentieth year of the said King, entituled, An Act for the establishment of the succession of the Imperial Crown of the Realm, that concerneth a prohibition to marry within the degrees expressed in the said Act,

XIX. And also one other Act made at the Parliament holden at Westminster, in the one and thirtieth year of the Reign of the said late King Henry the Eighth, entituled, An Act authorising the King's Highness to make Bishops by his Letters Parents.

XX. And one other Act made in the Session of the same Parliament, begun in the said one and thirtieth year, holden upon prorogation the two and thirtieth year of the reign of the said King Henry the Eighth, entituled, An Act concerning Pre-contracts of Marriages, and touching degrees of consanguinity,

XXI. And one other Act made in the Parliament holden at Westminster, in the xxxv. year of the reign of the said late King Henry the Eighth, entituled, An Act for the Ratification of the King's Majesty's style, shall henceforth be repealed, made frustrate, void, and of none effect.

XXII. And where also at the said Parliament holden at Westminster, in the five and thirtieth year of the reign of the said late King Henry VIII. one other Act was made, entituled, An Act concerning the establishment of the succession of the said King in the Imperial Crown of this Realm : In the which Act there is a form of a corporal Oath devised and set forth, that every subject of this Realm should be bound to take, against the power, authority and jurisdiction of the See of Rome ; Be it enacted by the authority of this present Parliament, That so much of the said Act as toucheth the said Oath against the Supremacy, and all Oaths thereupon had, made and given, shall be from henceforth utterly void, repealed, and of none effect.

XXIII. And where also one other Act was made in the seven and thirtieth year of the Reign of the said late King Henry the Eighth, entituled, An Act that Doctors of the Civil Law, being married, might exercise Ecclesiastical Jurisdiction, Be it enacted by the Authority of this present Parliament, That the said Act last before mentioned, and all and every branch, article, sentence and matter contained in the same, shall from henceforth be repealed, and utterly made void, and of none effect.

XXIV. And where one other Act was made at the Parliament at Westminster, in the first year of the reign of King Edward the sixth, entituled, An Act for the repeal of certain Statutes concerning Treasons, Felonies, &c. In the which Act, amongst other things, there is contained certain provisions, pains, penalties and forfeitures, for and against such as should by open preachings, express words, sayings, writing, printing, overt-deed or act, affirm or set forth, that the King of this Realm, for the time being, is not, or ought not to be Supreme Head in earth of the Churches of England and Ireland, ne of any of them, or that the Bishop of Rome, or any other person or persons, other than the King of England for the time being, is or ought to be Supreme Head of the same Churches, or any of them, as in the same Act last before rehearsed, and at large is contained and may appear : Be it enacted by the authority of this present Parliament, That these Clauses before rehearsed, and other of the said Act concerning the Supremacy, and all and every branch, article, words and sentence in the same, sounding or tending to the derogation of the Supremacy of the Pope's Holiness, or the See of Rome, and all pains, penalties and forfeitures made against them that should by any means set forth and extoll the said Supremacy, shall be from henceforth utterly void and of none effect.

XXV. And be it further enacted by the authority aforesaid, That all clauses, sentences, and articles of every other Statute or Act of Parliament, made since the said twentieth year of the reign of King Henry the Eighth, against the Supreme Authority of the Pope's Holiness, or See Apostolick of Rome, or containing any other matter of the same effect only, that is repealed in any of the Statutes aforesaid, shall be also by authority hercof from henceforth utterly void and of none effect.

Abridgment.

--26 H. 8. c. 14. for Nomination and Consecration of Suffragans.

--27 H. 8. c. 15. for reviling the Ecclesiastical Laws.

--28 H. 8. c. 10. for extinguishing the Authority of the Pope.

--28 H. 8. c. 16. Release for Licences obtained.

--28 H. 8. c. 7. concerning Succession, and Degrees prohibited.

--31 H. 8. c. 9. for making Bishops by Letters Patents.

--32 H. 8. c. 38. concerning Precontracts, &c.

--35 H. 8. c. 3. ratification of the King's style.

- 35 H. 8. c. 1. Oath of Supremacy.

--37 H. 8. c. 17. Doctors of Civil Law to marry.

--1 Edw. 6. c. 12 concerning Treasons, so far as it is against the Papal Supremacy.

A general Repeal of all Statutes against the Papal Supremacy.



## Abridgment.

Supplication of the Parliament to be King and Q. That Men's Consciences may be made easie by proper Dispensations, &c. from the Pope,

--That all Ecclesiastical Foundations since the Schism, be confirmed,

--That Marriages *infra gradus prohibitos*, it not against God's Law, may be confirm'd,

--That Institutions, &c. may be confirmed,

--That all Judicial Process may be confirmed,

--That Ecclesiastical Revenues, come into the hands of Laymen, may so remain,

--without Impachment by presence of any Councils, Canons, &c.

Supplication of the Convocation, to King and Queen, Setting forth, --That the Bishops, &c. are the Guardians of the Revenues of the Church,

---but that upon mature deliberation, they do not find that the recovery of Church-lands is practicable,

---and therefore pray the King and Queen to intercede with the Cardinal, that they may be continued to the present Possessors,

And where we your most humble Subjects, the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, have exhibited to your Majesties one other Supplication in form following:

XXVI. We the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, representing the whole Body of this Realm, reduced and received by your Majesties intercession, to the unity of Christ's Church, and the obedience of the See Apostolick of Rome, and the Pope's holiness governing the same, make most humble suit unto your Majesties, to be likewise means and intercessors, that all occasions of contention, hatred, grudge, suspicion and trouble, both outwardly and inwardly in Mens consciences, which might arise amongst us by reason of disobedience, may by authority of the Pope's Holiness, and by ministration of the same unto us, by the most reverend Father in God, the Lord Cardinal Pool, by dispensation, toleration, or permission, respectively, as the case shall require, be abolished and taken away, and by authority sufficient these articles following, and generally all others, when any occasion shall require, may be provided for and confirmed.

XXVII. First, That all Bishopricks, Cathedral Churches, Hospitals, Colleges, Schools, and other such Foundations now continuing, made by authority of Parliament, or otherwise established according to the order of the Laws of this Realm, since the Schism, may be confirmed, and continued for ever.

XXVIII. Item, That Marriages made *infra gradus prohibitos consanguinitatis, affinitatis, cognationis spiritualis*, or which might be made void propter *impedimentum publicæ honestatis, justitiæ*, or for any other cause prohibited by the Canons only, may be confirmed, and Children born of those Marriages declared legitimate, so as those Marriages were made according to the Laws of the Realm for the time being, and be not directly against the Laws of God, nor in such case as the See Apostolick hath not used to dispense withall.

XXIX. That institutions of Benefices, and other promotions Ecclesiastical, and dispensations made according to the form of the Act of Parliament, may be likewise confirmed.

XXX. That all Judicial process made before any Ordinaries of this Realm, or before any Delegates upon any appeals, according to the order of the Laws of the Realm, may be likewise ratified and confirmed.

XXXI. And finally, where certain Acts and Statutes have been made in the time of the late Schism, concerning the lands and hereditaments of Archbishopricks and Bishopricks, the suppression and dissolution of Monasteries, Abbeyes, Priories, Chantries, Colleges and all other the goods and chattels of Religious Houses; since the which time the right and dominion of certain lands and hereditaments, goods and chattels belonging to the same, be dispersed abroad, and come to the hands and possessions of divers and sundry persons, who by gift, purchase, exchange; and other means, according to the order of the Laws and Statutes of this Realm for the time being, have the same: For the avoiding of all scruples that might grow by any the occasions aforesaid, or by any other ways or means whatsoever, It may please your Majesties to be intercessors and mediators to the said most reverend Father Cardinal Pool, that all such causes and quarrels, as by presence of the said Schism, or by any other occasion or mean whatsoever might be moved by the Pope's Holiness, or See Apostolick, or by any other Jurisdiction Ecclesiastical, may be utterly removed and taken away, so as all persons having sufficient conveyance of the said lands and hereditaments, goods and chattels, as is aforesaid, by the Common Laws, Acts or Statutes of this Realm, may without scruple of conscience enjoy them, without impeachment or trouble by presence of any general Council, Canons, or Ecclesiastical Laws, and clear from all dangers of the Censures of the Church.

XXXII. And conformably hereunto, the Bishops and Clergy of the Province of Canterbury, have presented to your Majesties a Supplication, in this tenor that followeth;

“ **N**OS Episcopi & Clerus Cantuariensis Provinciae in hac Synodo, more nostro solito, dum Regni Parliamentum celebratur, congregati, cum  
 “ omni debita humilitate & reverentia, exponimus *Majestatis vestris*, quod  
 “ licet Ecclesiarum quibus in Episcopos, Decanos, Archidiaconos, Rectores &  
 “ Vicarios praefecti sumus, & animarum, quae nobis & curae nostrae subjectae  
 “ sunt, & earundem bonorum, jurisdictionum & jurium, ex sacrorum Canonum  
 “ dispositione, defensores & curatores constituti sumus, & propterea ipsarum  
 “ bona, jurisdictiones, & jura in pernicioso hujus Regni praeterito schismate  
 “ deperdita & amissa, omni studio, & totis nostris viribus recuperare, &  
 “ ad pristinum Ecclesiarum jus revocare juris remediis niti deberemus: Nihilominus  
 “ tamen habito prius per nos super hac re maturo consilio, & deliberatione,  
 “ ingenue fatemur nos optime cognoscere quam hac bonorum Ecclesiarum  
 “ difficultis & quasi impossibilis esset recuperatio, propter multiplices  
 “ ac pene inextricabiles super his habitos contractus & dispositiones, & quod  
 “ si ea tentaretur, quies & tranquillitas Regni facile perturbaretur, & unitas  
 “ Ecclesiae Catholicae, quae jam, pietate & auctoritate *Majestatum vestrarum*, hoc  
 “ in Regno introducta est, cum maxima difficultate suum debitum progressum,  
 “ & finem sortiri posset: Ideo nos bonum & quietem publicam privatis  
 “ commoditatibus, & salutem tot animarum pretioso *Christi* sanguine redemptarum  
 “ terrenis bonis anteponentes, & non quae nostra sed quae *Jesu Christi* sunt  
 “ quarentes, *Majestates vestras* enixe rogamus, easque humiliter supplicamus,  
 “ ut reverendissimo in *Christo* Patri, Domino *Reginaldo* Cardinali Polo, ad ipsas  
 “ & universum hoc Angliae regnum sanctissimi Domini nostri, Domini *Julii*  
 “ Papae tertii, & Apostolicae sedis de latere Legato, hac nomine nostro  
 “ insinuari, & apud eum intercedere dignentur, ut in his bonis Ecclesiasticis  
 “ in parte vel in toto, arbitrio suo juxta facultates sibi ab eodem sanctissimo  
 “ Domino nostro Papa concessas, eorundem bonorum detentoribus elargiendis

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Papal Authority Restored to the See of Rome.

“ giendis & relaxandis, publicum bonum privato, pacem & tranquillitatem  
 “ diffidiis, & perturbationibus, atq; animarum salutem bonis terrenis præ-  
 “ ferre & anteponeere velit. Nos enim in omnibus quæ ab ipso Legato statu-  
 “ ta & ordinata circa hæc bona fuerint, exnunc, prout extunc, & è contra  
 “ concessum nostrum præstamus, imo etiam ut in præmissis se difficilem aut re-  
 “ strictum reddere non velit, *Majestates vestra* nostro nomine eum hortari, &  
 “ rogare dignabuntur. Insuper *Majestatibus vestris* supplicamus, pro sua pieta-  
 “ te efficere dignentur, ut ea quæ ad jurisdictionem nostram & libertatem Ec-  
 “ clesiasticam pertinent, sine quibus debitum nostri pastoralis officii & cu-  
 “ ræ animarum nobis commissæ exercere non possumus, nobis superiorum  
 “ temporum injuriâ ablata, restituantur, & ea nobis, & Ecclesiæ, perpetuo il-  
 “ læsa & salva permaneant, & ut omnes leges, quæ hanc nostram jurisdic-  
 “ tionem & libertatem Ecclesiasticam tollunt, seu quovis modo impediunt,  
 “ abrogentur, ad honorem Dei, & *Majestatum vestrarum*, & universi hujus Reg-  
 “ ni spirituale & temporale commodum & salutem; certam spem etiam ha-  
 “ bentes, *Majestates vestras*, pro sua singulari in ipsum Deum pietate, proque  
 “ multis & insignibus ab ipsius Dei bonitate acceptis beneficiis, necessitatibus  
 “ & incommodis hujus sui Regni, Ecclesiarum maxime curam animarum ha-  
 “ bentium, nunquam defuturas esse, sed prout opus fuerit, consulturas atq;  
 “ provisuras.

XXXIII. Forasmuch as the said most reverend Father, the Lord Legate, at the intercession of your Majesties, hath by the authority of the See Apostolick, sufficiently dispensed in the matters specified in the said several Supplications, as in his said Letters of Dispensation is contained more at large: The tenour whereof ensueth;

“ **R**eginaldus miseratione divina Sanctæ Mariæ in Cosmodin, sanctæ Romanæ  
 “ Ecclesiæ Diaconus, Cardinalis Polus nuncupatus, ad Serenissimos  
 “ Philippum & Mariam, Angliæ Reges, fidei Defensores, & universum Angliæ  
 “ regnum, sanctissimi Domini nostri Papæ, & sedis Apostolicæ de latere lega-  
 “ tus, eidem Serenissimis Philippo & Mariæ Regibus salutem in Domino sem-  
 “ piternam. Cum supremum Concilium istius Regni, Parliamentum nuncu-  
 “ patum, *Majestatibus vestris* per suos supplices libellos exposuisset, quod per-  
 “ niciocissimo schismate in hoc regno alias vigente, quod nunc Dei misericordia,  
 “ & *Majestatum vestrarum* pietate extinctum est autoritate ipsius Parliamen-  
 “ ti, nonnulli Episcopatus divisi, & ex his aliquæ inferiores Ecclesiæ in Ca-  
 “ thadrales erectæ, & scholæ atque hospitalia fundata, nec non plurimæ dis-  
 “ pensationes & beneficiorum provisiones factæ fuerunt, ac multæ personæ  
 “ quibus persuasum fuerat, juris canonici dispositiones hoc in regno amplius  
 “ locum non habere, inter se in gradibus consanguinitatis vel affinitatis de  
 “ jure prohibitis, & aliis impedimentis Canonicis sibi obstantibus, matrimo-  
 “ nia per verba de præsentis contraxerunt, & multi actus judicarii, & pro-  
 “ cessus, tam in primis quam ulterioribus instantiis super rebus spiritualibus  
 “ & Ecclesiasticis coram Judicibus tam Ordinariis quam Delegatis, qui autho-  
 “ ritate laicali procedebant, habiti & servati, ac super eis etiam sententiæ la-  
 “ tæ, & promulgatæ fuerunt, & bona Ecclesiastica per diversas ejusdem regni  
 “ personas occupata, & apprehensa fuerunt: Quæ quidem licet ex sacrorum Ca-  
 “ nonum institutis irrita declarari possent, tamen si ad alium statum, quam in  
 “ quo nunc sunt, revocarentur, publica pax & quies universi regni turbaretur,  
 “ & maxima confusio oriretur, præsertim si dictorum bonorum possessores mo-  
 “ lestarentur; & propterea *Majestatibus vestris* humiliter supplicaverint, ut a-  
 “ pud nos intercedere dignentur, ut præmissarum rerum firmitati, & stabi-  
 “ litati, & simul hujus regni quieti, & tranquillitati, de benignitate Apostolica  
 “ providere velimus; Cumque Episcopi quoq; deinde, ac reliquis provinciæ  
 “ Cantuariensis Clerus totum fere corpus Ecclesiasticorum regni repræsentans,  
 “ ad quos hæc bonorum Ecclesiasticorum causa maxime pertinet, exposuerint,  
 “ quod hæc bona ad jus Ecclesiarum revocare non possunt, quin pax univer-  
 “ salis, & quies hujus regni turbetur, & causa fidei atque unitatis Ecclesiæ,  
 “ jam toto omnium consensu hoc in regno introducta, in maximum periculum  
 “ adducatur; & propterea ipsi quoque supplicaverint, ut apud nos intercede-  
 “ re velint, ut in his bonis Ecclesiasticis possessoribus relaxandis restricti &  
 “ difficiles esse nollemus; *Majestates autem vestra*, ad quas maxime spectat pro-  
 “ videre, ut regnum ipsarum potestati, regimini, & curæ commissum, in pace  
 “ & tranquillitate conservetur, his supplicationibus & postulatis cognitis &  
 “ mature consideratis, judicaverint ea omnia, & maxime illa quæ in bonorum  
 “ Ecclesiasticorum causa petuntur, pro causa fidei, & pro pace publica, per  
 “ nos debere sine ulla dilatione concedi, & quemadmodum rogatæ fuerunt,  
 “ apud nos intecedere dignatæ fuerint, prout in supplicationibus per idem su-  
 “ premum

Abridgment.

---but that the Jurisdiction and Liberties of the Church may be restored.

The Cardinal, moved by their Majesties, grants a Dispensation,

---Reciting the Heads of the foregoing Supplication of the Parliament,

---and of the Supplication of the Bishops and Clergy in Convocation,

---and the desire of the King and Queen;



## Abridgment.

---upon which, he  
absolves all Persons  
from the Censures  
they are under,

---and Confirms,

---all new Founda-  
tions,  
---all undue Mar-  
riages,

---all Orders and  
Benefices by dis-  
pensation,

“premiū Conciliū & Episcopos ac Clerum præfatum *Majestates vestras* por-  
“rectis, atque libello intercessionis per easdem *Majestates vestras* nobis  
“simul cum aliis supplicationibus exhibito, latius apparet. Idecirco, nos qui ad  
“*Majestates vestras* & hoc nobilissimum vestrum Regnum, à Sanctissimo Do-  
“mino nostro *Julio* Papa tertio, ipsius & sedis Apostolicæ de latere legati mis-  
“si sumus, ut regnum istud, quod jam diu ab Ecclesiæ Catholicæ unitate se-  
“paratum fuerat, *Deo* & Ecclesiæ *Christi*, ejusque in terris Vicario reconcili-  
“aremus, & ut ea omnia quæ ad pacem & tranquillitatem hujus regni per-  
“tinerent, omni studio procuraremus, postquam Dei benignitate, & *Maje-*  
“*statum vestrarum* pietate, per auctoritatem ejusdem Sanctissimi Domini no-  
“stri Papæ, cujus vices hic sustinemus, reconciliatio jam facta est, ut paci &  
“tranquillitati regni præfati consulamus: Atq; ut unitas Ecclesiæ ex qua salus  
“animar’ pretioso *Christi* sanguine redemptarum dependet, hoc in regno jam  
“introduc̄ta, corroboretur, & salva permaneat; cum utriusque rei stabilita-  
“tem in eo maxime consistere, si horum Ecclesiasticorum bonorum possesso-  
“ribus molestia nulla inferatur quo minus ea teneant, tot & tam gravia testi-  
“monia nobis fidem faciant, & *Majestatum vestrarum* intercessio, quæ pro unit.  
“Ecclesiæ, & sedis Apostolicæ auctoritate hoc in regno instauranda, tam stu-  
“diose, & tam pie elaborarunt, eam quam par est auctoritatem, apud nos  
“habeat, & ut universum hoc regnum sedis Apostolicæ maternam vere indul-  
“gentiam, & charitatem erga se agnoscat & re ipsa experiatur; Quoscumque ad  
“quos infra scripta pertinent, & à quibusvis excommunication’ suspension’ &  
“interdictis, aliisq; Ecclesiasticis sententiis, censuris & pœnis à jure vel ab ho-  
“mine quavis occasione vel causa latis, si quibus quomodolibet innodati ex-  
“istunt, ad effectum præsentium duntaxat consequendum, harum serie absol-  
“ventes & absolutos fore censentes, auctoritate Apostolica, per litteras sanctif-  
“simi Domini nostri Dom. *Julii* Papæ tertii nobis concessa, & qua fungimur  
“in hac parte, tenore præsentium dispensamus, Quod omnes & singulæ Ca-  
“thedralium Ecclesiarum erectiones, hospitalium & scholarum fundationes  
“tempore præterit’ schismatis, licet de facto & nulliter attentatæ, in eo statu  
“in quo nunc sunt, perpetuo firmæ & stabiles permaneant, illisq; Apostolicæ  
“firmitatis robor adjicimus, ita ut non ea auctoritate, qua prius, sed ea quam nunc  
“eis tribuimus factæ ab omnibus censeantur: Et cum omnibus & singulis  
“personis regni prædicti quæ in aliquo consanguinitatis vel affinitatis gradu e-  
“tiam multiplici vel cognationis spiritualis seu publicæ honest’ justitia impedi-  
“mento de jure positivo introductis, & in quibus Sanctissim. Domin. noster  
“Papa dispensare consuevit, matrimonia scienter vel ignoranter de facto con-  
“traxerint; ut aliquo impedimentorum præmissorum non obstante, in eorum  
“matrimon. sic contractis, libere & licite remanere, seu illa de novo contra-  
“here possint, misericorditer in Dom. dispensamus, prolem susceptam, susci-  
“piendam, legitimam decernentes; ita tamen ut qui scienter & maliciose con-  
“traxerint, à sententia excommunication’ & ab incestus seu sacrilegii reatu,  
“absolution’ à suo Ordinario vel Curato, quibus id faciendi facultatem con-  
“cedimus, obtineant: Ac omnes Ecclesiasticas, seculares, seu quorumvis or-

[ *g A quibusvis Excommunicationibus* ] Besides  
this general Reconciliation, bestowed on  
the Kingdom, in their Representatives in  
Parliament and Convocation; to the end  
these Submissions to the Pope might be  
more formal, and sound the louder in all  
parts of the Nation, the Cardinal granted  
Commissions to the respective Bishops, to  
absolve and reconcile the Clergy and Laity  
of their Dioceses; with a Clause, empow-  
ering them to grant the like. Commissions  
to such Rectors and Curates as should be  
judged proper, to do the same Office to  
their respective Parishes.

The Form of Absolution, directed to  
be every where used, is as follows;

*Dominus noster Jesus Christus, summus Pon-*  
*tifex, per suam piissimam misericordiam & cle-*  
*mentiam Vos cruore suo pretiosissimo redemptos,*  
*de ineffabili sua pietate, ab omnibus peccatis per*  
*vos commissis misericorditer absolvat. Et Ego,*

*auctoritate Apostolorum Divi Petri & Pauli,*  
*ac Sedis Apostolicæ, mihi commissâ, Vos & ve-*  
*stram quemlibet ab omnibus peccatis, criminibus,*  
*excessibus, & delictis, atque ab omni Hæresi,*  
*Schismate, Apostasiâ, Irregularitate, & quo-*  
*cunque errore vestris, nec non à Juramento con-*  
*tra Papatum Romanum per vos præstito; & à*  
*quibuscunque Excommunicationis, Suspensionis,*  
*& Interdictionum, & aliis Sententiis, Censuris,*  
*& pœnis Ecclesiasticis, jure vel ab homine latis,*  
*per vos ratione præmissorum incurfis & contra-*  
*ctis, Absolvo, ac Communioni Fidelium, & S.*  
*Sanctis Dei. Ecclesiæ Sacramentis restituo, reduco,*  
*& redintegro, In nomine Patris, & Filii, &*  
*Spiritus Sancti. Amen.*

The Form of the forementioned Commis-  
sions, together with this Form of Absolution,  
and the Cardinal’s Instructions to the Bi-  
shops for their orderly proceeding herein;  
are printed at large by Mr. Strype, from the  
Registers of the Cathedral Church of Can-  
terbury.

*Papal Au-*  
*thority Re-*  
*stored to*  
*the See of*  
*Rome.*

*Life of Cranmer.*  
*Append. p. 187.*  
*&c.*



*Papal Authority Restored to the See of Rome.*

“dinum regulares personas quæ aliquas impetrationes dispensationes, concessionem, gratias & indulta, tam ordines quam beneficia Ecclesiastica, seu alias spiritual’ materias, præterea auctoritate Suprematis Ecclesiæ Anglicanæ, licet nulliter & de facto obtinuerint, & ad cor reversæ Ecclesiæ unitati restitutæ fuerint, in suis ordinib’ & benefic’ per nos ipsos, seu à nobis ad id deputatos, misericorditer recipiemus, prout jam multæ receptæ fuerunt, secumq; super his opportune in domino dispensabimus. Ac omnes process’ in quibusvis instantiis coram quibusvis Judicibus tam ordinariis quam delegatis etiam laicis super mater’ spiritualibus habitos & formatos, & sententias super eis latas, licet nulliter & de facto, quo ad nullitatem ex defectu jurisdictionis præf’ tantum infurgentem, sanamus, illosq; & illas auctoritate Apostolica confirmamus: Ac quibusvis hujus regni personis ad quarum manus bona Ecclesiastica ex quocunq; contractu seu titulo oneroso vel lucrativo jam devenerint, illaque tenuerint, seu etiam teneant, omnes, & quoscunq; fructus ex ejusdem bonis, licet indebite perceptos, in totum remittimus & relaxamus: Volentes ac discernentes, quod dictorum bonorum Ecclesiasticorum tam mobilium quam immobilium possessores præf’ non possint in præsentem nec in posterum, seu per conciliorum generalium vel provincialium dispositiones, seu decretales Romanorum Pontificum Epistolas, seu aliam quamcunq; censuram Ecclesiasticam, in dictis bonis, seu eorundem possessione molestari, inquietari vel perturbari, nec eis aliqua censura vel pœnæ Ecclesiasticæ propter hujusmodi detentionem, seu non restitutionem irrogari vel infligi; & sic per quoscunque Judices, & auditores, sublata eis quavis aliter judicandi & interpretandi facult’ & auctorit’ judicari & definiri dehere, & quicquid secus attemptari contigerit, irritum & inane fore decernimus, non obstantibus præmissis defectibus, & quibusvis Apostolicis, ac in provincialibus, & synodalibus conciliis editis, specialibus vel generalibus, constitutionibus & ordinationibus, cæterisque contrariis quibuscunque. Admonemus tamen, cum divisio Episcopatum & erectio Cathedralium Ecclesiarum, sint de majoribus causis, quæ summo Pontifici sunt reservatæ, recurrendum esse ad suam sanctitatem, & ab ea suppliciter postulandum, ut hæc confirmare, seu de novo facere dignetur. Et licet omnes res mobiles Ecclesiarum indistincte eis qui eas tenent, relaxaverimus, eos tamen admonitos esse volumus, ut ante oculos habentes divini judicii severitatem contra *Balthasarem* Regem Babylonis, qui vasa sacra non à se, sed à patre è templo ablata in prophanos usus convertit, ea propriis Ecclesiis si extant, vel aliis restituant. Hortantes etiam, & per viscera misericordiæ *Jesu Christi* obtestantes eos omnes quos hæc res tangit, ut salutis suæ non omnino immemores, hoc saltem efficiant, ut ex bonis Ecclesiasticis, maxime iis quæ ratione parsonatum & vicariatuum populi ministrorum sustentationi fuerint specialiter destinata, seu aliis Cathedralibus, & aliis quæ nunc extant, inferioribus Ecclesiis curam animarum exercentibus, ita provideatur, ut earum pastores, parsonæ & vicarii, commode & honeste juxta earum qualitatem & statum sustentari possint, & curam animarum laudabiliter exercere, & onera incumbentia congrue supportare. Datum Lambeth. prope Londinum, Wintonien. Diocesi. Anno Nativit. Dom. MDLIV. Nono Cal. Januarii, Pontif. Sanctiss. in Christo patris, & Domini nostri, Domini Julii, divina providentia, Papæ tertii, anno quinto.

Reginaldus Cardinalis Polus Legatus.

“We the said Lords spiritual and temporal, and the Commons in this present Parliament assembled, rendering most humble thanks to your Majesties, by whose intercession and means we have obtained the said dispensations of the Pope’s Holiness, by the said most reverend Father in God, his Legate, most humbly beseech the same, that it may be ordained as followeth:

XXXIV. And therefore be it enacted by the authority of this present Parliament, That all and singular articles and clauses contained in the said dispensation, as well touching the establishment of Bishopricks and Cathedral Churches, as also the confirmation of Barrages in degrees prohibited by the Canons of the Church, the legitimation of children, and the ratification of process, and of sentences in matters Ecclesiastical, touching the invalidity of them for want of jurisdiction, and the institutions and destitutions of and in benefices and promotions Ecclesiastical, dispensations and graces given by such order as the publick Laws of the Realm then approved, and all other things before contained in the said Letters of dispensations, shall remain and be reputed and taken to all intents and constructions in the Laws of this Realm, lawful, good and effectual to be alledged and pleaded in all Courts Ecclesiastical and Temporal, for good and sufficient matter, either for the Plaintiff or Defendant, without any allegation or objection to be made against the validity of them, by presence of any general Council, Canon or Decree to the contrary made or to be made in that behalf.

XXXV.

Abridgment.

---all Judicial Process,

---the past possessions and Profits of Church-Lands,

---the future right and title of Church-Lands to the Laity;

---but adds, that the Erections of Bishopricks and Cathedrals, must be confirmed by the Pope.

The Cardinal beseeches all persons voluntarily to restore the Goods of the Church,

---and to make due provision for the Parochial Clergy.

The several Articles of the foregoing Dispensation, shall be lawful and good,

---without Allegation against them by presence of Councils, Canons, &c.



## Abridgment.

Recital of the Grants of Church-Lands and Revenues, to K. Hen. 8.

--and to King Edward 6,

--many of which have been since conveyed to private Persons,

-- who are permitted to hold them by the Dispensation of the Cardinal,

--and by the will and determination of the K. and Q.

--and therefore Enacted, that all such Lands and Revenues of the Church, be confirmed to the Lay-possessors.

XXXV. And whereas divers and sundry late Monasteries, Priors, Commandries, Nunneries, Deanaries, Prebends, Colleges, Hospitals, Houses of Fryers, Chantries, and other Religious and Ecclesiastical houses and places, and the manors, granges, messuages, lands, tenements, rectories, tithes, pensions, portions, vicarages, churches, chappels, advowsons, nominations, patronages, annuities, rents, reversions, services, and other possessions and hereditaments to the said late monasteries, priories, nunneries, commandries, deanaries, chantries, prebends, houses of Fryers, colleges, hospitals, and other Religious and Ecclesiastical houses and places, and sundry Archbishopricks and Bishopricks within this Realm, late appertaining and belonging, came as well to the hands and possessions of the said King of famous memory, Henry the Eighth, Father unto your Majesty our said Sovereign Lady, by dissolution, gift, grant, surrender, attainder, or otherwise, as also to the hands and possession of divers and sundry other persons, and bodies politick and corporate, by sundry means, conveyances and assurances, according to the order of the Laws and Statutes of this Realm:

XXXVI. And where also divers manors, lands, tenements and hereditaments, parcel of the possessions of Archbishopricks, and Bishopricks, and many and sundry late deanaries, colleges, chantries, rectories, prebends, free chappels, guilds and fraternities, manors, houses, granges, lands, tenements, rents, services, and other Ecclesiastical possessions and hereditaments, goods and chattels, to the said Archbishopricks, Bishopricks, deanaries, colleges, chantries, free-chappels, rectories, guilds and fraternities late appertaining and belonging, or appointed to and for the funding of Priests, obits, lights, or other like purpose, came as well to the hands and possessions of the said late noble King Edward the sixth, brother unto your Majesty our Sovereign Lady, by virtue of an Act of Parliament thereof made, or otherwise, as also to the hands and possession of divers and sundry other persons and bodies politick and corporate, by sundry means, conveyances and assurances, according to the order of the Laws of this Realm; a great number of which said late monasteries, priories, nunneries, commandries, deanaries, colleges, hospitals, prebends, chantries, free chappels, guilds and fraternities, and the manors, granges, messuages, lands, tenements, rents, reversions, services, tithes, pensions, portions, vicarages, churches, chappels, advowsons, nominations, patronages, annuities and hereditaments, goods and chattels, to the said monasteries, priories, nunneries, commandries, deanaries, colleges, hospitals, chantries, free chappels, guilds, fraternities, and other Ecclesiastical houses, Archbishopricks and Bishopricks belonging, as well for great sums of money, as for other good and reasonable causes and considerations, have been conveyed and assured to divers the subjects and bodies politick of this Realm, as well by the said King Henry the Eighth, the said King Edward Sixth, and by your Highness our Sovereign Lady, and jointly by both your Majesties, as also by divers owners of the said Ecclesiastical possessions; which said conveyances and assurances by their sundry Letters Patents, and other writings more plainly do and may appeare: Forasmuch as the said most reverend Father hath also by the said dispensations, removed and taken away all matter of impeachment, trouble and danger, which by occasion of any general Council, Canon or Decree Ecclesiastical, might touch and disquiet the possessors of such goods, moveables, lands, tenements, possessions and hereditaments, as were of late belonging to any of the said Archbishopricks, Bishopricks, monasteries, priories, nunneries, commandries, deanaries, colleges, chantries, prebends, rectories, hospitals, houses of Fryers, or other Religious and Ecclesiastical houses and places, of what nature, name, kind or quality soever they be of; Yet for that the title of all lands, possessions and hereditaments in this your Majesties Realm and Dominions, is grounded in the laws, statutes, and customs of the same, and by your high jurisdiction, authority Royal, and Crown Imperial, and in your Courts only to be impleaded, ordered, tried and judged, and none otherwise; and understanding that the whole, full, and most gracious intents, mind and determination of your most excellent Majesties be, That all and every person and persons, bodies politick and corporate, their heirs, successors and assigns, and every of them, shall have, keep, retain and enjoy all and every their estates, rights, possessions and interests that they and every of them now have, or hereafter shall have, of and in all and every the manors, granges, messuages, lands, tenements, tithes, pensions, portions, advowsons, nominations, patronages, annuities, rents, reversions, services, hundreds, wapentakes, liberties, franchises, and other the possessions and hereditaments of the said monasteries, abbeyes, priories, nunneries, commandries, deanaries, colleges, prebends, hospitals, houses of Fryers, chantries, rectories, vicarages, Churches, Chappels, Archbishopricks and Bishopricks, and other Religious or Ecclesiastical houses, or places, or of any of them within this Realm, or the Dominions of the same, by such Laws and Statutes as were in force before the first day of this present Parliament, and by other lawful conveyance to them thereof made.

XXXVII. That it may be enacted by the authority of this present Parliament, That as well your Majesty, our Sovereign Lady, your heirs and successors, as also all and every other person and persons, bodies politick and corporate, their heirs, successors, and assigns, now having, or that hereafter shall have, hold or enjoy any of the Sites of the said late Monasteries, and other the Religious or Ecclesiastical houses or places, and all the said manors, granges, messuages, lands, tenements, tithes, pensions, portions, glebe-lands, advowsons, nominations, patronages, annuities, rents, reversions, services, hundreds, wapentakes, liberties, franchises, profits, commodities, and other the possessions and hereditaments of the said late monasteries, abbeyes, priories, nunneries, commandries, deanaries, colleges, prebends, hospitals, houses of Fryers, rectories, vicarages, Chantries, Churches, Chappels, Archbishopricks, Bishopricks, and other Religious and Ecclesiastical houses and places, or any of them, of what name, nature or kind soever they be, shall have, hold, possess, retain, keep and enjoy all and every the said Sites, manors, granges, messuages, lands, tenements, possessions, profits, commodities, and other hereditaments, according to such interests and estates as they and every of them now have or hold, or hereafter shall have or hold, of and in the same, by the due order and course of the Laws and Statutes of this Realm, which now be, or were standing in force before the first day of this present Parliament, in manner and form as they should have done if this Act had never been had made; This Act or any thing herein contained to the contrary in any wise notwithstanding.

Papal Authority Restored to the See of Rome.



Papal Authority Restored to the See of Rome.

XXXVIII. Having to you our said Sovereign Lady, your heirs and successors, and every of them, and to all and every other person and persons, subjects of this Realm, and bodies politick and corporate, and to their heirs and successors, and to the heirs and successors of all and every of them (other than such whose right, title or interest is bounded or taken away, undone, or extinct by any Act of Parliament heretofore made, or otherwise) all such right, title, claim, possession, interests, rents, annuities, commodities, commons, offices, fees, leases, liberties, livings, pensions, portions, debts, duties, and other profits which they or any of them lawfully have, or of right ought to have, or might have had, in, of, or to any of the premises, or in, of, or to any part or parcel thereof, in such like manner and form, and condition, to all intents, respects, constructions and purposes, as if this Act had never been had ne made.

XXXIX. And that it may be further enacted by the authority aforesaid, That all and every article, clause, sentence and proviso contained or specified in any Act or Acts of Parliament concerning or touching the assurance or conveyance of any the said monasteries, priories, nunneries, commandries, deanaries, prebends, colleges, chantries, hospitals, houses of fryers, rectories, vicarages, Churches, Chappels, Archbishopricks, Bishopricks, and of other Religions and Ecclesiastical houses and places, or any of them, or in any wise concerning any manors, lands, tenements, profits, commodities, hereditaments, or other the things before specified, to the said King Henry the Eighth, or King Edward the Sixth, or either of them, or any other person or persons, or body politick or corporate, and every of them, and all and every writing, deed and instrument concerning the assurance of any the same, shall stand, remain and be in as good force, effect and strength, and shall be pleaded and taken advantage of, to all intents, constructions and purposes, as the same should, might or could have been by the Laws and Statutes of this Realm, in case this present Act had never been had ne made.

XL. And that all feoffments, fines, surrenders, forfeitures, assurances, conveyances, estates and interests in any wise conveyed, had or made to our said late Sovereign Lord King Henry the Eighth, or to our said late Sovereign Lord King Edward the Sixth, or either of them, or to any other person or persons, bodies politick or corporate, or to any of them, by deed or deeds, Act or Acts of Parliament, or otherwise, of any the scites, manors, lands, tenements, possessions, profits, commodities or hereditaments of any of the said Archbishopricks, Bishopricks, late monasteries, priories, nunneries, commandries, deanaries, houses of fryers, colleges, chantries, hospitals, prebends, free chappels, or of any manors, lands, tenements, reversions, services, tithes, pensions, portions, annuities, and of any other hereditaments, of, by or from any ecclesiastical or spiritual person or persons, or by or from any spiritual or ecclesiastical corporation or body politick, shall be as good and available in the Law, to all intents, constructions and purposes, as they were by the Laws and Statutes of this Realm standing in force before the first day of this present Parliament: And that the same may and shall be pleaded, alleged and taken advantage of, in such sort, and to such effect, as they should, could or might have been by the Laws and Statutes of this Realm standing in force before the said first day of this present Parliament; And that all and every clause and article of saving, contained in all and every the said Acts and Statutes, shall stand, remain and be in such force, strength and effect, as they were before the said first day of this present Parliament; any thing contained in this present Act to the contrary in any wise notwithstanding.

XLI. And that it may be in like manner enacted by authority aforesaid, That whosoever shall by any process, obtained out of any ecclesiastical Court within this Realm or without, or by pretence of any spiritual jurisdiction, or otherwise, contrary to the Laws of this Realm, inquiet or molest any person or persons, or body politick, for any manors, lands, tenements, hereditaments, or things above specified, contrary to the words, sentences and meaning of this Act, shall incur the danger of the Act of *g g* Præmunire, made the xvi. year of King Richard the Second, and shall suffer and incur the forfeitures and pains contained in the same.

XLII. Prohibited alway, That it shall and may be lawful to any person or persons, body politick and corporate, to sue in any competent Ecclesiastical or Spiritual Court within this Realm, for tithes, rights and duties that they or any of them shall pretend to have, of, or out of any the said manors, lands, tenements, and other the premises, and to have full and perfect remedy for the same, in such manner and form as they or any of them might or ought to have done or had by the Laws and Statutes of this Realm, before the making of this Act, and as though this Act had never been had or made.

XLIII. And that it may be further provided and enacted by the authority aforesaid, That albeit the title or style of supremacy or supreme head of the Church of England, and of Ireland, or either of them, never was, ne could be justly or lawfully attributed or acknowledged to any King and Sovereign Governour of this Realm, nor in any wise could or might rightfully, justly or lawfully by any King or Sovereign Governour of this Realm, be claimed, challenged or used; Yet forasmuch as the said title and style, sithence the third day of November, in the xxvi. year of the Reign of the said King Henry the Eighth, hath been used, and is mentioned and contained in divers and sundry writs, letters patents, records, exemplifications, court-rolls, charters, deeds, instruments, evidences, books and writings; It shall be lawful as well to and for your Majesties and your Sovereign Ladies heirs and successors, as to and for every other person and persons, and bodies politick and corporate, at all time and times hereafter, to have, retain and keep the said writs, letters patents, records, exemplifications, court-rolls, charters, deeds, instruments, evidences, books and writings, and them to sue, exhibit, use, allege and plead in all times and places requisite or needfull, without any danger, penalty, loss, forfeiture, trouble, vexation or impeachment,

*g g* The Repeal of the Statutes of *Provisors* had been much pressed, in the times of Popery, before the Reformation; particularly, Pope *Martin* the 5th, about the Year 1426, wrote to that end, in an earnest and threatening manner, not only to the Archbishop, but to the King and Parlia-

ment; taking the Advantage of an Infant King, and a weak Government. But his threatnings availed nothing; and we see, by this Clause, and by the Provision for the Rights of the Crown in Sect. 54. of this Act, how little even Queen *Mary's* Parliament was disposed to part with them.

Abridgment.

Saving of Rights to others.

All Acts and Writings concerning Conveyances of Church-Lands, shall be in full force.

--also all Feoffments, Fines, &c. made by Spiritual Persons of Churchlands, shall be good in Law,

---and shall be pleaded as such.

To molest any Person in possession by Process out of any Ecclesiastical Court, shall be a *Præmunire*,

--but the Tithes may be sued for in Ecclesiastical Courts, as before.

All Writings and Instruments, which mentioned the King as Supreme Head of the Church, shall be good in Law,



## Abridgment.

---and also all Writings and Instruments since the Q.'s reign, which do not mention the Queen, as Supreme Head,

--shall be good and effectual.

Stat. 28. H. 8. c. 16. concerning Bulls already obtained, being before Repealed,

---all Bulls which are or shall be obtained, shall be good against any Objection by pretence of Extinguishment or Cancelling.

Parochial Churches and Chapels, *Exempt*, shall not be under the Jurisdiction of Laymen,

---but under the Jurisdiction of the Ordinaries.

*Proviso*, for the Rights of the Universities, &c.

---and the right of Probate of Wills, by Custom.

For the Encouragement of Charitable Gifts,

---Lands, &c. may be given to spiritual Bodies, without Licence of Mortmain;

--Saving of all Rights to the Lords of the Fee,

---and this Liberty to continue only twenty years.

Nothing in the foresaid Supplications is intended to diminish or shall diminish the Rights of the Crown,

for the same; any thing in this Act, or in any Act or Acts to the contrary thereof in any wise notwithstanding.

XLIV. And where your Highness, Sovereign Lady, since your coming to the Crown of this Realm, of a good and Christian conscience, omitted to write the said style of Supremacy, specified in one Act made in the Parliament holden at Westminster by procreation in the xv. year of the Reign of your late Father King Henry the Eighth, as well in gifts, grants, letters patents, as in Commissions and other writings, and also other have in their writings done the same, as well in your time as before: And forasmuch as notwithstanding any Law made concerning the said style of Supremacy, it was in the free choice, liberty and pleasure of the King of this Realm, and of your Highness, whether you would express the same in the said style or not:

XLV. Be it therefore declared and enacted by the authority of this present Parliament, That all grants, letters patents, commissions, indictments, records and writings made in your our Sovereign Lady's name, or in the names of yours, Sovereign Lord and Lady, or any other, wherein the said style of Supremacy is omitted, is and shall be to all intents and purposes, as good and effectual as if the same had been therein expressed, and may be detained, kept, pleaded and alledged without any danger, pain, penalty or forfeiture to ensue to any person or persons, or body politic, for or concerning the omission of the same style, or any part thereof in any such writing; and that no persons shall be impeached, molested or damaged for or by reason of any such omission.

XLVI. And where in an Act of Parliament made since the twentieth year of King Henry the Eighth, all Bulls, dispensations and writings which were before that time obtained from the See of Rome, should be void, abolished and extinguished, with a clause notwithstanding, that the matter of them, by virtue of letters patents from the King then being, should and might be alledged, pleaded and allowed, as if the same had not been so abolished and extinguished, forasmuch as the said Act is here before, amongst other, Repealed and made void:

XLVII. Be it therefore enacted by the authority of this present Parliament, That all Bulls, dispensations and privileges obtained before the said twentieth year, or at any time since, or which shall hereafter be obtained of the See of Rome, not containing matter contrary or prejudicial to the authority, dignity or preeminence Royal or Imperial of the Realm, or to the Laws of this Realm now being in force, and not in this Parliament repealed, may be put in execution, used and alledged in any Court within this Realm, or elsewhere, whether the same remain yet whole, or can appear to have been cancelled, in as available and effectual manner, to all intents and purposes, as if the said Act had never been had or made; any objection by pretence of extinguishment, or cancelling of the said Bulls, dispensations or privileges, or any other matter or cause by the pretence of the Laws of this Realm whatsoever, in any wise notwithstanding.

XLVIII. And whereas by dissolution of Monasteries and other religious houses, certain Parish Churches and Chapels which were before exempt from the jurisdiction of the Archbishop and Bishop of the Diocese, and by special exemption and privilege from Rome, were under the Government and order of the Abbots and Priors of those religious houses, which said Churches by colour of the said Exemptions, be now of special grant from King Henry and King Edward, under the rule and government, and jurisdiction of temporal and laymen, who can no more enjoy that supremacy over those particular Churches, than the King might over the whole Realm:

XLIX. Be it therefore enacted, That all Archbishops and Bishops in their Diocese, and all other spiritual person and persons, having jurisdiction, and their Ministers and Officers, and no lay person or persons, in every Church and place within the precinct of the same, being exempt, or not exempt, may freely, and without impediment, execute their spiritual jurisdiction in all points and Articles, as though no such exemption or grant had ever been made.

L. Provided always, And be it enacted, That this Act extend not to take away or diminish the privileges of the Universities of Cambridge and Oxford, or the privileges or prerogatives granted heretofore to the Churches of Westminster and Windsor, or the Tower of London, or prejudicial to such Temporal Lords and possessors in this Realm as by ancient custom have enjoyed probate of Testaments of their tenants or other.

LI. And forasmuch as after this reconciliation and unity of this noble Realm to the body of Christs Church, it is to be trusted that by the abundance of Gods mercy and grace, devotion shall increase and grow in the Hearts of many the Subjects of this Realm, with desire to give and bestow their worldly possessions, for the resuscitating of alms, prayer, and examples of good life in this Realm: To the intent such Godly motions and purposes should be advanced:

LII. Be it therefore enacted by authority of this present Parliament, That it shall be lawful to such as shall be seized of any manors, lands, tenements, parsonages, tithes, pensions, portions, or other hereditaments whatsoever, in fee-simple, in possession, reversion or remainder, in their own rights, not being Copyhold, may thereof make feoffments, grants, or any other assurances, or by his last Will and Testament in writing, may bequeath and give in fee-simple, all and every the said manors, lands, tenements, parsonages, tithes, pensions, portions, or other hereditaments, to any spiritual body, politic or corporate, in this Realm, or Dominions of the same, now erected or founded, or hereafter to be erected or founded, without any licence of mortmain therein to be obtained, or any Writ of ad quod damnum to be sued out for the same; the Acts de terris ad manum mortuam non ponendis, or any other Act or Statute heretofore had or made in any wise notwithstanding;

Saving to the Lords of the fee, all rent services due, or going out of any of the said lands, tenements or hereditaments, so to be amortized as is aforesaid.

LIII. Provided always, That this clause of this Act, for giving the liberty of or for the amortizing of lands or tenements, shall continue for and during the space of twenty years next and immediately following, and no longer.

LIV. And forasmuch as we your Majesties humble and obedient Subjects, the Lords spiritual and temporal, and Commons in this present Parliament assembled, neither by the making or delivering of either the supplications aforesaid, nor by any clause, article or sentence thereof, or of any other clause, article or sentence of this or any other Statute, or any of the preambles of the same, made or agreed upon in this Session of this present Parliament, by any manner of interpretation, construction, implication or otherwise, intend to derogate, impair

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*Papal Authority Restored to the See of Rome.*

impaired or diminished any of the prerogatives, liberties, franchises, preeminences, or jurisdictions of your Crown Imperial of this Realm, and other the Dominions to the same belonging; we do most humbly beseech your Majesties, that it may be declared and ordained, and be it enacted and declared by authority of this present Parliament, That neither the making, exhibiting or inserting in this present Statute, or in the preamble of the same, of the supplication or promise aforesaid, or either of them, nor any other thing or things, words, sentences, clauses or articles in the preambles or body of the Acts aforesaid, shall be construed, understood, or expounded to derogate, diminish or take away any the liberties, privileges, prerogatives, preeminences, authorities or jurisdictions, or any part or parcel thereof, which were in your Imperial Crown of this Realm, or did belong to your said Imperial Crown the twentieth year of the Reign of yours the Queen's Majesty's most noble Father, or any of your most noble Progenitors, before the said twentieth year; and the Pope's holiness and See Apostolick to be restored, and to have and enjoy such authority, preeminence and jurisdiction as his holiness used and exercised, or might lawfully have used and exercised by Authority of his Supremacy, the said twentieth year of the reign of the King your Father, within this your Realm of England, and other your Dominions, without diminution or enlargement of the same, and none other; and the Ecclesiastical jurisdictions of the Archbishops, Bishops and Ordinaries, to be in the same state for process of suits, punishment of crimes, and execution of censures of the Church, with knowledge of causes belonging to the same, and as large in these points as the said jurisdiction was the said twentieth year.

LV. Provided always, and be it enacted by the authority aforesaid, That in and upon every such gift and devise to be made to such spiritual Corporations or persons as is aforesaid, the Donor, Feoffor or Devisor thereof may reserve to him and to his heirs for ever, a tenure in frank almoigne, or a tenure by Divine Service, and to have all remedies and actions for and upon the said gifts or devises, and tenures, in like manner and forme as was used before the Statute of Westminster third, commonly called Quia emptores terrarum; The said Statute, or any Law or Custom now being to the contrary in any wise notwithstanding.

LVI. Provided always, and be it enacted, That all and every person and persons, and bodies politic and corporate, which now have, or hereafter shall have any estate of inheritance, freehold, term or interest, of, in or to any portion, pension, tythes, glebelands, or other Ecclesiastical or spiritual profit, which by this Act, and letters of dispensation rehearsed in the same, be permitted and suffered to remain and continue in Laymens possessions, shall and may have like remedy for the recovery of the same, and every part thereof, as they and every of them might have had before the first day of this present Parliament; any thing in this Act contained to the contrary in any wise notwithstanding.

A.D. 1559.

1 Eliz. Cap. 1.

In an Act, Entituled, *An Act to restore to the Crown the ancient Jurisdiction over the State Ecclesiastical, &c.*

II. May it therefore please your Highness — that it may be enacted by authority of this present Parliament, that the said Act made in the first and second years of the reign of the said late King Philip and Queen Mary, and all and every branches, clauses, and articles therein contained (other than such branches, clauses, and sentences, as hereafter shall be excepted) may the last day of this Session of Parliament, by authority of this present Parliament, be repealed, and shall from thenceforth be utterly void, and of none effect.

XIII. And that it may also please your highness, that it may be further enacted by authority aforesaid, that all other Laws and Statutes, and the Branches and Clauses of any Act or Statute repealed and made void by the said Act of repeal, made in the time of the said late King Philip and Queene Mary, and not in this present Act specially mentioned and rebid, shall stand, remain and be repealed, and void, in such like manner and forme, as they were before the making of this Act: any thing herein contained to the contrary notwithstanding.

Abridgment.

--which shall stand as they were before 20 H. 8.

---and so shall the Authority of the Pope,

---and the Jurisdiction of Archbishops and Bishops.

Tenure in Frank Almoigne, or by Divine Service, may be reserved upon Gifts to spiritual Bodies.

Remedy for recovery of Spiritual Profits in Layhands, shall be the same, as before this present Parliament.

The foregoing Act shall be repealed,

--except, as to such Acts as are not hereby revived,

--which Acts shall stand repealed.

CAP.



Abridgment.

## C A P. III.

The SUPREMACY, as it stands at present, perpetually ANNEXED to the CROWN.

I Eliz. Cap. 1.

A.D. 1559.

*h An Act i to restore to the Crown the ancient Jurisdiction over the Estate Ecclesiastical and Spiritual, and abolishing all foreign Powers repugnant to the same.*

Recital,

Of the extinguishment of the Papal Authority, and restoring of the Supremacy to the Crown, under K. Henry 8.

---with the ease of the Nation from Exactions,

---and of the Restoration of it to the Pope, by 1, 2 P. M. c. 8.

The Stat. 1, 2 P. M. c. 8. shall be repealed and utterly void.

Revival of divers Statutes, viz.

---23 H. 8. c. 9. against citing out of the Dioecses.

---24 H. 8. c. 12. against Appeals to Rome.

---25 H. 8. c. 5. against payment of Annates and First-fruits.

Journal. Proci?

Strype. App. p. 7, 12.

**M**ost humbly beseech your most excellent Majesty, your faithful and obedient Subjects, the Lords Spiritual and Temporal, and the Commons in this your present Parliament assembled, That where in the time of the Reign of your most dear Father of worthy memory, King Henry the Eighth, divers good Laws and Statutes were made and established, as well for the utter extinguishment and putting away of all usurped and foreign Powers and Authorities out of this your Realm, and other your Highness's Dominions and Countreys, as also for the restoring and uniting to the Imperial Crown of this Realm, the ancient Jurisdictions, Authorities, Superiorities and Preheminencies to the same of right belonging and appertaining; by reason whereof, we your most humble and obedient Subjects, from the five and twentieth year of the Reign of your said dear Father, were continually kept in good order, and were disburdened of divers great and intolerable Charges and Exactions before that time unlawfully taken, and exacted by such foreign Power and Authority as before that was usurped, until such time as all the said good Laws and Statutes by one Act of Parliament made in the first and second years of the Reigns of the late K. Philip and Q. Mary your Highness's Sister, entituled, An Act repealing all Statutes, Articles and Provisions made against the See Apostolick of Rome, since the twentieth year of King Henry the Eighth; and also for the establishment of all Spiritual and Ecclesiastical Possessions and Hereditaments conveyed to the Laity, were all clearly repealed and made void, as by the same Act of Repeal more at large doth and may appear; By reason of which Act of Repeal, your said humble Subjects were afterwards brought under an usurped foreign Power and Authority, and yet do remain in that bondage, to the intolerable Charges of your loving Subjects, if some redress (by Authority of this your High Court of Parliament, with the assent of your Highness) be not had and provided;

II. May it therefore please your Highness, for the repressing of the said usurped foreign Power, and the restoring of the Rites, Jurisdictions and Preheminencies appertaining to the Imperial Crown of this your Realm, that it may be enacted by authority of this present Parliament, That the said Act made in the first and second years of the Reign of the said late King Philip and Queen Mary, and all and every branches, clauses and articles therein contained (other than such branches, clauses and sentences, as hereafter shall be excepted) may from the last day of this Session of Parliament, by authority of this present Parliament, be repealed, and shall from thenceforth be utterly void and of none effect.

III. And that also for the reviving of divers of the said good Laws and Statutes made in the time of your said dear Father, it may also please your Highness, That one Act and Statute made in the three and twentieth year of the Reign of the said late King Henry the Eighth, entituled, An Act, That no person shall be cited out of the Dioecses where he or she dwelleth, except in certain cases.

IV. And one other Act made in the four and twentieth year of the Reign of the said late King, entituled, An Act, That appeals in such Cases as hath been used to be pursued to the See of Rome, shall not be from henceforth had ne used, but within this Realm.

V. And one other Act made the five and twentieth year of the said late King, concerning restraint of payment of Annates, and First-fruits of Archbishopricks and Bishopricks to the See of Rome.

*h An Act]* This Act was passed in the House of Lords, Dissentin' Archiep. Ebor. Comite Salop. Vicecom. Mountague, Ep. Lond. Winton. Wigorn' Landaven' Coven' Exon' Cestren' Carlolen' & Abbate Westm'; and the Speeches made against the Bill (by Heath, Archbishop of York, and Scot Bishop of Chester,) are printed at large, in the Annals of the Reformation for the first twelve Years of

Queen Elizabeth.

*i To restore]* So that, as my Lord Coke notes, this was not a Statute introductory of a new Law, but declaratory of the old; which is undoubtedly true, with regard to a general Right of Jurisdiction in the Crown, over the State Ecclesiastical; but doth not equally extend to the whole Act, as will be observed at Sect. 17.

The Supremacy as it stands annexed to the Crown.

5th Rep. Caudrey's Case.

VI. And



The Supremacy as it stands annexed to the Crown.

VI. And one other Act in the said five and twentieth year, entituled, An Act concerning the submission of the Clergy to the King's Majesty.

VII. And also one Act made in the five and twentieth year, entituled, An Act restraining the payment of Annates, or First-fruits to the Bishop of Rome, and of the electing and consecrating of Archbishops and Bishops within this Realm.

VIII. And one other Act made in the said five and twentieth year, entituled, An Act concerning the Exoneration of the King's Subjects from Exactions and Impositions heretofore paid to the See of Rome, and for having Licences and Dispensations within this Realm, without suing further for the same.

IX. And one other Act made in the six and twentieth year of the said late King, entituled, An Act for nomination and consecration of Suffragans within this Realm.

X. And also one other Act made in the eight and twentieth year of the Reign of the said late King, entituled, An Act for the release of such as have obtained pretended licences and dispensations from the See of Rome, and all and every branches, words and sentences in the said several Acts and Statutes contained, by authority of this present Parliament, from and at all times after the last day of this Session of Parliament, shall be revived, and shall stand and be in full force and strength, to all intents, constructions and purposes; And that the branches, sentences and words of the said several Acts, and every of them, from thenceforth shall and may be judged, deemed and taken to extend to your Highness, your Heirs and Successors, as fully and largely as ever the same Acts or any of them did extend to the late King Henry the Eighth, your Highness's Father.

XI. And that it may also please your Highness, that it may be enacted by the authority of this present Parliament, That so much of one Act or Statute made in the two and thirtieth year of the Reign of your said dear Father King Henry the Eighth, entituled, An Act concerning pre-contracts of marriages, and touching degrees of consanguinity, as in the time of the late King Edward the Sixth, your Highness's most dear Brother, by one other Act or Statute, was not repealed.

XII. And also one Act made in the seven and thirtieth year of the Reign of the said late King Henry the Eighth, entituled, An Act that Doctors of the Civil Law being married, may exercise Ecclesiastical Jurisdiction, and all and every branches and articles in the said two Acts last mentioned, and not repealed in the time of the said late King Edward the Sixth, may from henceforth likewise stand and be revived, and remain in their full force and strength, to all intents and purposes; any thing contained in the said Act of Repeal before-mentioned, or any other matter or cause to the contrary notwithstanding.

XIII. And that it may also please your Highness, That it may further be enacted by the authority aforesaid, that all other Laws and Statutes, and the branches and clauses of any Act or Statute repealed and made void by the said Act of Repeal made in the time of the said late King Philip and Queen Mary, and not in this present Act specially mentioned and revived, shall stand, remain and be repealed and void, in such like manner and form as they were before the making of this Act; any thing herein contained to the contrary notwithstanding.

XIV. And that it may also please your Highness, That it may be enacted by the authority aforesaid, that one Act and Statute made in the first year of the Reign of the late King Edward the Sixth, your Majesty's most dear Brother, entituled, An Act against such persons as shall unreverently speak against the Sacrament of the Body and Blood of Christ, commonly called the Sacrament of the Altar, and for the receiving thereof under both kinds, and all and every branches, clauses and sentences therein contained, shall and may likewise from the last day of this Session of Parliament, be revived, and from thenceforth shall and may stand, remain and be in full force, strength and effect, to all intents, constructions and purposes, in such like manner and form as the same was at any time in the first year of the Reign of the said late King Edward the Sixth; any Law, Statute, or other matter to the contrary in any wise notwithstanding.

XV. And that also it may please your Highness, that it may be further established and enacted by the authority aforesaid, That one Act and Statute made in the first and second years of the late King Philip and Queen Mary, entituled, An Act for the reviving of three Statutes made for the punishment of heresies; and also the said three Statutes mentioned in the said Act, and by the same Act revived, and all and every branches, articles, clauses and sentences contained in the said several Acts and Statutes, and every of them, shall be from the last day of this Session of Parliament, deemed and remain utterly repealed, void and of none effect, to all intents and purposes; any thing in the said several Acts, or any of them contained, or any other matter or clause to the contrary notwithstanding.

XVI. And to the intent that all the usurped and foreign power and authority Spiritual and Temporal, may for ever be clearly extinguished, and never be used and obeyed within this Realm, or any other your Majesty's Dominions or Countries, May it please your Highness that it may be further enacted by the authority aforesaid, That no Foreign Prince, Person, Prelate, State or Potentate Spiritual or Temporal, shall at any time after the last day of this Session of Parliament, use, enjoy or exercise any manner of power, jurisdiction, superiority, authority, preheminance or privilege Spiritual or Ecclesiastical, within this Realm,

Abridgment.

---25 H. 8. c. 19. Submission of the Clergy.

---25 H. 8. c. 1. against Annates, and concerning Election of Bishops.

---25 H. 8. c. 21. against Dispensations from Rome.

---26 H. 8. c. 14. concerning Suffragans.

---28 H. 8. c. 16. for the release of such as have obtained Dispensations.

All the foregoing Acts, shall be revived, and extend to the Queen, as much as to K. H. 8.

All the Clauses in two Acts 32 H. 8. c. 28. concerning Pre-contracts.

---and 37 H. 8. c. 17. (that Doctors of Civil Law, may marry) shall be revived, so far as they were not repealed by Ed. 6.

All Statutes repealed by 1, 2 P. M. c. 8. and not mention'd in this Act, shall stand repealed.

Stat. 1 E. 6. c. 1. for receiving the Sacrament in both kinds, shall be revived.

Stat. 1, 2 P. M. c. 6. for reviving of the 3 Statutes of Heresie (5 R. 2. c. 5. --- 2 H. 4. c. 15. --- 2 H. 5. c. 7.) shall be repealed.

All foreign Power, &c. shall be clearly abolished out of this Realm,



Abridgment.

or within any other your Majesties Dominions or Countreys that now be, or hereafter shall be, but from thenceforth the same shall be clearly abolished out of this Realm, and all other your Highness's Dominions for ever; any Statute, Ordinance, Custom, Constitutions, or any other matter or cause whatsoever to the contrary in any wise notwithstanding.

The Supremacy, as it stands annexed to the Crown.

---and such Spiritual Jurisdiction as hath heretofore been exercised, shall be for ever annexed to the Crown.

XVII. And that also it may likewise please your Highness that it may be established and enacted by the authority aforesaid, That such jurisdictions, privileges, superiorities and prebeminencies Spiritual and Ecclesiastical, as by any Spiritual or Ecclesiastical power or authority hath heretofore been, or may lawfully be exercised or used for the visitation of the Ecclesiastical state and persons, and for reformation, order and correction of the same, and of all manner of errors, heresies, schisms, abuses, offences, contempts and enormities, shall for ever, by authority of this present Parliament, be united and annexed to the Imperial Crown of this Realm.

---to be executed by Commissioners under the great Seal, being natural born Subjects.

XVIII. And that your Highness, your Heirs and Successors, Kings or Queens of this Realm, shall have full Power and Authority by virtue of this Act, by Letters Patents under the Great Seal of England to assign, name and authorize, when and as often as your Highness, your Heirs or Successors, shall think meet and convenient, and for such and so long time as shall please your Highness, your Heirs or Successors, such person or persons being natural born Subjects to your Highness, your Heirs or Successors, as your Majesty; your Heirs or Successors shall think meet to exercise, use, occupy and execute under your Highness, your Heirs and Successors, all manner of jurisdictions, privileges and prebeminencies, in any wise touching or concerning any Spiritual or Ecclesiastical Jurisdictions, within these your Realms of England and Ireland, or any other your Highness's Dominions and Countries: And to visit, reform, redress, order, correct and amend all such errors, heresies, schisms, abuses, offences,

Rep. 17. Car. 1. c. 11. See afterwards in this Chapter.

Who shall have full Power to visit, reform, &c. all Errors, heresies, &c.

[To assign, name, and authorize] My Lord Coke says, it was resolved by all the Judges, That if this Act had never been made, the King or Queen of England for the time being, might have made such an Ecclesiastical Commission, by the antient Prerogative and Law of England. But the Series of Instances which he produces out of our ancient Histories and Laws, having been particularly examined, not only by a Member of the Church of Rome (who, by his Principles, must equally dislike the whole Act,) but also by our Learned Bishop Stillingfleet, who only opposed his interpretation of this Branch; those Instances, I say, have been found, upon Examination, not to come up to the case in hand; which is not, whether the King, by the Law of England, had not a Jurisdiction over the State Ecclesiastical, exclusive of the Pope, and antecedent to any Statute made for that Purpose; but (as the same Right Reverend Prelate states it,) "Whether our ancient Law doth give the King a power, by virtue of his Ecclesiastical Jurisdiction, to appoint Commissioners, by an extraordinary way of Jurisdiction, to proceed in *prima instantia* against Persons by Ecclesiastical Censures: For the proof of which (as he particularly shews) there is not one instance among the many alledged by my Lord Coke, that is sufficient, or that comes up to the point.

in virtue of this Act, by the same reason that she issued particular Commissions into every County, to execute the Powers contained and specified in the said Act.

Life of Archbishop Parker, p. 147-1

[Offences, Contempts, and Enormities] The High Commission Court, which was erected in virtue of this Clause, being abolished, by Stat. 16 Car. 1. c. 11. the extent and exercise of that Authority are now matters of mere Speculation, and Curiosity; and therefore I shall only observe, in general, that, while that Court stood, there were many and great Contests between it and the Courts of Westminster-Hall, concerning the extent of the Jurisdiction, assigned and limited by this Act; the Commissioners, on one hand, not confining themselves to such Crimes as might properly be called *Enormous* (*Heresy, Schism, Polygamy, Incest, and Recusancy,*) but taking Cognisance of *Adultery, Alimony, Defamation, Laying violent hands on a Clerk, misbehaviour of Clergymen in their Functions, and the like;* the Cognisance of which, the Judges affirmed to belong, of right, to the standing Ecclesiastical Courts, and not to be *Enormities*, within the meaning of this Statute; alledging further, that the Exercise of Jurisdiction, in these and the like Cases, by the High Commissioners, would not only prejudice all the Bishops of England in their Ecclesiastical Jurisdiction, but would be also grievous to the Subject, who must be drawn up from all the remote parts of the Realm, when, before their own Diocesan, they might receive Justice at their own Doors. Much of this kind is to be met with in the Reports of that time, particularly, in my Lord Coke; who strenuously resisted the *Encroachments* of the High Commission; and He, and the other Judges, restrained them, in many instances, by *Prohibitions*, as appears by the places particularly referred to before.

Vid. infra, in hoc Tit.

Brownl. p. 5. Darlington's Case. 1 Cro. 3. 114. Brownl. 2. 18. Bullstr. 2. 300. 11 Ibid. 111 Co. Sel. Cases, p. 10, 47. Latch, 204. 4th Rep. 233. 111 4. Rep. p. 333. 11 4 Rep. 333. Heel. p. 3.

Eccles. Cases, Part, 3d, p. 67.

Co. 4 Rep. 326.

Eccles. Cases, part 2d, p. 77.

4 Inst. p. 332, 333. 12. Rep. p. 47. Sel. Cases, p. 10, &c.



The Supremacy, as it stands annexed to the Crown.

contempts, and enormities whatsoever, which by any manner of Spiritual or Ecclesiastical power, Authority or jurisdiction, can or may lawfully be reformed, ordered, redressed, corrected, restrained or amended, to the pleasure of Almighty God, the increase of virtue, and the conservation of the Peace and Unity of this Realm; and that such Person or persons so to be named, assigned, authorized and appointed by your Highness, your Heirs or Successors, after the said Letters Patents to him or them made and delivered, as is aforesaid, shall have full power and authority by virtue of this Act, and of the said Letters Patents, under your Highness, your Heirs and Successors, to exercise, use and execute all the premises, according to the tenour and effect of the said Letters Patents; any matter or cause to the contrary in any wise notwithstanding.

XIX. And for the better observation and maintainance of this Act, may it please your Highness that it may be further enacted by the authority aforesaid, That all and every Archbishop, Bishop, and all and every other Ecclesiastical person, and other Ecclesiastical officer and minister, of what estate, dignity, preheminance or degree soever he or they be, or shall be, and all and every Temporal Judge, Justice, Mayor, or other Lay or Temporal officer and minister, and every other person having your Highness's fee or wages, within this Realm, or any your Highness's Dominions, shall make, take and receive a corporal Oath upon the Evangelists, before such person or persons as shall please your Highness, your Heirs or Successors, under the Great Seal of England, to assign and name to accept and to take the same according to the tenour and effect hereafter following; that is to say,

"I, A. B. do utterly testify and declare in my Conscience, That the Queen's Highness is the only o Supreme Governour of this Realm, and of all other her Highness's Dominions and Countries, as well in all Spiritual or Ecclesiastical Things or Causes, as Temporal; and that no foreign Prince, Person, Prelate, State or Potentate, hath or ought to have any Jurisdiction, Power, Superiority, Preheminance, or authority Ecclesiastical or Spiritual within this Realm, and therefore I do utterly renouace and forsake all foreign Jurisdicions, Powers, Superiorities and Authorities, and do promise, that from henceforth I shall bear Faith and true Allegiance to the Queens Highness, her Heirs and lawful Successors, and to my power shall assist and defend all Jurisdicions, Privileges, Preheminencies and Authorities granted or belonging to the Queen's Highness, her Heirs and Successors, or united and annexed to the Imperial Crown of this Realm. So help me God, and by the Contents of this Book.

<sup>m</sup> Of the said Letters [Patents] The Letters-Patents, or Commission, (one Copy of which is printed at large, in the Life of Archbishop Grindal) empowered the Commissioners to fine and imprison; which they accordingly practised, in many Cases; and the Practice was allowed by the greater part of the Justices, assembled at Serjeants-Inn, to consider of it; with this Limitation, that the Fine ought to be reasonable, and the Imprisonment only for a moderate time. But the Commission being in its nature Ecclesiastical, and limited by the exprefs words of the Act to Offences punishable by Spiritual or Ecclesiastical Power; and, it being also found, that divers, who were imprisoned in the reign of Q. Elizabeth, had been delivered by Habeas Corpus; and that tho' Fines had been imposed in that Reign, none of them had been levied; Upon these Con-

siderations, and upon a full and mature Examination of the several parts of the Act, it was resolved by all the Justices of the Common-Pleas (9 Jac. I.) That this Act did not warrant a Commission to Fine or Imprison; which Resolution, with the Reasons for it, may be read at large in the 4th Institute.

"I, A. B.] The Form of this Oath is altered by 1 Will. & Mar. c. 8. which see afterwards in this Chapter.

<sup>o</sup> Supreme Governour ] The Queen would not take the title of Supreme Head; a Scruple having been raised in her mind about it, by one Lever, a Minister of Frankfort (as appears by a Letter from Dr. Sands to Dr. Parker;) and besides, it is probable, this title might be less offensive to the Popish Party (then very prevalent) than that other of Supreme Head.

Abridgment.

All Ecclesiastical Persons, and Temporal Officers, shall take an Oath,

---that the Queen is supreme, and no foreign Prince, &c. hath any Jurisdiction in this Realm,

---that he renouces all foreign Jurisdicions, and will be true to the Q. and defend the Royal Supremacy;

App. p. 64.

29 Eliz. Savil, 162, 186.

P. 324, &c.

Burn. App: Vol. 2. p. 333.

XX. And



## Abridgment.

--and upon refusal of this Oath the said Officers shall forfeit Promotion, and Office,

--and be incapable to exercise any Office that he hath in common with others.

The same Oath shall be taken, before Admissions to Spiritual Benefices, &c. and Temporal Offices,

--and whoever refuses it shall be incapable of such Promotion and Office.

The same Oath shall be taken by Persons suing Liberty, or *Oustre le maine*; and doing Homage,

--and by Persons taking Orders and Degrees.

XX. And that it may also be enacted, That if any such Archbishop, Bishop or other Ecclesiastical Officer or Minister, or any of the said Temporal Judges, Justiciaries, or other Lay-officer or Minister shall peremptorily or obstinately refuse to take or receive the said Oath, that then he so refusing, shall forfeit and lose only during his Life, all and every Ecclesiastical and Spiritual <sup>oo</sup> Promotion, Benefice and Office, and every Temporal and Lay-promotion and Office, which he hath solely at the time of such refusal made; and that the whole title, interest and incumbency, in every such Promotion, Benefice, and other Office, as against such person only so refusing, during his Life, shall clearly cease and be void, as though the party so refusing were dead.

XXI. And that also all and every such person and persons so refusing to take the said Oath, shall immediately after such refusal, be from thenceforth during his Life, disabled to retain or exercise any office or other promotion which he at the time of such refusal hath jointly, or in common with any other person or persons.

XXII. And that all and every person and persons, that at any time hereafter shall be preferred, promoted or collated to any Archbishoprick or Bishoprick, or to any other Spiritual or Ecclesiastical Benefice, promotion, dignity or office, or Ministry; or that shall be by your Highness, your Heirs or Successors, preferred or promoted to any Temporal or Lay-office, ministry or service within this Realm, or in any your Highness Dominions, before he or they shall take upon him or them to receive, use, exercise, supply or occupy any such Archbishoprick, Bishoprick, promotion, dignity, office, ministry or service, shall likewise make, take and receive the same corporal Oath beforementioned, upon the Evangelists, before such persons as have or shall have authority to admit any such person to any such office, ministry or service, or else before such person or persons as by your Highness, your Heirs or Successors, by Commission under the Great Seal of England, shall be named, assigned or appointed to minister the said Oath.

XXIII. And that it may likewise be further enacted by the authority aforesaid, That if any such person or persons as at any time hereafter shall be promoted, preferred or collated to any such promotion Spiritual, or Ecclesiastical Benefice, Office or Ministry, or that by your Highness, your Heires or Successors shall be promoted or preferred to any Temporal or Lay-office, Ministry or Service, shall and do peremptorily and obstinately refuse to take the same Oath so to him to be offered, that then he or they so refusing, shall presently be judged disabled in the Law to receive, take or have the same promotion Spiritual or Ecclesiastical, or the same Temporal Office, Ministry or Service within this Realm, or any other your Highness's Dominions, to all intents, constructions and purposes.

XXIV. And that it may be further enacted by the authority aforesaid, That all and every person and persons Temporal, suing Liberty, or *Oustre le maine*, out of the hands of your Highness, your Heirs or Successors, before his or their Liberty, or *Oustre le maine* sued forth and allowed; and every temporal person or persons doing any Homage to your Highness, your Heirs or Successors, or that shall be received into service with your Highness, your Heirs or Successors, shall make, take and receive the said corporal Oath beforementioned, before the Lord Chancellor of England, or the Lord Keeper of the Great Seal for the time being, or before such person or persons as by your Highness, your Heirs, or Successors, shall be named and appointed to accept or receive the same.

XXV. And that also all and every person and persons taking Orders, and all and every other person and persons which shall be promoted or preferred to any degree of learning in any University within this your Realm or Dominions, before he shall receive or take any such Orders, or be preferred to any such degree of learning, shall make, take and receive the said Oath by this Act set forth and declared, as is aforesaid, before his or their Ordinary, Commissary, Chancellor or Vice-chancellor, or their sufficient Deputies in the said University.

<sup>oo</sup> Promotion, &c.] The penalty of refusing is here much moderated; being High-<sup>Treason</sup>, in the Acts of Henr. 8. ann. 28, & 35.

The Supremacy, as it stands annexed to the Crown.



The Su-  
premacie  
as it stands  
annexed  
to the  
Crown.

XXVI. Provided always, and that it may be further enacted by the authority aforesaid, That if any person having any estate of inheritance, in any Temporal Office or Offices, shall hereafter obstinately and peremptorily refuse to accept and take the said Oath, as is aforesaid, and after at any time during his life, shall willingly require to take and receive the said Oath, and so do take and accept the same Oath before any person or persons that shall have lawful authority to minister the same; that then every such person immediately after he hath so received the same Oath, shall be vested, judged and deemed in like estate and possession of the said Office as he was before the said refusal, and shall and may use and exercise the said Office in such manner and form as he should or might have done before such refusal, any thing in this Act contained to the contrary in any wise notwithstanding.

XXVII. And for the more sure observation of this Act, and the utter extinguishment of all foreign and usurped power and authority, may it please your Highness, that it may be enacted by the authority aforesaid, That if any person or persons dwelling or inhabiting within this your Realm, or in any other your Highness's Realms or Dominions, of what estate, dignity or degree soever he or they be, after the end of thirty days next after the determination of this Session of this present Parliament, shall by writing, printing, teaching, preaching, express words, deed or act, advisedly, maliciously, and directly affirm, hold, stand with, set forth, maintain or defend the authority, preheminance, power or jurisdiction, Spiritual or Ecclesiastical, of any foreign Prince, Prelate, Person, State or Potentate whatsoever heretofore claimed, used or usurped within this Realm, or any Dominion or Country being within or under the power dominion or obedience of your Highness; or shall advisedly, maliciously and directly put in ure, or execute any thing for the extolling, advancement, setting forth, maintenance or defence of any such pretended or usurped jurisdiction, power, preheminance and authority, or any part thereof; that then every such person and persons so doing and offending, their abettors, aiders, procurers and counsellours, being thereof lawfully convicted and attainted, according to the true order and course of the Common Laws of this Realm, for his or their first offence, shall forfeit and lose unto your Highness, your Heirs and Successors, all his and their goods and chattels, as well real as personal.

XXVIII. And if any person so convicted or attainted, shall not have, or be worth of his proper goods and chattels to the value of twenty pound, at the time of his conviction or attainder; that then every such person so convicted and attainted, over and besides the forfeiture of all his said goods and chattels, shall have and suffer imprisonment by the space of one whole year, without bail or mainprise.

XXIX. And that also, all and every the Benefices, Prebends, and other Ecclesiastical promotions and dignities whatsoever, of every Spiritual person so offending, and being attainted, shall immediately after such attainder be utterly void to all intents and purposes, as though the Incumbent thereof were dead, and that the Patron and Honour of every such Benefice, Prebend, Spiritual promotion and dignity, shall and may lawfully present unto the same, or give the same in such manner and form as if the said Incumbent were dead; and if any such offender or offenders, after such conviction or attainder, so oftsoons commit or do the said offences, or any of them in manner and form aforesaid, and be thereof duly convicted and attainted, as is aforesaid; that then every such offender and offenders, shall for the same second offence, incur into the dangers, penalties and forfeitures ordained and provided by the Statute of Provision and Præmunire, made in the sixteenth year of the Reign of King Richard the second.

XXX. And if any such offender or offenders, at any time after the second conviction and attainder, do the third time commit and do the said offences, or any of them, in manner and form aforesaid, and

<sup>p</sup> Shall forfeit and lose] These penalties are according to the Act, 1 Edw. 6. c. 12. whereas in H. 8th's time, one Act makes the penalty a Præmunire, and another, Treason; and both, in the first Instance.

Abridgment.

Persons who have Offices of Inheritance, refusing, and afterwards taking the Oath, shall be vested again in the said Office.

Every Person maintaining, or acting for, the Papal Supremacy, shall,

---for the first Offence, forfeit all Goods and Chattels,

----- which if not worth 20 l. there shall be added one year's Imprisonment,

---and Patrons of Ecclesiastical Promotions (which shall thereby be void) may present, as if Incumbents were dead.

---For the second Offence he shall incur the penalties of Provision and Præmunire.

-----For the third Offence, he shall suffer, as in cases of High-Treason.



## Abridgment.

No Person shall be molested for Words only, unless indicted within a year;

---and if any one be imprisoned, and not indicted within one half year, he shall be set at liberty.

This Statute shall not repeal any Clause in Act 1, 2 Mar. c. 8. concerning *Præmunire*.

No Offence against any Statute hereby revived, shall be accounted such before the end of 30 Days after this Session.

Peers indicted upon this Act, shall be tried by Peers.

No determination of this present Parliament, shall be adjudged Heresie, &c.

The Commissioners to be appointed by this Act, shall declare no matter to be Heresie, but what hath been declared such, ---by Scripture, or, ---by the first four General Councils,

---or what shall be declared Heresie, by Parliament and Convocation.

Co 4. last. P. 42.

be thereof duly convicted and attainted, as is aforesaid; that then every such offence or offences, shall be deemed and adjudged High-Treason, and that the offender or offenders therein, being thereof lawfully convicted and attainted, according to the Laws of this Realm, shall suffer pains of death, and other penalties, forfeitures and losses, as in case of High-Treason by the Laws of this Realm.

XXXI. And also that it may likewise please your Highness, that it may be enacted by the authority aforesaid, That no manner of person or persons shall be molested or impeached for any of the offences so committed or perpetrated only by preaching, teaching or words, unless he or they be thereof lawfully indicted within the space of one whole year next after his or their offences so committed: And in case any person or persons shall fortune to be imprisoned for any of the said offences committed by preaching, teaching, or words only, and be not thereof indicted within the space of one half year next after his or their such offence so committed and done, that then the said person so imprisoned shall be set at liberty, and be no longer detained in prison for any such cause or offence.

XXXII. Provided always, and be it Enacted by the authority aforesaid, That this Act or any thing therein contained, shall not in any wise extend to repeal any clause, matter or sentence contained or specified in the said Act of Repeal made in the said first and second years of the Reign of the said late King Philip and Queen Mary, as doth in any wise touch or concern any matter or cause of *Præmunire*, or that doth make or ordain any matter or cause to be within the case of *Præmunire*; but that the same for so much only as toucheth or concerneth any case or matter of *Præmunire*, shall stand and remain in such force and effect, as the same was before the making of this Act; any thing in this Act contained to the contrary in any wise notwithstanding.

XXXIII. Provided also, and be it enacted by the authority aforesaid, That this Act or any thing therein contained, shall not in any wise extend, or be prejudicial to any person or persons for any offence or offences committed or done, or hereafter to be committed or done, contrary to the tenour and effect of any Act or Statute now revived by this Act, before the end of thirty days next after the end of the Session of this present Parliament; any thing in this Act contained, or any other matter or cause to the contrary notwithstanding.

XXXIV. And if it happen that any Peer of this Realm shall fortune to be indicted of and for any offence that is revived or made *Præmunire* or Treason by this Act, that then he so being indicted, shall have his Trial by his Peers, in such like manner and form as in other case of Treason hath been used.

XXXV. Provided always, and be it enacted as is aforesaid, that no manner of Order, Act or Determination for any matter of Religion, or cause Ecclesiastical, had or made by the authority of this present Parliament, shall be accepted, deemed, interpreted or adjudged at any time hereafter to be any error, heresie, schism, or schismatical Opinion; any order, decree, sentence, constitution or law, whatsoever the same be, to the contrary notwithstanding.

XXXVI. *q* Provided always, and be it enacted by the authority aforesaid, That such person or persons to whom your Highness, your Heirs or Successors, shall hereafter by Letters Patents, under the Great Seal of England, give authority to have or execute any jurisdiction, power or authority Spiritual, or to visit, reform, order or correct any errors, heresies, schisms, abuses or enormities, by virtue of this Act, shall not in any wise have authority or power to order, determine, or adjudge any matter or cause to be heresie, but only such as have heretofore been determined, ordered or adjudged to be heresie, by the authority of the Canonical Scriptures, or by the first four General Councils, or any of them, or by any other General Council wherein the same was declared heresie by the express and plain words of the said Canonical Scriptures, or such as hereafter shall be ordered, judged or determined to be heresie, by the high Court of Parliament of this Realm, with the assent of the Clergy in their Convocation; any thing in this Act contained to the contrary notwithstanding.

*q* Provided always] This *Proviso* extended only to the High-Commissioners, and therefore could be of force no longer than that Commission continued; but what was a Rule to them may be a good Rule, in *prudence*; to others.

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The Supremacy,  
as it stands  
annexed  
to the  
Crown.

XXXVII. And be it further enacted by the authority aforesaid, That no person or persons shall be hereafter indicted or arraigned for any of the offences made, ordained, revived or adjudged by this Act, unless there be two sufficient witnesses or more, to testify and declare the said offences whereof he shall be indicted or arraigned: And that the said witnesses, or so many of them as shall be living, and within this Realm at the time of the arraignment of such person so indicted, shall be brought forth in person face to face, before the party so arraigned, and there shall testify and declare what they can say against the party so arraigned, if he require the same.

XXXVIII. Provided also, and be it further enacted by the authority aforesaid, That if any person or persons shall hereafter happen to give any relief, aid or comfort, or in any wise be aiding, helping or comforting to the person or persons of any that shall hereafter happen to be an offender in any matter or case of Præmunire or Treason revived or made by this Act; that then such relief, aid or comfort, given shall not be judged or taken to be any offence, unless there be two sufficient witnesses at the least, that can and will openly testify and declare, that the person or persons that so give such relief, aid or comfort had notice and knowledge of such offence committed and done by the said offender, at the time of such relief, aid or comfort so to him given or ministered; any thing in this Act contained, or any other matter or cause to the contrary in any wise notwithstanding.

XXXIX. And where one pretended sentence hath heretofore been given in the Consistory in Paul's before certain Judges Delegate, by the authority Legantine of the late Cardinal Poole, by reason of a foreign usurped power and authority, against Richard Cherwood, Esquire, and Agnes his wife, by the name of Agnes Woodhull, at the Suit of Charles Tyrrel Gentleman, in a cause of Matrimony solemnized between the said Richard and Agnes, as by the same pretended sentence more plainly doth appear, from which sentence the said Richard and Agnes have appealed to the Court of Rome; which Appeal doth there remain, and yet is not determined:

XL. May it therefore please your Highness, that it may be enacted by the authority aforesaid, That if sentence in the said Appeal shall happen to be given at the said Court of Rome, for and in the behalf of the said Richard and Agnes, for the reverting of the said pretended sentence, before the end of threescore days next after the end of this Session of this present Parliament, that then the same shall be adjudged and taken to be good and effectual in the Law, and shall and may be used, pleaded and allowed in any Court or place within this Realm; any thing in this Act, or in any other Act or Statute contained to the contrary notwithstanding:

XLI. And if no sentence shall be given at the Court of Rome in the said Appeal for the reverting of the said pretended sentence, before the end of the said threescore days, that then it shall and may be lawful for the said Richard and Agnes, and either of them, at any time hereafter to commence, take, sue, and prosecute their said Appeal from the said pretended sentence, and for the reverting of the said pretended sentence, within this Realm, in such like manner and form as was used to be pursued, or might have been pursued within this Realm, at any time since the twenty fourth year of the Reign of the said late King Henry the Eighth, upon sentences given in the Court or Courts of any Archbishop within this Realm.

XLII. And that such Appeal as so hereafter shall be taken, or pursued by the said Richard Cherwood and Agnes, or either of them, and the sentence that herein or thereupon shall hereafter be given, shall be judged to be good and effectual in the Law, to all intents and purposes; any Law, Custom, Usage, Canon, Constitution, or any other matter or cause to the contrary notwithstanding.

XLIII. Provided also, and be it enacted by the Authority aforesaid, That where there is the like Appeal now depending in the said Court of Rome, between one Robert Harcourt, Merchant of the Staple, and Elizabeth Harcourt, otherwise called Elizabeth Robins of the one party, and Anthony Fydell, Merchant Stranger on the other party; that the said Robert, Elizabeth and Anthony, and every of them, shall and may for the prosecuting and trying of their said Appeal, have and enjoy the like remedy, benefit and advantage, in like manner and form as the said Richard and Agnes, or any of them hath, may or ought to have and enjoy; this Act or any thing therein contained to the contrary in any wise notwithstanding.

Abridgment.

None shall be Indicted upon this Act, without two Witnesses, to be produced face to face.

The relieving any Offender in Præmunire or Treason upon this Act, shall be no offence, unless it appear by two witnesses that the Person relieving knew of the Offence.

Richard and Agnes Cherwood having an appeal depending at Rome,

--if sentence be given for them, before the end of threescore days, after the end of this Parliament,

--they shall have the benefit thereof.

--but if Sentence be not given at Rome, before the said Term, they may Appeal to the K.'s Delegates.

--and the Sentence by them given, shall be good in Law;

--and the same also shall be done in the Appeal depending at Rome, between Harcourt, and Fydell.



Abridgment.

17 Car. I. Cap. 11.

*A Repeal of the Branch of a Statute primo Elizabethæ, concerning Commissioners for Causes Ecclesiastical.*

Recital of that Branch of the Statute 1 El. c. 1. which impowers the Queen, and her Successors, to appoint Commissioners for Ecclesiastical Jurisdiction,

Whereas in the Parliament holden in the first year of the reign of the late Queen Elizabeth late Queen of England, there was an Act made and established, Entituled, An Act restoring to the Crown the ancient Jurisdiction over the State Ecclesiastical and Spiritual, and abolishing all Foreign Power repugnant to the same; In which Act, amongst other things, there is contained one Clause, Branch, Article or Sentence, whereby it was enacted to this effect; Namely, That the said late Queen's Highness, her Heirs and Successors, Kings or Queens of this Realm, should have full power and authority by vertue of that Act, by Letters Patents under the Great Seal of England, to assign, name and authorize, when, and as often as her Highness, her Heirs or Successors should think meet and convenient, and for such, and so long time as should please her Highness, her Heirs or Successors, such person or persons being natural born Subjects to her Highness, her Heirs or Successors, as her Majesty, her Heirs or Successors, should think meet to exercise, use, occupy and execute under her Highness, her Heirs and Successors, all manner of Jurisdictions, Privileges and Preeminence, in any wise touching or concerning any Spiritual or Ecclesiastical Jurisdiction within these her Realms of England and Ireland, or any other her Highness's Dominions and Countries, and to visit, reform, redress, order, correct, and amend all such Errors, Heresies, Schisms, Abuses, Offences, Contempts and Enormities whatsoever, which by any manner Spiritual or Ecclesiastical Power, Authority or Jurisdiction, can, or may lawfully be reformed, ordered, redressed, corrected, restrained or amended, to the pleasure of Almighty God, the increase of vertue, and the conserbation of the Peace and Unity of this Realm: And that such person or persons so to be named, assigned, authorized and appointed by her Highness, her Heirs or Successors, after the said Letters Patents to him or them made and delivered as aforesaid, should have full power and authority by vertue of that Act, and of the said Letters Patents under her Highness, her Heirs or Successors, to exercise, use, and execute all the Premises, according to the tenor and effect of the said Letters Patents; any matter or cause to the contrary in any wise notwithstanding.

---and that the Commissioners so authorized, have exceeded their Commission, by Fining, Imprisoning, &c.

II. And whereas by colour of some words in the aforesaid Branch of the said Act, whereby Commissioners are authorized to execute their Commission according to the tenor and effect of the King's Letters Patents, and by Letters Patents grounded thereupon, the said Commissioners have, to the great and insufferable Wrong and Oppression of the King's Subjects, used to fine and imprison them, and to exercise other Authority not belonging to Ecclesiastical Jurisdiction restored by that Act, and divers other great Mischiefs and Inconveniences have also ensued to the King's Subjects, by occasion of the said Branch and Commissions issued thereupon, and the Executions thereof: Therefore for the redressing and preventing of the foresaid Abuses, Mischiefs and Inconveniences in time to come;

The foresaid Clause of 1 El. c. 1. shall be utterly repealed,

III. Be it enacted by the King's most excellent Majesty, and the Lords and Commons in this present Parliament assembled, and by the authority of the same, That the foresaid Branch, Clause, Article or Sentence contained in the said Act, and every word, matter and thing contained in that Branch, Clause, Article or Sentence, shall from henceforth be repealed, annulled, revoked, annihilated, and utterly made void for ever; any thing in the said Act to the contrary in any wise notwithstanding.

---and no Ecclesiastical Ordinary or Judge, nor any exercising Ecclesiastical Authority by Commission from the King, shall fine, imprison, or corporally punish,

IV. And be it also enacted by the authority aforesaid, that no Archbishop, Bishop, nor Vicar-General, nor any Chancelor, Official, nor Commissary of any Archbishop, Bishop or Vicar-General, nor any Ordinary whatsoever, nor any other Spiritual or Ecclesiastical Judge, Officer or Minister of Justice, nor any other person or persons whatsoever,

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soever, exercising Spiritual or Ecclesiastical Power, Authority or Jurisdiction, by any Grant, Licence, or Commission of the King's Majesty, his Heirs or Successors, or by any Power or Authority derived from the King, his Heirs or Successors, or otherwise, shall from and after the first day of August, which shall be in the year of our Lord God, One thousand six hundred forty and one, award, impose, or inflict any pain, penalty, fine, amercement, imprisonment, or other corporal punishment upon any of the King's Subjects, for any contempt, misdemeanour, crime, offence, matter or thing whatsoever, belonging to Spiritual or Ecclesiastical Cognizance or Jurisdiction, or shall ex Officio, or at the instance or promotion of any other person whatsoever, urge, enforce, tender, give or minister unto any Church-warden, Sydemann, or other person whatsoever, any corporal Oath, whereby he or she shall or may be charged or obliged to make any presentment of any Crime or Offence, or to confess or to accuse himself, or her self of any Crime, Offence, Delinquency or Misdemeanour, or any neglect, matter, or thing whereby, or by reason whereof he or she shall or may be liable, or exposed to any censure, pain, penalty or punishment whatsoever, upon pain and penalty that every person who shall offend contrary to this Statute, shall forfeit and pay treble damages to every person thereby grieved, and the sum of One hundred pounds to him or them who shall first demand and sue for the same; which said treble damages and sum of One hundred pounds, shall and may be demanded and recovered by Action of Debt, Bill or Plaint, in any Court of Record, wherein no Privilege, Essoine, Protection, or Wager of Law shall be admitted or allowed to the Defendant. And be it further enacted, That every person who shall be once convicted of any act or offence prohibited by this Statute, shall for such act or offence be from and after such Conviction utterly disabled to be or continue in any Office or Employment in any Court of Justice whatsoever, or to exercise or execute any Power, Authority or Jurisdiction by force of any Commission, or Letters Patents of the King, his Heirs or Successors.

V. And be it further enacted, That from and after the said first day of August, no new Court shall be erected, ordained or appointed within this Realm of England, or Dominion of Wales, which shall or may have the like Power, Jurisdiction or Authority, as the said High-Commission Court now hath, or pretendeth to have; but that all and every such Letters Patents, Commissions and Grants, made, or to be made by his Majesty, his Heirs or Successors, and all Powers and Authorities granted or pretended, or mentioned to be granted thereby, and all Acts, Sentences and Decrees to be made by vertue or colour thereof, shall be utterly void, and of none effect.

[Like Power, Jurisdiction, or Authority] They who contended for the legality of the Ecclesiastical Commission, granted by King James II. finding this Clause in their way, endeavour'd to restrain the words like Power, &c. to a power of Fining and Imprisoning; and so, to leave the Crown at liberty, notwithstanding this Repeal, to constitute a Commission to proceed by Ecclesiastical Censures. But besides that, in the same Preamble, after fining and imprisoning, divers other great Mischiefs and Inconveniencies, are complained of; and

if the Legislators had meant to take away only those two abuses, they would probably have said, in express Terms, with like Power, Jurisdiction, or Authority, to fine and Imprison; and besides that the Repeal is general, of that whole Branch, Clause, &c. in 1 Eliz. by which the Power of erecting such Commission was given; besides these, that very Commission granted by King James II. and all other Commissions and Courts of like nature, are now declared by Act of Parliament (1 Will. & Mar. c. 2. Illegal and Pernicious.

Abridgment.

---nor administer the Oath ex officio.

The Offenders against this Statute shall pay treble damages to the Party grieved, and 100 l. to any that shall first sue for it,

--and a person once convicted of any Offence against this Statute, shall be incapable of all Offices in Courts of Justice.

There shall be no such Court, as the High Commission, erected for the future.



## Abridgment.

## 13 Car. II. Cap. 12.

An Act for Explanation of a Clause contained in an Act of Parliament made in the Seventeenth Year of the late King Charles, Entituled, An Act for Repeal of a Branch of a Statute *Primo Elizabethæ*, concerning Commissioners for Causes Ecclesiastical.

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Recital,  
Of the Statute  
17 Car. I. c. 11.

...and of some doubts, whether it had not taken away all ordinary Coercion in Causes Ecclesiastical,

...and enacted, that the said Statute shall not take away any Ordinary Power, nor hinder Ecclesiastical Judges to execute Ecclesiastical Censures, as they did before.

Stat. 17 Car. I. c. 11. except what concerns the erection of a High-Commission Court, shall be repealed.

This Act shall not revive the Branch of 1 Eliz. c. 1. concerning Commissioners Ecclesiastical.

Proviso, that no Ecclesiastical Judge shall tender the Oath *ex officio*.

Church-  
Hist. 1640.  
p. 82.

Whereas in an Act of Parliament made in the seventeenth year of the late King Charles, entituled, An Act for Repeal of a Branch of a Statute *Primo Elizabethæ*, concerning Commissioners for Causes Ecclesiastical, it is (amongst other things) enacted, That no Archbishop, Bishop, nor Vicar-General, nor any Chancellor, nor Commissary of any Archbishop, Bishop, or Vicar-General, nor any Ordinary whatsoever, nor any other Spiritual or Ecclesiastical Judge, Officer or Minister of Justice, nor any other person or persons whatsoever exercising Spiritual or Ecclesiastical Power, Authority, or Jurisdiction, by any Grant, Licence or Commission of the King's Majesty, his Heirs or Successors, or by any Power or Authority derived from the King, his Heirs or Successors, or otherwise, shall (from and after the first day of August, which then should be in the year of our Lord God, One thousand six hundred forty one) award, impose or inflict any pain, penalty, fine, amercement, imprisonment, or other corporal punishment upon any of the King's Subjects, for any contempt, misdemeanour, crime, offence, matter of thing whatsoever, belonging to Spiritual or Ecclesiastical Cognizance or Jurisdiction; whereupon some doubt hath been made, that all ordinary power of Coercion and Proceedings in Causes Ecclesiastical were taken away, whereby the ordinary course of Justice in Causes Ecclesiastical hath been obstructed: Be it therefore declared and enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords and Commons in this present Parliament assembled, and by the authority thereof, That neither the said Act, nor any thing therein contained, doth, or shall take away any ordinary power or authority from any of the said Archbishops, Bishops, or any other person or persons named as aforesaid, but that they and every of them, exercising Ecclesiastical Jurisdiction, may proceed, determine, sentence, execute and exercise all manner of Ecclesiastical Jurisdiction, and all Censures and Coercions appertaining and belonging to the same before the making of the Act before recited, in all causes and matters belonging to Ecclesiastical Jurisdiction, according to the King's Majesties Ecclesiastical Laws used and practised in this Realm, in as ample manner and form, as they did, and might lawfully have done before the making of the said Act.

II. And be it further enacted by the authority aforesaid, That the aforesaid Act of Decimo septimo Caroli, and all the Matters and Clauses therein contained (excepting what concerns the High-Commission Court, or the new erection of some such like Court by Commission) shall be and is hereby repealed, to all intents and purposes whatsoever; any thing, clause or sentence in the said Act contained to the contrary notwithstanding.

III. Provided always, and it is hereby enacted, That neither this Act, nor any thing herein contained, shall extend or be construed to revive, or give force to the said Branch of the said Statute made in the said first year of the Reign of the said late Queen Elizabeth, mentioned in the said Act of Parliament made in the said seventeenth year of the Reign of the said King Charles, but that the said Branch of the said Statute made in the said first year of the Reign of the said late Queen Elizabeth, shall stand and be repealed in such sort as if this Act had never been made.

IV. Provided also, and it is hereby further enacted, That it shall not be lawful for any Archbishop, Bishop, Vicar-General, Chancellor, Commissary, or any other Spiritual or Ecclesiastical Judge, Officer or Minister, or any other person,

[Some doubt hath been made] Mr. Fuller, speaking of the passing of that Act, says, "that Mr. Pim triumphed at this Success, crying out, *Digitus Dei, the finger of God*, that the Bishops should so supinely suffer themselves to be surprized "in their Power". But it appears by the same Writer, and in the same Paragraph, that the Bishops were aware of the interpretation that would be put upon it, to the prejudice of the Ecclesiastical Jurisdiction; in that, "a Proviso, (as he says) was made in the House of Lords, that the ge-

neral Words in this Bill should extend "only to the High-Commission Court, and not "reach other Ecclesiastical Jurisdiction". Which, probably, explains that Passage in the Journal of the Lords, at a Free Conference with the Commons upon this Bill. Next, was read the Alterations and Amendments concerning the Bill touching the High-Commission Court. The first Clause, in the Proviso added thereunto, is not admitted; which seems to have been this very Proviso, that the Commons would not admit.

having



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having or exercising Spiritual or Ecclesiastical Jurisdiction to tender or administer unto any person whatsoever, the Oath usually called the Oath Ex Officio, or any other Oath whereby such person to whom the same is tendered or administered, may be charged or compelled to confess, or accuse, or to purge him, or her self of any criminal matter or thing, whereby he or she may be liable to censure or punishment; Any thing in this Statute, or any other Law, Custom or Usage heretofore to the contrary hereof in any wise notwithstanding.

V. Provided always, That this Act, or any thing therein contained, shall not extend or be construed to extend to give unto any Archbishop, Bishop, or any other Spiritual or Ecclesiastical Judge, Officer, or other person or persons aforesaid, any power or authority to exercise, execute, inflict, or determine any Ecclesiastical Jurisdiction, Censure, or Coercion, which they might not by Law have done before the year of our Lord 1639, nor to abridge or diminish the King's Majesty's Supremacy in Ecclesiastical Matters and Affairs, nor to confirm the Canons made in the year 1640, nor any of them, nor any other Ecclesiastical Laws or Canons not formerly confirmed, allowed, or enacted by Parliament, or by the established Laws of the Land, as they stood in the year of our Lord 1639.

A.D. 1688.

## 1 Will. &amp; Mar. Cap. 2. (36.)

In an Act, Entituled, *An Act declaring the Rights and Liberties of the Subject, &c.*

§. I. Art. III. That the Commission for erecting the late Court of Commissioners for Ecclesiastical Causes, and all other Commissions and Courts of like nature, are Illegal and pernicious.

A.D. 1562.

## 5 Eliz. Cap. 1.

*An Act for the assurance of the Queen's Royal Power over all Estates and Subjects within her Dominions.*

FOR preservation of the Queen's most excellent Highness, her Heirs and Successors, and the Dignity of the Imperial Crown of this Realm of England, and for avoiding both of such hurts, perils, dishonours and inconveniencies, as have beforesaid befallen, as well to the Queen's Majesty's noble Progenitors, Kings of this Realm, as for the whole Estate thereof, by means of the jurisdiction and power of the See of Rome, unjustly claimed and usurped within this Realm and the Dominions thereof, and also of the dangers by the fautors of the said usurped Power, at this time grown to marvellous outrage and licentious boldness, and now requiring more sharp restraint and correction of Laws, than hitherto in the time of the Queen's Majesty's most mild and merciful Reign have been had, used, or established:

II. Be it therefore enacted, ordained, and established by the Queen our Sovereign Lady, and the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, and by authority of the same, That if any person or persons, dwelling, inhabiting, or resident within this Realm, or within any other the Queen's Dominions, Seignories, or Countries, or in the Marches of the same, or elsewhere, within or under her obedience and power, of what estate, dignity, preheminance, order, degree, or condition soever he or they be, after the first day of April, which shall be in the year of our Lord God One thousand five hundred sixty three, shall by writing, cyphering, printing, preaching or teaching, deed or act, advisedly and wittingly, hold or stand with, to extol, set forth, maintain, or defend the authority, jurisdiction, or power of the Bishop of Rome, or of his See, heretofore claimed, used, or usurped within this Realm, or in any Dominion or Countrey being of, within or under the Queen's power or obedience; or by any speech, open deed or act, advisedly and wittingly attribute any such manner of jurisdiction, authority, or preheminance to the said See of Rome, or to any Bishop of the same See for the time being, within this Realm, or in any the Queen's Dominions or Countries: That then every such person or persons so doing or offending, their abettors, procurators and counsellors, and also their aiders, assistants, and comforters, upon purpose, and to the intent to set forth, further, and extol the said usurped power, authority or jurisdiction of any of the said Bishop or Bishops of Rome, and every of them, being thereof lawfully indicted or presented within one year next after such Offences by him or them committed, and being lawfully convicted or attainted at any time after, according to the Laws of this Realm, for every such default and offence, shall incur into the dangers, penalties, pains and forfeitures, ordained and provided by the Statute of Provision and Præmunire, made in the sixteenth year of the Reign of King Richard the second.

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---and, that this Act shall not empower Ecclesiastical Judges to exercise any Jurisdiction, which they might not have done, before the year 1639.

---nor to abridge the Royal Supremacy,

---nor to confirm the Canons of 1640,

---nor any other Ecclesiastical Laws, not confirmed by Parliament, or by the Laws of the Land, as they stood in 1639.

K. James's Ecclesiastical Commission, illegal and pernicious.

Inconveniencies of the Papal Power,

---and the present outrage and boldness of the fautors of it.

Every Subject of the Queen, who shall maintain the Authority of the Bishop of Rome,

---by writing, &c.

---or by any Speech, open deed or act,

---or by aiding and abetting,

---shall incur the pains of Provision and Præmunire.

III. And



## Abridgment.

Justices of Assize, and Peace, shall enquire of Offences against this Act,

---and certifie Presentments to the King's-Bench, within 40 days after the making thereof,

---upon pain to forfeit 100 l.

The Justices of the King's-Bench shall proceed and determine as in cases of *Præmunire*.

Persons who shall take the Oath of Supremacy, viz.

---all who are to take it by 1 *El. c. 1.*

---all who have taken, or shall take Orders or Degrees,

---School-masters, publick and private.

---all who have taken or shall take Degrees in Law,

---Treasurers and others in Inns--- Attorneys, Prothonotaries, Philizers,

--- Sheriffs, Escheators, Feodaries,

---all who are, or shall be, admitted to any Office belonging to the Law,

---all Officers or Ministers of any Court.

The Oath shall be taken at Admissions into the said Offices, Degrees, &c.

---and administered by the Person admitting,

III. And it is also enacted by the authority aforesaid, That as well Justices of Assize in their Circuits, as Justices of Peace within the limits of their Commission and Authorities, or two of every such Justices of Peace at the least, whereof one to be of the Quorum, shall have full power and authority by vertue of this Act, in their quarter or open Sessions, to enquire of all offences, contempts and transgressions, perpetrated, committed or done contrary to the true meaning of the premises, in like manner and form as they may of other Offences against the Queen's Peace, and shall certifie every presentment afore them or any of them had or made concerning the same, or any part thereof, before the Queen, her Heirs and Successors, in her or their Court commonly called the King's-Bench, within forty days next after any such presentment had or made, if the Term be then open; and if not, at the first day of the full Term next following the said forty days, upon pain that every of the Justices of Assize, or Justices of the Peace before whom such presentment shall be made, making default of such Certificate contrary to this Statute, to lose and forfeit for every such default, one hundred pounds to the Queen's Highness, her Heirs and Successors.

IV. And it is enacted by the authority aforesaid, That the Justices of the King's-Bench, as well upon every such Certificate, as by enquiry before themselves, within the limits of their authorities, shall have full power and authority to hear, order, and determine every such offence done or committed contrary to the true meaning of this present Act, according to the Laws of this Realm, in such like manner and form to all intents and purposes, as if the person or persons against whom any presentment shall be had upon this Statute, had been presented upon any matter or offence expressed in the said Statute made in the said sixteenth year of King Richard the second.

V. And moreover, be it enacted by the authority aforesaid, That as well all manner of persons expressed and appointed in and by the Act made in the first year of the Queen's Majesties Reign that now is, intituled, An Act restoring to the Crown the ancient Jurisdiction over the Estate Ecclesiastical and Spiritual, and abolishing all Foreign Powers repugnant to the same, to take the Oath expressed and set forth in the same: as all other persons which have taken, or shall take Orders, commonly called Ordines Sacros, or Ecclesiastical Orders, have been, or shall be promoted, preferred, or admitted to any degree of Learning in any University within this Realm or Dominions to the same belonging: And all School-masters, and publick and private Teachers of Children, as also all manner of person and persons that have taken, or hereafter shall take any Degree of Learning in or at the Common Laws of this Realm, as well Utter Barresters, as Benchers, Readers, Ancients in any House or Houses of Court, and all Principal Treasurers, and such as be of the grand Company of every Inn of Chancery, and all Attorneys, Protonotaries, and Philizers towards the Laws of this Realm, and all manner of Sheriffs, Escheators, and Feodaries, and all other person and persons which have taken, or shall take upon him or them, or have been or shall be admitted to any Ministry or Office, in, at, or belonging to the Common-Law, or any other Law or Laws, of, to, or for the execution of them, or any of them, used or allowed, or at any time hereafter to be used or allowed within this Realm, or any of the Dominions or Countries belonging, or which hereafter shall happen to belong to the Crown or Dignity of the same, and all other Officers or Ministers of, or towards any Court whatsoever, and every of them, shall take and pronounce a corporal Oath upon the Evangelists, before he or they shall be admitted, allowed, or suffered to take upon him or them to use, exercise, supply, or occupy any such Vocation, Office, Degree, Ministry, Room or Service as is aforesaid, and that in the open Court whereunto he doth or shall serve or belong: And if he or they do not or shall not serve or belong to any ordinary or open Court, then he or they shall take and pronounce the Oath aforesaid, in an open place before a convenient assembly to witness the same, and before such person or persons as have or shall have authority by common use, or otherwise, to admit or call any such person

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son or persons as is aforesaid, to any such Location, Office, Ministry, Room or Service, or else before such person or persons as by the Queen's Highness, her Heirs or Successors, by Commission under the Great Seal of England shall be named or assigned, to accept and take the same according to the tenour, effect, and form of the same Oath Verbatim, which is, and as it is already set forth to be taken in the aforesaid Act made in the first year of the Queen's Majesties Reign.

VI. And also be it enacted by the authority of this present Parliament, That every Archbishop and Bishop within this Realm, and Dominions of the same, shall have full power and authority by vertue of this Act, to tender or minister the Oath aforesaid, to every or any Spiritual or Ecclesiastical person within their proper Diocesse, as well in places and jurisdictions exempt, as elsewhere.

VII. And be it enacted by the authority aforesaid, That the Lord Chancellor or Keeper of the Great Seal of England, for the time being, shall and may at all times hereafter by vertue of this Act, without further warrant, make and direct a Commission or Commissions under the Great Seal of England, to any person or persons, giving them or some of them thereby authority to tender and minister the Oath aforesaid to such person or persons as by the aforesaid Commission or Commissions the said Commissioners shall be authorized to tender the same Oath unto.

VIII. And be it also further enacted by the authority of this present Parliament, That if any person or persons appointed or compellable by this Act, or by the said Act made in the said first year, to take the said Oath: Or if any person or persons to whom the said Oath by any such Commission or Commissions shall be limited and appointed to be tendered, as is aforesaid; do or shall at the time of the said Oath so tendered, refuse to take or pronounce the said Oath, in manner and form aforesaid: that then the party so refusing, and being thereof lawfully indicted or presented within one year next after any such refusal, and convicted or attainted at any time after, according to the Laws of this Realm, shall suffer and incur the dangers, penalties, pains and forfeitures, ordained and provided by the Statute of Provision and Præmunire aforesaid, made in the sixteenth year of the Reign of King Richard the Second.

IX. And furthermore, be it enacted by the authority aforesaid, That all and every such person and persons, having authority to tender the Oath aforesaid, shall within forty days next after such refusal or refusals of the said Oath, if the Term be then open, and if not, then at the first day of the full Term next following the said forty days, make true Certificate under his or their seal or seals, of the names, places, and degrees of the person or persons so refusing the same Oath, before the Queen, her Heirs or Successors, in her or their Court, commonly called the King's-Bench, upon pain that every of the said persons having such authority to tender the said Oath, making default of such Certificate, shall for every such default, forfeit an hundred pound to the Queen's Highness, her Heirs or Successors: And that the Sheriff of the County where the said Court, commonly called the King's-Bench, shall for the time be holden, shall or may by vertue of this Act impanel a Jury of the same County, to enquire of and upon every such refusal and refusals: which Jury shall or may upon every such Certificate, and other evidence to them in that behalf to be given, by vertue of this Act proceed to indict the person and persons so offending in such sort and degree, to all intents and purposes, as the same Jury may do of any Offence or Offences against the Queen's Majesties peace, perpetrated, committed or done within the same County, of and for which the same Jury is so impanelled.

X. And for stronger defence and maintenance of this Act, it is further ordained, enacted and established by the authority aforesaid, That if any such offender or offenders, as is aforesaid, of the first part or branch of this Statute, that is to say, by Writing, Cypthering, Printing, Preaching or Teaching, Deed or Act, advisedly and wittingly hold or stand with, to extoll, set forth, maintain or

Abridgment.

--or by any Commission'd under the Great Seal.

Every Archbishop and Bishop shall have power to tender the Oath to any Spiritual Person in their Diocese,

--and the Lord Chancellor may appoint Commissioners under the Great Seal to tender the Oath to particular persons.

Any person, who is bound to take the Oath, refusing, shall incur the dangers of Præmunire,

--and such refusals shall be duly certified into the King's-Bench,

--upon pain to forfeit 100<sup>l</sup>,

--and shall be tried and indicted by Jury, as in offences against the Queen's Peace.

The second offence, of maintaining the Papal Power, by writing, &c.



Abridgment.

---or by Speech, Deed, or Act,

---or by aiding and abetting,

---as also the second Refusal of the Oath, when tender'd again, three Months after the first Refusal,

---shall be High-Treason.

No Corruption of Blood, &c. shall be made by this Act,

---but all who have rights in Reversion shall enter without Ouster le maine.

The Oath in Stat. 1 El. c. 1. shall be expounded, according to the Queen's Injunctions 19 Eliz.

defend the Authority, Jurisdiction or Power of the Bishop of Rome, or of his See, heretofore claimed, used, or usurped within this Realm, or in any Dominion or Country, being of, within or under the Queen's Power or Obeysance: Or by any speech, deed or act, advisedly and wittingly attribute any such manner of jurisdiction, authority or preheminance to the said See of Rome, or to any Bishop of the same See for the time being, within this Realm, or in any the Queen's Dominions or Countries, or be to any such Offender or Offenders abetting, procuring or counselling, or aiding, assisting or comforting, upon purpose, and to the intent to set forth, further, and extoll the said usurped power, authority or jurisdiction; after such conviction and attainder, as is aforesaid, do afterwards commit or do the said Offences, or any of them, in manner and form aforesaid, and be thereof duly convicted and attainted, as is aforesaid;

XI. And also, That if any the persons abovenamed and appointed by this Act to take the Oath aforesaid, do after the space of three months after the first tender thereof, the second time refuse to take and pronounce, or do not take and pronounce the same, in form aforesaid to be tendered; that then every such Offender or Offenders, for the same second Offence and Offences, shall forfeit, lose, and suffer such like and the same pains, forfeitures, judgment and execution, as is used in cases of High-Treason.

XII. Prohibited always, That this Act, nor any thing therein contained, nor any attainder to be had by force and vertue of this Act, shall not extend to make any corruption of blood, the disheriting of any Heir, forfeiture of dower, nor to the prejudice of the right or title of any person or persons, other than the right or title of the Offender or Offenders, during his, her, or their natural lives only.

XIII. And that it shall and may be lawful to every person and persons, to whom the right or interest of any lands, tenements, or hereditaments, after the death of any such Offender or Offenders, should or might have appertained, if no such attainder had been, to enter into the same, without any Ouster le maine to be sued, in such sort as he or they might have done, if this Act had never been had ne made.

XIV. Prohibited also, That the Oath expressed in the said Act made in the said first year, shall be taken and expounded in such form as is set forth in an admonition annexed to the Queen's Majesties Injunctions, published in the first year of her Majesty's Reign; That is to say,

[Admonition] Which Admonition is in the following words:

An Admonition to simple Men, deceived by malicious.

"The Queen's Majesty being informed, that in certain places of the Realm, sundry of her native Subjects being called to Ecclesiastical Ministry of the Church, be by sinister perswasion and perverse construction, induced to find some scruple in the form of an Oath, which by an Act of the last Parliament is prescribed to be required of divers persons, for the recognition of their Allegiance to her Majesty; which certainly never was meant, nor by any equity of words or good sense can be thereof gathered; would that all her loving Subjects should understand, that nothing was, is, or shall be meant or intended by the same Oath to have any other duty, allegiance, or bond required by the same Oath, than was acknowledged to be due to the most noble Kings of famous memory, King Henry the Eighth her Majesties Father, or King Ed-

ward the sixth her Majesties Brother. And further her Majesty forbiddeth all manner her Subjects, to give ear or credit to such perverse and malicious persons, which most sinisterly and maliciously labour to notifie to her loving Subjects, how by words of the said Oath it may be collected, that the Kings or Queens of this Realm, possessors of the Crown, may challenge authority and power of Ministry of divine Service in the Church, wherein her said Subjects be much abused by such evil disposed Persons. For certainly her Majesty neither doth, nor ever will challenge any authority, than that was challenged and lately used by the said noble Kings of famous Memory, King Henry the eighth, and King Edward the sixth, which is, and was of antient time due to the Imperial Crown of this Realm, that is, under God to have the Sovereignty and Rule over all manner of persons born within these her Realms, Dominions and Countries, of what estate, either Ecclesiastical or Temporal, soever they be, so as no other foreign Power shall or ought to have any Superiority over them. And

The Supremacy as it stands annexed to the Crown.



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say, to confess and acknowledge in her Majesty, her Heirs and Successors, none other authority than that was challenged and lately used by the noble King Henry the Eighth, and King Edward the Sixth; as in the said Admonition more plainly may appear.

XV. And be it enacted by the authority aforesaid, That this Act shall be openly read and published, and declared at every Quarter Sessions by the Clerk of the Peace, and at every Leet and Law-day by the Steward of the Court, and once in every term in the open Hall of every House and Houses of Court and Chancery, at the times, and by the persons thereunto to be limited and appointed by the Lord Chancellor or Keeper of the Great Seal for the time being.

XVI. And be it further enacted, That every person which hereafter shall be elected or appointed a Knight, Citizen, or Burgess, or Baron for any of the five Ports, for any Parliament or Parliaments hereafter to be holden, shall from henceforth, before he shall enter into the Parliament House, or have any voice there, openly receive and pronounce the said Oath before the Lord Steward for the time being, or his Deputy or Deputies for that time to be appointed: And that he which shall enter into the Parliament House without taking the said Oath, shall be deemed no Knight, Citizen, Burgess, nor Baron for that Parliament, nor shall have any voice, but shall be to all intents, constructions and purposes, as if he had never been returned nor elected Knight, Citizen, Burgess, or Baron for that Parliament, and shall suffer such pains and penalties, as if he had presumed to sit in the same without Election, Return or Authority.

XVII. Provided alway, That forasmuch as the Queen's Majesty is otherwise sufficiently assured of the Faith and Loyalty of the Temporal Lords of her High Court of Parliament; therefore this Act, nor any thing therein contained, shall not extend to compell any Temporal person, of or above the degree of a Baron of this Realm, to take or pronounce the Oath abovesaid, nor to incur any penalty levied by this Act, for not taking, or refusing the same; any thing in this Act to the contrary in any wise notwithstanding.

XVIII. Provided, and be it enacted by the authority aforesaid, That charitable giving of reasonable Alms to any of the Offender or Offenders above specified, without fraud or covin, shall not be taken or interpreted to be any such abetment, procuring, counselling, aiding, assisting or comforting, as thereby the giving of such Alms shall incur any pain, penalty, or forfeiture appointed in this Act.

XIX. Provided also, and be it enacted by the authority of this present Parliament, That if any Peer of this Realm shall hereafter offend contrary to this Act, or any branch or article thereof, that in that and all such case and cases they shall be tried by their Peers, in such manner and form as in other cases of Treasons they have used to be tried, and by none other means.

XX. Provided also further, and be it enacted, That no person shall be compelled by vertue of this Act to take the Oath abovementioned, at or upon the second time of offering the same, according to the form appointed by this Statute, except the same person hath been, is, or shall be an Ecclesiastical Person, that had, hath, or shall have in the time of one of the Reigns of the Queen's Majesties most noble Father, Brother or Sister, or in the time of the Reign of the Queen's Majesty,

And if any person that hath conceived any other sense of the form of the said Oath, shall accept the same Oath with this Interpretation; Sense or meaning, her Majesty is well pleased to accept every such in that behalf, as her good and obedient Subjects, and shall acquit them of all manner of penalties contained in the said Act, against such as shall peremptorily or obstinately take the same Oath.

[u King Edward VI.] In whose Reign the *Reformatio Legum* thus expresses the Notion they had of the Royal Supremacy. *Rex tam in Archiepiscopos, Episcopos, Clericos, & alios Ministros, quam in laicos infra sua regna & dominia, plenissimam Jurisdictionem, tam Civilem quam Ecclesiasticam habet, & exercere potest; cum omnis Jurisdictio & Ecclesiastica & Secularis ab eo tanquam ex uno & eodem fonte derivantur.*

Abridgment.

This Act shall be read,  
-at Quarter Sessions,  
--at every Leet,  
--once every Term,  
in the Halls.

The Oath shall be taken by all Members of the H of Commons,

---and none shall enter the House before, upon pain of suffering as if he had sat without Election;

---but the Lords Temporal shall not be compelled to take it.

Charitable Alms to Offenders, shall not be aiding, &c. within this Act.

Peers offending shall be tried by their Peers.

No Person shall be compelled to take the Oath, upon the second offering---Except--- Ecclesiastical Persons, who have, had, or shall have Office in the Church.



## Abridgment.

---Officers of Ecclesiastical Courts,  
---contemners of Divine Service, after Admonition,

---depravers of the Rites of the Church,

---slayers or hearers of private Mass,

It shall not be lawful to slay any person attainted upon a *Præmunire*,

---saving the due execution of persons for Capital Offences,

---and of persons executing Summons or other Process, from *Rome*.

None shall be indicted for assisting, aiding, &c. unless by such Proof, as the Jury shall find good.

The Convocation acknowledge the Blessing of their Deliverance from foreign Power.

her Heirs or Successors, charge, cure, or office in the Church; or any person or persons as had, hath, or hereafter shall have any office or Ministry in any Ecclesiastical Court of this Realm, under any Archbishop or Bishop, in any the times or Reigns aforesaid; or such person or persons as shall wilfully refuse to observe the orders and rites for Divine Service, that be authorized to be used and observed in the Church of England, after that he or they shall be publickly by the Ordinary or some of his Officers for Ecclesiastical Causes, admonished to keep and observe the same; Or such as shall openly and advisedly deprave by words, writings, or any other open fact, any of the Rites and Ceremonies at any time used, and authorized to be used in the Church of England; Or that shall say or bear the private Mass prohibited by the Laws of this Realm, and that all such persons shall be compellable to take the Oath upon the second tender or offer of the same, and incur the penalties for not taking of the said Oath, and none other.

XXI. And forasmuch as it is doubtful, whether by the Laws of this Realm there be any punishment for such as kill or slay any person or persons attainted in or upon a *Præmunire*, Be it therefore enacted by the authority aforesaid, That it shall not be lawful to any person or persons to slay or kill any person or persons in any manner attainted, or hereafter to be attainted, of, in, or upon any *Præmunire*, by pretence, reason, or authority of any Judgment given, or hereafter to be given in or upon the same, or by pretence, reason, or force of any word or words, thing or things contained or specified in any Statute, or Law of Provision and *Præmunire*, or in any of them; any Law or Statute, or Opinion or exposition of any Law or Statute to the contrary, in any wise notwithstanding:

XXII. Saving always the due execution of all and every person and persons attainted, or to be attainted for any offence, whereupon judgment of Death now is, or ought to be, or hereafter may lawfully be given, by reason of this Statute, or otherwise: And saving always all and every such pains of death, or other hurt or punishment as heretofore might without danger of Law, be done upon any person or persons that shall send or bring into this Realm, or any other the Queens Dominions, or within the same shall execute any summons, sentence, excommunication, or other Process against any person or persons, from the Bishop of Rome for the time being, or by or from the See of Rome, or the authority or jurisdiction of the same See.

XXIII. Provided always, and be it enacted by the authority aforesaid, That no person or persons shall hereafter be indicted for assisting, aiding, maintaining, comforting, or abetting of any person or persons for any the said offences, in extolling, setting forth, or defending of the usurped power and authority of the Bishop of Rome, unless he or they be thereof lawfully accused by such good and sufficient testimony or proof, as by the Jury by whom he shall so be indicted, shall be thought good, lawful and sufficient, to prove him or them guilty of the said offences.

## 8 Eliz. Cap. 17.

In an Act, Entituled, *An Act for Confirmation of a Subsidy granted by the Clergy.*

§. II. The Prelates and Clergy of the Province of Canterbury, being lawfully congregated and assembled together in a Convocation or Synod, calling to their remembrance the great and manifold benefits which they have many and sundry ways received of your Majesty's most gracious bountyfulness, principally for the setting forth and advancing of God's holy word, his sincere and true Religion, and abolishing all foreign power, contrary to the same: Considering also the great debts wherewith the Imperial Crown of this Realm was charged, when it pleased Almighty God first to call your Highness to the governance of the same. And further, weighing the great charges, wherewith your Majesty both hath been and is like to be burdened hereafter, for the defending and preserving of your Highness's Realm, and natural Subjects in Christian peace, tranquility and safety---

The Supremacy as it stands annexed to the Crown.

A.D. 1566.

E X P.



The Supremacy,  
as it stands  
annexed  
to the  
Crown.

A.D. 1575,  
&c.  
E X P.

18 Eliz. Cap. 22. --- 23 Eliz. Cap. 14. --- 27 Eliz.  
Cap. 28.

*In the several Subsidy-Bills of the said Years.*

The Prelates and Clergy of the Province of Canterbury, being lawfully congregated and assembled together in a Convocation or Synod, considering their bounden duties to your Majesty, their most natural and gracious Sovereign Lady, and having in remembrance the manifold and ample benefits which they daily receive, not only by your most gracious and godly government, whereby they be conserved in peace and quietness, and so more able to serve God, and intend to their office and vocation: But also, and that most chiefly, by the setting forth and advancing of God's most holy word, and his sincere and true Religion in this your Realm, and abolishing of all foreign power contrary to the same: Considering also the great charges, wherewith it cannot be but that your Majesty from time to time is like to be burdened in defending and preserving this your Realm, with other your Highness's dominions.

39 ARTICLES.

xxxvii. *Of the Civil Magistrates.*

† THE Queen's Majesty hath the chief Power in this Realm of *England*, and other her Dominions, unto whom the chief Government of all Estates of this Realm, whether they be Ecclesiastical or Civil, in all Causes doth appertain, and is not, nor ought to be subject to any Foreign Jurisdiction.

Where we attribute to the Queen's Majesty the chief Government, by which Titles we understand the minds of some slanderous Folks to be offended: We give not to our Princes the Ministering either of God's Word, or of the Sacraments, the which thing the Injunctions also lately set forth by *Elizabeth* our Queen, do most plainly testifie: but that only Prerogative which we see to have been given always to all godly Princes in holy Scriptures by God himself, that is, that they should rule all Estates and Degrees committed to their charge by God, whether they be Ecclesiastical or Temporal, and restrain with the Civil Sword the stubborn and evil Doers.

The Bishop of *Rome* hath no Jurisdiction in this Realm of *England*.

CANONS, 1603.

i. *The King's Supremacy over the Church of England, in Causes Ecclesiastical, to be maintained.*

AS our Duty to the King's most Excellent Majesty requireth, We first decree and ordain, That the Archbishop of *Canterbury* (from time to time) all Bishops of this Province, w all Deans, Archdeacons, Parsons, Vicars, and all other Ecclesiastical Persons, shall faithfully keep and observe, and (as much as in them lieth) shall cause to be observed and kept of others, all and singular Laws and Statutes made for restoring to the Crown of this Kingdom, the ancient Jurisdiction over the State Ecclesiastical, and abolishing of all Foreign Power repugnant to the same. Furthermore, all Ecclesiastical Persons having Cure of Souls, and all other Preachers, and Readers of Divinity Lectures, shall to the uttermost of their Wit, Knowledge and Learning, purely and sincerely (without any colour or dissimulation) teach, manifest, open, and declare x four times every Year (at the least) in their Sermons and other

† This part of the Article, in the time of *Edward VI.* stood thus: The King of *England* is Supreme Head in Earth, next under Christ, of the Church of *England* and *Ireland*.

The Bishop of *Rome* hath no Jurisdiction in this Realm of *England*.

The Civil Magistrate is ordained and allowed of God; wherefore we must obey him, not only for fear of Punishment, but for Conscience sake.

w All Deans, Archdeacons] This Canon is

taken from the first Injunction of Queen *Elizabeth*, with little variation; as that was, from the first Injunction of *K. Edward* the sixth; which also, in great measure, was copied from the first of the Injunctions of King *Henr.* Eighth, published in the Year 1536.

x Four times] For the space of one quarter of a year next ensuing, once every Sunday; and after that, at the leastwise twice every quarter. Injunct. *Henr.* 8.

Abridgment.

The like acknowledgement, somewhat differently expressed.

The Queen hath the chief Power and Government, Ecclesiastical and Civil;

---which is not to be extended to ministering in the Church, but only to Ecclesiastical Jurisdiction.

The Pope hath no Jurisdiction in this Realm.

All Ecclesiastical Persons shall observe, and cause to be observed, all Laws concerning the Royal Supremacy,

---and all Incumbents, and Lecturers, shall preach four times a Year against the *Papal* Supremacy,

Burn. V. 2.  
App. p. 160.

5 Eliz.  
A.D. 1562.

1 Jac. 1.



## Abridgment.

---and in maintenance of the Regal.

To affirm, that the King is not Supreme Head of the Church, shall be Excommunicati-  
*on ipso facto.*

Declaration to be made by Persons taking Orders, &c. against the *Pal.* and for the Regal Supremacy.

Stat. 22. Car. 2. c. 1. shall not invalidate or void the Royal Supremacy.

For preventing of Doubts concerning the Legality of the present Parliament,

Enacted, That the Lords Spiritual and Temporal, and Commons, are the two Houses of Parliament,

Collations and Lectures, That all usurped and foreign Power, (forasmuch as the same hath no Establishment; nor ground by the Law of God) is for most just Causes taken away and abolished: And that therefore no manner of Obedience, or Subjection within His Majesty's Realms and Dominions, is due unto any such Foreign Power: But that the King's Power within His Realms of *England, Scotland and Ireland*, and all other His Dominions and Countries, is the Highest Power under God, to whom all Men, as well Inhabitants, as born within the same, do by God's Laws owe most Loyalty and Obedience, afore and above all other Powers and Potentates in Earth.

## ii. Impugners of the King's Supremacy, censur'd.

**W**Hosoever shall hereafter affirm, That the King's Majesty hath not the same Authority in Causes Ecclesiastical, that the godly Kings had amongst the *Jews*, and Christian Emperors of the Primitive Church, or impeach any part of His Regal Supremacy in the said Causes restored to the Crown, and by the Laws of this Realm therein established: Let him be Excommunicated *ipso facto*, and not restored, but only by the Archbishop, after his Repentance and Publick Revocation of those his wicked Errors.

## CANONS, 1603.

In Can. xxxvi. Entituled, *Subscription required of such as are to be made Ministers.*

**I** That the King's Majesty under God, is the only Supreme Governour of this Realm, and of all other His Highness's Dominions and Countries, as well in all Spiritual or Ecclesiastical Things or Causes, as Temporal, and that no Foreign Prince, Person, Prelate, State or Potentate, hath or ought to have any Jurisdiction, Power, Superiority, Preheminence or Authority Ecclesiastical or Spiritual, within His Majesty's said Realms, Dominions and Countries.

## 22 Car. II. Cap. 1.

In an Act, Entituled, *An Act to prevent and suppress seditious Conventicles.*

—§. XVIII. Provided also, that neither this Act, nor any thing therein contained, shall extend to invalidate or avoid his Majesty's Supremacy in Ecclesiastical Affairs; but that his Majesty and his Heirs and Successors, may from time to time, and at all times hereafter, exercise and enjoy all Powers and Authority in Ecclesiastical Affairs, as fully and as amply, as himself or any of his Predecessors have, or might have done the same; any thing in this Act to the contrary notwithstanding.

## 1 Will. &amp; Mar. Cap. 1.

*An Act for Removing and Preventing all Questions and Disputes concerning the Assembling and Sitting of this present Parliament.*

**F**OR preventing all Doubts and Scruples which may in any wise arise concerning the Meeting, Sitting, and Proceeding of this present Parliament; Be it declared and enacted by the King and Queen's most Excellent Majesties, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons now assembled, and by Authority of the same;

II. That the Lords Spiritual and Temporal, and Commons Convened at Westminster, the Two and twentieth day of January, in the year of our Lord, one thousand six hundred eighty eight, and there sitting on the thirteenth day of February following, are the Two Houses of

The Supremacy, as it stands annexed to the Crown.

1 Jac. I.

A.D. 1669.

A.D. 1688.



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of Parliament, and so shall be, and are hereby Declared, Enacted, and Adjudged to be, to all Intents, Constructions and Purposes whatsoever, Notwithstanding any want of Writ or Writs of Summons, or any other defect of Form, or Default whatsoever, as if they had been Summoned according to the usual Form. And that this present Act, and all other Acts, to which the Royal Assent shall at any time be given before the next Prorogation after the said Thirteenth of February, shall be Understood, Taken, and Adjudged in Law, to Begin, and Commence upon the said Thirteenth of February, on which day Their said Majesties, at the Request, and by the Advice of the Lords and Commons, Did Accept the Crown and Royal Dignity of King and Queen of England, France, and Ireland, and the Dominions and Territories thereto belonging.

III. And be it further Enacted by the Authority aforesaid, That the Act made in the Thirtieth Year of King Charles the Second, Entituled, An Act for the more effectual preserving the Kings Person and Government, by disabling of Papists from Sitting in either House of Parliament, and all other Acts of Parliament, as to so much of the said Act or Acts only, as concerns the Taking the Oaths of Supremacy and Allegiance, or either of them, in the said Act or Acts respectively mentioned, by any Member or Members of either House of Parliament, with relation to their Sitting and Voting in Parliament, shall be, and are hereby Repealed to all Intents and Purposes; Any thing in the said recited Act or Acts to the contrary notwithstanding.

IV. And be it further Enacted, That the Taking the Oaths herein after mentioned, and the Making, Subscribing, and Repeating the Declaration in the said Act of the Thirtieth Year of King Charles the Second mentioned, by every Member of either House of this present Parliament, from and after the first day of March next ensuing, in such manner as the taking the said Oaths of Allegiance and Supremacy, and the Making, Subscribing and Repeating the said Declaration in the said last mentioned Act are required, shall be good and effectual to all Intents and Purposes, as if the said Oaths of Allegiance and Supremacy had been taken, and the said Declaration had been Made, Subscribed and Repeated in such Manner, and at such Time as by the said Act or Acts, or any of them, they are required. And that in all future Parliaments the Oaths herein after mentioned, and the Declaration in the said Act made in the Thirtieth Year of King Charles the Second mentioned, shall be Taken, Made, Subscribed and Repeated by every Member of either House of Parliament within the Time, and in the same Manner and Form, and under the Penalties and Disabilities as the said Oaths of Allegiance and Supremacy, and the said Declaration, by the said Act of the Thirtieth Year of King Charles the Second, are Limited, Ordained and Appointed to be Taken, Made, Subscribed and Repeated, and not at any other Time, or in any other Manner, to enable them to Sit and Vote in Parliament; Any thing in the said Act or Acts, or any of them, to the contrary notwithstanding.

V. And it is hereby further Enacted and Declared by the Authority aforesaid, That the Oaths above appointed by this Act to be taken in the stead and place of the Oaths of Allegiance and Supremacy, shall be in the Words following and no other:

VI. I *A. B.* Do sincerely Promise and Swear, that I will be faithful, and bear true Allegiance to Their Majesties, King *William* and Queen *Mary*.

*So help me God.*

VII. I *A. B.* Do Swear, that I do from my Heart Abhor, Detest and Abjure, as Impious and Heretical, that damnable Doctrine and Position, That Princes Excommunicated or deprived by the Pope, or any Authority of the See of *Rome*, may be Deposed or Murdered by their Subjects, or any other whatsoever. And I do Declare, that no Foreign Prince, Person, Prelate, State or Potentate hath, or ought to have any Power, Jurisdiction, Superiority, Pre-eminence,

Abridgment.

---notwithstanding any want of Writs of Summons, &c. ---and all Acts of the present Parliament shall begin on the day, on which their Majesties accepted the Crown,

---Stat. 30. Car. 2. c. 1. and all other Acts, so far as they concern the Oaths of Supremacy and Allegiance, to be taken in Parliament, shall be repealed,

---and the Oaths appointed by this Act (with the Declaration) shall be as effectual, being taken by the present Members of each House, as the abrogated Oaths,

---and, for the future, the new Oaths shall be taken, and Declaration subscribed, by the Members of both Houses.

The Words of the New Oath,

---of Allegiance,

---of Supremacy.



## Abridgment.

This present Parliament may be dissolved, as if summoned by Writ.

Preamble referring; ---to Stat. 1. El. c. 1. in which the Oath of Supremacy is appointed,

---and to Stat. 3: Fac. 1. c. 4. appointing the Oath of Allegiance.

No person shall be obliged to take the Oaths, appointed by the said Statutes, 1 El. c. 1. & 3 Fac. 1. c. 4.

---but the Statutes, as to such Oaths, shall be repealed.

Persons required to take the Oaths by any Acts whatsoever, shall take the new Oaths, and subscribe the Declaration, appointed by this Act, viz.

---the Lords Spiritual and Temporal, in Chancery, or King's Bench, or at Quarter-Sessions,

---and all others, before such Persons as have rendered the abrogated Oaths,

---and the New Oaths shall be taken in the same manner, &c. as the abrogated Oaths were.

eminence or Authority, Ecclesiastical or Spiritual, within this Realm.

*So help me God.*

VIII. Provided always, and be it Declared, That this present Parliament may be Dissolved after the usual manner, as if the same had been Summoned and Called by Writ.

## 1 Will. &amp; Mar. Cap. 8.

## An Act for the Abrogating of the Oaths of Supremacy and Allegiance, and appointing other Oaths.

Whereas by a Statute made in the first Year of the Reign of our late Sovereign Lady D. Elizabeth, Entituled, An Act to Restore to the Crown the ancient Jurisdiction over the Estate Ecclesiastical and Spiritual, and Abolishing all Foreign Powers Repugnant to the same, the Persons therein mentioned were obliged to take an Oath therein mentioned, commonly called the Oath of Supremacy: And whereas by another Statute made in the third Year of the Reign of our late Sovereign Lord King James the first, Entituled, An Act for the better Discovering and Repressing Popish Recusants, another Oath, commonly called the Oath of Allegiance or Obedience, was required to be taken by the Persons therein mentioned;

II. Be it enacted by the King and Queen's most Excellent Majesties, by and with the Advice and Consent of the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, and by the Authority of the same, That from henceforth no Person whatsoever shall be obliged to take the said Oaths, or either of them, by force or Virtue of the said Statutes, or either of them, or any other Statute whatsoever; But that the said Statutes, and every other Statute, for so much only as concerns the said Oaths, and the said Oaths themselves, shall be, and are hereby Repealed, utterly Abrogated and made void.

III. And be it further enacted by the authority aforesaid, That the Oaths appointed by this present Act to be taken, and the Declaration likewise appointed by this present Act to be made, repeated and subscribed, shall from and after the first day of May, in the year one thousand six hundred eighty nine, be taken, made, repeated and subscribed by every such person and persons as were appointed and required by any Act or Acts whatsoever, to take the said abrogated Oaths of Supremacy and Allegiance, or either of them, before such person or persons, as hereafter in this Act is expressed; that is to say, all and every Archbishop and Bishop, that now is, and all and every person, of, or above the Degree of a Baron of Parliament, in their Majesties High Court of Chancery, or in their Majesties Court of King's Bench, in publick and open Court, between the Hours of nine of the Clock and twelve in the forenoon, before the end of Trinity Term next, or at the general quarter Sessions to be holden for that County, or Place where he or they shall be, inhabit or reside, in open Court, between the said hours of nine and twelve of the Clock in the forenoon, before the first day of August next, all which shall be put on Record in the respective Courts.

IV. And all and every other such person and persons shall take the said Oaths, and make, repeat and subscribe the said Declaration by this present Act required to be taken, made and subscribed before such person or persons respectively, as by any Act or Acts were authorized or impowered to tender the said Oaths of Allegiance now abrogated and made void; which said person or persons so respectively authorized to minister or tender the said Oaths and Declaration, are hereby required to minister and tender the same accordingly.

V. And be it further enacted by the authority aforesaid, That all persons (other than such concerning whom other provision shall be made in this Act, or in any other Act of this present Session of Parliament) that shall hereafter be admitted into any Office or Employment

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ment Ecclesiastical or Civil, or come into any Capacity in respect, or by reason whereof they should have been obliged by any Statute to take the said abrogated Oaths, or either of them, shall take the Oaths hereby appointed, in such manner, at such times, before such persons, and in such Courts and Places as they should, or ought to have taken the said former Oaths, or either of them, in case the same had not been abrogated, as aforesaid. And that every such person who shall neglect, or refuse to take the same, shall incur and be liable to the same Penalties, Forfeitures, Disabilities and Incapacities, as by any such Statute was appointed, for, or upon neglect, or refusal to take the said former Oaths hereby abrogated, or either of them.

VI. And be it farther enacted, That if any person now having any Office or Employment, Civil or Military, shall neglect or refuse to take the said Oaths hereby appointed to be taken, in such manner as by this Act is directed, before the first day of August in the year one thousand six hundred eighty nine, or sooner, if required thereunto by any Order from his Majesty in Council, before such persons as by the said Order shall be appointed to take and receive the same, That in every such Case the said Office and Employment of every person so neglecting or refusing, shall be void, and is hereby adjudged void.

VII. And be it further enacted by the authority aforesaid, That if any Archbishop or Bishop, or any other person now having any Ecclesiastical Dignity, Benefice or Promotion, shall neglect or refuse to take the Oaths by this Act appointed to be taken, in such manner as by this Act is directed, before the first day of August, in the year one thousand six hundred eighty nine, every such person and persons so neglecting or refusing, shall be, and is, and are hereby declared and adjudged to be suspended from the Execution of his or their Office by the space of six months, to be accounted from the said first day of August; And if the said person or persons (so having neglected or refused) shall not within the said space of six months take the said Oaths in such manner, Court or Place, as they ought to have taken the same before the said first day of August; Then he or they shall be ipso facto deprived, and is, and are hereby adjudged to be deprived of his and their Offices, Benefices, Dignities and Promotions Ecclesiastical.

VIII. And be it farther enacted, That if any person or persons now being Master, Governour, Head or Fellow of any College or Hall, in either of the two Universities, or of any other College, or Master of any Hospital or School, or Professor of Divinity, Law, Physick, or other Science in either of the said Universities, or in the City of London, shall neglect or refuse to take the Oaths by this Act appointed to be taken, in such manner, and before such persons as by this Act is directed, before the first day of August, in the year one thousand six hundred eighty nine; every such person and persons so neglecting or refusing, shall be, and is, and are hereby declared and adjudged to be suspended from the Execution of his or their Office and Employment, and from his or their Mastership, Government, Fellowship and Professorship, respectively, for the space of six months, to be accounted from the said first day of August; And if the said person or persons (so having neglected or refused) shall not within the said space of six months take the said Oaths in such Court or place, and before such persons, and in such manner as they ought to have taken the same before the said first day of August, That in every such Case the said Office and Employment, Mastership, Government, Fellowship and Professorship of every person so neglecting or refusing, shall be void, and is hereby adjudged void.

IX. And be it further enacted, That if any such other person or persons (other than the persons specially above mentioned) shall refuse to take the said Oaths, or either of them, when tendered to him or them by any persons lawfully authorized, as is aforesaid, to administer or tender the same, the person or persons so tendering the said Oaths or either of them, shall commit the said person and persons so refusing, to the Common Gaol or House of Correction, there to remain without Bail or Mainprize for the space of three months, unless

Abridgment.

---and under the same Penalties.

If any Officer Civil or Military shall refuse the Oaths,

---the Office shall be void.

Every Ecclesiastical person, having promotion and not taking the Oaths before Aug. 1. shall be suspended,

---and neglecting six Months longer, shall be ipso facto deprived.

All Heads and Fellows of Colleges and Halls, Masters of Hospitals and Schools, and Professors, neglecting to take the Oaths before Aug. 1. shall be suspended,

---and neglecting six Months longer, shall be ipso facto deprived.

All other Persons refusing the Oaths, shall be imprison'd for 3 Months, or pay a Sum not exceeding 40 s.

An Attempt was made, to exempt Ecclesiastical Persons from taking the Oaths. Vid. Journ. Pros. Apr. 22. 23.



## Abridgment.

---and refusing at the end of 3 Months, shall be imprison'd 6 Months, or pay a Sum, nor above 10 l. nor under 5 l.

--and shall find Sureties for good Behaviour, and appear at the next Assizes,

--and refusing the Oaths at the Assizes, they shall be incapable of any Office, Civil or Military, and remain bound to good Behaviour.

---and refusing also the Declaration, 30 Car. 2. shall suffer as Papists Convict.

All Officers by Sea and Land shall take the said Oaths, and the Declaration, 30 Car. 2.

--and all who shall hereafter be put in Office, by Sea or Land,

--upon pain of being incapable of receiving and holding such Office.

The Oath required by Stat. 13, 14 Car. 2. c. 3.

such Offender shall pay down to the said person or persons so tendering the said Oaths, or either of them, such Sum of Money not exceeding forty shillings, as the said person or persons so tendering the said Oaths or either of them shall require such Offender to pay for his or her said refusal; which Money shall be paid to the Church-wardens or Overseers of the Poor, for the relief of the Poor of the Parish or Place where such Offender did last inhabit; and if at the end of three months after such refusal, the person and persons so refusing, shall again refuse to take the said Oaths or either of them, when lawfully tendered to him or them, as is aforesaid, the said person or persons so tendering the said Oaths or either of them, shall commit the said person and persons so refusing, to the Common Gaol or House of Correction, there to remain for the space of six Months, unless every such Offender shall pay down to the person or persons so tendering the said Oaths or either of them, such Sum of Money, not exceeding ten pounds, nor under five pounds, as the said person or persons so tendering the said Oaths, or either of them, shall require such Offender to pay for his or her said second refusal; the said Money to be disposed in manner aforesaid. And unless every such Offender shall become bound with two sufficient Sureties, with Condition to be of the good Behaviour, and also to appear at the next Assizes or general Gaol-delivery to be holden for the County, Liberty or Place where such Offender shall then inhabit or reside; at which Assizes or Gaol-delivery the said Oath shall be again tendered to every such Offender by the Justices of Assizes or Gaol-delivery, in their open Assizes or Gaol-delivery; and if the said Offender shall refuse to take the said Oaths, or either of them, when tendered to him or her by the said Justices of Assizes or Gaol-delivery, as is aforesaid, Then every person and persons so refusing, shall be, and is, and are hereby adjudged incapable of any Office, Civil or Military, within this Kingdom, and shall likewise be and remain bound to the good Behaviour, until he or they do take the said Oaths. And in case such person or persons shall refuse also to make and subscribe the Declaration mentioned in the Statute made in the thirtieth year of the Reign of King Charles the Second, Entituled, An Act for the more effectual preserving the King's Person and Government, by disabling Papists from sitting in either House of Parliament, such person and persons shall suffer all Pains, Penalties, Forfeitures, and Disabilities as a Popish Recusant-Convict, and be taken and deemed a Popish Recusant-Convict, to all intents and purposes whatsoever.

X. And be it farther enacted by the authority aforesaid, That all and every Commission Officer and Officers, and Non-Commission or Warrant Officer and Officers that are already employed in their Majesties Service by Sea or Land, shall take the said Oaths, and also make, repeat and subscribe the Declaration mentioned in the said Statute made in the thirtieth year of the Reign of King Charles the Second, before the Lord High-Admiral of England, or the Commissioners for executing the Office of Lord High-Admiral, or their Deputies, or such other persons as their Majesties shall authorize or appoint to administer, and accept the same respectively; and that all and every such person and persons as shall hereafter be put into any such Employment by Sea or Land, shall before the delivery of such Commission or Warrant to such Officer, take the said Oaths, and make, repeat and subscribe the said Declaration before the Lord High-Admiral, or Commissioners of the Admiralty or their Deputies, as aforesaid; or such person as shall issue such Commission or Warrant, or such others as shall be authorized to administer the same as aforesaid respectively, who are hereby respectively authorized and required to tender, administer and accept the same; and all and every such Officer or Officers that shall refuse to take the said Oaths, and make and subscribe the said Declaration, shall be incapable of receiving, taking, holding or executing such Office or Employment.

XI. And be it further enacted, That the Oath appointed by the Statute made in the thirteenth and fourteenth years of King Charles the Second, Entituled, An Act for ordering the Forces in the several Counties of this Kingdom, the Form and Words of which Oath are in

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in the same Statute expressed; and also so much of a Declaration prescribed in another Act made in the same year, Entituled, An Act for the Uniformity of Publick Prayers, and Administration of the Sacraments, and other Rites and Ceremonies. And for Establishing the Form of Making, Ordaining and Consecrating Bishops, Priests and Deacons in the Church of England, as is expressed in these Words, (viz.)

**I** A. B. declare, That it is not lawful upon any Pretence whatsoever to take Arms against the King; and that I do abhor that Traiterous Position of taking Arms by his Authority against his Person, or against those that are Commissioned by him:

Shall not from henceforth be required or enjoyned, nor any person suffer any Forfeiture, Penalty or Loss, by the not taking, subscribing or making the said Oath, or the said recited part of the said Declaration: the last forementioned Statutes, or any other Law or Statute to the contrary in any wise notwithstanding.

XII. And be it enacted, That the Oaths that are intended and required to be taken by this Act, are the Oaths in these express Words hereafter following;

**I** A. B. do sincerely Promise and Swear, That I will be faithful, and bear true Allegiance to their Majesties, King *William* and Queen *Mary*.

*So help me God, &c.*

**I** A. B. do swear, That I do from my Heart Abhor, Detest and Abjure as Impious and Heretical, that damnable Doctrine and Position, That Princes Excommunicated or Deprived by the Pope, or any Authority of the See of Rome, may be deposed or murdered by their Subjects, or any other whatsoever.

And I do declare, That no Foreign Prince, Person, Prelate, State or Potentate hath, or ought to have any Jurisdiction, Power, Superiority, Pre-eminence, or Authority, Ecclesiastical or Spiritual, within this Realm.

*So help me God, &c.*

XIII. And be it further Enacted by the Authority aforesaid, That the Names of all and singular such Persons and Officers aforesaid, that do or shall in the Court of Chancery, King's-Bench, or Quarter Sessions, take the Oaths by this Act required, or appointed to be taken, shall be in the said respective Courts of Chancery and King's-Bench, and the Quarter Sessions, Inrolled with the Day and Time of their taking the same, in Rolls made and kept only for that intent and purpose, and for no other. The which Rolls as for the Court of Chancery, shall be publicly hung up in the Office of the Petty Bagge. And the Rolls for the King's-Bench, in the Crown Office of the said Court, and in some publick Place in every Quarter Sessions, and there remain during the whole Term, every Term, and during the whole time of the said Sessions, in every Quarter Sessions, for every one to resort to, and look upon, without Fee or Reward. And none of the Person or Persons aforesaid, shall give or pay as any Fee or Reward to any Officer or Officers belonging to any of the Courts, as aforesaid, above the Sum of Twelve pence for his or their Entry of his or their taking of the said Oaths by this Act required, or appointed to be taken.

XIV. And whereas since the Eleventh day of December, in the Year of our Lord One thousand six hundred eighty eight, the said Abrogated Oaths could not be taken by any Person that was Elected, or placed in any Office of Magistracy, or Place of Trust relating to, or concerning the Government of any City, Corporation, Borough, Cinque-Port, or their Members, or other Port Town, at the time of his being Admitted and Sworn into such Office, Place or Employment, by reason whereof his said Election, Placing and Choice, into such Office or Employment, by one Act Entituled, An Act for the well Governing of Corporations, Is Enacted, and Declared to be Void.

Abridgment.

--and so the Declaration prescribed in Stat. 13, 14. Car 2. c. 4. as relates to taking Arms against the King,

--shall not henceforth be required.

New Oaths required by this Act.

--of Allegiance,

---of Supremacy,

The Names of all Persons taking the foresaid Oaths, shall be inrolled in their respective Courts,

---and the Rolls hung up in the proper Offices,

--and view'd without Fee or Reward,

---and no more than 1 s. shall be paid for the Entry of the Oaths.

The abrogated Oaths could not be taken by any Person admitted to Office in Corporation, &c. since Dec. 11.

--by reason whereof, such Office is void by the Corporation-Act,

Be



## Abridgment.

---but if such Officer shall take the new Oaths before Aug. 1. it shall be as effectual, as if he had taken the said abrogated Oaths.

Several persons admitted into Offices, could not take the former Oaths, and subscribe the Declaration, according to 25 Car. 2. c. 2,

---but if they take the new Oaths, and repeat the Declaration, and receive the Sacrament, &c. before the 1st. of August, they shall be indemnified, and adjudged good Officers, from their Admission.

The King shall have power to allow to a number of Clergy refusing the Oaths, not exceeding 12, a third part of their Revenues, ---to continue during pleasure.

Recital of 1 W. 3 Mar. c. 8. so far as concerns Military Employments,

---and that Commissions may possibly be granted to Persons at a great distance from London.

Be it therefore enacted by the Authority aforesaid, That if any such Officer shall before the first Day of August, in the Year of our Lord One Thousand Six Hundred Eighty Nine, take the Oaths herein mentioned and required to be taken before such Person or Persons, who by the said Act should have administered the said abrogated Oaths, at the time of his Admission into such Office or Employment, the said Election and Placing into such Office or Employment shall be taken and adjudged to be as good and effectual, as if he had taken the said abrogated Oaths; any thing in the said Act, or in any other Statute to the contrary in any wise notwithstanding.

XV. And whereas since the feast of Saint Michael last past, divers persons have been admitted into Offices, Employments or Places of Trust, and could not take the said abrogated Oaths, and subscribe the Declaration at such time, and in such manner as is directed and appointed by one Act made the five and Twentieth of the late King Charles the Second, Entituled, An Act for preventing of Dangers that may happen from Popish Recusants;

Be it therefore Enacted by the Authority aforesaid, That if any such Person shall before the end of Trinity Term next, in the High Courts of Chancery or King's-Bench, or before the first of August, in the Year of our Lord One Thousand Six Hundred Eighty Nine, at the Quarter Sessions for that County or Place where he or they shall inhabit or reside, or execute the said Office or Employment, take the Oaths in this Act mentioned and appointed to be taken, and repeat and subscribe the said Declaration, and take the Sacrament of the Lords Supper according to the usage of the Church of England, and procure Certificate thereof in such manner as in the said Act is required, directed and appointed, That then such Person shall and is hereby Indemnified and Discharged from any Penalty or Disability that he might or should have incurred by the said Act, and shall and is hereby adjudged to have been, and be as good and sufficient an Officer from the time of his Admission, as if he had taken the said abrogated Oaths, and performed all other things required by the said Act; Any thing to the contrary in any wise notwithstanding.

Provided always, and be it Enacted by the Authority aforesaid, That it be left to the King to allow to such of the Clergy as shall refuse the Oaths prescribed by this Act, as he shall think fit, not exceeding the number of Twelve, an Allowance out of their Ecclesiastical Benefices or Promotions for their Subsistence, not exceeding a Third Part, and to continue during His Majesties Pleasure, and no longer.

## 1 Will. &amp; Mar. Cap. 25.

An Act to Regulate the Administration of the Oaths required to be taken by Commission or Warrant Officers Employed in Their Majesties Service by Land, by Virtue of an Act made this present Session of Parliament, Entituled, An Act for the Abrogating of the Oaths of Supremacy and Allegiance, and Appointing other Oaths.

Whereas by an Act made this present Session of Parliament, Entituled, An Act for the Abrogating of the Oaths of Supremacy and Allegiance, and Appointing other Oaths, all Persons that shall hereafter be put into any military Employment, shall be obliged to take the Oaths, and Make and Subscribe the Declaration therein mentioned, before such Person as shall issue the Commission or Warrant for such Employment; And whereas their Majesties Service does require the Regiments and Troops of Soldiers to March, and be at great Distances from London, and upon any Vacancy of any such Military Employment by Death or otherwise, tis necessary to fill up such Vacancies, by granting new Commissions for Persons that may be at a great Distance from London, so as their Majesties Service will not permit them to repair to London to take the said Oaths, and make the said Declaration as aforesaid:

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II. Be it enacted by the King and Queen's most Excellent Majesties, by and with the Advice and Consent of the Lords Spiritual and Temporal, and the Commons in this present Parliament Assembled, and by the Authority of the same, That if any Commission for such Military Employment, shall hereafter be granted to any person at any Distance from London exceeding twenty Miles, that such person shall and may take the said Oaths, and Make and Subscribe the said Declaration at the next Muster, after the Receipt of the said Commission, before the Commissary of the Musters or his Deputy, who is hereby authorized to tender, administer, and take the same, and are hereby required to send up a Certificate thereof under his Hand and Seal, to the Person who issued such Commission; Any thing in the aforesaid Act to the contrary notwithstanding.

III. And in case such Person who shall receive such Commission, shall refuse to take the said Oaths, and Subscribe the said Declaration as aforesaid, such Person shall not be allowed upon the Musters, but his Commission shall be void to all Intents and Purposes whatsoever.

IV. Prohibited always, and be it enacted, That nothing in this Act contained shall extend to the Militia or Trained Bands of England.

Abridgment.

Enacted, that, if any military Commission shall be granted to any Person, above 20 miles from London, he shall take the Oaths, and subscribe the Declaration, at the next Muster,

---and the Commissary shall send up a Certificate thereof to the Person issuing such Commission.

Any Person refusing to take and subscribe, as aforesaid, his Commission shall be void.

This Act shall not extend to the Trained Bands.

U T I T.



## T I T. III.

PAPAL ENCROACHMENTS  
in *England*, abolished, and the Powers  
restored to the *KING*, or vested in the  
*ARCHBISHOP* of *CANTERBURY*.

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Cap. I. *Papal PROVISIONS of Benefices, and Papal CITATIONS, opposed and prohibited.*

Cap. II. *Purchasing of Benefices by ALIENS, prohibited.*

Cap. III. *APPEALS to ROME, in all Cases whatsoever, prohibited.*

Cap. IV. *The Burthen of PETER-PENCE, and other Papal Exactions, taken away.*

Cap. V. *The Power of DISPENSATIONS, taken from the Pope, and vested in the Archbishop of Canterbury.*

## C A P. I.

*Papal PROVISIONS of Benefices, and Papal CITATIONS, opposed and prohibited.*

25 Edw. III. Stat. 5. Cap. 22.

A.D. 1350.

*An Act against Provisours to the Court of Rome.*

## Abridgment.

Every Person purchasing Provisions of Abbeys or Priors, shall be out of the King's Protection, and who so offendeth against them in Body or Goods, shall not be impeached.



Item, because that some do purchase in the Court of Rome provisions, to have Abbeys, and Priors in England, in destruction of the Realm, and of holy Religion: It is accorded, that every man that purchaseth such Provisions of Abbeys or Priors, that he and his Executors and Procurators, which do sue and make execution of such Provisions, shall be out of the King's Protection. And that a man may do with them, as of Enemies of our Sovereign Lord the King and his Realm. And he that offendeth against such Provisours in Body or in Goods, or in other Possessions, shall be excused against all People, and shall never be impeached nor grieved for the same at any Man's Suit.

*Papal Provisions of Benefices, &c. opposed and prohibited.*

5 Eliz. Cap. 1.

A.D. 1562.

*In an Act, Entituled, An Act for Assurance of the Queen's Royal Power, &c.*

It shall not be lawful to kill any Person, attainted upon a *Præmunire*.

XXI. And forasmuch as it is doubtful, whether by the Laws of this Realm there be any punishment for such as kill or slay any person or persons attainted in or upon a *Præmunire*: Be it therefore enacted by authority aforesaid, That it shall not be lawful to any person or persons to slay or kill any person or persons in any man-  
ner



Papal Provisions of Benefices, &c. opposed and prohibited.

A.D. 1350.

ner attainted, or hereafter to be attainted, of, in, or upon any Præmunire, by pretence, reason, or authority of any judgment given, or hereafter to be given in or upon the same, or by pretence, reason, or force of any word or words, thing or things contained or specified in any Statute or Law of Provision and Præmunire, or in any of them, any Law or Statute, or Opinion, or Exposition of any Law or Statute to the contrary in any wise notwithstanding.

The Statute of <sup>a</sup> Provisors of Benefices, made Anno 25 Ed. 3. Stat. 6. and Anno Dom. 1350.

The King and other Lords shall present unto Benefices of their own or their Ancestors Foundation, and not the Bishop of Rome.

Whereas late in the Parliament of good memory of Edward King of England, Grandfather to our Lord the King that now is, the b xxx year of his Reign,

<sup>a</sup> Provisors] *Provisores dicuntur, qui vel Episcopatum vel Ecclesiasticam aliam dignitatem in Romana Curia sibi ambiebant de futuro, quod ex gratia expectativa nuncuparunt: quia usque dum vacaret, expectandum esset.*

b xxv. year] So the printed Copies; and yet no such matters appear to have been under consideration in Parliament, in the 25th Year of Edward the first; but in the 35th year of that Reign, they were; for then two Petitions of that nature were presented to the King; the first was of the Nobles, against the grievous Impositions of the Superiors abroad upon the Religious Houses subject to them in England, upon which the Statute commonly called *De Asportatis Religiosorum*, was founded; which Statute I have placed among the Laws relating to the Religious, because it concerns them alone. And my Lord Coke is certainly mistaken, in his Commentary upon that Statute, when he makes it the Statute referred to and recited in this of the 25 Edw. 3. against *Provisors*; since it hath no relation to *Provisions*, nor is at all of the same tenor with this. But in the Proceedings of Parliament, the same 35th year, we find a *Secund* Petition presented by the Nobles, and the whole Commonalty, against the Provisions made, and other Abuses committed, by authority of the Court of Rome: And it is to this Petition, and the Act founded upon it, that reference is here made; the *Prefaces* or *Introductions* of both being almost in the same words; and the particulars of this Act evidently framed upon the Heads of that Petition. Which Heads (so far as they are here referred to) I will transcribe at large, as well to prove what I have asserted, as to prevent all Mistakes about this Matter for the future.

After the *Preface* (which, as I said, is almost in the same words with this,) and some other Heads of Complaint; the Petition (with the Principal occasion of it) is summed up under several Heads, as follows,

*Cum in Parlamento Domini Regis apud Karliolum in octabis Sancti Hilarii anno regni Domini Regis E. xxxv. propositæ fuerunt petitiones per Comites, Bar. & alios Magni & Communitatem totius regni Angliæ, pro statu Coronæ Regiæ, necnon terrarum ipsius Regis Scotiæ, Walliæ & Hibn. & tota Communitate prædicta, super variis novis & intolerabilibus gravaminibus, oppressionibus, injuriis & extorsionibus, præfatis Comiti-*

*bus, Baronibus, Magnatibus & Communitati, auctoritate & mandato Domini Papæ, ac etiam per Magistrum Will' Testa Domini Papæ Clericum, necnon ejusdem Magistri Will' Commissarios, Ministros seu vices gerentes, & ipsius nomine, illatis multipliciter in Regno & terris prædictis, prout in Articulis contentis in prædictis petitionibus qui tales sunt inseritur; videlicet,*

*De effrænata multitudine Provisionum Apostolicarum per quas patronis seu advocatis beneficiorum collatio tollitur, seu præsentatio, ac demum indigenæ nobiles & literati à promotione Ecclesiastica penitus excluduntur, & erit defectus Consilii in Regno, quantum ad ea quæ ad spiritualitatem pertinent, nec invenientur idonei qui ad Ecclesiasticas valeant eligi prælaturas. Cultus divinus minuetur, hospitalitates & eleemosinæ cessabunt contra intentionem primariam fundatorum Ecclesiarum, jura peribunt, indefensa ædificia Ecclesiastica corruent, & populi devotio subtrahetur.*

*Item de Decanatibus Ecclesiarum Cathedralium regni Angliæ, quorum multi jam ad manus Cardinalium & aliorum alienigenarum in ipsis Ecclesiis minime residentium devenerunt, & de cæteris Decanatibus ut idem fiat in proximo verisimiliter est timend' contra primariam Ecclesiarum Ordinationem & intentionem saluberrimam fundatorum; ex quo in ipsis Ecclesiis Cathedralibus, ad quarum regimen & custodiam continuam Decani propter Episcoporum absentiam salubriter fuerant instituti, multiplex inordinatio proveniet, atque defectus tam in divino obsequio, hospitalitate & eleemosina, quam in correctione excessuum Ministrorum, & domino Regi ac Regno multorum peritorum Consilium qui ad ipsos Decanatus eligi consueverant, penitus subtrahetur.*

*Item de Religiosis Domibus, à variis Magnatibus pia devotione fundatis ad divini cultus augmentum, hospitalitatis exercitium, eleemosinarum largitionem, ipsorum fundatorum & omnium fidelium defunctorum per orationes continuas remissionem; quorum reditus & proventus Dominus Papa intendit diversorum Cardinalium usibus applicare.*

*Item de Primis fructibus beneficiorum vacantium sedi Apostolicæ reservatis, quod antea fuerat inauditum, super quorum collectiæ, Dominus Papa interpretationes durissimas & multum præjudiciales Domino Regi & Regno, ac etiam toti Ecclesiæ Anglicanæ, jam de novo edidit, sicut fertur.*

*Item de denar' Sancti Petri à Progenitoribus Regis primitus sub certa forma concessis, à prima concessione sua sub eadem forma à tempore cujus non*

Abridgment.

Recital of the Petition to the King in Parliament, at Carlisle, setting forth,

Provisions.

Deanries!

Religious Houses.

First-fruits.

Peter-pence.

Spel. Gloss.

2 Inst. p. 580.

Ryley Placita Parl. p. 379.



## Abridgment.

...that the Church of England was founded in Prelacy, for pious ends,

--and well endowed by the Founders,

---who therefore ought to have the custody of Voidances, and Presentments;

The Charge confessed, by the Pope's Collector,

--and the Abuses reformed,

---which the Sheriffs shall enquire of,

holden at Carlisle, the Petition heard, put before the said Grandfather and his Council in his said Parliament by the Communality of the said Realm, containing, That whereas the holy Church of England was founden in the Estate of Prelacy within the Realm of England by the said Grandfather and his Progenitors, and the Earls, Barons, and other Nobles of his said Realm and their Ancestors, to inform them and the People of the Law of God, and to make hospitalities, alms, and other works of charity in the places where the Churches were founden, for the souls of the Founders, their Heirs, and all Christians; and certain possessions as well in Fees, Lands, Rents, as in advowsons, which do extend to a great value, were assigned by the said Founders to the Prelates and other people of the holy Church of the said Realm to sustain the same charge, and especially of the Possessions which were assigned to Archbishops, Bishops, Abbots, Priors, religious, and all other people of holy Church, by the Kings of the said Realm, Earls, Barons, and other Great men of his Realm: the same Kings, Earls, Barons, and other Nobles, as Lords and Advowees, have had and sought to have the custody of such voidances, and the presentments and the collations of the Benefices being of such Prelacies.

*non extat memoria persolutis, nunc autem contra dictam concessionem minus rationabiliter exactis, in grave dampnum Ecclesiarum & totius Populi Anglicani.*

Then, after some other Abuses, the Record goes on, as follows:

*Super quibus oppressionum, gravaminum & extorsionum & injuriarum Articulis, præfatus Magister Williel' Testa, quatenus ipsum contingunt, in pleno Parlamento prædicto allocutus, convictus extitit, nec inde se potuit aliquammodo excusare, nisi tantum quod dixit quod auctoritate Domini Papæ præmissa fuerat executus. Et quia facta Magistri Williel' Testa in præmissis, si tolerarentur, manifeste cederent in divini Cultus diminutionem, & Ecclesiæ Anglicanæ eximiationem, nec non in præjudicium, læsionem & exheredationem Coronæ, potestatis, jurisdictionis & dignitatis Regiæ Anglicanæ, destructionemque totius Communitatis prædictæ, ac status Regni, legum & consuetudinum ejusdem subversionem, quod absit, perpetuam, & unde majora pericula possent processu temporis evenire: Demum consideratis periculis prædictis, ex assensu Domini Regis ac toto Consilio Parliamenti prædicti, provisum fuit, concordatum, ordinatum & consideratum, quod præmissa gravamina, oppressiones, injuriæ & extorsiones fieri non permitterentur in Regno & terris prædictis. Et prohibitum est prædicto Magistro W. in Parlamento prædicto, quod de cætero contra provisionem, concordiam, considerationem prædictas nec procedat, nec per se, seu alium quemcumque in præmissis intromittat, vel aliquo præmissorum. Et injunctum est eidem Magistro W. quod quicquid per ipsum, collegas, Commissar' Ministros, Vices gerentes, aut alios quoscumque sibi adhaerentes seu intendentes attemptatum est, actum seu executum in præmissis & quolibet præmissorum, revocet, ut cassum, irritum & inane, & totam pecuniam per eos in hac parte levatam, salvo custodiri fac' & secure infra Regnum prædictum quousque Dominus Rex de Consilio prædicto aliud super hoc duxerit Ordinandum. Et ad majorem hujus rei evidentiam, Ordinatum est & concordatum per Dominum Regem & Consilium prædictum, quod dicti Nuntii experti ad dictum Dominum Papam, ex parte dicti Domini Regis & totius Communit' prædictæ transmittantur, ad prædicta gravamina, oppressiones, extorsiones & injurias notificanda & exponenda. Et præceptum est singulis Vic. Com. Regni prædicti quod per sacram' proborum & legalium hominum de ballivis suis, per quos rei veritas melius sciri poterit, diligenter inquirent*

*de nominibus Commissariorum & aliorum Ministrorum prædicti Magist. Will. Testa qui præmissa oppressiones, gravamina, extorsiones & injurias in Com' prædictis taliter perpetrarunt aut fecerunt, necnon de nominibus eorum qui coram dictis Commissar' vel Ministris aliquem vel aliquos, citari vel vocari fecerunt seu dicta gravamina executi fuerunt. Et omnes illos quos in præmissis culpabiles invenerint, attachient per corpora eorum, ita quod eos habeant coram Rege in Octabis sanctæ Trinitatis ubicunque tunc fuerit in Angl. ad respondend' tam Domino Regi quam aliis inde conqueri volentibus super præmissis; Et ad faciend' & recipiend' quod Curia Regis consideraverit in hac parte, & Vic. habeant ibi nomina eorum, quos inde culpabiles invenerint & Brevia.*

Accordingly, Writs were prepared to be sent to the several Sheriffs, to enquire diligently concerning the said Abuses; but after the recess of the Parliament, the King was not only prevailed with by Cardinal Peter Sabines, then in England, to direct his Chancellor to suspend the Sealing of the said Writs, but did also grant Letters of Protection to the Collectors; under Colour of which, they proceeded as they had formerly done, in Contempt of the Prohibitions enacted in Parliament against their Extortions and Oppressions; and they had the Boldness to complain publickly, at the next Parliament, that divers of the Subjects had opposed and resisted them, in virtue of those Prohibitions. Upon which occasion, the Prohibitions were enforced in the following Words:

*Rex Magistris W. Testa, & Petro Amalmeni salutem. Cum vos quasdam petitiones coram nobis in Consilio nostro exhibueritis ad quas respondere nondum deliberatum existit, & vos ut dicitur aliqua prosequamini præjudicialia nobis, Coronæ & dignitati nostræ Regiæ, necnon & Proceribus, Magnatibus ac Populo Regni nostri, hujusmodi deliberatione pendente. Vobis mandamus firmiter inhibentes, ne quicquam quod in nostræ Regiæ dignitatis læsionem, seu Procerum, aut Populi dicti Regni præjudicium cedere poterit, quoquo modo per vos, vel per alios aliquammodo attemptetis, seu etiam fac' attemptari. Teste Rege apud Karliolum xxvii die Junii, anno tricesimo quinto.*

But, before the King could see this Prohibition executed, he died, and nothing further was done; per quod ulterius nihil factum erat, as it is in the Record.

Papal Provisions of Benefices &c. opposed and prohibited.

--and attach the guilty.

Ryley Placita p. 385.



Papal Provisions of Benefices, &c. opposed and prohibited.

II. And the said Kings in times past were wont to have the greatest part of their Council, for the safe-guard of the Realm when they had need, of such Prelates and Clerks so advanced: The Bishop of Rome, accroaching to him the Seignories of such Possessions and Benefices, doth give and grant the same Benefices to Aliens, which did never dwell in England, and to Cardinals, which might not dwell here, and to other as well Aliens as Denizens, as if he had been Patron or Advowce of the said Dignities and Benefices, as he was not of right by the Law of England; whereby if they should be suffered, there should scarcely be any Benefice within a short time in the said Realm, but that it should be in the hands of Aliens and Denizens by virtue of such Provisions, against the good will and disposition of the Founders of the same Benefices. And so the Elections of Archbishops, Bishops, and other religious should fail, and the alms, hospitalities, and other works of charity, which should be done in the said places, should be withdrawn, the said Grandfather, and other lay-patrons, in the time of such voidances, should lose their presentment, & the said Council should perish, and goods without number should be carried out of the Realm, in aduillation of the Estate of the holy Church of England, and disherison of the said Grandfather, and the Earls, Barons, and other Nobles of the said Realm, and in offence and destruction of the laws and rights of his Realm, and to the great damage of his people, and in subversion of all the estate of his said Realm, and against the good disposition and will of the first Founders: By the assent of the Earls, Barons, and other Nobles, and of all the said Commonalty, at their instances and requests, the damage and grievances afore considered, in the said full Parliament it was ordained, prohibited, established, agreed, adjudged and considered, that the said oppressions, grievances and damages in the same Realm from henceforth should not be suffered in any manner. And now it is shewed to our Lord the King in this present Parliament holden at Westminster, at the utas of the Purification of our Lady, the five and twentieth year of his Reign of England, and of France the twelfth, by the grievous complaints of all the Commons of his Realm, that the grievances and mischiefs aforesaid do daily abound, to the great damage and destruction of all his Realm of England, more than ever were before, viz. that now of late the Bishop of Rome by procurement of Clerks and otherwise, hath reserved, and doth daily reserve to his collation generally and especially, as well Archbishopricks, Bishopricks, Abbeys, and Priories, as all other dignities, and other Benefices of England which be of the advowry of people of hoily Church, and give the same as well to Aliens as to Denizens, and taketh of all such Benefices the first-fruits, and many other profits, and a great part of the treasure of the said Realm is carried away, and dispended out of the Realm, by the purchasers of such Benefices and Graces aforesaid: and also by such privy reservations many Clerks advanced in this Realm by their true Patrons, which

*c* To Aliens] After this, in the Reign of Henr. 6. Anno 1438. the Popes were gone so far in their Encroachments of this kind, as to grant English Bishopricks in Commendam to Foreigners, as (in reality) a kind of Administrators of the Revenues only; upon which occasion among others, the Archbishop called a Convocation, and at the opening of it, acquainted the Bishops and Clergy, That the Pope (as appeared by his Bulls) *providit & commisit Ecclesiam Cathedralē Elien' per modum Commendæ perpetuæ [to the Archbishop of Roan] ac ipsum Administratorem perpetuum dictæ Ecclesiæ & Diocesis Elien'. deputavit & ordinavit — Quæ, quia erat res antehac invisa, & mali Exempli, ac, ut per magnas rationes ostendit & luculenter declaravit Reverendissimus Pater antedictus, posset cedere in Ecclesiæ Anglicanæ magnum detrimentum & jacturam; dicebat, quod super hujusmodi facto vellet ipsos consulere, & super eisdem deliberare.*

*d* The said Council should perish] For England was so far from admitting Cardinals, who were Foreigners, to any part in their publick Councils; that it became an established Rule, that if any Englishman was made a Cardinal, he should thereby become utterly incapable of being of the King's Council. Infomuch that Cardinal Beaufort, tho' of the Blood Royal, could not be admitted one of the King's Counsellors, but by a special Declara-

tion of Parliament, for that purpose, and upon an Oath by him taken, to retire out of the Council, as oft as any Matters concerning the two Courts of England and Rome should be under consideration. The Record sets forth, *Quod transactis temporibus, in regno Angliæ visum non fuerit, ut speratur, quod aliqui Anglicæ Nationis ad statum & dignitatem Cardinalis per sedem Apostolicam sublimati, post susceptam hujusmodi Dignitatem, ad interessendum Concilii Regiis, veluti Regis & Regni Conciliarii, hætenus admissi extiterunt.* After which, having recited the Cardinal's Relation to the King, and his great Merits and Abilities; it follows, *De avisamento & assensu Dominorum Spiritualium & Temporalium in præsentī Parlamento existens concordatum fuit & unanimiter avisatum, quod præfatus Cardinalis ad interessendum Conciliis Regiis, ut unus Consiliariorum suorum, nedum admitti, set etiam ad intendendum eisdem Conciliis ex parte ejusdem Domini Regis requiri deberet specialiter, & hortari: Sub protestatione tamen subsequente, videlicet, Quod quotiens aliqua materiæ, causæ, vel negotia, ipsum Dominum Regem, aut regna seu Dominia sua ex parte unâ, ac Sedem Apostolicam ex parte alterâ, concernentia, in hujus Conciliis Regiis communicand' & tractand' fuerint, idem Cardinalis se ab hujusmodi Concilio absentet, & communicationi eorundem Causarum, Materialium, & Negotiorum non intersit quovis modo. —*

Abridgment.

--also that the Clergy were the greatest part of the King's Council,

--that the Pope doth encroach upon Patrons, and present,

--to the defeating the Ends of the said Foundations, and damage of the King, and the said Patrons,

--which the said Parliament declared, should not be suffer'd any longer.

And now a new Petition is presented to the King, setting forth the continuance and increate of these Encroachments upon Patrons,

--and the Mischiefs to the Nation and Clergy,

Registr. Conv. ann. 1438.

Rot. Parl. 8. H. 6.



## Abridgment.

-- and praying Records pursuant to his Oath.

The King in regard to the said Statute, and sensible of the said Mischiefs,

---and having also regard to the complaints of his People,

Ordereth,  
---that all Elections shall be free,

---That People of H. Church shall enjoy their Presentments,

---and if the Pope Reserve a Promotion Elective, the King shall have the Collation; as being originally in the Crown,

---and Election anciently granted and confirmed by the Crown,

---and so, in case of Provision of Religious Houses of the King's Avowry,

---and of Benefices of People of Holy Church, whereof the K. is Avowee Paramount;

---saving to them, and all others, their right of Avowsons at other times,

---but if such Avowees present not within the half year, nor the Bishop within a Month after, the King may Present.

have peaceably holden their advancements by long time, be suddenly put out: whereupon the said Commons have prayed our said Lord the King, that sith the right of the Crown of England, and the Law of the said Realm is such, that upon the mischiefs and damages which happen to his Realm, he ought, and is bound by his Oath, with the accord of his people in his Parliament, thereof to make remedy and law, and in removing the mischiefs and damages which thereof ensue, that it may please him thereupon to ordain remedy.

III. Our Lord the King seeing the mischiefs and damage before mentioned, and having regard to the said Statute, made in the time of his said Grandfather, and to the causes contained in the same; which Statute holdeth always his force, and was never defeated, repealed, nor annulled in any point, and by so much he is bounden by his Oath to cause the same to be kept as the law of this Realm, though that by sufferance and negligence it hath been sithence 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 ordain remedy for the great damages and mischiefs which have happened, and daily do happen to the Church of England by the said cause: By the assent of all the Great Men and the Commonalty of the said Realm, to the honour of God, and profit of the said Church of England, and of all his Realm, hath ordered and established, That the free elections of Archbishops, Bishops, and all other Dignities and Benefices elective in England, shall hold from henceforth in the manner as they were granted by the King's progenitors, and the Ancestors of other Lords, founders of the said dignities and other benefices. And that all Prelates and other people of holy Church, which have advowsons of any benefices of the King's gift, or of any of his Progenitors, or of other Lords and Donors to do Divine Services and other charges thereof ordained, shall have their Collations and Presentments freely to the same, in the manner as they were enfeoffed by their Donors. And in case that Reservation, Collation, or Provision be made by the Court of Rome of any Archbishoprick, Bishoprick, Dignity, or other Benefice, in disturbance of the free Elections, Collations, or Presentations aforesaid, that at the same time of the avoidance, that such reservations, collations and provisions ought to take effect, our Lord the King and his heirs shall have and enjoy for the same time the collations to the Archbishopricks and other dignities elective, which be of his advowry, such as his Progenitors had, before that free election was granted, since that the election was first granted by the King's Progenitors upon a certain form and condition, as to demand licence of the King to chuse, and after the election to have his royal assent, and not in other manner. Which conditions not kept, the thing ought by reason to resort to his first nature.

IV. And if any such reservation, provision, or collation be made of any house of Religion of the King's advowry, in disturbance of free election, our Sovereign Lord the King, and his heirs, shall have for that time the collation to give this dignity to a convenient person. And in case that collation, reservation or provision be made by the Court of Rome of any Church, prebend or other benefices, which be of the advowry of people of holy Church, whereof the King is avowee paramount immediate, that at the same time of the voidance, at which time the collation, reservation, or provision ought to take effect as aforesaid is said, the King and his heirs thereof shall have the presentment or collation for that time. And so from time to time, whensoever such people of holy Church shall be disturbed of their presentments or collations, by such reservations, collations, or provisions, as aforesaid is said: saving to them the right of their advowsons and their presentments, when no collation or provision of the Court of Rome is thereof made, where that the said people of holy Church shall or will to the same benefices present or make collation: And that their Presentees may enjoy the effect of their collations or presentments. And in the same manner every other Lord, of what condition that he be, shall have the collations or presentments to the houses of Religion which be of his advowry, and other benefices of holy Church which be pertaining to the same houses. And if such avowees do not present to such benefices within the half year after such voidances, nor the Bishop of the place do not give the same by lapse of time within a month after half a year: that then the King shall have thereof the presentments and collations, as he hath of other

Papal Provisions of Benefices. &c. proposed and prohibited.



Papal Pro-  
visions of  
Benefices,  
&c. opposed  
and pro-  
hibited.

other of his own adbowry. And in case that the Presentees of the King, or the Presentees of other Patrons of holy Church, or of their Adbowees, or they to whom the King or such Patrons or Adbowees aforesaid have given Benefices pertaining to their presentments or collations, be disturbed by such provisors, so that they may not have possession of such Benefices, by vertue of the presentments or collations to them made, or that they which be in possession of such Benefices be impeached upon their said possessions by such Provivors; then the said Provivors, their procurators, executors, and notaries, shall be e attached by their Body, and brought in to answer: And if they be convict, they shall abide in prison without being let to mainprise or bail, or otherwise delivered, till that they have made fine and ransom to the King at his Will, and gree to the party that shall feel himself grieved. And nevertheless before that they be delivered, they shall make full renunciation, and find sufficient surety, that they shall not attempt such things in time to come, nor sue any Process by them, nor by other against any man in the Court of Rome, nor in any part elsewhere, for any such Imprisonments, or Renunciations, nor any other thing depending of them.

V. And in case that such Provivors, Procurators executors, or notaries be not found, that the g Exigent shall run against them by due process, and that Writ shall go forth to take their bodies in what parts they be found, as well at the King's suit, as at the suit of the party, and that in the mean time the King shall have the Profits of such benefices so occupied by such Provivors, except Abbeyes, Priors, and other Houses, which have Colleges or Cobents, and in such Houses the Colleges and Cobents shall have the profits: saving always to our Lord the King, and to all other Lords, their old right. And this Statute shall have place, as well of reservations, collations, and provisions made and granted in times past against all them which have not yet obtained corporal possession of the Benefices granted to them by the same reservations, collations, and provisions, as against all other in time to come. And this Statute ought to hold place, and to begin at the said Utas.

e Attached by their Body] For which Attachment, a special Writ is provided, of the following tenor:

Rex vicecomitibus & omnibus ballivis, ministris, & fidelibus suis, tam infra libertates quam extra, ad quos, &c. salutem. Sciatis quod cum ad ecclesiam de F. vacantem, & ad nostram donationem spectantem, ratione temporalium prioratus de Lenton' in manu nostra occasione guerra inter nos & illos de Franc' motæ existentium, dilectum clericum nostrum R. de E. presentaverimus regio jure nostro, idemque clericus noster in ecclesia illa canonicè sit institutus, jamque intelleximus quod S. de T. clericus & W. machinantes jus nostrum enervare in hac parte & possessionem dicti clerici nostri impedire, pretendentesque eidem S. de quodam beneficio ecclesiastico spectante ad collationem dicti prioris per curiam Romanam fore provisum, ecclesiam illam vi armata sæpius ingressi fuerunt, & indies ingredi non desistunt, & decimas & proficua ecclesie illius occupant & multipliciter dilapidant, hominibus & serviensibus ipsius clerici nostri intantum comminando, quod ipsi ea, quæ sibi in hac parte incumbunt faciendæ, facere seu exercere ausi non existunt, in nostri contemptum, & tam juris nostri derogationem quam coronæ nostræ exheredationem, nec non ipsius clerici nostri damnum & jacturam multiplicem: nos jura nostra regia illæsa conservari, & impugnatores eorundem puniri, & quod justum fuerit in hac parte, fieri violentes, assign-

avimus dilectos nobis A. B. C. & D. conjunctim & divisim, ad ipsos S. & W. ubicunque inventi fuerint, sive infra libertates sive extra, per corpora sua attachiandos, & ipsos usque prisonam nostram de Newgate ducendos, vicecomitibus nostris London' ibidem deliberandos, in gaola prædicta salvè & securè custodiri faciend', donec aliud inde præceperimus. Et ideo vobis omnibus & singulis firmiter injungendo mandamus, quod eisdem A. B. C. & D. & eorum cuilibet, in præmissis faciend' consulentes & auxiliantes sitis & intendentes, quoties & prout per ipsos vel eorum aliquem super hoc fueritis præmoniti ex parte nostra. In cujus, &c. T. custode, &c. Per concilium Anno xiiii.

f Renunciation] The Form of Renunciation, as well before that Statute, as after, was to this effect, I renounce all the words comprised in the Pope's Bull, to be made of the Bishoprick of A (or the like,) the which be contrary or prejudicial to the King our Sovereign Lord, and to his Crown; and of that I put myself humbly in his Grace, praying to have Restitution of the Temporalities of my said Church, &c.

g Exigent] A Writ, in Action personal, which goes out, when the Defendant cannot be found, nor hath any thing in the County; to the end, that, after due Proclamation made, he may be out-law'd, and all his Goods and Chattels forfeit to the King, in case he do not appear.

Abridgment.

In case of disturbance to Patrons by Provisions,

--the Provivors, &c. shall be attached,

---and make fine, &c.

---and find sureties.

The Provivors, &c. not being found, a Writ shall issue to take their Bodies,

--- and in the mean time, the King shall have the Profits, except in Convents, &c.

This Statute shall hold good against all Provisions heretofore granted, which have not obtained corporal Possession.

Regist. f. 61. a.  
Commissio ad  
capiendum im-  
pugnatores juri-  
um regis, &c. &  
ad ducendum ad  
ga-lam de New-  
gate.

Co. 3. Inst.  
P. 127.



## Abridgment.

## 27 Edw. III. Cap. I.

<sup>b</sup> *Præmunire* for suing in a foreign Realm, or impeaching of Judgment given.

The Grievance of being drawn out of the Realm for Judgment, in Causes belonging to the King's Court, and already determined.

Whoever shall draw any out of the Realm, as aforesaid, shall have a day to appear before the proper Court,

--and if they come not at the day, they shall be put out of the King's Protection, and their Lands, &c. forfeited, and they imprisoned,

Ne qu's trahatur in causam extra regnum. Reg. r. f. 60. a.

3 Inst. p. 120.

**F**irst, Because it is shewed to our Lord the King, by the grievous and clamorous complaints of the great men and Commons aforesaid, how that divers of the people be, and have been drawn out of the Realm, to answer of things, whereof the Cognizance pertaineth to the King's Court: and also that the Judgments given in the same Court be impeached in another Court, in prejudice and dishonour of our Lord the King, and of his Crown, and of all the people of his said Realm, and to the undoing and destruction of the Common Law of the same Realm at all times used. Whereupon good deliberation had with the great men and other of his said Council, it is assented and accorded by our Lord the King, and the great men and Commons aforesaid, that all the people of the King's Ligeance, of what condition that they be, <sup>bb</sup> which shall draw any out of the Realm in plea, whereof the cognizance pertaineth to the King's Court, or of things whereof Judgments be given in the King's Court, or which do sue in any other Court to defeat or impeach the Judgments given in the King's Court, shall have a day, containing the space of two months, by warning to be made to them in the place where the possessions be which be in debate, or otherwise where they have lands or other possessions, by the Sheriffs or other the King's ministers, to appear before the King and his Council, or in his Chancery, or before the King's Justices in his places of the one Bench or the other, or before other the King's Justices which to the same shall be deputed, to answer in their proper persons to the King, of the contempt done in this behalf. And if they come not at the said day in their proper person to be at the Law, they, their Procurators, Attorneys, Executors, Notaries, and Maintainers, shall from that day forth be put <sup>m</sup> out of the King's protection, and their lands, goods, and chattels forfeit to the King, and their bodies wheresoever they may be found, shall be taken

<sup>b</sup> *Præmunire*] So called from the Words of the Writ, in that case; *Rex Vice Comiti, &c. Præmunire facias præfatum A. B. quod tunc sit coram nobis, &c.*

<sup>bb</sup> [Which shall draw any] In which Case, a Writ is provided, of the following Form:

*Rex, A. salutem. Cum secundum cons' in regno nostro hæcenus obtentam & approbatam, nullus de eodem regno, super his quorum cognitio ad nos & curiam nostram dignoscitur pertinere, trahi non debeat in causam extra idem regnum, ac tu I. super causis pecuniariis & aliis, vel sic, super diversis causis quarum cognitio ad nos pertinet, trahas in placitum extra idem regnum, in læsionem coronæ & dignitatis nostræ, & contra consuetudinem præd' sicut ex relatu plurium accepimus: tibi districte prohibemus, ne præfatum I. cites seu citari procures, ad comparandum coram aliquo iudice extra idem regnum, tibi super hujusmodi responsurum, nec aliquid contra ipsum attentetis vel attentari faciatis, quod in derogationem regniæ dignitatis nostræ, seu in læsionem consuetudinis prædictæ cedere valeat quovis modo; maxime cum præfatus I. paratus sit infra idem regnum in omnibus stare juri. Et si quid per te in præmissis minus ritè attentatum fuerit; tu id revocari facias indilate, taliter te habens in hac parte, ne ad te tanquam ad impugnatorem regniæ dignitatis nostræ capere debeamus. T. meipso, &c.*

<sup>i</sup> [Any other Court] My Lord Coke interprets this of the Courts within this Realm, which are not Courts of Common-Law, viz. Ecclesiastical Courts, the

Court of Admiralty, Court of the Constable and Marshal, and of Equity proceeding in course of Equity. And he says, they are called *other Courts*, either because they proceed by the Rules of *other Laws*, as by the Canon or Civil-Law, &c. or by *other Trials* than the Common-Law doth warrant. For the Trial warranted by the Law of England for matters of *Fact*, is by verdict of twelve Men, before the Judges of the Common-Law, or matters pertaining to the Common-Law, and not upon Examination of Witnesses in any Court of Equity. So as *alia Curia*, is either that which is governed *per aliam Legem*, or which draweth the party *ad aliud Examen*. But of this, so far as concerns the *Spiritual Courts*, more will be spoken under the Title *Prohibitions*.

<sup>k</sup> [And his Council] That is, the Lords of Parliament in Parliament; who are a Court of Justice.

<sup>l</sup> [If they come not] Or if they do come, and plead, and the issue be found against them, the Judgment shall be the same.

<sup>m</sup> [Out of the King's Protection] By these words, the Persons attainted in a Writ of *Præmunire*, are disabled to have any Action or Remedy by the King's Law or the King's Writs; for the King's Law, and the King's Writs, are the things whereby a Man is protected and aided, so as he who is out of the King's Protection, is out of the Aid and Protection of the Law.

Papal Provisions of Benefices, &c. opposed and prohibited.

A.D. 1353

ibid. 125.

ibid.

Co. 1. Inst. Sect. 199. 3. Inst. p. 126.

and



Papal Provisions of Benefices, &c. opposed and prohibited.

and imprisoned, and ransomed at the King's Will. And upon the same a Writ shall be made to take them by their Bodies, and to seize their Lands, Goods and Possessions, into the King's Hands. And if it be returned, that they be not found, they shall be put in exigent and out-lawed

II. Prohibited always, that at what time they come before they be out-lawed, and will yield them to the King's prison, to be justified by the Law, and to receive that which the Court shall award in this behalf, that they shall be thereto received. The Forfeiture of the Lands, Goods and Chattels abiding in their force, if they do not yield them within the said two Months, as afoze is said.

Such a Writ we find in the Register, of the following Form ;

Rex, vicecomiti salutem. Præcipimus tibi quòd non omittas propter &c. quin capias L. de C. & L. de B. qui extra protectionem nostram tam ad seclam nostram quam I. clerici positi sunt, ed quòd idem L. de C. persecutus fuit placitum in aliena curia, videlicet in curia Romana extra regnum nostrum Angliæ, de patronatu ecclesiæ de

I. Lincoln' dioc', quæ de laicali patronatu I. de B. & L. de P. existit, & præfatus L. de B. manutentor ejusdem L. de C. ad præmissa faci- enda extitit, contra formam ordinationis & pro- visionis in bujismodi casu editarum, si, &c. & eum in prisora nostra salvò custodiri facias, ita quòd, &c. octavis Hiliarii ad respondendum tam nobis de contemptu & præjudicio in præmissis factis, quam prædicto I. de B. de damnis sibi in ea parte illatis. Et habeas, &c. T. &c.

Capias jux'a for- mam statuti de provisibibus. Registr. Jud. f. 82. b.

A.D. 1363.

38 Edw. III.

Here beginneth the Statute of Provisors made at Westminster the xxxviij. year of King Edward the third.

To nourish love, peace and concord between Holy Church and the Realm, 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 that shall happen hereafter, if the thing from henceforth be suffered to pass, because of personal citations and other that be past before this time, and commonly do pass from day to day out of the court of Rome by feigned and false suggestions and propositions, against all manner of persons of the Realm, upon causes, whose cognisance and final discussing pertaineth to our Sovereign Lord the King and his Royal Court, and also of impetrations and provisions of Benefices and Offices of Holy Church, pertaining to the gift, presentation, donation, and disposition of our said Sovereign Lord the King, and the other Lay Patrons of his Realm, as of Churches, Chappels, and other Benefices appropried to Cathedral Churches, Abbeyes, Priories, Chauntries, Hospitals, and other poor houses, and of other dignities, offices, and benefices occupied in the times past, and presented by divers and notable Persons of the said Realm, for which causes and dispensing thereof, the good ancient Laws, usages, customs, and franchises of the said Realm have been and be greatly appeired, blemished, and confounded, the Crown of our Sovereign Lord the King diminished and his person falsely defamed, the treasure and riches of his Realm carried away, the inhabitants and subjects of the Realm impoverished and troubled, the Benefices of Holy Church wasted and destroyed, divine services, hospitalities, alms deeds, and works of charity withdrawn and set apart, the commons and subjects of the Realm in body and goods travelled.

II. Our Sovereign Lord the King, at his Parliament holden at Westminster in the Citas of St. Hillary, the xxxviij. year of his reign, having regard to the quietness of his people, which he chiefly desireth to sustain in tranquillity and peace, to govern according to the laws, usages, and franchises of his land, as he is bound by his Oath made at his Coronation, following the ways of his Progenitors, which for their time made certain good ordinances and provisions against the said grievances and perils : which ordinances and provisions, and all the other made in his time, and especially in the xxv. and xxviij. year of his reign, our Sovereign Lord the King, by the assent and express will and concord of the Dukes, Earls, Barons, and the Commons of his Realm, and of all other whom these things toucheth,

Abridgment.

--and, not being found at all, out-lawed ;

-- but if they come before they be out-lawed, they shall be admitted to the Law.

Papal Encroachments,

--in undue Citations to the Court of Rome,

--and Provisions of Benefices,

---with the mischiefs thereof, to the King and Nation, and to the Church and Clergy.

For Remedy whereof it is ordained;

---(with saving to Prelates, and Lords,



## Abridgment.

the Liberty of their  
bodies,

--that all Persons  
purchasing Citations  
from Rome,

--or Provisions of  
Deanries and other  
Promotions,

--or of Rents a-  
mortised and ap-  
propriated,

--or of Dignities  
and Benefices full  
of Incumbents,

---shall be arrested,  
and (being convicted)  
shall be punished  
according to the  
foregoing Statute,  
25 E. 3.

They who can-  
not be attached; if  
they appear not in  
two Months, shall  
be punished accord-  
ing to 27 E. 3. c. 1.

--and otherwise at  
the K.'s pleasure.

No Subject keep-  
ing these Ordinances,  
shall incur any  
forfeiture,

---but Offenders  
Convict shall be  
out of the King's  
Protection, &c.

by good and meeer deliberation and advisement, hath approved, accepted, and confirmed: Saving the estate of the Prelates and other Lords of the Realm, touching the liberties of their bodies, so that by force of this Statute their bodies be not taken: Joyning to the same, hath provided and ordained, that all they, which have obtained, purchased, or pursued such personal Citations or other in any times past, or hereafter shall obtain, purchase or pursue such like, against him or any of his subjects, and also all they that have obtained or shall obtain in the said Court, Deanries, Archdeaconries, Provosties, and other dignities, offices, Chappels, or Benefices of Holy Church, pertaining to the collation, gift, presentation, or disposition of our said Sovereign Lord the King, or of other Lay patron of his said Realm, and also all like persons, obtainers of Churches, Chappels, Offices, or Benefices of Holy Church, Pensions or rents amortised and appropriated to Churches Cathedral or Collegial, Abbeyes, Priories, Chauntries, Hospitals, or other poor houses, befoze that such appropriations, amortisements, be void adnullled by due process; also all they which have obtained in the same Court, dignities, offices, hospitals, and any Benefices of Churches, which be occupied at this present season by reasonable title by any persons of the said Realm, if such impetrations be not fully executed, or shall obtain hereafter like Benefices, whereby prejudice, damage, or impeachment hath been or may be done hereafter to him or to his said subjects, in persons, heritages, possessions, rights or any goods, or to the laws, usages, customs, franchises and liberties of his said Realm and of his Crown; also all their maintainers, counsellors, abettors, and other aiders and favourers wittingly, as well at the suits of the King as of the party, or other whatsoever he be of the Realm, finding pledges and surety to pursue against them: in this case all the said persons defamed and violently suspect of any such impetrations, pursuits, or grievances, by suspicion, shall be arrested and taken by the Sheriffs of the places and Justices in their Sessions, Deputies, Bailiffs and other the King's Ministers, by good and sufficient Mainprise, Replevin, Bail, or other surety (the shortest that may be) and shall be presented to the King and his Council, there to remain and stand to right, to receive what the Law will give them. And if they be attainted or convict of any of the said things, they shall have the pain comprised in the Statute made in the twenty fifth year of the reign of our Sovereign Lord the King, which beginneth, Whereas late in the Parliament, &c.

III. Item, if any person defamed or suspect of the said impetrations, prosecutions, or grievances, or interprises, be they out of the Realm or within, and may not be attached nor arrested in their proper persons, and do not present them befoze the King or his Council within two months next after, that they be thereupon warned in their places (if they have any) in any of the King's Courts, or in the Counties, or befoze the King's Justices in their Sessions, or otherwise sufficiently to answer to the King and to the party, to stand and be at the Law in this case befoze the King and his Council; shall be punished by the form and manner comprised in the Statute made in the said seven and twentieth year of this King's reign, which beginneth, Our Sovereign Lord the King of the assent, &c. and otherwise as to the King and his Council shall seem to be done, without any grace, pardon, or remission to be made by the King, without the will and assent of the party which shall prove him to be grieved, and without making to him due satisfaction in this case.

IV. Item, it is accorded, that none other subject of the said Realm, keeping and sustaining these ordinances, shall incur any forfeiture of life and member, of Lands, of heritage, nor of goods, against the King, nor none other person, nor lose estate nor favour because of the said things ordained, nor his heirs may not nor ought not to be reproved, defamed, nor impeached by any of the said causes at any time hereafter. And if any person, of whatsoever estate or condition that he be, by any manner, attempt or do a thing against the said ordinances, or any thing comprised in them, the same person shall be brought to answer in the manner as afore is said, and if he be thereupon attainted or convict, he shall be put out of the King's protection, and punished after the form of the said Statute made the said xxvij. year.

o Punished] See 13 Eliz. c. 2. where the Offences are made High-Treason.

Papal Pro-  
visions of  
Benefices,  
&c. opposed  
and pro-  
hibited.

V. Item,



*Papal Provisions of Benefices, &c. opposed and prohibited.*

V. Item, if any person maliciously or falsely make any pursuit against any person of the said Realm, for cause comprised in these present ordinances, and thereof be duly attainted, such Plaintiff shall be duly punished at the ordinance of the King and his Council, and nevertheless he shall make gree and amends to the party grieved by his pursuit. And to the intent that the said ordinances, and every of the same, for the ease, quietness, and wealth of the Commons be the better sustained, executed and kept, and that all those which have offended or shall offend against these ordinances, by prosecutions, accusations, denunciations, citations or other process made or to be made out of the said Realm or within, or otherwise against any manner of person of the said Realm, be the more convenient and speedily brought in answer, to receive right according to their desert: The King, the Prelates, Dukes, Earls, Barons, Nobles, and other Commons, Clerks and Lay-people, be bound by this present ordinance to aid, comfort, and to counsel the one and the other, and as often as shall need, and by all the best means that may be made, of word and of deed, to impeach such offenders and resist their deeds and enterprises, and without suffering them to inhabit, abide, or pass by the Seignories, possessions, lands, jurisdictions, or places, and be bound to keep and defend the one and the other from all damage, villainy and reproof, as they should do their own persons, and for their deed and business, and by such manner, and as far forth as such prosecutions or process were made or attempted against them in especial, general or in common.

A.D. 1388.

12 Ric. II. Cap. 15.

*An Act that none pass out of the Realm to obtain Benefice.*

Item, that no liege man of the King, of what estate or condition that he be, great or little, shall pass over the sea, nor send out of the Realm of England by licence nor without licence, without special leave of the King himself, to provide or purchase for him Benefice of holy Church, with cure or without cure, in the said Realm: and if any do, and by vertue of such provision, accept by him or by any other, any Benefice of the said Realm, that at that time the same Provisor shall be out of the King's protection, and the same Benefice void, so that it shall be lawful to the Patron of the same Benefice, as well Spiritual as Temporal, to present to the same an able Clerk at his pleasure.

A.D. 1389.

13 Ric. II. (St. 2.) Cap. 2.

*A Confirmation of the Statute of Provisors made Anno 25 Edw. 3. And the forfeiture of him that accepteth a Benefice contrary to that Statute.*

Item, Whereas the noble King Edward, Grandfather to our Lord the King that now is, at his Parliament holden at Westminster at the feast of the Purification of our Lady, the five and twentieth year of his Reign, caused to be rehearsed the Statute made at Carlisle in the time of King Edward, son of King Henry, touching the estate of the holy Church of England: The said Grandfather of the King that now is, by the assent of the great men of his Realm, being in the same Parliament, holden the said five and twentieth year, to the honour of God and of holy Church, and of all his Realm, did ordain and establish, that the free elections of Archbishops, Bishopricks, and all other Dignities and Benefices elective in England, should hold from thenceforth in the manner as they were granted by

*A Confirmation*] In the Parliament Roll, 13 R. 2. there is entred a Protestation made in Parliament by the Archbishops of Canterbury and York, for themselves and their respective Suffragans, of the following Tenor: *Quod nolumus, nec intendimus, alicui Statuto in presentii Parlamento nunc nroiter edito, nec antiquo pretenso innovato, quatenus Statuta hujusmodi, seu eorum aliquod, in restrictionem*

*Potestatis Apostolicæ, aut in Subversionem, E-nervationem, seu Derogationem Ecclesiasticæ Libertatis tendere dinoscuntur, quomodolibet consentire, set eisdem dissentire, reclamare & contradicere, ac dissentimus, reclamamus, & contradicimus, in hiis scriptis, prout semper dissentimus, reclamavimus, & contradiximus temporibus retroactis.*

Abridgment.

None shall prosecute others maliciously.

A mutual Engagement between the King, Clergy and Laity, to abide by one another in defence of this Act.

None shall go or send to Rome, to provide Benefice, without Licence from the King,

---upon pain to be out of the King's protection, and the Benefice void.

Rehearsal of the Stat. 25 E. 3.



## Abridgment.

...which the King caused to be recited in this Parliament.

The said Statute shall hold good, in all Dignities and Benefices, that shall become vacant, after Jan. 29.

...and if any do contrary to it, he shall be banished, and his Goods confiscated.

...and Receivers, Procurators, &c. shall suffer the same Penalties.

Proviso for all who were in possession before Jan. 29.

Penalties of suing Provision at Rome, shall be,

...if a Prelate, one year's profit,

...if a Temporal Lord, one years value of possessions,

...if a meaner Person, one years value, and one years Imprisonment.

No man possessed of a Benefice on Jan. 29. shall be disturbed by Provision obtained before.

his Progenitors, and by the Ancestors of other Lords Founders; and that all Prelates and other people of holy Church, which had Advowsons of any Benefices of the gift of the King; or of his Progenitors; or of other Lords and Donors, should freely have their collations and presentments, and thereupon a certain punishment was ordained in the same Statute for them which accept any Benefice or Dignity contrary to the said Statute made at Westminster, the said 25th year, as aforesaid; which Statute our Lord the King hath caused to be recited in this present Parliament, at the request of his Commons in the same Parliament: The tenor whereof is such as hereafter followeth: Whereas late in the Parliament of good memory of Edward, King of England, &c. rehearsing the whole Statute made the said xxv. year; and then thus: Our Lord the King that now is, of the assent of the great Men of his Realm, being in this present Parliament, hath ordained and established, that for all Archbishopricks, Bishopricks, and other Dignities and Benefices elective, and all other Benefices of holy Church which shall begin to be void in deed the xxix. day of January; the thirteenth year of the Reign of our Lord King Richard that now is, or after, or which shall be void in time to come within the Realm of England, the said Statute made the said xxv. year, shall be firmly holden for ever, and put in due execution from time to time in all manner of points. And if any do accept of a Benefice of holy Church contrary to this Statute, and that duly proved, and be beyond the Sea, he shall abide exiled and banished out of the Realm for ever, his lands and tenements, goods and chattels shall be forfeit to the King; and if he be within the Realm he shall be also exiled and banished as aforesaid is said, and shall incur the same forfeiture, and take his way, so that he be out of the Realm within six weeks next after such acceptance. And if any receive any such person banished, coming from beyond the Sea, or being within the Realm after the said six weeks, knowing thereof, he shall be also exiled and banished, and incur such forfeiture as aforesaid is said. And that their Procurators, Notaries, Executors, and Summoners, have the pain and forfeiture aforesaid.

II. Provided nevertheless, that all they to whom the Pope of Rome, or his Predecessors, have provided any Archbishoprick, Bishoprick, or other Dignity, or other Benefices of holy Church, of the patronage of people of holy Church, in respect of any voidance, before the said xxix. day of January, and thereof were in actual possession before the same xxix. day, shall have and enjoy the said Archbishopricks, Bishopricks, Dignities, and other Benefices peaceably for their Lives, notwithstanding the Statutes and Ordinances aforesaid. And if the King send by Letter or in other manner to the Court of Rome, at the intreaty of any person, or if any other send or sue to the same Court, whereby any thing is done contrary to this Statute touching any Archbishoprick, Bishoprick, Dignity or other Benefice of holy Church within the said Realm, if he that maketh such motion or suit be a Prelate of holy Church, he shall pay to the King the value of his temporalities of one year; and if he be a temporal Lord, he shall pay to the King the value of his Lands and possessions not moveable of one year. And if he be another person of a more mean estate, he shall pay to the King the value of the benefice for which suit is made, and shall be imprisoned one year. And it is the intent of this Statute, that of all Dignities and Benefices of holy Church, which were void indeed the said xxix. day of January, which be given, or to whom it is provided by the Pope of Rome before the same xxix. day, that they to whom such gifts or provisions be made, may freely of such Gifts and Provisions sue execution without offence of this Statute. Provided always, that of no Dignity or Benefice which was full the said xxix. day of January, no man because of any Collation, Gift, Reservation and Provision, or other grace Papal, not executed before the said xxix. day, shall not sue thereof execution, upon the Pains and Forfeitures contained in this present Statute.

Papal Provisions of Benefices, &c. opposed and prohibited.



Papal Pro-  
visions of  
Benefices,  
&c. opposed  
and pro-  
hibited.

A. D. 1389.

13 Ric. II. (Stat. 2.) Cap. 3.

The Penalty of him which bringeth a Summons, or Excommu-  
nication, against any Person upon the Statute of Provisors,  
and of a Prelate executing it.

Item, It is ordained and established, that if any man bring or  
send within the Realm, or the King's Power, any summons, sentence  
or excommunication against any person of what condition that he be,  
for the cause of making motion, assent, or execution of the said Sta-  
tute of Provisors, & he shall be taken, arrested, and put in prison, and  
forfeit all his Lands and Tenements, Goods and Chattels for ever,  
and incur the pain of life and member. And if any Prelate make  
execution of such summons, sentences or excommunications, that his

¶ If any man] Though these words are  
general, yet they extend not to Ecclesiasti-  
cal Persons, because there is special Provi-  
sion for them afterwards.

¶ He shall be] By the Common-Law,  
when any person, either Ecclesiastical or  
Temporal, did by pretext of Foreign Pow-  
er, impugn, or attempt to frustrate, any  
of the Laws of this Realm, several Writs  
were provided;

Rex venerabili in Christo patri R. eadem gra-  
tia archiepiscopo Cantuar' totius Angl' primati,  
salutem. Ad jura coron' nostr' integra & illæ-  
sa pro viribus conservanda, et amplius curam  
& operam adhibere nos convenit studiosam, quod  
ad hoc ex debito astringimur vinculo juramenti.  
Cum igitur recolend' memor' dominus E. quondam  
rex Angl' progenitor noster, magistrum Nicho-  
laum de T. clericum ad ecclesiam de Reyculvure  
dudum vacantem per mortem magistri S. de F.  
quondam parsonæ ejusdem Eccl' & ad donatio-  
nem suam spectantem, ratione temporalium ar-  
chiepiscopatus Cantuar' tunc in manu sua existen-  
tium, pleno jure regio præsentasset, idemq; N.  
virtute præsentationis illius in eadem ecclesia ca-  
nonicè institutus, & in corporalem possessionem  
ejusdem eccl' inductus fuisset, eandemq; eccle-  
siam virtute præsentationis, institutionis, & in-  
ductionis hujusmodi diutius tenuerit & adhuc te-  
neat pacificè & quietè; ac intellexerimus jam de  
novo quod quidam Bernardus de Bonisvilla, occa-  
sione cujusdam collationis sibi per summum ponti-  
ficem veritate tacita, in præjudicium juris no-  
stri regii ut dicitur dudum fact', quærens occasi-  
ones eundem N. gravandi indebitè, & suggerend'  
dicto summo pontifici eundem N. se in dictam ec-  
clesiam in contemptum sedis apostolicæ temerè in-  
trussisse, literas apostolicas de citando ipsum N.  
de comparando personaliter coram dicto summo  
pontifice super præmissis responsur' dirigi procura-  
vit. Et quia manifestum est, citationem hujus-  
modi, si taliter fieret, in coron' & regie dignita-  
tis nostræ præjudic' redundare: vobis prohibe-  
mus, ne prætextu alicujus bullæ vobis in hac  
parte direct' seu etiam dirigend' citationem hujus-  
modi facere, seu aliquid aliud quod in derogati-  
onem juris nostri regii aut status prædicti N. in  
ecclesiis prædicta enervationem cedere valeat,  
presumatis quomodolibet attentare. T. per ipsum  
regem.

Rex W. salutem. Turbamur nec immeritè & mo-  
vemur, dum illos, qui sub nostro degunt dominio,  
& ibidem beneficiis & redditibus honorantur, quo  
prætextu in defensione & tuitione jurium regie  
coronæ nostræ ipsos nobis assistere concederet; ead-  
em jura, erectis contra nos cervicibus conspici-

mus, satagentes pro viribus impugnare. Cum  
itaq; dominus Henricus, &c. præbendam De B.  
in ecclesia tali magistro E. contulerit regio jure  
suo, &c. ac jam intellexerimus, &c. ut inte-  
rius: nos attendentes quod in juris præjudicium  
& læsionem regie dignitatis nostr' manifestius re-  
dundaret, si collatio dicti patris nostri in hac  
parte frustraret' per te taliter in effectu, aut dis-  
cuteretur coram te quovis modo de jure collatio-  
nis supradict', cujus quidem juris discussio ad nos  
in car' nostra, & non ad alium dignoscitur perti-  
nere: tibi prohibemus ne quicquam &c. atten-  
tari, & sequestrum, &c. relaxari. T. R. &c.

Rex, decano & capitulo eccles. beati Petri  
Eborum, salutem. Ad conservationem jurium  
coronæ nostræ, et nos decet studiosius operam ad-  
hibere, quod ad hoc astringimur vinculo juramenti,  
& alios conspiciamus ad ipsorum jurium ener-  
vationem amplius anhelare. Cum itaque A. cler-  
icus præbend' de N. in ecclesia vestra præd'  
ex collatione nostra sibi inde pleno jure regio fa-  
cta, ac per considerationem cur' nostr' sit canon'  
assectus, ipsamque diutius tenuerit pacificè & qui-  
etè, ac jam intellexerimus quod quidam effectum  
collationis nostræ præd' frustrare pro viribus sa-  
tagentes, quasdam commissiones, quæ si procede-  
rent, in juris nostri regii præjudicium & ener-  
vationem collationis nostræ præd' cederent mani-  
festè, vobis jam de novo fieri procurarunt: nos  
attendentes quod in nostri dedecus & præjudici-  
um regii juris nostri manifestius redundaret, si  
collatio nostra præd' per vos frustraretur in ef-  
fectu, aut si super jure collationis ejusdem, cujus  
cognitio in regno nostro ad nos & non ad alium  
dignoscitur pertinere, discuteretur coram vobis  
quovis modo: vobis firmiter inhibemus, ne præ-  
textu alicujus commissionis vobis factæ vel etiam  
faciendæ, quicquam super præbenda prædict' no-  
bis inconsultis facere præsumatis, per quod juri  
coronæ nostræ derogari, aut effectus collationis  
nostræ præd' possit indebitè quomodolibet adnul-  
lari; sententias, si quas prætextu commissionum  
illarum fulminaveritis, sine dilatione aliqua revo-  
cantes. Et sciatis, quod si secus facere præsumpse-  
ritis, ad vos tanquam ad violatores regii juris  
nostri non immeritè graviter capiemus. T. Per  
breve de privato sigillo.

But the Punishment provided by the Com-  
mon-Law was not sufficient, and therefore  
this and other Statutes were made.

¶ The Pain of Life and Member] That is, of Felony. But this, and the suc-  
ceeding Penalties in this Statute, are al-  
tered by 13 Eliz. c. 2. by which, such of-  
fence, whether committed by Ecclesiastical  
or Temporal Persons, is made High-Treason.

Abridgment.

Whoever shall  
bring Summons,  
&c. from Rome, for  
executing the fore-  
said Statute, shall  
suffer Imprison-  
ment, and forfei-  
ture of Lands,  
Goods, and Chat-  
tels;  
-if a Prelate, sei-  
sure of his Temporalities,

3 Inst. p. 100.

Regist. f. 60. b.  
Prohibito ne  
quis citet cleri-  
cum regis ad re-  
spondendum per-  
sonaliter coram  
summo pontifice  
super his quo-  
rum cognitio per-  
tinet ad regem.

Regist. f. 61. a.  
Ad jura regia.

Regist. f.  
61. b.  
Ad jura re-  
gia: ne judi-  
ces delegati  
teneant pla-  
citum de ad-  
vocacione  
præbendæ  
quam rex  
conul t, &c.



Abridgment.

--if less, imprisonment and fine.

Temporalities be taken and abide in the King's Hands, till due redress and correction be thereof made. And if any person of less estate than a Prelate, of what condition that he be, make such execution, he shall be taken, arrested, and put in prison, and have imprisonment, and make fine and ransom by the discretion of the King's Council.

16 Ric. II. Cap. 5.

Præmunire for purchasing of Bulls from Rome. The Crown of England subject to none.

Papal Provisions of Benefices, &c. opposed and prohibited.

A.D 1392.

Recited.

That Advowsons were always triable in the King's Courts; and the Ordinary obliged to give Institution accordingly.

Item, Whereas the Commons of the Realm in this present Parliament have shewed to our redoubted Lord the King, grievously complaining, that whereas the said our Lord the King and all his liege people ought of right, and of old time were wont to sue in the King's Court, to recover their presentments to Churches, Prebends, and other benefices of holy Church, to the which they had right to present, the consistance of Plea of which presentment belongeth only to the King's Court of the old right of his Crown used and approved in the time of all his Progenitors Kings of England; and when judgment shall be given in the same Court upon such a plea and presentment, the Archbishops, Bishops, and other spiritual persons which have Institution of such Benefices within their jurisdiction, be bound, and have made execution of such judgments by the King's Commandments of all the time aforesaid, without interruption, (for another Lay person cannot make such execution,) and also be bound of right to make execution of many other of the King's commandments, of which right the Crown of England hath been peaceably seized, as well in the time of our Lord the King that now is, as in the time of all his Progenitors till this day. But now of late divers proceses be made by the Bishop of Rome, and censures of Excommunication upon certain Bishops of England, because they have made execution of such commandments, to the open disherison of the said Crown, and destruction of our said Lord the King, his Law and all his Realm, if remedy be not provided. And also it is said, and a common clamour is made, that the said Bishop of Rome hath ordained and purposed to translate some Prelates of the same Realm, some out of the Realm, and some from one Bishoprick into another within the same Realm, without the King's assent and knowledge, and without the assent of the Prelates, which so shall be translated, which Prelates be much profitable and necessary to our said Lord the King, and to all his Realm: by which translations (if they should be suffered) the Statutes of the Realm should be defeated and made void; and his said liege sages of his Council, without his assent, and against his will, carried away, and gotten out of his Realm, and the substance and treasure of the Realm shall be carried away, and so the Realm destitute as well of Counsel as of Substance, to the final destruction of the same Realm. And so the Crown of England, which hath been so free at all times, that it hath been in no earthly subjection, but immediately subject to God in all things touching the Regalty of the same Crown, and to none other, should be submitted to the Pope, and the Laws and Statutes of the Realm by him defeated and avoided at his will, in perpetual Destruction of the Sovereignty of the King our Lord, his Crown, his Regalty, and of all his Realm, which God defend.

--That the Pope had issu'd Excommunication against Bishops for executing the Commandments of the King's Courts, and had resolv'd to translate Bishops at pleasure,

--which (besides other Miltchiefs,) would destroy the Regal Supremacy,

---wherein all the Commons resolve to adhere to the Crown.

The Commons pray the King to examine the Lords severally, concerning this Matter,

---and the Lords Temporal, declare it to be in Derogation of the Crown,

---and also, the Lords Spiritual (with a saving to the Rights of the Pope to Excommunicate, and Tran-

II. And moreover the Commons aforesaid say, that the said things so attempted be clearly against the King's Crown and his Regalty, used and approved of the time of all his Progenitors: Wherefore they and all the liege Commons of the same Realm will stand with our said Lord the King, and his said Crown, and his Regalty in the cases aforesaid, and in all other cases attempted against him, his Crown, and his Regalty in all points, to live and to die. And moreover they pray the King, and him require by way of Justice, that he would examine all the Lords in Parliament, as well spiritual as temporal severally, and all the States of the Parliament, how they think of the cases aforesaid which be so openly against the King's Crown, and in derogation of his Regalty, and how they will stand in the same cases with our Lord the King, in upholding the rights of the said Crown and Regalty. Whereupon the Lords temporal so demanded, have answered every one by himself, that the cases aforesaid be clearly in derogation of the King's Crown, and of his Regalty, as it is well known, and hath been of a long time known, and that they will be with the same Crown and Regalty in these Cases specially and in all other cases which shall be attempted against the same Crown and Regalty in all points with all their power. And moreover it was demanded of the Lords spiritual there being, and the Procurators of others being absent, their advice and will in all these cases: which Lords, that is to say, the Archbishops, Bishops, and other Prelates being in the said Parliament severally examined, making protestations,

Spel. Vol. 2. 63.

[ To sue in the King's Court] So is the first Article of the Constitutions of Clarendon: De Advocacione & Presentacione Ecclesiarum, si Controversia emerferit inter Laicos, vel inter Laicos & Clericos, vel inter Clericos; in Curia Domini Regis tractetur & terminetur. that



Papal Provisions of Benefices, &c. opposed and prohibited.

that it is nor their mind to deny nor affirm that the Bishop of Rome may not excommunicate Bishops, nor that he may make Translation of Prelates after the Law of holy Church, answered and said, That if any executions of processs made in the King's Court (as before) be made by any, and censures of excommunication to be made against any Bishops of England, or any other of the King's liege People, for that they have made execution of such commandments; And that if any executions of such Translations be made of any Prelates of the same Realm, which Prelates be very profitable and necessary to our said Lord the King, and to his said Realm, or that the sage people of his Council, without his assent and against his will, be removed and carried out of the Realm, so that the substance and treasure of the Realm may be consumed, that the same is against the King and his Crown, as it is contained in the Petition before named. And likewise the same Procurators every one by himself examined upon the said matters, have answered and said in the name, and for their Lords, as the said Bishops have said and answered, and that the said Lords spiritual will and ought to be with the King in these cases in lawfully maintaining of his Crown, and in all other causes touching his Crown and his Regalty, as they be bound by their allegiance. Whereupon our said Lord the King, by the assent aforesaid, and at the request of his said Commons, hath ordained and established, that if any purchase, or pursue, or cause to be purchased or pursued in the Court of Rome, or elsewhere, by any such Translations, Processses, and Sentences of Excommunications, Bulls, Instruments, or any other things whatsoever which touch the King, against him, his Crown, and his Regalty, or his Realm, as is aforesaid, and they which bring within the Realm, or them receive, or make thereof notification, or any other execution whatsoever within the same Realm or without, that they, their notaries, procurators, maintainors, abettors, fautors, and counsellors, shall be put out of the King's protection, and their lands and tenements, goods and chattels, forfeit to our Lord the King: and that they be attached by their bodies, if they may be found, and brought before the King and his Council, there to answer to the cases aforesaid. Or that process be made against them by Præmunire facias, in manner as it is ordained in other Statutes of provisors: and other which do lie in any other Court in derogation of the Regalty of our Lord the King.

Abridgment. (late, Bishops) declare it to be against the Crown, and that they will abide by the King.

Ordained, that, all Persons purchasing Excommunications from Rome, &c. or executing them, shall be put out of the King's Protection, and forfeit Lands, Goods, &c. with Imprisonment, by judgment of King and Council,

---or Process shall be made against them by Præmunire facias.

Of the Advantages taken by the Courts of Common-Law against the Spiritual Courts, &c. under colour of this Clause, and of the Disputes concerning it, and the Petitions of the Clergy against it; an account will be given, by way of

Commentary upon this Clause, and to Title Prohibitions; which is conceive to be the most proper place; considering it as a Matter relating, not to the Court Rome, but only to the Courts of this Realm.

A.D. 1400.

2 Henr. IV. Cap. 3.

An Act against Provision made by the Court of Rome.

OBS.

Item, It is ordained and established, that if any Provision be made by the Bishop of Rome to any Person of Religion, or to any other Person, to be exempt of Obedience regular, or of Obedience ordinary, or to have any office perpetual within Houses of Religion, or as much as one regular Person of Religion or two or more have in the same, that if such Provivors from henceforth do accept or enjoy any such Provision: They shall incur the Pains comprised in the Statute of Provivors, made in the xiii. Year of King Richard II.

Provisions of Exemption, and of Office perpetual in Houses of Religion, shall be a Præmunire.

A.D. 1404.

6 Henr. IV. Cap. 1.

Here followeth the Statute made at Coventry, in the sixth year of King Henry the fourth.

OBS.

For the grievous Complaints made to our Sovereign Lord the King by his Commons of this Parliament, holden at Coventry, the vi. day of October, the vi. Year of his Reign, of the horrible Mischiefs and damnable Custom, which is introduced new in the Court of Rome, that no Parson, Abbot, nor other should have Provision of any Archbishoprick or Bishoprick, which shall be void, till that he hath compounded with the Pope's Chamber, to pay great and excessive Sums of Money, as well for the first fruits of the same Archbishoprick or Bishoprick, as for other less Services in the same Court, and that the same Sums or the greater part thereof be paid beforehand which Sums pass the treble or the double at the least; of that that was accustomed of old time to be paid to the said Chamber and otherwise, by the occasions of such Provisions, whereby a great part of the Treasure of this Realm hath been brought and carried to the said Court, and also shall be in time to come, to the great impoverishing of the Archbishops and Bishops within the same Realm and elsewhere within the King's Dominions, if convenient Remedy be not for the same provided: Our said Sovereign Lord the King, to the Honour of God, as well to eschew the Damage of his Realm as the perils of their Souls, which ought to be advanced to any Archbishopricks and Bishopricks within the Realm of England, and elsewhere within the King's Dominions out of the same Realm, by the Advice and Assent of the great Men of his Realm, in the Parliament hath ordained and established: That they and every of them that shall pay to the said Chamber or otherwise for such fruits and Services

The Court of Rome obliges Archbishops and Bishops to pay at least double of what they us'd to pay, before they can have Provision.

Those, who pay more than usual, shall forfeit as much as they may forfeit.



## Abridgment.

vices greater Sums of Money, than hath been accustomed to be paid in old time passed, They and every of them shall incur the Pain of the Forfeiture of as much as they may forfeit towards the same our Sovereign Lord the King.

## 7 Henr. IV. Cap. 8.

*No Provision, Licence, or Pardon shall be granted of a Benefice full of an Incumbent.*

Item, To eschew many dissentions, discords, and debates, and divers other mischiefs very like to rise and grow, because of many provisions made and to be made by the Pope, and also in respect of Licences granted upon the same by the King our Sovereign Lord: It is ordained and established, that no Licence or pardon so granted before this time, nor to be granted in time to come, shall be available to any Benefice full of any Incumbent, at the day of the date of such Licence or Pardon granted.

with the King's Writ of Pardon for the Contempt, notwithstanding the Statute of Provisors; the other, a general Dispensation of the King with all the Statutes of Provisors, upon a Papal Provision directed to the Archbishop of Canterbury.

Concerning the Exercise of the Regal Authority (supposed in the Statute) in dispensing with the Statutes of Provisors, and pardoning the breach of them, I have observed two Entries in the Records of Canterbury; one, a Process of Institution upon a Papal Bull,

## 9 Henr. IV. Cap. 8.

*An Act for Free Elections, and against Transportation of Money.*

Item, Our said Sovereign Lord the King considering how that the money of his Realm of England is in divers ways conveyed out of the same Realm to the Court of Rome in exchange, by provisions or provisions purchased of the Pope, and translations of Archbishopricks and Bishopricks; to the great impoverishing of the same Realm; hath ordained and established by the assent aforesaid, that all the Statutes and ordinances made against provisions, translations of Archbishopricks and Bishopricks, their Executors, Procurators, Notaries, Factors, Maintainers and Receivers, as well in the times of King Edward the third, and King Richard the second, as in the time of our said Sovereign Lord the King that now is, with all the pains and additions to the same, shall be from henceforth firmly holden and kept in all points, the moderation of the said Statutes made before this time to our said Sovereign Lord the King notwithstanding. And that from henceforth all the elections of all Archbishopricks, Bishopricks, Abbeys, Priories, Deanries, and other Dignities, or any other elections, be free, without being in any wise interrupted by the said Pope, or by commandment of our said Sovereign Lord the King. Provided always, that our said Sovereign Lord the King have as freely his Liberties and Prerogatives as any of his noble Progenitors hath had before this time, and as he himself had at the time of the making of this Statute.

And also the same our Sovereign Lord the King hath pardoned all them that have purchased Provisions or Translations of Archbishopricks or Bishopricks, purchased and executed and not executed before the first day of December, and all their Procurators, Notaries, Factors and Executors, all manner of Trespasses, Contempts, Forfeitures, and Dispositions done by them or any of them concerning the said Purchases, so that they may put their Grace in Execution, as well by themselves as by their Procurators, Notaries, and Executors aforesaid.

## 3 Hen. V. Cap. 4.

*All Provisions, Licences and Pardons of a Benefice full of an Incumbent, shall be void.*

Item, Whereas in the time of King Henry the fourth, father to our Sovereign Lord, whom God forgive, the seventh year of his Reign, to eschew many discords and debates, and divers other mischiefs, which were likely to rise and happen, because of many Provisions then made

Royal Licences to make good Papal Provisions, shall not be available to any Benefice full of Incumbent.

Reg. Arund. 26. a.

All former Statutes against Provisors, and Translations, shall be firmly holden,

and all Elections shall be free. (Proviso for the Rights of the Crown)

All Provisions till December 1, shall be pardon'd, and may be executed.

Recital of Stat. 7 H. 4. c. 8. against Provisions and Royal Licences, to disturb Incumbents.

Papal Provisions of Benefices, &c. opposed and prohibited.

A.D. 1405.

Reg. Arund. 558. a.

A.D. 1407.

E X P.

A.D. 1415.



Papal Provisions of Benefices, &c. opposed and prohibited.

or to be made by the Pope, and also of licences thereupon granted by the said late King, amongst other things it was ordained and stablished, that no licence or pardon so granted before the same Ordinance, nor after to be granted, should be available to any Benefice full of an Incumbent at the day of the date of such licence or pardon granted: Notwithstanding, several persons, having Provisions of the Pope of divers Benefices in England and elsewhere, and licences Royal to execute the said Provisions, have by colour of the same Provisions, Licences and Acceptations of the said Benefices, subtilly excluded divers persons of their Benefices, in which they have been Incumbents by a long season, of the collations of the Patrons spiritual, to them duly made to their intent, to the utter destruction and subversion of the estates of the said Incumbents; the King willing to remove such mischiefs, hath ordained and established, that all the Incumbents of every benefice of holy Church, of the Patronage, Collation or Presentation of spiritual Patrons, may peaceably and quietly enjoy, and shall enjoy their said Benefices, without being inquieted, molested, or any wise grieved by any colour of such Provisions, Licences and Acceptations whatsoever. And that all the Licences and Pardons upon and by such Provisions made, in any manner, shall be void and of no value. And if any feel himself grieved, molested, or inquieted in any wise from henceforth by any, by any colour of such Provisions, Licences, Pardons or Acceptations, that the same molesters, grievers, and inquietors, and every of them, shall suffer and incur the pain and punishments contained in the Statutes of Provisors before this time made, and that by process of Præmunire facias formed upon the case. And that the party which shall sue by the same Writ, shall recover his treble damages, if the defendants named in the same Writ, or any of them, be convict in that behalf.

Abridgment.

--both which, notwithstanding, have been practised.

All such Provisions and Licences shall be void,

-----and shall be within the Stat. of Provisors,

---and the Party grieved shall recover treble Damages.

A.D. 1530.

22 Henr. VIII. Cap. 15.

In an Act, Entituled, *An Act concerning the King's General Pardon for his Spiritual Subjects.*

E X P.

Also excepted and forzeprised out of this Pardon; all Titles and Actions of Quare impedit, and Titles of presentations, donations and collations to benefices, and other promotions spiritual, which the King our Sovereign Lord hath or is intituled to have; other than be grown, should or might grow unto our said Sovereign Lord, by force or mean of any Statute or Statutes of Provisors, Provisions or Præmunire.

Excepted in General Pardon, all Titles of Presentation, accruing to the Crown by the Stat. of Provisors.

A.D. 1543.

35 Henr. VIII. Cap. 18.

In an Act, Entituled, *An Act concerning the King's General Pardon.*

E X P.

-----And also excepted and forzeprised out of this said pardon, all offences and contempts committed and done by any person or persons against the Statute or Statutes of provision and Præmunire, or against any of the same Statutes, and all forfeitures, profits, and titles that may grow or come to the King's Highness by reason of the same.

Excepted in General Pardon, all Offences against the Stat. of Provisors.

A.D. 1530.

22 Henr. VIII. Cap. 15.

*An Act concerning the King's General Pardon for his Spiritual Subjects.*

E X P.

THE King our Sovereign Lord calling to his blessed and most gracious remembrance, that his good and loving Subjects, the most Reverend Father in God the Archbishop of Canterbury, and other Bishops, Suffragans, Prelates, and other spiritual persons of the Province of the Archbishoprick of Canterbury of this his Realm of England, and the Ministers underwritten, which have exercised, practised, or executed in spiritual Courts and other spiritual Jurisdictions within the said Province, have fallen and incurred into divers dangers of his Laws by things done, perpetrated and committed, contrary to the order of his Laws, and especially contrary to the form of the Statutes of provisors, provisions, and Præmunire; and his Highness having alway tender Eye with Mercy, pity and compassion toward his said spiritual Subjects, minding of his high Goodness and great Benignity so always to impart the same unto them, as Justice being daily administered, all Rigour be excluded, and the great and benevolent minds of his said Subjects largely and many times approved toward his Highness, and especially in their Convocation and Synod now presently being in the Chapter House of the Monastery of Westminster, by correspondence of gratitude to them to be required; of his mere motion, benignity and liberality, by authority of this his parliament, hath given and granted his liberal and free pardon

The Archbishop, Bishops, and their Officers, have incurred the Dangers of Provision and Præmunire,

----which the King is mov'd to pardon, as well out of Royal Goodness,



## Abridgment.

---as in consideration of the Grant of 100000 l. made in Convocation.

All Spiritual and Religious Persons in the Province of Canterbury,

---and all Persons any way exercising Spiritual Jurisdiction,

---and all Parsons, Vicars, Curates, &c.

---shall be released of all Offences against the Statute of *Provisors*.

This Pardon shall be as effectual to every Person, as if he had been specially named,

---and none shall be molested for any Offence against the Prerogative, done before *Mar. 10.*

The King gives to all his Spiritual Subjects, all such Goods, Chattels, &c. as belong to him by reason of such Offences,

don to his said good and loving spiritual Subjects, and the said Ministers, and to every of them, to be had, taken and enjoyed, to, and by them and every of them by virtue of this present Act, in manner and form ensuing, that is to wit: The King's Highness of his said benignity and high liberality, in consideration that the said Archbishop, Bishops, and Clergy of the said Province of Canterbury in their said Convocation, now being, have given and granted to him a subsidy of an hundred thousand pounds of lawful money current in this Realm, to be levied and collected by the said Clergy at their proper costs and charges, and to be paid in certain form specified in their said grant thereof, is fully and resolutely contented and pleased, that it be ordained, established, and enacted by the authority of this his said Parliament, that the most Reverend Father in God William Archbishop of Canterbury, Metropolitan and Primate of all England, and all other Bishops and Suffragans, Prelates, Abbots, Priors and their convents, and every person of the same convents and convents corporate, and every person of the same convents corporate, Abbeſſes, prioresses, and religious Nuns, and all other religious and spiritual persons, Deans and Chapters, and other dignities of Cathedral and Collegiate Churches, Prebendaries, Canons, and Pety-canons, Vicars, and Clerks of the same, and every person of the same, all Archdeacons, Masters, Provoſts, Presidents, Wardens of Colleges, and of Collegiate Churches, Pastors and Wardens of Hospitals, all Fellows, Brethren, Scholars, Priests and Spiritual Conducs, and every of the same, and all Vicars-general of Diocese, Chancellors, Commissaries, Officials and Deans rurals, and all ministers hereafter generally rehearsed of any spiritual court or courts within the said province of Canterbury, that is to say, all Judges Advocates, Registers and Scribes, Proctors constituted to judgments, and Apparators, and all other which within the said province of the Archbishoprick of Canterbury, at any time heretofore have administered, exercised, practised or executed in any jurisdictions within the said province, as officers and ministers of the said Courts, or have been ministers or executors to the exercise or administration of the same; and all and singular politick bodies spiritual, in any manner wise corporated, and all parsons, vicars, curates; chantry priests, stipendaries, and all and every person and persons spiritual of the clergy of the said province of Canterbury in this present Act of Pardon hereafter not excepted, or to the contrary not provided for, by whatsoever name or surname, name of dignity, preeminence or office, they or any of them be, or is named or called, the successors, heirs, executors and administrators of them, and every of them, shall be by authority of this present Pardon, acquitted, pardoned, released and discharged against his highness, his heirs, successors and executors, and every of them, all and all manner of offences, contempts and trespasses committed or done against all and singular Statute and Statutes of provisors, provisions, and Præmunire, and every of them, and of all forfeitures and titles that may grow to the King's highness by reason of any of the same Statutes, and all and singular trespasses, wrongs, deceits, misdemeanours, forfeitures, penalties and profits, sums of money, pains of death, pains corporal and pecuniar, as generally of all other things, causes, quarrels, suits, judgments and executions in this present Act hereafter not excepted nor forgiven, which may be or can be by his Highness in any wise or by any means pardoned before or to the tenth day of the month of March, in the two and twentieth year of his most noble reign, to every of his said loving subjects, that is to say, to the said Archbishop and other the said Bishops, suffragans, prelates, abbots, priors and convents, and every person of the same convents, and convents corporate, and every person of the same convents corporate, abbeſſes, prioresses, nuns and spiritual persons in dignity, and all other religious and spiritual persons, deans, chapters, prebendaries, canons, pety-canons, vicars, chorals and clerks, archdeacons, masters, provoſts, presidents, wardens, fellows, brethren, scholars, priests and spiritual conducs, chancellours, vicars-general of dioceses, commissaries, officials, deans rurals, all judges, advocates, registers and scribes, proctors and apparators, which have administered, practised, or executed any jurisdiction in any spiritual court within the said province, and to the said politick bodies, spiritual persons, vicars, curates; chantry priests, stipendaries, and to all and every person and persons spiritual of the clergy of the said province, and to all and every person or persons before named.

II. Also the King's Highness is contented, that it be enacted by authority of this present parliament, that this said free pardon shall be as good and effectual in the Law to every of his said spiritual subjects of the said province, and to every of them, and to the said ministers and every of them, and to all and every of the bodies corporate and other persons before named, and to every of them, by these general words before rehearsed, in all things which be not hereafter in this present Act excepted, as the said pardon should have been, if all offences, contempts, and forfeitures, causes, matters, suits, quarrels, judgments, executions, penalties, and all other things not hereafter excepted, had been particularly, singularly and plainly pardoned, named, rehearsed and specified by proper or express words and names in their kinds, natures and qualities, in words and terms therunto requisite in the said pardon. And that his said subjects hereafter not excepted, nor any of them, their said ministers, successors, heirs, executors nor administrators of any of them, nor any of them, nor any of the said bodies corporate, be nor shall be sued, vexed nor inquieted in their bodies, goods, lands nor chattels, for any manner, matter, cause, contempt, misdemeanour, forfeiture, trespass, offence, or any other thing suffered, done or committed before the said tenth day of March, against the King's highness, his crown, prerogative, laws, statutes or dignity, but only for such causes, matters and offences, as be specially and plainly rehearsed in the exceptions, forfeitures, and provisions in this present pardon hereafter mentioned, and for none other, any statute or statutes, laws, customs, use or president heretofore made or used to the contrary in any wise notwithstanding.

III. Also the King's highness of his bounteous liberality, by authority of this present Parliament, granteth and freely giveth unto his said spiritual subjects, and their said ministers, that is to say, the said archbishop and all other the said bishops, suffragans, prelates, abbots, priors, convents, abbeſſes, prioresses, nuns, and spiritual persons in dignity, and all other religious and spiritual persons, deans, chapters, prebendaries, canons, pety-canons, vicars, chorals and clerks, archdeacons, masters, provoſts, presidents, wardens, fellows, brethren, scholars, priests, spiritual conducs, chancellors, vicars-general of dioceses, commissaries, officials, deans rurals, judges, advocates, registers, scribes, proctors and apparators, bodies corporate, and politick bodies, spiritual persons, vicars, curates, chantry priests, stipendary, and to all other persons, spiritual men and women of the Clergy, spirituality of the said province, and to every of them, all such goods, chattels, fines, issues, amerciaments, forfeitures, sums of money, by any of them forfeited, which to his Highness do or should belong or appertain by reason of any offence, contempt, misdemeanour, trespass, matter, cause or quarrel, suffered, done or committed

Papal Provisions of Benefices, &c. opposed and prohibited.



*Papal Provisions of Benefices, &c. opposed and prohibited.*

mitted by them or any of them. before the said tenth day of March, which be not hereafter specially and plainly forepised and excepted in this present Act of pardon; and that all and every of the said spiritual subjects, and their said ministers, and all and every of the said bodies corporate, and other persons before-named, may by himself, or his or their Attorney or Attorneys, according to the Laws of this Realm, plead and minister this present act and free pardon, for his or their discharge, of, and for every thing that is thereby pardoned, without any fee or other thing therefore in any wise paying to any person or persons, for pleading, writing, or entry of judgment, or for any other cause concerning the same, but only twelve pence to the clerk that shall enter the plea, matter or judgment, for his or their discharge in that behalf, any statute or use to the contrary notwithstanding.

IV. And furthermore the King's Highness is contented that it be enacted by authority of this present Parliament, that his said free pardon in all maner courts of his Laws and elsewhere, shall be reputed, deemed, judged, allowed, and taken, as well in the words and clauses of the exceptions and forepises specified in this present pardon and act, as in all and singular the other clauses, words and sentences mentioned and rehearsed in the said free pardon, most beneficially and availably to all and singular his said subjects, and to every of the said bodies corporate, and politick bodies spiritual, and to every person spiritual of the said Clergy and Spirituality, and to their said ministers and officers, and to all persons afozenamed, and to every of them, and to the successors, heirs, executors, and administrators of every of them, and most strongly in bar and discharge against his highness, his heirs, successors, and executors, in every thing, without obstacle, challenge, or other delay whatsoever it be, to be made, pleaded, objected or alleged by the King our Sovereign Lord, his heirs, successors or executors, or by his or any of their general Attorneys or Attorneys, or by any other person or persons for his Highness, or any of his heirs, successors or executors.

V. And furthermore it is enacted by the King our Sovereign Lord, and by the authority of this present Parliament, that if any officer or clerk of any of his high Courts, commonly called the King's-bench, Chancery and Common-place, or of his Exchequer, or any other officer or clerk of any other of his Courts within this Realm, after the feast of Easter coming, make out or write out any manner of writs or other process, or any extracts or other precepts, whereby any person or persons of his said subjects, or any of the said bodies corporate, or politick bodies spiritual, or any of them, shall be in any wise arrested, attached, distrained, summoned or otherwise vexed, troubled or grieved in his or their bodies, lands, tenements, goods or chattels, or in any of them, for or because of any manner of thing acquitted, pardoned, released or discharged by this present Act of free Pardon; he so offending, and thereof lawfully condemned, shall yield and pay for recompence thereof to the party so grieved or offended, treble damages, accounted as parcel of those damages all costs of the suit. And nevertheless all and singular such Writs, Process, Extracts and Precepts after the said Feast of Easter to be made, for or upon any manner thing, acquitted, pardoned, released or discharged by this present Act of free pardon, shall be utterly void and of none effect.

[Note, The particular Exceptions are inserted under their proper Heads.]

A.D. 1530.

22 Henr. VIII. Cap. 15.

---Part of the foregoing Act.

XVIII. Provided always that this Act shall not extend nor in any wise be beneficial or available to any spiritual person, spiritual body corporated or politick, or other spiritual person, having any dignity, benefice, promotion or other spiritual livelihood within the province of York, other then to every of them, which by his or their particular Obligation to be made in due and perfect form of the Law, according to the effect of a note or minute under written, do bind him or themselves before the last day of May next coming, in a certain reasonable sum of money not exceeding the sum of two years value of his or their dignities, benefices, promotions or other spiritual livelihood, being or lying within the said province of York, to Sir Brian Tuke, Knight, Treasurer of the King's most honourable chamber, Christopher Hales the King's General Attorney, and Baldwin Mallet, the King's Solicitor, or to the overlivers or overliiver of them, or to any other like Treasurer, Attorney or Solicitor for the time being, or to any two of them, to be paid to the King's use upon certain conditions specified in the said note or minute, the which note or minute hereafter insueth.

XIX. *N*overint universi per presentes me Johannem A. de T. in comitatu Mid. clericum teneri & firmiter obligari Briano Tuke militi, thesaurario camerae Domini Regis, Christophero Hales generali Attornato ejusdem Domini regis, & Baldwinno Malette sollicitatori ipsius Domini regis, in libris legalis monet. Angliae solvend' eisdem Briano, Christophero, & Baldwinno, aut eorum uni, executor. vel assignatis suis, ad usum Domini regis, in festo sancti Bartholomei Apostoli prox. futur. post datum presentium. Ad quam quidem solutionem, &c. In cujus rei testimonium, &c. Datum die Anno regni Domini Henrici octavi Dei gratia Angliae & Franciae regis, fidei defensoris, & Domini Hyberniae.

[w<sup>o</sup> Province of York] In the 23d year of the King, an Act passed, in the same terms with this, for the Province of York, upon the Clergy's giving the King a Subsidy of 18840 l.

Abridgment.

-- who shall plead this Act for their discharge,

---and it shall be interpreted most beneficially for the Clergy and their Ministers, and against the King.

Any Clerk making out Writs for the prosecuting of Offenders pardoned by this Act, shall pay treble Damages,

---and the Writs shall be void.

This Pardon shall not extend to any Spiritual Subject of the Province of York, but who shall oblige himself to pay a certain Sum to the King,

---which Obligation shall be in the form here set down,



## Abridgment.

---and the Condition, That whereas the Sum of 100000<sup>l</sup>. hath been given to the King, by the Province of *Canterbury*,

---if every Clergyman in the Province of *York* pay to the King, according to the Grant of the Convocation of *York*,

---or if no such Grant be made; according to the proportions pay'd by every Spiritual Person in the Province of *Canterbury*,

---then this present Obligation shall be void.

The Condition of this Obligation is such, that where the most reverend Father in God, *William* Archbishop of *Canterbury*, Metropolitane and primate of all *England*, and other Prelates, and the Clergy of the Province of *Canterbury* in their Synodal Convocation begun in the Cathedral Church of *St. Paul* of *London*, in the fifth Day of *November*; in the year of our Lord God 1529, and lately for certain urgent Causes prorogued unto the Chapter House set within the Monastery of *St. Peter* of *Westminster*; have granted to our Sovereign Lord the King, a subsidy of an hundred thousand pounds of currant Money within this Realm, to be levied and collected of the Goods and Possessions Ecclesiastical of the same Province, and to be paid to our said Sovereign Lord in five Years, from and after the Feast of the Annunciation of our Lady *St. Mary* last past, in certain form specified in the grant of the same Subsidy. If the before bounden *John A.* his Executors or Assigns do pay or cause to be paid to the Collector or Collectors of such Subsidy, as hereafter shall be granted to the King's Highness by the Bishops, and other Prelates, and the Clergy of the Province of *York* in the Synodal Convocation of the same Bishops, Prelates and Clergy, to be holden and kept in the same Province, as much and as many of all and singular those Sums of Money, which shall be assessed, taxed and set for and upon the said *John A.* for and upon those spiritual Dignities, Benefices, livelihood, and other spiritual possessions and promotions, which the same *John A.* now hath in the same Province of *York*, as by the same *John A.* or his Executors, shall be due to be paid according to the form and effect of the same grant hereafter to be made. And in case that no such Subsidy shall be granted to the King our Sovereign Lord, by the said Bishops, Prelates, and Clergy of the said Province of *York*, before the Feast of *St. Michael* the Archangel next coming, or that a Subsidy shall be granted to the King by the same Bishops, Prelates and Clergy before the same Feast, which Subsidy shall not extend or amount to such like rate and portion for the Province of *York*, in comparison of the said sum of one hundred thousand Pounds currant Money of *England*, now granted to the King's Highness by the said Clergy of the said Province of *Canterbury*, as the Subsidy last granted to his Highness, by the Prelates and Clergy of the Province of *York*, in their Convocation begun the xxii day of *March*, the year of our Lord 1522, and afterward prorogued to *Westminster*, was in comparison to the rate and portion of the Subsidy granted to his Highness by the Prelates and Clergy of the Province of *Canterbury*, in their Convocation begun at *Paul's* Church in *London*, the fifth of *November*, the year of our Lord 1529: Then if the said *John A.* or his executors do pay or cause to be paid to the Treasurer of the King's Chamber for the time being, for all his said spiritual Dignities, Benefices, Livelihood, and other spiritual Possessions and Promotions, being or lying in the said Province of *York*, such or like Sums of Money after the rates of the yearly values of the same his spiritual Dignities, Benefices, Livelihood, Possessions and Promotions, as the same *John A.* or any other spiritual person or spiritual Body, corporated or politick, shall pay for, and in contribution to the payment of the said Subsidy of one hundred thousand pounds, granted by the said Clergy of the said Province of *Canterbury*, for other spiritual Dignities, Benefices, Livelihood, Possessions and Promotions, being of like yearly values, and being, or lying within the same Province of *Canterbury*, and in the same Feasts, within the said five Years to be paid, in which the said Subsidy of one hundred thousand pounds is granted to be paid: then this present Obligation shall be void and of none effect, or else it shall stand in full Strength and Virtue.

Papal Provisions of Benefices, &c. opposed and prohibited.

21 Jac. I. Cap. 34.

A.D. 1623.

In an Act, Entituled, *An Act for the King's Majesty's most gracious, general, and free Pardon.*

§. LIX. And also excepted all Offences, whereby any person may be charged with the penalty and danger of *Præmunire*, and of the which Offence or Offences any person standeth already indicted, or otherwise lawfully condemned or convicted.

E X P.

C A P.



Purchasing  
of Benefi-  
ces by A-  
liens, pro-  
hibited.

## C A P. II.

## Purchasing of Benefices by ALIENS, prohibited.

3 Ric. II. Cap. 3.

A.D. 1379.

## An Act against ferming of Benefices in England, by Aliens.

I Tem, Because that our Soberaign Lord the King hath perceived, as well by the Complaints of his faithful liege people and by their clamour, by divers petitions thereof delibered in divers Parliaments before this time, as otherwise by the perfect knowledge and experience of the deed, how the Churches Cathedral and Collegial, Abbeyes, and Priories, and other Benefices of his Realm, which were late founded and richly indowed by his noble progenitors, in which divers Dignities, Offices, Personages, Chanonries, Prebends and other Benefices were solemnly and deboutly ordained and stablished of the assent of the aforesaid Progenitors of our Soberaign Lord the King and of other their noble founders, which did give to the said pastors of the same Churches, Abbies, Priories and of other great places, the adbowsons of the same benefices, to the intent that the same benefices should be given to honest and convenient persons of the Realm, to serbe and honour God diligently, and also to hold hospitalities, and to inform and teach the people, and to do other noble things pertaining to the cure of souls, after the estate and quality of the said benefices: and so was it done in all times past after the foundation of the same, till now of late, that by the informations, instigations, and procurements of some of the King's liege people, the same benefices have been given against the will of the founders to divers people of another language, and of strange lands and nations, and sometimes to the utter enemies of the King and of his Realm, which never made residence in the same, nor cannot, may not, nor will not in such wise bear nor do the charges of the same benefices, as in hearing confessions, preaching, nor teaching the people, keeping hospitality, nor accomplishing the other things necessary to the governance of the same benefices, but only thereof have and take the emoluments and temporal profits, not having regard to the spiritual cure, nor to other charges to the same benefices pertaining or belonging, but notoriously suffer the noble buildings in old times there made, when the same benefices were occupied by English-men, wholly to fall to decay: whereby the divine Service is greatly diminished, the cure of souls neglected and left, the Clergy enfeebled, the treasure of the said Realm carried to the hands of Aliens, and all the estate of holy Church brought to less reverence than before it was wont to be. And though that in the time of the said grandfather certain ordinances, statutes, and compositions were made and affirmed, wholly to put out, or at the least to restrain the said Mischiefs in this behalf, nevertheless the said Aliens not having regard to the same, do not refrain to take and receive such benefices within the said Realm, but by the comfort, aid, and great succour, which they have had of the King's Liege People, that be their Fermours, Procurators and Attorneys in this behalf and in every part of the said Realm, do enforce themselves from day to day more and more to accept the greatest Dignities and Benefices within the said Realm, and by divers cautelous manners, much prejudicial to the same Realm if that were suffered, whereby the said Mischiefs do daily increase, and much more will increase, if due remedy be not the rather provided.

II. Our Soberaign Lord the King, by the advice and common assent of all the Lords temporal, being in this Parliament, hath ordained and established, that none of the King's Liege People, nor other person, of whatsoever state or condition that he be, shall not take nor receive within the said Realm of England, procuracy, letter of attorney, nor ferm, nor other administration by indenture, nor in none other manner, of any person of the world, of any Benefice within the said Realm, but only of the King's Liege People of the same Realm, without the special grace and express licence of our said Soberaign Lord the King, by the advice of his counsel. And if any before this time have accepted of any Aliens,

Abridgment.

Churches were  
endowed, with Ad-  
vowsons in spiri-  
tual Bodies,

---for the service of  
God, Hospitali-  
ty, and the good  
of Souls,

-----which good  
Ends are defeated  
by giving them to  
Aliens, uncapable  
of the Duties, and  
who never Reside,

---contrary to for-  
mer Laws, which  
are by them and  
their Fermours e-  
cluded.

Enacted, that  
---none shall ferm  
any Benefice, but  
only of the King's  
Liege-people, with-  
out Licence of the  
King,

25 E. 3.



**Abridgment.**

--nor shall any, by exchange, receive Money for the Profit of the said Aliens, -- upon pain of falling under the Punishment contained in the Statute of *Provisors*.

No Sequestrations made to the Benefit of the said Aliens, shall be good.

Recital of the foregoing Statute, 3 Ric. 2,

--which shall keep its force in all points, --and added, that if any Alien purchase Benefice without Licence, he shall be within the Stat. 3 R. 2. and 25 E. 3.

The King forbids the asking of such Licences; and promises not to grant them, except in special Cases.

4 Infl. p. 338.

The Fermours of Aliens shall pay Tythes, notwith-

such procuracies, farms, or administration, that they shall utterly leave them within xl days after publication of this Ordinance. And that none of the said liege People, nor other, that may be found in the said Realm, shall enjoy by virtue of such procuracy, ferm, or administration, gold, silver, nor other treasure nor commodity out of the said Realm by writ of Exchange, by Merchandise, nor in other manner, to the profit of the said Aliens, without like licence of the King by the advice of his said Council. And if any do the contrary in any point contained in this Ordinance, he shall incur the pain and punishment contained in the Statute of provisors, made in the time of the King's Grandfather, the xxviii. year of his reign, by the same process comprised in the said Statute, and by warning to be made to them in their benefices or other their possessions within the Realm. And if they be out of the said Realm, and not beneficed nor having possession within the same Realm where they may be warned, then a Writ shall be made in the Chancery, grounded upon this Ordinance, to the Sheriff of London, or to the Sheriff of the County, in which they were or shall be born, at the King's suit, returnable in the one Bench, or the other: By which writ it shall be commanded, that proclamation be made openly, that they be before the Justices in the Bench, where the Writ is returnable, at a certain day comprised in the same Writ, containing the space of half a year, to answer upon the matters comprised in the said Writ, and after this Writ returned, the Justices shall proceed against them according to the form above ordained. And it is assented by the King in the same Parliament, by the assent aforesaid, that no Bishop nor other Person of holy Church, through the Realm, shall meddle by way of sequestration nor in any other manner, of the fruits of such benefices, given or to be given to the said Aliens, to the profit of the same Aliens, upon the peril that belongeth. Dated, &c.

*Purchasing of Benefices by Aliens, prohibited.*

7 Ric. II. Cap. 12.

A.D. 1383.

*No Alien shall purchase any Benefice of the Church within this Realm, or occupy the same.*

**I**Tem, Whereas late in the Parliament holden at Westminster, the third year of the reign of our said Lord the King, at the request of the Commons, and by the assent of the Lords Temporal, it was ordained and assented, and upon a grievous pain prohibited, that no subject of the King nor other person, of what estate or condition he were, should take, neither receive from thenceforth within the Realm of England, Procuracy, Letter of Attorney, ne ferm, nor any other administration by Indenture, or in any other manner, of any person concerning any Benefice of holy Church within the Realm, but only of the King's Subjects of the same Realm, without the special grace and express licence of our said Lord the King, upon a certain pain contained in the said Statute: It is assented and agreed by the same Lords, that the same Statute shall keep his force and effect in all points. And moreover, it is assented, that if any Alien have purchased, or from henceforth shall purchase any Benefice of holy Church, Dignity, or other thing, and in his proper person take possession of the same, or occupy it himself within the Realm, whether it be to his own proper use, or to the use of another, without special Licence of the King, he shall be comprised within the same Statute; and moreover shall incur all pains and forfeitures in all points as is before ordained by another Statute made the five and twentieth year of the noble King Edward the third, Grandfather to our Lord the King that now is, against them that purchase provisions of Abbeyes, or Priories. And to the intent that such licences shall not be from henceforth made, the King willet and commandeth to all his subjects and other, that they shall abstain them from henceforth to pray him for any such Licence to be given. And also the King himself will refrain to give any such Licence during the wars, except to the Cardinal of Naples, or to some other spiritual person to whom the King is beholden for a special Cause.

\* Shall purchase any Benefice] Upon consideration of the Statutes 3 R. 2. and 1 H. 5. resolved, That if any Alien, or Stranger-born, be presented to a Benefice, the Bishop ought not to admit him; but may lawfully refuse him.

5 Henr. IV. Cap. 11.

A.D. 1402.

*The Fermours of Aliens shall pay their Tithes to the Parson of the same Parishes.*

**I**Tem, It is ordained and established, That the Fermours, and all manner of occupiers of the manors, lands, tenements, and other possessions of Aliens,



Purchasing  
of Benefices  
by Aliens, pro-  
hibitea.

Aliens, *www* shall pay and be bound to pay, all manner of Dismes thereof due to Parsons, and Vicars of holy Church, in whose Parishes the same manors, lands, tenements, and possessions be so assigned and due, as the law of holy Church requireth, notwithstanding that the said manors, lands, tenements, or other possessions be seized into the King's Hands, or notwithstanding any prohibition made or to be made to the contrary.

*www* Shall pay] And, in case of Refusal, a Writ was provided, upon the Foundation of this Statute, in the following Form:

Rex, escaetori suo in com' Dorc', ac omnibus & singulis ballivis, firmariis, occupatoribus, & receptoribus exituum manerii de Frampton, quod est parcella possessionum alienigenarum in manu nostra existentium ut dicitur, qui nunc sunt vel qui pro tempore erunt, salutem. Cum in statuto in parlamento domini Henrici nuper regis Angl' avi nostri apud Westm' anno regni sui quinto teno edito, inter cetera ordinatum sit & stabilitum, quod quicumq; firmarii & occupatores terrarum, tenementorum, & aliarum possessionum alienigenarum, solvant & solveere teneantur personis & vicariis ecclesiarum, in quorum parochiis eadem maneria, terræ, tenementa, vel possessiones

situantur, omnimodas decimas inde debitas prout exigit jus ecclesiasticum, eò quod maneria, terræ, tenementa, vel possessiones prædictæ, in manus prædicti avi nostri tunc seista extiterunt, seu aliqua prohibitione tunc facta vel extunc in contrarium faciend' non obstante, prout in statuto prædicto plenius continetur: vobis præcipimus quod A. de B. personæ ecclesiæ de F. omnimodas decimas de manerio præd' debitas, si idem manerium infra parochiam ejusdem A. existat, prout exigit jus ecclesiasticum, solvas juxta formam statuti præd', eò quod manerium præd' in manu nostra ut prædictum est existit, seu aliqua prohibitione in contrarium facta non obstante; ipsum A. contra vim, formam, & effectum ejusdem statuti non molestans, impediens, sive gravans. T. &c.  
Et erat patens.

Abridgment.

standing the Manours are seized into the King's Hands, or that Prohibition is made.

Regist. 179. b.  
De decimis sol-  
vendis pro pos-  
sionibus alienigenarum.

A.D. 1413.

### 1 Henr. V. Cap. 7.

#### An Act touching Frenchmen beneficed in England.

Item, Whereas in the Parliament holden at Westminster, in the time of King Richard II. the viii. year of his Reign, it was ordained, That none Alien Frenchman should have or enjoy any Benefice within this Realm for certain Cause, which might come or happen, but that they should be delivered and voided for ever out of the Realm before a certain time in the said Ordinance limit, as in the same is plainly contained. And that at what time that any Priors Aliens conventual, or any other Benefice or Office due by the King's title, do void by the departing or death of the said Priors and other Occupiers, that then there should be during the Wars, honest English persons put in their place to accomplish the Divine Service, and none of the Enemies aforesaid. And notwithstanding the said Ordinance, the said Aliens Frenchmen, by evil Imagination and brocage to continue the evil mischiefs of the said ordinance, purchase the King's Letters Patents to be denizens and the King's liege people, and swear the same to continue, to the intent to occupy and enjoy the said benefices, and so yet occupy many Benefices against the said ordinance, whereby these Aliens Frenchmen be increased, in destruction of the King's liege people, and bear away out of the Realm great treasure of the King's and of the Realms, and the King's Counsel disclose to the Enemies in France, to the great damage of the King and his Realm: Our Sovereign Lord the King considering the said mischiefs, will that the said ordinances be firmly holden and kept, and put in due execution, except the Priors Aliens, conventual, and also all other Priors which have institution and induction, so that they be catholick, and that they shall find surety, not to disclose nor cause to be disclosed the counsel nor the secrets of the Realm.

A.D. 1390.

### 14 Ric. II. Cap. 2.

#### Upon Exchanges by Aliens, other Commodities of the Realm shall be bought.

O B S.

Item, That for every Exchange that shall be made by Merchants to the Court of Rome, or elsewhere, that the said Merchants be firmly and surely bound in the Chancery, to buy within three Months after the said Exchange made, Merchandises of the Staple, as Wools, Leather, Woolfells, Lead or Tin, Butter or Cheese, Cloaths, or other Commodities of the Land, to the value of the Sum so exchanged, upon pain of forfeiture of the same.

A.D. 1421.

### 9 Henr. V. (Stat. 2.) Cap. 9.

#### An Act touching Exchange in the Court of Rome.

O B S.

Item, Whereas in another Statute, made the fourteenth Year of King Richard II. it was ordained, that for every Exchange that shall be made by Merchants in the Court of Rome, or elsewhere, that the Merchants be firmly and surely bounden in the Chancery, to buy within three

Recital of the Statutes, 13 R. 2. against Aliens having Benefices, and for banishing them out of the Realm, and putting English in their Places,

---which Statute is broken by Letters granted to them to be Denizens, to the impoverishing and of betraying the Kingdom.

Former Acts shall be observ'd, except by Priors Aliens Conventual, and Priors with Institution,

---who shall find Sureties, not to disclose the Secrets of the Realm.

Merchants making remittances to the Court of Rome, shall buy Commodities of the like Value, within 3 Months.

Recital of the foregoing Stat. 14. R. 2. c. 2.



## Abridgment.

---and the desire of the Merchants, for an enlargement of the Time,

---upon which, enacted, that they shall buy Goods of the same Value with the Money returned, in *nine months*.

three Months after the Exchange made, Merchandises of the Staple, as Wool, Leather, Woolfells, Lead, or Tin, Butter, Cheese, or Cloaths, or other Commodities of the Land, to the value of the Sum so exchanged, upon forfeiture of the same: And such Merchants said in this present Parliament, that they dare not bind themselves to observe the Effect of the same Statute, because that within three Months after such Exchanges made, they cannot buy and make Shipping to pass such Merchandises to the parts beyond the Sea (as afore is said) to the value of the Sum so changed: And also for default of such Changers there ought to be made such exchange. and by divers colours and subtilties the King's Money shall be of great likelihood probably carried to the parts beyond the Sea, and such Merchandises (as afore) shall not be bought by such Merchants Changers, to the great Damage of the King and of his People and the Realm, if in this present Parliament Remedy be not provided: Therefore it is ordained in this present Parliament, for the profit of the King and of his Realm, that all Merchants that shall make such Exchanges at the said Court of Rome or elsewhere, and every of them, shall be bound personally in the said Chancery by Recognizance, to buy within nine Months after the same Exchanges made like Merchandises and Commodities, as afore is said, to the value of the Sums so changed, upon pain of forfeiture of the same, notwithstanding the said Statute made the said fourteenth Year. And that all the Ordinances aforesaid shall endure till the Parliament next to be holden.

Appeals to Rome, in all Cases, prohibited.

## C A P. III.

A P P E A L S to Rome, in all Cases whatsoever, prohibited.

24 Henr. VIII. Cap. 12.

For the Restraint of Appeals.

A. D. 1532.

England is an Empire, to which a Body Politick of Spirituality and Temporality is subject,

---the King whereof is furnished with full Power to administer Justice in all Causes, finally;

---in Causes Spiritual, by Judges of the Spirituality, sufficient and meet for that End,

Where by divers sundry and authentick Histories and Chronicles, it is manifestly declared and expressed, that this Realm of England is an Empire, and so hath been accepted in the world, governed by one supreme Head and King, having Dignity and Royal Estate of the Imperial Crown of the same: Unto whom a Body politic, compact of all sorts and degrees of people, divided in terms and by names of Spirituality and Temporality, been bounden and sworn to bear next to God, a natural and humble obedience: He being also institute and furnished by the goodness and sufferance of Almighty God, with plenary, whole and entire Power, Pre-eminence, Authority, Prerogative and Jurisdiction, to render, and yield Justice and final determination to all manner of folk, residents or subjects within this his Realm, in all Causes, Matters, Debates and Contentions happening to occur, insurge or begin within the limits thereof, without restraint or prohibition to any foreign Princes or Potentates of the World; The Body spiritual whereof having power, when any Cause of the Law Divine happened to come in question, or of spiritual Learning, that it was declared, interpreted and shewed by that part of the said Body politic, called the Spirituality, now being usually called the English Church, which always hath been reputed and also found of that sort, that both for knowledge, integrity and sufficiency of number, it hath been always thought, and is also at this hour, y sufficient and

y Sufficient and meet of it self] There were no Appeals to the Pope, out of England, before the Reign of King Stephen; when they were introduced, by Henry de Blois, Bishop of Winchester, the Pope's Legate: *In Angliâ namque Appellationes non erant, donec eas Henricus Wintoniensis, dum legatus esset, malo suo crudeliter intrusit.* Not but Attempts had been made before that time to carry Appeals to Rome, which were vigorously withstood by the Nation; as appears by the Complaint of the Pope in the Reign of H. I. That the King would suffer no Appeals to be made to him; and before that, in the Reign of William Rufus, the Bishops and Barons told Anselm, (who was attempting it,) That it was a thing unheard of, for any one to go to Rome (i. e. by way of Appeal,) without the King's Leave. And tho' this

Point was yielded (as hath been observed) in the Reign of King Stephen, yet his Successor Henr. 2. resumed and maintained it, as appears by the Constitutions of Clarendon which provide for the Course of Appeals within the Realm, *ita quod non debeat ultra procedi, absque assensu Domini Regis.* 'Tis true, the same Prince, in his Purgation for the Death of Archbishop Becket, was constrained to swear, among other things, *Quod neque Appellationes impediret, neque impediri permetteret, quin liberè fierent in regno suo ad Romanum Pontificem, in Ecclesiasticis causis;* but even then, it was added, *Ita tamen, ut si ei suspecti fuerint aliqui, Securitatem faciant, quòd malum suum vel regni sui non querant.* Pursuant to which, we find two Writs in the Register:

Clarend. Const. 8. in Spel. Conc. V. 2. p. 63.

Spel. Conc. V. 2. P. 99.

Hunt. l. 8. P. 395.

Radmer. 113. 115.

meet



Appeals to Rome, in all Cases, prohibited.

meet of it self, without the intermedling of any exteriour person or persons, to declare and determine all such doubts, and to administer all such offices and duties as to their rooms spiritual doth appertain: For the due administration whereof, and to keep them from corruption and sinister affection, the King's most noble Progenitors, and the Antecessors of the Nobles of this Realm, have sufficiently endowed the said Church both with Honour and Possessions: And the Laws temporal, for trial of property of Lands and Goods, and for the conservation of the people of this Realm in unity and peace, without rapine and spoil, was, and yet is administered, adjudged and executed by sundry Judges and Ministers of the other part of the said Body politick, called the Temporality: and both their authorities and jurisdictions do conjoin together in the due administration of Justice, the one to help the other.

II. And whereas the King, his most noble Progenitors, and the Nobility and Commons of this said Realm, at divers and sundry Parliaments, as well in the time of King Edward I, Edward III, Richard II, Henry IV, and other noble Kings of this Realm, made sundry Ordinances, Laws, Statutes and Provisions for the entire and sure conservation of the Prerogatives, Liberties and Pre-eminences of the said Imperial Crown of this Realm, and of the Jurisdiction spiritual and temporal of the same, to keep it from the annoyance, as well of the See of Rome, as from the authority of other foreign Potentates attempting the diminution or violation thereof, as often, and from time to time, as any such annoyance or attempt might be known or espied: And notwithstanding the said good Statutes and Ordinances made in the time of the King's most noble Progenitors, in preservation of the authority and prerogative of the said imperial Crown, as is aforesaid: yet nevertheless sithen the making of the said good statutes and ordinances, divers and sundry inconveniencies and dangers, not provided for plainly by the said former Acts, Statutes and Ordinances, have risen and sprung, by reason of Appeals sued out of this Realm to the See of Rome, in Causes testamentary, Causes of matrimony and divorces, Right of tithes, oblations and obventions, not only to the great inquietation, vexation, trouble, costs and charges of the King's highness, and many of his subjects and resiants of this his Realm, but also to the great delay and lett to the true and speedy determination of the said Causes, for so much as the parties appealing to the said Court of Rome, most commonly do the same for the delay of Justice. And forasmuch as the great distance of way is so far out of this Realm, so that the necessary proofs nor the true knowledge of the Cause, can neither there be so well known, ne the witnesses there so well examined, as within this Realm, so that the parties grieved by means of the said appeals, be most times without remedy. In consideration whereof the King's Highness, his Nobles and Commons, considering the great enormities, dangers, long delays and hurts, that, as well to his highness, as to his said nobles, subjects, commons and resiants of this his Realm, in the said Causes testamentary, Causes of matrimony and divorces, tithes, oblations and obventions, do daily ensue: Doth therefore, by his Royal assent, and by the assent of the Lords spiritual and temporal, and the Commons in this present Parliament assembled, and by the authority of the same, enact, establish and ordain, that all Causes testamentary, Causes

Abridgment.

--- and in Causes temporal by temporal Judges,

--- which Jurisdictions do mutually help one the other.

\* Many good Laws have been made for the Preservation of the Prerogative against foreign Encroachments.

---norwithstanding which frequent Appeals are made to Rome, in divers Cases,

--- to the great Charge of the Subject; and Delay of Justice.

*Rex vic' &c. salutem. Quia datum est nobis intelligi quod A.B. clericus versus partes externas ad quam plura nobis & quam pluribus de populo nostro prejudicialia & damnosa ibidem prosequend' transire proponit: nos malicia sua resistere volentes in hac parte, tibi precipimus, &c. ut supra, in brevi de securitate pacis de nova forma usque ibi, quod ipse versus aliquas partes externas sine licentia nostra speciali se non divertet, nec quicquam ibidem prosequatur aut prosequi vel attentari facere presumat, quod in nostri contemptum vel prejudicium, aut populi nostri damnum cedere valeat, nec aliquem vel aliquos ibidem mittet ex hac causa quovis modo, compellas. Et si hoc coram te facere recusaverit: tunc, &c. ut supra in dicto brevi de securitate pacis, &c.*

*Rex I. de B. salutem. Quia datum est nobis intelligi, quod tu versus partes externas absque licentia nostra clandestine te divertere, & quamplura nobis & coronae nostrae prejudicialia ibidem*

*prosequi intendis, in nostri contemptum & prejudicium, hac contra proclamationem & inhibitionem nostras sapius inde factas: nos hujusmodi contemptui & prejudicio obviare volentes, tibi districte sub periculo quod incumbit prohibemus, ne versus dictas partes externas absque licentia nostra speciali aliqualiter te divertas, nec quicquam ibid' prosequi attentes seu attentari facias, quod in nostri seu dictae coronae nostrae prejudicium cedere valeat quovis modo, nec aliquem ibidem mittas ex hac causa. T. &c.*

Afterwards, in the Parliament of Northampton, the Constitutions of Clarendon were renewed; and in the Reigns of Ric. I. and King John, we find new Complaints of the little regard paid to those Appeals; for which also, divers Persons were imprisoned in the Reigns of Edw. I, Edw. II, and Edw. III.

Hoved, f. 426, 433, 465. Vide Still. Eccl. Cases, Vol. 2. p. 189.

Registr. f. 89. b. De securitate inveniendā, quod se non divertat aliquis versus partes externas sine licentia regia.

Debet istud breve indorsari. W. de K. videlicet patronus sequitur pro rege, & est de gratia, &c.

Registr. f. 90. a. Aliter.



## Abridgment.

Enacted, that,  
--- all Causes, Testamentary, Matrimonial, of Divorces, and of Tithes, Oblations and Obventions, shall be finally determined within the King's Jurisdiction,

--- any Inhibitions, &c. from the See of Rome, notwithstanding,

--- whose Excommunications, &c. shall not hinder the Validity and Effects of the Sentence,

--- and all Spiritual Persons shall minister in Spiritual things, any Citations, &c. touching the Causes aforesaid, notwithstanding;

--- and, refusing to do so, by reason of any Interdictions, shall suffer a year's Imprisonment, and Fine at the King's Will.

Any Person purchasing foreign Process,

of matrimony and divorces, Rights of tithes, oblations and obventions (the knowledge whereof by the goodness of the Princes of this realm, and by the laws and customs of the same, appertaineth to the spiritual Jurisdiction of this realm) already commenced, moved, depending, being, happening or hereafter coming in contention, debate or question, within this realm, or within any the King's dominions or marches of the same, or elsewhere, whether they concern the King our Sovereign Lord, his Heirs or Successors, or any other subjects or resiants within the same, of what degree soever they be, shall be from henceforth heard, examined, discussed, clearly, finally and definitively adjudged and determined within the King's jurisdiction and authority, and not elsewhere, in such Courts spiritual and temporal of the same, as the natures, conditions and qualities of the cases and matters aforesaid in contention, or hereafter happening in contention, shall require, without having any respect to any custom, use or sufferance, in hindrance, lett or prejudice of the same, or to any other thing used or suffered to the contrary thereof by any other manner of person or persons in any manner of wise: Any foreign inhibitions, appeals, sentences, summons, citations, suspensions, interdictions, excommunications, restraints, judgments, or any other process or impediments of what natures, names, qualities or conditions soever they be from the See of Rome, or any other foreign Courts or Potentates of the world, or from and out of this Realm, or any other the King's dominions, or marches of the same, to the See of Rome, or to any other foreign Courts or Potentates, to the lett or impediment thereof, in any wise notwithstanding. And that it shall be lawful to the King our Sovereign Lord, and to his Heirs and Successors, and to all other subjects or resiants within this Realm, or within any of the King's dominions, or marches of the same, notwithstanding that hereafter it should happen any excommungement, excommunications, interdictions, citations, or any other censures, or foreign process out of any outward parts, to be fulminate, promulged, declared or put in execution within the said Realm, or any other place or places, for any of the causes before rehearsed, in prejudice, derogation or contempt of this said Act, and the very true meaning and execution thereof, may and shall nevertheless as well pursue, execute, have and enjoy the effects, profits, benefits and commodities of all such processes, sentences, judgments and determinations, done or hereafter to be done in any of the said Courts spiritual or temporal, as the dominions and marches of the same: And those only, and none other, to take place, and to be firmly observed and obeyed within the same. As also that all spiritual prelates, pastors, ministers and curates within this Realm and dominions of the same, shall and may use, minister, execute and do, or cause to be used, ministred, executed and done, all Sacraments, Sacramentals, Divine Services, and all other things within the said Realm and dominions, unto all the Subjects of the same as Catholick and Christian men owen to do; any foreign citations, processes, inhibitions, suspensions, interdictions, excommunications or appeals, for or touching any of the causes aforesaid, from or to the See of Rome, or any other foreign Prince or foreign Courts, to the lett or contrary thereof, in any wise notwithstanding.

III. And if any of the said spiritual persons, by the occasion of the said fulminations of any of the same interdictions, censures, inhibitions, excommunications, appeals, suspensions, summons, or other foreign citations, for the causes before said, or for any of them, do at any time hereafter refuse to minister, or cause to be ministred the said Sacraments and Sacramentals, and other Divine Services, in form as is aforesaid, shall for every such time or times that they or any of them do refuse so to do, or to cause to be done, have one years imprisonment, and to make fine and ransom at the King's pleasure.

IV. And it is further enacted by the authority aforesaid, That if any person or persons inhabiting or resiant within this Realm, or within any the King's dominions or marches of the same, or any other person or persons, of what estate, condition or degree soever he or they be, at any time hereafter, for or in any the causes aforesaid, do attempt, move, purchase or procure from or to the See of Rome, or from or to any other foreign Court or Courts, out of this Realm, any manner foreign process, inhibitions, appeals, sentences, summons, citations, suspensions, interdictions, excommunications, restraints or judgments, of what nature kind or quality soever they be, or execute any of the same process, or do any act or acts, to the lett, impediment, hindrance

Appeals to Rome, in all Cases, prohibited



Appeals to Rome, in all Cases, prohibited.

of derogation of any process, sentence, judgment or determination, had, made, done, or hereafter to be had; done or made in any Courts of this Realm or the King's said dominions or marches of the same, for any of the Causes aforesaid, contrary to the true meaning of this present Act and the execution of the same: that then every such person or persons so doing, and their fautors, comforters, abettors, procurers, executors, and counsellors, and every of them being convict of the same, for every such default shall incur and run in the same peins, penalties and forfeitures ordained and provided by the Statute of Provisions and Præmunire, made in the sixteenth year of the Reign of the right noble Prince, King Richard the second, against such as attempt, procure or make provision to the See of Rome or elsewhere, for any thing or things, to the derogation, or contrary to the prerogative or jurisdiction of the Crown and Dignity of this Realm\*.

X. And if it shall happen any person or persons, hereafter to pursue or provoke any Appeal, contrary to the Effect of this Act, or refuse to obey, execute and observe all things comprised within the same, concerning the said appeals, provocations and other foreign processes to be sued out of this Realm, for any the Causes aforesaid, that then every such person or persons so doing, refusing or offending, contrary to the true meaning of this Act, their procurers, fautors, advocates, counsellors and abettors, and every of them shall incur into the peins, forfeitures and penalties, ordained and provided in the said Statute, made in the said sixteenth year of R. Richard II, and with like process to be made against the said Offenders, as in the same Statute made the said sixteenth year more plainly appeareth.

\* The Sections V, VI, VII, VIII, IX, will be found among the Laws relating to which determine the particular Order and the Proceedings in Spiritual Courts, under Method of Appeals in England, upon the the Title Prohibitions and Appeals; to which foregoing Prohibition of Appeals to Rome, place they properly belong.

Abridgment.  
--- to the Impediment of the Courts of this Realm, in the Causes aforesaid,

--- shall incur the Pains of the Statute of Provision and Præmunire.

All Persons offending against this Statute, shall incur the Penalties of Præmunire.

A.D. 1554.

## 1, 2 Phil. &amp; Mar. Cap. 1.

In an Act, Entituled, *An Act repealing all Articles and Provisions made against the See Apostolick, &c.*

VI. And where also at the said Parliament, in the Session holden at Westminster upon prorogation in the twenty fourth year of the reign of the said late King Henry VIII. one Act was made; that appeals in such cases as hath been used to be pursued to the See of Rome, should not from henceforth be had nor used but within this Realm. --- the said Act, and all and every branch, article, matter, and sentence in it contained, shall be by the authority of this present Parliament from henceforth utterly void, made frustrate, and repealed; to all intents, constructions and purposes.

The foregoing Act repealed,

A.D. 1555.

## 1 Eliz. Cap. 1.

In an Act, Entituled, *An Act to restore the Crown to the ancient Jurisdiction, &c.*

IV. And one other Act made in the four and twentieth year of the reign of the said late King, intituled, An Act, That Appeals in such Cases as hath been used to be pursued to the See of Rome, shall not be from henceforth had ne used, but within this Realm, --- shall be revived, and shall stand, and be in full force and strength, to all intents, constructions, and purposes.

--- and again revived.

A.D. 1533.

## 25 Henr. VIII. Cap. 19.

In an Act, Entituled, *The Submission of the Clergy, and Restraint of Appeals.*

III. And be it further enacted, by Authority aforesaid, that from the Feast of Easter, which shall be in the year of our Lord God 1534, no manner of appeals shall be had, provoked, or made out of this Realm, or out of any the King's dominions, to the Bishop of Rome, nor to the See of Rome, in any causes or matters happening to be in contention, and having their commencement

No Appeal shall be made to Rome;



## Abridgment.

--- but all Appeals shall be made, in all Causes, in the manner directed by 24 Hen. VIII. c. 15.

--- and to appeal to Rome, or by Process from thence to hinder the Execution of this Act,

--- shall be a Præmunire.

The foregoing Act repealed,

--- and again revived.

The Commons represent to the King, how greatly the Nation is burthen'd and impo-

ment and beginning in any of the Courts within this Realm, or within any the King's dominions, of what nature, condition, or quality soever they be of: but that all manner of Appeals, of what nature or condition soever they be of, or what cause or matter soever they concern, shall be made and had by the parties grieved, or having cause of appeal, after such manner, form, and condition, as is limited for Appeals to be had and prosecuted within this Realm, in causes of matrimony, tithes, oblations, and obventions, by a Statute thereof made and established sithen the beginning of this present Parliament, and according to the form and effect of the said Statute; any usage, custom, prescription, or any thing or things to the contrary hereof notwithstanding †.

V. And if any person or persons at any time after the said feast of Easter, provoke or sue any manner of Appeals, of what nature or condition soever they be of, to the said Bishops of Rome, or to the See of Rome, or do procure or execute any manner of process from the See of Rome, or by authority thereof, to the derogation or lett of the due execution of this Act, or contrary to the same; that then every such person or persons so doing, their aiders, counsellors, and abettors, shall incur and run into the danger, pains and penalties, contained and limited in the Act of Provision and Præmunire, made in the sixteenth year of the King's most noble Progenitor, R. Richard II, against such as sue to the Court of Rome, against the King's Crown and Prerogative Royal.

† The Sections IV, and VI, of this Act, (the first, carrying Appeal from the Archbishop to the King; and the second, providing for Appeals from Exempt Jurisdictions) will also be found among the Laws relating to the Proceedings in Spiritual Courts, under the Title, *Prohibitions and Appeals*.

1, 2 Phil. & Mar. cap. 8.

In an Act, Entituled, *An Act repealing all Articles, and Provisions made against the See Apostolick of Rome, &c.*

VIII. And where at a Sessions of the said Parliament, holden in the five and twentieth year of the Reign of the said late King, there was also one Act made, entituled, *The Submission of the Clergy to the King's Majesty* --- the said Act --- and all and every Branch, Article, Matter and Sentence: in it --- contained, shall be by authority of this present Parliament from henceforth utterly void, made frustrate, and repealed, to all intents, constructions and purposes.

1 Eliz. cap. 1.

In an Act, Entituled, *An Act to restore the Crown to the ancient Jurisdiction, &c.*

VI. And one other Act in the said five and twentieth year, intituled, *An Act concerning the Submission of the Clergy to the King's Majesty* --- shall be revived, and shall stand and be in full force and strength, to all intents, constructions, and purposes.

## C A P. IV.

*The Burthen of PETER-PENCE, and other Papal Exactions, taken away.*

25 Henr. VIII. Cap. 21.

*The Act concerning Peter-pence and Dispensations.*

**M**ost humbly beseeching your most Royal Majesty, your obedient and faithful Subjects, the Commons in this your present Parliament assembled by your most dread commandment, That where your Subjects of this your Realm, and of other Countries and Dominions, being

*Appeals to Rome, in all Cases, prohibited.*

A.D. 1554.

R E P.

A.D. 1559.

A.D. 1533.



The Burthen of Peterpence &c. taken away.

being under your obeysance, by many years past have been, and yet be greatly decayed and impoverish'd, by such intolerable Exactions of great sums of money as have been claimed and taken, and yet continually be claimed to be taken out of this your Realm, and other your said Countreies and Dominions, by the Bishop of Rome, called the Pope, and the See of Rome, as well in *a* Pensions, Censures, *b* Peterpence, *c* Procurations, Fruits, Suits for Provisions and Expeditions of Bulls for Archbishopricks and Bishopricks, and for Delegacies and Rescripts in causes of contentions and appeals, Jurisdictions Legantine, and also for Dispensations, Licences, Faculties, Grants, Relaxations, Writs called *d* *perinde valere*, Rehabilitations, Abolitions, and other infinite sorts of Bulls, Breves, and Instruments of sundry natures, names and kinds, in great numbers heretofore practised and obtained, otherwise than by the Laws, laudable uses and customs of this Realm should be permitted, the specialities whereof been over long, large in number, and tedious here particularly to be inserted: Wherein the Bishop of Rome aforesaid hath not been only to be blamed for his usurpation in the premises, but also for his abusing and beguiling your subjects, pretending and perswading them that he hath power to dispense with all humane laws, uses and customs of all Realms, in all causes which be called Spiritual: Which matter hath been usurped and practised by him and his Predecessors by many years, in great derogation of your Imperial Crown and Authority Royal, contrary to right and conscience. For where this your Grace's Realm recognising no Superiour under God, but onely your Grace, hath been, and is free from subjection to any mans laws, but onely to such as have been devised, made and obtained within this Realm for the wealth of the same, or to such other as by sufferance of your Grace and your Progenitors, the people of this your Realm, have taken at their free liberty by their own consent to be used amongst them, and have bound themselves by long use and custom to the observance of the same, not as to the observance of the Laws of any Foreign Prince, Potentate or Prelate, but as to the customed and ancient Laws of this Realm, originally established, as Laws of the same, by the said sufferance, contents and custom, and none otherwise. It standeth therefore with natural equity and good reason, that in all and every such Laws humane made within this Realm, or induced into this Realm by the said sufferance, contents and custom, your Royal Majesty, and your Lords Spiritual and Temporal, and Commons representing the whole estate of your Realm, in this your most high Court of Parliament, have full power and authority, not onely to dispense, but also to authorize some elect person or persons to dispense with those and all other humane Laws of this your Realm, and with every one of them, as the quality of the persons and matter shall require. And also the said Laws and every of them to abrogate, adnuil, amplifie or diminish, as it shall be seen unto your Majesty and the Nobles and Commons of your Realm, present in your Parliament, meet and convenient for the wealth of your Realm, as by divers good and wholesome Acts of Parliaments, made and established as well in your time, as in the time of your most Noble Progenitors, it may plainly and evidently appear: And because that it is now in these days present seen, that the estate, dignity, superiority, reputation and authority of the said imperial Crown of this Realm, by the long sufferance of the said unreasonable and uncharitable usurpations and exactions practised in the times of your most noble Progenitors, is much and sore decayed and diminished, and the people of this Realm thereby impoverish'd, and

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verified by Papal Exactions, in Peterpence, &c.

--- with the Presumption of the Pope, in pretending to dispense with all human Laws.

This Realm has no Superiour, under God, but the King; nor any Laws, but such as have been made, or taken, by common Consent,

--- by reason whereof, none but King, Lords and Commons can dispense with them,

--- or abrogate, amplify, or diminish them.

To put an end to such Papal Usurpations and Exactions--- Enacted, that,

Præfat. in Gl'v. de verâ obed. Vid. Mason. l. 1. c. 1.

l. 4. c. 14.

Reg. Reynol. 87. b. 83. d. 102. a.

Ibid. 158. b.

*a* Exactions of great Sums. ] *Annua Pontificus ex Angliâ præda* ( ut narrat Bonnetus ) *parum absuit quin ipsius Coronæ redditus adæquaret.* Many particulars of which Exactions are drawn out of our Historians by the learned Mason, in his Book *de Ministerio Anglicano.*

*a* Pensions. ] In the Records of Canterbury, we find several Grants of Pensions from the Archbishop to Persons in the Court of Rome, and also an Account of Standing Pensions to Solicitors and Advocates there.

*b* Peterpence. ] *Census annuus unius denarii è qualibet familiâ Romæ persolutus ad festum S. Petri.*

*c* Procurations. ] Paid to the Pope's Nuncio's, for their Support; of which, and the Collecting of them, frequent mention is made in our Ecclesiastical Records.

*d* *Perinde valere.* ] A Dispensation granted to a Clerk admitted to a Benefice, tho incapable; taking that Name from the Words of the Dispensation, which make it *as effectual* to the Party, as if he were capable.

Spel. Gloss.



Abridgment.

--- the King being recognized Supreme Head of the Church,

---no Pensions, Peter-pence, &c. be paid to the Use of the Bishop of Rome.

so or worse be like to continue, if remedy be not thercoze shortly provided:

II. It may thercoze please your most noble Majesty, for the honour of Almighty God, and for the tender love, zeal and affection that ye bear, and always have born to the wealth of this your Realm and Subjects of the same, forasmuch as your Majesty is supreme Head of the Church of England, as the Prelates and Clergy of your Realm, representing the said Church, in their synods and convocations have recognized, in whom consisteth full power and authority upon all such Laws as have been made and used within this Realm, to ordain and enact by the assent of your Lords spiritual and temporal, and the Commons in this present Parliament assembled, and by authority of the same, That no person or persons of this your Realm, or of any other your dominions, shall from henceforth pay any pensions, censures, portions, peter-pence, or any other impositions to the use of the said Bishop, or of the See of Rome, like as heretofore they have used by usurpation of the said Bishop of Rome and his Predecessors, and sufferance of your Highness and your most noble Progenitors, to do, but that all such pensions, censures, portions and peter-pence, which the said Bishop of Rome, otherwise called Pope, hath heretofore taken and perceived, or caused to be taken and perceived to his use and his Chambers, which he calleth Apostolick, by usurpation and sufferance, as is abovesaid, within this your Realm, or any other your dominions, shall from henceforth clearly surcease and never more be levied, taken, perceived nor paid to any person or persons in any manner or wise; any constitution, use, prescription or custom to the contrary thereof notwithstanding.

The Barthen of Peter-pence, &c. taken away.

## C A P V.

*The Power of DISPENSATIONS taken from the Pope, and vested in the Archbishop of Canterbury.*

25 Henr. VIII. Cap. 21.

A.D. 1533.

In an Act, Entituled, *An Act concerning Peter-Pence and Dispensations.*

None shall hereafter sue to Rome, for any Dispensations, or other Instruments whatsoever,

III. **A**ND be it farther enacted by the authority aforesaid, That neither your Highness, your Heirs nor Successors, Kings of this realm, nor any your Subjects of this realm, nor of any other your dominions, shall from henceforth sue to the said Bishop of Rome, called the Pope, or to the See of Rome, or to any person or persons, having or pretending any authority by the same, for Licences, Dispensations, Compositions, Faculties, Grants, Rescripts, Delegacies, or any other Instruments or Writings, of what kind, name, nature or quality soever they be of, for any cause or matter, for the which any Licence, Dispensation, Composition, Faculty, Grant, Rescript, Delegation, Instrument, or other Writing, heretofore hath been used and accustomed to be had and obtained of the See of Rome, or by authority thereof, or of any Prelates of this realm: nor for any manner of other Licences, Dispensations, Compositions, Faculties, Grants, Rescripts, Delegacies, or any other Instruments or Writings, that in causes of necessity may lawfully be granted without offending the Holy Scriptures and Laws of God. But that from henceforth every such Licence, Dispensation, Composition, Faculty, Grant, Rescript, Delegation, Instrument, and other Writing afoze named and mentioned, necessary for your Highness, your Heirs and Successors, and your and their People and Subjects, upon the due Examinations of the Causes and Qualities of the Persons procuring such Dispensations, Licences, Compositions, Faculties, Grants, Rescripts, Delegacies, Instruments or other Writings, shall be granted, had and obtained from time to time, within this your realm, and other your dominions, and not elsewhere, in man-

Power of Dispensation taken from the Pope, and vested in the Abp. of Canterbury.



Power of Dispensation taken from the Pope, and vested in the Abp. of Canterbury.

ner and form following, *e* and none otherwise: That is to say, the Archbishop of Canterbury for the time being, and his Successors, shall have power and authority from time to time, by their discretions, to give, grant and dispose by an Instrument under the Seal of the said Archbishop, unto your Majesty, and to your Heirs and Successors, Kings of this Realm, as well all manner such licences, dispensations, compositions, faculties, grants, rescripts, delegacies, instruments and all other writings, for causes not being contrary or repugnant to the Holy Scriptures and *f* Laws of God, as heretofore hath been used and accustomed to be had and obtained by your Highness, or any your most noble Progenitors, or any of your or their Subjects, at the See of Rome, or any person or persons by authority of the same: and all other licences, dispensations, faculties, compositions, grants, rescripts, delegacies, instruments and other writings, in, for and upon all such causes and matters as shall be convenient and necessary to be had, for the honour and surety of your Highness, your Heirs and Successors, and the wealth and profit of this your Realm: So that the said Archbishop, or any of his Successors, in no manner wise shall grant any dispensation, licence, rescripts, or any other writing aforesaid, for any cause or matter repugnant to the Law of Almighty God.

IV. Be it also enacted by the authority aforesaid, That the said Archbishop and his Successors, *g* after good and due examination by them had of the causes and qualities of the persons procuring for licences, dispensations, compositions, faculties, delegacies, rescripts, instruments or other writings, shall have power and authority by themselves, or by their sufficient and substantial Commissary or Deputy, by their discretions from time to time, to grant and dispose by an Instrument under the name and seal of the said Archbishop, as well to any of your Subjects as to the Subjects of your Heirs and Successors, all manner of licences, dispensations, faculties, compositions, delegacies, rescripts, instruments or other writings, for any such cause or matter, whereof heretofore such licences, dispensations, compositions, faculties, delegacies, rescripts, instruments, or writings have been accustomed to be had at the See of Rome, or by the authority thereof, or of any Prelate of this Realm.

V. And that the said Archbishop and his Commissary shall not grant any other licence, dispensation, composition, faculty, writing or instrument in causes unwont, and not accustomed to be had or obtained at the Court of Rome, nor by authority thereof, nor by any Prelate of this Realm, until your Grace, your heirs or Successors, or your or their Council, shall first be

*e* And none otherwise.] Notwithstanding this *negative* Clause, it hath been held and allowed, that the King is not thereby restrained from granting Dispensations; but that his Authority remains full and perfect as before, and he may still grant them as King; for all Acts of Justice and Grace flow from him. Before which time, the like had been declared, in the Case of *Armiger* and *Holland*, That the Queen, by the Prerogative she had at Common Law, might grant such a Dispensation as was then under debate, *viz.* to hold a Benefice in *Commendam*, without the Archbishop; this Statute only transferring the Authority of the Bishop of Rome to the Archbishop, but not intending to take away from the Queen, (who is not named) the ancient Prerogative of the Crown. Which Resolution is more distinctly delivered by *Moore*, That in Cases, where the Archbishop had not Authority given him by this Statute, the Queen might grant Dispensations, as the Pope had done, because the Papal Authority was transferr'd to the Crown; but that all Dispensations which this Statute enables the Archbishop to grant, are necessarily to be passed in the Form directed by the Statute. Since both which Cases, it hath been deliver'd, in the Case of *Evans* and *Ascutibe*, that this

Statute gives the Archbishop a Power concurrent with the Power which the King had, and still hath, at Common-Law; and that a Dispensation granted by the King, or by the Archbishop, is good; and altho this, (as the other two) is delivered in the Case of a *Commendam*, yet this Declaration of a Power in the King, notwithstanding the *negative* Clause in the Statute, seems to be *general*, as to all other Dispensations; how justly or reasonably delivered, I shall not pretend to say.

*f* Laws of God.] By this Clause the Archbishop was restrained from granting Dispensations of several kinds, which the Popes usually granted, and, in other Countries, do still grant; as, for Marriages within the Degrees prohibited, for an Alien who understands not our Mother-tongue to have a Benefice, and (before the Statute of Dissolution) for an Appropriation of a Benefice, with Cure, to a Nunnery.

*g* After good and due Examination.] After which, if the Archbishop affirm the Cause *just*, there shall be no Exception or Averment by Court, or Party, against it. But in case he deny to Dispense with any Person, who, upon a *good, just, and reasonable Cause*, ought to have Dispensation, a Remedy is provided by this Statute, in *Sec.* 17.

Abridgment.

--- but the Archbishops of Canterbury shall grant Dispensations, &c. to the King, his Heirs and Successors,

--- in all matters accustomed, and not repugnant to the Law of God;

--- and also, after due Examination, to all the King's Subjects.

The Archbishop shall not grant Dispensations in any case not accustomed, without Licence from the King or Council,

Colt & Glover.  
Hob. 146.

1 Cro. 342,  
601.

Mo. 542.

Palm. 457.

Hob. 148,  
149.

Ibid. 158.



## Abridgment.

-- upon pain to make fine at the King's Will.

Every Dispensation, &c. which was charged 4*l.* or above at Rome, shall be confirmed under the great Seal, by the Lord Chancellor, and enrolled in Chancery.

--- but no Instrument under 4*l.* need be confirmed, unless the Party desire it.

--- who shall pay 5*s.* over and above the Taxes hereafter mentioned.

All Dispensations, &c. granted as aforesaid, shall be as good in Law,

--- as if they had been obtained of the See of Rome,

--- and the Children of Marriages in virtue of such Licences, shall be legitimate; and all other Acts to be done thereupon, shall remain in force.

oyer, 233.  
Mo. 447.

advertised thereof, and determine whether such licences and dispensations, compositions, faculties or other writings in such causes unwont and not accustomed to be dispensed withal or obtained, shall commonly pass as other dispensations, faculties or other writings shall, or no, upon pain that the grantors of every such licence, dispensation or writing in such causes unwont, contrary to this Act, shall make fine at the will and pleasure of your Grace, your heirs and successors. And if it be thought and determined by your Grace, your heirs or successors, or your or their Council, that dispensations, faculties, licences or other writings in any such cause unwont, shall pass, then the said Archbishop, or his Commissary, having licence of your Highness, your heirs or successors for the same, by your or their bill assigned, shall dispense with them accordingly.

VI. Provided always, That no manner dispensations, licences, faculties or other rescripts or writings hereafter to be granted to any person or persons by virtue or authority of this Act by the said Archbishop, or his Commissary, being of such importance, that the tax, for the expedition thereof at Rome, extended to the sum of four pounds or above, shall in any wise be put in execution, till the same licence, dispensation, faculty, rescript or other writing, of what name or nature soever it be of, be first confirmed by your Highness, your heirs or successors, Kings of this Realm, under the great Seal, and *b* enrolled in your Chancery in a Roll by a Clerk to be appointed for the same. And that this Act shall be a sufficient warrant to the Chancellor of England for the time being, or to him whom your Grace, your heirs or successors, shall depute to be Keeper of the great Seal, to confirm in your name, your heirs or successors, the aforesaid writings passed under the said Archbishop's seal by Letters Patents in due form thereof to be made under your great Seal, remitting as well the said writing under the Archbishop's seal, as the said confirmation under the great Seal, to the parties from time to time procuring for the same. And that all such licences, dispensations, faculties and other rescripts and writings, for the expedition of which the said taxes to be paid at Rome, was under *iv. li.* which be matters of no great importance, shall pass only by the Archbishop's seal, and shall not of any necessity be confirmed by the great Seal, unless the Procurers of such licence, faculty or dispensation, desire to have them confirmed; in which case they shall pay for the said great Seal, to the use of your Highness, your heirs and successors, *v. s.* sterling, and not above, over and besides such taxes as shall be hereafter limited for the making, writing, registering, confirming and inrolling of such licences, confirmations and writings under the said tax of *iv. li.*

VII. And that every such licence, dispensation, composition, faculty, rescript and writing, of what name or nature soever it be, for such causes as the tax was wont to be *iv. li.* or above, so granted by the Archbishop, and confirmed under the great Seal, and all other licences, dispensations, faculties, rescripts and writings hereafter to be granted by the Archbishop by virtue and authority of this Act, whereunto the great Seal is not limited of necessity to be put to, by reason that the tax of them is under *iv. li.* shall be accepted, approved, allowed and admitted good and effectual in the Law, in all places, Courts and Jurisdictions, as well spiritual as temporal within this Realm, and elsewhere within your Dominions, and as beneficial to the persons obtaining the same, as they should have been, if they had been obtained with all things requisite, of the See of Rome, or of any other person by authority thereof, without any revocation or repeal hereafter to be had of any such licences, dispensations, faculties, rescripts or writings, of what nature soever they be.

VIII. And that all children procreated after solemnization of any marriages to be had or done by virtue of such licences or dispensations, shall be admitted, reputed and taken legitimate in all Courts, as well spiritual as temporal, and in all other places, and inherit the inheritance of their Parents and Ancestors within this your Realm, and all other your dominions, according to the Laws and Customs of the same; and all acts to be done, had or executed according to the tenour of such licences, dispensations, fa-

*b* Enrolled.] Which Enrolment is not a necessary Condition, so as to render the Dispensation null, without it; but the neglect is a Contempt in the Clerk; who also

ought to enter it at length in a Roll, and not in a Paper-book, or by way of Memorandum.

Power of Dispensation taken from the Pope, and vested in the Abp. of Canterbury.



Power of  
Dispensa-  
tion taken  
from the  
Pope, and  
vested in  
the Abp.  
of Canter-  
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culties, writings or other instruments to be made or granted by authority of this Act, shall be firm, permanent, and remain in force; any foreign laws, constitutions, decrees, canons, decretals, inhibitions, use, custom, prescription, or any other thing had or hereafter to be made to the contrary notwithstanding.

IX. And be it farther enacted, That the said Archbishop and his successors shall have power and authority to ordain, make and constitute a Clerk, which shall write and register every such licence, dispensation, faculty, writing or other instrument to be granted by the said Archbishop, and shall find parchment, wax and silken laces convenient for the same, and shall take for his pains such sums of money as shall be hereafter in this present Act to him limited in that behalf for the same. And that likewise your Grace, your heirs and successors, shall by your Letters Patents under your great Seal, ordain, depute and constitute one sufficient Clerk, being learned in the course of Chancery, which always shall be attendant upon the Lord Chancellor, or the Lord Keeper of the great Seal for the time being, and shall make, write and enrol the Confirmations of all such licences, dispensations, instruments or other writings as shall be thither brought under the Archbishop's seal, there to be confirmed and enrolled: and shall also intitle in his books, and enrol of record such other writings as shall thither be brought under the Archbishop's seal, not to be confirmed, taking for his pains such reasonable sums of money as hereafter by this act to him shall be limited for the same; and that as well the said Clerk appointed by the said Archbishop, as the said Clerk to be appointed by your Highness, your heirs or successors, shall subscribe their names to every such licence, dispensation, faculty or other writing that shall come to their hands to be written, made, granted, sealed, confirmed, registered and enrolled by authority of this Act, in form as is before rehearsed.

X. And forasmuch as the charges of obtaining the said licences, dispensations, faculties, and other rescripts or writings afore-named at the Court of Rome, by the losses and exchanges, and in conducting of Currois, and waging Solicitors, to sue for any such licences, dispensations, faculties, instruments and other rescripts or writings, have been grievous and excessive to your people, and many times greater sums have been demanded for the speedy expedition in the Court of Rome, than be expressed in the old tax limited to be paid for the said expeditions, whereby your people hath been brought to an uncertainty upon the payments for expeditions of such things, and by reason thereof have been constrained to pay more than they were wont to do, to the great impoverishing of this Realm, as is aforesaid. And sometimes the speeding of such dispensations, faculties, licences and other writings at Rome, hath been so long deferred, that the parties labouring for the same, have suffered great incommodities and loss for lack of quick speed, which hereafter may be had within this your Realm, to the great commodity of your people, whereby the charges of making exchanges, conducting of Currois and Solicitors for the said dispensations shall be abated, and your people so much relieved and eased. To the intent that all ambiguity and uncertainty of payments for dispensations, faculties, licences and other rescripts and writings, may be taken away, that no fraud or exaction shall be exercised upon your people, by such Officers as shall be appointed by this Act to take pains in speeding such dispensations, faculties and licences, but that your people may be sure and certain what they be appointed to pay for the same:

XI. Be it enacted by this present Parliament, and by the authority of the same, That there shall be two books drawn and made of one tenor: In which shall be contained the taxes of all *bb* customable dispensations, faculties, licences

*bb* Customable Dispensations.] By this Book, of which one Copy at least is still remaining, we see the *Extent* of the Powers originally conveyed to the Archbishop of Canterbury, by this Act; and by comparing those Powers with several Statutes which have been since made, we see in what Particulars they have been limited and restrained. For the Age required for Institution to a Benefice, the Ages required for Orders, the Degrees within which Persons may or may not marry, and several other Heads, which

are there set down, as *Cases dispensable*, have been since *fixed*, by particular Acts of Parliament, and render'd *unalterable* by Dispensation.

As to the *Cases* that are still dispensable (such as *Pluralities*, *Unions*, *Commendams*, *Notaries*, *Orders extra tempora*, and the like,) whatever is to be observed of *them*, will fall most properly under their respective Heads. But there is one Article, which being not a matter merely Ecclesiastical, will fall under none of the succeeding Heads, and will there-

Abridgment.

The Archbishop shall appoint one Clerk, and the King another, to write Dispensations, and the Confirmations of them

--- and the King's Clerk shall also entitle in his Book the Instruments under 4 l.

- and both Clerks shall subscribe their Names to every Licence, &c.

Great Damage to the Subject, by paying Fees above the old Tax,

--- and by great Delays in the expediting of the Instruments,

--- for the hindering of which Exactions for the future,

--- two Books of Taxes shall be provided and subscribed,



## Abridgment.

--- one to remain with the Archbishop's Clerk, and the other with the King's.

(the Clerk in Chancery noting all Faculties whatsoever.)

--- and Fees shall be paid according to those Books,

--- (Compositions excepted, which shall be rated by Archbishop and Chancery.)

--- and whosoever shall take more, shall forfeit ten times so much as he extorts.

If the Tax extend to 4 l. or above, the King and his Officers shall have two parts, and the Archbishop and his Officers, a third.

Division of the said Fees between the King and his Officers,

and other writings, wont to be sped at Rome; which book, and every leaf of those books, and both sides of every leaf, shall be subscribed by the Archbishop of Canterbury, by the Lord Chancellor of England, the Lord Treasurer of England, and the two chief Justices of both Benches for the time being, to the which books all suitors for dispensations, faculties, licences and other writings afore rehearsed, shall have recourse if they require it. And one of the said books shall remain in the hands of him which shall be appointed to be Register and Scribe of the said dispensations, faculties and licences under the said Archbishop of Canterbury, in form as is before said, and the other book shall remain with the Clerk of the Chancery, which by your Grace, your heirs or successors shall be appointed as is before rehearsed. Which Clerk of the Chancery shall also intitle and note particularly and daily in his book ordained for that purpose, the number and qualities of the dispensations, faculties, licences and other rescripts and writings, which shall be sealed only with the seal of the said Archbishop: and also which shall be sealed with the said seal, and confirmed with the great Seal, in form as is before said, that all fraud and concealment in this behalf may be avoided.

XII. And be it enacted by this present Parliament, and by the authority of the same, That no man suing for dispensations, faculties, licences or other rescripts or writings, which were wont to be sped at Rome, shall pay any more for their dispensations, licences or rescripts, than shall be contained, taxed and limited in the said duplicate books of taxes, only compositions excepted, which being arbitrary, no tax can be made; wherefore the tax thereof shall be set and limited by the discretion of the said Archbishop of Canterbury, and the Lord Chancellor of England, or Lord Keeper of the great Seal for the time being. And that such as shall exact or receive of any suitor more for any dispensation, faculty or licence, than shall be contained in the said books of taxes, shall forfeit ten times so much as he shall so extortiously exact and receive, the one half of the which forfeiture to be to the use of your Grace, your heirs or successors, and the other half thereof to be to such of your subjects as will sue for the same by action, bill or plaint, in any of your Grace's Courts, wherein the defendant shall have none esoin nor protection allowed, neither shall be admitted to wage his Law.

XIII. Be it also enacted by this Parliament, and authority of the same, That the tax or sum appointed to be paid for every such dispensation, licence, faculty, instrument, rescript or other writing to be granted by authority of this Act, shall be employed and ordered, as hereafter ensueth; that is to say, if the tax extend to 10 l. or above, by reason whereof the dispensation, licence, faculty, rescript or writing which shall pass by the said Archbishop's seal, must be confirmed by the appension of the great Seal; then the said tax so extending to 10 l. or above shall be divided into three parts, whereof two shall be perceived by the said Clerk of the Chancery to be appointed (as is afore said) to the use of your Highness, your heirs and successors, and to the use of the Lord Chancellor, or the Keeper of the great Seal for the time being, and to the use of the said Clerk, in such wise as shall hereafter be declared. And the third shall be taken by the said Clerk of the Archbishop, to the use of the same Archbishop and his Commissary, and his said Clerk and Register, in such wise as shall hereafter be ordered and limited by this Act: That is to say, the said two parts shall be divided in four parts, of which, three parts shall be taken to the only use of your Highness, your heirs and successors: And the fourth part shall be divided in three parts, whereof the Chancellor of England, or Lord Keeper of the great Seal for the time being, shall have two parts, and the said Clerk of the Chancery the third part for his pains, travel and labours, that he is limited to write and do by the virtue of this Act. And the said third part of whole tax appointed

fore most properly be mentioned in this place, viz. the Right of conferring Degrees of all kinds, which this Act hath vested in the Archbishop of Canterbury for the time being. For, among the other Heads in which Faculties had been customarily grantable, and were now made grantable by the Archbishop in virtue of this Act, we find, in the said Book of Taxation, the two that follow;

*Creatio Doctorum in quacunq; Facultate, 4 l.*  
*Creatio aliorum Graduatorum in quacunq; Facultate, 4 l.*

Which Power, as it hath not been abrogated, or touched, by any succeeding Law; so hath it been exercised by the successive Archbishops, as a Right vested in their See, by no less Authority than that of Parliament; to which Authority, as conveyed by this Act, special reference is made in the Body of every Faculty that is granted upon this Head.

Power of Dispensation taken from the Pope, and vested in the Abp. of Canterbury.



Power of  
Dispensa-  
tion taken  
from the  
Pope, and  
vested in  
the Abp.  
of Canter-  
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ed to the said Archbishop and his officers (as is aforesaid) shall be divided into three parts, whereof the Archbishop shall have to his use two parts; and his officers shall have the third part thereof; of which third part to be divided into two parts, the said Clerk or Register which shall find parchment, wax and silk, and shall devise and write the said dispensations, licences, faculties, rescripts or other writings, and register the same, shall have for his said labour, and for receiving and repaying of the sums of money, that shall come to his hands for dispensations, faculties, licences and other rescripts aforesaid, the one moiety thereof, and the Commissary appointed to seal the said dispensations, faculties, licences and other rescripts, shall have the other part.

XIV. And if the tax be under iv. li. and not under xl. s. then the said tax shall be divided into three parts as is aforesaid, whereof the King's Highness, his heirs and successors, shall have two parts thereof, abating iii. s. iij. d. which shall be to the said Clerk of the Chancery for subscribing, entituling and enrolling the said dispensations, licences, faculties, rescripts and other writings aforesaid, and receiving of the King's money so taxed: And the Archbishop and his officers shall have the third part, which third part shall be divided into two parts, whereof the Archbishop shall have one entirely to himself; his Scribe and Commissary shall have the other part thereof, equally to be divided amongst them for their costs and pains in that behalf: And if the tax be under forty shillings, and not under six and twenty shillings eight pence, the same tax shall be divided into two parts, whereof one part shall be to your Grace, your heirs and successors, deducting thereof two shillings for the Clerk of the Chancery for his pains, as is aforesaid: and the other part shall be to the said Archbishop and his officers; which other part shall be divided into two parts, whereof the Archbishop shall have the one, and his Commissary and Scribe shall have the other equally divided amongst them. And if the tax be under six and twenty shillings eight pence, and not under twenty shillings, the same shall be divided into two parts, whereof your Grace, your heirs and successors shall have one part entirely, abating two shillings thereof to the said Clerk of the Chancery, and the Archbishop and his officers shall have the other part, and the same other part shall be divided into three parts, whereof the Archbishop shall have one, his Commissary the second, and his Scribe or Register the third. And in case the tax be under twenty shillings, the same shall be perceived to the use of the said Commissary, Clerk of the said Archbishop, and Clerk of the Chancery, to be equally divided amongst them for their pains and labours by them to be sustained by authority of this act, as is aforesaid.

XV. Provided always, that this Act shall not be prejudicial to the Archbishop of York, or to any Bishop or Prelate of this Realm: but that they may lawfully (notwithstanding this Act) dispense in all cases, in which they were wont to dispense by the common Law or Custom of this Realm, aforesaid the making of this Act.

XVI. Provided also, and be it enacted by the authority aforesaid, That if it happen the See of the Archbishoprick of Canterbury to be void, that then such manner licences, dispensations, faculties, instruments, rescripts and other writings, which may be granted by Virtue and Authority of this Act, shall (during the vacation of the same See) be had, done and granted under the Name and Seal of the Guardian of the Spiritualities of the said Archbishoprick for the time being, according to the tenor and form of this Act, and shall be of like force, value and effect, as if they had been granted under the name and seal of the Archbishop for the time being.

XVII. And be it farther enacted, That if the foresaid Archbishop of Canterbury (for the time being) or the said Guardian of the Spiritualities, for the time being, hereafter refuse or deny to grant any licences, dispensations, faculties, instruments, or other writings, which they be authorized to do by virtue and authority of this Act, in such manner and form as is aforesaid remembred, to any person or persons that ought upon a good, just and reasonable cause to have the same, by reason whereof this present Act by their wilfulness, negligence, or default, should take none effect: then the Chancellor of England, or the Lord Keeper of the great Seal for the time being, upon any Complaint thereof made, shall direct the King's Writ to the said Archbishop or Guardian, denying or refusing to grant such licences, dispensations, faculties or other writings; enjoining him by the said Writ, upon a certain pain therein to be limited by the discretion of the said Lord Chancellor or of the Lord Keeper

Abridgment.

--- and between the Archbishop and his Officers.

The Fees being under 4 l. and not under 2 l. shall be divided into three parts, two to the King, and one to the Archbishop, with their Officers,

--- and being under 2 l. and not under 1 l. 6 s. 8 d. shall be equally divided between the King and the Archbishop and their Officers,

--- and so, being under 26 s. 8 d. and not under 20 s.

The Fees being under 20 s. shall be divided between the Commissary, the King's Clerk, and the Archbishop's.

Proviso for the Archbishop of York and other Bishops, to dispense in Cases accustomed

--- and that the See of Canterbury being void, the Guardian of the Spiritualities shall grant Dispensations.

The Archbishop refusing to grant a Dispensation,

--- shall be enjoined by the King's Writ to signify the Cause of Refusal,



## Abridgment.

-- and the Chancelour finding the Cause good, shall allow such Refusal,

--- but if it shall appear to be wilfulness in the Archbishop, the King may send to him an Injunction to grant it, under a Penalty at his discretion :

--- the Archbishop still refusing, shall forfeit the Sum appointed,

--- and the King may commission two other Spiritual Prelates, or Persons, to do it ;

--- which two Prelates, or Persons, shall grant the Dispensation under their Seals, and for the same Fees, as before appointed,

--- and it shall be of as good strength as if granted by the Archbishop.

This Act shall not be interpreted a varying from the Church in any Articles of Faith,

Keeper of the great Seal, that he shall in due form grant such licence, dispensation, faculty or other writing according to the request of the procurers of the same, or else signifie unto your Highness, your heirs or successors, in the Court of Chancery at a certain day, for what occasion or cause he refused and denyed to grant such licences, faculties or dispensations. And if it shall appear to the said Chancellor, or Lord Keeper of the great Seal, upon such certificate that the cause of refusal or denyal of granting such licences, faculty or dispensation, was reasonable, just and good : that then it so being proved by due search and examination of the said Chancellor, or Lord Keeper of the great Seal, to be admitted and allowed. And if it shall appear upon the said Certificates, that the said Archbishop or Guardian of the Spiritualities for the time being, of wilfulness in contemning the due execution of this Act, without a just and reasonable cause, refused or denyed to grant such licence, faculty or dispensation : that then your Highness, your heirs or successors, being thereof informed, after due examination had, that such licences, faculties or dispensations may be granted without offending the Holy Scriptures, and Laws of God, shall have power and authority in every such case, for the default, negligence and wilfulness of the said Archbishop or Guardian, to send your Writ of Injunction under your great Seal, out of your said Court of Chancery, commanding the Archbishop or Guardian that so shall deny or refuse to grant such licence, faculty or dispensation, to make sufficient grant thereof, according to the tenor and effect of this Act, by a certain day, under a certain pain in the said Writ to be contained, and to be limited by your Highness, your Heirs or Successors, Kings of this Realm. And if the said Archbishop or Guardian, after the receipt of the said Writ, refuse or deny to grant such licences, faculties or dispensations, as shall be enjoined him by virtue of the said Writ, and shew and prove before your Majesty, your heirs or successors, no just or reasonable cause why he should do so, then the said Archbishop or Guardian that so shall refuse to put this Act in execution, according to the said Writ of Injunction, shall suffer, lose and forfeit to your Highness, your heirs and successors, such pain and penalty as shall be limited and expressed in the said Writ of Injunction. And over that it shall be lawful to your Highness, your heirs and successors, for every such default and wilfulness of the said Archbishop or Guardian for the time being, to give power and authority by Commission under your great Seal, to such two spiritual Prelates, or persons to be named by your Highness, your heirs or successors, as will do and grant such licences, faculties and dispensations, refused or denyed to be granted by the said Archbishop or Guardian, in contempt of this Act.

XVIII. And be it further enacted by authority aforesaid, That the said two spiritual Prelates or persons to whom in such cases any such Commission shall be directed, shall have power and authority to grant every such licence, faculty, dispensation, instrument and other writings so refused to be granted by the said Archbishop or Guardian for the time being, by an instrument under their seals, taking like fees and charges for the same, as is before rehearsed, and not above, under the pains aforesaid remembred. And that every such licence, faculty and dispensation so granted for any cases or matters, whereunto any confirmation under the King's great seal is appointed by this Act to be had in manner and form above declared, shall be had and obtained accordingly. And such licences and confirmation shall be had for like fees and charges, as they are above specified, and not above, under the pains above mentioned. And that every such licence, faculty or dispensation, or other writing to be granted by the said Prelates, or persons to be assigned by the King's Highness, his heirs and successors, as is aforesaid, shall be of as good value, strength and effect, and as beneficial and profitable to the persons procuring the same, as if they had been made, granted and obtained under the name and seal of the said Archbishop.

XIX. Provided always, That this Act, nor any thing or things therein contained, shall not be hereafter interpreted or expounded, that your Grace, your Nobles and Subjects, intend by the same to decline or vary from the Congregation of Christs Church, in any things concerning the very Articles of the Catholick Faith of Christendom, or in any other things

Power of Dispensation taken from the Pope, and vested in the Abp. of Canterbury.



Power of  
Dispensa-  
tions taken  
from the  
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of Canter-  
bury.

things concerning the very Articles of the Catholick Faith of Christen-  
dom, or in any other things declared by Holy Scripture and the Word  
of God, necessary for your and their salvations, but only to make an  
Ordinance by policies necessary and convenient to repress Vice, and for  
good conservation of this Realm in peace, unity and tranquillity, from  
rauin and spoil, insuing much the old ancient customs of this Realm in  
that behalf; Not minding to seek for any relief, succors or remedies  
for any worldly things and humane Laws, in any cause of necessity,  
but within this Realm at the hands of your Highness, your heirs and  
successors, Kings of this Realm, which have and ought to have an Im-  
perial power and authority in the same, and not obliged in any worldly  
causes to any other superior.

XX. Provided always, That the said Archbishop of Canterbury, or  
any other person or persons shall have no power or authority by reason  
of this Act, to visit or vex any Monasteries, Abbeyes, Priories, Colleges,  
Hospitals, Houses or other places religious, which be or were exempt  
before the making of this Act, any thing in this Act to the contrary  
thereof notwithstanding; but that redress, visitation and confirmation  
shall be had by the King's Highness his heirs and successors, by Com-  
mission under the great Seal to be directed to such persons as shall be  
appointed requisite for the same, in such Monasteries, Colleges, Hospi-  
tals, Priories, houses and places religious exempt, so that no visitation  
nor confirmation shall from thenceforth be had or made, in or at any such  
Monasteries, Colleges, Hospitals, Priories, houses and places religious  
exempt, by the said Bishop of Rome, nor by any of his authority, nor  
by any out of the King's Dominions; nor that any person religious or  
other reliant in any of the King's Dominions, shall from henceforth  
depart out of the King's Dominions, to or for any visitation, congre-  
gation or assembly for Religion; but that all such visitations, congre-  
gations and assemblies shall be within the King's Dominions.

XXI. Provided also, That this present Act, or any thing therein con-  
tained, or any licence or dispensation hereafter to be made by virtue and  
authority thereof, shall not extend to the repeal or derogation of the late  
Act made sith the beginning of this present Parliament, for reformation  
of pluralities of benefices, and for non-residences of spiritual persons up-  
on their dignities or benefices, nor to any things contained or mentioned  
in the said Act; nor that this Act, nor any thing to be done by autho-  
rity thereof, shall not be taken, expounded or interpreted to give licence  
to any person or persons, to have any more number of benefices than is  
limited in the said Act. And that the same Act for pluralities and non-  
residences of benefices, and every thing therein contained, shall stand  
good and effectual in all intents, according to the true meaning thereof:  
Any thing in this present Act, or any license or dispensation to be had by  
authority thereof in any wise notwithstanding.

XXII. And be it farther enacted by authority aforesaid, That if any  
person or persons, subject or reliant within this Realm, or within any  
of the King's Dominions, at any time hereafter sue to the Court of Rome,  
or the See of Rome, or to any person claiming to have his authority by

[The late Act.] The Powers granted by  
this Statute (25 Hen. VIII. c. 21. §. 3, 4.)  
are general, All manner of Dispensations  
which have been accustomed to be had at  
the See of Rome, in case they were not  
contrary to the Laws of God. Now, the  
Pope had used to grant Dispensations, some-  
times, for as many Benefices as the Party  
could obtain (which Dispensations were com-  
monly called *Tot quot*.) and very frequently  
for a number of Benefices; of which we have  
a remarkable Testimony in the Register of  
Archbishop *Winchelsey* upon a question con-  
cerning the Right of the See of *Canterbury* to  
prove Wills in other Dioceses in Case of  
*Bona notabilia*; where many Instances are  
set down of the Probates of Wills of Clergy-  
men possessed of Benefices in different Dio-  
ceses; and the several Numbers will be

given under the Title *PLURALITIES*,  
to shew the Practice of those Times. For  
the present purpose, it is sufficient to ob-  
serve, that one Person had enjoy'd thirteen  
Benefices, in nine Dioceses; a second,  
thirteen Benefices, in eight Dioceses; a  
third, fifteen Benefices, in eight Dioceses;  
a fourth, twenty three Benefices, in eight  
Dioceses: And lest those general Words,  
before-cited in the Statute 25 Henr. VIII,  
which sets Dispensations on a new foot, and  
vests a new Power in the Archbishop, should  
be interpreted an Abrogation of the Re-  
straint which the 21 Hen. VIII. had laid;  
this Clause was judged necessary, to pre-  
vent any such Interpretation, and to con-  
firm the Limitations, in the said Statute  
contained.

Abridgment.

... but only a poli-  
tick Provision in  
things worldly and  
humane.

The Archbishop  
of *Canterbury* shall  
not have Power to  
visit Religious  
Houses, Exempt,

...but the King  
shall visit by Com-  
mission under the  
Great Seal,

...and the Pope  
shall not visit, con-  
firm, &c.

...nor any Religi-  
ous depart out of  
the Realm for Vi-  
sitation.

This Act shall  
not alter 21 Hen. 8  
c. 13. concerning  
Pluralities and  
Non-residence,

--which shall stand  
good and effectual.

To sue for, or  
execute any Dis-  
pensation, from  
*Rome*,

Dyer, 352. a.  
Mo. 442.  
Hob. 158.  
Palm. 470.



## Abridgment.

-- or obey any Censures, to the Lett of the Execution of this Act,

---shall be a *Præmunire*.

This Act shall not take away any Immunities granted to Religious Houses by the Popes,

---provided they pay no Pensions to Rome,

---nor admit Visitation, nor Confirmation, from thence,

---nor make any Oath to the See of Rome;

---but all Confirmations of Elections usually had from Rome, shall be done by the King's Commission;

--except such Houses, as have usually had no Confirmations, upon Elections; which shall so continue.

Dispensations concerning Marriages, and all others obtained before March 12. 1533, shall be valid,

--and all Dispensations granted to the Hospital of S. John of Jerusalem, or o-

the same, for any licence, faculty, dispensation, or other thing or things contrary to this Act, or put in execution any licence, faculty, dispensation, or any other thing or things hereafter to be obtained from Rome, or the See of Rome, or from any claiming authority by the same, for any of the causes above mentioned in this Act, or for any other causes that may be granted by authority of this Act, or attempt or do any thing or things contrary to this Act: or maintain, allow, admit or obey any manner of censures, excommunications, interdictions, or any other process from Rome, of what name or nature soever it be, to the derogation or lett of the execution of this Act, or of any thing or things to be done by reason of the said Act: that then every such person or persons so doing, offending, and being thereof convicted, their aiders, counsellors and abettors, shall incur and run into the pain, loss and penalty comprised and specified in the Act of *Provision and Præmunire*, made in the first year of your most noble Progenitor K. Richard II. against such as sue to the Court of Rome, against your Crown and Dignity Royal.

XXIII. Provided always, That this Act, or any thing therein contained, shall not hereafter be taken nor expounded to the derogation or taking away of any grants or confirmations of any Liberties, Privileges or Jurisdictions of any Monasteries, Abbeys, Priories, or other houses or places exempt, which heretofore the making of this Act, have been obtained at the See of Rome, or by authority thereof; but that every such grant and confirmation shall be of the same value, force and effect, as they were afore the making of this Act, and as if this Act had never been made. Provided always, That the Abbots, Priors, and other chief Rulers and Governours of such Monasteries, Abbeys, Priories, and other houses and places exempt, shall not hereafter pay any pension, portion, or other cense to the See of Rome; nor admit or accept any visitation, nor any confirmation, from or by the said See of Rome, or by authority thereof, of or for any person to be elected, named, or presented to be Heads of any such Monasteries, Abbeys, Priories, places or houses exempt; nor shall make any corporal Oath to the Bishop of Rome, otherwise called the Pope, upon the peins limited in this Act. But that every such visitation and confirmation of such Heads elect in any such Monasteries, Abbeys, Priories, houses or places exempt, where after their election, they were bounden to have and obtain any confirmation of their election, or of the person named, presented or elect, shall be from henceforth had, made and done within this Realm, at and within every such Abbeys, Monasteries, Priories and other houses and places exempt, by such person and persons as shall be appointed by authority of the King's Commission from time to time, as the cause shall require, and not by the See of Rome, nor by authority thereof, any thing in this next Proviso above specified to the contrary thereof notwithstanding.

XXIV. Provided always, That in such Monasteries, Abbeys, Priories and houses exempt, where after election, presentation, or nomination of their Heads, no such confirmation is requisite to be had, nor hath been used to be taken by reason of such privileges as they have concerning the same; that in every such Monasteries, Abbeys, Priories and places exempt, they shall not be bounden to obtain, have or take any confirmation for the same within this Realm, by authority of this Act, but use their privileges therein, as they have done before the making of this Act, any thing in this Act, or any the Provisoes next above rehearsed, to the contrary thereof notwithstanding.

XXV. Provided also, and be it enacted, that this Act, or any thing or things, word or words therein or in the Preamble thereof mentioned or contained, is not intended or meant, nor shall be expounded nor interpreted, that any dispensations, licences or confirmations for marriages granted to any the King's subjects born under his shepance, at any time before the xij. day of March, in the year of our Lord God 1533. shall be appaired or of any less value, strength, force or effect than they were at the said xij. day of March; Nor that this Act, or any things therein contained, shall not extend to the derogation, appairing or annullation of any licences, dispensations, confirmations, faculties or indulgences at any time before the said xij. day of March, in the year of our Lord God 1533. had or obtained at the See of Rome, or by authority thereof, to or for any Subjects born in this Realm, or in any the King's Dominions, or to or for the Hospital of the Prior of Saint John's Jerusalem in England, or any Commandries or Members thereof, or to or for any other Cathedral Churches, Hospitals, Monasteries, Abbeys, Priories, Col-

[ *Provision and Præmunire*.] This Penalty was afterwards changed into High-Treason, by 13 *Eliz. c. 2. § 3*; the Guilt and Punishment of which is thereby inflict-

ed upon any Person who shall obtain from Rome any Bull, Instrument, or Writing whatsoever.

Power of Dispensations taken from the Pope, and vested in the Abp. of Canterbury.



Power of Dispensations taken from the Pope, and vested in the Abp. of Canterbury.

leges, Conventual Churches, Parochial Churches, Chappels, Fraternities, Brotherhoods or Bodies Politick within this Realm, or in any other the King's Dominions: But that every such licence, dispensation, confirmation, faculty and indulgence granted before the said vij day of March, to any such Subject, or to the said Hospital of the Prior of Saint John's Jerusalem in England, and Commandries or Members thereof, or to any other Cathedral Church, Hospital, Monastery, Abbey, Priory, College, Church Conventual, Parochial Church, Chappel, Fraternity, Brotherhood, or Body politick, or to their predecessors or ancestors within this Realm, or in any other the King's Dominions, shall be of the same force, strength, value and effect, and may be from time to time put in execution at all times hereafter, by and to them that will use and have the same, as they might have been afore the making of this Act, and as if this Act had never been had ne made, any thing in the said Act to the contrary hereof notwithstanding.

XXVI. Provided always, That such licences, dispensations, confirmations or faculties heretofore obtained at the See of Rome, or by authority thereof, contrary to the expresse provisions of the Laws and Statutes of this Realm heretofore made, shall not at any time hereafter be used or put in execution in any case, to the derogation or contrary to the said Laws and Statutes of this Realm, and the provisions of the same: any thing in this Proviso to the contrary thereof notwithstanding.

XXVII. And be it enacted by authority of this present Parliament, That the King our Sovereign Lord, by the advice of his honourable Council, shall have power and authority from time to time, for the ordering, redress and reformation of all manner of indulgences and privileges thereof within this Realm, or within any the King's Dominions, heretofore obtained at the See of Rome, or by authority thereof, and of the abuses of such indulgences and privileges thereof, as shall seem good, wholesome and reasonable, for the honour of God, and weal of his people: and that such order and redress as shall be taken by his Highness in that behalf, shall be observed and firmly kept upon the peins limited in this Act for the offending of the contents of the same.

Abridgment.  
ther Societies, and Churches before March 12,

...may be put in execution, as before this Act,

... provided they be not against the Laws of the Realm.

The King and Council shall have power to regulate Privileges and Indulgences heretofore obtained.

A.D. 1554.

1, 2 Phil. &amp; Mar. Cap. 8.

In an Act, Entituled, *An Act repealing all Articles, and Provisions, made against the See Apostolick, &c.*

§ X. And one other Act then and there made, entituled, An Act concerning the Exoneration of the King's Subjects from Exactions and Impositions before that time payed to the See of Rome, and for having Licences and Dispensations within this Realm, without suing further for the same, shall be utterly void, made frustrate, and repealed.

Repeal of the foregoing Statute.

A.D. 1559.

1 Eliz. Cap. 1.

In an Act, Entituled, *An Act to restore to the Crown the ancient Jurisdiction, &c.*

VIII. And one other Act made in the said five and twentieth year, intituled, An Act concerning the exoneration of the Kings Subjects from exactions and impositions heretofore paid to the See of Rome, and for having Licences and Dispensations within this Realm, without suing further for the same, shall be revived, and shall stand in full force—

Revival of the foregoing Statute, concerning Dispensations.

A.D. 1536.

28 Henr. VIII. Cap. 16.

*A Provision for Dispensations and Licences heretofore obtained from the See of Rome.*

Where the Bishop of Rome and his Predecessors, of his and their covetous and ambitious Mind, to the Intent to advance and enrich themselves and the See of Rome, to the great impoverishing of this Realm of England, and other the King's Dominions, contrary to God's Law, the Laws and Statutes of this Realm, and in Derogation of the Imperial Crown of this said Realm, have heretofore wrongfully pretended, extorted, used and exercised within the same, divers

The unjust and grievous Exercise of the Papal Powers, in granting Licences, Indulgences, &c.



## Abridgment.

--which have, till of late, been received:

--and, altho' now abolished, and understood to be mere Encroachments and of none effect,

--the impeaching of such Privileges as are enjoyed by force of them, would be the undoing of many:

Enacted, that, All Instruments heretofore obtained from Rome, shall be void,

--and it shall be a *Premunire* to plead them;

--provided, that Marriages upon *Papal* dispensations before Nov. 3. 26 H. 8.

--if not against God's Laws, as declared in 28 H. 8. c. 7, --shall be as good, as if no Impediment had been,

--and the Children legitimate.

vers and many usurped Powers, Jurisdictions and Authorities, during, and by the which time, the said Bishop and his Predecessors, arrogantly and unjustly have taken upon them for great Sums of Money, and other Profits to them given, to grant unto the King's Subjects, and other Inhabitants within this Realm, and other the King's Dominions, many, divers and sundry Authorities, Immunities, Faculties, Privileges, Licences, Indulgences, and Preheminences of divers Kinds, Natures, and Qualities, which although they proceeded by an unjust and usurped Authority, have been until now of late by the Subjects of this Realm timorously and ignorantly accepted, received, used, and erroneously put in Exercise and Execution: the which usurped Authority, Jurisdiction and Power is now justly, truly, and ought to be clearly and absolutely extinguished, extirped and abolished within this Realm, and other the King's Dominions: And forasmuch as all and every such Person and Persons, Bodies politicke and corporate, which unlawfully and without any manner of Authority or just Ground, heretofore have timorously and ignorantly accepted, received, used, and erroneously put in execution and exercise, the said Faculties, Immunities, Authorities, Privileges, Licences, Indulgences, and Preheminences, have now sincere, pure, and perfect Intelligence and Knowledge of the said usurped Authority, Jurisdiction and Power; and that the said Faculties, Authorities, Privileges, Licences, and Indulgences, so as is aforesaid accepted, received, used, and erroneously exercised, were and been to all Intents and Purposes clearly void, frustrate, and of none effect: Albeit, if they should be impeached or interrupted of such Privileges, Liberties, Preheminences, Authorities, Jurisdictions, Profits, and other Commodities, which they now have, use and exercise by colour of such vain and void Licences, Dispensations and Faculties, it should be to their intolerable Inquietations and utter undoing.

II. Wherefore be it enacted by Authority of this present Parliament, That all Bulls, Breves, Faculties and Dispensations, of what Names, Natures or Qualities soever they be of, heretofore had or obtained of the Bishop of Rome, or of any his Predecessors, or by the Authority of the See of Rome, by or to any Subjects, Resiants, or Bodies politicke or corporate, of or in this Realm, or of or in any other the King's Dominions, shall from henceforth be clearly void, and of no Value, Force, Strength, nor Virtue; and shall never hereafter be used, admitted, allowed, pleaded or alledged in any Places or Courts of this Realm, or of any other the King's Dominions, upon the Pains contained in the Statute of Provision and *Premunire*, made in the Sixteenth Year of the Reign of King Richard the Second: Yet notwithstanding, at the most humble Petition and Intercession of the Lords Spiritual and Temporall, and the Commons in this present Parliament assembled, it may please the King's Majesty of his most gracious Benignity, Goodness, and blessed Disposition, that it may be enacted by Authority of this Parliament, That all Marriages had and solemnized within this Realm, or in any other the King's Dominions, before the Third of November, in the Six and Twentieth Year of the King's most gracious Reign, whereof there is no Divorce or Separation had by the Ecclesiastical Laws of this Realm, and which marriages be not prohibited by God's Laws limited and declared in the Act made in this present Parliament for the Establishment of the King's Succession, or otherwise by Holy Scripture, shall be by Authority of this present Parliament good, lawful and effectual, and shall be from the beginning of such Marriages reputed, esteemed, taken, adjudged, received, approved, and allowed by the Authority of this present Parliament, to all and singular Purposes, Effects and Intents, as good, as sufficient, and as available, as though no Impediment of Matrimony had ever been between them that have contracted and solemnized such Marriages: And that all Children procreated and to be procreated in and under such Marriages, shall be lawful to all Intents and Purposes.

Lev. p. 51.

[Pleaded or alledged.] *Ann. 31 Car. II.* The Archbishop of York libelled in the Spiritual Court, against *Ethrington*, for a Pension; setting forth, that a Church (there named) was appropriated by the Pope, to the Abby of *Belland*; and that, upon such Appropriation, the Abbot granted the said Pension to the Archbishop. Hereupon, a Prohibition was prayed, on Suggestion, that the matter

of this Libel was contrary to the Statute. But it was reply'd, That the Title to the Pension was founded upon the Grant of the Abbot, and not upon the Bull, or Appropriation; which was produced only, as an *Appropriation*, by way of *Inducement* to the Grant, and that, without which no Grant had been made: and, accordingly, a Prohibition was denied.

Power of Dispensation taken from the Pope, and vested in the Abp. of Canterbury.



Power of  
Dispensa-  
tion taken  
from the  
Pope, and  
vested in  
the Abp.  
of Canter-  
bury.

III. And that it may be also enacted by the Authority of this present Parliament, That all Archbishops and Bishops of this Realm, or of any the King's Dominions, consecrated, and at this present time taken and reputed for Archbishops and Bishops, may by Authority of this present Parliament, and not by virtue of any Provision, or other foreign Authority, Licence, Faculty, or Dispensation, keep, enjoy and retain their Archbishopricks and Bishopricks, in as large and ample manner, as if they had been promoted, elected, confirmed and consecrated according to the due course of the Laws of this Realm. And that every Arch- bishop and Bishop of this Realm, and of other the King's Dominions, may minister, use, and exercise all and every Thing and Things pertaining to the Office or Order of an Archbishop and Bishop, with all Tokens, Insigns and Ceremonies thereunto lawfully belonging.

IV. And that all Ecclesiastical Persons of the King's Realm and Dominions, which at this time be taken, had and reputed for Abbots, Priors, Abbesses, Prioresses, and other Heads of Religion (which be not, neither shall be excluded from their Dignities by the late Act of Suppression) and the religious Persons living under their Obedience, and all Persons now taken and reputed as Masters, Presidents, Provosts and Wardens of Cathedral Churches and Colleges, with the Companies and Fellowships of the same, all Priests and Clerks, which have received any of the Ecclesiastical Orders, all Archdeacons and Deans, and other having Offices, Cures and Dignities Spiritual, may by Authority of this Act, and not by the virtue of any foreign Power or Authority, administer, use and exercise all Things pertaining to their Dignities, Offices, Orders, Cures, Religions and Fellowships, and may lawfully hereafter use all Tokens, Insigns and Ceremonies, which they have been accustomed to use in times past (so it be not expressly against the Laws of God, and this Realm) any Thing or Things contained in any Act or Acts made sithen the beginning of this present Parliament to the contrary of any of the Premises, in any wise notwithstanding.

V. And where divers and many of the King's said Subjects have purchased and obtained many Dispensations, Bulls, Breves and Faculties, of the Bishop of Rome for the time being, or by Authority of the See of Rome, as Pluralities, Unions, Trialties, Appropriations, Commendams, Exemptions, and other Bulls, Breves and Faculties, for divers Causes and Matters, other than be aforesaid expressed, which be of no Strength or Virtue: It may therefore please the King's Majesty, that it may be enacted by Authority aforesaid, That all and every his said Subjects, during the time of one whole Year next after the Feast of Saint Michael the Archangel next coming, may enjoy, use, and have, by Authority of this present Act, and not by the virtue of the said Bulls, Breves and Faculties, all and every the Effects contained and specified in such Bulls, Breves and Faculties, in all such Cases only as may be dispensed with by the Archbishop of Canterbury, by Authority of the Laws and Statutes of this Realm.

VI. And that it may be further enacted by Authority aforesaid, That all and every the King's said Subjects, bringing, rendering and delivering to such Persons of his Council, or of the Masters of his Chancery, as the King's Highness shall name and appoint, any Bulls, Breves, or any other Faculties, concerning any the Premises; that then, if it shall appear to such Persons as the King's Highness shall so name and appoint to receive such Bulls, Faculties and Breves, after due Examination thereof had, that the Effects contained and specified in such Bulls, Faculties and Breves, or any part thereof, may be lawfully granted by the said Archbishop of Canterbury, by Authority of the Laws and Statutes of this Realm: that then, and in every such Case, the King's said Subjects, making humble Suit to have the Effects contained in the said Bulls, Breves and Faculties to be granted unto them, shall have, receive, and obtain of the Chancellor of England, or Keeper of the Great Seal for the time being, by sufficient writing in due form to be made, and to be sealed under the King's Great Seal, all and every such effects contained and specified in such Bulls, Breves and Faculties, as may be lawfully granted by the said Archbishop of Canterbury, by Authority of the Laws and Statutes of this Realm, paying only for sealing of every such Writing, *xx. s. iv. d.* and over that, for the reasonable costs for pains of the writing thereof, *ii. s. iv. d.* and not above; and for the pain taken for due examination of every

Abridgment.

All former Consecrations of Archbishops and Bishops, shall be good by authority of this Act, and not by virtue of any foreign Authority.

All Religious Persons, Dignities, and Incumbents, may exercise all things pertaining to their Offices, Dignities, and Cures, by authority of this Act, and not by virtue of any foreign Power.

All Dispensations &c. of other kinds shall be good, for one year, by authority of this Act,

--in such cases as may be dispensed with, by the Archbishop of Canterbury;

---and then, being deliver'd to the King's Commissioners, and approved, they shall be confirmed under the Great Seal,

-- Fees 20 s. 4 d.  
--- Writing 3 s. 4 d.

*m* Bulls, Faculties.] It was said, in the fore-cited Case of *Ethbrington* and the Archbishop of York, that the Archbishop could not take a new Grant of the Pension from the King (pursuant to this Clause) because it was not granted to him by the Pope; nor

was it necessary for him to produce a Confirmation made by the King, because the Appropriation was not his Title, but only (as hath been said) an *Inducement* to the Grant.



Abridgment.

--- Examining 3 s. 4 d.  
 ---and this Act shall be sufficient Warrant to the Chancellor, for enfealing them, ---and, being Sealed, they shall be allowed in all Courts.

such Bulls, Breves and Faculties, iii. s. iv. d. and not above: And that this present Act shall be sufficient and immediate warrant to the Chancellor or Keeper of the Great Seal, for enfealing and delivery of such Licences, Faculties, Dispensations, and other Writings which shall be made, granted, and sealed under the King's great Seal, by virtue and authority of this Act.

VII. And it is also enacted by authority aforesaid, That all and every such Licence, Dispensation, Faculty, Confirmation, or other Writing, to be had, made, or granted under the King's Great Seal, out of the said Court of Chancery, by authority of this Act, in form as is above rehearsed, shall be good and effectual to the said Parties suing for the same, according to the Tenor and Effects thereof, and shall be admitted, accepted and allowed in all Courts and Places of this Realm, and in all other the King's Dominions; any Usage, Prescription, foreign Laws, Customs, or Ordinance to the contrary thereof notwithstanding.

Power of Dispensation taken from the Pope, and vested in the Abp. of Canterbury.

1, 2 Phil. & Mar. Cap. 8.

A.D. 1554.

In an Act, Entituled, *An Act repealing all Articles and Provisions against the See Apostolick, &c.*

Repeal of the foregoing Statute.

§ XVI. And one other Act made in the same Parliament, entituled, An Act for the Release of such as then had obtained pretended Licences and Dispensations from the See of Rome, --- shall from henceforth be repealed, and utterly made void.

1 Eliz. Cap. 1.

A.D. 1558.

In an Act, Entituled, *An Act to restore to the Crown the ancient Jurisdiction, &c.*

Reviver of the foregoing Statute, concerning Dispensations.

X. And also one other Act made in the Eighth and Twentieth Year of the Reign of the said late King, entituled, An Act for the Release of such as have obtained pretended Licences and Dispensations from the See of Rome, shall be revived, and shall stand and be in full force.

22, 23 Car. II. (Stat. 2.) Cap. 5.

A.D. 1671.

In an Act, Entituled, *An Act for laying Impositions on Proceedings at Law.*

Duties upon Dispensations, temp. Car. 2.

§ LVIII. For every Dispensation to hold two Ecclesiastical dignities, or both a Benefice and a Dignity, fifteen shillings.

§ LIX. For every other Dispensation, which shall be passed by the Lord Bishop of Canterbury for the time being, or the Master of the Faculties, ten shillings.

5, 6 Will. & Mar. Cap. 21.

A.D. 1693.

In an Act, Entituled, *An Act for granting to their Majesties several Duties on Vellum, &c.*

Stamp upon Dispensation, 40 s.

III. For every Skin or Piece of Vellum or Parchment, or Sheet of Paper, on which any Dispensation to hold two Ecclesiastical Dignities or Benefices, or both a Dignity and a Benefice, or any other Dispensation or Faculty, from the Lord Archbishop of Canterbury, or the Master of the Faculties for the time being, shall be ingrossed or written, the Sum of \* Forty Shillings.

---\* Doubled, 9, 10. W. 3. 4 l.

TIT.



## TIT. IV.

ORDERS of MINISTERS in  
the Church of *England*, and the Forms  
of CONSECRATION and ORDINATION  
in general.

## The CONTENTS.

Cap. I. *The Three ORDERS of MINISTERS in  
the Church.*Cap. II. *The Forms of CONSECRATING and OR-  
DAINING, Alter'd and Established in the Church of  
England.*

## CAP. I.

*The Three ORDERS of Ministers in the Church.*

3 Edw. VI.----5, 6 Edw. VI.----13, 14 Car. II.

*In the Preface before the Form of Making and Consecrating, &c.*

T is evident unto all Men diligently reading holy Scripture and ancient Authors, that from the Apostles time there have been these Orders of Ministers in Christ's Church; Bishops, a Priests, and Deacons. Which Offices were evermore had in such reverend estimation, that 'no Man might' presume to execute any of them,

*a Priests and Deacons.] Besides these, the Church of Rome hath five others, viz Subdeacons, Acolyths, Exorcists, Readers and Ofsiaries: And because they occur frequently in our Ecclesiastical Histories and Laws, and that it may appear what we reformed from, and how little they deserve the Name of Orders; I will give a brief Description of them, out of our own ancient Laws, as I find it among the Canons of *Elfrick*;*

I. Ofsiarius, *est ofsiarum Templi seu Ecclesia custos, qui campanarum sonitu designat tempora, fidelibusque Ecclesia fores aperit, infidelibus vero occludit.*

II. Lector, *is est qui legit in Ecclesia Dei, ad hoc etiam ordinatus, ut verbum Dei populo prædicet.*

III. Exorcista, *idem est qui malignos spiritus homines cruciantes, omnipotentis Dei nomine, prodire ex eisdem adjurando cogit.*

VI. Acolythus *dicitur, qui candelam vel*

*ceræum accensum fert, dum Evangelium legitur in Dei ministerio, vel dum Sacerdos Sacramentum corporis Domini ad altare consecrat: non ita tamen ad arcendum caliginosas tenebras, sed ad indicandum eo lumine beatitudinem, ad Christum honorandum, qui est lumen nostrum.*

V. Subdiaconus, *is est qui Diacono vasa porrigit, & omni cum humilitate ad altare sanctum eidem famulatur, vasa subministrans ad Sacramentum Corporis Domini nostri pertinentia.*

These (tho' some of them ancient) were Humane Institutions, and such as cannot pretend to come under the Limitation which immediately precedes, *From the Apostles time*; for which reason, and because they were evidently erected for Convenience only, and were not Immediately concerned in the Sacred Offices of the Church, they were justly laid aside by our first Reformers.

## Abridgment.

There have been three Orders in the Church, from the times of the Apostles;

---for which, Ordination, or Mission, by Examination, and Imposition of hands, having been always necessary;

except

A.D. 1549.  
1551.  
1661.

The three  
Orders of  
Ministers  
in the  
Church.

Spel. Corcl.  
Vol. I. p. 575.



Abridgment.

... no Man shall be accounted Bishop, Priest, or Deacon, but who is admitted according to the Form appointed by the Church.

except he were first called, tried, examined, and known to have such qualities as are requisite for the same; and also by publick Prayer with imposition of hands, were approved and admitted thereunto by a lawful Authority. And therefore, to the intent that these Orders may be continued, and reverently used and esteemed in the Church of England, No Man shall be accounted or taken to be a lawful Bishop, Priest, or Deacon in the Church of England, or suffered to execute any of the said Functions, except he be called, tried, examined and admitted thereunto, according to the Form hereafter following, or hath had formerly Episcopal Consecration, or Ordination.

The three Orders of Ministers in the Church.

1 No Man (by his own private Authority) might, 3 and 5 Ed. 6. 2 Not in 3 nor 5 Ed. 6. 3 Not in 3 nor 5 Ed. 6. 4 Not in 3 nor 5 Ed. 6. 5 Not in 3 nor 5 Ed. 6. 6 Should, 3 and 5 Ed. 6. 7 This, 3 and 5 Ed. 6. 8 It is requisite, that no Man (not being at this presente Bishop, Priest, nor Deacon) shall execute anye of them, excepte, 3 and 5 Ed. 6. 9 Not in 3 nor 5 Ed. 6. 10 Not in 3 nor 5 Ed. 6.

c Lawful Authority.] It is supposed, that this general Expression was used, lest the direct limiting of it to Episcopal Authority, shou'd give Offence to the Protestant Churches abroad: But that they meant Episcopal Authority, is plain enough from the last Clause.

(if they renounce their Errors,) because that Church preserves the Order of Bishops, and the Substance of the primitive Forms in her Ordinations; though corrupted with many modern Superstitious Rites.

Comber, cap. 1. § 6.

d Had formerly.] This last Clause seems designed to allow of Romish Converted Priests, who were Ordained by Bishops before, and whom we receive without Re-Ordination

b Imposition of Hands.] This was always a Distinction between the three Superior, and the five fore-mentioned Inferior Orders; that the first were given by Imposition of Hands; the second, not.

C A P. II.

The Forms of CONSECRATING and ORDAINING, Altered, and Established in the Church of England.

3 Edw. VI. Cap. 10.

A.D. 1549.

In an Act, Entituled, An Act for Abolishing and putting away divers Books and Images.

All Books heretofore used for the Service of the Church, ... other than such as the King shall set forth, ... shall be abolished.

§ I BE it therefore enacted by the King our Sovereign Lord, the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, that all books or writings whatsoever, heretofore used for the Service of the Church, written or printed in the English or Latin Tongue, other than such as shall be set forth by the King's Majesty, shall be, by authority of this present Act, clearly and utterly abolished, extinguished, and forbidden for ever to be used or kept in this Realm, or elsewhere within any the King's Dominions.

Forms of Consecrating and Ordaining, alter'd and established in the Church of England.

3 Edw. VI. Cap. 12.

A.D. 1549.

An Act for the Ordering of Ecclesiastical Ministers.

The Forms of Consecrating, to be devised by 12 Persons, who shall be commissioned by the King,

INASMUCH as concord and unitie is to be had within the Kings Majesties dominions, it is requisite to have one uniform fashion and manner for making and consecrating of Bishops, Priests, Deacons or Ministers of the Church: Be it therefore enacted by the King's highness, with the assent of the Lords Spiritual and Temporal, and the Commons in this

In Procer. Vide etiam M. son. p. 244, &c.

e One uniform fashion.] The Bishop, employed by Pope Innocent the Eighth, to revise and correct the Roman Pontificals, complains of the Difficulties of the Work, as arising from the vast Variety: Rei enim vetustate, Ecclesiarum multitudine, temporum

& Prælatorum varietate, effectum est, ut vix duo aut tres Codices inveniantur, qui idem tradunt, eodem modo: Quot libri, tot varietates; ille deficit, hic superabundat; alius nihil omnino de ea re habet: raro aut nunquam conveniunt.

present



Forms of Consecrating and Ordaining alter'd and establish'd in the Church of England.

present Parliament assembled, and by the authoritie of the same, that such forme and maner of making and consecrating of Archbishops, Bishops, Priests, Deacons, and other ministers of the Church, as by six Prelates, and six other men of this Realme learned in Gods Law; by the Kings Majestie to be appointed and assigned, or by the most number of them, shall be devised for that purpose; and set forth under the great Seal of England, before the first day of April next coming, shall by virtue of this present Act be lawfully exercised and used, and none other, any Statute, Law or usage to the contrary in any wise notwithstanding.

Abridgment.

--- shall be used by virtue of this Act.

f Set forth.] The printed Form, agreed on according to the tenor of this Act, bears date in March, in the year 1549, (3 Edw. VI.) and is, in great measure, the same with that which was confirmed by Parliament in the fifth and sixth of Edw. VI. except the Introite's, and the putting of the Pastoral Staff in the hands of the Bishop, with some other Circumstances; which are left out in the Second Book, and which

shall be noted, in their proper Places (so far as they come within the Design of this Work) under the Heads of Consecration and Ordination.

g Lawfully exercised, and used.] Heath, Bishop of Worcester, one of the six Bishops appointed for devising of the new Form, refused to Subscribe it, when finished; and for such his Refusal, was committed to the Fleet.

Burnet, & Strype, in Anno 1550.

A.D. 1553.

1 Mar. (Sess. 2.) Cap. 2.

In an Act, Entituled, *An Act for the Repeal of certain Statutes, &c.*

II. And also one other Act made in the same Session last before mentioned, intituled, An Act made for the ordering of the Ecclesiastical Ministers.

Repeal of the foregoing Statute.

A.D. 1551.

5 Edw. VI. Cap. 1.

In an Act, Entituled, *An Act for the Uniformity of Service and Administration of Sacraments, &c.*

V. ——— The King's most excellent Majesty, with the assent of the Lords and Commons in this present Parliament assembled, and by the authority of the same, hath caused the aforesaid order of common service, entituled, The Book of Common-prayer, to be faithfully and godly perused, explained, and made fully perfect, and by the aforesaid authority hath annexed and joynded it, so explained and perfected, to this present Statute, adding also a form and manner of making and consecrating of Archbishops, Bishops, Priests and Deacons, to be of like force, authority and value, as the same like aforesaid Book, entituled, The Book of Common-prayer, was before; and to be accepted, received, used and esteemed, in like sort and manner, and with the same clauses of provisions and exceptions, to all intents, constructions and purposes, as by the Act of Parliament made in the second year of the Kings Majesties Reign, was ordained, limited, expressed and appointed, for the uniformity of Service and Administration of the Sacraments throughout the Realm, upon such several pains as in the said act of Parliament is expressed. And the said former Act to stand in full force and strength, to all intents and constructions, and to be applied, practised, and put in ure, to and for the establishing of the Book of Common-prayer, now explained, and hereunto annexed, and also the said form of making of Archbishops, Bishops, or Priests and Deacons, hereunto annexed, as it was for the former Book.

The Common Prayer being revised, the Forms of Consecration and Ordination were added,

--- and shall be used under the same penalties, as the Common Prayer, by Stat. 2 E. 6,

--- which Statute shall remain in full force.

A.D. 1553.

1 Mar. (Sess. 2.) Cap. 2.

In an Act, Entituled, *An Act for the repeal of certain Statutes.*

II----And also, one other Act made in one other Session of the said Parliament, holden upon Prorogation, at Westminster, the three and twentieth day of January, in the fifth year of the reign of the said late K. Edward the sixth,---Intituled, An Act for the Uniformity of Common Prayer, and the Administration of the Sacraments,---shall be from henceforth utterly repealed.

Repeal of Stat. 5 E. 6. c. 1,



Abridgment.

## 1 Eliz. Cap. 2.

In an Act, Entituled, *An Act for the Uniformity of Common Prayer, &c.*

Where at the death of our late Sovereigne Lord King Edward the sixth, there remained one uniforme Order of common Service and prayer, and of the administration of Sacraments, Rites and Ceremonies of the Church of England, which was set forth in one Booke, intituled, The Booke of Common-prayer and Administration of Sacraments, and other Rites and Ceremonies in the Church of England, authorized by Act of Parliament, holden in the fifth and sixth yeeres of our saide late Sovereigne Lord King Edward the sixth, intituled, An Act for the uniformity of Common-prayer, and Administration of the Sacraments, the which was repealed and taken away by Act of Parliament in the first yeere of the Reign of our late Sovereigne Lady Queene Mary, to the great decay of the due honour of God, and discomfort to the professors of the truth of Christ's Religion.

Be it therefore enacted by the authority of this present Parliament, that the said Statute of repeale, and every thing therein contained, *only* concerning the said Book, and the Service, Administration of the Sacraments, Rites, and Ceremonies, contained or appointed in or by the said Book, shall be void and of none effect, from and after the Feast of the Nativity of St. John Baptist next coming. And that the said Book, with the order of Service, and of the Administration of Sacraments, Rites, and Ceremonies, with the Alterations and Additions therein added and appointed by this Statute, shall stand and be, from and after the said Feast of the Nativity of St. John Baptist, in full force and effect.

*Only concerning the said Book.]* The Book of *Consecrating and Ordaining*, being not expressly named in this *Repeal*, and *Reviver*; Bishop *Bonner* raised a Scruple, whether that Book 5 *Edw. VI.* did not still stand condemned by Law? and, by consequence, whether the Ordinations performed according to it, did not remain *Illegal*? But the Answer is clear, That neither was it expressly

named, in that part of the *Repeal* of *Queen Mary*, which relates to the Statute 5 *Edw. VI.*; and that for a plain Reason; because, having by that Statute been made part of the *Common-Prayer*, it was judged to be effectually repealed by the Parliament of *Queen Mary*, and revived by that of *Queen Elizabeth*, under the general Title of the Book, of which it was a Part.

## 8 Eliz. Cap. 1.

In an Act, Entituled, *An Act declaring the making and consecrating of Archbishops, Bishops, &c.*

—III. Wherefore for the plain declaration of all the premises, and to the intent that the same may the better be known to every of the Queens Majesties Subjects, whereby such evil speech, as heretofore hath been used against the high state of *Bielacy*, may hereafter cease; Be it now declared and enacted by the authority of this present Parliament, that the said Act and Statute made in the first year of the Reign of our said Sovereign Lady the Queens Majesty, whereby the said Book of *Common-prayer*, and the administration of Sacraments, with other Rites and Ceremonies, is authorized and allowed to be used, shall stand and remain good and perfect to all respects and purposes; and that such order and form for the consecrating of Archbishops, and Bishops, and for the making of Priests, Deacons, and Ministers, as was set forth in the time of the said late King Edward the sixth, and added to the said Book of *Common-prayer*, and authorized by Parliament in the fifth and sixth years of the

And that such Order.] By reason of Cavils for the future, the Title of the Book the Scruple, which was mentioned before of *Consecrating*, &c, was here specially set in the Note on the last Act; to avoid all down.

said

The foregoing Repeal shall be repealed,

--- and the Service Book, 5 *Edw. 6.* with Alterations, &c. shall be in force.

Dyer, fol. 234. a.

Confirmation of the Stat. 1 *El. c. 2.* touching the Book of *Common Prayer*,

--- and of the Form of *Consecrating and Ordaining*, added therunto,

Forms of Consecrating and Ordaining, alter'd and established in the Church of England.

A.D. 1558.

A.D. 1566.



Forms of  
Consecra-  
ting and  
Ordain-  
ing, alter'd  
and esta-  
blish'd in  
the Church  
of Eng-  
land.

said late King, shall stand and be in full force and effect, and shall from henceforth be used and observed in all places within this Realm, and other the Queens Majesties Dominions and Countries.

V. And that all persons that have been or shall be made, ordered or consecrate, Archbishops, Bishops, Priests, Ministers of Gods holy Word and Sacraments, or Deacons, after the form and order prescribed in the said order and form, how Archbishops, Bishops, Priests, Deacons, and Ministers should be consecrated, made and ordered, be in very deed and also by authority hereof, declared and enacted, to be and shall be Archbishops, Bishops, Priests, Ministers and Deacons, and rightly made, ordered and consecrated: Any Statute, Law, Canon, or other thing to the contrary notwithstanding.

k Have been ] This Retrospect, and that which follows in the thirty sixth Article, were both added, with an eye to the fore-mentioned Scruple, concerning the Defect in Queen Elizabeth's Repeal and Reviver, which the Papists had raised and fomented in the Nation.

Abridgment.

--- and of all Consecrations and Ordinations, made or to be made, after the said Form.

A.D. 1562.

## CANONS 1603.

### xxxvi. Of the Consecration of Bishops and Ministers.

kk THE Book of Consecration of Archbishops and Bishops, and Ordering of Priests and Deacons, lately set forth in the time of *Edward* the Sixth, and confirmed at the same time by Authority of Parliament, doth contain all things necessary to such Consecration and Ordering: neither hath it any thing that of it self is superstitious and ungodly. And therefore whosoever are Consecrated, or Ordered according to the Rites of that Book, since the Second year of the fore-named King *Edward* unto this time, or hereafter shall be Consecrated or Ordered according to the same Rites, We decree all such to be rightly, orderly, and lawfully Consecrated and Ordered.

The Book of Consecration and Ordination; contains all things necessary, and, nothing superstitious, --- according to which, all persons are decreed rightly Consecrated, and Ordained.

kk The Book of.] Instead of this Article, the Book of *Ed. VI.* hath the following one; "The Book, which of very late time was given to the *Church of England* by the King's Authority and the Parliament, containing the Manner and Form of Praying, and Ministering the Sacraments, in the *Church of England*; likewise also the Book of Ordering Ministers of the Church, set forth by the foresaid Authority; are godly, and in no point repug-

"nant to the wholesome Doctrine of the Gospel, but agreeable thereunto, furthering and beautifying the same not a little; and therefore of all faithful Members of the *Church of England*, and chiefly of the Ministers of the Word, they ought to be received and allowed with all readiness of Mind and Thanksgiving, and to be recommended to the People of God.

A.D. 1661.

### 13, 14 Car. II. Cap. 4.

### In an Act, Entituled, *An Act for the Uniformity of Publick Prayers, &c.*

XXX. Provided always, that whereas the Six and thirtieth Article of the Nine and thirty Articles agreed upon by the Archbishops and Bishops of both Provinces, and the whole Clergy holden at London, in the year of our Lord, One thousand five hundred sixty two, for the avoiding of diversities of Opinions, and for establishing of consent touching true Religion, is in these words following, viz.

"That the Book of Consecration of Archbishops and Bishops, and Ordaining of Priests and Deacons, lately set forth in the time of King *Edward* the Sixth, and confirmed at the same time by Authority of Parliament, doth contain all things necessary to such Consecration and Ordaining, neither hath it any thing that of it self is superstitious and ungodly: And therefore whosoever are Consecrated or Ordered according to the Rites of that Book, since the

The Book of Consecration and Ordination, mentioned in Art. 36,

"second



Abridgment.

“ second year of the aforesaid King Edward unto this time, or hereafter shall be Consecrated or Ordered according to the same Rites, We decree all such to be rightly, orderly, and lawfully Consecrated and Ordered;

Forms of Consecrating and Ordaining, alter'd and established in the Church of England.

--- shall be understood, in all Subscriptions, of the Book set forth in 13, 14, Car. 2.

XXXI. It be enacted, and be it therefore enacted by the authority aforesaid, That all Subscriptions hereafter to be had or made unto the said Articles, by any Deacon, Priest, or Ecclesiastical person, or other person whatsoever, who by this Act, or any other Law now in force, is required to subscribe unto the said Articles, shall be construed, and taken to extend, and shall be applied (for and touching the said Six and thirtieth Article) unto the Book containing the form and manner of Making, Ordaining and Consecrating of Bishops, Priests and Deacons \* in this Act mentioned, in such sort and manner as the same did heretofore extend unto the Book set forth in the time of King Edward the Sixth, mentioned in the said Six and thirtieth Article; Any thing in the said Article, or in any Statute, Act or Canon heretofore had or made, to the contrary thereof in any wise notwithstanding.

\* § 2. as in Title Uniformity.

CANONS 1603.

I Jac. I.

viii. Impugners of the Form of Consecrating and Ordering Archbishops, Bishops, &c. in the Church of England, Censured.

To affirm, that the Forms of Consecration and Ordination, are contrary to Scripture, unlawful, or insufficient, shall be Excommunication ipso facto.

Whoever shall hereafter affirm or teach, That the Form and Manner of making and consecrating Bishops, Priests and Deacons, containeth any thing in it, that is repugnant to the Word of God; or that they who are made Bishops, Priests or Deacons in that Form, are not lawfully made, nor ought to be accounted either by themselves or others, to be truly either Bishops, Priests or Deacons, until they have some other calling to those Divine Offices: Let him be excommunicated ipso facto, not to be restored until he repent, and publicly revoke such his wicked Errors.

TIT.



## T I T. V.

The Manner of ELECTING and CON-  
SECATING ARCHBISHOPS  
and BISHOPS.

## The CONTENTS:

C A P. I. *The Manner how Archbishops and Bishops shall be ELECTED, CONFIRMED and CONSECRATED.*

C A P. II. *Archbishopsricks and Bishopsricks COLLATED by the Crown, without Election.*

C A P. III. *The ACT of CONSECRATING, in the Consecration of Archbishops and Bishops.*

C A P. IV. *Matters FOLLOWING the Consecration of Archbishops and Bishops.*

C A P. V. *The Occasions of SCRUPLE concerning the Consecrating of Archbishops and Bishops, removed.*

C A P. VI. *Archbishops and Bishops in PARLIAMENT.*

C A P. VII. *DIGNITY and PRIVILEGES of Archbishops and Bishops.*

C A P. VIII. *The Nomination and Consecration of SUFFRAGAN Bishops.*

## C A P. I.

*The Manner how Archbishops and Bishops shall be Elect-  
ed, Confirmed and Consecrated.*

25 Edw. III.

*In the Statute of Provisors, &c.*

A.D. 1350.

*Manner of  
Electing,  
&c. Arch-  
bishops and  
Bishops.*

§. III.



Our Lord the King— hath ordered and stablished, that the free Elections of Archbishops, Bishops, and all other Dignities and Benefices elective in England, shall hold from henceforth in the same manner as they were granted <sup>a</sup> by the King's Progenitors,

<sup>a</sup> By the King's Progenitors] The of them all; and, being anciently Donatives, Bishopsricks of England being all of the King's they were bestowed per traditionem Annuli foundation, he is, in right thereof, Patron & Baculi, as our Books of History, and

*Abridgment.*

Elections of Archbishops and Bishops shall be free.



Abridgment.

and the ancestors of other Lords, Founders of the said Dignities and other Benefices. \*

Manner of Electing, &c. Archbishops and Bishops.

Co. Litt. 1. 2. § 201. &c.

\* Note, This Statute was confirmed 13 R. 2. § 2. which see at large in Tit. 3. c.

Spel. Vol. 2 p. 135, 136. Palm. 26.

ibid. p. 136, 191.

Law affirm: adding, that this Usage continued, till the Reign of K. John, when they became Elective: And true it is, that K. John did agree, with Consent of his Barons, that Bishopricks and other Dignities should be Elective; as appears by the original Grant, bearing date the fifteenth day of June in the sixteenth year of his Reign; which Grant was likewise Confirmed, first by ope Innocent III. and then by Gregory IX. But it is also true, that, long before this, Henr. I. had made the self same Grant, tho' not confirmed with so much Solemni-

ty. Annuit Rex Henricus, & statuit, ut ab eo tempore in reliquum, nunquam per donationem Baculi Pastoralis vel Annuli, quisquam de Episcopatu vel Abbatia per Regem, vel quamlibet Laicam manum, investiretur in Anglia. Which overthrows what my Lord Coke lays down, That King Henry the first, being persuaded by the Bishop of Rome to make them Elective by their Chapter or Convent, refused it. But Rolle has fixed it, rightly, to the Reign of Henr. I. only he places it four years too early, viz. in the fourth instead of the eighth year of that Reign.

Matth. Par. A. 1107. Westm. & Hoved. eodem anno. Co. Lit. 1. 2. § 201.

2 Roll. 103. Palm. 25, 26.

A.D. 1531.

23 Henr. VIII. (not in the printed Statutes.)

An Act concerning Restraint of Payment of Annates to the See of Rome.

Great Sums of Money have been conveyed out of the Realm, &c. for First-Fruits of Archbishopricks, and Bishopricks, (without which, dispatch could not be had at the See of Rome,)

-- to the impoverishing of the Nation, and sometimes the ruin of the Friends of the Persons promoted;

-- which Demands, tho' made without any just title,

As much as it is well perceived, by long approved experience, that great and inestimable Sums of Money have been daily conveyed out of this Realm, to the impoverishment of the same; and especially such Sums of Money as the Pope's Prelates, his Predecessors and the Court of Rome, by long time have heretofore taken of all and singular those Spiritual Persons which have been Named, Elected, Presented, or Postulated to be Archbishops or Bishops within this Realm of England, under the Title of Annates, otherwise called First-Fruits. Which Annates, or First-Fruits, have been taken of every Archbishoprick, or Bishoprick, within this Realm, by restraint of the Pope's Bulls, for Confirmations, Elections, Admissions, Postulations, Provisions, Collations, Dispositions, Institutions, Installations, Investitures, Orders, Holy Benedictions, Palles, or other things requisite and necessary to the attaining of those their Promotions; and have been compelled to pay, before they could attain the same, a great Sums of Money, before they might receive any part of the Fruits of the said Archbishoprick, or Bishoprick, whereunto they were named, elected, presented, or postulated; by occasion whereof, not only the Treasure of this Realm hath been greatly conveyed out of the same, but also it hath happened many times, by occasion of Death, unto such Archbishops, and Bishops, so newly promoted, within two or three years after his or their Consecration, that his or their Friends, by whom he or they have been holpen to advance and make payment of the said Annates, or First-Fruits, have been thereby utterly undone and impoverished. And for because the said Annates have risen, grown, and increased, by an incharitable Custom, grounded upon no just or good title, and the payments thereof obtained by restraint of Bulls, until the same Annates, or First-Fruits, have been paid, or Surety made for the same; which declarcth the said Payments to be exacted, and taken by constraint, against all equity and justice. The Noble Men therefore of the Realm, and the wise, sage, politic Commons of the same, assembled in this present Parliament, considering that the Court of Rome ceaseth not to take, and exact the said great Sums of Money, under the Title of Annates, or First-Fruits, as is aforesaid, to the great damage of the said Prelates, and this Realm; which Annates, or First-Fruits, were first suffered to be taken

Warham, Reg. f. 1. &c.

[ Pope's Bulls ] In the Register of Archbishop Warham (the immediate Predecessor of Cranmer) the Bulls from Rome, and the other Instruments used (before and after his Consecration) pursuant thereunto, stand in this order, and under these Titles. 1. Bulla Translationis. 2. Bulla Absolutionis (ab Ecclesia London; &c.) 3. Bulla Suffraganeis Cant. 4. Bulla Clero Civitatis & Diocesis Cant. 5. Bulla Vassallis Ecclesie Cant. 6. Bulla Populo Civitatis, & Diocesis Cant. (These four to oblige the Suffragans, Clergy, Vassals, and People, to receive and obey him;) 7. Commissio ad recipiendum Juramentum Papae praestand. 8. Bulla destinatio nis Pallii. 9. Commissio ad tradendum Pallium. 10. Certificatorium super Juramento praestito. 11. Certificatorium super traditione Pallii. — Pallium est Ornamentum Patriarcharum, Archiepiscoporum, Metropolitanorum, & quaedamque etiam Episcoporum; de corpore B. Petri sumptum, Pontificalis officii plenitudinem conferens, humeros pectusque more Sacerdotalis stolae ambiens, antepectus pendens, cruce nigras intextas habens, alia Ornamenta supertegens.

The importance of obtaining the Pall in those days, cannot be better described, than in the words of the Roman Pontifical. Quia Pontificalis officii plenitudo confertur per Pallium; antequam obtinuerit quis Pallium, licet sit consecratus, non sortitur nomen Archiepiscopi, vel Primatis, aut Patriarchae; nec potest Episcopos consecrare, nec convocare ad Concilium, nec Chrisma conficere, nec Ecclesias dedicare, nec Clericos ordinare, &c. At a Consecration, I find this Note in Courtney's Register, Willemo Courtney Cantuar, Electo & Confirmato, ibidem presente, sed minime consecrante, eo quod protulit Pallium non recepit.

[ Postulations. ] Postulatio (saith a Learned Canonist) est concursus Capituli Petisio, ut is in Praelatum promoveatur, sive adsumatur, qui non propter Animi vel Corporis vitium, sed ob alium defectum, propter quem non est inhabilis ad prospiciendum Ecclesiae (veluti, quia est minor triginta annus, aut Laicus, in minoribus Ordinibus, aut Illegitimus) eligi nequit.

[ Great Sums of Money. ] Tho. Cranmerus — Papae pro obsoletis illis putidisque jam Bullis 900 aureos ducatos solvit.

Court. 3. 2.

Ant. Brit. p. 327.

within



Manner of  
Electing,  
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within the same Realm, for the only defence of Christian People against the Infidels, and now they be claimed and demanded as mere duty, only for lucre, against all right and conscience. Inasmuch that it is evidently known, that there hath passed out of this Realm unto the Court of Rome, sithen the second year of the Reign of the most Noble Prince, of famous memory, King Henry the Seventh, unto this present time, under the name of Annates, or First-fruits, payed for the expedition of Bulls of Archbishopricks and Bishopricks, the sum of eight hundred thousand Ducats, amounting in Sterling Money, at the least, to eightscore thousand pounds, besides other great and intolerable Sums which have yearly been conveyed to the said Court of Rome, by many other ways and means, to the great impoverishment of this Realm. And albeit, that our said Sovereign the King, and all his natural Subjects, as well Spiritual as Temporal, been as obedient, devout, Catholick and humble Children of God, and Holy Church, as any People be within any Realm christned; yet the said exactions of Annates, or First-fruits, be so intolerable and importable to this Realm, that it is considered and declared, by the whole Body of this Realm now represented by all the Estates of the same assembled in this present Parliament, that the King's Highness before Almighty God, is bound, as by the duty of a good Christian Prince, for the conservation and preservation of the good Estate and Common-wealth of this his Realm, to do all that in him is to obviate, repress, and redress the said abusions and exactions of Annates, or First-fruits. And because that divers Prelates of this Realm, being now in extreme Age, and in other debilities of their Bodies, so that of likelihood, bodily death in short time shall or may succeed unto them; by reason whereof great sums of Money shall shortly after their deaths, be conveyed unto the Court of Rome, for the unreasonable and uncharitable Causes abovesaid, to the universal damage, prejudice, and impoverishment of this Realm, if speedy remedy be not in due time provided:

I. It is therefore ordained, established, and enacted, by Authority of this present Parliament, That the unlawful payment of Annates, or First-fruits, and all manner Contributions for the same, for any Archbishoprick, or Bishoprick, or for any Bulls hereafter to be obtained from the Court of Rome, to or for the aforesaid purpose and intent, shall from henceforth utterly cease, and no such hereafter to be payed for any Archbishoprick, or Bishoprick, within this Realm, other or otherwise than hereafter in this present Act is declared; And that no manner person, nor persons hereafter to be named, elected, presented, or postulated to any Archbishoprick, or Bishoprick, within this Realm, shall pay the said Annates, or First-fruits, for the said Archbishoprick, or Bishoprick, nor any other manner of Sum or Sums of Money, Penions or Annates for the same, or for any other like exaction, or cause, upon pain to forfeit to our said Sovereign Lord the King, his Heirs and Successors, all manner his Goods and Chattels for ever, and all the Temporal Lands and Possessions of the same Archbishoprick, or Bishoprick, during the time that he or they which shall offend, contrary to this present Act, shall have, possess, or enjoy, the Archbishoprick, or Bishoprick, wherefore he shall so offend contrary to the form aforesaid. And furthermore it is enacted, by Authority of this present Parliament, That if any person hereafter named and presented to the Court of Rome by the King, or any of his Heirs or Successors, to be Bishop of any See or Diocese within this Realm hereafter, shall be letted, deferred, or delayed at the Court of Rome from any such Bishoprick, whereunto he shall be so represented, by means of restraint of Bulls Apostolick, and other things requisite to the same; or shall be denied, at the Court of Rome, upon convenient suit made, any manner Bulls requisite for any of the Causes aforesaid, any such person or persons so presented, may be, and shall be, consecrated here in England by the Archbishop, in whose province the said Bishoprick shall be, so alway that the same person shall be named and presented by the King for the time being to the same Archbishop: And if any persons being named and presented, as aforesaid, to any Archbishoprick of this Realm, making convenient suit, as is aforesaid, shall happen to be letted, deferred, delayed, or otherwise disturbed from the same Archbishoprick, for lack of Bull, Bulls, or other to him requisite, to be obtained in the Court of Rome in that behalf, that then every such person named and presented to be Archbishop, may be, and shall be, consecrated and invested, after presentation made, as is aforesaid, by any other two Bishops within this Realm, whom the King's Highness, or any of his Heirs or Successors, Kings of England for the time being, will assign and appoint for the same, according and in like manner as divers other Archbishops and Bishops have been heretofore, in ancient time; by sundry the King's most noble Progenitors, made, consecrated, and invested within this Realm: And that every Archbishop and Bishop hereafter, being named and presented by the King's Highness, his Heirs or Successors, Kings of England, and being consecrated and invested, as is aforesaid, shall be installed accordingly, and shall be accepted, taken, reputed, used, and obeyed, as an Archbishop or Bishop of the Dignity, See or Place whereunto he so shall be named, presented, and consecrated, requireth; and as other like Prelates of that Province, See, or Diocese, have been used, accepted, taken, and obeyed, which have had, and obtained compleatly, their Bulls, and other things requisite in that behalf from the Court of Rome. And also shall fully and entirely have and enjoy all the Spiritualities and Temporalities of the said Archbishoprick, or Bishoprick, in as large, ample, and beneficial manner, as any of his or their Predecessors had, or enjoyed in the said Archbishoprick, or Bishoprick, satisfying and yielding unto the King our Sovereign Lord, and to his Heirs and Successors, Kings of England, all such Duties, Rights and Interests, as before this time had been accustomed to be paid for any such Archbishoprick, or Bishoprick, according to the Ancient Laws and Customs of this Realm, and the King's prerogative Royal.

III And to the intent our said Holy Father the Pope, and the Court of Rome, shall not think that the pains and labours taken, and hereafter to be taken, about the writing, sealing, obtaining, and other businesses sustained, and hereafter to be sustained, by the Offices of the said Court of Rome, for and about the Expedition of any Bulls hereafter to be obtained or had for any such Archbishoprick, or Bishoprick, shall be irremunerated, or shall not be sufficiently and condignly recompensed in that behalf; and for their more ready expedition to be had therein. It is therefore enacted by the Authority aforesaid, That every Spiritual person of this Realm, hereafter to be named, presented, or postulated, to any Archbishoprick or Bishoprick of this Realm, shall and may lawfully pay for the writing and obtaining of his or their said Bulls, at the Court of Rome, and encasing the same with Lead, to be had without pay,

[ Besides other great. ] Of which see an Historical Deduction, in the Words of the successive Authors, in *Mason's Book IV.* Cap. 14. entituled, *Quam misera condicione fuerit Anglia, quando Episcopatus & Beneficia per Papales Provisiones concedebantur.* ment

Abridgment.

---yet from the 2d. H. 7. 160000 l. hath been paid for First-fruits,

--- besides other great Sums:

And tho' the King and his Subjects are obedient Children of Holy Church,

---yet, the said Exactions being intolerable, the Estates have represented, that the King is bound to repress them;

---especially now, when divers Prelates are in extreme Age.

Enacted,

That all such Payments, other than are declared in this Act, shall cease,

--- and no person shall pay them, upon pain to forfeit Goods, &c. to the King;

--- and if any person is delayed, or denied his Bulls at the Court of Rome, he shall be consecrated by his Archbishop, being first named by the King;

--- and an Archbishop being so letted, shall be consecrated by two Bishops to be named by the King;

(--- as divers heretofore have been)

--- after which he shall be installed, and be Archbishop and Bishop of the See,

--- and shall enjoy all Spiritualities and Temporalities, yielding to the King all Duties Rights, &c.

And, that due Reward may be allowed for the expedition of Bulls,

--- every person, presented to Archbishoprick or Bishoprick, shall pay 5 l. for every hun-



**Abridgment.**

dred, that the Promotion is of clear yearly Value.

The Parliament, not willing to use Extremity, without urgent Cause, ---have committed this matter to the King (to compound it with the Court of Rome.)

---whose Compositions shall be inviolably observed,

---and who shall have power to declare, by Letters Patents, whether this shall be a Statute, or not,

---so as, what he shall refuse in whole or in part shall be void,

---and what he shall accept, shall be put in Execution,

---and be as available in Law, as any other Acts.

If no Redress may be had by these amicable means,

---but the Court of Rome shall enforce the continuance of those Exactions, by Excommunications, Interdicts, &c.

---in such case, all Sacraments and Divine Services shall continue to be ministered, notwithstanding,

---and the Excommunications, Interdicts, &c. shall not be executed.

ment of any Annates, or First-fruits, or other charge or exaction by him or them to be made, yielded, or paid for the same, five pounds Sterling, for and after the rate of the clear and whole yearly value of every hundred pounds Sterling, above all charges of any such Archbishoprick, or Bishoprick, or other Honoy, to the value of the said five pounds, for the clear yearly value of every hundred pounds of every such Archbishoprick, or Bishoprick, and not above, nor in any otherwise, any thing in this present Act before written notwithstanding. And forasmuch as the King's Highness, and this his High Court of Parliament, neither have, nor do intend to use in this, or any other like cause, any manner of extremity or violence, before gentle courtesie or friendship, ways and means first approved and attempted, and without a very great urgent cause and occasion given to the contrary, but principally coveting to disburden this Realm of the said great exactions, and intolerable charges of Annates, and First-fruits, have therefore thought convenient to commit the final order and determination of the premises, in all things, unto the King's Highness. So that if it may seem to his high Wisdom, and most prudent Discretion, meet to move the Pope's Holiness, and the Court of Rome, amicably, charitably, and reasonably, to compound, other to extinct and make frustrate the payments of the said Annates, or First-fruits; or else by some friendly, loving, and tolerable composition to moderate the same in such wise as may be by this Realm easily born and sustained; That then those ways and compositions once taken, concluded, and agreed, between the Pope's Holiness and the King's Highness, shall stand in strength, force and effect of Law, inviolably to be observed. And it is also further ordained, and enacted by the Authority of this present Parliament, That the King's Highness at any time, or times, on this side the Feast of Easter, which shall be in the Year of our Lord God, a thousand five hundred and three and thirty, or at any time on this side the beginning of the next Parliament, by his Letters Patents under his Great Seal, to be made, and to be entred of Record in the Roll of this present Parliament, may and shall have full power and liberty to declare, by the said Letters Patents, whether that the premises, or any part, clause, or matter thereof, shall be observed, obeyed, executed, and take place and effect, as an Act and Statute of this present Parliament, or not. So that if his Highness, by his said Letters Patents, before the expiration of the times above limited, thereby do declare his pleasure to be, That the premises, or any part, clause, or matter thereof, shall not be put in execution; observed, continued, nor obeyed, in that case all the said premises, or such part, clause, or matter, as the King's Highness so shall refuse, disaffirm, or not ratifie, shall stand and be from henceforth utterly void and of none effect. And in case that the King's Highness, before the expiration of the times aforesaid, do declare by his said Letters Patents, his pleasure and determination to be, that the said premises, or every clause, sentence, and part thereof, that is to say, the whole, or such part thereof as the King's Highness so shall affirm, accept, and ratifie, shall in all points stand, remain, abide, and be put in due and effectual execution, according to the purport, tenour, effect, and true meaning of the same; and to stand and be from henceforth for ever after, as firm, stedfast, and available in the Law, as the same had been fully and perfectly established, enacted, and confirmed, to be in every part thereof, immediately, wholly, and entirely executed, in like manner, form, and effect, as other Acts and Laws; The which being fully and determinately made, ordained, and enacted in this present Parliament: And if that upon the aforesaid reasonable, amicable and charitable ways and means, by the King's Highness to be experimented, moved, or compounded, or otherwise approved, it shall and may appear, or be seen unto his Grace, that this Realm shall be continually burdened and charged with this, and such other intolerable Exactions and Demands, as heretofore it hath been. And that thereupon, for continuance of the same, our said Holy Father the Pope, or any of his Successors, or the Court of Rome, will, or do, or cause to be done at any time hereafter, so as is above rehearsed, unjustly, uncharitably, and unreasonably bet, inquiet, molest, trouble, or grieve our said Sovereign Lord, his Heirs or Successors, Kings of England, or any of his or their Spiritual or Lay-Subjects, or this his Realm, by Excommunication, Excommunication, Interdiction; or by any other Process, Censures, Compulsories, Ways or Means; Be it enacted by the Authority aforesaid, That the King's Highness, his Heirs and Successors, Kings of England, and all his Spiritual and Lay-Subjects of the same, without any scruples of Conscience, shall and may lawfully, to the honour of Almighty God, the increase and continuance of vertue and good example within this Realm, the said Censures, Excommunications, Interdictions, Compulsories, or any of them notwithstanding, minister, or cause to be ministered, throughout this said Realm, and all other the Dominions or Territories belonging or appertaining thereunto; All and all manner of Sacraments, Sacramentals, Ceremonies, or other Divine Services of the Holy Church, or any other thing or things necessary for the health of the Soul of Mankind, as they heretofore at any time or times have been virtuously used or accustomed to do with in the same; and that no manner such Censures, Excommunications, Interdictions, or any other process or compulsories, shall be by any of the Prelates, or other Spiritual Fathers of this Region, nor by any of their Ministers or Substitutes, be at any time or times hereafter published, executed, nor divulged, nor suffered to be published, executed, or divulged in any manner of ways.

Manner of Electing, &c. Archbishops and Bishops.

Rot. Parl. Vid. 25 H. 8. 6. 20. § 2.

[His Letters Patents.] Memorandum Acti illo assensum suum Regium dedit, prout per quod nono die Julij, anno regni Regis Henrici vicesimo quinto, idem Dominus Rex per literas suas Patentes sub magno sigillo suo sigillat. Actum predictum ratificavit & confirmavit, &

casdem Literas Patentes, cujus tenor sequitur in hac verba, magis aperte constat. Then follows the Ratification, in form, with the Act recited at large.

1, 2 Phil. & Mar. Cap. 8.

In an Act, Entituled, An Act repealing all Articles and Provisions made against the See Apostolick, &c.

6. VII. And where also, at the said Parliament holden at Westminster in the xxi year of the reign of the said late King Henry the eighth, and there,

The foregoing Statute 23 H. 8. repealed.



Manner of  
Electing,  
&c. Arch-  
bishops and  
Bishops.

A.D. 1533.

there continued by divers Prorogations until the xxiv day of April in the xxv year of his reign, one Act was made concerning Restraints of Payments of Annates or First-fruits of Archbishopricks and Bishopricks to the See of Rome [the said Act] shall be, by authority of this present Parliament, from henceforth utterly void, frustrate and repealed.

25 Henr. VIII. Cap. 5.

In an Act, Entituled, *An Act----- of the Electing and Consecrating of Archbishops and Bishops within this Realm.*

Where sithens the beginning of this present Parliament, for repress of the exaction of Annates and first fruits of Archbishopricks, and Bishopricks of this Realm, wrongfully taken by the Bishop of Rome, otherwise called the Pope, and the See of Rome, it is ordained and established by an Act among other things, that the payments of the Annates or first fruits, and all manner contributions for the same, for any such Archbishoprick or Bishoprick, or for any Bulls to be obtained from the See of Rome, to or for the said purpose or intent, should utterly cease, and no such to be paid for any Archbishoprick or Bishoprick, within this Realm, otherwise than in the same Act is expressed. And that no manner of person or persons to be named, elected, presented, or postulated to any Archbishoprick or Bishoprick within this Realm, should pay the said Annates or First-Fruits, nor any other manner of sum or sums of money, pensions, or annuities, for the same, or for any other like exaction or cause, upon pain to forfeit to our Sovereign Lord the King, his heirs and successors, all manner his Goods and Chattels for ever, and all the temporal Lands and Possessions of the said Archbishoprick or Bishoprick, during the time that he or they that should offend contrary to the said Act, should have, possess, and enjoy the said Archbishoprick or Bishoprick. And it is farther enacted, That if any person named or presented to the See of Rome by the King's Highness, or his heirs or successors, to be Bishop of any See or Diocese within this Realm, should happen to be letted, delayed or deferred at the See of Rome from any such Bishoprick whereunto he should be so presented, by mean of restraint of Bulls of the said Bishop of Rome, otherwise called the Pope, and other things requisite to the same, or should be denied at the See of Rome, upon convenient suit made for any Bulls requisite for any such cause; that then every person so presented, might or should be consecrated in England, by the Archbishop in whose Province the said Bishoprick shall be: so always that the same person should be named and presented by the King for the time being to the said Archbishop: and if any person being named and presented (as is aforesaid) to any Archbishoprick of this Realm, making convenient suit, as is aforesaid, should happen to be letted, delayed, deferred, or otherwise disturbed from the said Archbishoprick, for lack of Pall, Bulls, or other things to him requisite to be obtained at the See of Rome; that then every such person so named and presented to the Archbishop, might and should be consecrated and invested, after presentation made as is aforesaid, by any other two Bishops within this Realm, whom the King's Highness, or any his heirs or successors, Kings of England, would appoint and assign for the same, according, and after like manner as divers Archbishops and Bishops have been heretofore in ancient time by sundry the King's most noble Progenitors made consecrated and invested within this Realm. And it was farther enacted by the said Act, that every Archbishop and Bishop, being named and presented by the King's Highness, his heirs and successors, Kings of England, and being consecrated and invested as is aforesaid, shall be installed accordingly, and should be accepted, taken and reputed, used and obeyed, as an Archbishop or Bishop of the dignity, See or place whereunto he shall be so named, presented and consecrated, and as other like Prelates of that Province, See or Diocese have been used, accepted, taken and obeyed, which have had and obtained compleatly their Bulls and other things requisite in that behalf from the See of Rome, and also should fully and intirely have and enjoy all the Spiritualities and temporalities of the said Archbishoprick or Bishoprick, in as large, ample and beneficial manner, as any of his or their

Abridgment.

Recital of the foregoing Stat. 23 H. 8.

---Enacting, That no Archbishop or Bishop shall pay First-fruits, otherwise than according to the said Act;

-- That if any person presented to the Pope, for a Bishoprick, be delayed or letted, he shall be consecrated by the Archbishop,

---or being presented to an Archbishoprick, and delayed; then by 2 other Bishops, to be Commissioned by the King;

-- That, being consecrated, as aforesaid; he shall be reputed compleat Archbishop or Bishop,

--- and enjoy fully all Spiritualities and Temporalities, paying to the King the usual Duties;



## Abridgment.

---That the Pope being certify'd of the Premises, hath yet offer'd no Redress,

---and therefore the King hath confirmed the said Statute, by Letters Patents, under the Great Seal;

---and now the same is confirmed; and it is further Enacted, that

---No person shall henceforth be presented to the See of Rome, for the dignity of Archbishop, or Bishop,

---but such Presenting, and procuring of Bulls, &c. shall utterly cease;

---and the King shall direct to the Dean and Chapter, his Licence to Elect, and Letters Mitive, naming the Person,

Predecessors had or enjoyed in the said Archbishoprick or Bishoprick, satisfying and yielding unto the King's Highness, and to his heirs and successors, all such duties, rights and invests, as before time hath been accustomed to be paid for any such Archbishoprick or Bishoprick, according to the ancient Laws and Customs of this Realm, and the King's Prerogative Royal, as in the said Act amongst other things is more at large mentioned.

II. And albeit the said Bishop of Rome, otherwise called the Pope, hath been informed, and certified of the effectual contents of the said Act, to the intent that by some gentle ways the said exactions might have been redressed and reformed: yet nevertheless the said Bishop of Rome hitherto hath made none answer of his mind therein to the King's Highness, nor devised or required any reasonable ways to and with our said sovereign Lord for the same: Wherefore his most Royal Majesty, of his excellent goodness, for the wealth and profit of this his Realm, and subjects of the same, hath not only put his most gracious and Royal assent to the aforesaid Act, but also hath ratified and confirmed the same, and every clause and article therein contained, as by his Letters Patents under his Great Seal enrolled in the Parliament Roll of this present Parliament more at large is contained.

III. And forasmuch as in the said Act it is not plainly and certainly expressed, in what manner and fashion Archbishops and Bishops shall be elected, presented, invested and consecrated within this Realm, and in all other the King's Dominions: Be it now therefore enacted by the King our sovereign Lord, by the assent of the Lords spiritual and temporal, and the Commons of this present Parliament assembled, and by the authority of the same, That the said Act, and every thing therein contained, shall be and stand in strength, virtue and effect, Except only that no person or persons hereafter shall be presented and nominated, or commended to the said Bishop of Rome, otherwise called the Pope, or to the See of Rome, to or for the dignity or office of any Archbishop or Bishop within this Realm, or in any other the King's Dominions, nor shall send nor procure there for any manner of bulls, bveves, palls, or other things requisite for an Archbishop or Bishop, nor shall pay any sums of money for annates, first-fruits, nor otherwise, for expedition of any such bulls, bveves or palls: but that by the authority of this Act, such presenting, nominating or commending to the said Bishop of Rome, or to the See of Rome, and such bulls, bveves, palls, annates, first-fruits, and every other sums of money heretofore limited, accustomed, or used to be paid at the See of Rome, for procuracion or expedition of any such bulls, bveves or palls, or other thing concerning the same, shall utterly cease, and no longer be used within this Realm, or within any the King's Dominions; any thing contained in the said Act aforesaid mentioned, or any use, custom or prescription to the contrary thereof notwithstanding.

IV. And farthermore be it ordained and established by the authority aforesaid, That at every avoidance of any Archbishoprick or Bishoprick within this Realm, or in any other the King's Dominions, the King our Sovereign Lord, his heirs and successors, may grant to the Prior and Convent, or the Dean and Chapter of the Cathedral Churches or Monasteries where the See of such Archbishoprick or Bishoprick shall happen to be void, a licence under the Great Seal, as of old time hath been accustomed, to proceed to

*g* May grant.] In order to which, the Dean and Chapter (signifying to the Prince, the Death of the former Bishop) are to pray leave to elect another, as appears by the Tenor of the *Conge d'estire*, *Ex parte vestra nobis est humiliter supplicatum, ut cum Ecclesia prædicta per mortem ultimi Episcopi ejusdem jam vacet, & Pastoris solatio sit destituta, alium vobis eligendi in Episcopum & Pastorem licentiam nostram vobis concedere dignaremur.*

*h* A Licence.] Called *Licentia nostra Fundatoria*, in the Instrument; and laying no Restraints or Limitations upon the Electors, but only this general one, *Regantes, ac in fide & dilectione quibus nobis tenemini præcipientes, quod talem vobis eligatis in Episcopum & Pastorem, qui Deo devotus, Nobisque & regno nostro utilis & fidelis existat.*

*i* As of old Time hath been accustomed.] So saith the Statute of Provisors, (25 Edw. 3.) *The Election was first granted by the King's Progenitors, upon a certain Form and Condition, as to demand Licence of the King to chuse; which refers to the forementioned Charter, granted by King John, for the free Election of Prelates; for it was with this express Limitation, Petita tamen prius à nobis & hæredibus nostris Licentia eligendi, quam non denegabimus, nec differemus; & si forte (quod absit) denegaremus, vel differemus, procedant nihilominus Electores ad Electionem Canonicam faciendam.* So that, tho' a Licence from the King was necessary, in Acknowledgment of Foundation and ancient Patronage; yet it was, at the same time, a Matter of strict Right, and could not be denied.

Manner of Electing, &c. Archbishops and Bishops.



Manner of  
Electing,  
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bishops and  
Bishops.

election of an Archbishop or Bishop of the See so being void, with *k* a letter missive, containing the name of the person which they shall elect and chuse: by virtue of which licence the said Dean and Chapter, or Prior and Convent, to whom any such licence and letters missive shall be directed, shall with all speed and celerity, in due form elect and chuse the said person named in the said letters missive, to the dignity and office of the Archbishoprick or Bishoprick so being void, and none other. And if they do defer or delay their election above *m* twelve days next after such licence and letters missive to them delivered, That then for every such default, the King's Highness, his heirs and successors, at their liberty and pleasure, shall nominate and present by their Letters Patents under their great Seal, such a person to the said office and dignity, so being void, as they shall think able and convenient for the same. And that every such nomination and presentment to be made by the King's Highness, his heirs and successors, if it be to the office and dignity of Bishop, shall be made to the Archbishop and Metropolitane of the Province, where the See of the same Bishoprick is void, if the See of the said Archbishoprick be then full and not void: and if it be void then to be made to such Archbishop or Metropolitane within this Realm, or in any the King's Dominions, as shall please the King's Highness, his heirs or successors. And if any such nomination and presentment shall happen to be made for the default of such election to the dignity or office of any Archbishop: then the King's Highness, his heirs and successors, by his Letters Patents under his great Seal, shall nominate and present such person as they will dispose to have the said office and dignity of Archbishoprick being void, to one such Archbishop, and two such Bishops, or else to four such Bishops in this Realm, or in any of the King's Dominions, as shall be assigned by our said Sovereign Lord, his heirs or successors.

V. And be it enacted by the authority aforesaid, That whensoever any such presentment or nomination shall be made by the King's Highness, his heirs or successors, by virtue and authority of this act, and according to the tenor of the same: That then every Archbishop and Bishop, to whose hands any such presentment and nomination shall be directed, shall with all speed and celerity, invest and consecrate the person nominate and presented by the King's Highness, his heirs or successors, to the office and dignity that such person shall be so presented unto, and give and use to him *n* Pall, and all other benedictions, ceremonies, and things requisite for the same, without suing, procuring or obtaining hereafter any Bulls, or other things at the See of Rome, for any such office or dignity in that behalf. And if the said Dean and Chapter, or Prior and Convent, after such licence and letters missive to them directed, within the said twelve days, do elect and chuse the said person mentioned in the said letters missive, according to the request of the King's Highness, his heirs or successors, thereof to be made by the said letters missive in that behalf: then their election shall stand good and effectual to all intents: and that the person so elected, *o* after certification made of

Abridgment.

---and if they delay their Election above 12 days, the King shall present

---to the Metropolitan, if a Bishop,

---or, if an Archbishop, to the other Metropolitan, and 2 Bishops, or else to 4 other Bishops;

---who shall Consecrate, and give Pall, &c, without suing to Rome.

The Election of the Dean and Chapter, being according to the Letters Missive, shall be effectual,

*k* A Letter Missive.] This is wholly new; and the Language of it being thus, 'We have been pleas'd by these our Letters Patents to name, and recommend him unto you, to be elected and chosen', the only Choice the Electors have, under this Restraint, is, Whether they will obey the King, or incur a *Præmunire*.

*l* In due Form.] The Election, from beginning to end, proceeds, seemingly, upon the *Conge d'essire*, without any Appearance of Restraint from the Letters Missive, and in the same manner, as if there were no such Restraint; and the only Circumstance remarkable in it, is, the solemn declaring of the Person elected, to the Clergy and People, assembled in the Church; wherein we see the Footsteps of the more ancient way of Electing, and of the part which they had in the Election.

*m* Twelve Days.] The Rule of the Canon-Law was Three Months: *Statuimus*,

*ut ultra tres menses, Cathedralis vel Regularis Ecclesia Prælato non vacet. Infra quos (justo Impedimento cessante) si Electio celebrata non fuerit, qui eligere debuerant, eligendi potestate careant eâ vice.*

*n* Pall and all other Benedictions.] So that the Form of Consecrating according to the Roman Pontifical (tho' without Bulls from Rome) seems to have continued after the making of this Act, viz. all Henry the Eighth's Reign, and till the Establishment of the new Form, in the 3d Year of Edw. VI.

*o* After Certification made.] Before this, there must be the Consent of the Person elected; in order to which, the Proctor, constituted by the Dean and Chapter, exhibits to him the Instrument of Election, and prays, *quatenus eidem consensum & assensum suos præbere dignetur*; which Assent is to be given by an Instrument in form, in the presence of a Notary Publick; and, after that, the King is Certified of the E-

the



## Abridgment.

---and the person certify'd under their Seal, shall be stil'd Lord elected, ---and doing Fealty to the King, the Election shall be certified under the Great Seal to the Archbishop, and he required to Confirm, and Consecrate, &c.

the same election, under the Common and Convent Seal of the Electors, to the King's Highness, his heirs or successors, shall be reputed and taken by the name of the Lord elected of the said dignity and office that he shall be elected unto: and then <sup>oo</sup> making such oath and fealty duly to the King's Majesty, his heirs and successors, as shall be appointed for the same, the King's Highness <sup>p</sup> by his Letters Patents under his great Seal, shall signify the said election, if it be to the dignity of a Bishop, <sup>q</sup> to the Archbishop and Metropolitane of the Province where the See of the said Bishoprick was void, if the See of the said Archbishop be full and not void: And if it be void, then to any other Archbishop within this Realm, or in any other the King's Dominions; requiring and commanding such Archbishop to whom any such signification shall be made, <sup>r</sup> to confirm the said election, and to invest and consecrate

Manner of Electing, &c. Archbishops and Bishops.

Sext. Decret. l. 1. t. 6. c. 6.

lection made: And this is according to the Rule of the Canon-law, *Si quando fuerit Electio in aliqua Ecclesia celebrata, Electores Electionem ipsam, quam citius commode poterunt, Electo presentare, ac petere consensum ipsius procurant.* Which, accordingly, at this day, is the first Article in the Proxy, and the first thing the Proctor represents (at the time of the Confirmation) as done by him, pursuant to the Election.

Conc. Claud. Vol. 2. p. 64.

<sup>oo</sup> Making such Oath.] *Faciet Electus homagium & fidelitatem Regi, sicut ligio Domino suo, de vita sua, & de membris, & de honore terreno, salvo Ordine suo, priusquam Consecretur.*

Spe. V. 2. p. 136.

<sup>p</sup> By his Letters Patents.] These recite the Election of the Person, as signified by the Dean and Chapter to the Prince; and then add, *Nos Electionem illam acceptantes, eidem Electioni Regium Assensum nostrum adhibuimus pariter & favorem.* Which is agreeable to the tenor of King John's Charter, *Similiter, post celebratam Electionem noster requiratur Assensus, quem non denegabimus, nisi aliquid rationabile proposuerimus, & legitime probaverimus, propter quod non debeamus consentire.*

Oshob. de Confirm.

Dist. 64. c. 5. 3.

<sup>q</sup> To the Archbishop]. To whom the Confirmation and Consecration of the Bishops within his Province, doth of right belong. *Confirmatio spectat ad Archiepiscopum jure communi, saich J. de Atton.* And the Rule of the Canon-law, is, *Potestas sane vel Confirmatio, pertinet per singulas Provincias ad Metropolitanum Episcopum:* and, *Extra conscientiam Metropolitanus Episcopi, nullus audeat Ordinare Episcopum;* and (in terms yet stronger) *Illud generaliter est clarum, quod si quis, praeter Sententiam Metropolitanus, fuerit factus Episcopus, hunc magna Synodus [Nicæn. 1.] diffiniuit Episcopum esse non oportere.*

<sup>r</sup> To Confirm.] The Method and Order of which Confirmation, will be best understood, by a brief Account of the several Instruments exhibited and applied in the course of it.

1. *Literæ Patentis Regiæ;* by which the Royal Assent to the Election is signified, and the Archbishop required to proceed to Confirmation.

2. *Citatio contra Oppositores;* which (the time of the Confirmation being first fix'd) is published and set up, by order and in the name of the Archbishop, at the Church where it is to be held; as well to notify the day of Confirmation, as to Cite *omnes & singulos Oppositores (si qui sint) in specie, alioquin in genere, qui contra dictam Electionem; formam ejusdem, personamve in hac*

*parte Electam, dicere, objicere, excipere, vel opponere voluerint;* to appear on that day. According to the direction of the ancient Canon-Law, where it makes all Confirmations void, that are performed, *nullis vocatis, & non discussio negotio;* and then adds, *Vocationem autem hujusmodi nominatim, ubi est Coelectus, vel apparet Oppositor, aliàs generaliter in Ecclesia in qua Electio facta est, ut si qui sint, qui se velint opponere, compareant assignato peremptorio termino competenti, faciendam esse censemus. Quæ, etiamsi Electio in concordia celebrata fuerit, volumus observari.*

3. *Certificatorium super Executione dictæ Citationis;* the Return, made by the proper Officer, to the Archbishop, of the due Execution of the Citation abovesaid.

4. *Commissio ad Confirmandum;* which is usually performed by the Archbishop's Vicar-General.

5. *Procuratorium Decani & Capituli;* by which, one or more Persons are delegated by the Dean and Chapter Electing, not only to present (in their names) the Instrument of Election to the Bishop Elected, to obtain his Consent, and to present the Letters Certificatory of Election to the King, and to pray the Royal Assent, in order to Confirmation; but also, at the time of Confirmation (the said Letters Patents, and Commission to exhibit such his Proxy, being first read) in virtue thereof, to present the Bishop Elected to the Archbishop, Vicar-General or Surrogate; and, in the course of the Confirmation, to do whatever else is necessary to be done on the part of the Dean and Chapter.

6. *Schedula Prima:* The said Proctor, in the name of the Dean and Chapter, exhibiting the Citation and Return abovementioned; prays, that the Opposers (if any be) not appearing, may be pronounced Contumacious, and precluded from further Opposition, and that the Confirmation may be proceeded in; which is accordingly done by this Schedule.

7. *Summaria Petitio;* is the Petition of the said Proctor, that the Bishop Elect may be Confirmed, upon his alledging and proving the regularity of the Election, and the merits of the Person elected: Which he does in Nine Articles; setting forth, 1. That the See was vacant, and had been vacant for some time. 2. That the Dean and Chapter, having first desired and obtained the Royal Licence, appointed a day for Election, and duly Summoned all Persons concerned. 3. That on that day,

Sext. De retal. l. 1. t. 6. c. 46. Lyndw. de Jure Pat. cap. Per nostram.

† This is now alter'd, for the Church in which the Confirmation is to be, but anciently it was in the Place of Election, as appears by special Commissions issued for that end. Reg. Winch. 26. a. 27. a.

the



Manner of  
Electing,  
&c. Arch-  
bishops and  
Bishops.

the said person so elected to the office and dignity that he is elected unto, and to give and use to him all such benedictions, ceremonies and other things requisite for the same, without any suing, procuring or obtaining any Bulls, Letters or other things from the See of Rome for the same in any behalf. And if the person be elected to the office and dignity of an Archbishop, according to the tenor of this Act, then after such election certified to the King's Highness in form aforesaid, the same person so elected to the office and dignity of an Archbishop, shall be reputed and taken Lord elect to the said office and dignity of an Archbishop, whereunto he shall be so elect: And then after he hath made such oath and fealty only to the King's Majesty, his heirs and successors, as shall be limited for the same, the King's Highness, by his Letters Patents under his great Seal, shall signify the said election to one Archbishop, and two other Bishops, or else to four Bishops within this Realm, or within any other the King's Dominions, to be assigned by the King's Highness, his heirs or successors, requiring and commanding the said Archbishop and Bishops, with all speed and celerity, to confirm the said election, and to invest and consecrate the said person so elected to the office and dignity that he is elected unto, and to give and use to him such Pall, benedictions, ceremonies, and all other things requisite for the same, without suing, procuring, or obtaining any Bulls, Briefs, or other things at the said See of Rome; or by the authority thereof in any behalf.

they unanimously chose the Person now to be Confirmed. 4. That the Election was duly published and declared to the Clergy and People there Assembled. 5. That, at the request of the Dean and Chapter, the Person so elected, gave his Consent to the Election. 6. That the Person Elected *fuit & est vir providus & discretus, ac Sacrarum, literarum doctrinâ & scientiâ sufficienter imbutus, necnon vitâ & moribus merito commendatus, liberæ conditionis, & de legitimo matrimonio procreatus, atque in ætate legitimâ, & in Ordine [Presbyterali, or Episcopali] constitutus, necnon Deo, devotus, & Ecclesiæ memoratæ apprime necessarius, ac Domino nostro Regi, ejusque Regno & Republicæ, fidelis & utilis.* 7. That the Dean and Chapter, under their Seal, intimated the Election, and the Name of the Person Elected, to the King. 8. That the King had given the Royal Assent. 9. That he had, by his Letters Patents, required the Person Elected to be Confirmed. All which Articles conclude (Ioly) with a Petition, that, in pursuance of the Premises, Confirmation, &c. may be Decreed. Then, the *Summaria Petitio* is admitted, and the Court decrees to proceed *Summarie & de plano*, and assign him a term *ad Statim* to prove the particular matters contained in the Petition; for proof of which, he exhibits the Process of the Election made by the Dean and Chapter, the Consent of the Archbishop, and the Royal Assent, and then prays a time *ad audiend. Sententiam sive finale Decretum*, which is assign'd *ad Statim*.

8. *Schedula Secunda*: Before Sentence, a second Præconization of the *Oppositores* (if any be) is made, *ad fores exteriores Ecclesiæ*, and (none appearing) they are declared Contumacious, by a *Second Schedule*.

9. *Juramenta*: These are four in number; two, (namely, the Oaths of *Allegiance* and *Supremacy*, in conformity to the Statutes of the Realm, 1 Eliz. c. 1. §. 22. 3 Jac. 1. c. 4. 1 Will. & Mar. c. 8. §. 5,

13; and two others, (*viz.* the Oath of *Simony*, and of *Obedience to the Archbishop*) in conformity to the Rules and Canons of the Church. See the Oath of *Obedience*, in the Form of *Consecration*.

10. *Sententia*: The Definitive Sentence, or the Act of Confirmation; by which the Judge commits to the Bishop Elected, *Caram, regimen, & administrationem Spiritualium dicti Episcopatus*; and then Decrees him to be Installed and Inthronized.

[*Four Bishops*.] That is, *four at least*; for the Commission, usually, is not only directed to more, but there are more also, who join and proceed in the Act of Confirming.

[*Co Invest.*] In case of *Translation*, no more is required, than *Confirmation*; but that and all that precedes it, is required and observed in case of *Translations*, as much as in *Creations*; which (tho' the plainest truth, both in Law and Practice) I take notice of here, to prevent the future mistakes of some Writers. Concerning which *Translations* (to note this, by the way) the rule of the Canon-law is, *Mutationes Episcoporum scitote communi utilitate atque necessitate fieri licere— Non ergo bene intelligunt Ecclesiasticas regulas, qui hoc negant, causâ necessitatis, vel utilitatis, fieri posse, quoties communis utilitas, aut necessitas persuaserit.*

[*And Consecrate.*] In case a Bishop is presented; for Consecration, to an Archbishop, this Statute makes no provision for the Number of Bishops Consecrating, nor do the Forms established in succeeding Reigns, where they speak of laying on of hands, say any more, than that it shall be done by the—*Bishops present*. This therefore is left to the ancient Laws and Canons of the Church; which admit of no Consecration by a less number of Bishops, than *three*; the necessity of which number is also supposed by our own Constitution, requiring that the Elected Bishop be presented to the Archbishop by *two Bishops*. But it is to be observed, that the number of *three* was that,

Abridgment.

--- but the Certificate of the election of an Archbishop, shall be to one Archbishop, and 2 Bishops, or 4 Bishops.

--- who shall Confirm, Consecrate, &c.

Caus. 7, 1.  
c. 34, 35.



**Abridgment.**

Dean and Chapter refusing to Elect or Return ;

--and Archbishop or Bishop refusing to Confirm &c.

--and they or any others executing Proceſſes to the contrary,

--they ſhall all incur the dangers of *Præmunire*.

VII. And be it further enacted by the authority aforeſaid, That if the Prior and Convent of any Monastery, or Dean and Chapter of any Cathedral Church, where the See of an Archbishop or Bishop is within any the King's Dominions, after ſuch licence, as is afore rehearſed ſhall be delibered to them, proceed not to election, & ſignifie the ſame according to the tenour of this Act, within the ſpace of twenty days next after ſuch licence ſhall come to their hands: or elſe if any Archbishop or Bishop within any the King's Dominions, after any ſuch election, nomination, or preſentation ſhall be ſignified unto them by the King's Letters Patents, ſhall reſuſe, and do not confirm, inveſt, and conſecrate, with all due circumſtance as is aforeſaid, every ſuch perſon as ſhall be ſo elected, nominate, or preſented, and to them ſignified, as is abovementioned, within twenty days next after the Kings Letters Patents of ſuch ſignification, or preſentation ſhall come to their Hands, or elſe if any of them, or any other perſon or perſons, admit, maintain, allow, obey, do, or execute any Cenfures, Excommunications, Interdictions, Inhibitions, or any other Proceſſes or Act, of what nature, name, or quality ſoever it be, to the contrary, or lett of due execution of this Act; that then every Prior and particular perſon of his Convent, and every Dean, and particular perſon of the Chapter, and every Archbishop and Bishop, and all other perſons ſo offending and doing contrary to this Act, or any part thereof, and their aiders, counſellers, abettors, ſhall run in the dangers, pains, and penalties of the ſtatute of Proviſion and Præmunire, made in the ſixe and twentieth year of the Reign of King Edward the Third, and in the ſixteenth year of King Richard the Second.

under which the Conſecration could not be Canonical, and that all the Laws of the Church, upon this Head, do at the ſame time, intend the *personal* Preſence of as many Bishops of the Province, as can conveniently come; according to the Rule in Gratian, *Episcopi ab omnibus, qui ſunt in Provincia ſua, debent Ordinari. Si verò hoc difficile fuerit, vel aliquà urgente neceſſitate, vel Itineris*

*longitudine; certè tres Episcopi debent in unum congregari, ita ut etiam cæterorum, qui abſentes ſunt, conſenſum in literis teneant.* Of which Law (as practiſed here in England) we find the footſteps, as well in formal Citations of the Bishops of the Province, to the Conſecrations of a Bishop, as in the Excuses ſent by Bishops, in form, with ſignification of their Conſent.

Diſt. 64.  
c. 1, 4,  
7. Diſt. 65.  
c. 1, 2, 3, 5.

Peck. 86.  
Winch. 27, 133,  
207, 255.  
Reyn. 153.  
Chich. 11, 13.  
Wint. Strat. 22,  
37. Adam. 62.

1, 2 Phil. & Mar. Cap. 8.

A.D. 1554.

In an Act, Entituled, *An Act repealing all Articles and Proviſions made againſt the See Apoſtolick, &c.*

The foregoing Statute, 25. H. 8. c. 20. repealed.

§. IX. And one other Act, Entituled, An Act reſtraining the ſaid Payments of Annates or Firſt-fruits to the Bishop of Rome, and of the Electing and Conſecrating of the Archbishops and Bishops within this Realm, ----- ſhall be by authority of this preſent Parliament from henceforth utterly void, fruſtrate and repealed.

1 Eliz. Cap. 1.

A.D. 1558.

In an Act, Entituled, *An Act to reſtore to the Crown the ancient Jurisdiction, &c.*

The ſaid Statute, 25 H 8. c. 20 revived.

§. VII And alſo one Act made in the ſixe and twentieth year, entituled, An Act reſtraining the payment of Annates or Firſt-fruits, to the Bishop of Rome, and of the Electing and Conſecrating of Archbishops and Bishops within this Realm ----- ſhall be revived, and ſhall ſtand and be in full force and ſtrength, to all intents, conſtructions, and purpoſes.

OTHOBON.



Manner of Electing, &c. Archbishops and Bishops.

A.D. 1268. 52 Henr. 3.

O T H O B O N.

De Confirmatione Episcoporum.

Summarium.

In virtute Sanctæ obedientiæ districtè Statuit & Præcipit, ne quisquam Episcoporum confirmetur, donec præter cætera Canonice inquirenda etiam diligenter inquiretur, an confirmandus plura Beneficia incompatibilia sine dispensatione obtinuerit, quo comperto nullatenus confirmetur.

Edit. Oxon. p. 133.

Pastoralis Sedis eminentia multis indigens gratiæ Divinæ muneribus, ut pastor in se mundus ambulet coram Deo in meritum, & in conspectu populi ad doctrinam; inter alia quæ de Pontificum electione Sacri Canones providerunt, illud præcipuum sibi vendicat locum, ut talis ad eam persona conscendat, quæ nullis (quantum humanitus possibile est) sit maculis denigrata. Quorundam igitur ignorantiam, vel negligentiam, aut dissimulationem, quæ contra electorum Confirmationes frequenter habetur, vel etiam procuratur, ex Officii nostri debito, diligentiam quâ possumus, corrigentes;

O B S.

Statuimus, & in virtute Sanctæ obedientiæ Præcipimus districtè, ut cum Electionis Episcopalis & Confirmatio postuletur, inter cætera super quibus inquisitio & examinatio procedere debet, secundum Canonum instituta, illud exactissimè inquiretur, utrum plura Beneficia cum Animarum cura, qui electus est, antequam eligeretur, habuerit; & si habuisse inveniatur, an cum eo super hoc fuerit dispensatum, & an dispensatio, siquam exhibuerit, vera sit & ad omnia Beneficia, quæ obtinuit, extendatur.

Quod si in aliquo præmissorum is, ad quem Confirmatio spectat, electum deficere suâ discussione comperit, eidem nullatenus munus Confirmationis impendat.

Quorundam.] Archiepiscoporum, ad quos pertinent Confirmationes hujusmodi, J. de Athon.

\* Confirmatio.] Quæ fieri non debet, absque vocatione nominatim factâ, ubi specialis & certus est Adversarius seu Contradictor; imò nec aliâ absque generali Proclamatione in Eccle-

siâ ubi fiebat Electio, J. de Athon.— Licet hujusmodi Electus jus plenum acquirat per Electionem Canonicam, tamen Exercitium illius Juris non habet ante Confirmationem; per quam nihil novi Juris tribuitur, sed tantum exercitium, Ibid.

Abridgment.

The Pastoral Office requiring great Gifts, --the Canons of the Church forbid any to be Confirmed Bishop, but who is unblemished,

---and we particularly enjoyn, that strict Enquiry be made at Confirmation, whether he was a Pluralist without Dispensation,

---and if he was, that he be not Confirmed.

C A P. II.

Archbishopricks and Bishopricks COLLATED TO by the CROWN, without ELECTION.

1 Edw. VI. Cap. 2.

An Act for the Election of Bishops.

A.D. 1547.

Archbishopricks & Bishopricks Collated to by the Crown without Election.

As much as the Elections of Archbishops and Bishops by the Deans and Chapters within the King's Majesties Realms of England and Ireland, at this present time, be as well to the long delay, as to the great Cost and Charges of such persons as the Kings Majesty giveth any Archbishoprick or Bishoprick unto: And whereas the said Elections be in very deed no Elections, but only by a Writ of Conge d'eslire, have colours, shadows or pretences of elections, serving nevertheless to no purpose, and seeming also derogatory and prejudicial to the King's Prerogative Royal, to whom only appertaineth the Collation and Gift of all Archbishopricks and Bishopricks, and Suffragan Bishops within his Highness said Realms of England and Ireland, Wales, and other his Dominions and Marches: for a due reformation hereof, be it therefore enacted by the King's Highness, with the assent of the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, and by the authority of the same, That from henceforth no Conge d'eslire be granted, nor Election of any Archbishop or Bishop by the Dean

By the Dean and Chapter.] It hath been supposed by some, that the principal Intent of this Act, was, to make Deans and Chapters less necessary, and thereby to prepare the way for a Dissolution of them.

Recited: the Delay and Charge of Electing by Deans and Chapters, ---which are really no Elections, but are derogatory to the Prerogative Royal.

Enacted, that ---There shall be no Conge d'eslire,

and



Abridgment.

nor Election; but the King shall Collate by Letters Patents,

--and the person Collated, shall be Consecrated, &c,

--paying the accustomed Fees, as in old time.

and Chapter made, but that the King may by his Letters Patents at all times, when any Archbishoprick or Bishoprick is void, confer the same to any person whom the King shall think meet. The which Collation so by the King's Letters Patents made, and delivered to the person to whom the King shall confer the same Archbishoprick or Bishoprick, or to his sufficient Doctor and Attorney, shall stand to all intents, constructions and purposes, to as much and the same effect, as though Conge d'eslire had been given, the Election duly made, and the same confirmed. And thereupon the said person to whom the said Archbishoprick, Bishoprick, or Suffraganship is so conferred, collated, or given, may be consecrated, and sue his Liberty or Ouster le main, and do other things as well as if the said Ceremonies and Elections had been done and made.

II. Provided always, and be it enacted by the authority aforesaid, That every such person to whom any Collation and Gift of any Archbishoprick, Bishoprick or Suffraganship shall be given or collated by the King, his Heirs or Successors, shall pay, doe and yield to all and every person all such Fees, Interests and Duties, as of old time have been accustomed to be done; any thing in this Act, or in any other to the contrary hereof, in any wise notwithstanding.

Archb-  
shopricks  
& Bishop-  
ricks Col-  
lated-to by  
the Crown  
without E-  
lection.

1 Mar. (Sess. 2.) Cap. 2.

In an Act, Entituled, An Act for the Repeal of certain Statutes, made in the time, &c. of Edw. VI.

Repeal of the foregoing Statute.

II. And also one other Act in the same Session, which is intituled, An Act for the Election of Bishops, and what Stiles they and other Spiritual Persons exercising Jurisdiction Ecclesiastical shall use ---- shall be from henceforth utterly & repealed, void, and annihilate, and of none effect.

[& Repealed.] The whole Statute, of which this Repeal is a part, was repealed by a subsequent Statute, 1 Jac. I. c. 25. §. 48. in these Words, *And be it further Enacted, by the authority of this present Parliament, that an Act made in the first Year of the Reign of Queen Mary, Entituled, An Act for the Repeal of certain Statutes made in the time of King Edward the Sixth, shall stand repealed and void.* From whence, it was moved, and urged, at a Grand Committee of Lords and Commons (4 Jac. I.) that Queen Mary's Repeal being repealed, King Edward's Act remained still in force, and that, by consequence, all Bishops made, contrary to the tenor of that Act, since the said Repeal, 1 Jac. I. were illegally made; having been made by Election, and not by Donation, or by the single authority of the King's Letters Patents. But

upon consideration had of this matter by command of the King, it was answered and resolved by Popham Chief Justice, Coke Attorney, the Chief Baron and the other Justices then attendant on Parliament, That altho' the said Act 1 Mar. be repealed, yet the Act 1 Edw. 6. is not now in force, but remains repealed; and that, principally, for this cause, that the foregoing Act 25 H. 8. c. 20. which, as we have seen, directs the making of Bishops by Election, (tho' repealed by 1 & 2 Phil. & Mar. c. 8.) was revived, expressly and by name, in the 1st. of Elizabeth, c. 1. §. 7. and by consequence did revive and re-establish the ancient method of Election and Confirmation. From hence it follows (says my Lord Coke) that the Act of 1 Eliz. reviving the 25 H. 8. hath repealed the Act of 1 E. 6.

Co. 12. Rep. p. 7.

Co. 12. Rep. p. 8.

Rules of Common and Canon Law concerning the State of a Bishop, after Election and Confirmation, and before Consecration.

I. AFTER Election and Confirmation (and not before) the Bishop is fully invested with a Right to exercise all Spiritual Jurisdiction. So saith J. de Athon, *Licet hujusmodi Electus jus plenum acquirat per Electionem Canonicam, tamen Exercitium illius Juris non habet ante Confirmationem.* And Lyndwood, *Et hic advertite, quod appellatione Episcopi, in Jurisdictionalibus, comprehenditur Confirmatus, licet non Consecratus.* Accordingly, the Sentence of Confirmation at this Day, conveys (in form) *Curam, Regimen, & Administrationem Spiritualium*; and, by the Canon-Law, the Bishop Elect, &c. before Confirmation, is expressly forbidden to intermeddle in the Administration of Spirituality or Temporality; by himself, or by another, in part, or in whole: *Nullus de cætero administrationem*

*Dignitatis, ad quam electus est, priusquam celebrata de ipso Electio Confirmetur — in Spiritualibus vel temporalibus, per se vel per alium, pro parte vel in totum, gerere, vel recipere, aut illis se immiscere, præsumat: Omnes illos, qui secus fecerint, Jure (si quod eis per Electionem quæsitum fuerit) decernentes eo ipso privatos.*

The Books of Common-Law differ much in their Opinions and Declarations concerning the Commencement of the Jurisdiction of a Bishop; some holding, that the Power of the Guardian of the Spiritualities ceases (and by consequence that the Power of the Bishop commences) upon Election; others, that he hath no Right to exercise any manner of Jurisdiction till after Confirmation; and others again chuse a third Way, That his Jurisdiction

Othob. de Conf. Ep. v. Postulatur.

De Test. c. ut Cler. v. Arbitrio.

6 Decr. 1. r. T. 6. c. 6.

Ibid. & Decretal. 1. 1. T. 6. c. 17.

Co. 8. Rep. Trollop's case.

Palm. 473. Evans verfi. Ascuith. 2 Rolles, 451. Vaughan verfi. Afcue.



Archbishops, & Bishops Col-lated-to-by the Crown without F-lection.

\* N. B. c. 2. b.

Palm. 457.

Dyer. l. 359. a.

Winch. 25. 2.  
27. 2.

Chich. 51. 2.  
Burch. 3. 2.  
&c.

dition, as to all Ministerial Acts (as Certificates of *Bastardy*, and the like) commences upon his Election; but, as to *Judicial* Acts, not till after Confirmation. They who will have it commence upon Election, seem to rest chiefly upon \* *Fitzherbert*, who, in his *Natura Brevium*, saith, That a Certificate of Contumacy, in order to obtain the Writ *de Excommunicato capiendo*, may be perles Letters cesti qui est ellieu d' estre Evêque, avaut que il soit Sacre Evêque; which yet may be made consistent with the foregoing Rules of Canon-Law, by an Interpretation that seems to be fair and natural, That by Election, he means Election completed by Confirmation; and then, the next Step is, what he makes it, Consecration. For Election is an incomplete Act, which may be vacated many ways; as, by the Refusal of the Person elected, to accept; by the Refusal of the King to admit and confirm; and by Proofs of Legal Incapacity at the Time of Confirmation. And it is observable, that tho' the Act (besides the Penalty of not electing) hath provided plain and immediate Remedy for the Advancement of the Person recommended, in case the Dean and Chapter refuse to elect, namely, that he shall be presented by the King's Letters Patents; yet, in case of Election made, and a Refusal to confirm, there seems to be only a Penalty on the Person or Persons refusing, without other Remedy. And it was strongly argued by *Doderidge*, *Calthrop*, and *Whitlock*, in the Case of *Evans* and *Ascuith*, 3 Car. 1. That Election is an incomplete Act, which may be many ways undone; that by it a Bishop gains neither *Jurisdiction* nor *Order*; the first of which he hath by Confirmation, the second by Consecration; and that the Power of the Guardian of the Spiritualities ceaseth not, before Confirmation; as this matter is also understood and practis'd at this Day: And, being so, there is no need to distinguish between Ministerial and Judicial Acts, in order to prevent a Failure of Justice in the Courts of Common-Law; since a Power remains in the Guardian of the Spiritualities to execute both, till the Bishop, by Confirmation, is render'd capable to do the same. Nor doth the Case in *Dyer* at all contradict this; since there, the Question was, whether a Writ, having been directed to the Guardian of the Spiritualities (*sede vacante*) and a new Bishop being made before any thing was done in it, the Writ ought to go on in the Hands of the Guardian, or a new one be sent to the new Bishop. It was agreed, that a Writ ought to be sent to the new Bishop; but nothing, I think, can be gather'd from that Case, as to the precise time, when the Bishop becomes capable of executing it. I will only add, that the Power of the Guardian of the Spiritualities was so far from ceasing upon the Election; that the way was (after such Election) to write to him to make Proclamation at the Cathedral Church of the Bishop elected, in order to Confirmation; and that, in the ancient *Restitutions of the Spiritualities*, it is recited as a special Act of Grace, to restore them before Consecration; *Est ante munus Consecrationis huic Electo realiter impensum, ad Li-*

*berationem Spiritualium Civitatis & Diœcesis antedict' minime teneamur: Volentes tamen sibi in hac parte specialiter impendere favores & gratias, Spiritualitatem predict' sibi, de gratiâ nostrâ speciali, duximus & decernimus liberandam.*

II. The Dignities or Benefices, which a Bishop was possessed of before his Election, become not void, till after Consecration in the Case of Creation, and after Confirmation in the Case of Translation. Upon which Foundation it was, that all the Judges agreed, in the Case of *Evans* and *Ascuith*, 3 Car. 1. that if a *Commendam* retinere comes, in the first Case, before Consecration; and in the second, before Confirmation; it comes time enough: because it comes, while the Bishop is in Possession of the Dignity or Benefice granted in *Commendam*. And *Doderidge* compared the several Steps in making of a Bishop, to those that are taken and used in making of a Parson; in which, Presentation answers to Election; Admission (after Examination of the Ordinary) to Confirmation; and Institution to Consecration; and as the first Benefice is not void, upon taking a second, till after Institution; so neither are Dignities and Benefices void, upon Acceptance of a Bishoprick, till after Consecration.

III. Every Bishop (whether created, or translated) is bound, immediately after Confirmation, to make a legal Conveyance to the Archbishop, of the next Avoidance of one such Dignity or Benefice, belonging to his See, as the said Archbishop shall chuse and name; which is therefore commonly called an Option. Of this, we find early mention, in the Records of the See of *Canterbury*, among the Presentations, Institutions, and Collations of the Archbishops; but with these two Variations, that, in some Places, it is said to be due *ratione Consecrationis*; and that, anciēntly, the Person to be promoted was named to the Bishop, and not the Dignity or Benefice he was to be promoted to. *Ann. 1208. Dominus contulit Gratiâ Domini Walteri Reginaldi Episcopi Wigorn', quam tenebatur facere ratione Consecrationis suæ Domino G. de Buton.* Where also the like Demand is made of the Bishops of *Exeter* and *Chichester*. *Ann. 1210. Litera directâ Episcopo Eliensi, ad promovendum unum Clericum, quem Archiepiscopus sibi nominaverit, ratione Consecrationis suæ.* And, in Archbishop *Cranmer's* Register, among the ancient Fees; Item, at the Consecration of every Bishop (by Prerogative) the Disposition of the first Prebend, that becometh void, after the Consecration of the elected, by Advowson to be granted to the Archbishop; of which Tenor also are most of the Options of Archbishop *Cranmer*. On the other hand, we find, in the Register of Archbishop *Reynolds*, a Monition to accept and admit the Clerk named by the Archbishop, reciting, That it was an ancient Right of the Archbishop for the time being, *cuiuslibet Electo in Episcopum totius suæ Provinciæ, post Confirmationem ipsius, eidem unam personam idoneam per ipsum promovendam nominare.* And that it is, strictly speaking, to be convey'd immediately after Confirmation, appears also by the Preface of the Grants, since the beginning of Archbishop *Parker* at least,

Abridgment.

Palm. 470,  
475.  
Jones (Sir  
W.) 162.

Winch. f.  
47. a.

Ibid. f. 60.  
2.

Cranm. 30.  
2.

Reyn. 54. 2.



## Abridgment.

as well upon Creations as Translations of Bishops: *Cum tam de antiqua laudabili, longævaque & legitime præscripta consuetudine, hætenus inconcussa usitat' & observat' quam etiam de singulari Prærogativâ Ecclesiæ Metropolitanæ Christi Cantuar' fuerit & sit usitatum & observatum, quod Archiepiscopus Cantuariensis, pro tempore existens, cuilibet Suffraganeorum in Episcopum alicujus Ecclesiæ Cathedralis suæ Cantuar' Provinciæ elect' statim post Confirmationem Electionis hujusmodi, unum Clericum idoneum nominare & præsentare possit, cui idem Electus Confirmatus tenebitur, quam primam facultas se obtulerit, in suâ Ecclesiâ Cathedrali, de Canonatu & Præbendâ, seu de alio competenti Beneficio Ecclesiastico providere, ac interim dictum Clericum ad Canonatum & Præbendam seu Beneficium hujusmodi sic promovend' acceptare & admittere; necnon sibi pensionem annuam sufficientem constituere, tantisper solvend' & impendend' quousque eidem Clerico de Canonatu & Præbendâ, vel alio competen' Beneficio hujusmodi sufficienter fuerit cautum & provisum*—By this Preamble, it appears, that the ancient Method was, to name the Person to be promoted, and not the Promotion; but (ever since Archbishop Cramer's time at least, in whose Register is the first Entry that I have found, of a Grant, in form) the way hath been, to convey the Advowson, either of the first

Dignity or Benefice that should fall, or of some one certain, to the Archbishop, his Executors, and Assigns, at first for Twenty One Years; and afterwards, for the next Avoidance. But in case the Bishop dies, or is translated, before the present Incumbent of the Promotion chosen by the Archbishop shall die or be removed, it is generally supposed, that the Option is void; inasmuch as the Grantor, singly, and by himself, could not convey any Right or Title, beyond the Term of his Continuance in that See.

The *Mastership of S. Cross*, near Winchester, was made an Option by Archbishop Fuxon, upon the Confirmation of the Bishop of Winchester; as appears by a Contest between Dr. Pory the Assignee, and Sir William Fuxon the Executor; where, the Dispute was not, whether the *Mastership* might be an Option, (of which no Question appears to have been made by the then Bishop) but to which of the two it belong'd, as claiming under Archbishop Fuxon. The Footsteps of the same Dispute appear in the Journals of the House of Lords; where Sir William presented a Petition to their Lordships, praying that Dr. Pory might be oblig'd to wave his Privilege, as Member of Convocation; but the Petition was dismissed.

Archbishops & Bishops Colated to by the Crown without Election.

Keble V. 2. P. 490.

Journ. Proc. 1668.

## C A P. III.

## The ACT of CONSECRATING, in the Consecration of Archbishops and Bishops.

3 & 5 Edw. VI. Cap. 1.----13, 14 Car. II.

## Preface to the Offices of Consecration and Ordination.

—AND every Man which is to be <sup>1</sup> Ordained or <sup>2</sup> Consecrated Bishop, shall be a fully Thirty years of Age.

<sup>1</sup> Not in 3 nor 5 E. 6.    <sup>2</sup> A Bishop, 3 & 5 E. 6.

a Fully thirty] This is the ancient Law of the Church, both for Presbyters and Bishops, that they should not be Ordained under thirty years of age, *Dominus enim noster Jesus Christus trigesimo anno baptizatus est, & tunc prædicavit.* Only, as to Presbyters, it was provided, That in case of necessity (or, as the Gloss explains it in a

greater latitude, of utility,) they might be Dispensed with, and Ordained at the age of Twenty Five; but I think, in the case of a Bishop, no Dispensation was (regularly) allowed: what might be done by the overruling Power of the Pope, is another Question.

3 & 5 Edw. VI.-----13, 14 Car. II.

## The Title to the Form of Consecration.

The Form of <sup>1</sup> Ordaining or <sup>2</sup> Consecrating of an Archbishop, or Bishop; which is always to be performed <sup>b</sup> upon some Sunday or Holy-day.

<sup>1</sup> Not in 3 nor 5 E. 6.    <sup>2</sup> Not in 3 nor 5 E. 6.

b Upon some Sunday.] *Episcoporum Ordinationis fieri oportet Dominicis diebus.* And the Pontifical, *Die Consecrationis, quæ debet esse Dominica, vel Festiva.*

A.D. 1549. &c.

The Act of Consecrating Archbishops and Bishops.

A.D. 1549. &c.

Every Bishop shall be full 30 years of age.

Dist. 77. c. 6. 78. c. 4.

Conc. Neocæs. c. 11. Agath. c. 16. 17. Lateran. 3. 3.

Dilt. 78. c. 5.

Consecrations shall be on Sunday, or Holy-day.

Spelm. V. 1. p. 267. Can. Egb. 96. f. 25. b.



The Act of Consecrating Archbishops and Bishops.

A.D. 1549. &c.

3 & 5 Edw. VI.-----13, 14 Car. II.

In the Form of Consecration.

¶ After the Gospel, and the Nicene Creed, and the Sermon are ended, the Elected Bishop (vested with his Rötchet) shall be presented by c two Bishops unto the Archbishop of that Province (or to some other Bishop appointed by lawful Commission) the Archbishop sitting in his Chair near the holy Table, and the Bishops that present him saying,

Molt Reverend Father in God, we present unto you this godly and well-learned Man, to be Ordained and Consecrated Bishop.

1 And Credo ended, 3 & 5 E. 6. 2 First the Elected Bishop shall be presented, 5 E. 6. 3 Having upon him a Surpless and a Cope, 3 E. 6. 4 Two Bishops, being also in Surplesses and Copes, and having their Pastorall Staves in their handes, unto, 3 E. 6. 5 Hys, 3 & 5 E. 6. 6 Not in 3 nor 5 E. 6. 7 Not in 3 nor 5 E. 6.

c Two Bishops.] Ad sint duo ad minus Episcopi assistentes, qui induuntur Superpelliceo (si non utuntur Rocheto,) Amictu, Stola, &c.— ad Capellam suam, & ibi capit Paramenta oportuna—Omnibus itaque paratis—Electus— ducitur sic paratus medius inter assistentes sibi Episcopos paratos.

¶ Then shall the Archbishop demand the King's Mandate for the Consecration, and cause it to be Read. And the Oath touching the acknowledgment of the King's Supremacy, shall be ministred to the Person Elected, as it is set down before in the Form for the Ordering of Deacons. And then shall also be ministred unto them the Oath of due Obedience to the Archbishop, as followeth:

The Oath of due Obedience to the Archbishop.

IN the Name of God. Amen. I. N. chosen Bishop of the Church and See of N. do profess and promise all due Reverence and Obedience to the Archbishop, and to the Metropolitan Church of N. and to their Successors; So help me God, through Jesus Christ.

¶ This Oath shall not be made at the Consecration of an Archbishop.

1 And then the Kinges Mandate to the Archebishop for the Consecration shal be read, 3 & 5 E. 6. 2 Knowlege, 3 & 5 E. 6. 3 Set out in the Order of Deacons, 3 & 5 E. 6. 4 Shal be ministred also the Oath, 3 & 5 E. 6. 5 Unto, 3 & 5 E. 6. 6 And his Holy Gospel. 3 E. 6. 7 Not in 3 E. 6.

d The King's Mandate.] Before the Reformation, when the Person to be Consecrated, was Presented; Consecrator dicit, Habetis Mandatum Apostolicum? Respondet Episcopus Senior Assistentium, Habemus. Consecrator dicit, Legatur. Tum Notarius Consecratoris, accipiens Mandatum, de manu Episcopi assistentis, legit à principio ad finem.

e The King's Supremacy.] Instead of this, an Oath was taken to the Pope, and the See of Rome; which I will set down at large, to show the intolerable Servitude from which these Kingdoms were delivered by the Reformation:

" I John Bishop or Abbot of A, from this hour forward shall be faithful and obedient to S. Peter, and to the Holy Church of Rome, and to my Lord the Pope and his Successors canonically entering. I shall not be of counsel nor consent, that they shall lose either Life or Member, or shall be taken, or suffer any violence or any wrong by any means. Their Counsel to me credited by them, their Messengers or Letters I shall not willingly discover to any person. The Papacy of Rome, the Rules of the holy Fathers, and the Regality of S. Peter, I shall help, and maintain, and defend against all men. The Legat of the See Apostolick going and coming

" I shall honourably entreat. The Rights Honours, Privileges, Authorities of the Church of Rome, and of the Pope and his Successors, I shall cause to be conserved, defended, augmented and promoted. I shall not be in Council, Treaty, or any act in the which any thing shall be imagined against him or the Church of Rome, their Rights, Seats, Honours or Powers. And if I know any such to be moved or compassed, I shall resist it to my power, and as soon as I can, I shall advertise him, or such as may give him knowledge. The Rules of the holy Fathers, the Decrees, Ordinances, Sentences, Dispositions, Reservations, Provisions, and Commandments Apostolick, to my power I shall keep, and cause to be kept of others. Hereticks, Schismaticks, and Rebels to our Holy Father and his Successors I shall resist and persecute to my power. I shall come to the Synod when I am called, except I be letted by a Canonical Impediment. The Thresholds of the Apostles I shall visit yearly personally, or by my Deputy. I shall not alienate or sell my Possessions without the Pope's Counsel. So God help me and the Holy Evangelists.

'Tis true, an Oath was also taken to the King, which had a show of qualifying the Oath

Abridgment.

The elected Bishop, in his Rötchet, shall be presented to the Archbishop by two Bishops,

--in a certain form of words,

Pont. f. 26. b.

---and the King's Mandate shall be read, and the Oath of Supremacy, taken, --- and then, the Oath of Obedience to the Archbishop, in a form set down.

Pont. f. 26. a.

Pont. f. 26, b.

Burnet, Vol. 1. p. 123.



Abridgment.

Oath to the Pope; beginning thus: I John, Bishop of A. utterly renounce and clearly forsake all such Clauses, Words, Sentences, and Grants, which I have or shall have hereafter of the Pope's Holiness, of or for the Bishoprick of A. that in any wise hath been, is, or hereafter may be, hurtful or prejudicial to your Highness, your Heirs, Successors, Dignity, Privilege, or Estate Royal.—\* Besides which, Archbishop Cranmer, when he was Consecrated, entered a Protestation in form; whereby he disclaimed, not only all such Clauses in the Oath, as might interfere with his Duty to God and the King; but all such, likewise, as might be interpreted restraints upon him from endeavouring a Reformation in the Church; as appears by the Protestation, now Printed at large.

\* The rest is an Oath of Obedience to the King, in Temporal Matters.

Cranm. Mem. App. p. 8.

Edm. p. 25

Which Doctrine, of the Inconsistency of those two Engagements, seems (upon the whole) to be no other, than what William Rufus declared, many hundred years before, in the case of Archbishop Anselm; illum nequaquam fidem quam sibi debebat, simul

& Apostolica Sedis Obedientiam— posse servare.

[As it is set down.] See the Oath, at large, as it is now altered, in the Act, 1 Will. & Mar. c. 8. Entituled, An Act for the abrogating of the Oaths of Supremacy and Allegiance, and appointing other Oaths.

[To the Metropolitan Church.] Either, when the See is full; in which case, a breach of Obedience to the Archbishop, is frequently filed, in our Records, a breach of Obedience to the Metropolitan Church; as a Church, vested with special Rights, of which he is the Head: or else in the Vacation, when the whole Archiepiscopal Jurisdiction is vested in the Dean and Chapter. And this (as appears by the Pontifical published a few years before the Reformation) is no other, than the ancient Oath which was made to the Archbishop, Sanctae Ecclesiae Metropolitanae, before the Pope had swallowed up the Metropolitan Rights.

The Act of Consecrating Archbishops and Bishops.

Anno 1543. f. 40. a.

3 & 5 Edw. VI.-----13, 14 Car. II.

In the Form of Consecration.

A.D. 1549. &c.

The Spiritual and Legal Call of Bishops.

ARE you perswaded, that you be truly called to this Ministration, according to the Will of our Lord Jesus Christ, and the Order of this Realm?

Answer.

I am so perswaded.

13, 14 Car. II.

A.D. 1661.

In the Form of Consecration.

\* Then shall the Bishop Elect put on the rest of the Episcopal Habit.—

\* i. e. After the Prayer following the Questions and Answers.

3 & 5 Edw. VI.-----13, 14 Car. II.

A.D. 1549. &c.

In the Form of Consecration.

Archbishop and Bishops shall lay their hands upon the Bishop elected, and consecrate him Bishop.

Then the Archbishop and Bishops present shall lay their Hands upon the Head of the Elected Bishop, kneeling before them upon his knees, the Archbishop saying,

Receive the Holy Ghost, for the Office and work of a Bishop in the Church of God, now committed unto thee by the Imposition of our Hands; In the Name of the Father, and of the Son, and of the holy Ghost. Amen. And remember that thou stir up the Grace of God which is given thee by this Imposition of our hands: For God hath not given us the Spirit of fear, but of power, and love, and soberness.

† i. e. After Veni Creator, and the Prayer. † Elect, 3 E. 6. † Not in 3 & 5 E. 6. † Take, 3 & 5 E. 6. † Not in 3 & 5 E. 6. † In thee by Imposition of hands, 3 & 5 E. 6. † And of, 3 & 5 E. 6.

Then the Archbishop shall deliver him the Bible, saying,

and the Bible shall be delivered to him.

Give heed unto Reading, Exhortation and Doctrine. Think upon the things contained in this Book. Be diligent in them, that the increase

Shall laye the Bible upon his Neck, 3 & 5 E. 6. † Those, 3 & 5 E. 6.

Pont. f. 33

Deliver him the Bible.] Tum Consecrator accipit Librum Evangeliorum, et tradit eum laicis Consecrato. But, anciently,

it was laid upon the Head, and (according to the Rubrick 3 and 5 Edw. 6.) upon the Neck; as we find it in the Fourth Council coming



The Act of Consecrating Archbishops and Bishops.

coming thereby may be manifest unto all Men. Take heed unto thy self, and to Doctrine," and be diligent in doing them: for by so doing, thou shalt both save thy self, and them that hear thee. \* i Be to the Flock of Christ a Shepherd, not a Wolf; feed them, devour them not. Hold up the Weak, heal the Sick, bind up the Broken, bring again the Outcasts, seek the lost. Be so merciful, that you be not too remiss; so minister Discipline, that you forget not Mercy: That when the chief Shepherd shall <sup>4</sup> appear, you may receive the <sup>5</sup> never-fading crown of Glory, through Jesus Christ our Lord. Amen.

<sup>3</sup> Unto teaching, 3 & 5 E. 6. \* Through Jesus Christ our Lord. — Then shall the Archbishop put into his hands the Pastoral Staff, saying, Be to — 3 E. 6. <sup>4</sup> Come, 3 & 5 E. 6, <sup>5</sup> Immortescibile, 3 & 5 E. 6.

of Carthage (Can. 2.) *Episcopus cum Ordinatur, duo Episcopi posant & teneant Evangeliorum Codicem super caput & cervicem ejus; & uno super eum fundente Benedictionem, reliqui omnes Episcopi, qui adsunt, manibus suis caput ejus tangant.* By laying it on the Head, was signified the Subjection of him (who was above all others) to the Laws of Christ; and by laying it on the Neck, the taking upon him the Yoke of Christ.

i Be to the flock.] Here, according to 3 Edw. 6. the Pastoral Staff was deliver'd to the Bishop; which Delivery, in the Roman Pontifical, is preceded by a Consecration of the Staff; and followed by the Consecration and putting on of a Ring, in Token of his Marriage to the Church:

of a Mitre, as the Galea Munitiois & Salutis, quatenus decorata facie, & armato Capite, cornibus utriusque Testamenti, terribilis appareat Adversarius Veritatis; as also in Imitation of the Ornaments of Moses and Aaron: and of the Gloves, in token of clean Hands and Heart, to be preserved by him. All which, and many other Superstitions of the like nature (as favouring more of the Ceremonies of the Jewish, than the Simplicity of the Christian Religion) our Reformed Church hath prudently and piously laid aside, in the Consecration of her Archbishops and Bishops; retaining only such outward Tokens, as are most ancient, and most grave.

Abridgment.

Pont. f. 35.

ibid. b.

Pont. f. 33. a. Ibid. b.

C A P. IV.

Matters FOLLOWING the Consecration of Archbishops and Bishops.

25 Henr. VIII. Cap. 20.

In an Act, Entituled, An Act----of the Electing and Consecrating of Archbishops and Bishops.

A.D. 1533.

Matters following the Consecration of Archbishops and Bishops.

VI. **A**ND be it further enacted by authority aforesaid, That every person and persons being hereafter chosen, elected, nominate, presented, invested, and consecrated to the dignity or office of any Archbishop or Bishop within this Realm, or within any other the King's Dominions, according to the form, tenour, and effect of this present Act, and suing their Temporalities <sup>k</sup> out of the King's hands, his heirs or successors, as hath been accustomed, and making a corporal oath to the King's Highness, and to none other, in form as is afore rehearsed, shall and may from henceforth be <sup>l</sup> trononized, or installed, as the case shall require, and shall have and take their onely restitution, out of the King's hands, of all the possessions and profits Spiritual and Temporal belonging to the said Archbishoprick or Bishoprick, whereunto they shall be so elected or presented: and shall be obeyed in all manner of things, according to the name, title, degree, and dignity, that they shall be so chosen or presented unto, and doe and execute in every thing and things, touching the same, as any Archbishop or Bishop of this Realm, without offending of the Prerogative Royal of the Crown, and the Laws and Customs of this Realm, might at any time hereafter do.

Archbishops and Bishops being elected, consecrated, &c, as aforesaid, and suing Temporalities, and making Oath, shall be Inthroned,

---and shall have Restitution of Temporalities out of the King's hands,

--and be compleatly Bishops.

Const. Clar. 11.

<sup>k</sup> Out of the King's hands.] *Archiepiscopi, Episcopi, & universæ personæ Regni, qui de Rege tenent in Capite, habeant possessiones suas de Rege, sicut Baroniam, & inde respondeant Fusticiariis & Ministris Regis, & sequantur & faciant omnes Consuetudines Regias.*

<sup>l</sup> Trononized, or Installed.] This is performed (in the Province of Canterbury) by Mandate from the Archbishop to the Archdeacon of Canterbury; to whom the Right of Installing or Inthronizing the Bishops of the Province hath anciently belonged, and doth still belong.



Abridgment.

13 Edw. I. (Westm. 2.) Cap. 42.

The several Fees of Marshals, Chamberlains, Porters of Justices in Eyre, &c.

Matters following the Consecration of Archbishops and Bishops.

A.D. 1285. E X P.

The Fees of the Officers of the Court at their Homage.

Fees of Abbots, Priors, Archbishops, and Bishops, at their doing of Homage, to the Marshal.

Fees of Archbishops, and Bishops, Abbots and Priors, to the King's Chamberlain, at their Homage.

Concerning the King's Marshals of Fee, Chamberlains, Porters, in the Circuit of Justices, and Sergeants bearing vierge before Justices at Westminster, which have the same Office in Fee, and that ask more by reason of their Fee then they have used to ask, whereupon many do complain on them, that have known and seen the order of the Court of long time. Our Lord the King hath caused to be enquired by an Inquest what the said Officers of Fee have used to have in times passed, and hath ordained and commanded, That a Marshal of Fee, which of new asketh a palfray of Carls, Barons, and other holding by a part of a Barony when they have done homage, and nevertheless, another palfray when they made Knights, and of some that ought not to give any, ask a palfray: It is in like manner ordained, That the said Marshal of every Earl and Baron holding by an entire Barony, shall be contented with one palfray, or p with the price of it, such as he hath used to have of old: so that if he took a palfray, or the price of one, at the doing of his homage, in form aforesaid, he shall take nothing when he is made Knight: and if he took nothing at the doing of his homage, when he is made Knight he shall take. Of Abbots and Priors, holding a whole Barony, when they do homage or fealty for their Baronies, he shall take one palfray, or the price, as aforesaid is said; and this shall also be observed amongst Archbishops and Bishops, of such as hold but a part of a Barony, whether they be religious or secular, he shall take according to the portion of the part of the Barony that they hold. Of religious men that hold in free Alms, and not by a Barony, nor part of a Barony, the Marshal from henceforth shall demand nothing. And our Lord the King hath granted, That by this Statute a Marshal of Fee shall not be barred hereafter to demand more, if he can show that he hath right unto more. The King's Chamberlains from henceforth shall have of Archbishops, Bishops, Abbots, Priors and other persons spiritual of Carls, and Barons, holding an entire Barony, a reasonable fine when they do their homage or fealty. And if they hold by a part of a Barony, they shall take a reasonable fine, according to the portion to them belonging. Other Abbots, Priors, and other persons spiritual and temporal that hold no entire Barony, nor part of a Barony, shall not be distrained to make fine, as it is said by them that hold by a Barony, or part of a Barony: but the Chamberlain shall be contented with his upper Garment, or with the price thereof; which is done in favour of persons religious more than of lay persons: for it is more convenient that religious men should fine for their upper garment, then to be stripped.

Brit. f. 1. b.

2. Infl. 462

ibid. 463.

m Marshals.] i. e. The Marshal of the King's House, who, within the Verge of the Court, (as Britton describes him) represents the King, and (as my Lord Coke adds) together with the Steward of the King's House, holds a Court of Justice.

n In Fee.] The Office of the Chamberlain of the Household, who is here meant, was never granted in Fee; and therefore some have held, that the Words

de feodo, imply such Officers, in general, as have Fees due and belonging to them.

o An entire Barony.] A Barony consisted of Thirteen Knights Fees, and a Quarter, which amounted to 400 Marks a Year.

p With the Price.] The ancient Price of the Horse of every Archbishop, Bishop, Abbot, Prior, &c. holding by an entire Barony, was 10 l.

2 Infl. p. 7.

ibid. p. 463.

21 Ric. II. Cap. 5:

A.D. 1397.

Every Prelate, at his doing of Homage, shall swear against New Commissions.

Oath to be taken by Prelates at Homage, Tempore R. 2, against Commissions.

Item, Whereover our Sovereign Lord the King for the more surety in time coming, hath ordained and stablished, that \* the oath of the said Lords shall be put of record in the Parliament Rolle. And that it be enrolled in the Chancery, so that the successors of all the Prelates, upon the forfeiture of their fealty for the Temporalities, before that they have liberty of the same out of the Chancery, shall make the same oath in all times to come.

E X P.

\* Against Commissions to have the Rule of the Kingdom.

STEPHANUS.

Formam Professionis, ut melius observetur à Profitentibus, Episcopi bis in anno faciant pronunciari.

That Bishops may the better observe their Consecration-Vow, they shall

Quia juxta Scripturæ testimonium, Vota nostra tenemur Deo reddere quæ vovemus; Salubriter decernimus pp annectendum, ut Episcopi formam Professionis in suâ Consecratione prolatam, bis in anno coram se legi

pp Annectendum.] Scil. Constitutioni, quæ loquitur de Residentiâ Episcoporum in suis Ecclesiis Cathedralibus certis tem-

poribus. Lyndw. Quam Constitutionem vide sub Titulo VII. de Cathedralibus & Collegiatis Ecclesiis.

faciant



Matters following the Consecration of Archbishops and Bishops.

faciant diligenter; ut tanto melius sponfionis propriæ recordentur, quanto fæpiùs fuerit eorum auribus inculcata.

Abridgment.

have it read to them twice a year.

## O T H O.

In Const. De Officio Archiepiscoporum & Episcoporum.

— Ad quæ omnia melius exequenda, Professionem quam in suâ Consecratione fecerunt, saltem bis in anno, in Adventu Domini scilicet, & in majori Quadragesimâ, faciant sibi legi.

## C A P. V.

The Occasions of SCRUPLE concerning the Consecrating of Archbishops and Bishops, removed.

A.D. 1566.

8 Eliz. Cap. 1.

An Act, declaring the making and Consecrating of the Archbishops and Bishops of this Realm, to be good, lawful and perfect.

Occasions of Scruple &c. removed.

As much as divers questions by overmuch boldness of speech and talk, amongst many of the common sort of People being unlearned, hath lately grown upon the making and consecrating of Archbishops and Bishops within this Realm, whether the same were and be duly and orderly done according to the Law or not, which is much tending to the slander of all the state of Clergy, being one of the greatest states of this Realm: Therefore for the avoiding of such slanderous speech, and to the intent that every Man that is willing to know the truth, may plainly understand that the same evil speech and talk is not grounded upon any just matter or cause, it is thought convenient hereby partly to touch such authorities as do allow and approve the making and consecrating of the same Archbishops and Bishops to be duly and orderly done according to the Laws of this Realm, and thereupon further to provide for the more surety thereof, as hereafter shall be expressed.

Divers Questions having arisen concerning the Validity of Consecrations in this Realm,

the Evidences thereof are necessary to be set forth, viz.

[boldness of Speech.] There were many Slanders of this kind, printed and suggested by Popish Writers, and Emissaries; as, That, Bishop Ridley, immediately before his Execution, sent a Message to the Queen, praying her, that the Leases made by him, while Bishop of London, might stand good; as if he had been conscious, they were not valid in Law; whereas, in reality, his Request only was (in the way of Compassion) that some poor People who had taken Leases of him, being cruelly ejected by his Successor, might be relieved by the Interposition of the Queen, and is therefore an Argument of nothing, but that Bishop Bonner did not acknowledge him lawful Bishop. Then, that Judge Brooke, one of the Judges of the Common Pleas, had represented it as a Resolution of the Judges, that K. Edward's Bishops were not consecrated, and by consequence, that the Leases let by them were void: which, yet, he only mentions as a thing said by some People, and infers, that if it was true, the Leases were void; but tho' all such Leases had been declared void, in Q. Mary's time, this would not have made the Bishops who granted them, less lawful in reality, under Queen Elizabeth. A

Slander of the like nature, was that in the Sixth and Seventh of Queen Elizabeth (a little before the making of this Act) on occasion of the Oath of Supremacy tendered to Bonner by his Successor Bishop Horn, and Bonner's Plea, that Horn was not lawful Bishop; which Plea, Dyer says, was allowed by the Judges; that is, the Judges agreed, that this (being one of the Exceptions to the Indictment) was such, in its nature, as might be regularly pleaded, and would avail in the Issue, in case it should appear to be true; which it never did, nor never could do; since the Objection was, (as I find it, in a rough Draught of the Exceptions said to be written by Bonner himself) that Horn had no Election nor Consecration, which the Register of Archbishop Parker (where the History of both is entered at length) demonstrates to be impudently false. Not to mention the ridiculous Story of Archbishop Parker's Consecration at the Nag's-Head-Tavern, which the same Records abundantly confute; and which Calumny (as well as many others of the same sort) hath been long since silenc'd for ever, by our Learned Mason, in his excellent Work, entituled, *Vindicia Ecclesie Anglicanæ*.

Strype, Hist. Ref. 341, 492.

Dyer, f. 234 a.

Park. Reg. f. 88.

Ibid. f. 2, 16 Mas. 348, 492



## Abridgment.

--That K. H. 8. was made Supreme Head of the Church,

--That the said Henry 8. set forth an Order of Making Archbishops and Bishops,

--That Edw. 6. added a Form of Consecration, to the Book of Common Prayer,

--That tho' the foregoing Acts, and others, were repealed by Q. Mary,

--yet the Supremacy was restored by I. El. c. 1.

---and full power given to exercise Ecclesiastical Jurisdiction, by Commission,

---and Stat. 25. H. 8. c. 20 concerning Electing, &c. of Bishops was also revived ;

---That the Stat. 1. El. c. 2. confirms the said Common Prayer, and all things therein contained,

---That, upon this foundation, the Queen had caused several Elections and Consecrations to be made,

II. First, it is very well known to all degrees of this Realm, that the late King of most famous memory, King Henry the Eighth, as well by all the Clergy then of this Realm in their several Convocations, as also by all the Lords Spiritual and Temporal, and Commons assembled in divers of his Parliaments, was justly and rightly recognised and knowledged to have the supreme Power, Jurisdiction, Order, Rule, and Authority over all the Estate Ecclesiastical of the same, and the same Power, Jurisdiction and Authority did use accordingly: And that also the said late King in the five and twenty year of his Reign, did by authority of Parliament, among other things, set forth a certain Order of the manner and form how Archbishops and Bishops within this Realm, and other his Dominions, should be elected and made, as by the same more plainly appeareth: And that also the late King of worthy memory, King Edward the Sixth, did lawfully succeed the said late King Henry his father, in the Imperial Crown of this Realm, and did justly possess and enjoy all the same Power, Jurisdiction and authority before-mentioned, as a thing to him descended with the same Imperial Crown, and so used the same during his life: And that also the said late King Edward the Sixth in his time by authority of Parliament, caused a godly and vertuous Book, entituled, The Book of Common Prayer, and Administration of Sacraments, and other Rites and Ceremonies in the Church of England, to be made and set forth, not only for one uniform order of Service, Common Prayer and the Administration of Sacraments, to be used within this Realm, and other his Dominions, but also did add and put to the same Book, a very good and godly order, of the manner and form how Archbishops, Bishops, Priests, Deacons, and Ministers should from time to time be Consecrated, made and Ordered within this Realm, and other his Dominions, as by the same more plainly will and may appear: And although in the time of the late Queen Mary, as well the said Act and Statute made in the five and twentieth year of the Reign of the said late King Henry the Eighth, as also the several Acts and Statutes made in the Second, Third, Fourth, Fifth and Sixth years of the Reign of the said late King Edward, for the authorizing and allowing of the said Book of Common Prayer, and other the Premises, amongst divers other Acts and Statutes touching the said supreme authority, were repealed: Yet nevertheless, at the Parliament holden at Westminster in the first year of the Reign of our Sovereign Lady the Queens Majesty that now is, by one other Act and Statute there made, all such Jurisdictions, Privileges, Superiorities, Preheminences Spiritual and Ecclesiastical, as by any Spiritual or Ecclesiastical Power or Authority hath heretofore been, or may lawfully be used over the Ecclesiastical Estate of this Realm, and the order, reformation and correction of the same, is fully and absolutely by the authority of the same Parliament, united and annexed to the Imperial Crown of this Realm: And by the same Act and Statute there is also given to the Queen's Highness, her Heirs and Successors, Kings and Queens of this Realm, full Power and Authority by Letters Patents under the Great Seal of England, from time to time to assign, name and authorize such person or persons as she or they shall think meet and convenient, to exercise, use, occupy and execute under her Highness, all manner of Jurisdictions, Privileges, Preheminences and Authorities, in any wise touching or concerning any Spiritual or Ecclesiastical Power or Jurisdiction within this Realm, or any other her Highness Dominions or Countries: And also by the same Act and Statute, the said Act made in the five and twentieth year of the Reign of the said late King Henry the Eighth, for the order and form of the electing and making of the said Archbishops and Bishops, together with divers other Statutes touching the Jurisdiction over the State Ecclesiastical, is revived and made in full force and effect, as by the same Act and Statute plainly appeareth: And that also by another Act and Statute made in the said Parliament, in the first year of the Reign of our said Sovereign Lady, entituled, an Act for the Uniformity of Common Prayer, and Service in the Church, and Administration of Sacraments, the said Book of Common Prayer, and the Administration of Sacraments, and other the said Orders, Rites and Ceremonies before mentioned, and all things therein contained, with certain additions therein newly added and appointed by the said Statute, is fully established and authorized to be used in all places within this Realm, and all other the Queen's Majesties Dominions and Countries; as by the said Act amongst other things, more plainly appeareth: Whereupon, our said Sovereign Lady the Queen's most excellent Majesty, being most justly and lawfully invested in the Imperial Crown of this Realm, with all Authorities, Preheminences and Dignities thereunto appertaining; and thereby having in her Majesties order and disposition, all the said Jurisdictions, Powers and Authorities over the state Ecclesiastical and Temporal, as well in cases Ecclesiastical as Temporal, within this Realm, and other her Majesties

Occasions of Scruple &c. removed.

Dominions



Occasions  
of Scruple  
&c. remo-  
ved.

Dominions and Countries, hath by her supreme authority, at divers times sithence the beginning of her Majesty's Reign, caused divers and sundry grave and well-learned Men to be duly Elected, made and Consecrated Archbishops and Bishops, of divers Archbishopricks and Bishopricks within this Realm, and other her Majesty's Dominions and Countries, according to such order and form, and with such Ceremonies in and about their Consecrations, as were allowed and set forth by the said Acts, Statutes, and Orders annexed to the said Book of Common Prayer before mentioned: And further, for the avoiding of all ambiguities and questions that might be objected against the lawful Confirmations, Investing and Consecrations of the said Archbishops and Bishops, her Highness in her Letters Patents under the great Seal of England, directed to any Archbishop, Bishop, or others, for the Confirming, Investing and Consecrating of any person elected to the Office or Dignity of any Archbishop or Bishop, hath not only used such words and sentences, as were accustomed to be used by the said late King Henry and King Edward, her Majesty's Father and Brother, in their like Letters Patents made for such causes, but also hath used and put in her Majesty's said Letters Patents, divers other general words and sentences, whereby her Highness by her supreme Power and Authority, hath dispensed with all causes or doubts of any imperfection or disability, that can or may in any wise be objected against the same, as by her Majesty's said Letters Patents remaining of Record, more plainly will appear: So that to all those that will well consider of the effect and true intent of the said Laws and Statutes, and of the supreme and absolute Authority of the Queen's Highness, and which she by her Majesty's said Letters Patents hath used and put in ure in and about the making and Consecrating of the said Archbishops and Bishops, it is and may be very evident and apparent, that no cause of scruple, ambiguity or doubt, can or may justly be objected against the said Elections, Confirmations or Consecrations, or any other material thing meet to be used or had in or about the same; but that every thing requisite and material for that purpose, hath been made and done as precisely, and with as great care and diligence, rather more, as ever the like was done before her Majesty's time, as the Records of her Majesty's said Father and Brother's time, and also of her own time, will more plainly testify and declare:

III. Wherefore for the plain declaration of all the premises, and to the intent that the same may the better be known to every of the Queen's Majesty's Subjects, whereby such evil speech as heretofore hath been used against the high state of Prelacy, may hereafter cease, Be it now declared and enacted by the authority of this present Parliament, that the said Act and Statute made in the first year of the Reign of our said Sovereign Lady the Queen's Majesty, whereby the said Book of Common Prayer, and the Administration of Sacraments, with other Rites and Ceremonies, is authorized and allowed to be used, shall stand and remain good and perfect to all respects and purposes: And that such order and form for the Consecrating of Archbishops and Bishops, and for the making of Priests, Deacons and Ministers, as was set forth in the time of the said late King Edward the Sixth, and added to the said Book of Common Prayer, and authorized by Parliament in the fifth and sixth years of the said late King, shall stand and be in full force and effect, and shall from henceforth be used and observed in all Places within this Realm, and other the Queen's Majesty's Dominions and Countries.

IV. And that all Acts and things heretofore had, made or done by any person or persons, in or about any Consecration, Confirmation or Investing of any person

Park. Reg. f. 3.

[General Words.] The Words were, *Suppletur nihilominus, supremâ Auctoritate nostrâ Regiâ, ex mero motu, & certâ scientiâ nostris, si quid in hiis quæ juxta Mandatum nostrum prædictum per vos fient, aut in vobis aut vestrum aliquo, conditione, statu, facultate vestris ad præmissa facienda desit aut deerit, eorum quæ per statuta hujus regni nostri, aut per Leges Ecclesiasticas in hac parte requiruntur, aut necessaria sunt; temporis ratione & rerum necessitate id postulante.* And by way of further Caution (for, amidst the manifold Slanders of the Papists, too great Caution could not be used) the Validity of the Letters Patents was referred to the Consideration of divers eminent Civilians of that

time; as appears by the following Entry in the Register, after the said Letters Patents:

"We whose Name are here subscribed, think in our Judgments, that by this Commission, in this form penned, as well the Queen's Majesty may lawfully authorize the Persons within named to the effect specified, as the said Persons may exercise the Act of Confirming and Consecrating in the same to them committed."

William Meye, Henry Harvey,  
Robert Weston, Thomas Yale,  
Edward Leedes, Nic. Bullingham.

Abridgment.

--That the Queen, besides the terms in the Letters Patents of H. 8. and E. 6. hath inserted in her Letters Patents a general Clause of Dispensation,

--So that no just cause of Doubt or Scruple can remain.

The Statute 1. El. c. 2. ---as to the Common Prayer,

--and Consecration of Archbishops and Bishops,

---shall stand in full force;

---and all Consecrations &c. since

Ibid. b.



## Abridgment.

the Queen's reign, shall be good.

--- and all Consecrations and Ordinations hereafter to be made, shall be also good.

No person shall be molested upon any Certificate heretofore made by any Archbishop or Bishop, touching the refusal of the Oath of Supremacy.

---all tenders and refusals of which shall be void.

Divers Bishops &c. in the reign of Queen Mary, having been deprived in the reign of Q. Elizabeth, and appealed to Rome;

Enacted, That all such Deprivations shall be good, any Appeal notwithstanding,

or Persons elected to the Office or Dignity of any Archbishop or Bishop within this Realm, or within any other the Queen's Majesty's Dominions or Countries, by virtue of the Queen's Majesty's Letters Patents or Commission, since the beginning of her Majesty's Reign, be and shall be by Authority of this present Parliament, declared, judged and deemed, at and from every of the several times of the doing thereof, good and perfect to all respects and purposes; Any matter or thing that can or may be objected to the contrary thereof in any wise notwithstanding.

V. And that all Persons that have been, or shall be made, ordered or consecrate Archbishops, Bishops, Priests, Ministers of God's Holy Word and Sacraments, or Deacons, after the form and order prescribed in the said order and form how Archbishops, Bishops, Priests, Deacons and Ministers should be consecrated made and ordered, be in very deed, and also by Authority hereof, declared and enacted to be, and shall be Archbishops, Bishops, Priests, Ministers and Deacons, and rightly made, ordered and consecrated; Any Statute, Law, Canon, or other thing to the contrary notwithstanding.

VI. Provided always, and nevertheless be it enacted by the authority aforesaid, That no person or persons shall at any time hereafter be impeached or molested, in body, lands, livings or goods, by occasion or mean of any Certificate by any Archbishop or Bishop heretofore made, or before the last day of this present Session of Parliament to be made by virtue of any Act made in the first Session of this present Parliament, touching or concerning the refusal of the Oath declared and set forth by Act of Parliament, in the first year of the Reign of our Sovereign Lady Queen Elizabeth; Any thing in this Act, or any other Act or Statute heretofore made to the contrary notwithstanding.

VII. And that all tenders of the said Oath made by any Archbishop or Bishop aforesaid, or before the last day of this present Session to be made by authority of any Act established in the first Session of this present Parliament, and all refusals of the said Oath so tendered, or before the last day of this present Session to be tendered by any Archbishop or Bishop, by authority of any Act established in the first Session of this present Parliament, shall be void and of none effect or validity in the Law.

[Impeached or Molested.] This, and the following Clause, were inserted, out of Tenderness to the Popish Bishops, who had refused the Oath of Supremacy, and thereby had incurred a *Præmunire*, according to *Stat. 5 El. c. 1. §. 8.* particularly, to *Bonner*, notwithstanding all his Cruelties in the Reign of Queen *Mary*.

## 39 Eliz. Cap. 8.

A.D. 1597.

*Every Deprivation of any Bishop or Dean, made in the beginning of the Queen's Reign, shall be good: and all Archbishops, Bishops, and Deans, made by the Queen, shall be adjudged Lawful.*

WHEREAS divers and sundry Persons exercising the Office and Function of Bishops and Deans of divers Sees and Bishopricks and Deaneries, within this Realm, in the Reign of our late Sovereign Lady Queen Mary, were before the tenth day of November, in the fourth year of the most happy and blessed Government of the Queen's most excellent Majesty that now is, lawfully and justly deprived from such Bishopricks and Deaneries, as they severally enjoyed and took upon them to hold, and in their steads and places, sundry excellent and worthy Men duly preferred to the same: And whereas the Parties so deprived, did notwithstanding, as it is pretended, make secret Appeals, and used other secret means, pretending thereby to support the continuance of their said Offices and Functions.

II. Be it therefore declared and enacted by authority of this present Parliament, that all and every deprivation and deprivations, and all and every sentence and sentences of deprivation whatsoever, had, pronounced, or given, at any time between the beginning of the Reign of the Queen's most excellent Majesty that now is, and the tenth day of November, in the fourth year of the same, against any person or persons which was, or took upon him to be Archbishop or Bishop of any See or Bishoprick, or Dean of any Deanery within this Realm, or any the Dominions thereof in the Reign of the said late Queen Mary

Occasions of Scruple &c. removed.



Occasions  
of Scruple  
&c. remo-  
ved.

Mary, from such See or Bishoprick, shall be adjudged, deemed and taken good and sufficient in Law to all intents and purposes, and so shall remain and continue: Any Appeal, Exception, or other matter or thing whatsoever to the contrary thereof in any wise notwithstanding.

III. And be it further enacted by the authority aforesaid, that all such Archbishops and Bishops, and Deans, as were ordained or made by the authority or licence of the Queen's Majesty that now is, at any time between the beginning of her Reign and the said Tenth day of November, in the Fourth year of her Majesty's Reign, shall be taken and adjudged to be lawful Archbishop or Bishop of the See or Bishoprick, and Dean of the Deanery unto which he was so preferred, assigned, or appointed: and that the same See or Archbishoprick, or Bishoprick and Deanery, unto which he was so preferred, assigned, or appointed, shall be deemed and adjudged to be merely void to all respects and purposes, before such presentment, appointment, or assignment so made as aforesaid: Any ambiguity or question in that behalf heretofore made, or hereafter to be made to the contrary in any wise notwithstanding.

[Merely void.] The Pretence of a Plenary in the Sees, at the time the new Bishops were made, was not only founded on the fore-mentioned Appeals to Rome; but also, as my Lord Coke observes, upon the not-inrolling of the Commission, in vir-

tue of which the Deprivations were made; for it was either not inrolled, or the Record could not be found; and for the supplying of this Defect, as well as silencing that Pretence from the Appeals, this Statute was made.

4 Inst. 322.

Abridgment.

--- and the Persons promoted, lawful Archbishops and Bishops,

--- and the Sees deemed void, before their Presentments.

## C A P. VI.

### Archbishops and Bishops in PARLIAMENT.

25 Edw. III. (Stat. 3.) Cap. 6.

In an Act, Entituled, *A Bishop's Temporalties shall not be seized for a Contempt.*

Item, because the Temporalties of Archbishops and Bishops have been oft times taken into the King's hands for Contempts done to him upon Writs of Quare non admitit, and likewise for divers other Causes, whereof the said Prelates have prayed the King, that no such taking shall from henceforth be made, sith they be *PEERS OF THE LAND*: The King—

[Peers of the Land.] The like Declaration is made, in an Act of the Parliament of England, 4 Henr. 5. concerning the Archbishops and Bishops of Ireland, That they be Peers of Parliament in the same Land. Besides which, the Archbishops and Bishops of England are frequently stiled so, in the Rolls of Parliament. As, in the Reversal of the Judgment against the two Spencers; one of the Reasons assigned by Parliament, was, *Because the Lords Spiritual, who were Peers, assented not to it.* Again, in the Protestation of the Archbishop and other Prelates (upon their withdrawing from the Parliament, when they foresaw matters of Blood) it is said, *Cum, de jure & consuetudine regni Angliæ, ad Archiepiscopum Cantuar' qui pro tempore fuerit, necnon cæteros suos Suffraganeos Confratres & Coepiscopos, — per Baroniam de Domino nostro Rege tenentes, pertineat in Parliamentis Regiis quibuscunque, ut Pares regni prædicti personaliter interesse;* and afterwards, their Protestation is, to a Right of Sitting, &c. in Parliament in all Business, *ut Pares regni,* — and, *Jure Paritatis semper salvo.* Which Protestation (containing the foresaid Assertions of the Peer-

age of the Bishops) was inrolled in Parliament, by Command of the King, and the Assent of the Lords Temporal and Commons. Then, again, they are called *Peers of the Realm; Peers in Parliament;* and *Peers of the Realm in Parliament* (as Bishop Stillingfleet hath observed, in his Learned Treatise concerning the *Jurisdiction of Bishops in Capital Cases*;) and when the Commons in the same Parliament, pray'd, that Archbishop Arundel might be put in safe Custody, the King's Answer was, that he would be advised, because the Impeachment touched so High a Person, and a *Peer of the Kingdom.*

The two things alledged, by way of Abatement to these Recognitions, and to prove a Disparity between Spiritual and Temporal Lords, are, 'That, in Capital Cases, Bishops are not tried *per Pares*, but 'by a common Jury,' and, 'That they themselves have no Right to sit as Judges, 'with the Peers of the Realm, in Cases 'of Blood.'

But to the first of these, it is reply'd, That there are Instances of Trials of Bishops *per Pares*, in Parliament; as (15 Edw. 3.)

Archbishops and Bishops, Peers of the Realm.

Ibid.

ibid. 21. R. 2.

p. 310.

Archbishops and Bishops in Parliament.

Rot. Parl. 15 Edw. 2.

Ibid. 11. R. 2.



## Abridgment.

*Edw. 3.*) of Archbishop *Stratford*; and (*21 R. 2.*) of Archbishop *Arundel*; That tho' there are good Presumptions of Trials of Bishops by *Jury* (as, in the Case of *Adam Bishop of Hereford*, and *Johu de Insula Bishop of Ely*) and one, more particularly, of *Thomas Merks Bishop of Carlile*, who did directly *ponere se super patriam*; yet there are also plain Instances of Temporal Lords voluntarily waving their Trial by Peers; and putting themselves upon the King's Mercy, as did *William de la Pole Duke of Suffolk*, (*28 H. 6.*) or upon their Country, as was done by *Thomas Lord Berkley*, *4 Edw. 3*; and if, notwithstanding what is delivered in *Magna Charta*, That every Man that is try'd at the King's Suit, must be try'd by his Peers, they might do this, without Prejudice to their Peerage, and Right to Trial by Peers; so might the Bishops too: That tho' we should suppose that no Archbishop or Bishop had ever been try'd *per Pares*, nor any Temporal Lord ever put himself *super patriam*, or the King's Mercy; yet even Mr. *Selden* himself acknowledges, that there is no consequence, from their not being try'd by Peers, that therefore they are no Peers; since the Common Law may limit the Privilege of Peers in one particular Case, which yet may hold in all others: as it is no Diminution to the Peerage of the Temporal Lords, to be try'd by a common Jury at the Suit of the Party.

Priv. of Baronage, 143.

These things I have lightly touch'd, to give the Reader a general View of this Matter; referring him for fuller Satisfaction, to the elaborate Treatise of Bishop *Stillington*, above-mention'd; and only adding, that in the Year 1661. a Committee was appointed to consider, Whether Bishops are only Lords of Parliament, or Peers; and again, in the Year 1662. the Order was renewed, to take into consideration the Peerage of Bishops; and the next day, Counsel was order'd to be heard to it; but the Day following, the Order was withdrawn; and so the Matter dropt. But it is to be observed, that this happen'd in Parliament, before the full Discussion of that Point, by the learned Hand aforesaid; and I have not observed, that any Question of that Nature or Tendency hath been since formally discuss'd.

Journ. Proc. Novem. 26.

Ibid. Febr. 19.

As to the other Abatement, or *Disparity*, viz. the Obligation upon Bishops, not to be present and vote in Capital Cases, which come to be judg'd in Parliament; they who contend most for such an Obligation upon them, deny not, that in a legislative way, by Bill of Attainder, the Bishops have a Right to sit and vote, as well as other Lords. And as to Proceedings in the judicial way; their having a Right, or no Right, to be present and vote in them, depends mainly upon the Tenor and Interpretation of two Passages, viz. the Eleventh Constitution of *Clarendon*, and the Protestation made by the Archbishops and Bishops, *11 R. 2.* both which I will therefore set down at large.

Conf. Clar. 11.

The Constitution is thus:  
*Archiepiscopi, Episcopi, & universæ personæ regni, qui de Rege tenent in capite, habeant possessiones suas de Rege, sicut Baroniam, & inde*

*respondeant Justiciariis & Ministris Regis, & sequantur & faciant omnes Consuetudines Regias, & sicut ceteri Barones, debent interesse Judiciis Curia Regis, quousque perveniatur ad diminutionem membrorum, vel ad mortem.*

The Protestation is as follows:

*In Dei nomine. Amen. Cum de jure & consuetudine Regni Angliæ, ad Archiepiscopum Cantuariensem, qui pro tempore fuerit, necnon ceteros suos Suffraganeos, Confratres & Coepiscopos, Abbatesque, & Priores, aliosque Prælatos quoscunque, per Baroniam de Domino Rege tenentes, pertineat in Parliamentis Regis quibuscunque, ut Pares Regni prædicti, personaliter interesse, ibidemque de Regni Negotiis, & aliis ibidem tractari consuetis, cum cæteris dicti Regni Paribus, & aliis ibidem jus interessendi habentibus, consulere, tractare, ordinare, statuere, & definire, ac cætera facere quæ Parlamenti tempore ibidem imminent facienda; in quibus omnibus & singulis, Nos Willielmus Cantuar' Archiepiscopus, totius Angliæ Primas, & Apostolicæ sedis Legatus, pro nobis, nostrisque Suffraganeis, Coepiscopis, & Confratribus, necnon Abbatibus, Prioribus, ac Prælatibus omnibus supradictis, protestamur, & eorum quilibet protestatur, qui per se, vel per procuratorem hic fuerit modò præsens, publicè, & expressè, quòd intendimus, & intendit, volumus, ac vult quilibet eorum, in hoc præsentì Parlamento, & aliis, ut Pares Regni prædicti, more solito interesse, consulere, tractare, ordinare, statuere, & definire, ac cætera exercere, cum cæteris jus interessendi habentibus in eisdem, statu & ordine nostris & eorum cujuslibet in omnibus semper salvis. Verum quia in præsentì Parlamento agitur de nonnullis materiis in quibus non licet nobis, aut alicui eorum, juxta Sacrorum Canonum instituta quomodolibet personaliter interesse, ea propter pro nobis & eorum quolibet protestamur, & eorum quilibet hic præsens etiam protestatur, quòd non intendimus, nec volumus sicuti de jure non possumus, nec debemus, intendit, nec vult aliquis eorundem, in Præsentì Parlamento, dum de hujusmodi materiis agitur, vel agetur, quomodolibet interesse; sed nos & eorum quemlibet in ea parte penitus absentare, jure paritatis & cujuslibet eorundem interessendi in dicto Parlamento, quoad omnia & singula inibi exercenda, nostris & eorum cujuslibet statu & ordine congruentia, in omnibus semper salvo. Ad hæc insuper protestamur, & eorum quilibet protestatur, quòd propter hujusmodi absentiam, non intendimus, nec volumus, nec eorum aliquis intendit vel vult, quòd processus habitus & habendi in præsentì Parlamento super materiis antedictis, in quibus non possumus, nec debemus, ut premititur, interesse, quantum ad nos & eorum quemlibet attinet, futuris temporibus quomodolibet impugnentur, infirmentur, seu etiam infringentur.*

Upon the first of these Authorities, viz. the Constitution of *Clarendon*, is founded the Pretence of an Obligation upon the Bishops to withdraw; and upon the second (viz. the Protestation) it is urged, that, in pursuance of that Obligation, they did actually withdraw.

But, on the other hand, it is very plain, that the Command in the Constitution of *Clarendon* is not Negative, "That they shall not be present in the King's Courts, when loss of Member or Life is in question, but positive, "That

Archbishops and Bishops in Parliament.

Rot. Parl. 11 R. 2.



Archbishops and Bishops in Parliament.

“That they shall be present till those matters come in question; and then they have leave to withdraw. The great design of the King, was, to oblige them to attend the Service of the Crown and Kingdom (to which they were bound by virtue of their Baronies) in Opposition to the pretended Exemptions and Privileges of the Church; upon which they reckoned these Services, as required of them by their Baronies, to be Encroachments, and what they call'd the Badges of Ecclesiastical Slavery. But Archbishop Lanfranc having introduced the Canon of the Council of Toledo, (*Ut nullus Episcopus, vel Abbas, seu quilibet ex Clero, hominem occidendum, vel membris truncandum judicet, vel judicantibus suæ autoritatis favore commendet*) and having also confirmed it solemnly in a Synod at London, so as to make it a fixt and known Rule of the English Church; the King was content to indulge them in this particular, and to give them leave to withdraw, in case they apprehended themselves under an indispensable Obligation to the Canon. But neither the Spiritual nor Temporal Lords understood them to be under any Engagement to withdraw, from any Law of the Land. On the contrary, the foregoing Protestation expressly makes their withdrawing, their own Choice, in regard to the Canon only, (*juxta Sacrorum Canonum instituta;*) on account of which, they say, they ought not to be present: they were also, in fact, present at the Debate and Sentence, in the Case of Archbishop Becket: and the Judgment against the Spencers was reversed, for this, among other Reasons, because the Bishops were not present. And much less can it be pretended, that they are under any legal Obligation in our Reformed Church; since the Canon it self (at first, founded in Superstition, and now, probably, abolished by Law, as being to the Damage or Hurt of the King's Prerogative Royal) was disregarded for a long time after the Reformation. 'Tis true, in the tumultuous Times of King Charles I. this Advantage, among many others, was taken and insisted on, against the Ecclesiastical State; but when it came to be a Question in the Reign of King Charles II. the most

eminent Civilians of that time were advised with by the Bishops, in Convocation, and unanimously gave an Opinion under their Hands, that by their staying in the Houle of Lords, while Cases of High Treason were in Agitation there, they were in no Danger of Irregularity; which was the ancient Penalty annexed to the Canon. The Proceedings in the House of Convocation upon that Head, were as follows:

Die Veneris ultimo Januarij, inter horas 8 & 10 ante Meridiem ejusdem dici, &c. quaestio oriebatur inter Episcopos congregatos & assistentes, an tutum, licitum aut consentaneum fuit pro Dominis Episcopis ad sedend' aut eorum praesen', exhibend' in domo Procerum Parliamenti, cum & quando negotium circa personas condemnatas pro Proditione nefanda, in Domo Parliamenti inter Proceres ageretur; & post multa argumenta inter eos habit' fact', & concordatum & ordinatum fuit, de & cum consensu totius Domus, ad consulend' Jurisperitos tam in Foro Sæculari quam in Curia Civilibus & Ecclesiasticis versatos, de & super dictâ questione sive argumento præd' erga prox. Conven'—Notitiâ Domino Episcopo London' de attendentiis nonnullorum Jurisperitorum in Jure civili datâ, extra domum Convocationis; dictus Dominus Episcopus London' de & cum consensu Confratrum suorum, eos ad exhibendum eorum praesentias coram Convocatione petiit. Et tunc comparuerunt Dominus Willielmus Merrick Miles, Robertus King, Dominus Edwardus Lake, .... Burrell, & Johannes Berkenhead, Legum respectivè Doctores; & post nonnullas quaestiones & argumenta inter dictos Episcopos & Jurisconsultos habit' & fact' de & super eorum praesentia in Domo Procerum super personis condemnatis, iidem omnes & singuli Jurisperiti unanimi consensu eorum respectivè Opiniones in scriptis dederunt, Dictos Episcopos in domo Parliamenti unâ cum Proceribus circa negotium personarum condemnatarum tutissimè & sine ullo detrimento aut prejudicio sedere, & eorum praesentias exhibere posse; & eidem scripto manus suas subscripserunt, & dictum scriptum sic subscriptum dicto Domino Episcopo London' tradiderunt. Et, hoc factò, dictus Dominus Praesidens, nomine totius Domus, gratias dictis Jurisconsultis agebat.

Abridgment.

Anno 1651.  
Sess. 57.

Sess. 85.

25 H. 8. c. 19.  
§ 7.

A.D. 1558.

1 Eliz. Cap. 3.

In an Act, Entituled, An Act for Recognition of the Queens Highness, &c.

§. II. For which causes, We your said most loving, faithful, and obedient Subjects representing the THREE ESTATES of your Realm of England: —

W Three Estates.] That the Bishops, as distinct from the Lords Temporal, are one of these three Estates, is proved by the Learned Bishop Stillington (beyond a Possibility of Denial) from the Language of Parliament in many places; where the King is mentioned, as distinct from the three Estates: and if the King is not one, the Bishops of course must be one. Parti-

cularly, in the Roll, 21 Ric. 2. it is said, that many Ordinances had been disannulled, because the State of the Clergy were not present in Parliament, at the making of them. So that the distinction, between Estates in the Kingdom, and Estates in Parliament, as if the Bishops were one of the First, and not of the Second; is meerly notional, and leaves one Estate unrepresented in

Lords Spiritual and Temporal, and Commons, the three Estates.

Ecl. Cases, V. 2.  
p. 385.



Abridgment.

in Parliament; whereas we see, in this Statute, the Lords Spiritual and Temporal and the Commons, are spoken of as representing the three Estates, in Parliament; and in the 23 H. 8. there is this Passage

in the Parliament Roll, It is considered and declared by the whole Body of this Realm, now represented by all the Estates of the same, assembled in this present Parliament.

Archbishops and Bishops in Parliament.

A.D. 1566.

8 Eliz. Cap. 1.

In an Act, Entituled, *An Act declaring the making of Archbishops, &c. to be good, &c.*

Clergy one of the greatest States of this Realm.

Forasmuch as divers questions by overmuch boldness of speech and talk amongst many of the common sort of People, being unlearned, hath lately grown upon the making and consecrating of Archbishops and Bishops within this Realm, whether the same were and be duly and orderly done according to the Law or not, which is much tending to the slander of all the state of the Clergy, being one of the GREATEST STATES of this Realm.

11 Ric. II. Cap. 3.

*Petitions in Parliament.*

A.D. 1387.

Also, we have received two other Petitions delivered to us in the same Parliament by the same Commons, in the form following;

Item, that the Appeals, Pursuits, Accusements, Proceles, Judgments and Executions made and given in this present Parliament be approved, affirmed and established as a thing duely made for weal and profit of the King our Sovereign Lord and of all the Realm, notwithstanding that the xx Lords Spiritual and their Procurators did absent them out of the Parliament at the time of the said Judgments given, for honesty and salvation of their estate, as is contained in a protestation by the same Lords Spiritual and Procurators delivered in this present Parliament.

See it at large before, p. 9.

Acts confirmed anew, because the Lords Spiritual and Clergy were absent, at the passing.

*x Notwithstanding.]* Altho' the Archbishop and Bishops had declared in their Protestation made at their withdrawing from Parliament, that what they did was only in obedience to the Canons, and that they did not intend, by their absence, to invalidate the Proceedings in Parliament (*Ad hæc insuper protestamur, & eorum quilibet protestatur, quod propter hujusmodi absentiam non intendimus, nec volumus, nec eorum aliquis intendit vel vult, quod processus habitus & habendi in præsentem Parlamento super materiis antedictis, in quibus non possumus nec debemus, ut præmittitur, interesse, quantum ad nos & eorum quemlibet attinet, futuris temporibus, quomodo libet impugnentur, infirmentur, seu etiam revocentur.*) We see, I say, notwithstanding this Protestation, there was an evident Doubt, whether (after all) their Proceedings were valid, by reason of that absence of the whole State of the Clergy; and what was then a Doubt, became clear and certain in the Twenty First of the same Reign, "That without the Presence of the State of the Clergy, in Person, or by Proxy, they could not be valid," as will appear by the following Note:

*xx Lords Spiritual.]* The Lords Spiritual and Clergy (who could not, by the Canons of the Church, be present in Cases of Life and Member) appeared here by Proxy; as they were constrained to do, at the Petition of the Commons, to the end, the Proceedings in Parliament might be valid; which without the Presence of

those who were to represent the State of the Clergy, they could not be; as is plainly set forth, in the said Petition, which (being of great consequence) shall be here inserted at large, out of the Rolls of Parliament:

*Item, Marcredy prochein, &c. Item, on Tuesday next following, the Commons shewed to the King, how that, before these times, many Judgments and Ordinances made in the times of the Progenitors of our Lord the King in Parliament, have been repealed and disannulled, because the State of the Clergy were not present in Parliament at the making of the said Judgments and Ordinances. And therefore they prayd the King, that for the safety of his Person, and Salvation of his Kingdom, the Prelates and the Clergy should make a Proctor, with sufficient power to consent in their names, to all things and Ordinances to be justified in this Parliament: And so, by this, every Spiritual Lord should speak his Advice fully. Whereupon, the said Spiritual Lords, being severally Examined, consented to commit their full Power generally to one Lay-person, and namely, in especial, Sir Thomas Percy Knight; and thereupon delivered a Cedula to the King, containing their said Power, the which our Lord the King received, and, the said Tuesday, commanded it to be entred upon Record in the Parliament-Roll: The form of which Cedula followeth:*

For. Parl. 21 R. 2.

"Nos Thomas Cantuar' & Robertus Eborum' Archiepiscopi, ac Prælati, & Clerus utriusque Provinciæ Cantuar' & Eborum'



Archbishops and Bishops in Parliament.

“rum, jure Ecclesiarum nostrarum &  
 “Temporalium earundem habentes jus  
 “interessendi in singulis Parliamentis Do-  
 “mini nostri Regis & Regni Angliæ pro  
 “tempore celebrand’, necnon tractand’  
 “& expediend’ in eisdem, quantum ad  
 “singula in instanti Parlamento, pro  
 “statu & honore Domini nostri Regis,  
 “necnon Regaliæ, ac quiete, pace, &  
 “tranquillitate regni judicialiter justifi-  
 “cand’. Venerabili Viro, Domino Tho-  
 “mae de Percy Militi nostram plenariam  
 “committimus potestatem: Ita ut singula  
 “per ipsum facta in præmissis, perpetuis  
 “temporibus, rata habeantur.

As to what hath been alledged (in op-  
 position to the Doctrin which is the plain  
*Result of this Petition*) viz. That one Par-  
 liament sat, *Excluso Clero*, in the time of  
 Edw. 1. and that *Kelway's Reports* tell us  
 of one Resolution, that other Parliaments  
 may so sit; these, and the like Cavils would  
 have been fully confuted by Bishop *Stilling-  
 fleet* in these few material words, (tho’ he  
 had said no more: ) *Our good, ancient, and  
 legal Constitution of Parliament, may not be  
 changed for the sake of any single Precedents,  
 and rare Cases, and obscure Reports, built  
 upon weak and insufficient Reasons.*

Abridgment.

E cl Caser.  
 P. 49.

A.D. 1397.

21 Ric. II. Cap. 2.

In an Act, Entituled, *An Act of the Repeal of the Com-  
 mission made to the Earl of Arundel and others.*

—Whereupon, our Sovereign Lord the King, of the assent of all the  
 Lords Spiritual, and the Proctors of the Clergy, at the request of  
 the said Commons here, hath repealed the said Statute in this Article,  
 and the said Commission. —

Bishops and  
 Clergy Vote in  
 Parliament by  
 Proxy.

A.D. 1397.

21 Ric. II. Cap. 12.

In an Act, Entituled, *An Act touching the King, and Con-  
 servation of the Realm.*

And thereupon the Lords Spiritual and Temporal, and the Proc-  
 urers of the Clergy severally examined, assented expressly, that the said  
 Parliament, and all the Statutes, Judgments, Ordinances, and all  
 other things thereof made and followed, shall be void and annulled, and of  
 no force nor value, and restitution made as afore is said. And also as well  
 the Lords Spiritual and Temporal, and the Procurers of the Clergy,  
 as the said Commons, were severally examined of the said questions, and  
 of the answers of the Justices aforesaid.

Bishops and  
 Clergy vote in  
 Parliament by  
 Proxy.

A.D. 1539.

31 Henr. VIII. Cap. 10.

*How Lords in Parliament shall be placed.*

Forasmuch as in all great Councils and Congregations of men, hab-  
 ing sundry degrees and offices in the Commonwealth, it is very  
 requisite and convenient that an order should be had and taken for the  
 placing and sitting of such persons as been bounden to resort to the  
 same, to the intent that they knowing their places, may use the same  
 without displeasure, or let of the Council. Therefore the King's most  
 Royal Majesty, although it appertaineth unto his Prerogative Royal,  
 to give such honour, reputation and placing to his Councellores, and  
 other his subjects, as shall be seeming to his most excellent wisdom, is  
 nevertheless pleased and contented, for an order to be had and taken in  
 this his most high Court of Parliament, that it shall be enacted by  
 authority of the same, in manner and form as hereafter followeth.

For the Placing  
 and Sitting of  
 Lords in Parlia-  
 ment,

---Enacted, that

II. first, it is enacted by authority aforesaid, That no person or per-  
 sons, of what estate, degree, or condition soever he or they be of (except  
 only the Kings Children) shall at any time hereafter attempt or pre-  
 sume to sit, or have place at any side of the cloth of estate in the Parlia-  
 ment-chamber, neither of the one hand of the Kings Highness, nor of  
 the other, whether the King's Majesty be there personally present or ab-  
 sent. And forasmuch as the King's Majesty is justly and lawfully  
 supreme Head in earth under God of the Church of England, and for the  
 good exercise of the said most Royal dignity and office hath made

None, but the  
 King's Children  
 shall sit in Parlia-  
 ment, on either  
 side of the Cloth of  
 State.

Thomas



## Abridgment.

The Kings Vicegerent in Ecclesiastical Affairs shall sit uppermost on the right side of the Parliament Chamber,

---and next to him the Archbishops of Canterbury, and York, the Bishops of London, Durham and Winchester;

---and other Bishops after their ancienties.

A Bishop being the King's Secretary shall take place of all other Bishops.

Dist. 17. 7.

Spelm. V. 1. p. 153.

Spelm. V. 2. p. 8.

4 Inst. p. 1.

Still. Eccl. Cases, V. 2. p. 375, 384.

Tit. Hon. p. 2. c. 5.

1 Inst. l. 2. 164.

Thomas Lord Crumwel, and Lord priby seal, his Vicegerent for good and due ministracion of Justice to be had in all causes and cases touching the Ecclesiastical jurisdiction, and for the godly information and redress of all errors, heresies, and abuses in the said Church: It is therefore also enacted by authority aforesaid, that the said Lord Crumwel having the said office of Vicegerent, and all other persons which hereafter shall have the said office of the grant of the King's Highness, his heirs or successors, shall sit and be placed, as well in this present Parliament, as in all Parliaments to be holden hereafter, on the right side of the Parliament Chamber, and upon the same form that the Archbishop of Canterbury sitteth on, and above the same Archbishop and his successors, and shall have voice in every Parliament to assent or dissent, as other the Lords of the Parliament.

III. And it is also enacted, That next to the said Vicegerent shall sit the Archbishop of Canterbury; and then next to him on the same form and side, shall sit the Archbishop of York; and next to him on the same form and side, the Bishop of London; and next to him on the same side and form, the Bishop of Durham; and next to him on the same side and form, the Bishop of Winchester; then all the other Bishops of both Provinces of Canterbury and York, shall sit and be placed on the same side y after their ancienties, as it hath been accustomed.

VII. And it is also enacted by authority aforesaid, That the King's chief Secretary, being of the degree of a Baron of the Parliament, shall sit and be placed afore and above all Barons, not having any of the offices aforesaid. And if he be a Bishop, that then he shall sit and be placed above all other Bishops, not having any of the Offices above remembred.

y After their Ancienties.] So is the Rule of the Canon-law, *Episcopos secundum Ordinationis suæ tempus, sive ad considerandum in Concilio, sive ad subscribendum, vel in qualibet aliâ re, sua attendere loca decernimus, & suarum sibi prærogativam Ordinum vindicare.* Which was also the Rule of the Church of England, as appears by the 8th. Constitution of the Council of Hertford, Ann. 673. *Omnes Episcopi agnoscant tempus & ordinem Consecrationis suæ.* But in William the Conqueror's time, at the Council of London, the general Rule was thus qualified (as it had been before in the Coun-

cil of Toledo,) *Præter eos, qui ex antiquâ consuetudine, sive suarum Ecclesiarum Privilegiis, digniores sedes habent;* and in the same Council, the Bishops of London, and Winton, had their places assigned next to the two Archbishops; the first as Dean, the second, as Chancellor, to the See of Canterbury. After an Enumeration of the Archbishops and Bishops present at this Council, this note is added concerning the Bishop of Durham; *Lindisfarnensis, qui & Dunelmensis Episcopus, &c. Canonicam Excusationem habens, Concilio interesse non poterat.*

### Other Rules of Law concerning Archbishops and Bishops in Parliament.

I. **A**rchbishops and Bishops sit in Parliament, by Succession, in respect of their Baronies, parcel of their Bishopricks. So saith Coke; and it is true, but not the whole truth. For, tho' their Baronies did put them more under the power of the King, and under a stricter obligation to attend; yet, long before William the Conquerour changed Bishopricks into Baronies, they were, as Bishops, Members of the *Witena-gemot*, or the Great Council of the Land. And an argument of their *Spiritual Capacity* in Parliament, is, that from the Reign of Edw. 1. to Edw. 4. inclusive (as appears by the Records) great numbers of Writs to attend the Parliament, were sent to the *Guardians of the Spiritualities*, during the Vacancies of Bishopricks, or while the Bishops were in Foreign parts: Which Mr. Seldon himself could not deny to be an evidence of their *Spiritual Capacity* in Parliament; as my Lord Coke also owns, that *Bishops have not been called Lords*

*Spiritual so lately as some have imagined.* The Writs of Summons also preserve the distinction of *Prælati* and *Magnates*; and, whereas Temporal Lords are required to appear in *Fide & Ligeantia, quibus nobis tenemini*; in the Writs to the Bishops, the word *Ligeantia* is left out, and the Command to appear, is, *in fide & dilectione.*

II. **A** Bishop Confirmed may sit in Parliament, as a Lord thereof. It is laid down by my Lord Coke, that a Bishop Elect may so sit; but, in the case of *Evans* and *Ascutib, Jones* held clearly, that a Bishop cannot be Summoned to Parliament before Confirmation, without which the Election is not complete. And he adds, that it was well known, that *Bancroft*, being Translated to the Bishoprick of London, could not come to Parliament, before his Confirmation. However, if a Bishop may come presently after Confirmation, and before *Homage* and *Restitution of Temporalities*; he comes as soon

Archbishops and Bishops in Parliament.

4 Inst. p. 47.

Latch. p. 37.



Archbishops and Bishops in Parliament.

as ever he is invested with the *Spiritualties*, and is not of necessity to wait for his *Temporalities*; which is a further argument of a *Spiritual* as well as *Temporal* Capacity in Parliament.

III. Bishops, being Translated, pay not

new Fees, upon their being introduced into Parliament. This, with the like Order for Peers raised to higher Dignities, was made a standing Rule, when a Roll of Fees was settled in the Year 1663.

Abridgment.

Journ Proc.  
May 4 & 8,  
1663.

16 Car. I. Cap. 27.

*An Act for disenabling all Persons in Holy Orders to exercise any Temporal Jurisdiction or Authority.*

Whereas Bishops and other persons in holy Orders ought not to be intangled with secular Jurisdiction (the Office of the Ministry being of such great importance, that it will take up the whole man) and for that it is found by long experience, that their intermeddling with secular Jurisdictions hath occasioned great Mischief and Scandal both to Church and State: His Majesty out of his Religious care of the Church, and Souls of his people, is graciously pleased that it be Enacted, and by authority of this present Parliament be it Enacted, That no Archbishop or Bishop, or other person that now is, or hereafter shall be in Holy Orders, shall at any time after the fifteenth day of February in the year of our Lord one thousand six hundred forty one, have any seat or place, suffrage or voice, or use or execute any power or authority in the Parliament of this Realm, nor shall be of the Privy Council of his Majesty, his heirs, or successors, or Justices of the Peace, of Oyer and Terminer, or Gaol-delivery or execute any temporal authority by virtue of any Commission: But shall be wholly disabled, and be incapable to have, receive, or execute any of the said Offices, Places, Powers, Authorities, and things aforesaid.

II. And be it further Enacted by the authority aforesaid, that all Acts from and after the said fifteenth day of February, which shall be done or executed by any Archbishop or Bishop, or other person whatsoever in Holy Orders, and all and every Suffrage or Voice given or delivered by them, or any of them, or other thing done by them, or any of them, contrary to the purpose and true meaning of this present Act, shall be utterly void, to all intents, constructions, and purposes.

Clergymen's exercising temporal Jurisdiction, being inconsistent with their Ministry, &c.

Enacted, that No Archbishop or Bishop shall sit in Parliament; nor they, nor any others in Holy Orders, exercise any other temporal Authority.

All Votes given, or Acts done, contrary to this Statute shall be void.

13 Car. II. Cap. 2.

*An Act for the Repeal of an Act, Entituled, An Act for disenabling all Persons in Holy Orders to exercise any Temporal Jurisdiction or Authority.*

Whereas at the Parliament begun at Westminster, the Third day of November, in the Sixteenth year of the Reign of our late Sovereign Lord King Charles of blessed memory, since deceased, an Act of Parliament was made, entituled, An Act for dis-enabling all persons in Holy Orders to exercise any Temporal Jurisdiction or Authority. Which Act hath made several alterations prejudicial to the Constitution and ancient Rights of Parliament, and contrary to the Laws of this Land, and is by experience found otherwise inconvenient; Be it enacted by the King's most excellent Majesty, by and with the Advice and Consent of the Lords and Commons in this present Parliament assembled, and by the Authority of the same, that the said Act, entituled, An Act for dis-enabling all Persons in Holy Orders to exercise any Temporal Jurisdiction or Authority, and every clause, matter and thing therein contained, shall be, and is hereby from henceforth repealed, annulled, and made void to all intents and purposes whatsoever.

The foregoing Act, being prejudicial to the Rights of Parliament, and contrary to the Laws of the Land, and inconvenient,

---is hereby repealed and made void.

A.D. 1644.

A.D. 1661.



Abridgment.

## C A P. VII.

## DIGNITY and PRIVILEGES of Archbishops and Bishops.

18 Edw. III. Cap. 1.

A.D. 1344.

In an Act, Entituled, *That no Prelate be impeached before the Justices.*

Archbishop shall not be impeached before Justices.

**N**O Archbishops shall be impeached before our Justices, because of Crime, unless we especially do command them, till another Remedy be there of ordained.

Dignity & Privileges of Archbishops and Bishops.

Rot. Parl. 19 E. 3.

z No Archbishop.] Nor Bishop, saith the Record; which, because it explains the drift and meaning of this Statute, I will give the Reader at large; *A nostre Seigneur, &c.* "To our Sovereign Lord the King, Praying, the Archbishops of Canterbury, the Bishops and other Prelates, and the Clergy of his Realm, that it will please him, in maintenance of the Estate of Holy Church, to grant and ordain in this Parliament, That no Archbishop nor Bishop be hereafter arraigned, nor impeached, before his Justices in a criminal Cause, by what way soever: Inasmuch, as upon such a Cause no Soul may judge them, but the Pope only.

nal Cause no Archbishop, nor Bishop, be Impeached before the Justices, if the King especially command it not, till other Remedy be Ordained.

*Answer.* It is advised, That in a Crimi-

The Writ directed to the Justices, for the trial of *Thomas Merks*, Bishop of *Carlisle*, had in it a *Non-obstante* to this Statute; *Licet, in Statuto apud Westm. nuper edito, inter cetera continetur, quod nullus Archiepiscopus nec Episcopus coram Justitiariis nostris, occasione alicujus Criminis impetatur, absque speciali precepto nostro, quousque, &c.* Which was read in Court; but the Judges urged, that the Liberties of the Church did not extend to *High Treason*, and so he put himself *super Patriam*.

Still. Ecl. Cases V. 2. p. 370. Vid. Seiden.

25 Edw. III. Stat. 6.

A.D. 1350.

*In the Statute of Provisors, made Ann. Dom. 1350.*

Prelates, the greatest part of the King's Council.

II. And the said Kings in times past were wont to have the greatest part of their Council, for the safeguard of the Realm when they had need, of such Prelates and Clerks, so advanced.

16 Ric. II. Cap. 5.

A.D. 1392.

In an Act, Entituled, *Præmunire for purchasing of Bulls from Rome.*

The mischief (to King and Nation) of the Pope's translating Prelates out of the Realm.

I. And also it is said; and a common clamour is made, that the said Bishop of Rome hath ordained and purposed to translate some Prelates of the same Realm, some out of the Realm, and some from one Bishoprick into another within the same Realm, without the King's assent and knowledge, and without the assent of the Prelates, which so shall be translated; which Prelates be much profitable and necessary to our said Lord the King and to all his Realm: by which translations (if they should be suffered) the Statutes of the Realm should be defeated and made void; and his said liege sages of his Council, without his assent, and against his will, carried away and gotten out of his Realm, and the substance and treasure of the Realm shall be carried away, and so the Realm, destitute as well of Counsel as of substance, to the final destruction of the same Realm.

25 Edw.



Dignity & Privileges of Archbishops and Bishops.

A.D. 1350.

25 Edw. III. Cap. 2.

In an Act, Entituled, *A Declaration which Offences shall be adjudged Treason.*

— And moreover, there is <sup>a</sup> another manner of Treason, that is to say; when a servant slayeth his master, or a wife her husband, or when a man secular or religious <sup>b</sup> slayeth his Prelate, to whom he oweth faith and <sup>c</sup> obedience. And of such treason the Escheats ought to pertain to every Lord of his own fee.

Abridgment.

It shall be Treason for a Man, secular or religious to slay his Prelate.

3 Inst. p. 28. 4

<sup>a</sup> Another manner of Treason.] The first part of this Statute, is, concerning High-Treason; so called, in respect of the Royal Majesty against whom it is committed. And the sort of Treason spoken of in this Clause, is called Petit-Treason, in regard it is committed only against Subjects.

which therefore this Statute is only a Confirmation.

<sup>c</sup> Obedience.] Petit Treason doth suppose a Trust and Obedience in the Offender, of one kind or another. Aiders, Abettors, and Procurors, are within this Law; for tho' in High-Treason there are no Accessories; in Petit Treason there may be, either before or after the Act done.

Ibid.

Ibid.

<sup>b</sup> Slayeth his Prelate.] This was Petit-Treason before at Common-Law; of

A.D. 1275

3 Edw. I. Cap. 34.

*None shall report slanderous News, whereby Discord may arise.*

As much as there have been oftentimes found in the Country Devisors of tales, whereby discord, or occasion of discord hath many times arisen between the King and his people, or great men of this Realm: For the damage that hath and may thereof ensue, it is commanded, that from henceforth none be so hardy to <sup>d</sup> tell or publish any false news or tales, whereby discord, or occasion of discord, or slander may grow between the King and his people or the great men of the Realm. And he that doth so, shall be taken and kept in prison, until he hath brought him into the Court, which was first author of the tale.

Devisors of false news, occasioning discord,

---shall be kept in prison, till they find the Authors.

<sup>d</sup> Tell or Publish.] These words extend only to the spreading and reporting; but, in the Record, to the Clause *de dire*

*ne de counter nulles faux nouvelles*, is added, *ou controver*; by which the first Devisors and Inventers are also comprehended.

A.D. 1379.

2 Ric. II. Cap. 5.

*The Penalty for telling of slanderous Lies of the Great Men of the Realm.*

Item, Of <sup>dd</sup> devisors of false news and of horrible and false lies, of <sup>e</sup> Prelates, Dukes, Earls, Barons and other Nobles and great men of the Realm, and also of the Chancellor, Treasurer, Clerk of the Privy-Seal, Steward of the Kings House, Justices of the one Bench or of the other, and of other great Officers of the Realm, of things which by the said Prelates, Lords, Nobles and Officers aforesaid, were never spoken, done, nor thought; in great slander of the said Prelates, Lords and Officers; whereby debates and discords might rise betwixt the said Lords or between the Lords and the Commons (which God forbid) and whereof great peril and mischief might come to all the Realm, and quick subversion and destruction of the said Realm, if due remedy be not provided: It is straightly defended upon grievous pain, for to eschew the said damages and perils; that from

Devisors of false news and Lies, concerning Prelates and other great men,

---whereby debates and discords might rise,

Rec. Parl. Cott. K. 173.

<sup>dd</sup> Devisors of.] Upon the opening of this Parliament, the Bishop of S. Davids, in a Speech to both Houses, declared the Causes of its being Summoned; and that, amongst the rest, one of them was, to have some restraint laid upon Slanderers, and Somers of Discord.

<sup>e</sup> Prelates.] There never was, nor could be, any question made, but that the Archbishops and Bishops had the benefit of this and the subsequent Acts: In fact, the Bishop of Norwich had it, Ann. Eliz. 24. and 500 l. damages were laid upon the Offender.

Ep. Norw. vers. Pricket. 1. Cro. 1.

henceforth



**Abridgment.**

---shall be imprisoned, till they find him who spoke the words.

henceforth none be so hardy to devise, speak, or to tell any f false news, lies, g or other such false things, of Prelates, Lords, and of other aforesaid, whereof discord or any slander might arise within the same Realm: and he that doth the same shall incur and have the pain another time ordained thereof, by the Statute of Westminster the first, which will, that he be taken and imprisoned h till he have found him of whom the word was moved.

Dignity & Privileges of Archbishops and Bishops.

f False News, &c. whereof Discord, &c.] There are so many and so uncertain Circumstances, with which this Act is limited and restrained in the several parts of it, that (tho' it is the Law of greatest Consideration in the present Case, and that upon which the Actions are mainly grounded) yet the Professors of the Law have found it somewhat Difficult to ground Actions upon it; and they observe, that, as far as appears, no one Action was brought upon it, for 120 Years after it was made.

g Or other such false things.] Under the Uncertainty of the terms and expressions of this Act (for the Interpretation of which, no fixt and sufficient Rules have been yet delivered) it may give the Reader at least a general Aim how far it extends, if we subjoyn some short hints of the principal Cases upon this head:

Vid. Mod. Rep. V. 1. p. 232.

Duke of Buckingham versus Lucas; for saying, the Duke had no more Conscience than a Dog; and, so he got Money, he cared not how he came by it. — The Duke had 40 l. damages.

Co. 4. Rep.

Lord Cromwel versus Denny: The Defendant was Vicar of the Place; and the Lord Cromwel having desired leave for two persons to preach, who (in their Sermons) had inveighed against the Common-Prayer, Denny would suffer them to Preach no more: Whereupon, the Lord Cromwel, said, Thou art a false Varlet, and I like not of thee: To which, Denny's Reply was, It is no marvel, that you like not of me; for you like of those that maintain Sedition against the Queen's Proceedings. He defended the words, and issue was joined; but, before Judgment, the matter was agreed.

1. Cro. 1

Ep. Norwic. versus Pricket: The words said of the Bishop were, You have writ a Letter to me, which I have to shew, which is against the word of God, against the Queen's Authority, and to the maintenance of Superstition; and that I will stand to prove against you. — The Damages were 500 Marks, besides Costs.

Viscount Say and Seal versus Stephens. The words were, Thy Lord is a Traitor, and I will prove him a Traitor. — The Damages, 2000 l.

3 Cro. 135.

Lord Mordaunt versus Bridges: The words were; My Lord Mordaunt did know that Prude robbed Shotbolt, and bid me compound with Shotbolt for the same, though it cost him 100 Pounds; which I did for him, being my Master; otherwise the Evidence I could have given, would have hanged Prude: Damages, 1000 l.

1 Cro. 67.

Earl of Lincoln versus Roughton: The words, My Lord is a base Earl, and a poultry Lord, and keepeth none but Rogues and Rascals like himself. They were declared to be within the Statute; but Roughton died, and the Bill abated.

2 Cro. 196.

Earl of Northampton versus Godderick: The words; More Jesuits, Papists, &c. have come into England, since the Earl of Northampton was Guardian of the Cinque Ports, than before, — and, That the said Earl had writ a Book openly against Garnet, but secretly he had writ a Letter to Bellarmin. The punishment upon the Authors and Spreaders, was, Fine and Imprisonment.

12. Rep. 132.

There are other Cases; as that of the D. of Buckingham; You are apt to do things against Law; of the Lord Abergavenny, You care not how you come by Goods; of the Marquis of Dorchester, He is no more to be valued, than the black Dog which lies here; with some others of the same kind, insisted on in the Pleadings upon this head. But those that have been mentioned, may give the Reader a general View of what seems in it self to be very uncertain, viz. the true meaning and extent of this Act.

Shep. 1. part, f. 28.

Mod. Rep. Vol. 2. p. 163.

Ibid. p. 159.

b Till he have found.] As to the Devisor or Inventa, when found, no Punishment is inflicted upon him by this or the foregoing Act; for he is left to the Common-law, to be punished by Fine and Imprisonment, according to the quality and quantity of the Offence.

Co. 2. Inst. 228

12 Ric. II. Cap. 11.

A. D. 1388.

The Punishment of him that telleth Lies of the Peers, or great Officers of the Realm.

Item, Whereas it is contained, as well in the Statute of Westminster, the first, as in the Statute made at Gloucester, the second year of the Reign of our Lord the King that now is, that none be so hardy to invent, to say or tell any false news, lies, or such other false things, of the Prelates, Dukes, Earls, Barons, and other Nobles and great men of the Realm, and also of the Chancellor, Treasurer, Clerk of the privy Seal, the Steward of the King's house, the Justice of the one Bench or of the other, and other great Officers of the Realm, and he that doth so shall be taken and imprisoned, till he hath found him, of whom the speech shall be moved: It is accorded and agreed in this Parliament, That when any such is taken and imprisoned, and cannot find him by whom the speech be moved, as before is said, that

Recital of the two foregoing Statutes;

---notwithstanding which the Offender shall be punished, by the advice of the Council.



Dignity & Privileges of Archbishops and Bishops.

A.D. 1554. E X P.

that he be punished by the advice of the Council, notwithstanding the said Statutes.

1, 2 Phil. & Mar. Cap. 3.

An Act against seditious Words and Rumours.

Where it is contained as well in the Statute of Westminster the first, as in the Statute made at Gloucester, the second yeere of the reigne of King Richard the second, that no man should be so hardy to contrive, speake, or tell any false newes, lies, or other such like things of Prelates, Dukes, Earles, Barons, and other Nobles and Officers of this Realme, or of the Chancelor, Treasurer, Clerk of the Privy Seal, Steward of the Kings household, Justices of the one bench or of the other, or of any of the great officers of this Realme. And that every such offender should be taken and imprisoned, until such time as he had brought him or them forth which did speake the same. And where also at a Parliament holden at Cambridge in the twelfth yeere of the reign of the said King Richard, it was also enacted, that where any such offender as is aforesaid, should be taken and imprisoned, and could not find him of whom he heard those newes which he spake, as is aforesaid, that then the speaker should be punished by the advice of the Council; as by the same Acts amongst other more plainly doe and may appear.

We it enacted by the authority of this present Parliament, that all and every the said former Acts and Statutes, shall be and remain in their full force, strength and effect, to all intents, constructions and purposes. And further, that Justices of Peace in every Shire, City and Town corporat, within the limits of their severall Commissions, shall by authority of this present Act, have full power to examine, hear and determine the causes abovesaid, in the said two first Acts specified, and to put the said two first Statutes and every branch in them contained in due execution, that from henceforth condigne punishment be not deferred from such offenders. And this Act to be only in force, to the end of the next Parliament, and no longer.

Abridgment.

Stat. 3 Edw. 1. c. 34. 2 R. 2. c. 5. 12 R. 2. c. 11.

---shall be in full force,

---and may be executed by Justices of Peace.

A.D. 1557.

4, 5 Phil. & Mar. Cap. 9.

In an Act, Entituled, An Act for the Continuation of certain Statutes.

And where also at a Parliament begun and holden at Westminster the twelfth day of November, in the first and second yeeres of the reignes of our most gracious Sovereigne Lord and Lady the King and Queens Majesties, and there continued and kept unto the dissolution of the same, being the sixteenth day of January then next ensuing, one Act was then and there made against seditious words and rumors, to endure to the end of the next Parliament, as by the same Act more plainly it doth and may appear.

We it therefore enacted, ordained and established by the King and Queens Majesties, our Sovereign Lord and Lady, with the assent of the Lords Spiritual and Temporal and the Commons in this present Parliament assembled, and by the authority of the same, that all and singular the said severall Acts and Statutes above mentioned and rehearsed, and every of them, and all clauses, articles and provisions in them and every of them contained, shall be revived, continued, stand and indure in their full force and strength, to all intents, constructions, and purposes, and shall be observed and kept in all things, untill the last day of the next Parliament.

The foregoing Stat. shall be continued,

---till the last day of the next Parliament.

A.D. 1550.

33 Henr. VIII. Cap. 31.

In an Act, Entituled, An Act dissevering the Bishoprick of Chester, &c. from the Archbishoprick of Canterbury, &c.

III. — Saving to the Bishop of Chester, and his successors, that his house at Weston, being within the Diocese of Coventry and Lichfield, shall be accounted and taken to be of his Diocese, and that he being resident in the same, shall be taken and accounted as resident in his own Diocese, and for the time of his abode there, shall have Jurisdiction in the same, likewise as all other Bishops have in the houses belonging

Every Bishop's house, belonging to his See, tho' in another Diocese, shall be accounted of his own.

[All other Bishops.] The greatest part of the Bishops of England, had Seats, or (as they were commonly called Places) in or near London, in which they were resident, during their attendance on Parliament, on the Court, or their own proper Occasions. And it was a great advantage, in many respects, that, during those attendances, they

might freely exercise Jurisdiction, in their respective Places, as in their own proper Dioceses. But now, most of those Houses are either exchanged, or (being built into private Houses) are held in Lease of the Bishopricks to which they belong'd; and no Houses, now remaining, come under the circumstance here mentioned (of being a

Reliq. Spelm. p. 211.



Abridgment.

to their Sees, wheresoever they lie, in any other Bishoprick within this Realm for the time of their abode in the same, any thing in this present Act and Provision to the contrary thereof in any wise notwithstanding.

Dignity & Privileges of Archbishops and Bishops.

Place of Residence, in another Diocese) place, now removed from Southwark, to but Lambeth house and Croydon, belonging to the Archbishop of Canterbury; Winchester-Chelsea; and Ely-house, in Holborn.

9, 10 Will. III. Cap. 35.

A.D. 1697.

In an Act, Entituled, An Act for preventing Frauds, &c. in paying the Duties upon Marriages, &c.

Bishops comprehended under the words Ecclesiastical Persons, &c.

IV. And it is hereby enacted and declared, That the Words Ecclesiastical persons in this Act, and persons in Holy Orders in the said former Acts, and every of them, shall be understood so as to comprehend Bishops, in all Cases where any Marriages are celebrated, or the Offices for any Christenings or Burials are performed by them.

Lyndw. de Loc & Con. c. Vendend.

Decretal. 3. Tit. 50. c. 5.

[k Comprehend Bishops.] The Rule of the Canon-law, is, Clericus, ex vi verbi, non comprehendit Episcopum, sed cum adjuncto, sic in quantum illud adjunctum potest concernere Episcopum; and to the same purpose, are those other Declarations, Ecclesiasticos Judi-

ces intellige de inferioribus Episcopo; nam Episcopi hac pœna non ligantur, eo quod de eis non fit mentio specialis: And, Hanc pœnam in hoc casu non incurrent Episcopi, eo quod de eis non fit mentio specialis.

Lyndw. de Te. tam. lra quor. & Adeo quor.

Other Legal Privileges and Dignities belonging to Archbishops and Bishops.

THE Lords Spiritual enjoy the same legal Privileges (Trial by Peers excepted, if they have not that also) that the Temporal Barons do; as, in real Actions, to have a Knight returned in their Jury; as to a Day of Grace; hunting in the King's Forests, and the like. This, Bishop Stillingfleet lays down, as what is agreed and confessed by the most learned Lawyers, and particularly by Mr. Selden.

“ dum quod decet Sacerdotes, dicant quod norerint, non tamen jurent: Which privilege was justly founded in the strict regard that they may well be presumed more peculiarly to bear to Truth and Conscience.

Still. Eccl. Cases, V. 2. p. 364. Baron. p. 152.

† Earl of Lincoln's Case. Jones (Sir W.) p. 154. E. of Shaftsbury, Mod. Rep. V. 2. p. 99. Journ. Proc.

II. Archbishops and Bishops may not be compelled, † more than any other Lords, to answer upon the Common Oath, in Courts of Justice. The Lord Jefferies is said to have made an Order in Chancery, “ That the Answers of Spiritual Lords shall be taken upon Oath, “ and not upon Honour: But immediately after the Revolution (Dec. 2. 1690.) that Order came under the Cognisance of the House of Lords, as appears by the Journal of the said House. And the Bishops have this, particularly, to plead for their Exemption; that this is a Privilege of great Antiquity, granted to all Bishops whatsoever, by the Emperor Justinian, “ That “ only laying the Gospels before them, “ they should say what they knew, but not “ Swear; Propositis S S. Evangeliiis, secun-

III. None but the King can write to the Bishop to certify Bastardy, Loyalty of Matrimony, and the like Ecclesiastical matters. Nul- lus alius, præter Regem, potest Episcopo demandare Inquisitionem faciendam, saith Bracton: And Fleta, Nec alius quam Rex super hoc demandaret Episcopo quod inde inquireret: And, Episcopus alterius Mandato quam Regis non tenetur obtemperare. This was done (as my Lord Coke speaks) in respect of the Honour and Reverence which the Law gave to the Bishop; so that none but the King's Courts of Record, as, the Court of Common-Pleas, the King's Bench, Justices of Gaol-delivery, and the like, can write to the Bishop for Certificate; nor have the Inferior Courts in Corporations, &c. any method of obtaining it, but by removing the Plea into the Court of Common-Pleas; upon which that Court writes to the Bishop, and then remands the Record.

L. 3. 106.

L. 5. c. 24.

1. Inst. l. 2. § 201. 2. Inst. p. 30.



## C A P. VIII.

## The Nomination and Consecration of SUFFRAGAN BISHOPS.

A.D. 1534.

26 Henr. VIII. Cap. 14.

## For Nomination of Suffragans, and Consecration of them.

The Nomination and Consecration of Suffragan Bishops.

\* 25 Henr. 8. cap. 20.

Albeit that \* sithen the beginning of this present Parliament, good and honourable Ordinances and Statutes have been made and established for elections, presentations, consecrations, and investing of Archbishops and Bishops of this Realm, and in all other the King's dominions, with all Ceremonies appertaining unto the same, as by sundry Statutes thereof made more at large is specified: yet nevertheless no provision hitherto hath been made for Suffragans, which have been accustomed to be had within this Realm, for the more speedy administration of the Sacraments, and other good, wholesome and devout things, and laudable Ceremonies, to the increase of Gods honour, and for the commodity of good and devout people: Be it therefore enacted by authority of this present Parliament, that the Towns of Therford, Ipswich, Colchester, Dover, Guilford, Southampton, Taunton, Shaftsbury, Molton, Marlborough, Bedford, Leicester, Gloucester, Shrewsbury, Bristow, Penreth, Bridgwater, Nottingham, Grantham, Hull, Huntingdon, Cambridge, and the Towns of Pereth, and Berwick, S. Germans in Cornwall, and the Isle of Wight, shall be taken and accepted for Sees of Bishops Suffragans to be made in this Realm, and in Wales, and the Bishops of such Sees shall be called Suffragans of this Realm. And that every Archbishop and Bishop of this Realm and of Wales, and elsewhere within the King's dominions, being disposed to have any Suffragan, shall and may at their liberties name and elect, that is to say, every of them for their peculiar Diocess, two honest and discreet Spiritual persons, being learned, and of good conversation, and those two persons so by them to be named, shall present to the King's Highness, by their Writing under their Seals, making humble request to his Majesty, to give to one such of the said two persons as shall please his Majesty, such title, name, stile, and dignity of Bishop of such of the Sees above specified, as the King's Highness shall think most convenient for the same: And that the Kings Majesty, upon every such presentation shall have full power and authority to give to one of those two persons so to his Highness to be presented, the stile, title and name of a

In former Acts concerning Consecration, &c. no Provision hath been made for Suffragans.

The Towns which shall be the Sees of Suffragans.

Every Archbishop and Bishop, disposed to have any Suffragan, shall name two persons to the King,

---who shall chuse one,

[Accustomed to be had.] These were the same with the ancient *Chorepiscopi*, or Bishops of the Country; so called, by way of distinction from the proper Bishops of the City or See. And they were very common in England; taking their Titles from Places in *partibus Infidelium*, or from Places, in which (tho' there were fixt Sees, and they had been Ordained to them) they could not remain with Safety; and upon this account, we find several Irish Bishops, from time to time, received and acting as Suffragans, under English Bishops. Archbishop Peckham, by a particular Instrument, required the Bishop of Lichfield, in consideration of his Infirmities, to provide a Suffragan; which I mention the rather, because the same Instrument expresses the proper work of an English Suffragan; *qui circumceat, prædicando, Ecclesias dedicando, Virgines consecrando, Ordines celebrando, Parvulos confirmando, & alia exequendo, quæ ad Episcopale Officium requiruntur.* Which last Clause is to be understood with a Limitation, *viz.* as to what concerned the Episcopal Office, and the Exercise

of it: because, the Jurisdiction and Temporalities (in case of the Infirmities of a Bishop, in Body or Mind) were put under the management of a Coadjutor, constituted by the Archbishop; as will appear in this Chapter, when we come to speak of Coadjutors to Bishops.

[Such of the Sees.] As there were not Sees for Suffragans appointed in every Diocese, so neither was the King obliged to give the Suffragan a Title within the Diocese of the Bishop who recommended him; but he was left at liberty (without regard to the Diocese wherein they were to Officiate) to give them any of the Titles mentioned in this Act. Accordingly, in virtue of it, the Bishop of London had a Suffragan with the Title of Bedford; the Bishop of Ely, another, with the Title of Colchester; and the Bishop of S. Asaph a third, with the Title of Shaftsbury. This, I say, the King was entitled to do, at pleasure, by the tenor of the Act; but it is also true, that, generally speaking, the Titles were given within the Dioceses they were to assist in.

Bishop



## Abridgment.

---to be nam'd Bishop Suffragan of the same See.

Then the King shall present him to the Archbishop of the Province, for Consecration,

---and being Consecrated, he shall have all the privileges of a Suffragan.

Bishop of such of the Sees aforesaid, as to his Majesty shall be thought most convenient and expedient, so it be within the same Province, whereof the Bishop that doth name him is.

II And that every such person to whom the King's Highness shall give any such Stile and Title of any of the Sees afoze named, shall be called Bishop Suffragan of the same See whereunto he shall be named.

III. And after such title, stile and name so given as is aforesaid, the Kings Majesty shall present every such person by his Letters Patents under his Great Seal, to the Archbishop of Canterbury, if the Town whereof he hath his title be within the Province of Canterbury, and likewise to the Archbishop of York, if the Town whereof he hath his title be within the Province of York, signifying and declaring by the same Letters Patents, the name of the person presented, and the stile and title of Dignity of Bishoprick whereunto he shall be nominated; requiring the same Archbishop to whom such Letters Patents shall be directed, to consecrate the said person so nominate and presented to the same name, title, stile and dignity of Bishop, that he shall be nominate and presented unto, and to give him all such "Consecrations, Benedictions and Ceremonies, as to the degree and office of a Bishop Suffragan shall be requisite.

IV. And be it also enacted by authority aforesaid, That all and every such person and persons as shall be nominated, elected, presented, and consecrated, as is afoze rehearsed, shall be taken accepted and reputed, in all degrees and places, according to the stile, title, name and dignity that he shall be so presented unto, and have such capacity, power and authority, honour, pre-eminence and reputation, in as large and ample manner, in and concerning the execution of o such Commission, as by any of the said Archbishops or

"Consecrations.] It hath been a great dispute among Learned Men, whether the ancient *Chorepiscopi* were, strictly and properly, of the Order of Bishops; which dispute seems to have been grounded chiefly upon these two Circumstances; first, that one Bishop was sufficient for their Ordination (as it was declared in the Council of *Antioch*, and as the Body of the Canon-law delivers it, *Presbyteri vero & Chorepiscopi ab uno Episcopo ordinari possunt*;) the second, that they might only ordain to the Inferior Offices of the Church, as that of Sub-deacon and under, which were performed without laying on of Hands; but were not as such allowed to confer the Orders of Deacon or Presbyter. But these Differences and Restraints were probably meant for no more, than marks of distinction, between them and the superior Bishops, under whom they acted, to the end there might not be two Bishops equal in the same Diocese; and there are other Canons, which say, that they might Ordain the Superior Orders also, with the leave of the City Bishop. And as the most judicious Writers have concluded them (in their ancient State) to have been really of the Order of Bishops; so here in England, it is certain they were so, being such, as had been Ordained abroad to distinct and proper Sees, which they might not repair to, or remain at with Safety; and, who being received oftentimes by particular Bishops on account of their Infirmary, were in such cases to discharge all the Offices merely Episcopal; as we see the work of a *Chorepiscopus* or Bishop Suffragan (for thus he, as well as the Comprovincial Bishops, was term'd in England) explained and laid out, in the fore-mentioned Order of the Archbishop to the Bishop of *Lichfield*; where the Suffragan he had direction to provide, was not only to confer Orders without limitation, but also

(in general) *alia exequi quæ ad Episcopale Officium requiruntur*. Much less can it be doubted, whether the Suffragans made in virtue of this Act, were of the Order of Bishops; since the Act it self provides for the Canonical Consecration of them (as of all other Bishops) by three, and the Acts of many Consecrations remain in our Records; tho', at the same time, it is observable, that by the tenor of the first Commissions, some, if not all, in the Article of *Conferring Orders*, were restrained to the Lesser sort.

o Such Commission.] There can be no doubt, but the persons received to be Suffragan Bishops in England, before the making of this Act, were confined to the exercise of such Powers only as they had Commission for from time to time; supposing the proper Bishop not to be wholly disabled by Infirmities of Body or Mind: and therefore the limiting them to such Commissions here, was only a continuance of them in their former state. Which Commissions, being left to the discretion of the several Bishops, could not, probably, be all of the self same tenor and extent; but as to the kinds of Business allotted to them upon their first Institution, of that we may make a Judgment in the main, by the Commission of Archbishop *Cranmer* to the Suffragan of *Dover*, *ad confirmandum, Sacri Chrismatis unctioe, pueros quoscunque infra Civitatem, &c. necnon Altaria, Calices, Vestimenta, & alia Ecclesie ornamenta quacunque & ea concernent' benedicend', locaque profana, si qua inveneris, de quibus te inquirere volumus, à divinorum celebratione ultimè suspendend', Ecclesias etiam & Cæmeteria, sanguinis vel seminis effusione polluta forsan, vel polluent', reconciliand', Ecclesias & altaria noviter edificata consecrand'; omnes Ordines minores quibuscunque Civitatis, &c. conferend'; ac etiam oleum sanctum Chrismatis & sacre unctiois consecrand'.*

The Nomination and Consecration of Suffragan Bishops.

Can. 10  
Dist. 67.

Cave Prim  
Christ. Part  
1. p. 221.  
Beveridge  
Pandect. T.  
2. Ancyr. 13.

Cranm. Regist.  
f. 187, 201, 202,  
203, 214, 223.  
Cranmer's Com-  
mission, stripe  
App. p. 41.



The Nomi-  
nation and  
Consecra-  
tion of Suf-  
fragan Bi-  
shops.

Bishops within their Dioceses shall be given to the said Suffragans, as to Suffragans of this Realm heretofore hath been and accustomed.

V. And be it farther enacted by authority aforesaid, That every Archbishop of his Realm, to whom the Kings Letters Patents, in the causes afove rehearsed, shall be directed, having no lawful impediment, shall perform and accomplish the effects and contents of this Act within the time of three months next after such Letters Patents shall come to their hands, any usage, customs, foreign Laws, privileges, prescriptions, or other thing or things, heretofore used, had or done to the contrary hereof notwithstanding.

VI. Provided always, that no such Suffragans which shall be made and consecrate by virtue and authority of this Act, shall take or perceive any manner of profits of the places and Sees whereof they shall be named, or use, have or execute any Jurisdiction or Episcopal power or authority within the said Sees, nor within any Diocese or place of this Realm, or else where within the King's Dominions, but only such profits, jurisdictions, power and authority, as shall be licensed and limited to them to take, do and execute, by any Archbishop or Bishop of this Realm, within their Diocese to whom they shall be Suffragans, by their Commission under their Seals: And that every Archbishop and Bishop of this Realm, for their own peculiar Diocese, may and shall give such Commission or Commissions to every such Bishop Suffragan as shall be so consecrate by authority of this Act, as hath been accustomed for Suffragans heretofore to have, or else such Commission as by them shall be thought requisite, reasonable and convenient: And that no such Suffragan shall use any Jurisdiction ordinary or Episcopal power, otherwise, nor longer time than shall be limited by such Commission to him to be given, as is aforesaid, upon pain to incur into the pains, losses, forfeitures and penalties mentioned in the Statute of Provisions, made in the xvi. year of King Richard the Second.

VII. Provided always, That the Bishop that shall nominate the Suffragan to the King's Highness, or the Suffragan himself that shall be nominate, shall provide two Bishops or Suffragans to consecrate him with the Archbishop, and shall bear their reasonable costs. Provided also, That the residence of him that shall be Suffragan over the Diocese where he shall have Commission, shall serve him for his residence, as sufficiently as if he were resident upon any other his Benefice, any Act heretofore made to the contrary notwithstanding.

VIII. Be it farther enacted, That all such Suffragans as shall hereafter exercise the Offices aforesaid by the Commission of the Bishop, for the better maintenance of his dignity, may have two Benefices with cure, any former Act made to the contrary notwithstanding.

*Tēque quoad præmissa Suffraganeum vestrum ordinamus & præficimus per presentes, donec eas ad nos duxerimus revocand'.*

[For Suffragans heretofore.] Among other Branches of the Office of the ancient *Chorepiscopi*, it is clear, and all Writers agree, that at first they had Seat and Vote in Councils. And they who were made pursuant to this Act, are by some concluded to have had the same Privilege in an English Convocation; inasmuch as among the Members of the Lower-house, *Ann. 1586*, and *1588*. we find entered, *Reverendus Pater, D. Ric. Rogers, Ep. Suffraganeus Dover*, and long before that, *Dominus Suffraganeus Thetford*, and, *Dominus Johannes Suffraganeus Thetford*. But it is to be observed, that all these had other Capacities entitling them to sit in Convocation (*viz.* Dean of Canterbury, Archdeacon of *Anglesey*, and Dean of *Norwich*) and tho' the Style of *Suffragan* is added in the Entry, it appears not that they really sat in any other capacity, than as

*Dignitaries of the Church.* In the year *1606*. the *Abstract* from the Journal of Convocation tells us, that *Dr. Stern*, Suffragan Bishop of *Colchester*, was suspended for not appearing; and I have not found that he had any other Title, but yet it is very probable that he had.

This was one of the last *Suffragan* Bishops, (if not the last) upon the foot of this Act; and the Act being still in force, as much as ever, and having so effectually restrained Suffragans from any Possibility, almost, of encroaching upon their Bishops or being uneasy to them, and the Institution also being of such evident use in large Dioceses, and under infirm and aged Bishops, especially for the work of *Confirmation*; it is humbly referred to the Wisdom of our Governours, to enquire for what causes they have been so long disused, and to consider how far the revival of them would be serviceable to the Church of Christ.

Abridgment.

The Archbishop shall Consecrate him, within three months.

The Suffragan Bishop shall receive no Profits, nor exercise Jurisdiction, but by appointment of the Bishop; under his Seal;

---and for so long time, as the Commission shall be, ---upon pain of *Præmunire*.

The Bishop nominating or nominate shall provide two Bishops to Consecrate.

Residence as Suffragan shall serve for Residence upon Benefice,

---and every Suffragan may have two Benefices;

Anno 1547.

A. D. 1554.

1, 2 Phil. & Mar. Cap. 8.

In an Act, Entituled, *An Act repealing all Articles and Provisions made against the See Apostolick, &c.*

XIII. And one other Act made in the same Session of the same Parliament, intituled, *An Act for Nomination and Consecration of Suffragans within this Realm*----- shall henceforth be repealed, made frustrate, void, and of none effect.

Repeal of the foregoing Act.



Abridgment.

1 Eliz. Cap. 1.

In an Act, Entituled, *An Act to restore to the Crown the the Ancient Jurisdiction, &c.*

IX. And one other Act made in the six and twentieth year of the said late King, entituled, *An Act for Nomination and Consecration of Suffragans within this Realm.*— shall be revived, and shall stand and be in full force and strength, to all intents, constructions and purposes.

### OF COADJUTORS.

IT was an ancient Custom in the Church, that, when a Bishop grew very Aged, or otherwise unfit to discharge the Episcopal Office; a *Coadjutor* was taken by him, or given to him: at first, in order to succeed him; but in later times, only to be an *Assistant*, during life: In such manner, however, that being Ordained Bishop, the whole Care was vested in him.

For the appointment of these, there are many Rules in the Canon-law; but that which seems to be most full, and in which the subsequent Practice of the Church of England seems to be founded, is the Decretal Epistle of *Innocent* the third to the Archbishop of *Arles*; (Decretal. l. 3. tit. 6. c. 5.) “*Ex parte tua fuit propositum, quod cum Auriacensis Episcopus gravi & incurabili morbo ferè per quadriennium laboraverit, ita quod Pastorale officium non potest ullatenus exercere; Princeps terræ illius, ac Cives Civitatis ejusdem, à te postulant incessanter, ut ipsis, cum sis Metropolitanus eorum, studeas providere. Verùm cum ipsum ad Cessionem compellere non possis, nec debeas ullo modo, nec afflicto afflicto sit addenda, imo potius ipse miseriam miserendum, eò quod idem vir bonus extiterit, & Ecclesiam salubriter sibi commissam gubernaverit: Nos volentes tam Episcopo, quàm Ecclesiæ, providere, Mandamus, quatenus illi Coadjutorem affocias, Virum providum & honestum; per quem tam Episcopo, quàm populo, utiliter consulatur.*”

Accordingly, we find three *Coadjutors*, in one Commission, given by Archbishop *Peckham* to the Bishop of *London*; and the Powers given are, to Collate to Benefices of the Patronage of the See, to institute Clerks, presented by others, and to grant *Commendas Canonicas, in suis casibus*, i. e. Dispensations to hold a second Benefice for a time, without Institution; the granting of which was in the power of the Bishops, and they in fact frequently granted it. And, by another Instrument, the same Archbishop commits *Custodiam Sigilli* to one of those three; with this limitation, that he should not set it to any Institutions or Collations, but with Consent of the other two.

But there was this remarkable in the Appointment, that none of the three were Bishops, but *Presbyters* only, viz. the Dean,

and Treasurer of *St. Paul's*, and the Archdeacon of *Colchester*; the Discharge of the Duties merely Episcopal being, probably, undertaken by a *Suffragan* Bishop. In like manner, as we find it in the Diocese of *Lichfield*, under the same Archbishop; who having required the Bishop to provide a Suffragan for the mere *Spiritual* purposes of his Diocese, in the words cited before; enjoys him in the same Instrument, not to Collate to any Benefice, *absque Coadjutoris vestri consilio pariter & consensu*; which Coadjutor had been appointed before, and was the Archdeacon of *Chester*; to whom also, in the same Commission, the Archbishop assigns 100 Marks by way of Salary, to be paid him out of the Bishoprick, at *Midsummer* and *Christmas*.

In the time of the same Archbishop, a Coadjutor was given to *Robert* Bishop of *Sarum*; and a dispute arising concerning the Method of appointing him (occasioned, as it shou'd seem, by some pretended Immunities, or Compositions; probably that, for the supplying of Jurisdiction, *sede vacante*) a twofold expedient was thought of, either for the Bishop to name two or three of the Chapter, who, being *Capitularly* approved, might be presented to the Archbishop to chuse one; or for the Chapter to name, and the Archbishop to chuse.

By these Instances it appears, that whatever the Practice might be in ancient times, and in other Countries; here in *England*, the two ends of *Orders* and of *Jurisdiction* *Voluntary*, in case of the Inability of a Bishop, were answered by two several persons; the first under the name of *Suffragan*, and the second under the name of *Coadjutor*. And tho' in subsequent times, we find little mention of the last, yet *Curators* or *Coadjutors* to the beneficed Clergy in the like circumstances, have been very common both before and since the Reformation, as will appear in the proper place: And the *Reformatio Legum* urges, that, by parity of reason, Coadjutors ought to be assigned to Bishops: *Quemadmodum Episcopi ministris inferioribus, cum jam vel propter morbum desperatum, vel propter senectutem, Ecclesiam ministrare diutius non possint, Adjutores apponere debent; sic etiam illis, ob easdem causas, ab Archiepiscopo dabuntur, modo noster consensus interveniat.*

Reviver of the foregoing Act, 26 H. 8. c. 14.

Extra. l. 1. r. 31. c. 15.  
Sext. Decretal. l. 3. t. 5. c. 1.  
Caus. 7, 9, 1. c. 1, 4, 5, 6, 13, 17, 18.

Peckh. Reg. f. 23. a.

Ibid.

The Nomination and Consecration of Suffragan Bishops.

A.D. 1558.

Ibid. 25. b.

Peckh. 103. a.

Ibid. 143.

Pag. 51. b.



## TIT. VI.

The ORDINATION of PRIESTS and  
DEACONS.

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CISE of Orders received.*

## CAP. I.

*The Necessity of ORDINATION.*

## XXXIX. ARTICLES.

XXIII. *Of Ministering in the Congregation.*

**N**o man is not lawful for any Man to take upon him the Office of publick Preaching, or ministering the Sacraments in the Congregation, before he be lawfully called, and sent to execute the same. And those we ought to judge lawfully called and sent, which be chosen and called to this Work by Men who have publick Authority given unto them in the Congregation, to call and send Ministers into the Lord's Vineyard.

*a* It is not lawful, This Article was framed upon the Preface before the Forms of Ordination; which see before (together with the Observations upon it) in Tit. 3.

3 &amp; 5 Edw. VI.----- 13, 14 Car. II.

*In the Form of Ordaining Deacons.*

**D**O you think, that you are truly called, according to the Will of our Lord Jesus Christ, and the due Order of this Realm, to the Ministry of the Church?

Answer.

None shall Preach, or Minister Sacraments, till he is called,

---by those who have Authority to call.

Ordination of Deacons according to the Law of Christ, and the Realm.

13 Eliz.  
A.D. 1571.

The Necessity of Ordination.

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A.D. 1549.  
&c.



Abridgment.

The Necessity of Ordination.

Answer.

I think so.

3 & 5 Edw. VI.-----13, 14 Car. II.

A.D. 1549. &c.

In the Form of Ordaining Priests.

Ordination of Priests, according to the Law of Christ, and the Church of England.

DO you think in your heart, that you be truly called, according to the Will of our Lord Jesus Christ, and the Order of this Church of England, to the Order and Ministry of Priesthood?

Answer.

I think it.

<sup>a</sup> Not in 3 nor 5 E. 6.

<sup>b</sup> Do you think.] The like question is asked of every Bishop at his Consecration; concerning a regular and lawful Call is al- as in p. 136.

C A P. II.

The TIME and PLACE of Ordaining.

3 & 5 Edw. VI.-----13, 14 Car. II.

A.D. 1549. &c.

Preface to the Forms of Consecration and Ordination.

At what Times, a Deacon may be Ordained.

AND the Bishop — may at the <sup>c</sup> times appointed in the Canon, or else upon urgent occasion, <sup>d</sup> on some other Sunday or Holy-day, <sup>e</sup> in the face of the Church, admit him a Deacon, in such manner and form as hereafter followeth. —

The Times of Ordaining.

Conft. 97.

Self. 78.

<sup>c</sup> Times appointed in the Canon.] i. e. The *jejunia quatuor Temporum*, or *Ember-weeks*; which became the settled Times of Ordination about the fourth or fifth Century; and, (being gradually received by several Churches, as appears by the many Canons and Constitutions to that effect,) we find them the Rule of the Church of England, in the body of Canons drawn by Egbert Archbishop of York, about the Year 750. *Presbyterorum verò & Diaconorum Ordinationes fieri oportet in quatuor Temporum Sabbatis.* And so the Practice continued to be, both here and elsewhere; and, in the Convocation, 1662. we find a special Order of the President, by way of enforcement of the ancient Law; *quòd nullæ Ordinationes Clericorum per aliquos Episcopos fierent, nisi intra quatuor Tempora pro Ordinationibus assignata.*

<sup>d</sup> On some other.] This may not be done, at the discretion of the Bishop, but must have the Archbishop's Dispensation or Licence, as the Practice hath been; and as it was understood to be a special Prerogative of the See of Rome, in the times of Popery. Witness the Resolution of the Upper House of Convocation, in Queen Mary's Reign, that (in order to make the number of Clergy sufficient to supply the Cures) the Bishops might be authorized by the Pope, to give Orders *extra tempora præscripta.* <sup>e</sup> In the face of the Church.] For which, and for Ordinations being held on some Festival, the forementioned Constitution of Egbert gives a good reason; *ut dum hæc Ordinatio coram populo agitur, sub omnium testificatione, Electorum Ordinatorumque opinio discutatur.*

Ann. 1557. Self. 11.

Conft. 97.

3 & 5 Edw. VI.-----13, 14 Car. II.

A.D. 1549. &c.

Preface to the Forms of Consecration and Ordination.

At what times, he who is a Deacon, may be Ordained Priest.

— In executing whereof, if he be found faithful and diligent, he may be admitted by his Diocesan to the Order of Priesthood, at the times appointed in the Canon; or else on some urgent occasion, upon some other Sunday, or Holy-day, in the face of the Church; in such manner and form as hereafter followeth.



The Times of Ordination. I Jac. I.

CANONS 1603.

Abridgment..

XXXI. Four Solemn Times appointed for the making of Ministers.

Forasmuch as the Ancient Fathers of the Church, led by Example of the Apostles, appointed Prayers and Fasts to be used at the solemn ordering of Ministers; and to that purpose allotted certain times, in which only Sacred Orders might be given or conferrèd: We, following their holy and religious Example, do constitute and decree, That no Deacons or Ministers be made and ordained, but only upon the Sundays immediately following Jejunia quatuor temporum, commonly called Ember Weeks, appointed in ancient time for Prayer and Fasting (purposely for this Cause at their first Institution,) and so continued at this Day in the Church of England. And that this be done in the Cathedral or Parish-Church where the Bishop resideth, and in the time of Divine Service, in the Presence not only of the Arch-deacon, but of the Dean and two Prebendaries at the least, or (if they shall happen by any lawful Cause to be let or hindred) in the Presence of four other grave Persons, being Masters of Arts at the least, and allowed for publick Preachers.

Ordinations shall be held four times a year, according to ancient practice,

--where the Bishop resideth, and in presence of the Archdeacon, and 4 other grave Persons.

C A P. III.

The TITLES of Persons to be Ordained.

O T H O.

In Const. De Scrutinio Ordinandorum.

Uare, cum nimis periculosum sit, sine certo titulo & vero aliquos Ordinare; statuimus, ut ante collationem Ordinum per Episcopum, de his omnibus Inquisitio ac Indagatio diligens habeatur.

Bishop shall diligently Examine the Titles of Persons to be Ordained.

CANONS 1603.

XXXIII. The Titles of such as are to be made Ministers.

It hath been long since provided by many Decrees of the ancient Fathers, that none should be admitted either Deacon or Priest, who had not first some certain Place where he might use his Function. According to which Examples we do ordain, that henceforth no Person shall be admitted into Sacred Orders, except he shall at that time exhibit to the Bishop, of whom he

None shall be Ordained, but who is to be employed,

---as Incumbent,

A.D. 1237. 22 H. 3.

Edit. Oxon. p. 16.

I Jac. I.

An. 451. Can. 6.

Many Decrees.] These, in the ancient Canons, are without number; but I think one of the most early and most strict among them, is that of the Council of Chalcedon, Μηδὲνα ἢ ἀπολευμενῶς χειροτονεῖσθαι, μή τε Πρεσβύτερον, μή τε Διάκονον, μή τε ὅλος τινα τῶν ἐν Ἐκκλησιαστικῷ τάγμασι, εἰ μὴ ἰδικῶς ἐν Ἐκκλησίᾳ πόλεως, ἢ κάμης, ἢ Μαρτυρίου, ἢ Μοναστηρίου, ὁ χειροτονεῖσθαι ἐπιτρέψοιτο. Τὸς ἢ ἀπλῶς χειροτονεῖσθαι δεῖσθαι ἢ ἀγία Σύνοδος ἀκροῶν ἔχον ἢ τοιαύτω χειροθεσίαν, ἢ μηδαμῶς δυνάσθαι ἐνεργεῖν, ἐφ' ὅβρι τοῦ χειροτονεῖσθαι, i.e. Nullum absolutè Ordinari debere Presbyterum aut Diaconum, nec quemlibet in Gradu Ecclesiastico, nisi specialiter in Ecclesia Civitatis aut Pagi, aut in Martyrio, aut Monasterio, qui Ordinandus est, pronuncietur. Qui verò absolutè Ordinantur, decrevit Sancta Synodus irritam haberi hujuscemodi manus Impositionem, & nusquam posse ministrare, ad probrum Ordinantis. Which Rule was transferred into the Con-

stitution of the English Church, by Egbert Archbishop of York; Nullus absolutè ordinetur, & sine pronunciatione loci ad quem ordinandus. And it was accordingly prohibited in the several Bodies of our Canons, made since the Reformation and before the Canons of 1603.

Except he shall.] By this branch of the Canon, which is negative and exclusive, one sort of Title that was heretofore very common, is in great measure taken away, viz. Titulus Patrimonii sui, which we meet with very frequently among the Acts of Ordination in our Ecclesiastical Records; and not only so, but the Title of a Pension or Allowance in Money, which is frequently specified; and sometimes, the Title of a particular person (of known Abilities and there named) without any such specification of an Annual Sum. Which Practice was found

Const. Egbr. 51.



**Abridgment.**  
 ---or as Curate,  
 ---or in a Cathedral,  
 ---or Fellow or Chaplain of a College,  
 ---or five years Master of Arts,  
 ---or to be promoted by the Bishop.  
 Bishop admitting without a Title, shall maintain him.

desireth Imposition of Hands, a Presentation of himself to some Ecclesiastical Preferment then void in that Diocess: or shall bring to the said Bishop a true and undoubted Certificate, that either he is provided of some Church within the said Diocess, where he may attend the Cure of Souls, or of some Minister's Place vacant, either *g* in the Cathedral Church of that Diocess, or in some other Collegiate Church therein also situate, where he may execute his Ministry: or that he is *h* a Fellow, or in Right as a Fellow, or to be a Conductor or Chaplain in some College in *Cambridge* or *Oxford*: or except he be a Master of Arts of five Years standing, that liveth of his own Charge in either of the Universities: or except *i* by the Bishop himself, that doth ordain him Minister, he be shortly after to be admitted either to some Benefice or Curateship then void. And if any Bishop shall admit any Person into the Ministry that hath none of these Titles, as is aforesaid, then he *k* shall keep and maintain him with all things necessary, till he do prefer him to some Ecclesiastical Living. And if the said Bishop shall refuse so to do, he shall be suspended by the Archbishop, being assisted with another Bishop, from giving of Orders by the space of a Year.

*The Titles of Persons to be Ordained.*

L. 3. tit. 5. c. 23.

Spel. Vol. 2. p. 125.

ed as well on the 5th Canon of the 3d Lateran Council; and the Decretal Epistle upon that head, providing that Persons may be Ordained, *de Patrimonialibus bonis habentes unde possunt congruè sustentari, etsi nondum fuerint Beneficium Ecclesiasticum assecuti*; as in the Constitution of London. Ann. 1200. where we find this Limitation of the general Precept, transcribed from the Lateran Canon, *nisi forte talis, qui ordinatur, extiterit, qui de sua, vel paterna hæreditate, subsidia vitæ possit habere.*

At such Titles, after the *Estate, Summe, &c.* is often added in the Acts of Ordination (especially when it was small) *de quo reputavit se contentum*; which Declaration, so made and entred, was understood to be a Discharge of the Bishop Ordaining, from any Obligation to provide for him.

*g* **In the Cathedral.]** This is only an affirmance of what was the Law of the Church before; the Title of *Vicar Choral* being frequently entred as a *Canonical Title*, in our Acts of Ordination.

*h* **A Fellow.]** This also, as to *Fellows* of Colleges, appears to have been all along the Law of the Church of England, by the frequent Entries of that Title, as received and admitted, in the Acts of Ordination; but, as to *Chaplains* and *Masters* of such a standing, these are Titles founded upon this Canon; as I gather from the silence of our ancient Books: tho' it is true, the *Articuli Cleri* in 1584. and the Constitutions of 1597. do run in such general terms, as might include these, *Vel qui in aliquâ Cathedrali aut Collegiâ Ecclesiâ vel Collegio Cantuariensi aut Oxoniensi, non fuerit constitutus.*

*i* **By the Bishop.]** *Ad titulum Gratia Domini*, is what we frequently meet with, in our ancient Acts of Ordination.

*k* **Shall keep and maintain.]** These are the words of the forementioned Canon of the Council of *Lateran*; *Episcopus, si aliquem sine certo Titulo, de quo necessaria Vita percipiat, in Diaconum, vel Presbyterum ordinaverit, tamdiu necessaria, ei subministrat, donec in aliquâ ei Ecclesiâ convenientia stipendia militiæ Clericalis assignet.* Which Canon was taken into the Body of Laws made in a Council held at *London*, in the Year 1200. The ancient Penalty upon the person ordained, was, a nullity of the Ordination, *Decrevit Sancta Synodus [Chalcedon.] vacuam habere manus*

Lateran, Can. 5.

Spel. Vol. 2. p. 124.

Diff. 70. c. 12.

*Impositionem*; and, *Decernimus, ut sine Titulo facta Ordinatio, irrita habeatur*; and, in a Constitution made in a Council at *London*, Ann. 1126. *Nullus in Presbyterum, nullus in Diaconum, nisi ad certum titulum Ordinetur: Qui verò absolute fuerit Ordinatus sumptibus careat dignitate.* But the Canonists interpreted this to hold, *quoad Executionem* only, and (as I suppose) till the *Irregularity* was dispensed with; but the method chiefly made use of, to discourage the Practice, was the execution of the Penalty upon the Bishop Ordaining; of which we find Instances in the time of Archbishop *Winchelsea*, viz. *An express Order from the Archbishop, to one of his Comprovincial Bishops, to provide one of a Benefice, whom he had Ordained without Title*; and, a *Citation of the Executors of a Bishop deceased, to oblige them to provide for one, whom the Bishop had so Ordained.* To which I will add two like Cases, in the time of the same Archbishop, viz. his Order to a Bishop, to oblige a Clergyman, who had given a title of a certain Annual Sum, to pay it till the Clerk should be provided for; and, a *Citation to Merton College, to shew Cause, why they should not be obliged to maintain one, to whom they had given a Title, at his Ordination.* Insomuch, that the *Articuli Cleri*, and the Constitutions of 1597. refer to this in general only, as the known penalty of Ordaining without Title, *is eam præterea penam incurrat, quæ de jure in ejusmodi Episcopos, qui ad Ordines Ecclesiasticos sine Titulo aliquem promovebunt, statuitur.* In like manner, the Observance of this Canon of 1603. (or rather of the Common-Law of the Church of which this Canon is only an affirmance) was specially enforced upon the Bishops, by his Majesty *K. Charles I.* and by Archbishop *Land*, upon this pain or penalty of maintaining the person, if they did. And it is much to be wished, that the Laws of the Church, in this particular, were strictly executed; especially in the case of *Titles* to temporary Cures (if such are really comprehended and allowed in this Canon;) and that the Persons who grant such Titles, were made more sensible of the consequence of what they do, and their Names enter'd in the Acts of Ordination, as standing engaged; which, in ancient times, was punctually done, as a testimony against the Person

Spel. V. 2. p. 34.

Registr. Winch. 149. b.

Ibid. 188. a. 223. a. 149. b. 294. a.

Reg. Land 190. b.

Entitling,



Entitling, in case the Clerk (ordained upon such Title) should at any time want convenient Maintenance. The Scandal and Inconveniences of many kinds, which accrue to the Church, by multiplying the numbers

of Clergymen so far beyond the number of Benefices (and that chiefly by means of the Titles we are now speaking of) seem to deserve Consideration, and to call for a speedy and effectual Remedy.

Abridgment.

## CAP. IV.

LETTERS DIMISSORY, for the Ordaining of Persons by another Bishop.

## RICARDUS.

*Nullus extra suam Diocesim à non suo scienter Ordinetur Episcopo.*

QUIA quidam, & infra. Episcopus nostræ Jurisdictioni subjectus, qui scienter l Clericum vel Parochianum alterius Episcopi ordinaverit sine ipsius Episcopi licentia speciali, ab illius Ordinis collatione, ad quem talem susceperit vel ordinaverit, usque ad condignam satisfactionem se noverit esse suspensum.

Bishop Ordaining one of another Diocese, without Licence, shall be suspended.

l Clericum vel Parochianum.] Clericum, i. e. prius Ordinatam, sive in Ordinibus majoribus, sive in minoribus. Parochianum, i. e. Laicum prius non ordinatum.

Parochia enim sæpe ponitur pro Diocesi, unde & Parochianus intelligitur qui in Parochia habitans infra Diocesim. Lindw.

## EDMUNDUS.

*In Constitutione Eos qui, &c. sub Tit. De Temporibus Ordinandorum.*

— Eos etiam qui m non suis Episcopis, præter licentiam suorum Episcoporum seu Prælatorum, ad Sacros Ordines promoti fuerint, ab Executione Ordinis sic suscepti suspendimus, donec n Dispensationis gratiam fuerint consecuti.

Persons Ordained by another Bishop, without Letters dimissory, shall be Suspended.

m Non suis.] Suus Episcopus esse dicitur, quoad Ordines dandos, is, in cujus Diocesi oriundus est; vel in cujus Diocesi est beneficiatus, vel in cujus Diocesi habet domicilium. Lindw.

n Dispensationi.] Sufficiet Dispensatio facta per suum Episcopum, qui potest illam Ordinationem habere ratam. Lindw.

## WALTERUS.

*Prælati subditos suos à non suo Episcopo sine literis dimissoriis ordinari non faciet.*

CUM quanta, & infra. Prohibemus, ne quis Abbas vel Prior Monachos vel Canonicos suos ab alio Episcopo, quam o loci Diocesano, faciat ordinari, nisi cum literis p dimissoriis ipsius Episcopi, vel, in ejus q absentia, Vicarii sui generalis.

Religious shall not be Ordained by any but their own Bishop, without his Letters Dimissory.

o Loci Diocesano.] In non exemptis hoc plane procedit; secus tamen videtur in exemptis; nam tales non solum possunt suis Monachis primam tonsuram conferre, sed etiam alienis, ubi ad hoc fuerint invitati; dum tamen sic Ordinati etiam sint exempti. Et possunt hujusmodi Exempti dare literas Commendaticias suis Monachis, ad Ordines. Lindw.

p Dimissoriis.] Dicuntur dimissoria, quia per eas Episcopus dimittit subditum suum, & licentiat ut alibi possit promoveri, & quod alius Episcopus possit eum Ordinare. Lindw.

q Absentia.] Scil. extra Diocesim suam. Lindw.

A.D. 1230.  
15 H. 3.

Edit. Oxon.  
p. 32.

A.D. 1236.  
21 H. 3.

Edit. Oxon.  
p. 25.

A.D. 1322.  
16 Edw. 2.

Edit. Oxon.  
p. 30.



Abridgment.

## CANONS 1603.

In Can. xxxiv. Entituled, *The Quality of such as are to be made Ministers.*----- and xxxv. Entituled, *The Examination of such as are to be made Ministers.*

**N**O Bishop shall henceforth admit any Person into Sacred Orders, which is not of his own Diocese, except he be either *r* of one of the Universities of this Realm, or except he shall bring Letters dimissory (so term'd) from the Bishop of whose Diocese he is----- And if any Bishop or Suffragan shall admit any to Sacred Orders, who is not so qualified ----- as before we have ordained; the Archbishop of his Province having notice thereof, and being assisted therein by one Bishop, shall *s* suspend the said Bishop or Suffragan so offending from making either Deacons or Priests, for the space of two Years.

*r* **Of one of the Universities.]** I have observed, in the ancient Acts of Ordination, that the Fellows of *New College*, *St. Mary Winton*, and *King's College* in *Cambridge*, are mentioned, as possessed of a special Privilege from the Pope, to be Ordained by what Bishops they pleased; and they are said to be *sufficienter dimissi*, in virtue of that Privilege, and without Letters dimissory. But it appears not by our Books, that this was then that general Right of all Colleges in the two Universities, to which they are entitled by virtue of this Canon; on the contrary, it is not only not said of other Colleges (so far as I have observed,) but in *Chicheley's Register*, we find this Entry, *Socius Aulae de Balliolo, extra muros Oxon' Lincoln' Dioces. per literas dimissorias ad titulum Collegii sui.*

*s* **Suspend.]** *Per annum, à Collatione Ordinum decernimus esse suspensos*, saith the Ca-

non-Law, from the Council of *Lions*, 1271. and the same is followed by the Council of *Trent*. But, besides the Punishment of the Ordainer, there was also a Punishment upon the person Ordained: *Non sit rata Ordinatio ejus*, and, *Irita sit hujusmodi Ordinatio*, in *Gratian*, i. e. saith the Glofs, *nisi postea ratam haberet suus Episcopus*: Agreeably to which, we find the Law in the *Saxon* times, *Exuatur Ordine, nisi Diocesanus Episcopus Ordinationi pepercerit*; and afterwards, in the Council of *Westminster*, Ann. 1138. the Punishment was somewhat mitigated, *à susceptorum Officiis Ordinum inhibemus, solique Romano Pontifici eorundem plenaria restitutio referretur*; which is, in effect, the same Penalty that we find continued in the foregoing Constitution of *Edmund* Archbishop; with this difference, that the Dispensation there, was grantable by his own Bishop.

Letters  
Dimissory,  
for Ordain-  
ing Persons  
by another  
Bishop.

I Jac. 1.

Sext Decretal.  
l. 1. c. 9. c. 2  
Sess. 14. c. 2.

Dist. 71. c. 1, 3.

S-el. Vol. 1. p.  
496.

## Other Rules concerning Letters Dimissory.

**I.** **T**HE Archbishop, as Metropolitan, may not grant Letters dimissory: So saith *Lyndwood*, *Etiam Archiepiscopus, jure Metropolitico, non potest has literas concedere*; but (as he tells us) this is to be understood with an exception to the time of his Metropolitanical Visitation of any Dioceses, during which he may both grant Letters dimissory, and Ordain the Clergy of the Diocese Visited; *Durante Visitatione bene concedit Dimissorias, & potest ordinare Clericos Diocesanos*. Accordingly in fact, we find Archbishop *Chicheley* holding Ordinations in his Metropolitanical Visitation, and in the Titles to the Acts of those Ordinations, it is said, *Civitatem & Dioces' Lincoln' suae Cantuariensis Provinciae jure suo Metropolitico actualiter Visitan*—and, *ad quem omnis & omnimoda Jurisdictio Spiritualis & Ecclesiastica infra Civitatem & Dioces'm Lincoln' ratione Visitationis suae Metropoliticae, illa vice notorie pertinebat*.

**II.** During the Vacancy of any See, the Right of granting Letters dimissory within that See, rests in the Guardian of the Spiritu-

Ordaining also, where such Guardian is of the Episcopal Order. So saith the Canon-Law, *Sede vacante, Capitulum, seu is ad quem tunc temporis Administratio Spiritualium noscitur pertinere, dare possunt Licentiam Ordinandi*. And herewith agreeth *Lindwood* (with reference to that Law) on the words *Vicarii Generalis* in Archbishop *Walter's* Constitution,----- *qui non solum banc Licentiam concedit, sed etiam Capitulum, sede vacante, & is ad quem tunc Administratio hujusmodi pertinet in Spiritualibus*. So, in *Arundel's Register*, we find one of the Diocese of *S. Asaph* ordained by the Archbishop, *Custodia Spiritualitatis ibidem in manibus Domini existente*; and, in another place, with relation to one of the Diocese of *St. David's*, *alias sufficienter dimissus per Dominum, quando Custodia Spiritualitatis Episcopatus Meneven' sede ibidem tunc vacante, in manibus suis extitit*. For tho', of common right, the Dean and Chapter are Guardian of the Spiritualities, with us the Archbishop is entitled to it (and in virtue thereof, to the granting of Letters dimissory) in most Dioceses. But there are some Dioceses (particularly,

Sext. Decretal. l. 1. c. 3.

De temp Ord. c. Cum quanta.

Reg. Arund. V. 2. p. 95. a.

Ibid. 95. b.

Bishop Ordain-  
ing one of another  
Diocese, without  
Letters dimissory,---shall be suspend-  
ed from giving Or-  
ders.De Temp.  
Ord. c. Cum  
quanta.

Ibid.

Reg. Chich.  
395. a. 393.  
b. 399. a.



Letters  
Dimissory,  
for Ordain-  
ing Persons  
by another  
Bishop.

ibid.

Reg. Winch.  
f. 110. b.

Sext. Decretal.  
l. 1. c. 9. c. 3.  
Lindw. ut supra.

ibid.

Sext. Decretal.  
l. 1. c. 9. c. 3.

Reg. Peckh. 106.  
2.

ibid. 106. b.

Reg. Bourch.  
182. a.  
4. Epp.

ibid. 183. b.

ibid. 181. b.

particularly, London, Lincoln, Worcester, and Sarum) where, in virtue of special Compositions, upon the Vacancies of the Sees, Persons are recommended to that Office by the Dean and Chapter, and approved and commissioned by the Archbishop; and in such case, the Question is, Whether the Archbishop or the Chapter shall grant Letters dimissory? To which Lindwood returns Answer, that neither shall grant them, nisi, in Compositione, aliqua Clausula specialis hanc potestatem reservet ipsorum alteri; sed hæc Potestas pertinet ad ipsum qui nomine tam Capituli quam Archiepiscopi ibidem deputatur, ut in Spiritualibus administret. And so we find, in Archbishop Winchelsey, per dimissorias Prioris Wigorn. Officialis Domini, sede vacante.

III. A Bishop being in parts remote, he who is specially constituted Vicar General, for that time, hath power to grant Letters dimissory: Episcopo autem in remotis agente, ipse in Spiritualibus Vicarius Generalis, dare potest licentiam Ordinandi. Instances of this kind occur frequently in our Records; and the reason of it is, because, during that time, the whole Episcopal Jurisdiction is vested in him; as it is also in Persons who enjoy Jurisdictions entirely exempt from the Bishop, and who therefore may likewise grant them. But, on the other hand, the general Rule is, Alius inferior Episcopo hanc licentiam non concedit; and particularly, the Chancellor or Official of a Bishop, cum ad hoc se ipsius Officium non extendat, hujusmodi nequit licentiam impertiri; i. e. of common right, and without special Commission.

IV. The Persons to whom Letters dimissory may be granted by any Bishop, are either such who were born in the Diocese, or are promoted in it, or are resident in it. This appears from Lindwood, in his Commentary upon the foregoing Constitution of Archbishop Walter; whose Observation is taken from the Body of the Canon Law. Episcopus, de cujus Diocesi est is, qui ad Ordines promoveri desiderat, oriundus, seu in cujus Diocesi Beneficium obtinet Ecclesiasticum, seu habet (licet alibi natus fuerit,) domicilium in eadem. But altho' this is laid down disjointively, so as Letters dimissory granted in any of the three Cases will be good; yet it appears in practice, that heretofore they were judged to come more properly from the Bishop in whose Diocese the Person was born, or had long dwelt, than (as the Practice now is) from the Bishop in whose Diocese he was promoted, or in which his Title lay. Thus (as to Persons Ordained by the Archbishop) the Title was from the Prior and Convent of St. Gregory's Canterbury, yet Letters dimissory came from the Bishop of Worcester, of whose Diocese he was. So, in another case, tho' the Title was de gratia Domini, yet the Person to be Ordained had Letters dimissory from the Bishop of Winchester. Again, one was Rector of Stretton in Lichfield Diocese, but born in the Diocese of London, and his Letters dimissory were from the Bishop of London: Another was Rector in Sarum Diocese, but born in the Diocese of Lincoln, and it is said in the Acts of Ordination, per literas dimissorias sui Episcopi, viz. Lincoln. dimissus, ad titulum Ecclesie sue. The like, in the same Register, Rector

Ecclesie Parochialis de Eyston London Diocesi. & ratione originis Linc. Diocesi. per literas dimissorias Domini Linc. Episcopi, ad titulum dictæ Ecclesie sue. And it is said of one who had a Rectory in Lincoln Diocese, but was born in that of Canterbury, Oriundus in Diocesi Cant. Rector Ecclesie de Halton super Trentam Linc. Diocesi. ratione Originis, absque literis Episcopi Lincoln.

And the reason of this regard to the Place of Birth and Dwelling, is plain; because the Bishop of such Diocese is justly presumed to have the best opportunity of knowing the Conversation of the Person to be Ordained; with an eye to which circumstance, when the Regard was to the place of Dwelling and not of Birth, we find it specially noted in the Register, how long the Person (to be then Ordained without Letters dimissory in consideration of his dwelling) had been Resident in the Diocese of the Bishop Ordaining: Natus in Diocesi Cicestr' & moram traxit in Diocesi. Cant. per 15 annos, & ibi legit perpetuam mansorem: Another, qui traxit moram per decennium in Diocesi Domini, & habet animum perpetuo commorandi in eâ; a third, of Lincoln Diocese, qui moratur in Diocesi. Cantuar. & Jurisdictione immediatâ per 12 Annos.

V. The Fitness of the Person to be Ordained (as to Life, Learning, Title, &c.) ought to appear, before the granting of Letters dimissory. This is supposed (as to Conversation at least) in what hath been said, under the last head; and as to the Title, it was not only enquired into by the Bishop granting the Letters, but frequently remained with him; of which, special notice was taken in the body of such Letters. One was Ordained by Letters dimissory from the Bishop of Sarum, ad titulum Prioris & Fratrum Hospitalis de Lechlade, penes Episcopum Sarum residentem, & Copiam ejusdem sub sigillo suo penes Registrum nostrum residentem. — Another, per dimissorias sui Diocesanum, quem idem Diocesanus suus, in literis dimissoriis hujusmodi, sufficientem habere Titulum testabatur: Three others ad titulum in literis dimissoriis penes nos remanent expressum. Another, per dimissorias Episcopi sui continentis titulum suum — and, per dimissorias Episcopi Sarum, testantis ipsum habere Titulum à Domo de Amesbury. The like, in Archbishop Islip's Register, Per dimissorias sui Diocesanum, qui Diocesanus dicit in literis dimissoriis, hujusmodi Titulum suum, etiam ad istum Ordinem, remanere penes Registrum suum.

A little before the time of our Reformation, there was an excellent Canon made upon this Head, in one of the Councils abroad; which, tho' not a Law here, may yet be an useful Rule. "Volentes impetrare Literas dimissorias, accedant ad Diocesanos; qui super ætate, literaturâ, moribus, beneficio, seu patrimonio inquirant, serventque diligenter prædictas solennitates, perinde ac si in propria Ordinare vellent. "Ac tunc sic Examinato concedantur literæ dimissoriæ, remittaturque ita Examinatus cum literis ipsis: in quibus etiam declaretur prædicta solennitas sic observata, fiatque mentio expressa de Beneficio aut Patrimonio; ut Episcopus, ad quem se conferet Ordinandus, eum sine scrupulo promoveret & ordinare possit. Quod si prop-

Abridgment.

Reg. Islip.  
P. 321. a.

Reg. Sudb.  
179. a.

ibid. 141. b.

ibid. 146. a.

Reg. Reyn.  
185. a.

ibid. 171. b.  
172. a.

ibid. 176. a.

78. b.

180. b.

Reg. Islip,  
317. a.

Conc. Sen. n.  
1528.



## Abridgment.

“ter Infirmi-  
“nabilem, is, qui literas dimissorias ob-  
“tinere cupit, non possit commodè acce-  
“dere ad suum Episcopum, tunc remittatur  
“super ætate, literaturâ, ac moribus, ut  
“prius, Examinandus, ad Episcopum, cui  
“literæ dimissoriæ præsentabuntur; inse-  
“ratûrque in illis Literis dimissoriis Clau-  
“sula, *super quo Conscientiam tuam oneramus.*

Conc. Nar-  
bon. Can. 12.

Which Canon was rendered yet more  
strict, in a Provincial Council held in the  
Year, 1551. “Nullus posthac, qui Diœcesi  
“præsit, literis dimissoriis inserat Clau-  
“sulam illam, negligentia potius quàm mu-  
“neris rectè administrati testem, viz. Con-  
“scientiam vestram exonerantes; sed per li-  
“teras suas testetur eos idoneos, & qui  
“provehantur, dignos; quibus hanc inseret  
“Clausulam, *Quem idoneum & dignum re-  
“perimus; aut nulla literis fides habebi-  
“tur.*

VI. Letters dimissory may be granted at once,  
ad omnes Ordines, and directed to whichever  
Episcopo Catholico, at large. This hath  
been the Practice in the Church of England,  
both before and since the Reformation; as  
appears by Innumerable instances, in the  
Acts of Ordination, of *Literæ dimissoriæ ad  
omnes*; and by the forms of the Letters di-

missory (whether *ad omnes*, or not) which  
are directed in that general stile. But other  
Churches, finding the many Inconveni-  
ences of this Practice (especially, where  
such Letters are granted, without previous  
Examination) have expressly forbid them  
both. — *Neque ad omnes, simul, hujusmo-  
di literæ dabuntur, sed ad singulos Ordines se-  
paratim*; and another more expressly, *Ne-  
que ad Ordines plures Sacros suscipiendos, sed  
ad unum duntaxat; quo suscepto, vel tempo-  
ribus Ordinationum, à die facultatis concessæ  
proxime sequentibus, lapsis, quascunque Facul-  
tatis literas nullas esse, & omni virtute carere  
declaramus.* And as to the general Directi-  
on to any Catholick Bishop, *Graviter officium  
rectæ Ministrorum Ecclesiæ Ordinationi Faculta-  
tes de promovendo à quocunque. Quare, ut  
probè noverit Episcopus Subditorum suorum mores,  
per semetipsum Ordines conferre teneatur, nisi  
ægritudine, aut aliâ justâ causâ impediatur:  
quâ subsistente, subditos suos aliter quàm jam  
probatos, examinatos, & de quorum probitate,  
moribus, & conversatione per denunciations in  
Ecclesiâ factas sibi constet, ad alium viciniorem,  
seu alios certos, non ad quemcunque, dimittat,  
causam in Literis exprimendo, cur à se non po-  
tuerint Ordinari.*

Letters  
Dimissory,  
for the Or-  
daining of  
Persons by  
another Bi-  
shop.

Conc. Narbon.  
1551. Can. 12.  
Burdigal. 1624.  
de Ord. Can. 9.

ibid.

## C A P. V.

The AGE, ABILITIES, and other QUALIFICATIONS  
of Persons to be Ordained.

## O T H O.

## De Scrutinio Ordinandorum.

## Summarium.

*Ut Sacer Ordo tantum idoneis conferatur, summus habendus est delectus: &  
ne reprobati approbatis immisceantur, conservandus est eorum numerus, &  
nomina scribenda, subque Episcopo derelinquenda.*

SACER ordo eo est digno dignius conferendus, quò ab Ordinato Sacramenta  
cætera conferantur. Quare cum nimis periculosum sit minus dignos, idio-  
tas, ss illegitimos, irregulares, illiteratos, & extraneos, aut sine certo titulo  
& vero aliquos ordinare, statuimus, ut ante collationem Ordinum per Episco-  
pum de his omnibus inquisitio ac indagatio diligens habeatur.

Et nè reprobatis, qui non sunt reprobandi, ac approbatis clanculo im-  
miscere se valeant, in examinatione reprobati scribatur numerus, & nomina  
probatorum: & qui scripti fuerint, postmodum in Ordinationis limine, perlectâ  
Scripturâ, discretione solita u requirantur; ipsaque scriptura apud Episcopum  
vel Ecclesiam Cathedrali conservetur.

ss Illegitimos, Irregulares.] De his, vide  
Lyndw. infra, in Comment. super Consti-  
tutionibus Edmundi, sub hoc Tit.

& Extraneos.] Scil. de alienâ Diœcesi,

non habentes literas dimissorias, &c. *f. de  
Athon.*

u Requirantur.] i. e. publicè proclamen-  
tur Ordinandi, sic dicendo, *Veniat talis R.  
de Ta. & sic de aliis. f. de Athon.*

That unfit Per-  
sons may not be  
Ordained,  
---they shall first  
be diligently Ex-  
amined,

---and the Names,  
both of Unworthy,  
and Worthy regi-  
stred.

A.D. 1237  
22 H. 3.

Edit. Oxon.  
P. 16.



The Age, &c. of Persons to be Ordained.

Abridgment.

WALTERUS.

Nullus sine diligenti Scrutinio ad quemvis Sacrorum Ordinum accedens, nisi idoneus, Admittatur.

CUM quanta, & infra. Nullus ad a Ordines accedat, vel admittatur, nisi b Canonicè fuerit Examinatus. c Minores Clerici ad Inferiores Gradus non admittantur, nisi idoneos habeant Præsentratores, & per testimonium eorum Admittantur. Nullus etiam Simoniacus, Homicida, Excommunicatus, Usurarius, Sacrilegus, Incendiarius, vel Falsarius, vel alius habens e Canonicum Impedimentum, ad quoscunque Ordines præsumat accedere, vel ad eosdem præsentetur, aut quomodolibet Admittatur.

All Persons, before Orders, shall be Canonically Examined, and none Admitted, who are in any respect unqualified.

a Ordines.] Scil. Majores. Lyndw. b Canonicè ] Debet Examinator inquirere, de Vitâ, Genere, Patriâ, Etate, Institutione sive Titulo Ordinandi. Item, de loco ubi conversatus est, de Conscientiâ, Fide, & hujusmodi. Lyndw. c Minores.] Scil. Citra Subdiaconatum. Lyndw. d Inferiores Gradus.] Scil. Le Etoriatum, Hostiariatum, Exorcistatum, & Acoluthatum; & dicuntur Gradus, qui gradatim Ordines sunt sumendi. Lyndw. e Canonicum impedimentum:] Puta Bigamiæ, vel aliud, quod potius proveniat ex Delectu, quàm ex Crimine. Lyndw.

A.D. 1549. A.D. 1551.

3 & 5 Edw: VI.

And none shall be admitted a Deacon, except he be one and twenty Years of Age at least.

Deacon shall be 21 years of age.

A.D. 1661:

13, 14 Car. II.

Preface to Forms of Consecration and Ordination.

And none shall be admitted a Deacon, except he be twenty three Years of Age, unless he have a Faculty.

Deacons shall be 23 years of Age, unless dispensed with.

Diff. 77. c. 5, 6, 7.

Twenty three Years.] The Rule in the Councils (and in the Canon-Law, out of those Councils) is 25; and a reason is there given for it, from the fourth Council of Toledo, In veteri Lege, ab anno vigesimo quinto Levitæ in tabernaculo servare mandantur. This also became a Rule of the English Church; but it was a Case dispensible, and, in the Church of Rome, not only the Council of Trent made it 23, but the Pontifical,

published about the time of our Reformation, made the Age of a Deacon sufficient, if it was not under Twenty. To this, our Church, in the time of Edward the Sixth added one, and is now come into the middle way, between the two extrems, viz. Twenty three; providing also a Faculty or Dispensation for Persons of extraordinary Abilities, to be admitted sooner.

Pont. f. 2. b.

Cap. 19.

Spei. Vol. 1. 297.

3 & 5 Edw. VI.----13, 14 Car. II.

Preface to Forms of Consecration and Ordination.

And every Man which is to be admitted a Priest, shall be full x four and twenty Years old.

Priests shall be full 24 years of age.

Neocæs. c. 11.

x Four and Twenty.] Anciently, the age was Thirty, from our Saviour's entring upon his Ministerial Office at that Age: Dominus enim noster Jesus Christus trigesimo anno baptizatus est; but the Canon Law making an Exemption to cases of necessity, and requiring no more than Twenty five absolutely, that became the fixt Age for the Order of Priesthood, and is so declared in the foresaid Pontifical, and by the Council of Trent. But the methods of Education, being in these latter days, much more quick and compendious, than in former times; our Church has thought Twenty Four sufficient, with these Limitations (which are not in the Church of Rome with regard to Twenty Five) that they shall be Twenty Four Complete, that there is no room left for Dispensation, and, that till they are admitted to the Order of Priesthood, they are not capable of any Benefice or Ecclesiastical Promotion. †

† vid. pag. 168.

Diff. 73. c. 5.

Pont. f. 2. b. sed. 23.

A.D. 1661.

13, 14, Car. II.

In the Consecration of a Bishop.

Will you be faithful in Ordaining, sending, or laying Hands upon others?

Answer.

I will be so, by the Help of God.



Abridgment.

Deacons shall be of good Conversation and Abilities.

None shall be made Ministers, under 24, nor without Testimonials, nor without good Abilities, nor without subscribing to 39 Articles; as Deacons shall also do.

Roberts v Pain, Mod. Rep. V. 3. p. 67.

Every Person to be Ordained, a Deacon, shall be 23, a Priest 24;

and shall be examined according to 39 Articles,

and exhibit Letters Testimonial, from College, or neighbouring Ministers.

Sen. 1528. c. 3. Colon. 2. c. 3. Trident. Sess. 23. c. 5.

Ibid.

3 & 5 Edw. VI.-----13, 14 Car. II.

Preface to Forms of Consecration and Ordination.

AND the Bishop knowing either by himself, or by sufficient Testimony, any Person to be a Man of vertuous Conversation, and without Crime, and after Examination and Trial, finding him learned in the *Latin* Tongue, and sufficiently instructed in Holy Scripture, — may admit him a Deacon.

13 Eliz. Cap. 12.

In an Act, Entituled, *An Act, for the Ministers of the Church to be of sound Religion.*

V. And that none shall be made Minister, or admitted to preach or administer the Sacraments, being under the age of *y* four and twenty years, nor unless he first bring to the Bishop of that Diocese, from Men known to the Bishop to be of sound Religion, a Testimonial both of his honest life, and of his professing the Doctrine expressed in the said Articles: nor unless he be able to answer and render to the Ordinary an account of his Faith in *Latin*, according to the said Articles, or have special gift and ability to be a Preacher: nor shall be admitted to the order of Deacon or Ministry, unless he shall first subscribe to the said Articles.

*y* Four and Twenty.] One being presented to the Parish of *Christ-Church in Bristol*, was libelled against, because he was not twenty three years of age when made Deacon, nor twenty four when made Priest. A Prohibition was prayed upon this Suggestion, that if the matter was true,

a temporal Loss, viz. † Deprivation, would follow, and that therefore it was triable in the *temporal* Court; but it was denied, because so it is also in the case of *Drunkennes* and other Vices, which are usually punished in the Ecclesiastical Courts, tho' temporal Loss may ensue.

CANONS, 1603.

xxxiv. *The Quality of such as are to be made Ministers.*

NO Bishop shall henceforth admit any person into Sacred Orders, except he, desiring to be a Deacon, is three and twenty years old; and to be a Priest, four and twenty years compleat; and hath taken some Degree of School in either of the said Universities, or at the least, except he be able to yield an account of his Faith in *Latin*, according to the Articles of Religion approved in the Synod of the Bishops and Clergy of this Realm, One Thousand Five Hundred Sixty and Two, and to confirm the same by sufficient Testimonies out of the Holy Scriptures: and except moreover, he shall then exhibit 2 Letters Testimonial of his good Life and Conversation, under the Seal of some College of *Cambridge* or *Oxford*, where before he remained, or of three or four grave Ministers, together with the Subscription and Testimony of other credible Persons, who have known his Life and Behaviour by the space of three years next before.

2 Letters Testimonial.] Some of the more modern Canons abroad, do specially require the Testimony of the Minister of the Parish in which the Person to be Ordained hath dwelt; and one of them adds a further caution, which, as to their *Morals*, it may not be improper to insert at large; *Quoniam non oportet Sacros Ordines quasi furtim surripere, statuimus & ordinamus, ut quemadmodum jungendi Matrimonio trinā Proclamatione populo denunciantur, ita majoribus Ordinibus initiandi trinā Proclamatione denuncientur in Ecclesia Parochiæ quam inhabitant, ad percipienda Impedimenta, si quæ sunt; quæ debeat Parochus Episcopo aut Officialibus ejus significare.* The Council of *Trent* requires the same thing, with some addition, that it be done

by command of the Bishop, upon signification made to him, a month before, of the Name of the Person who desires to be Ordained; And, for the *Proclamation* it self, the same thing is also mentioned as the ordinary Course, in the Canons of a later Council; *De quorum probitate, moribus, & conversatione, per denunciations in Ecclesiâ factas, sibi constet.* To which I will only add, that something like this is mentioned in the Articles of *Queen Elizabeth*, published in the Year, 1564. *First, against the day of giving of Orders appointed, the Bishop shall give open Monitions to all Men, to except against such as they know, not to be worthy, either for Life or Conversation.*

The Age, &c. of Persons to be Ordained.

A. D. 1549. &c.

A. D. 1571.

Vide §. vii. of this Stat. p. 849.

1 Jac. I.

Burd. 1624. c. 9



The Age  
&c. of Per-  
sons to be  
Ordained.

1 Jac. 1.

## C A N O N S 1603.

XXXV. *The Examination of such as are to be made Ministers.*

THE Bishop, before he admit any Person to Holy Orders, shall diligently <sup>a</sup> examine him in the Presence of those Ministers that shall assist him at the Imposition of Hands: And if the said Bishop have any lawful Impediment, he shall cause <sup>b</sup> the said Ministers carefully to examine every such Person so to be ordered. Provided that they who shall assist the Bishop in examining and laying on of Hands, shall be of the Cathedral Church, if they may conveniently be had, or other sufficient Preachers of the same Diocese, to the number of three at the least: And if any Bishop or Suffragan shall admit any to Sacred Orders, who is not so qualified and examined, as before we have ordained, the Archbishop of his Province having notice thereof, and being assisted therein by one Bishop, shall suspend the said Bishop or Suffragan so offending, from making either Deacons or Priests for the space of two Years.

[Note, Of the Canonical Impediments of *Illegitimacy, Deformity, &c.* See the Eleventh Chapter of this Title, *Special Causes of Suspension from the Execution of Orders received.*]

<sup>a</sup> *Examín him.]* For the regular *method* of Examination, we are referred by *Lyndwood*, to the Canon upon that head, inserted in the Body of the Canon-Law; “Quando Episcopus Ordinationes facere disponit, omnes qui ad Sacrum Ministerium accedere volunt, *feriâ quartâ* ante ipsam Ordinationem evocandi sunt ad Civitatem, unâ cum † *Archipresbyteris*, qui eos representare debent; & tunc Episcopus à latere suo eligere debet Sacerdotes, & alios prudentes viros, gnaros divinæ Legis, & exercitatos in Ecclesiasticis Sanctionibus; qui Ordinandorum *vitam, genus, patriam, ætatem, institutionem* [i. e. Titulum] locum ubi educati sunt, si sint bene literati, si instructi in lege Domini, diligenter investigent. — Ipsi autem, quibus hoc committitur, cavere debent, ne aut favoris gratiâ, aut cujuscunque muneris cupiditate illecti, à vero devient, ut indignum & minus idoneum ad Sacros Gradus suscipiendos Episcopi manibus applicent. — Igitur per tres continuos dies, diligenter Examinentur; & sic Sabbato, qui probati inventi sunt, Episcopo represententur.

<sup>b</sup> *The said Ministers.]* *De jure communi, hæc Examinatio pertinet ad Archidiaconum*, saith *Lyndwood*; and so saith the Canon-Law, in which this is laid down, as one Branch of the Archidiaconal Office, *viz. Examinatio Clericorum, si fuerint ad Sacros Ordines promovendi*; which thing is also supposed in our own Form of Ordination, both of Priests and Deacons, where the *Archdeacon's* Office is to present the Persons as apt and meet. And a learned Person affirms, that there is an *universal Consent*, in all the *old Formularies*, both of the *Eastern*, and also of the *Western Church*, in this matter. But *Lyndwood* adds this further Rule, *Aliis, si sit absens, Episcopus potest per se Examinare, si velit; vel aliis idoneis circa latus suum id committere.* I shall only add, that in our *ancient Acts of Ordination*, it is not only set down, that an *Examination* was Canonically made, but with that, the *Names of the Examiners* are also frequently entred, before the Names of the Persons Ordained: whereby it was certainly understood (on any occasion) upon whose *Approbation* the particular Persons were admitted to Holy Orders by the Bishop.

Abridgment.

Bishop shall examine in the presence of those who are to assist,

---by himself, or Members of Cathedral, &c.

---and, admitting any unqualified, he may be suspended from Ordaining, by the Archbishop.

De Scrutin. Ord. v. Canonice.

Extra. t. 23. l. 1. c. 7

Comb. p. 84.

ibid.

Dist. 24. c. 3.

al. Presbyteris.

## CAP. VI.

## OATHS and SUBSCRIPTIONS of Persons to be Ordained.

1 Eliz. Cap. 1.

In an Act, Entitled, *An Act to restore to the Crown the Antient Jurisdiction, &c.*

XXV. AND that also all and every person and persons taking Orders—before he shall receive or take any such Orders,—shall make, take, and receive the said Oath by this Act set forth and declared, as is aforesaid, before his or their Ordinary, or Commissary.

2 X

7 Jac.

Persons to be Ordained, shall take the Oath of Supremacy,

A.D. 1558.



Abridgment.

1 Will. & Mar. Cap. 8.

In an Act, Entituled; *An Act for the abrogating of the Oaths of Supremacy and Allegiance, &c.*

Oaths and Subscriptions of Persons to be Ordained. A.D. 1689.

The New Oaths shall be taken instead of the Old.

§. III. And be it further Enacted by the Authority aforesaid, That the Oaths appointed by this present Act to be taken — shall from and after the first day of May 1689, be taken — by every such person and persons as were appointed and required by any Act or Acts whatsoever, to take the said abrogated Oaths of Supremacy and Allegiance, or either of them —

13 Eliz. Cap. 12.

A.D. 1571.

In an Act Entitled, *An Act for the Ministers of the Church to be of Sound Religion.*

Persons to be ordained shall subscribe to the 39 Articles.

§. V. And that none shall be — admitted to the Order of Deacon or Ministry, unless he shall first Subscribe to the \* said Articles.

XXXIX.

CANONS 1603.

1 Jac. I.

xxxvi. *Subscription required of such as are to be made Ministers.*

Every Person to be admitted into Orders, &c, shall subscribe, -- 1. To the Royal Supremacy,

NO Person shall hereafter be received into the Ministry, — except he shall first *bb* subscribe to these three Articles following, in such manner and sort as we have here appointed:

2. To the Book of Common Prayer,

1. That the King's Majesty, under God, is the only Supreme Governour of this Realm, and of all other His Highness's Dominions and Countries, as well in all Spiritual or Ecclesiastical Things or Causes, as Temporal, and that no Foreign Prince, Person, Prelate, State or Potentate, hath or ought to have any Jurisdiction, Power, Superiority, Preheminence or Authority Ecclesiastical or Spiritual, within His Majesty's said Realms, Dominions and Countries.

3. To the 39 Articles.

2. That the Book of Common-Prayer, and of Ordering of Bishops, Priests, and Deacons, containeth in it nothing contrary to the Word of God, and that it may lawfully so be used, and that he himself will use the Form in the said Book prescribed in Publick Prayer, and Administration of the Sacraments, and none other.

The Form of Subscription.

3. That he alloweth the Book of Articles of Religion agreed upon by the Archbishops and Bishops of both Provinces, and the whole Clergy in the Convocation holden at London in the Year of our Lord God, One Thousand Five Hundred Sixty and Two: and that he acknowledgeth all and every the Articles therein contained, being in number Nine and Thirty, besides the Ratification, to be agreeable to the Word of God.

Bishop Ordaining without Subscription, shall be suspended from giving of Orders.

To these three Articles whosoever will subscribe, he shall, for the avoiding of all Ambiguities, subscribe in this Order and Form of Words, setting down both his Christian and Surname, *viz.* I N. N. *do willingly and ex animo subscribe to these three Articles above-mentioned, and to all things that are contained in them.* And if any Bishop shall ordain — any, as is aforesaid, except he first have subscribed in manner and form as here we have appointed, he shall be suspended from giving of Orders — for the space of Twelve Months.

*bb* Subscribe.] By the Canons of 1571. they were only bound to Subscribe to the 39 Articles: *Subscriber omnibus Articulis de Religione Christiana, in quos consensus est in Synodo; & publice ad populum, ubicunque Episcopus jusserit, patefaciet conscientiam suam, quid de illis Articulis & universa doctrina sentiat.*



C A P. VII.

The Manner of Ordaining DEACONS.

3 & 5 Edw. VI.-----13, 14 Car. II.

The Form and Manner of † making Deacons.

WHEN the Day appointed by the Bishop is come, after Morning Prayer is ended, there shall be a Sermon or Exhortation, declaring the Duty and Office of such as come to be admitted Deacons; how necessary that Order is in the Church of Christ; and also how the People ought to esteem them in their Office.

† Ordering, 3 & 5 E. 6. 1 First when, 3 & 5 E. 6. 2 Not in 3 nor 5 E. 6. 3 Not in 3 nor 5 E. 6. 4 Ministers, 3 & 5 E. 6. 5 Such Orders are, 3 & 5 E. 6. 6 Vocation, 3 & 5 E. 6.

¶ First the Arch-Deacon or his Deputy shall present unto the Bishop (sitting in his Chair, near to the Holy Table) such as desire to be ordained Deacons; (each of them being decently habited) saying these Words,

1 After the Exhortation ended, the Archdeacon, 3 & 5 E. 6. 2 Shall present such as come to be admitted, to the Bishop, 3 E. 6. Shall present such as come to the Bishop to be admitted, 5 E. 6. 3 Not in 3 nor 5 E. 6. 4 Every one of them that are presented, having upon him a plain Albe, and the Archdeacon or his Deputy shall say these words: But in 5 E. 6. there is nothing said of the Habit.

c Archdeacon.] Promovendi vero ad Ordinem Diaconatus, per Archidiaconum vocantur, Accedant qui Ordinandi sunt ad Diaconatum: & mox sigillatim nominantur per Notarium.

d Decently habited.] By this, the Forgeries of the Church of Rome were virtually abrogated: Alba, cingulo, & manipulo parati, ac stolam in sinistra & candelam in dextra manibus, ac Dalmaticam super brachium sinistrum, tenentes.

Everend Father in God, I present unto you these Persons present to be admitted Deacons.

The Bishop.

TAKE heed that the Persons whom ye present unto us, be apt and meet, for their Learning and Godly Conversation, to exercise their Ministry duly, to the Honour of God, and the Edifying of his Church.

1 Not in 3 nor 5 E. 6.

e Reverend Father in God.] Tum Archidiaconus offerens illos Pontifici, dicit, Reverende Pater, postulat S. Mater Ecclesia Catholica, ut hos presentes Subdiaconos ad onus Diaconii Ordinatis. Pontifex interrogat, di-

cens, Scis illos dignos esse? Respondet Archidiaconus, Quantum humana fragilitas nosse finit, & scio & testificor, ipsos dignos esse ad hujus onus Officii.

¶ The Arch-Deacon shall answer,

I Have enquired of them, and also examined them, and think them so to be.

¶ Then the Bishop shall say unto the People,

Brethren, if there be any of you who knoweth any Impediment or notable Crime in any of these Persons presented to be ordered Deacons, for the which he ought not to be admitted to that Office; let him come forth in the Name of God, and shew what the Crime or Impediment is.

1 To the same, 3 & 5 E. 6.

f Let him come forth.] The ancient way was, an Acclamation of the People, (He is worthy; or, He is worthy, he is just;) as appears by their Form of Ordination;

but that hath been changed for a thousand Years, into this method of Summoning the People to make Objections, if they had any.

At Ordination of Deacons, there shall be a Sermon, explaining the Office of a Deacon.

Deacons shall be presented by the Archdeacon, or Deputy;

ibid. a.

-who also shall witness their Sufficiency.

The People present, shall be desired to alledge Impediment, if any be.

And

A.D. 1549. &c.

Manner of Ordaining Deacons.

Pont. f. 12. b.

ibid. f. 13. a.

Morinus. Comb. p. 103, 104.



Abridgment. ---which being alledged, the Bishop shall cease, for that time.

Every Person to be ordained Deacon, shall take the Oath of Supremacy;

---and promise Obedience to his Ordinary.

The Office of a Deacon, --to assist the Priest, --to read Lessons and Homilies, --to Catechise, --to baptise, --to preach if admitted, --to search for the sick.

Comb. p. 165.

Still. Eccl. Caf. V. 1. p. 131.

Can. 2.

Conc. Vaf. 529. Can. 2.

¶ And if any great Crime or Impediment be objected, the Bishop shall surcease from Ordering that Person, until such time as the Party accused shall be found clear of that Crime.

<sup>1</sup> Shall try himself clear, 3 & 5 E. 6.

Rubrick in the Form of Ordaining Deacons.

And before the Gospel, the Bishop, sitting in <sup>1</sup> his Chair, shall cause the Oath of the King's Supremacy, and against <sup>2</sup> the Power and Authority of <sup>3</sup> all foreign Potentates, to be ministred unto every of them that are to be ordered.

<sup>1</sup> A Chair, 3 & 5 E. 6. <sup>2</sup> The usurped Power, 3 & 5 E. 6. <sup>3</sup> The Bishop of Rome, 3 & 5 E. 6.

Among the Questions, in the Form of Ordaining Deacons.

WILL you reverently obey your Ordinary, and other chief Ministers of the Church, and them <sup>1</sup> to whom the Charge and Government over you is committed, following with a glad Mind and Will their godly Admonitions.

<sup>1</sup> To whom the Government and Charge is committed over you, 3 & 5 E. 6.

Answer.

I will endeavour my self, the Lord being my Helper.

In the Form of Ordaining Deacons.

IT appertaineth to the Office of a Deacon <sup>1</sup> in the Church where he shall be appointed <sup>2</sup> to serve, <sup>3</sup> to assist the Priest in Divine Service, and specially when he <sup>4</sup> ministreth the Holy Communion, and <sup>5</sup> to help him in the Distribution thereof, and to read Holy Scriptures and <sup>6</sup> Homilies in the Church; and <sup>7</sup> to instruct the Youth in the <sup>8</sup> Catechism; <sup>9</sup> in the absence of the Priest to baptize <sup>10</sup> Infants, and <sup>11</sup> to preach, <sup>12</sup> if he be <sup>13</sup> admitted thereto by the Bishop. And furthermore, it is his Office, <sup>14</sup> where Provision is so made, <sup>15</sup> to search for the sick, poor, and impotent People of the Parish, to intimate their Estates, Names, and Places where they dwell, unto the Curate, that by his Exhortation they may be relieved <sup>16</sup> with the Alms of the Parishioners or others.

<sup>1</sup> Not in 3 E. 6. <sup>2</sup> Not in 5 E. 6. <sup>3</sup> Not in 3 E. 6. <sup>4</sup> Congregation, 3 & 5 E. 6. <sup>5</sup> Not in 3 E. 6. <sup>6</sup> Not in 3 nor 5 E. 6. <sup>7</sup> Not in 3 nor 5 E. 6. <sup>8</sup> Not in 3 E. 6. <sup>9</sup> Commanded, 3 E. 6. <sup>10</sup> Not in 3 E. 6. <sup>11</sup> By the Parish or other convenient alms, 3 & 5 E. 6.

<sup>g</sup> To assist.] *Diaconus non ad Sacerdotium, sed ad ministerium Ordinatur;* and, anciently, he officiated under the Presbyter, in laying Responses, and repeating Confession, Creed, and Lords Prayer, after him, and in such other Duties of the Church, as now properly belong to our Parish Clerks; who were heretofore real Clerks, in England and elsewhere, attending the Parish Priest, in those Inferior Offices.

<sup>h</sup> Ministreth.] In the Council of Ancona, it is mentioned as the Office of a Deacon, *ἀφ' ὧν καὶ τὸ σῆμα ἀναφέρειν, καὶ κηρύττειν, i. e. Panem & Calicem offerre, & predicare, or rather, pronunciare.*

<sup>i</sup> Homilies.] So it is ordered in an ancient Council, *Si Presbyter, aliqua Infirmittate prohibente, per seipsum non potuerit predicare, Sanctorum Patrum Homiliae à Diaconibus recitentur.*

<sup>k</sup> Catechism.] It is well known, that the Catechist, in many Churches, was a distinct Officer; and that where no such was instituted, the Duty belonged to the

Deacon; which Rule the Church of England hath followed.

<sup>l</sup> In the Absence.] *Si quis Diaconus, regens plebem, sine Episcopo vel Presbytero aliquos baptizaverit Episcopus eos per Benedictionem perficere debebit. — Diaconum oportet ministrare ad altare, baptizare, & predicare.*

<sup>m</sup> If he be admitted.] Not in virtue of his Order (as it is now in the Church of Rome, tho' anciently it was not so) but, as is more agreeable to the Sense of Antiquity, only by special permission, at most.

<sup>n</sup> To search.] This is the most ancient Duty of a Deacon, and the immediate Cause of the Institution of the Order: but, with regard to the necessity of Deacons for that end, it is to be observed, that this Rule was made in England, while the Poor subsisted wholly by voluntary Charities, and before the Settlement of Rates or other fixt and certain Provisions; pursuant to which Settlements, our Laws have devolved that Care upon the Church-wardens, and Overseers; which last Office was created on purpose, for that end.

Manner of Ordaining Deacons.

Vid. 1. W. & Mar. c. 8. S. 3, 12.

Elib. Co. no. 305 Can. 77. Pont. Rom.

59 Eliz. c. 3.

¶ Then



Manner of  
Ordaining  
Deacons.  
A.D. 1549.  
&c.

3 & 5 Edw. VI.----- 13, 14 Car. II.

In the Form of Ordaining Deacons.

¶ Then o the Bishop, laying his Hands severally upon the Head of every ' one' of them, <sup>2</sup> humbly kneeling before him, shall say,

p TAKE thou Authority to execute the Office of a Deacon in the Church of God committed unto thee; In the Name of the Father, and of the Son, and of the Holy Ghost. Amen.

¶ Then shall the Bishop deliver to every one of them the New Testament, saying,

q TAKE thou Authority to read the Gospel in the Church of God, and to preach the same, if thou be <sup>3</sup> thereto licensed by the Bishop himself.

<sup>2</sup> Not in 5 E. 6. <sup>3</sup> Not in 3 nor 5 E. 6. <sup>3</sup> Therunto ordinarily commanded, 3 & 5 E. 6.

o The Bishop laying his hands.] This was made the Rule, in the 4th Council of Carthage; *Diaconus cum ordinatur, solus Episcopus qui eum benedicit, manum super Caput illius ponat; quia non ad Sacerdotium, sed ad ministerium consecratur;* which Rule, and the reason for it, is also given by the Roman Pontifical, in the Rubrick for Imposition of the hands.

p Take thou.] *Accipe Spiritum Sanctum ad robur, & ad resistendum Diabolo, & Tentationibus ejus, in nomine Domini;* in the Church of Rome; but that Form is not above 400 Years old.

q Take thou.] *Accipe potestatem legendi Evangelium in Ecclesia Dei, tam pro vivis, quam pro defunctis:* in the Roman Pontifical. This Ceremony was anciently used, at the Ordination of the Lector, as appears by the Fourth Council of Carthage, *Tradat ei Codicem, de quo lecturus est, dicens ad eum, Accipe, & esto lector verbi Dei.* And as to that addition, *tam pro vivis quam pro defunctis,* tho' Morinus found it in an Ordinal of 600 years old, yet he observes, it was put in the Margin, in a Modern hand, and later Ink.

Abridgment.

The Imposition of hands upon a Deacon,

---and the delivery of the New Testament.

Page 16. a.

Can. 8.

Page 337.

Can. 4. Dist. 23. c. 12.

Pont. f. 15. a.

Ibid. 15. a.

Morin.

C A P. VIII.

DISTINCT ORDERS shall not be taken TOGETHER.

JOHANNES PECHAM.

*Ordines rite suscipiantur, minores non cum majoribus, & ii quidem gradatim, cum discretione Ordinum, Officiorum, & Characterum, ac Gratiarum, suscipientibus patefacta.*

CUM secundum Doctores Theologos militia Clericalis septem muniatur Ordinibus, singulorum Characteribus in anima consignatis, per singulos etiam accipiens augmentum Gratia, nisi ordinati r fictè Ordinem recipiant, seu crimine irretiti; expedit plurimum ipsos Ordines minimè recipere s inculcatos: quoniam inculcatio Reverentiam minuit, & Gratiam per consequens, quæ per irreverentiam repercutitur ab ingratis. Contra dignitatem igitur tam Reverendissimi Sacramenti fore dignoscitur, quinque simul, quatuor scilicet Ordines non sacros cum uno sacro, alicui uni homini exhibere. Unde in nonnullis Provinciis alicui quatuor minores Ordines non faciliter simul conferuntur, ut ascendentes Clerici ad Christi Ministeria quasi Canticum Graduum concinentes, cum probati extiterint in minoribus Officiis, gradatim demum proficiant ad majora. Quia igitur ex singulis Ecclesiis, quæ pia, quæ religiosa, quæque honestiora sunt, tenemur eligere, & ea tanquam fasciculum in Anglorum mentibus colligare, præcipimus, ut Episcopi in his sequantur Canonicas Sanctiones, minores etiam Ordines, quando id potest fieri, bono modo pro Sacramenti Reverentia dentur aliquoties saltem t combinati. Et recipientes eos seu simul,

r Fictè.] *Quia absolute coactus recipit contra voluntatem suam Ordines: quo casu, nullum recipit Ordinem.* Lyndw.

s Inculcatos.] i. e. multiplicatos, vel plures simul, eodem die. Lyndw.  
t Combinati.] *Scilicet duo unâ vice, & postea duo aliâ vice.* Lyndw.

Every one of the seven Orders being a new increase of Spiritual Grace, ---ought to be received distinct, ---at least, the Lesser Orders ought not to be received with the Greater, ---but rather the Lesser, one after another. According to the Canonical Sanctions, ---the Lesser Orders shall be received by two and two at most;

A.D. 1281. 9 Edw. 1.

Edit. Oxon. p. 309.



**Abridgment.**

---and the Persons Ordained shall be instructed in the Distinctions, and the Grace conferred.

A Deacon shall continue in that Office a whole year, unless dispensed with by the Bishop.

Dist. 77. c. 2.

No person whatever shall be made Priest, and Deacon, in one day,

---but Deacon may be made Priest within the year, if the Bishop see cause.

At the Ordination of Priests, there shall be a Sermon, concerning the Order and Office.

feu singulatim, in vulgari lingua publicè instruantur de distinctione Ordinum, Officiorum, & Characterum, ac de profectu Gratia, quæ in singulis Ordinibus continetur, & dignè accedentibus augmentatur.

3 & 5 Edw. VI.-----13, 14 Car. II.

*Rubrick at the end of the Ordination of Deacons.*

AND here it must be <sup>1</sup> declared " unto the Deacon, that he must continue in that Office of a Deacon the space <sup>2</sup> of " a whole year " (except for reasonable causes <sup>3</sup> it shall otherwise seem good unto the Bishop)" to the intent he may be perfect, and well expert in the things appertaining to the Ecclesiastical administration. In executing whereof, if he be found faithful and diligent, he may be admitted by his Diocesan to the Order of Priesthood, <sup>4</sup> at the times appointed in the Canon; or else on urgent occasion, upon some other Sunday, or Holy-day, in the face of the Church. "

<sup>1</sup> Shewed, 3 & 5 E. 6.    <sup>2</sup> Of a whole Year at the least, 3 & 5 E. 6.    <sup>3</sup> It be otherwise seen to his Ordinary, 3 & 5 E. 6.   
 <sup>4</sup> Not in 3 nor 5 E. 6.

" A whole Year.] The Rule of the Canon-Law was, five Years: *In quo Ordine* (speaking of Deacons) *quinque annis, si inculpate se gesserit, habere debet; exinde suffragantibus stipendiis, per tot gradus datis propriae fidei documentis, Presbyterii Sacerdotium poterit promoveri.* But afterwards, Provision is made for the Religious, that they may at short distances, pass through the Orders (Lesser and Greater) in the time here appointed, viz. one Year.

*Distinct Orders shall not be taken together.*

A.D. 1549. &c.

Dist. 77. c. 9.

1 Jac. 1.

CANONS 1603.

xxxii. *None to be made Deacon and Minister both in one Day.*

THE Office of Deacon being a step or degree to the Ministry, according to the Judgment of the Ancient Fathers, and the Practice of the Primitive Church; we do ordain and appoint, that hereafter no Bishop shall make any Person, of what qualities or gifts soever, a Deacon and a Minister both together upon one day; but that the Order in that behalf prescribed in the Book of making and consecrating Bishops, Priests and Deacons, be strictly observed. Not that always every Deacon should be kept from the Ministry for a whole Year, when the Bishop shall find good cause to the contrary; but that there being now four times appointed in every Year for the Ordination of Deacons and Ministers, there may ever be some time of trial of their behaviour in the Office of Deacon, before they be admitted to the Order of Priesthood.

C A P. IX.

*The Manner of Ordaining PRIESTS.*

3 & 5 Edw. VI.-----13, 14 Car. II.

*The Form <sup>1</sup> and Manner" of Ordering of Priests.*

WHEN the Day appointed by the Bishop is come, after Morning Prayer is ended, there shall be a Sermon or Exhortation, declaring the Duty and Office of such as come to be admitted Priests; how necessary that Order is in the Church of Christ; and also how the People ought to esteem them in their Office."

<sup>1</sup> Not in 3 nor 5 E. 6.    <sup>2</sup> This Rubrick is not in 3 nor 5 E. 6. the first of which begins thus, *When the Exhortation is ended, then shall follow the Communion:* and the second thus, *When the Exhortation is ended, then shall be sung for the Introite to the Communion, this Psalm*-----

A.D. 1549. &c.



Abridgment.

Priests shall be presented by the Archdeacon, or Deputy,

---who also shall witness their sufficiency.

Every Person to be ordained Priest, shall take the Oath of Supremacy,

---and promise Obedience to his Ordinary.

The Imposition of hands upon a Priest.

Distinct Orders shall not be taken together.

1 First the " Arch-Deacon, 2 or in his absence, one appointed in his stead, " shall present unto the Bishop 3 sitting in his Chair near to the holy Table", all them that shall receive the Order of Priesthood that day 4 (each of them being decently habited 5) and say,

1 And then the, 3 & 5 E. 6. 2 Not in 3 nor 5 E. 6. 3 Not in 3 nor 5 E. 6. 4 Every one of them having upon him a plain Alb, 3 E. 6. but neither of these is in 5 E. 6. 5 The Archdeacon saying, 3 & 5 E. 6.

R everend Father in God, I present unto you these Persons present, to be admitted to the Order of Priesthood

The Bishop.

T ake heed that the Persons whom ye present unto us be apt and meet, for their learning and godly conversation, to exercise their Ministry duly, to the honour of God and the edifying of his Church.

[Note, The rest, as in the Form of Ordering Deacons, p. 171. to the Word Crime.]

3 & 5 Edw. VI. ----- 13, 14 Car. II.

Rubrick in the Ordination of Priests.

Then the Bishop 1 sitting in his Chair " shall minister unto every 2 one" of them the Oath concerning the King's Supremacy.

1 Not in 3 nor 5 E. 6. 2 Not in 3 nor 5 E. 6.

Among the Questions in the Form of Ordaining Priests.

Will you reverently obey your Ordinary, and other chief Ministers, unto whom 1 is committed the Charge and Government over you"; following with a glad Mind and Will their Godly 2 Admonitions', and submitting your selves to their godly Judgments?

Answer.

I will so do, the Lord being my Helper.

1 The Government and Charge is committed over you, 3 & 5 E. 6. 2 Admonition, 3 & 5 E. 6.

This is instead of the Oath of Obedience at the Consecration of a Bishop; and was the only Question asked of the Presbyter Ordained, according to the Roman Pontifical: Promittis mihi & Successoribus meis reverentiam & obedientiam?— or, Promittis Pontifici, Ordinario tuo, pro tempore existenti, reverentiam & obedientiam? Promitto.

A.D. 1549. &c.

Vid. 1 W. & Mar. c. 3. S. 3. 12.

A.D. 1549. &c.

3 & 5 Edw. VI. ---- 13, 14 Car. II.

Rubrick, &c. in the Ordination of Priests.

When † this Prayer is done, the Bishop, w with the Priests present, shall lay their hands severally upon the head of every one that receiveth 1 the Order of Priesthood"; the Receivers humbly kneeling upon their knees, and the Bishop saying,

1 Orders, 3 & 5 E. 6.

[With the Priests present.] Presbyter cum Ordinatur, Episcopo cum benedicente, & manum super caput ejus tenente, etiam omnes Presbyteri qui presentes sunt, manus suas juxta manum Episcopi, super caput illius teneant.

R eceive the holy Ghost 2 for the Office and work of a Priest in the Church of God, now committed unto thee by the Imposition of our hands.

2 Not in 3 nor 5 E. 6.

[Receive.] In the Roman Pontifical, Accipe Spiritum Sanctum; quorum remiseras peccata, remittuntur eis, & quorum retinueris, retenta sunt; and no more.

Whose

† Almighty God, &c.

Dist. 23. c. 8.

Pont. f. 21. b.



Abridgment.

Whose sins thou dost forgive, they are forgiven; and whose sins thou dost retain, they are retained. And be thou a faithful Dispenser of the Word of God, and of his holy Sacraments; In the Name of the Father, and of the Son, and of the holy Ghost. Amen.

*Distinct Orders shall not be taken together.*

---and the delivery of the Bible.

<sup>3</sup> Then the Bishop shall deliver to every one of them <sup>4</sup> kneeling, <sup>5</sup> the Bible into his hand, saying,

**T**ake y thou authority to preach the Word of God; and to minister the holy Sacraments in <sup>6</sup> the Congregation <sup>7</sup>, where thou shalt be <sup>8</sup> lawfully appointed thereunto.

<sup>3</sup> Not in 3 nor 5 E. 6. <sup>4</sup> Not in 3 nor 5 E. 6. <sup>5</sup> The Bible in the one hand, and the Chalice or Cup with the Bread in the other hand, saying, 3 E. 6. <sup>6</sup> In his hand, 5 E. 6. <sup>7</sup> This, 3 & 5 E. 6. <sup>8</sup> In 3 E. 6. the Sentence ends here. <sup>8</sup> So appointed, 5 E. 6.

*y Take thou.] In the Roman Pontifical, there is a Rubrick, &c. in these Words: Tum tradit cuilibet successivè Calicem cum vino & aqua, & Patenam superpositam cum hostiâ — Pontifice singulis dicente, Accipe Potestatem offerre Sacrificium Deo, Missasque celebrare, tam pro vivis, quàm pro defunctis, in nomine Domini: But this is not to be found in any Ritual, above 700 Years old.*

C A P. X.

SIMONIAICAL Ordination, and Lawful Fees.

JOHANNES STRATFORD.

A.D. 1342.  
17 Edw. 3.

— Pro literis cujuslibet Sacri Ordinis, non ultra sex denarios. — Pro sigillatione autem literarum, nihil Clericis extorquebit, &c.

To prevent Exactions of Fees at Ordinations;

---decreed, that only 6 d. shall be paid for Letters of Orders,

---and nothing on any other account;

---on pain to restore double,

---and not restoring, to be under Suspension, or Interdict.

**S**ÆVA & miserabilis cupiditas adinvenit, ut pro — Literis Ordinum, pro scripturarum labore ac sigillis, fiant multoties exactiones immensæ, id reprobante & Canone, dicente, quòd sicut non decet Episcopum manûs impositionem vendere, ita nec ministrum Calamum venundare. — Nos igitur hunc abusum abolere volentes, præsentis deliberatione Concilii duximus ordinandum, quòd — pro literis cujuslibet Sacri Ordinis, ultra sex denarios dicti a Clerici, per se vel per alios, b non recipiant quovismodo. c In cæteris verò Ordinarii suis teneantur ministris stipendia constituere, quibus debeant meritò contentari. Pro sigillatione verò literarum hujusmodi, aut d Mariscallis pro introitu, seu Janitoribus, Hostiariis, vel e Barbitonsoribus Episcoporum, à Clericis, minoribus vel majoribus Ordinibus decoratis, nihil omninò exigi volumus, vel f persolvi; ne, cujusvis specie velaminis, solutio pro sigillis literarum vel introitu supra dictis, in quæstum damnabilem convertatur. Et ne temeritas provisâ remedia violans, prætereat impunita; si contra præmissa quicquam recipiatur ab aliquo, duplum sic recepti reddi præcipimus infra mensem: Alioquin, Clerici beneficiati receptorum per ipsos iniquè duplum restituere differentes, ab officio & beneficio noverint se suspensos. Clerici verò non Beneficiati & Laici ingressum Ecclesiæ sibi noverint interdictum, quousque de duplo satisfactionem impenderint solventibus competentem.

Edit. Oxon.  
P. 222.

*z Canone.] Decretal. l. 5. tit. 3. c. 1. & qu. 2. c. 4. Sicut Episcopum.*  
*a Clerici.] Scilicet scribentes in Episcoporum Officiis — ad quos spectat sic Ordinatis exinde literas conficere. Lyndw.*  
*b Non recipiant.] Et sic excludit gratis etiam oblatum. Lyndw.*  
*c In cæteris.] Quæ remuneratione digna erant ultra Scripturam; ut puta, pro conceptione literarum hujusmodi & aliis ipsorum laboribus. Lyndw.*  
*d Mariscallis.] Qui regunt Aulas Episcoporum, & loca interiora. Lyndw.*  
*e Barbitonsoribus.] Quorum officium est, ordinandorum Coronas aptare. Lyndw.*  
*f Persolvi.] Etiam si velit gratis aliquid persolvere. Lyndw.*



Simonia-  
cal Ordi-  
nation, and  
Lawful  
Fees.

A. D. 1588.

31 Eliz. Cap. 6.

In an Act, Entituled, *An Act against Abuses in Election of Scholars, &c.*

§ X. Provided further, and be it enacted by the authority aforesaid, That if any person or persons whatsoever, shall or do at any time after the end of this Session of Parliament, receive or take any money, fee, reward, or any other profit, directly or indirectly, or shall take any promise, agreement, covenant, bond, or other assurance, to receive any money, fee, reward or any other profit directly or indirectly; either to him or themselves, or any other of their or to any of their friends (all ordinary and lawfull fees only excepted) for, or to procure the ordaining or making of any Minister or Ministers, or giving of any orders, or licence or licences to preach: that then every person and persons so offending, shall for every such offence forfeit and lose the sum of forty pounds of lawful money of England: and the party so corruptly ordained or made Minister, or taking Orders, shall forfeit and lose the sum of ten pounds. And if at any time within seven years next after such corrupt entering into the Ministry, or receiving of Orders, he shall accept or take any Benefice, Living, or Promotion Ecclesiastical, that then immediately from and after the induction, investing, or installation thereof, or thereinto had, the same Benefice, Living, and Promotion Ecclesiastical, shall be altogether utterly void, and that the Patron or person to whom the advowson, gift, presentation or collation, shall by law appertain, shall and may by virtue of this Act, present or collate unto, give and dispose of the same Benefice, Living or Promotion Ecclesiastical, in such sort to all intents and purposes, as if the party so inducted, invested or installed had been or were naturally dead: Any law, ordinance, qualification or dispensation to the contrary notwithstanding: The one moiety of all which forfeitures shall be to our Sovereign Lady the Queen, her heirs and successors, and the other moiety to him or them that will sue for the same, by action of debt, bill, plaint, or information, in any of her Majesty's Courts of Record, in which no Essoyn, Protection, Privilege, or Wager of Law shall be admitted or allowed.

Abridgment.

Any Person taking money for Orders,

(lawful Fees excepted)

--shall forfeit 40 l.

--- and the Party Ordained 10 l.

--and taking a Living within 7 years, it shall be void,

---and the Patron may present again.

One moiety of the Forfeitures shall be to the King, the other to him that will sue.

1 Jac. 1.

CANONS 1603.

Can. cxxxv. Entituled, *A certain Rate of Fees due to all Ecclesiastical Officers.*

— Provided furthermore, that no Fee or Money shall be received either by the Archbishop, or any Bishop or Suffragan, either directly or indirectly, for admitting of any into Sacred Orders: nor that any other Person or Persons under the said Archbishop, Bishop or Suffragan, shall for Parchment, Writing, Wax, Sealing, or any other respect thereunto appertaining, take above Ten Shillings, under such Pains as are already by Law prescribed.

No Fees shall be taken for Orders by Bishops;

--nor by Officers more than 10 s.

g Shall be received.] *Εἰ τις Ἐπίσκοπος διὰ χρημάτων ἢ ἀξίας τούτων ἐσκευασίαν γένηται, ἢ προσέβηται, ἢ διάξει, καθαρὰ καὶ αὐτὸς καὶ χειροτονίας, καὶ ἐκκοπήσῃ τὴν κοινωσίαν παντίτασι, ἰ. ε. Si quis Episcopus per pecuniam hanc sit dignitatem affectus, vel Presbyter, vel Diaconus, deponatur & ipse & qui eum ordinavit, & a Communione etiam omnino excindatur.*

justo. So, John de Athon and some of the modern Constitutions abroad, agreeing to the Reasonableness of this, have, by way of restraint upon the Officer, fixt the Fee of writing, &c. in like manner as this Canon, and the foregoing Constitution of Archbishop Startford, have done in our Church. For the Letters Testimonial of Ordination are no part of the Ordination, but only taken afterwards for the Security of the Person Ordained; and therefore the same John de Athon, in the place abovementioned, says, Tutum est (not, necessarium) ipsis Ordinatis literas sigillo Episcopi Ordinantis consignatas, dictam Scripturam [continentem tam nomina Ordinantis quam Ordinati, & susceptionem cujusque Ordinis, ac tempus & locum Ordinationis, as it is before] secum reportare.

Tolet. 1473.  
Can. 25.  
Colon. 1536.  
Can. 28.  
Trid. Sess.  
15. c. 1.

The like Penalties are laid down in the second Canon of the Council of Chalcedon (which became part of the Canon-law,) and, generally, throughout the Canon-law; and the aforementioned Apostolical Canon was also received early in the English Church.

b For Parchment.] *Notario Ministerium Officii sui in actu Ordinationis praestanti, conferre quicquam non licet;—secus tamen est de illo Notario vel Registratore, qui literas Testimoniales scribit, ipsis etiam Ordinatis, pro Salario*

Decretal. l. 5. c. 6.  
Caul. 1. q. 1. c. 1, 2, 3, 8, 9, &c.  
Excerpt. Eg. 43.  
Spel. V. 1. p. 263.  
Ordo de Scrotio. Ordin. 7. Scriptura.



Abridgment.

CAP. XI.

Special Causes of Suspension from the EXERCISE of Orders Received.

EDMUNDUS.

Illegitimi non dispensati & à non suis Episcopis, aut in peccato mortali ordinati, ab executione officii usque ad satisfactionem suspendantur.

A.D.(circ.) 1236. 21 H. 3.

Persons Illegitimate, without Dispensation, ---and Persons ordained by another Bishop, --- shall be suspended from Office; ---and so also Persons guilty of mortal Sin, or taking Orders for Lucre.

EOS qui i de non legitimo matrimonio nati sunt, & absque k dispensatione sufficienti ordinati fuerint: Eos etiam qui non suis Episcopis præter licentiam suorum Episcoporum seu Prælatorum ad Sacros Ordines promoti fuerint; ab executione Ordinis l sic suscepti suspendimus, donec dispensationis gratiam fuerint consecuti.

Edit. Oxon. p. 25.

Item decernimus, quòd hi qui in m conscientia peccati mortalis prius perpetrati, vel propter n quæstum temporalem tantum, Sacrum Ordinem susceperint, officium suum non exequantur: nisi prius à peccato hujusmodi per Sacramentum pœnitentiæ fuerint expiati.

i De non legitimo.] Ut, quia matrimonium de facto est contractum in gradu prohibito; vel potes exponere non legitimo matrimonio, i. e. extra Matrimonium legitimum, ut puta de adulterio, stupro, incestu, fornicatione, & hujusmodi; tales namque Ordinari non debent. Lyndw.

illegitimè nato, quoad minores Ordines, sufficienti Dispensatio sui Episcopi, in majoribus verò requiritur dispensatio Papæ. Lyndw.

k Dispensatione sufficienti.] viz. Papæ in majoribus Ordinibus; licet sufficiat Episcopi in minoribus. Lyndw.

m Conscientia.] i. e. Cognitione sui ipsius Cordis. Lyndw.

l Donec Dispensationis.] viz. Per illum, cujus auctoritas suffecisset à principio, unde in

n Quæstum temporalem.] Pone Exemplum in eo qui recipit Ordinem, non ob devotionem erga Deum, sed propter habendum aliquod temporale Beneficium; talium namque intentio est corrupta, quando intentio hujusmodi principaliter vertitur super lucro, sive beneficio habendo. Lyndw.

EDMUNDUS.

Irregulares omnes usque ad legitimam dispensationem, ab officii executione suspendantur.

A.D.(circ.) 1236. 21 H. 3.

Persons Irregular, before or after Orders, shall be suspended from the Execution of them.

o IN primis, & infra: Omnes qui p irregularitatem, q in ordine suscepto, vel ante, vel post ordines susceptos, constat contraxisse, nisi cum eis dispensatum fuerit expressè per eos qui cum eis dispensare poterint, ab officii executione denuntiamus esse suspensos, donec cum eis super hoc legitimè fuerit dispensatum. Irregulares vero quoad præmissa intelligimus, homicidas, advocatos in causa sanguinis, r Simoniacos, Interventores Simoniacarum pactio: & qui à labe illa infecti scienter Ordines susceperint ab Hæreticis, Schismaticis, vel nominatim excommunicatis, scienter Ordinatos.

Edit. Oxon. p. 25.

Item bigamos, corruptarum maritos, Deo sacratarum virginum violatores, excommunicatos, & s furtivè Ordines suscipientes, fortilegos, & Ecclesiarum incendiarios, & si qui alii hujusmodi existant. †

Who are Irregular.

o In primis.] Hæc Constitutio non est novi Juris Ordinativa, sed jurium prius habitorum Executiva, sive Declarativa. Lyndw.

men fallit, ubi expressè cavetur quod Episcopus poterit dispensare, & quando dispensatio non est reservata Papæ.—Si verò sit crimen quod post Pœnitentiam non impedit Ordinis executionem, nec aliquem ad ordines ascendere; tunc in Adulterio, & in minoribus criminibus, possunt Episcopi dispensare, nisi expressè prohibeantur in jure. Infra in voc. Dispensare.) Lyndw.

p Irregularitatem.] Irregularitas est quoddam Impedimentum proveniens ex Constitutione Canonica; & non extendit, nisi quatenus invenitur jure inflicta.—Et nota, quòd Irregularitas personæ quandoque provenit ex defectu — ut in illegitimè nato — quandoque ex inobedientia, quia videlicet non obedit præceptis Ecclesiæ, nec Censuras observat — (& in hoc casu verum est, quòd solus Papa dispensat; infra in voc. Dispensare.) quandoque ex peccato sive crimine — (tunc si tale sit crimen, quod post pœnitentiam peractam impedit executionem Ordinis, etiam solus Papa dispensat. Hoc ta-

q In Ordine suscepto.] Id est, in tempore suscipiendi Ordines. Lyndw, r Simoniacos.] Sive in Ordine, sive in Beneficio. Lyndw.

s Furtivè.] Utpotà, si citra conscientiam sui Episcopi ordinatus sit: item, si duos Ordines simul recipiat: item, si, uno Ordine orisso, salutum fecerit. Lyndw.

† Irregularitates,



Special  
Causes of  
Suspension,  
&c.

P. 31. b. 32. a.

† Irregularitates, quoad Natalia, & Corporum Vicia, statuit Reformatio Legum, &c. ut sequitur,

De Natalibus Ministrorum.

“ Quamquam Stupris Parentum & Adulteriis filii non premuntur, quantum quidem ad immortalitatem Vitæ cælestis futuræ pertinet, tamen Deus quoniam immenso quodam & grandi Stuprorum & Adulteriorum, & flagitiosarum libidinum odio, liberos vitio procreatos vehementer interdum affligit, & Successores eorum obterit, & propter eandem Patrum impuritatem filios in veteri Testamento ab Ecclesiæ Administratione depulit: Nos divinæ severitatis exemplum sequuti, tales vitio generatos filios à contrectatione Munerum Ecclesiasticorum abarcemus, nisi forte singulares quidam existant eximiis donis instructi, quæ sic in illis luceant, ut priores Natalium sordes obscurentur, aut Virtutum præstantiâ compensentur, aut nisi summa sit in Ecclesiâ Ministrorum paucitas.

Vitiis quibusvis corporum, Ministros non arceri à Sacerdotiis.

“ Offensiones corporum, quæ prius homines

“ à susceptione munerum Ecclesiasticorum secludant, tantum posthac momentum non habebunt, ut illis, cujuscunque generis fuerint, vir doctus & probus ab administrando Sacerdotio summoveatur. Illorum tamen diligens erit habenda consideratio, qui gerendi muneris Ecclesiastici facultatem vel omnino perimunt, aut plane corrumpunt, ut Cæcitas Lætionis officium tollit, ad quod Paulus Timotheum incitat. Rursus in ministro, si lingua sic vituperaverit, vel adhæserit, vel quacunque calamitate tantoperè vitiosa fuerit, ut in concione à suis non poterit intelligi, fructum in illo maximum sui muneris interire necesse est. Præterea, si vultu Minister sic detorqueatur, Spiritum aded tetrum habeat & aspernabilem, ut homines ab illius Consuetudine, Colloquioque resiliant, & ita nec publicum, nec privatum, vel consilium, vel solatium, aliorum necessitatibus impartiri possit, desiderari pene omnia in illo videmus, quæ suum ad officium pertinent. Igitur has grandes & immanes corporum clades qui sic iniustas habent, ut sacrarum in illis rerum libera non possit administratio procedere, minime ad dignitatem sacerdotiorum gubernandorum perveniant: sed minutiores offensusculæ licet inspersæ sint, illos à Sacerdotiis non destinebunt, nec earum deformitatem pecuniâ redimere debent.

Abridgment.

TIT.



Abridgment.

## TIT. VII.

The CONVERSATION and APPAREL  
of MINISTERS.

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regard to SECULAR EMPLOYMENTS.*CAP. II. *The Conversation of Ministers, with regard to  
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## CAP. I.

*The CONVERSATION of MINISTERS, with regard to  
SECULAR EMPLOYMENTS.*

## STEPHANUS.

*Clerici Beneficiati, aut in Sacris constituti, non Sint Procuratores aut Senescalli  
Secularium.*A.D. 1222.  
6 H. 3.Clergymen shall  
not bear any Office  
obliging them to  
account to Laymen,--nor exercise Se-  
cular Jurisdiction.Ræsenti Decreto statuimus, ne Clerici beneficiati, aut in sacris Or-  
dinibus constituti, Villarum Procuratores admittantur; videlicet,  
ut sint Senescalli aut Ballivi alium Administrationum, occasione  
quarum Laicis in reddendis ratiociniis obligentur: nec Jurisdictiones  
exerceant seculares, præsertim illas, quibus Judicium Sanguinis estEdit. Oxon.  
p. 259.

annexum. —

21 Henr. VIII. Cap. 13,

A.D. 1529.

*Spiritual Persons abridged from taking of Firms, &c.*To the end the  
Ministry may be  
duly discharged,--noe Spiritual per-  
sons shall take  
lands to ferm,Degre, p.  
135.FOR the moze quiet and vertuous increase and maintenance of divine  
service, the preaching and teaching of the word of God, with godly and  
good example giving, the better discharge of Curates, the maintenance of  
hospitality, the relief of poore people, the increase of devotion, and good opi-  
nion of the lay see toward the spiritual persons: Be it enacted, ordained  
and established by the King our Sovereign Lord, with the assent of the  
Lords spiritual and temporal, and the Commons in this present Parliament  
assembled, and by authority of the same, that no spiritual persons, secular[Spiritual Persons.] It is said by the Exchequer (4 Car. 1. Cragge and Lamp-  
a modern Writer (but upon what Authority ley) that a Spiritual Person, not Beneficed,  
I have not found) that it was adjudged in was not within this Statute.



Conversa-  
tion of Mi-  
nisters, as  
to Secular  
Employ-  
ments.

or regular, of what degree soever: he or they be, shall from henceforth take to ferm to himself, or to any person or persons to his use, of the lease or grant of the King our Sovereign Lord, nor of any other person or persons, by letters patents, indentures, writings, by word or otherwise, by any manner of means, any manors, lands, tenements, or other hereditaments for term of life, for term of years, or at will; upon pain to forfeit ten pounds for every month that he, or any other to his use, shall occupy any ferm, by reason of any such lease or grant hereafter to be made. The one half of which forfeiture to be to the King our Sovereign Lord, and the other half thereof to every such person that will sue for the same by original writ, bill, or plaint of debt, or by any information in any of the Kings Courts: in which action and suit no wager of Law shall be admitted for the defendant, nor any essoin, or protection allowed.

II. And be it also enacted by the authority aforesaid, That all and every such spiritual person or persons which now have, or occupy any ferm by themselves, or by any other to their use, any manors, lands, tenements, or hereditaments, of the lease or grant of the King our Sovereign Lord, or any other person or persons, for term of life, or for years, or at will, by any writing or otherwise, or that now have any annual rents, or other annual advantage or profit, by occasion or colour of any such lease or ferm, shall clearly bargain, sell, give, or grant away on this side the feast of S. Michael the Archangel next coming, to any such lay person or persons, as they will at their own nominations and appointment, all such lease, ferm, interest and profit, as any such spiritual person, or any other to his use now hath or have, in or by reason of any such ferm: so that in no wise any such spiritual person or persons at any time after the same feast, by themselves, or any other to their use, by any manner of means, fraud or male engine, shall have, use or occupy in ferm any manors, lands, tenements, or hereditaments, of the demise, lease or grant of any person or persons heretofore made or hereafter to be made, to themselves, or to any other to their uses: Nor from the said feast shall take any annual rent, or other annual advantage or profit, by occasion or colour of any such lease or ferm by any manner of means: upon pain to forfeit for every month so occupying any such ferm, at any time after the said feast contrary to this present Act, ten pound, and upon pain to forfeit ten times as much as any such spiritual person, or any to his use, shall take in any annual rent, advantage or profit, by occasion or colour of any such lease, at any time after the said feast. The one half of which forfeitures to be to the King our Sovereign Lord, and the other half to him that will sue for the same by original writ, bill, or plaint of debt, or by information in any of the Kings Courts, in which action or suit, no wager of law shall be admitted for the defendant, nor any essoin or protection allowed.

III. And be it also enacted, That all such leases made, or hereafter to be made unto any such spiritual person or persons, or to any other to their use, for term of life, term of years, or at will, of any manors, lands, tenements, or hereditaments, whereof they or any of them shall take any profit or meddling by themselves, or by any to their use, after the said feast of S. Michael, by colour of such lease or grant, and not by them bargained, granted and sold away before the said feast, as is before limited, shall from henceforth be utterly void and of none effect, as well against the lessor or lessors, grantor or grantors, their heirs and assigns, and against every of them, as against the lessee or leasees, and their executors and assigns, and every of them.

IV. Provided always, That this present Act shall not extend to any spiritual person or persons, in and for taking to ferm any temporalties, during the time of vacations of any the Archbishopricks, Bishopricks, Abbeys, Priories, or other Collegiate, Cathedral, or Conventual Churches, nor to any spiritual person or persons, that shall tender or make any traverse upon any offices or office, concerning his or their freehold.

<sup>u</sup> Take to Ferm.] This was the Rule of the Canon-law, *Decrevit sancta & magna Synodus, neminem horum, deinceps, hoc est, Episcopum sive Clericum, aut Monachum, conducere possessiones.* So, in the Council of Westminster, 1127. *Episcopi Presbyteros, Abates, Monachos, Priores subiectos, firmam tenere inhiabant.*

<sup>w</sup> During the time of Vacations.] This Exception was made with regard to

the two Statutes of *Edw. 3.* (Ann. 14. c. 4, 5.) by which the Officers of the Crown are required to lett the Temporalities of Bishopricks, in the times of Vacation, to Deans and Chapters, &c. before all others; yielding to the King the value of them: as may be seen, by the Statutes at large, under the Title, *Possessions and Revenues of Bishopricks,* Cap. 3.

Abridgment.

--upon pain of 10 l for every month he occupies them.

Every Spiritual Person having Ferm, shall sell it before Michaelmas,

---and not occupy it after,

---nor take rent,

--upon pain of 10 l. per Month for occupying, and ten times the value of the Rent,

---and also all Leases granted to Spiritual Persons after the feast of St. Michael shall be void.

Spiritual Persons may take to ferm Temporalities of Bishopricks, &c. during Vacation.



Abridgment.

No spiritual Person shall buy and sell in the way of Merchandise,

---upon pain to forfeit their whole value, and the Bargain to be void,

---but they may buy Horses &c. for their own private use, or tillage of their Glebe,

---and if they mislike them, may sell them again.

Governours of Religious Houses, &c. of 800 marks or under, may occupy as much Land, as is necessary for Use, and Hospitality,

---and all other Spiritual Persons not having sufficient Glebe &c. may take Lands to farm, for the expences of their House and Hospitality only,

Decretal. 1. 3. t. 50. c. 5.

Spel. V. 2. p. 105.

Dist. 88. c. 2

V. And be it also enacted by the authority aforesaid, That no spiritual person or persons, secular or regular, of what estate or degree soever they be, shall from henceforth by himself, nor by any other for him, nor to his use or bargain, and buy to sell again & for any lucre, gain or profit, in any markets, fairs, and other places, any manner of cattel, corn, lead, tin, hides, leather, tallow, fish, wool, wood, or any manner of victual or merchandise, what kind soever they be of, upon pain to forfeit treble the value of every thing, by them or by any to their use, bargained and bought to sell again, contrary to this Act. And that every such bargain and contract hereafter to be made by them, or by any to their use, contrary to this Act, shall be utterly void and of none effect. And the one half of every such forfeiture to be to the King our Sovereign Lord, and the other half to him that will sue for the same by original writ of debt, bill, plaint, or information, in any of the Kings Courts. In which action or suit no wager of law for the defendant shall be admitted; nor any essoin nor protection allowed.

VI. Provided always, That if any such spiritual person or persons shall happen hereafter without fraud or covin to buy any horses, mares, or mules, to the only intent to occupy for himself or his servants, to ride to and fro upon his necessary business, or any other cattels or goods, to the only intent and purpose at the buying thereof to be employed and put, in and about his necessary apparel of his own house, or of his person and servants, or in, for and about the only occupying, manuring, or tillage of his own glebe or demean lands annexed to his Church, or for the necessary expences of his own household keeping; and after the buying of any such horses, cattels, or goods, or exercise of them, or any of them, hapeneth to mislike any of them, that they should not be good, profitable, nor convenient for any of the purposes abovesaid, for the which they were bought; that then every such spiritual person or persons may lawfully bargain and put away such things so by him bought, without fraud or covin, for any of the purposes abovesaid, at his pleasure and advantage: this Act or any thing therein contained notwithstanding.

VII. Provided alway, That all Abbots, Priors, Abbesses, Prioresses, Provosts, Presidents, Masters of Colleges and Hospitals, and all other spiritual Governours and Governesses of any spiritual Monasteries, or houses of Religion, by what name or names soever they be called, having manors, lands, tenements and hereditaments, and other yearly profits in the Right of their Monasteries, or houses, of the yearly value of viij. C. marks, or under, and not above, may use and occupy as much and as many of their demean lands, see-ferms, and fermes to their most advantage, commodity and profit, to and for the only maintenance of their houses and hospitalities, in as ample and large manner as they or any of them or their predecessors, or the predecessors of any of them, at any time by the space of one hundred years last past, before the making of this Act, have done, used and occupied; Any thing in this present Act to the contrary notwithstanding.

VIII. Provided also, That every other spiritual person or persons, not having sufficient glebe, or demean lands in their own hands, in the right of their Churches, Monasteries and houses, for pasturage of Cattels, or for increase of corn, to and for the only expences of their households, or for their carriages or journeys, may take in ferm other lands, and buy and sell corn and cattel for the only manurance, tillage and pasturage of such fermes, so that the in-

x For any Lucre.] This Prohibition, was the Law of the Church before: Wicness the Decretal Epistle of Alexander the 3d. Secundum instituta predecessorum nostrorum, sub interminatione Anathematis prohibemus, ne Monachi vel Clerici causa lucri negotientur. Which we find also transferred into the Constitution of the Church of England, word for word, in the Council of Westminster, 1175. under this Title, Ex Decretis diversorum Patrum. And in another Decretal Epistle, where the practice of Trafficking by Clergymen is complained of, the following restraint is laid upon it; Proinde, hujusmodi aut ab indignis posthac questibus noverint abstinendum, & ab omni cujuslibet ne-

gotiationis ingenio vel cupiditate cessandum; aut in quocunque gradu sint positi, mox a Clericalibus Officiis abstinere cogantur. Which the Council of Westminster, held in the Year, 1128. carried yet further, Clericos turpia lucra sectantes—ab Officio & Beneficio Ecclesiastico removendos esse censemus.

y Necessary Business.] In the foregoing Epistle of Alexander III. whereby the Clergy are forbidden to Traffick causa lucri, the Gloss is, sed causa necessitatis possunt.

yy Not having sufficient.] This hath been pleaded, and the Plea allowed, as oft as any Action hath been brought upon this Statute.

Conversion of Ministers, as to Secular Employments.

Spel. Vol. 2. p. 41.

Sav. 54. 2 Bultr. p. 18. Lutw. 137.



Conversa-  
tion of Mi-  
nisters, as  
to Secular  
Employ-  
ments.

create thereof be alway employed and put to and for the only expences in their households, and hospitalities, and not in any wise to buy and sell again, for any other commodity, lucre or advantage, any corn or cattel, renewing, coming or growing in and upon any such ferm, or otherwise, but only the remain and overplus above their expences of their households, if any such shall happen, to the breed and increase thereof, without fraud or cobin: Any thing in the Law to this present Act to the contrary hereof notwithstanding.

XXX. And be it further enacted by the authority aforesaid, That no spiritual person, secular or regular, beneficed with cure, as is afoze rehearsed, from the feast of St. Michael the Archangel next coming, by authority of any manner licence, dispensation, or otherwise, shall take any particular stipend or salary to sing for any Soul, nor have, nor occupy by himself, or by any other to his use, any Parsonage or Vicarage in ferm, of the Lease or Grant of any person or persons, nor take any profit or rent out of any such ferm; upon pain to forfeit xl s. for every such week that he, or any to his use shall occupy, or have any such stipend or ferm contrary to this present Act, and upon pain to lose ten times the value of such profit or rent as he shall take out of any such ferm after the said feast. The one half of which forfeitures to be to the King our Sovereign Lord, and the other moiety to him that will sue for the same by original writ, bill, plaint of debt, or by information in any of the Kings Courts, in which suit and action no wager of Law shall be admitted for the Defendant, nor any esloin or protection allowed.

XXXIV. Provided always, that every spiritual person or persons, having lands, tenements, or other possessions in the right of their houses above the yearly value of eight hundred marks, may keep and retain in their occupation and manurance, as much of their said lands, and tenements, and other possessions, as shall be necessary and sufficient for pasturage of their cattels, and for tillage of corn to be employed and spent for the only maintenance, sustentation, and keeping of his or their households and hospitalities, without fraud or cobin: Any thing in this present Act to the contrary thereof notwithstanding.

XXXV. Provided alway, that it may be lawful to every spiritual person and persons to take in ferm any meases, mansions, or dwelling houses, having but only Orchards, or Gardens, in any City, Borough, and Town, for their own habitation or dwelling: any thing in this Act to the contrary notwithstanding. So that no person spiritual other than be above provided for, for their non residence, have any liberty of non residence by colour of this proviso.

24 Henr. VIII. Cap. 4.

In an Act, Entituled, *An Act concerning Sowing of Flax, and Hemp.*

IX. And forasmuch as spiritual persons, which do, or shall have in their hands and occupation, lands for expences of their household, cannot conveniently otherwise make any profit of such flax and hemp as grow upon the same, unless by sale to other Persons: be it therefore further enacted, that it may be lawful to all and singular spiritual persons having in their hands and occupation any manner of lands, for the expences of their households (not prohibited by the law) to sell such flax and hemp, as shall grow upon their lands, so being in their own hands and occupation, as is aforesaid; any Act, Statute or provision made to the contrary notwithstanding. This Act to continue to the last day of the next Parliament.

25 Henr. VIII. Cap. 13.

In an Act, Entituled, *An Act limiting what number of Sheep Men shall keep, &c.*

§ XVI. Provided also, that it may be lawful to all spiritual persons and every of them, to keep such and as many sheep upon their own lands, and after such form and manner, and none otherwise, as they might have done before the making of this Act, any thing mentioned in the same to the contrary notwithstanding.

Abridgment.

--but may not sell any but the overplus, without fraud.

No spiritual Person, beneficed with Cure, shall have Licence to take stipend for singing for Soul, or occupy any Parsonage, &c. in Ferm,

---upon pain to forfeit 40 s. a week, and to lose ten times the value of the rent.

Spiritual Persons having Possessions in the right of their houses above 800 marks, may occupy as much as shall be necessary for Cattel, Tillage, &c.

-- and all spiritual persons may ferm houses, with Orchards, in Cities, &c. for their own habitation.

Spiritual Persons may sell Flax and Hemp, growing upon Lands of their own Occupation.

Proviso for the Clergy, in the Limitation of Sheep.

21 Henr.

A.D. 1532.

O B S.

A.D. 1533.

O B S.



Abridgment.

21 Henr. VIII. Cap. 13.

In an Act, Entituled, *Spiritual Persons abridged----- from taking Farms, &c.*

*Conversa-  
tion of Mi-  
nisters, as  
to Secular  
Employ-  
ments.*

A.D. 1529.

No Spiritual person shall keep a Tann-house,

---nor publick Brew-house,

---upon pain of 1 s. per Month.

XXXII. Prohibited also and be it enacted by the authority aforesaid, That no spiritual person or persons, regular or secular, of what estate degree or condition soever he or they be, from the first day of April next coming, have, use, or keep by him or themselves, or by any person or persons, to his or their use or commodity, any manner of ~ Tan-house or Tan-houses, to be used or occupied to his or their own use, commodity or behoof. Nor from the said first day of April next coming, shall have, use or keep any manner of Brew-house or Brew-houses, to any other use, intent or behoof, than only to be spent and occupied in his or their own houses; upon pain to forfeit for every month so using and occupying any of the said mysteries or occupations, x l. The one moiety thereof to the King our Sovereign Lord, and the other moiety to him that will sue for the same by original writ, bill, plaint of debt, or information, in any of the Kings Courts. in which action and suit no wager of Law shall be admitted for the Defendant, ne any essoin or protection allowed.

~ Tan-house.] One head of the *Prose-* *openly intermeddle with any Artificers Occu-*  
*station*, which every Clergyman was re- *pations, as covetously to seek a gain thereby,*  
quired to make, at his Admission to any *having an Ecclesiastical Living to the Sum of*  
place Ecclesiastical, by the *Articles of Queen* *Twenty Nobles or above, by Year.*  
*Elizabeth, Ann. 1564. was this, I shall not*

CANONS 1603.

1 Jac. 1.

In Can. lxxv. Entituled, *Sober Conversation required in Ministers.*

Clergy shall not give themselves to base or servile Labour.

--- Furthermore, they shall not give themselves to any base or Servile Labour.

C A P. II.

*The Conversation of Ministers, with regard to LIFE and MANNERS.*

S T E P H A N U S.

A.D. 1222.  
6 H. 3.

In Constit. *Ut Clericalis.*

Clergy shall abstain from Gluttony and Drunkenness,

**A** Crapula quoque & Ebrietate, & aliis quæ honestatem eorum deformant, abstineant.---

Edit. Oxon.  
p. 115.

E D M U N D U S.

A.D. (circ.)  
1236.  
21 H. 3.  
Edit. Oxon.  
p. 310.

*Capellani annui bonæ famæ sine rationabili causa non deponantur; verum si Parochialis Sacerdos, aut Vicarius, de infamia, & præcipue de incontinentia notorie diffamatus fuerit, amoveatur, aut puniatur acriter per Rectores, nisi & ipsi acriter puniri velint.*

Rectors shall not discharge Curates, being of honest Conversation,

**M**ONEMUS Rectores Ecclesiarum, ne Capellanos b annuos sine causa rationabili studeant amovere, maxime si honestæ fuerint conversatio- nis,



*Conversa-  
tion of Mi-  
nisters as  
to Life and  
Manners.*

nis, & laudabile de sua conversatione habeant Testimonium. Sed si de incontinentia Parochialis Sacerdotis scandalum ortum fuerit, cum circa hoc vigilans debeat esse Rector Ecclesiæ, si per famam vel inquisitionem Episcopo de hoc prius constiterit quam per Rectoris denunciationem, tunc Rector tanquam conscius puniatur arbitrio superioris. Et similiter de Vicariis est censendum: & tam Rectores & Vicarios quam annuos Sacerdotes graviter puniendos esse decernimus, nisi super denunciatione excessuum, & præcipuè c incontinentiæ, in quibus notabiles Clerici inventi fuerint, in suis Parochiis fuerint vigilantes.

b Annuos.] *Sive Parochiales sint, sive stipendiarii non beneficiati in Ecclesiâ.* Lyndw.  
c Incontinentiæ] De Incontinentiâ Sacerdotum hæc habet Reformatio legum Ecclesiasticarum: ————  
“ Si quis ex illis Adulterii, Scortationis, aut Incestus, convictus fuerit; si propriam habuerit uxorem, omnes ejus opes & bona devolventur ad eam, & ad liberos, si qui sint ex eâ, vel ex aliquo priore matrimonio, legitime nati. Si verò nec

“ suam uxorem, nec liberos, habeat, omnes ejus facultates, arbitrata Judicis, vel inter pauperes disperientur, vel in alia Pietatis officia conferentur. Deinde, si quod illi Beneficium fuerit, postquam adulterii, vel incestus, vel scortationis, convictus fuerit; ex eo tempore prorsus illud amittat, nec illi potestas ullum aliud accipiendi. Præterea, vel in perpetuum abligetur Exilium, vel ad æternas Carceris tenebras destrudatur. Lyndw.

Abridgment.  
...but if Incontinence of Curate and Vicar is not early denounced by Rector, the Bishop shall punish him also, as privy, ...and both Rectors and Vicars shall diligently denounce the Excesses of the Clergy.

Ref. Leg. p. 24

A.D. 1261.  
45 H. 3.

BONIFACIUS.

*Forestæ aut Parci, i. e. Leporarii, aut Omichonis transgressor seu invasor Clericus puniatur aut in rebus, aut in corpore pro satisfactione.*

STATUIMUS, quòd si quis Clericus de transgressione Forestæ, aut Parci aliuscujus diffamatus fuerit, & convictus legitime coram Ordinario suo, vel confessus eidem, per suum Diocesenum, si bona habeat, pro qualitate transgressionis graviter redimatur; & illi, cui damnum vel injuria est illata vel noxa, hujusmodi redemptio assignetur. Si autem non habeat bona, suus Episcopus ipsum, prout culpa proposcerit, graviter puniat \* in persona, nè propter impunitatis fiduciam pateat presumptoribus licentiâ delinquendi.

\* In personâ.] *Et sic, qui non luit in bursa, luet in corpore.* ———— *Et hoc verum, quando est pena imponenda propter delictum; secus, si propter debitum, propter quod pena corporalis non debet imponi.* Lyndw.

Clergyman hunting in Park or Forest,  
...shall make Satisfaction to the Party injured, and to the Church.

Edif. Orod. p. 308.

A.D. 1237.  
22 H. 3.

OTHOBON.

*De Clericis Arma portantibus.*

Summarium.

Quicumque in Clericali Ordine constitutus Arma detulerit, aut deferenti illicite sese immiscuerit, ipso facto excommunicetur; & nisi admonitus à Prælato suo tempestive satisfecerit, omni Ecclesiastico Beneficio in toto Regno privetur, cum Ordinis sui amittendi periculo: non Beneficiatus autem fiat in quinquennium inhabilis ad habendum, nec à sententiâ Excommunicationis à Diocesano absolvatur, donec ad arbitrium ejus de præmissis satisfecerit.

CUM in Armis virtutum consistat securitas innocentie Christianæ, docet Apostolus, ut induamur armaturâ Dei, & gladio Sancti Spiritus accingamur; eo quod non sit nobis colluctatio adversus carnem & sanguinem, sed adversus Principes tenebrarum, qui non Armis ferreis, sed orationibus, & lacrymis, & virtutum operibus expugnantur.

Cum igitur Clericis, qui in præclaram Christi hæreditatem assumpti sunt, usus Armorum Divini & humani Juris auctoritate sit omninò prohibitus, ita ut etiam pro justitia eis ad offensionem aut vindictam nullatenus uti permittatur: Nos Ecclesiastici honoris zelo succensi, eorum abominamur enormes excessus qui Divini nominis & suæ honestatis obliti Arma deferre præsumunt, & se furibus & prædonibus sociantes, ac aliis malefactoribus, prædas, rapinas, & furta participant; non solum in privatorum hominum bonis, sed etiam Ecclesiasticorum, & aliis quacunque occasione repositis in eisdem vel Claustris, vel Cœmiteriis eorum, talia nefarie committentes.

The Sword of the Spirit, (and not secular Weapons,) is the Armour that belongs to Clergymen,

...notwithstanding which divers do wear Arms,

E. 2. C. 10. p. 26.



Abridgment.

--which for the future, none shall do upon pain of Excommunication --and, being Contumacious, of Deprivation; --or Incapacity of Promotion for five years.

Ecclesiastical Persons shall not go to publick houses. --nor labour servilely, --nor drink, --nor game, --but they shall read the Scriptures, and follow other honest Studies,

--upon pain of Ecclesiastical Censures.

No Deacon or Minister shall use himself as a Layman; --if he do, the Church-wardens shall present him to the Bishop.

Spel. V. 2. p. 104.

Vide etiam Can. Ap. 54.

Deacons promise, at their ordination, to lead exemplary lives.

In his igitur tam horrendis sceleribus Clericos debacchantes piâ salutis provisione prosequimur; statuentes, ut quicumque in Clericali Ordine constitutus Arma detulerit, vel aliter deliquerit in præmissis, ipso facto vinculum Excommunicationis incurrat; & nisi postmodum monitus infra certum terminum à Prælato suo præfigendum ad ipsius Prælati arbitrium satisfecerit, ex tunc ipso facto omni ejusdem Regni Beneficio Ecclesiastico sit privatus, & nihilominus Ordinis sui periculo se noverit subjacere. Qui si forte nullum Beneficium prius habeat, nè sine tanti sceleris pœna remaneat, per quinquennium sit inhabilis ad Beneficia quæcunque obtinenda. A prædicta verò Excommunicatio nis sententia à suo Diœcesano nullatenus absolvatur, nisi prius ad ipsius Diœcesani arbitrium satisfecerit de præmissis.

CANONS 1603.

Ixxv. Sober Conversation required in Ministers.

NO Ecclesiastical Person shall at any time, & other than for their honest Necessities, resort to any Taverns or Ale-houses, neither shall they boad or lodge in any such Places. Furthermore, they shall not give themselves to any base or servile Labour, or to Drinking, or Riot, spending their time idly by Day or by Night, playing at Dice, Cards or Tables, or any other unlawful Game: But at all times convenient, they shall hear or read some what of the Holy Scriptures, or shall occupy themselves with some other honest Study or Exercise, always doing the things which shall appertain to Honesty, and endeavouring to profit the Church of God, having always in mind that they ought to excel all others in Purity of Life, and should be Examples to the People to live well and Christianly, under Pain of Ecclesiastical Censures to be inflicted with Severity, according to the Qualities of their Offences.

Ixxvi. Ministers at no time to forsake their Calling.

NO Man being admitted a Deacon or Minister, shall from thenceforth voluntarily relinquish the same, nor afterwards use himself in the Course of his Life, as a Lay-man, upon pain of Excommunication. And the Names of all such Men so forsaking their Calling, the Church-Wardens of the Parish where they dwell shall present to the Bishop of the Diocese, or to the Ordinary of the Place, having Episcopal Jurisdiction.

[Other than for their honest.] This was an ancient Law of the Church of England, enacted in the Council of Westminster, 1175. and transferred from the third Council of Carthage: Clerici in sacris Ordinibus constituti, edendi vel bibendi causâ Tabernæ non ingrediantur, nec publicis potationibus intersint, nisi peregrinationis necessitate compulsi. Si quis verò tale quid fecerit, aut cesset, aut deponatur. e No man.] Semel autem receptus in Sacrum Ministerium, ab eo imposterum non discedet; nec se aut vestitu, aut habitu, aut in ulla vitæ parte geret pro Laico.

3 & 5 Edw. VI.-----13, 14 Car. II.

In the Form of Ordaining a Deacon.

Will you all apply your Diligence to frame and fashion your own Lives, and the Lives of your Families, according to the Doctrine of Christ, and to make both your selves and them, as much as in you lieth, wholesom Examples of the Flock of Christ.

Answer.

I will so do, the Lord being my Helper.

1 Of all your Family, 3 & 5 E. 6.

Conversation of Ministers, as to Life and Manners.

1 Jac. I.

Const. 1571. p. 232.

A.D. 1549. &c.



Abridgment.

3 &amp; 5 Edw. VI.-----13, 14 Car. II.

*In the Form of Ordaining a Priest.*

Will you be diligent to frame and fashion your own selves, and your Families, according to the Doctrine of Christ, and to make both your selves and them, as much as in you lieth, wholesom Examples and ' Patterns' to the Flock of Christ?

*Answer.*

I will apply <sup>2</sup> my self thereto," the Lord being my Helper.

<sup>1</sup> SpeHacles, 3 & 5 E. 6.    <sup>2</sup> So do, 3 & 5 E. 6.

Priests promise, at their Ordination, to lead exemplary lives.

## C A P. III.

*The HABITS or ORNAMENTS of Ministers, in time of Divine Service.*

## S T E P H A N U S.

*Omnes Prælati hac Constitutione nominandi in habitu Clericali & Cappis clausis incedant; nec quivis Clericorum comatus aut in laicali vestitu nisi in casu legitimi timoris eat. Et omnes crapulam & ebrietatem vitare compellantur.*

**U**T Clericalis Ordinis honor debitus observetur præsentis concilii auctoritate decernimus, ut tam Archidiaconi quam decani, & omnes alii in personatibus & dignitatibus constituti. Item omnes Decani rurales & Presbyteri decenter incedant in habitu Clericali & Cappis clausis utantur.

Idem quoque observent Officiales ipsorum Archidiaconorum cum fuerint in Consistorio. Et nec ipsi nec alii Clerici comam nutriant: sed honestè tonsi & f coronati convenienter incedant, nisi forte juxta causa timoris exegerit habitum transformari. A crapula quoque & ebrietate & aliis quam honestatem eorum deformant, omnes omninò Clerici abstineant & vigilanter. Et ad hæc omnia studiosius observanda secundum formam generalis Concilii à suis superioribus districtius compellantur.

*f Coronati.] Rasura superior, & Tonsura inferior faciunt de circulo capillorum Coronam. Lynd.*

## O T H O.

*De Habitu Clericorum, & de Ornamentis eorundem.*

## Summarium.

*Clerici, præsertim curam habentes, ac Presbyteri ad formam in generali Concilio editam habeant vestes & equorum ornamenta, ita ut cappis clausis, suis locis, utantur, & decenti tonsurâ, sub pœna Beneficiorum ab Episcopis facienda; qui ut ad id alios facilius compellant, à suis incipiant.*

**Q**UONIAM de habitu Clericorum, qui non clericalis videtur, sed potius militaris, grave scandalum Laicis generatur; firmiter statuendo præcipimus, ut ad formam tam de vestibus Clericorum quàm de Ornamentis Equorum in g generali Concilio editam per subtractionem Beneficiorum ab Episcopis compellantur, ita quòd in mensura decenti habeant Vestes, & Cappis clausis utantur in Sacris Ordinibus Constituti, maximè in Ecclesia, & coram

*g Generali Concilio.] Lateran. Decretal. l. 3. T. 1. c. 15. Clerici.*

Prælati

Every Clergyman shall use his proper Habit,

---as shall also Officials of Archdeacons;  
---and shall not wear long Hair,  
---nor give themselves to Gluttony or Drunkenness.

To avoid Scandal,

---Clergymen shall wear their proper and Canonical Habits,

Conversation of Ministers, as to Life and Manners.

A.D. 1549. &c.

A.D. 1222. 6 H. 3.

Edit. Oxon. p. 117.

A.D. 1237. 22 H. 3.

Edit. Oxon. p. 36.



## Abridgment.

---especially in the Church, and Synods, and Parish, ---wherein the Bishop shall first reform their own Domestick Chaplains.

Prælati suis, & in conventibus Clericorum, & ubique in Parochiis suis, qui cum animarum cura regendas Ecclesias susceperunt.

Et ut possunt Episcopi alios melius ad honestatem Vestium, Tonsuram & Coronam decentes, & Equorum Ornamenta idonea coarctare, provideant, ut à suis Clericis commensalibus hoc prius faciant observari, habentes eos in Vestibus Talaribus, Frænis, & Sellis, Clericalem gerentes habitum honestatis.

## O T H O B O N.

## De Habitu Clericorum.

## Summarium.

Clerici universi gerant Vestes non brevitæ nimia ridiculas & notandas, Aures patentes, Coronas latitudine decentes, nec nisi in itinere Infulas seu Cloyfas portent. Sacerdotes autem & in Dignitate constituti Cappas clausas deferant, nisi honesta causa aliam vestem interdum concesserit. Siqui autem in Dignitate constituti, aut curam Animarum habentes contra hæc in Vestibus, Infulis, Corona, vel Tonsura deliquerint, nec admoniti se emendarint, ab Officio suspendantur; & si per tres menses in Suspensione Officii fuerint, à Beneficio suspendantur, nec prius absolvantur quam sextam reddituum suorum pauperibus erogandam persolverint, & Prælati pro arbitrio eorum pœnas dederint. Quod statutum, nisi Archiepiscopi & ceteri Prælati diligenti executioni mandent, Archiepiscopi quidem à Dalmatica & Sandaliorum usu: Prælati vero reliqui ab Ecclesiæ ingressu usque ad emendationem suspendantur. Episcopi præterea Habitum gerant suæ Dignitati congruentem, & qui prius Religiosi fuerant, Habitum Religionis non dimittant, sed Statutum generalis Concilii servant.

Edit. Oxon.  
p. 85.

A.D. 1268.  
52 H. 3.

Habits,  
&c. of Mi-  
nisters, at  
Divine  
Service.

The outward habit being a token of the inward disposition;

---Moderation therein hath been ever enjoined to Clergymen,

---and particularly the foregoing Constitution to that purpose was made by the Pope's Legate.

For the preventing of many Scandals and Inconveniences,

---Clergy shall be decent in their Cloaths, Hair, and Crown,

CUM Sancti Evangelii veritas hominem, nuptialem vestem non habentem, jubeat foras mitti; quanquam de virtutum ornatu dictum esse illud sacra expositio doceat: quia tamen per exteriorem Habitum sæpe interior designatur, oportet hunc exterius talem esse, ut ei, qui debet interius esse, verisimiliter coaptetur, nè ex Habitu forsitan indecentis qui eum gestat in seipso vilis appareat, aut corda videntium pro facilitate judicii scandalizet; providè tam ab antiquis quàm à modernis Patribus tradita est moderatio, quam Clerici (qui juxta nominis impositionem in sortem domini sunt vocati) in Habitu exteriori sequantur, qui se lumbos præcingere, & lucernas ardentes gerere manibus edocentur.

Ex quorum consideratione bonæ memoriæ præfatus Legatus statuendo præcepit, ut ad formam tam de vestibus Clericorum quàm etiam de ornamentis equorum, in generali Concilio editam per subtractionem Beneficiorum ab Episcopis compellantur, ac restringantur, ita quod in mensura decenti vestes habeant, & Cappis clausis utantur in Sacris Ordinibus constituti, maximè in Ecclesia, & coram Prælati suis, & Conventibus Clericorum, & ubique in suis Parochiis, qui cum cura Animarum regendas Ecclesias susceperint. Et ut melius possint Episcopi alios ad honestatem Vestium, & Tonsuram, & decentes Coronas, & equorum ornamenta idonea coarctare, provideant, ut à suis Clericis commensalibus hoc prius faciant observari, quòd in vestibus, calcaribus, frænis, & sellis Clericalem gerant Habitum honestatis.

Nos autem gravem & perversum nimis abusum contra præmissa quasi generaliter diffusum in Clericis harum nostræ Legationis partium detestantes, in quo Deus irrideri dicitur, obscuratur decus Ecclesiæ, Clericalis Ordinis celsitudo deprimitur, Christus à suis Militibus ferentibus insignia aliena deferitur, decus honestatis Ecclesiæ maculatur, dum Clericum à Laico respiciens oculus non decernit, sit omnibus verè fidelibus in scandalum & in despectum.

Statuimus, & districtè præcipimus, ut Clerici universi vestes gerant non brevitæ nimia ridiculas & notandas, sed saltem ultra tibiæ medium attingentes, aures quoque patentes, crinibus non coopertas, & Coronas habeant probandâ latitudine condecens, in quibus depositio præcipuè terrenorum, & Regalis Sacerdotii dignitas designantur. Nec nisi in itinere constituti unquam,

aut



*Habits of Ministers, out of the Church.*

† See MS.

aut in Ecclesiis, vel coram Prælatibus suis, aut in conspectu communi hominum, publicè Infulas suas (vulgo *Cloyphos* vocant) portare aliquatenus audeant vel præsumant. Qui autem sunt in Sacerdotio, qui etiam sunt Decani, aut Archidiaconi, nec non omnes in Dignitatibus curam Animarum habentibus constituti, Cappas clausas deferant, nisi causâ itineris forte, vel aliâ justâ causâ, honestè aliam vestem gerant.

Si qui verò in Sacerdotio vel Dignitatibus constituti, aut curam habentes Animarum, † ut Cathedralium Ecclesiarum Canonici, contra præmissa vel Infulis, Coronâ, vel Tonsurâ deliquerint, si moniti non se emendaverint, ipso facto ab Officio suspensionem incurrant. In qua si per tres menses steterint, extunc à Beneficio sint suspensi, nec per Diocesanos ab hujusmodi sententiis absolvantur, nisi prius sextam redituum suorum anni illius partem persolvant, per ipsos Diocesanos fideliter pauperibus erogandam, salvis aliis sententiis condignis, quas Prælati subditis in his delinquentibus voluerit erogare. De ipsis quoque Sacerdotibus, Decanis, & Archidiaconis, & aliis in Dignitatibus constitutis, qui in vestium Habitu contra præmissa deliquerint, hæc eadem statuimus observari. Reliquos verò Clericos in præmissis delinquentes, suorum Prælatorum arbitrio relinquimus puniendos.

Præcipimus autem in virtute Sanctæ obedientiæ universis Archiepiscopis, Episcopis, Archidiaconis, & cæteris Prælatibus, ut in locis suæ Jurisdictioni subiectis super præmissis diligenter inquireant, & contra delinquentes Statutum præfens efficaciter observent, & faciunt observari; qui si inquirendo desides & negligentes extiterint, vel postquam eis per facti evidentiam, vel alio justo modo constiterit quenquam delinquere in præmissis, corrigere secundum ea quæ statuta sunt neglexerint, Archiepiscopi à *b* Dalmaticæ Tunicæ, & Sandaliorum usu; Archidiaconi verò, & alii inferiores Prælati ipso facto ab ingressu Ecclesiæ, donec circa correctionem & emendationem exerceant suum officium debitum, sint suspensi.

Ad hæc, cum Episcopalis dignitas Religionis fructum augere debeat, & cultum ejus apertius demonstrare, Præcipimus universis Episcopali præditi dignitate, ut Habitum gerant, & Ecclesiæ dignitati & honori suo congruentem, prout Canonica edocent Instituta. Specialiter autem indicimus his, qui de Monasteriis, vel aliis Regularibus locis in Episcopos assumpti sunt, vel de cætero assumentur, ut suum deferant habitum Regularem, nè Religionem præcedentem Dignitas excludere videatur, quam sibi debeant vinculo individui fœderis adaptare: quibus etiam districtius inhihemus, nè utantur vestibus, aut pellibus aliis, vel ornatibus ab Ordine sive Regula sua priore discrepantibus in colore, sed in talibus Statutum *i* generalis Concilii fatagunt observare.

*b* Dalmaticæ.] *Dalmaticæ*, vestis longa & candida, sine manicis, purpureis clavibus distincta; nunc Sclavoniam dicimus. Spelm. Gloss. *i* Generalis Concilii.] *Lateran.* Decretal. 1. 3. T. 1. c. 5. Clerici.

JOHANNES PECCHAM.

Quilibet in sacris constitutus vestem exteriorem à militari & laicali gerat honestate differentem; aut ab ingressu suspendantur Ecclesiæ. Statutum autem legati contra Clericos portantes infulas aut terras, publice ratum sit, ac publicetur, cum pœnarum irrogatione in transgressores.

Quamvis Religionis & infra. Statuto adhærentes Domini Octoboni quondam in Anglia Apostolicæ sedis Legati, Ordinamus & districtè præcipimus ut quilibet Clericus constitutus in sacris ordinibus vestem exteriorem gerat *k* dissimilem Militari, vel Laicali: utpote antè & posterius non *l* birratam, vel saltem ex forma sua Militari vel Laicali congrua honestate dissimilem. Et qui secus facere presumpserit, quamdiu formæ contrariæ habitum tulerit ab ingressu Ecclesiæ, suspendatur. Et quia prædictus legatus contra

*k* Dissimilem militari.] *Utpote*, cum sericis vel aureis Intexturis, aut aliorum colorum ornamento in vestium Summitate. Lyndw. *l* Birratam.] *Birrum* secundum Januener dicitur grossum vestimentum; — Secundum istum sensum, dat intelligere, quod Clerici hujusmodi non debeant uti vestibus vilibus vel abjectis, quæ sint contra ipsorum honestatem. *Birrum* aliquando ponitur pro gremio — unde — potest esse hic sensus, ut Clerici non habeant vestes antè & retrò birratas, i. e. scissas sive divisas, aut complicatas; ex quâ scissurâ sive plicaturâ multa fiant Gremia. Lyndw.

Abridgment.

---and never appear in their Cloyfs, on any solem occasion, ---and Priests and Dignitaries shall wear close Caps,

---upon pain of Suspension ab officio, ---and standing in Contumacy for 3 months, à Beneficio, ---till they pay 6th part of Benefice for the use of the Poor: ---the rest of the Clergy to be left to the discretion of their Ordinaries.

Archbishops and Bishops neglecting to Enquire and Correct,

---shall also be suspended,

---and shall themselves wear the Episcopal Habit,

---and likewise having been Religious, the Habit of the Order they belonged to.

Every Person in Orders shall wear Habit, unlike the Military and Lay,

---upon pain of suspension ab ingressu Ecclesiæ.

A.D. 1281. 9 Edw. 1.

Edit. Oxon. p. 120.



## Abridgment.

The foregoing  
Constitution of O-  
thobon,

--- having been de-  
feated through the  
timorousness of the  
Lesser Prelates in  
not admonishing,  
--- shall take place,  
as to the Penalties,  
without Monition,

--- and Inquisition  
shall be made in  
every Deanry,  
after Offenders.

It shall be pub-  
lished three times  
a year,

--- that all who  
will enjoy the Pri-  
vilege of Clergy, do  
wear the Clerical  
Habit.

Persons in Or-  
ders not using such  
Habits as are here-  
by directed,

Clericos portantes *m* infulas aut *n* tenas coram Prælatis, aut coram populo publicè deferentes statuit, Ut si moniti minimè se emendaverint, ipso facto ab officio suspensionem incurrant; In qua si per tres menses perstiterint, extunc à beneficio sint suspensi; à qua suspensione absolvi nequeant, nisi data sexta parte Ecclesiasticorum bonorum suorum per manus Episcoporum pauperibus eroganda; nihilominus pœnis aliis puniendi ad arbitrium Prælatorum: Nos hujusmodi statutum advertentes modicæ efficacix hætenus extitisse, pro eo quod *o* minores Prælati hujusmodi Clericos monstruosos monere non audent; propter quod in pœnas à dicto Legato statutas videntur pusillanimitatis suæ merito incidisse & rarò Clerici hujusmodi Episcoporum aspectibus se præsentant: Statuimus ut omni monitione cessante, cum Clericos juris ignorantia non excuset, prædicti Clerici suæ proterviæ merito, quotiescunque publicè coram populo vel Prælatis hujusmodi infulas portaverint, nisi forsan in itinere, in pœnas omnes incidant supradictas: Mandamus insuper ut in posterum de talibus per Decanatus singulos fiat inquisitio specialis, & cujuscunque sint gradus vel excellentiæ, contra ipsos in forma Canonica procedatur.

*m* Infulas.] *Quæ vulgò Coïphe dicuntur,* dependens, diversorum colorum. Lyndw.  
& *o* Lyndw. *o* Minores Prælati.] *Sc. Archidiaconi, &*  
*n* Tenas.] *Est Tena, vittarum extremitas* consimiles Jurisdictionem habentes.

## BONIFACIUS.

Præcipiendum est Privilegio Clericali gaudere volentibus, ut habitum, vestitum, & tonsuram Clericalem, suis locis deferant.

**I**TEM statuimus, quòd Episcopi in suis *oo* Synodis, & aliis Convocationibus, & singuli Archidiaconi in suis \* Capitulis, & † Capellani Ecclesiarum Parochialium in suis Ecclesiis, ter in anno denuncient omnibus qui Clericali Privilegio gaudere voluerint, quòd Habitum Clericalem, necnon || Coronam & p Tonsuram patenter in locis debitis deferant competentem, & maximè coram suis Ordinariis; & in Ecclesiis, & in Congregationibus Clericorum.

*oo* Synodis.] *Ita dicuntur Conventus sive* intelligi de Capellanis Parochialibus, qui sunt  
*Congregationes Senum & Presbyterorum, & de-* Vicarii temporales. Lyndw.  
*bent fieri per Episcopos annuatim.* Lyndw.

\* Capitulis.] *Collectio Rectorum, Vicari-* || Coronam.] *Hoc est signum regni & per-*  
*orum, & aliorum virorum Ecclesiasticorum, ob* fectionis, cum sit circularis, carens angulo, in  
*tractatus communes inter se habendos, dicitur* signum carentiæ sordium; quia ubi angulus, ibi  
*Capitulum.* Lyndw. sordes. Lyndw.

† Capellani.] *Rectores— & potest etiam* p Tonsuram.] *Signum, quòd præscindenda*  
*sunt vitia Cordis & Corporis, ne intuitum Di-*  
*vinorum impediant.* Lyndw.

## JOHANNES STRATFORD.

In sacris beneficiati Vestem & Tonsuram suo statui deferant competentem; nec vestium luxuriæ aut annulorum abutantur. Vel post legitimam admonitionem ab officio suspendantur & suspensi contravenientes graviter puniantur. Sine beneficio autem Clerici in his peccantes quatuor proximis mensibus fiant ad beneficia suscipienda inhabiles; sicut & Scholastici in Universitate degentes. Verum tamen Clerici possunt itineri congruum commode suscipere amictum. Sed ante omnes, Episcopi habitus & vestium colant honestatem.

**E**Xterior habitus, & infra: Hoc sacro approbante Concilio statuimus & præcipimus quod quicumque obtinentes beneficia Ecclesiastica nostræ provinciæ, in ordinibus sacris potissimè constituti, Vestes & Tonsuram Clericales deferant suo statui competentes. Si qui autem Clerici nostræ provinciæ publicè incedentes in eâ, veste superiori brevi aut strictâ notabiliter, aut cum pp longis & latis excessivè manicis cubitos circumquaque q non teigentibus, sed r pendulis,

pp Longis.] *Ultra extremitates digitorum.* dem cubiti usque ad manum dicuntur extendi.  
Lyndw. Lyndw.

q Non teigentibus.] *Ubi namque Manicæ* r Pendulis.] *Scil. manicis, quæ si essent*  
*apertæ sunt, & multum latæ, ad omnem eleva-* clausæ, & non pendulæ, sed brachio adaptatæ,  
*tionem Brachiorum apparent cubiti, qui qui-* bene tegerent cubitum. Lyndw. crinibus

Habits  
of Mini-  
sters, out  
of the  
Church.

A.D. 1261.  
45 H. 3.

Edit. Oxon.  
P. 68.  
O B S.

A.D. 1342.  
16 Edw. 3.

Edit. Oxon.  
P. 122.



Habits of Ministers, out of the Church.

crinibus intonsis, barbivse prolixis, aut s annulis suis utantur digitis publice: Alii quam quibus ratione t dignitatis & honoris hoc congruit, seu in præmissis vel aliquibus præmissorum superius expressatis excellerint, nisi infra sex menses à tempore commissi excessus hujusmodi moniti se correxerint, & effectualiter hujusmodi dimittant excessus, Ecclesiastica habentes beneficia post prædictorum lapsum sex mensium ipso facto ab officio suspensionem incurrant. In qua si per tres menses sequentes steterint, à suis extunc beneficiis nulla requisita monitione alia, sint ipso jure suspensi. Nec extunc per suos Diœcesanos, quibus eorum absolutionem præsentis auctoritate Concilii reservamus, prius ab hujusmodi sententiis absolvantur, quam quintam partem proventuum unius anni suorum beneficiorum Ecclesiasticorum persolvant, per Diœcesanos ipsos in quorum Diœcesibus hujusmodi beneficia obtinent, pauperibus in locis beneficiorum suorum degentibus infra tres menses postmodum fideliter erogandam. Et si suspensionibus hujusmodi durantibus, Divinis seu administrationibus dictorum beneficiorum se ingesserint vel miscuerint sicut prius, extunc dictis Beneficiis sint eo ipso privati. Non beneficiati verò Clerici publice & communiter pro Clericis se gerentes, si in prædictis excellerint, vel eorum aliquibus, nisi moniti infra sex mensium spacium se correxerint cum effectu, eo ipso sint inhabiles per quatuor menses ad beneficium Ecclesiasticum obtinendum. Et præter hæc, in Universitatibus dictæ provincie studio literarum vacantes, & pro Clericis se gerentes, si se à præmissis effectualiter non abstineant, ad quoscunque gradus Ecclesiasticos & honores in ipsis universitatibus ipso facto reddantur inhabiles, donec suis moribus atque gestu u maturitatem exhibeant honestis scholaribus competentem, salvis pœnis aliis editis contra hujusmodi delinquentes. Præsentem tamen constitutionem nolumus prohibere, quin Clerici apertis & patentibus supertunicis, aliàs x mensalibus nuncupatis, cum manicis competentibus, locis & temporibus opportunis, ac etiam itinerantes, pro eo duntaxat tempore quò per patriam iter faciunt, breves & strictas vestes sibi assumere & illis uti valeant, prout eis videbitur expedire. Verùm cum fronte libera cæteros redarguere nequeant Episcopi, si seipso & domesticos proprios non corrigant in hac parte; Statuimus, quòd Episcopi nostræ provincie venustatem in tonsuris, vestibus & cæteris supradictis observent, & à suis Clericis commensalibus faciant observari.

s Annulis.] Nam per annulum præsumitur Matrimonium. Lyndw.
t Dignitatis.] Ut sunt Episcopi, & Superiores, qui sunt sponsi Ecclesie, & per quorum mortem dicuntur Ecclesie viduatae. Abbates verò, & alii Prælati, annulis uti non debent, nisi hoc eis ex privilegio competat. Lyndw.

u Maturitatem.] i. e. Discretionem, seu sapientiam. Lyndw.
x Mensalibus.] Sic dictis, quia in eis solebant utentes sedere ad mensam. Et erant hujusmodi supertunica, antiquæ vestes præparatæ ad parcendum vestibus magis precisiss, maxime tempore prandii vel cœnæ. Lyndw.

JOHANNES STRATFORD.

De consuetudine habituum Clericos decentium observationem, sub pœna qua constituta est, præcipit.

EXterior habitus, & infra: Auctoritate Concilii præcipimus, ut locorum Ordinarii quibus de subditorum excessibus spectat inquirere in locis suæ jurisdictioni subjectis, per se vel alios annuatim inquirent super observatione constitutionis per nos editæ de habitu Clericali. Et contra reos in hac parte, constitutionem ipsam per pœnas in eadem limitatas diligenti cautela faciant observari, &c.

11 Edw. III. Cap. 4.

An Act concerning the Wearing of Furr.

Item, It is accorded, that no man nor woman---the King, Queen--- and people of Holy Church which may expend by year an c. lib. of their Benefices at the least, to the very value, only except, shall wear no Furre in his cloaths---upon the forfeiture of the said Furre. And further to be punished at the Kings will.

Abridgment.
---and not returning in six months,

--- shall be suspended ab Officio, and after three months, à Beneficio,

---and not absolved, but upon paying the 5th part of their Income to the Poor,

---and, if they officiate in the meantime, shall be deprived.

Non-beneficed Clergy offending shall be incapable of Promotion, for 4 months,

---and being of the University, or Degrees, till be reformed.

Provision made for Riding-Habit, &c.

Bishops shall observe these in themselves and their Domesticks,

Ordinaries shall enquire of Offences against the foregoing Constitution, ---and proceed against the Guilty.

Proviso, for Clerks of 100l. per annum to wear Furr,

A.D. 1342. 16 Edw. 3.

Edit. Oxon. p. 15.

A.D. 1337.

O B S.



## Abridgment.

What Clerks may wear Furre in the Winter,

---and Liding in Summer.

Spiritual Men excepted in the regulation of Habits.

Spiritual Men excepted in the regulation of Habits.

Clergy, being Lords of Parliament, may wear foreign Stuff, and none else;

---and Dignitaries and Doctors, &c. Sarcenet linings in gowns, &c.

---the rest of the Clergy shall wear no Furrs, but common,

---and some of them, no Sarcenet in their Tippets.

All Churches have ever appointed the Clergy a distinct Habit;

---and, in the Church of England, Archbishops and Bishops shall use the Apparel of their Degrees,

37 Edw. III. Cap. 13.

*An Act for Apparel.*

Item, That Clerkes, which have degree in any church, cathedral, collegial, or schools, or Clerk of the King, that hath such estate that requireth furre, shall do and use according to the constitution of the same. And all other Clerkes, which have ii. C. markes of land by yeere, shall wear and do as Knights of the same Rent. And other Clerks within the same rent, shall wear as the Esquiers of C. li. of rent. And that all those, as well Knights as Clerks, which by this ordinance may wear furre in the winter, in the same manner shall wear liding in the summer.

1 Henr. VIII. Cap. 14. ----- 6 Henr. VIII. Cap. 1.

*Concerning Reformation of Apparel, &c.*

--- II. And that no man under the Degree of a Knight ----- except Spiritual men and Serjeants at the Law, and Graduates at the Universities, use any more cloth in a long gown, than four broad yards, and in a riding gown or coat above three yards, upon pain of forfeiture thereof.

7 Henr. VIII. Cap. 7.

*In an Act, Entituled, An Act concerning Apparel to be used and worn.*

XV. --- And that no man under the Degree of a Knight --- except Spiritual men ----- use more cloth in a long gown or coat above three yards, upon pain of forfeiture thereof.

24 Henr. VIII. Cap. 13.

*In an Act, Entituled, An Act for Reformation in Excess of Apparel.*

XV. BE it further enacted, that after the said feaft, none of the Clergy under the dignity of a bishop, abbot or prior, being a Lord of the Parliament, wear in any part of his or their apparel of their bodies, or on their horses, any manner of stuff wrought or made out of this Realm of England, Ireland, Wales, Calis, Berwick, or the marches of the same, except that it shall be lawful to all archdeacons, deanes, provosts, masters and wardens of cathedral and collegiate churches, prebendaries, doctors or bachelors in divinity, doctors of the one Law and of the other, and also doctors of other Sciences, which have taken that degree, or be admitted in any University, to wear Sarcenet in the lining of their gowns, black Sattin or black Chamblet in their doublets and sleeveless coats, and black Velvet or black Sarcenet or black Sattin in their tippets and riding hoods or girdles, and also cloth of the colour of Scarlet, Purrie or Violet, and fures called gray, black budge, soines, shanks or meneber in their gowns and sleeveless cotes, any thing before mentioned to the contrary notwithstanding. And that none of the Clergy under the degrees aforesaid, wear any manner of fures, other than black conie, budge, gray conie, shanks, calaber gray, sich, for, lamb, otter and bever. And that none of the Clergy under the degrees aforesaid, other than Masters of Art, and Bachelors of the one Law or the other, admitted in any University, or such other of the said Clergy as may dispend yearly xx. li. ober all charges, shall wear in their tippets any manner of sarcenet or other like.

C A N O N S 1603.

*Ixxiv. Decency of Apparel enjoined to Ministers.*

THE true, ancient and flourishing Churches of Christ, being ever desirous that their Prelacy and Clergy might be had as well in outward Reverence, as otherwise regarded for the Worthiness of their Ministry, did think it fit by a prescript Form of decent and comely Apparel, to have them known to the People, and thereby to receive the Honour and Estimation due to the special Messengers and Ministers of Almighty God: We therefore following their grave Judgment, and the ancient Custom of the Church of England, and hoping that in time New-fangleness of Apparel in some factious Persons will die of it self, do constitute and appoint, That the Archbishops and Bishops shall not intermit to use the accustomed Apparel of their Degrees. Likewise all Deans

*Habits of Ministers, out of the Church.*

A.D. 1363.  
O B S.

A.D. 1509.

O B S.

A.D. 1515.

O B S.

A.D. 1532.

O B S.

I Jac. I.



*Habits  
of Mini-  
sters, out  
of the  
Church.*

all Deans, Masters of Colleges, Archdeacons and Prebendaries in Cathedral and Collegiate Churches (being Priests or Deacons) Doctors in Divinity, Law and Physick, Bachelors in Divinity, Masters of Arts, and Bachelors of Law, having any Ecclesiastical Living, shall usually wear Gowns with standing Collars and Sleeves strait at the Hands, or wide Sleeves, as is used in the Universities, with Hoods or Tippetts of Silk or Sarcenet, and square Caps. And that all other Ministers admitted or to be admitted into that Function, shall also usually wear the like Apparel as is aforesaid, except Tippetts only. We do further in like manner ordain, That all the said Ecclesiastical Persons above-mentioned, shall usually wear in their Journeys, Cloaks with Sleeves, commonly called Priests Cloaks, with Guards, Welts, long Buttons or Cuts. And no Ecclesiastical Person shall wear any Coife or wrought Night-cap, but only plain Night-caps of black Silk, Satten or Velvet. In all which Particulars concerning the Apparel here prescribed, our meaning is not to attribute any Holiness or special Worthiness to the said Garments, but for Decency, Gravity and Order, as is before specified. In private Houses and in their Studies, the said Persons Ecclesiastical may use any comely and Scholar-like Apparel, provided that it be not cut or pinkt; and that in publick they go not in their Doublet and Hose, without Coats or Cassocks: And that they wear not any light coloured Stockings. Likewise poor beneficed Men and Curates (not being able to provide themselves long Gowns) may go in short Gowns, of the Fashion aforesaid.

**Abridgment.**

---Dignitaries, and Graduates, &c. shall wear Gowns with Collars, Tippetts, and Caps, --- and all other Ministers the like, except Tippetts.

Ecclesiastical Persons, upon a journey, shall wear Cloaks with Sleeves, &c.

---and none shall wear Coifes.

No Holiness is attributed to the Habit.

At home, any apparel may be worn, that is not cut or pinkt;

---abroad, not without Coats or Cassocks.

Not in light colour'd Stockings.

Poorer Clergy may go in short Gowns.

3 D

TIT.



Abridgment.

## T I T. VIII.

CATHEDRAL and COLLEGIATE  
CHURCHES, of the OLD and NEW  
FOUNDATION.

## The CONTENTS.

- CAP. I. *Cathedrals, the SEES of Archbishops and Bishops.*  
 CAP. II. *RESIDENCE of Deans and Prebendaries, at Cathedral and Collegiate Churches.*  
 CAP. III. *ELECTIONS, in Cathedral and Collegiate Churches.*  
 CAP. IV. *HABITS in Cathedral and Collegiate Churches.*  
 CAP. V. *PREACHING, in Cathedral and Collegiate Churches.*  
 CAP. VI. *Cathedral and Collegiate Churches, as of the NEW FOUNDATION.*

## C A P. I.

*Cathedrals, the SEES of Archbishops and Bishops.*

## S T E P H A N U S.

*Episcopi in Ecclesiis suis subinde loco & tempore congruis resideant.*A.D. 1222.  
6 H. 3.Edit. Oxon.  
p. 130.

**S**tatuimus, & infra: Episcopi in Ecclesiis suis Cathedralibus reside-  
 re procurent in aliquibus *a* majoribus festis, & saltem in  
 aliqua parte quadragesimæ, prout animæ suæ saluti viderint ex-  
 pedire.

*a* Majoribus Festis.] *De jure communi* Episcopus tenetur diebus dominicis in Ecclesiâ suâ  
 personaliter interesse. Lyndw.

## S T E P H A N U S.

*Prælati ipsi honestos habentes Eleemosynarios, sint Hospitales, & Comes,  
inque suos benevoli.*A.D. 1222.  
6 H. 3.Edit. Oxon.  
p. 67.

**S**tatuimus auctoritate præsentis Concilii, ut Prælati singuli Eleemosynarios  
 honestos habeant. Et ut ipsi Prælati juxta Apostolum sint Hospitales, & ut  
 horis competentibus ad pauperes audiendos, & justitiam exhibendam, suam  
*b* in publico exhibere præsentiam procurent; & in personis propriis confessionibus  
 audiendis interdum intersint, & pœnitentiis injungendis.

*b* In publico.] Ubi, viz. absque impedi-  
 mento possint subditi ad eos accedere. Et dici  
 potest locus satis publicus, Ecclesia Cathedralis,  
 dum ibi sint. Alioquin, si in aliquo Maneri-  
 orum suorum fuerint, ejusdem Manerii Capella,  
 vel Ecclesia Parochialis vicina, locisve aliis  
 ad hoc assignandus; in quo ad eos publicè potest  
 haberi recursus. Lyndw.

OTHO.

Bishops shall be  
 at their Cathedrals,  
 on some of the  
 greater Feasts, or at  
 least in Lent.

Bishops shall  
 keep Hospitality,  
 ---and hear Causes  
 of the Poor, and  
 sometimes Confes-  
 sions.



Cathedrals  
the Sees of  
Archbishops  
and  
Bishops.

A.D. 1237.  
22 H. 3.

Edit. Oxon.  
p. 55.

A.D. 1268.  
52 H. 3.

Edit. Oxon.  
p. 118.

Abridgment.

## O T H O.

## De Officio Archiepiscoporum &amp; Episcoporum.

## Summarium.

Archiepiscopi & Episcopi, ut juxta nominis Officii impositionem Officio fungantur, vigilia gregis suæ superintendant, sese exemplar sanctitatis exhibeant in Cathedralibus suo tempore celebrando, Dioceses visitando, & prædicatione reformando: atque ut id diligentius efficiant, Professionis suæ Regulam, quotannis ad minimum bis, sibi pronunciandam curent.

**Q**UID ad Venerabiles Patres Archiepiscopos & Episcopos incumbat ex Officio faciendum, nomen Dignitatis eorum (quod est Episcopus, id est, Superintendens) exprimit evidenter. Intendere propriè quippe habent, & circa Gregem suum, juxta verbum Evangelicum, noctis vigiliis custodire.

Cum igitur esse debeant Forma Gregis, ad quam se debent subditi reformare, quod nequit fieri, nisi se omnibus exhibeant in exemplum: Exhortamur eos in Domino, & monemus, ut moram facientes apud Cathedrales Ecclesias, congruentes ibidem Missas celebrent in præcipuis Festivitatibus, & in diebus Dominicis, & in Quadragesima, & in Adventu.

Circueant præterea Dioceses suas temporibus opportunis, corrigendo & reformando Ecclesias, & consecrando, & verbum vitæ seminando in agro Dominico.

Ad quæ omnia melius exequenda, Professionem, quam in sua Consecratione fecerunt, saltem bis in anno, in Adventu Domini scilicet, & in c majori Quadragesima, faciant sibi legi.

c Majori Quadragesimâ.] Sunt tres Quadragesimæ in anno, de quibus Adventus dicitur una. J. de Athon.

## O T H O B O N.

## De Residentia Archiepiscoporum &amp; Episcoporum.

## Summarium.

Archiepiscopi & Episcopi, ut præcipue diebus solennibus, Quadragesimalibus, & Adventus præsentiam suam Ecclesiis suis exhibeant, admonentur sub virtute Sanctæ Obedientiæ & Divini Judicii attestatione. In quibus quidem Ecclesiis Sanctum Chrisma, & Oleum Sanctum, atque infirmorum, in cœna Domini quotannis conficiant, nisi à suis superioribus, aut majoribus negotiis alio vocati, absentia suæ legitimam prætendant excusationem. Sicque juxta nominis impositionem Gregi suo superintendentes, Officio suo satisfecerint.

**P**ASTOR bonus cognoscens Gregem suum, debet ipsum & mentis & corporis oculis jugiter intueri; & nè ipsum insidiosus lupo invadat, sicut hostis persequendo invigilat, sic Prælati resistat continuè defendendo. Oportet igitur ut corporali præsentia ipsum tueatur sollicitè, quia vadens Pastor, & veniens, sæpe non invenit quod reliquit, eo quòd illuc adversarius d non residens, e nec recedens, neque dormiens, asportavit.

Sanè licet Episcopi ad personalem Residentiam circa gregem Domini sibi commissum, tam Divinis quàm Ecclesiasticis Præceptis noscantur astricti, quia tamen in partibus nostræ Legationis nonnulli sunt qui hoc attendere non videntur: Nos igitur prædicti Legati monitionem & exhortationem super hoc ad Archiepiscopos & Episcopos prudenter emissam æmulationis condignæ studio subsequentes, ipsos

d Non residens.] Scil. in inferno, ubi est Athon.  
locus aptus Residentiæ, nam paratus est Diabolo e Nec recedens.] Sc. ab insidis suis capti-  
& Angelis ejus; sed potius est circumiens. J. de ofis. J. de Athon.

efficaciter

Bishops, by name and office, are to be Overseers of their Flock,

---and that they may also be Examples, they shall reside at their Sees, and say Mass on high Days,

---and shall often visit their Dioceses,

---and cause their Consecration-Vow to be read to them twice a year.

A good Shepherd is bound to watch his Flock, lest the Wolf come,

---but altho' Bishops are bound to Residence; many neglect it;



Abridgment.

Which makes it necessary to enforce the Constitution of *Ordo*;

—unless when they are called away by their Superiors.

efficaciter hortamur in Domino, & in virtute Sanctæ Obedientiæ, atque sub f Divini attestazione Judicii commonemus, ut ad commissi gregis curam, & ad desponsatarum sibi Ecclesiarum solatium, præcipuè diebus solennibus, Quadragesimalibus, & Adventus, præsentiam suam debitam exhibeant, quibus se fide mediâ copulârunt: in quibus Sanctum Chrisma, & Oleum Sacrum, atque infirmorum, g in die Cœnæ Domini quolibet anno conficiant, nisi eos ab ipsis Ecclesiis dictis diebus h à suis Superioribus evocatos ex alia justa causa oporteat absentare; ut quod ipsorum nomen prætendit, & commissum sibi ministerium exigit (quod non minus gerit oneris quam honoris) sollicitis studeant excubiis observare.

f Divini attestazione Judicii.] i. e. Damnationis æternæ, in extremo calculo, quando separantur oves ab hædis. J. de Athon.

g In die Cœnæ.] In quintâ feriâ ante Pascha. J. de Athon.

h A suis superioribus.] Per suos Superiores Ecclesiasticos vel Seculares. J. de Athon.

Cathedrals the Sees of Archbishops and Bishops.

12 Car. II. Cap. 11.

A.D. 1660.

Entituled, The King's Majesty's most gracious, free, and general Pardon, &c.

Intruders into Lands for the Repair of Cathedrals, excepted in the Pardon,

— as also those, who have converted the Goods of the Church to their own use.

LI. Provided always, That this Act, nor any thing therein contained, shall not extend to indemnifie any person or persons whatsoever, who have entred into any Messuage, Lands, Tenements and Hereditaments, called Fabrick Lands, or possess themselves of any Rent or Revenues given for the repair of any Cathedral or other Church, or who have Sacrilegiously enriched themselves by converting the Plate or Utensils, and Materials, of, or belonging to any such Churches, to their own private use and advantage, for or in respect of the said Crimes only.

Rules of Common and Canon-Law concerning Cathedrals, as the Sees of Bishops.

Cap. 6.

I. THE Sees of Bishops ought regularly to be fixt, in such Towns only as are Noted and Populous. When this was first made a Rule of the Church in the Council of Sardica (Μη εἶναι ἀπλῶς καθιστᾶναι Ἐπίσκοπον ἐν κώμῃ ἢ βραχέει πόλει — ἵνα μὴ κατὰ τελευτῆσαι τὸ τῶ Ἐπισκόπου ὄνομα καὶ ἡ αὐθεντεία, i. e. Non licere simpliciter Episcopum constituere in aliquo pago vel parva urbe, ne Episcopi nomen & auctoritas vilipendatur,) the only design seems to have been, to prevent the needless Multiplication of Bishops Sees; inasmuch as that Canon, describing the small City, calls it such an one as a single Presbyter might be sufficient for, in point of Numbers. But it was afterwards understood by the Canon-law, that of what extent or how populous soever the Diocese or Jurisdiction of a Bishop might be, it was most agreeable to the Episcopal Dignity, to place the See or Cathedral Church in some large and considerable Town. Pursuant to which, with express reference to the foresaid Council, and to the Decrees of Pope Leo and Pope Damasus, it was decreed in a Council under Archbishop Lanfrank, ut aliquot sedes Episcopales, quæ in oppidulis & pagis antea fuerant, in locis celeberrimis collocarentur; and several were accordingly removed, as Dorchester to Lincoln, Selsey to Chichester, Kinton to Exeter, &c. which Rule was also observed, in fixing the Sees of the five

Extra. 1. 5. t. 33. c. 1. Spel. V. 2. p. 8, 14.

new Bishopricks, erected by King Henry VIII.

II. Every Town which hath the See of a Bishop placed in it, is thereby entituled to the honour of a City. Upon which, my Lord Coke defines a City thus, A City is a Borough incorporate, which hath, or hath had, a Bishop; for though the Bishoprick be dissolved, yet if the Borough had a Bishop within time of Memory, it shall always remain a City; as Westminster now doth.

1. Inst. p. 109. b.

III. Every See or Cathedral (as such) is exempt from Archidiaconal Jurisdiction: Satis absouum videtur, ut filius potestatem habeat in parentem. Accordingly, a Bishop's See having been newly erected within the limits of a certain Archdeaconry, it was represented, quod Archidiaconus in tantam prorupit temeritatis audaciam, ut in Episcopum ibi consecratum, & Ecclesiam, suam Jurisdictionem exercere præsumat; and Gregory the IX. decreed thereupon, Quatenus præfato Archidiacono, à cujus Jurisdictione dictum Episcopum denunciavimus exemptum, id districtè studeas inhibere; which Decretal Epistle became part of the Body of the Canon-law.

Extra. 1. t. 33. c. 16.

IV. The Cathedral Church is the Parish Church of the whole Diocese (which Diocese was therefore commonly called Parochia, in ancient times, till the application of this Name to the lesser Branches into which it was divided, made it, for distinction's

Ibid.



Cathedrals the Sees of Archbishops and Bishops.

1 Rolle, p. 454. 1 E. 2. c. 2. § 14.

Stephens, p. 84, 95.

Conc. Stat. 672.

† Summ Diocesim

10 q. 3. c. Placuit.

tion's sake, to be called only by the name of Diocese :) and it hath been affirmed, with great probability, that if one resort to the Cathedral Church, to hear Divine Service, it is a resorting to the Parish Church, within the natural sense and meaning of the Statute.

V. In Honour of the Cathedral Church, and in token of Subjection to it, as the Bishop's See; every Parochial Minister within the Diocese, pays to the Bishop an annual Pension, called anciently Cathedralium. This Acknowledgment is supposed to have taken Rise from the Establishment of distinct Parishes, with certain Revenues, and thereby the Separating of those districts from the immediate relation they had born to the Cathedral Church. By the Council of Bracara, this Pension is called Honor Cathedralis Episcopalis, and restrained (if it was not limited before) to 2 s. each Church (Placuit ut nullus Episcoporum per suas Dioceses ambulans, præter honorem Cathedralis suæ, id est, duos solidos, aliud aliquid per Ecclesias tollat :) which

Canon became afterwards part of the Canon-Law of the Church, with this Gloss upon the words duos solidos, (ad plus: minus enim aliquando datur) and hath been received in England, as in other Churches, under the name of Synodaticum, because generally pay'd at the Bishop's Synod, at Easter. Thus, in a Visitation held by Archbishop Warham, in the Diocese of Exeter, during the Vacancy of that See, one head of Profits accruing to the Archbishop, was, Synodatica & Cathedralica debit' in festo Paschæ.

VI. The See of a Bishop is entituled to the Ornaments of the Chapel, at his Death. This was declared in the Bishop of Carlisle's Case; and is pleaded by my Lord Coke, in the case of Corven and Pym, as good Law; that altho' other Chattels belong to the Executors of the Deceased, and shall not go in Succession; yet the Ornaments of a Chapel of a preceding Bishop, do belong to the succeeding Bishop, and are meerly in Succession.

Abridgment.

Reg. War. 213. a.

21 E. 3. 48.

12 Rep. p. 105.

C A P. II.

RESIDENCE of Deans and Prebendaries at Cathedral and Collegiate Churches.

C A N O N S 1603.

xlii. Residence of Deans in their Churches.

EVERY Dean, Master or Warden, or chief Governour of any a Cathedral or Collegiate Church, shall be Resident in his said Cathedral or Collegiate Church Fourscore and Ten Days Coniunctim or Divisim in every Year at the least, and then shall continue there in Preaching the Word of God, and keeping good Hospitality, except he shall be otherwise let with weighty and urgent Causes to be approved by the Bishop of the Diocese, or in any other lawful sort dispensed with. And when he is present, he, with the rest of the b Canons or Prebendaries resident, shall take special Care, that the Statutes and laudable Customs of their Church (not being contrary to the Word of God, or

a Cathedral or Collegiate.] The distinction between these, as well as the ancient Conventual Churches, may be best gathered from the Description given by Lyndwood of the several Names; Proprie loquendo, Capitulum dicitur respectu Ecclesie Cathedralis; Conventus, respectu Ecclesie Regularis; Collegium, respectu Ecclesie Inferioris, ubi est Collectio viventium in communi.

b Canons or Prebendaries.] Præbenda dicitur à præbendo, quia præberet auxilium Episcopo, saith my Lord Coke; which leaves no distinction between a Canonry and a Prebend; whereas, in truth, the first is a name of Office, and the second only of Maintenance; and a Prebendary was so called, not from the assistance he afforded to the Bishop, but from the assistance the Church afforded him, in Meat, Drink, and other Necessaries. And therefore, in one of the Councils abroad, we find it called Præbenda Canonialis, quæ consistit in pane, & vino, & quibusdam aliis; and in the Body of the Canon-Law there is a Decretal Epistle of

Pope Alexander III. to the Archbishop of Canterbury, requiring him to give a Prebend (for maintenance) to one who had been admitted Canon of his Church, with a promise of the next vacant Prebend: Mandamus, quatenus si idem J. in Ecclesia tua est Canonicè institutus, & in Choro & Capitulo & aliis quorum usus est communis, potestatem sicut Canonicus habet; ei Præbendam, si qua nunc vacat, vel cum ibi primò vacaverit, secundum promissionem tuam, concedas liberaliter & assignes: quia non est congruum, ut præbendâ careat, qui in Canonicum noscitur esse receptus. To which agrees the distinction expressly made by Lyndwood, between those two: Canoniam, est jus spirituale quod aliquis assequitur in Ecclesia, per receptionem in fratrem, & assignationem Stalli in Choro, & Loci in Capitulo: Præbenda verò, est jus Spirituale recipiendi certos proventus pro meritis in Ecclesia competentes percipienti ex divino Officio, cui insistit; & nascitur ex Canoniam, tanquam filia à Matre.

Every Dean shall be resident, 90 Days in the year,

--and with the Prebendaries, shall take care, that the Statutes of the

Decretal. l. 3. t. 5. c. 9.

De Conc. Præb. c. Efurientis, v. Præbendas.

Residence of Deans and Prebendaries at Cathedrals, &c.

Fe Const. c. Quia, v. Capitulis.

3. Rep. 75. b.

Montsp. Cau 8. 1214.



**Abridgment.**  
Church, and Realm, with the Constitutions, and Episcopical Injunctions, be observed, ---and that the Petty Canons study the Scriptures.

Prerogative Royal,) the Statutes of this Realm being in force concerning Ecclesiastical Order, and all other Constitutions now set forth and confirmed by his Majesty's Authority, and such as shall be lawfully enjoined by the Bishop of the Diocese, in his Visitation, according to the Statutes and Customs of the same Church, or the Ecclesiastical Laws of this Realm, be diligently observed: and that the Petty Canons, Vicars-choral, and other Ministers of their Church, be urged to the Study of the Holy Scriptures; and every one of them to have the New Testament not only in *English*, but also in *Latin*.

*Residence of Deans and Prebendaries at Cathedrals, &c.*

## CANONS 1603.

1 Jac. 1.

### xliv. *Prebendaries to be resident upon their Benefices.*

Prebendaries, at large, shall not be absent from their Cures above a month in the year,

---and Residentiaries shall divide the year among them,

---and when their Residence is over, shall repair to their Benefices.

**N**O Prebendaries nor Canons in Cathedral or Collegiate Churches, having one or more Benefices with Cure (and not being Residentiaries in the same Cathedral or Collegiate Churches) shall, under colour of their said Prebends, absent themselves from their Benefices with Cure above the space of one Month in the Year, unless it be for some urgent Cause, and certain time to be allowed by the Bishop of the Diocese. And such of the said Canons and Prebendaries, as by the Ordinances of the Cathedral or Collegiate Churches do stand bound to be Resident in the same, shall so among themselves sort and proportion the times of the Year, concerning Residence to be kept in the said Churches, as that some of them always shall be personally Resident there: and that all those who be, or shall be Residentiaries in any Cathedral or Collegiate Church, shall, after the Days of their Residency, appointed by their local Statutes or Customs, expired, presently repair to their Benefices, or some one of them, or to some other Charge where the Law requireth their Presence, there to discharge their Duties according to the Laws in that Case provided. And the Bishop of the Diocese shall see the same to be duly performed and put in Execution.

2 Annæ, (and every year since) Cap. 1.

A.D. 1703.

### Entituled, *An Act for granting to her Majesty a Land Tax, &c.*

Residentiaries of Cathedral Churches shall not be taxed for their Dividends.

And whereas the Rents and Revenues belonging to the Residentiaries of the Cathedral Churches, are chargeable to the Land-Tax granted by this present Act, and in some cases the overplus of the said Rents and Revenues, above such Tax, Repairs, and other Charges, is to go in Shares for the Maintenance of the said Residentiaries, which Shares are diminished by the said Land-Tax; it is hereby Prohibited and Enacted, That in such cases the said Residentiaries shall not by this Act, or any the Clauses therein contained, be further chargeable, as enjoying Offices of Profit out of the said Rents and Revenues; Any thing herein contained to the contrary notwithstanding.

### *Rules of Canon and Common-Law, relating to the Constitution of Deans and Chapters.*

I. **A** Deanry is a Promotion merely Spiritual; and might never be possessed, regularly, by any person but who was of the Order of Priesthood. This is plain from the ancient Name, *Archi-Presbyter*, or the *Head-Presbyter* of the College of Presbyters (who being ten in Number, gave occasion from thence to the Name, *Decanus*,) and from the several Rules of the Canon-Law, expressly requiring, that none be constituted *Archi-presbyteri* or *Decani*, but Presbyters only: *Nullus Episcopus in Ecclesia sua— Archiepiscyterum aut Decanum, nisi Presbyteri sint, ordi-*

*nare presumat.*— *Nullus in Archiepiscyterum, nullus in Decanum, nisi Presbyter, ordinetur.* Which tho' the Gloss qualifies, *sufficit, si talis sit, quod in brevi possit promoveri ad istum Ordinem*, as being already of *Inferior Orders*; yet it was never understood, that Deanries might be held, as Temporal Promotions, by *meer Laymen*; which is a notion entertained by some, against all Law, Reason, and Antiquity, upon an irregular Instance or two since the Reformation; and urged, that so it would still have been, had not the last Act of Uniformity made the



Residence  
of Deans  
and Pre-  
bendaries  
in Cathed-  
rals, &c.

yer, 273, b.

cro. 663.

vit. & Hon.  
er. C. Ut cler.  
Dign.

Ibid.

Inf. p. 3.

the Order of Priesthood a necessary qualification of being admitted to any Ecclesiastical Promotion or Dignity. That it was ever made a question, whether a Deanry was a meer Temporal, or Spiritual Promotion, could be owing to nothing, but the instances just now refer'd to, and the not knowing or not considering the original Nature and Design of the Office; in conformity to which, in the case of *Goodman* and *Turner* (10 Eliz.) where the point in issue was the Validity of a *Lease*, the Justices unanimously agreed, that it was a *Spiritual* Promotion; and accordingly, the legality or illegality of the Deprivation of *Goodman* had been try'd (without any exception of either Party, so far as appears) in the Spiritual Courts; viz. before the *Bishop*, *Archbishop*, and *Delegates* successively.

II. *The Title of Dean, is a Title of Dignity*: Which belongs to this Station, as having *Administrationem Ecclesiasticam cum Jurisdictione vel Potestate conjuncta*, as the *Civilians* defined a Dignity, in the Case of *Boughton* and *Goufley*; and (which is a much better foundation) as coming within all the three Qualifications of a *Dignity*, laid down by *Lyndwood*: *Dignitas cognoscitur, 1° Ex administratione rerum Ecclesiasticarum cum Jurisdictione. 2° Ex nomine & praelatione quam habet in Choro & Capitulo. 3° Ex Consuetudine Loci.* By which Rule no Stations in the Cathedral Church, under the *Bishop*, are *Dignities*, strictly speaking, besides the *Dean*, and *Archdeacon*; (unless, where *Jurisdiction* is annexed to any of the rest; as in some Cases it is to *Prebends*, &c.) And tho' it is said, in the forementioned Case, that an *Archdeacon* is not a name of *Dignity*; this is so far from being true, that even those *Archdeaconries* which have no *Jurisdiction*, are declared by *Lyndwood* to be *Dignities*, because, (tho' without *Jurisdiction*, which is the main foundation of *Dignity*) yet, *ratione nominis, sonant in Dignitatem.*

This Title of *Dignity*, as annexed to *Deanries*, may perhaps be one reason of what the *Law-Books* affirm, That if *Lands* be given by *Licence* to a *Dean* and *Chapter* of such a place, or a *Lease* be made by them, of a *Writ* be brought against the *Dean*; such *Grant*, *Lease*, and *Writ*, shall be good, tho' the *Dean* is mentioned only by his Title of *Dignity*; and not by his proper Name.

III. *Deans of the Old, and of the New Foundations, are admitted to, and invested in their respective Dignities, in a different manner.* Those of the *Old* foundation come in by *Election* of the *Chapter* upon the *King's* *Conge d'eslire*, with the *Royal Assent* and *Confirmation* of the *Bishop*, much in the same way as the *Bishops* themselves do; but *Deans* of the *New* Foundation, (viz. those newly erected by *K. Henry VIII.* and the others changed by him from *Abbots* and

*Convents*, or *Priors* and *Convents*, into *Deans* and *Chapters*) come in by the *King's* *Letters Patents*; upon which, they are *Instituted* by their respective *Bishops*, and then *Installed* upon a *Mandate*, pursuant to such *Institution*, and directed to the *Chapters*. Thus it is at *Canterbury*, *Winchester*, *Carlisle*, *Peterburrow*, *Bristol*; and, I suppose, in all the rest; Which I mention in this *place*, because those *Writers* who have called them meer *Donatives*, seem not to have been aware, that the *Letters Patents* were to be presented to the *Bishop* for *Institution*, and a *Mandate* of *Installment* issued, before they could be regularly *Installed*.

IV. *The Surrender of the Lands and Possessions of a Dean and Chapter, doth not dissolve the Corporation.* This was declared in the Case of the *Dean* and *Chapter* of *Norwich*; who having conveyed their *Lands* to *King Edward VI.* and being incorporated anew, and their *Lands* regranted, made a *Lease* by their *Old Name*; and it was adjudged to be a good *Lease*, because, notwithstanding the said *Conveyance* of the *Lands*, the *Old Corporation* of *King Henry VIII.* remained. The reason of which was, that the two principal *Ends*, for which *Deans* and *Chapters* were *Instituted* (the *First* to *Advise* the *Bishop* in *Spiritualties*, the *Second*, to *Restrain* him in *Temporalities*) might well be answered by them, tho' they had no *temporal Possessions*.

Of the like nature, is the Case of a *Prebend*, the *Corps* of which is a *Manour*, and no more; If the *Manour* is recovered from him by title *Paramount*, notwithstanding such *Recovery* the *Person* remains a *Prebendary* of the *Church*, because he hath *Stallum in Choro, & Vocem in Capitulo.* And so, if the *Cathedral Church* be in one *County*, and the *Corps* of a *Prebend* in another, the *Quare impedit* shall be brought in the *County* of the *Cathedral*, (where the *Office*, or the *Foundation* of the *Right* to the *Corps* is,) and not in that where the *Corps* lies.

V. *A Chapter of it self, is not capable to take by Purchase, or Gift, without the Dean, who is the Head of it.* This was agreed in *Eyres's Case*; but, whereas in the *Lease* there mentioned (made by the *Archbishop* of *York*) of a *Field* in *Battersey*, one *Article* was, that during the *Vacancy* of the *Archbishoprick*, the *Rent* should be paid to the *Chapter* of *York*, *ut in jure suo proprio*; upon a question raised, whether a *Chapter* could receive the *Rent*, it was agreed, that they could; because they are *Persons* of which the *Law* takes notice, and to whom therefore such payment might be made; and tho' it should appear afterwards, that they could not receive it *in jure suo proprio*, that defect would not hinder the *Payment*.

Abridgment.

Co. 3. Rep.  
f. 73.

Ibid.

Dyer, f.  
194. 2.

Mo. p. 51.



Abridgment.

C A P. III.

ELECTIONS in Cathedral and Collegiate Churches.

9 Edw. II. (Art. Cler.) Cap. 14.

A.D. 1315.

There shall be free Election of Dignities of the Church.

A Dignity being Vacant, the Electors shall be free without fear.

Also if any Dignity be vacant, where election is to be made, it is moved that the Electors may freely make their election without fear of any power temporal, and that all prayers and oppression shall in this behalf cease. The answer. They shall be made free according to the form of Statutes and Ordinances.

Elections in Cathedral and Collegiate Churches.

Also, if any.] Provision had been made by the Statute Westminster 1. c. 5. for the Freedom of Elections in general (Because Elections ought to be Free, the King commandeth, upon great Forfeiture, that no Man, by force of Arms, nor by Malice, or Menacing, shall disturb any to make free Election;) which Statute, being General, did evidently include Ecclesiastical Elections as well as others; but some doubt having probably been made, whether they were included, or at least the Clergy fearing that a doubt might be made, they judged it adviseable to move the King for a Special Declaration to that purpose.

31 Eliz. Cap. 6.

A.D. 1588.

An Act against Abuses in Election of Scholars, and Presentation to Benefices.

The intent of all Founders, was, that Elections should be free, and an Oath is taken to that purpose,

Whereas by the intent of the Founders of Colleges, Churches Collegiate, Churches Cathedral, Schools, Hospitals, Halls, and other like Societies within this Realm, and by the Statutes and good Orders of the same, the Elections, presentations and nominations of Fellows, Scholars, Officers and other persons, to have room or place in the same, are to be had and made of the fittest and most meet persons, being capable of the same elections, presentations and nominations freely without any reward, gift or thing given or taken for the same; And for true performance whereof, some electors, presentors and nominators in the same, have or should take a corporal Oath to make their elections and nominations accordingly; yet notwithstanding it is seen and found by experience, that the said elections, presentations and nominations be many times wrought, and brought to pass with money, gifts and rewards, whereby the fittest persons to be elected, presented or nominated, wanting money or friends, are seldom or not at all preferred, contrary to the good meaning of the said Founders, and the said good statutes and ordinances of the said Colleges, Churches, Schools, Halls, Hospitals and Societies, and to the great prejudice of Learning, and the Common wealth and estate of the Realm:

...but yet many Elections are carry'd by Corruption.

Any Person being Elected or placed in Cathedral Church, College, &c. for reward, the place shall be void,

II. For remedy whereof, be it enacted by the Queens most excellent Majesty, the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, and by the authority of the same, That if any person or persons, bodies polittick or corporate, which have election, presentation or nomination, or voice, or assent in the choice, election, presentation or nomination of any Fellow, Scholar, or any other person, to have room or place in any of the said Churches, Colleges, Schools, Hospitals, Halls or Societies; shall at any time after forty days next after the end of this present Session of Parliament, have, receive or take any money, fee, reward, or any other profit directly or indirectly, or shall take any promise, agreement, covenant, bond or other assurance to receive or have any money, fee, reward, or any other profit directly or indirectly, either to him or themselves, or any other of their, or any of their friends, for his or their voice or voices, assent or assents, or consents in electing, choosing, presenting or nominating any Officer, Fellow, Scholar, or other person to have any room or place in any of the said Churches, Colleges, Schools, Halls, Hospitals or Societies, That then and from thence forth, the place, room or office which such person so offending shall then have in any of the said Churches, Colleges, Schools, Halls, Hospitals or Societies, shall be void: And that then as well the Queens Majesty, her heirs and successors, and every other person and persons, or their heirs and successors, to whom the presentation,



*Elections  
in Cathed-  
ral and  
Collegiate  
Churches.*

tion, donation, gift, election or disposition shall of right belong or appertain, of any such of the said rooms or places of the said person offending as aforesaid, shall or may at their pleasure, elect, present, nominate, place or appoint any other person or persons in the room, office or place of such person or persons so offending, as if the said person or persons so offending, then were naturally dead.

III. And be it further enacted by the authority aforesaid, That if any Fellow, Officer or Scholar of any the said Churches, Colleges, Schools, Halls, Hospitals or Societies, or other persons having room or place in any of the same, shall at any time hereafter, directly or indirectly, take or receive, or by any way, device or means contract to agree, or have, or receive any money, reward or profit whatsoever, for the leaving or resigning up of the same his room or place, for any other to be placed in the same, That then every person so taking or contracting, or agreeing to take or have any thing for the same, shall forfeit and lose double the sum of money, or value of the thing so received and taken, or agreed to be received and taken; and every person by whom, or for whom any money, gift or reward as aforesaid, shall be given or agreed to be paid, shall be incapable of that place or room for that time or turn, and shall not be, nor had, nor taken to be a lawful Fellow, Scholar or officer of any of the Churches, Colleges, Halls, Hospitals, Schools or Societies, or to have such room or place there; but that they to whom it shall appertain at any time hereafter, shall and may elect, chuse, present and nominate any other person fit to be elected, presented and nominated into the said room or Fellowship, as if the said person, by or for whom any such money, gift or reward, shall be given or agreed to be paid, were dead, or had resigned and left the same. And for more sincere election, choice, presentation and nomination of Fellows, Scholars, Officers, and other persons, to have room or place hereafter in any of the said Churches, Colleges, Halls, Schools, Hospitals, and other the like Societies:

VI. Be it further enacted by the authority aforesaid, That at the time of every such election, presentation or nomination hereafter to be had, as well this present Act, as the orders and statutes of the same places, concerning such election, presentation, or nomination to be had, shall then and there be publicly read; upon pain that every person in whom default thereof shall be, shall forfeit and lose the sum of forty pounds; all which forfeitures shall and may be had and recovered in any her Majesties Courts of Record, by any person or persons, bodies politick and corporate, that will sue for the same, by Bill, Plaint, or Action of Debt, in which no Escoin, Protection, or Wager of Law shall be allowed: The one moiety whereof shall be to him or them that will sue for the same; the other moiety to the use of the said Church, College, Hall, Hospital, School or Society, where such offence shall be committed.

Abridgment.

---and may immediately be disposed of to another.

Any Person receiving Money, to resign, shall forfeit double the sum,

---and the Person giving Money shall be incapable of the Place,

---and another may be prefer'd to it.

This Act, and the Local Statutes concerning Elections, shall be read before every Election, --- upon Pain of 40 l.

## C A P. IV.

### H A B I T S in Cathedral and Collegiate Churches.

2 Edw. VI.

*At the end of the Service Book.*

**I**N all Cathedral Churches and Colleges, the Archdeacons, Deans, Provosts Masters, Prebendaries, and Fellows, being Graduates, may use in the Quire, beside their Surplices, such Hoods as pertaineth to their several Degrees, which they have taken in any University within this Realm.

Graduates in Cathedral Churches and Colleges may wear Hoods.

## C A N O N S, 1603.

XVII. *Students in Colleges to wear Surplices in time of Divine Service.*

**A**LL Masters and Fellows of Colleges or Halls, and all the Scholars and Students in either of the Universities, shall in their Churches and Chapels, upon all *Sundays, Holy-Days*, and their *Eves*, at the time of Divine Service, wear Surplices, according to the Order of the Church of *England*: and such as are Graduates, shall agreeably wear with their Surplices, such Hoods as do severally appertain unto their Degrees.

Members of the Universities shall wear Surplices,

--- and Graduates, Hoods also.

CANONS,

A.D. 1548.

*Habits in  
Cathedral  
and Colle-  
giate Churches.*

1 Jac. 1.



## Abridgment.

Communion in Cathedrals, shall be administer'd by Bishop, Dean, or Prebendary; using a Cope, --- and assisted by Gospeller and Epistler:

---and all Members of Cathedrals shall receive four times a year, at least.

It shall be sufficient to wear Surplices in Cathedrals, when there is no Communion, ---but Deans and Prebendaries, shall also wear the Hoods of their Degrees.

Spur. p. 124.

Deans and Prebendaries shall Preach, according to Statute, in the Cathedral,

--- and also where they have Estates;

--- and being sick, they shall provide a Substitute, to be approved by the Bishop.

## C A N O N S, 1603.

xxiv. *Copes to be worn in Cathedral Churches, by those that administer the Communion.*

**I**N all Cathedral and Collegiate Churches, the Holy Communion shall be administer'd upon principal Feast-days, sometimes by the Bishop, if he be present, and sometimes by the Dean, and at some times by a Canon, or Prebendary; the Principal Minister using a decent Cope, and being assisted with the Gospeller and Epistler agreeably, according to the *d* Advertisements published *Anno 7 Elizabethæ*: The said Communion to be administer'd at such times, and with such Limitation as is specified in the Book of Common-Prayer. Provided, that no such Limitation by any Construction shall be allowed of, but that all Deans, Wardens, Masters, or Heads of Cathedral and Collegiate Churches, Prebendaries, Canons, Vicars, Petty-Canons, Singing-Men, and all other of the Foundation, shall receive the Communion four times yearly at the least.

xxv. *Surplices and Hoods to be worn in Cathedral Churches when there is no Communion.*

**I**N the time of Divine Service and Prayers in all Cathedral and Collegiate Churches, when there is no Communion, it shall be sufficient to wear Surplices: Saving that all Deans, Masters and Heads of Collegiate Churches, Canons and Prebendaries being Graduates, shall daily at the times both of Prayer and Preaching, wear with their Surplices such Hoods as are agreeable to their Degrees.

*d* Advertisements.] These are Printed in the Collection of Canons; and the two Clauses therein, relating to this Head, are as follows, Item, *In the Ministrations of the Holy Communion in Cathedral and Collegiate Churches, the principal Minister shall use a Cope, with Gospeller and Epistler agree-*

*ably; and at all other Prayers to be said at the Communion Table, to use no Copes but Surplices.——Item, That the Dean and Prebendaries wear a Surplice, with a Silk Hood, in the Quire; and when they Preach in the Cathedral or Collegiate Church, to wear a Hood.*

## C A P. V.

## PREACHING in Cathedral and Collegiate Churches

## C A N O N S, 1603.

xliiii. *Deans and Prebendaries to Preach during their Residence.*

**T**HE Dean, Master, Warden or chief Governour, Prebendaries and Canons in every Cathedral and Collegiate Church, shall not only preach there in their own Persons so often as they are bound by Law, Statute, Ordinance or Custom, but shall likewise preach in other Churches of the same Diocese where they are Resident; and especially in those Places whence they or their Church receive any yearly Rents or Profits. And in case they themselves be sick, or lawfully absent, they shall substitute such licensed Preachers to supply their Turns, as by the Bishop of the Diocese shall be thought meet to Preach in Cathedral Churches. And if any otherwise neglect or omit to supply his Course, as is aforesaid, the Offender shall be punished by the Bishop, or by him or them to whom the Jurisdiction of that Church appertaineth, according to the Quality of the Offence.

Habits in Cathedral and Collegiate Churches.

1 Jac. 1.

1 Jac. 1.

Can Ann. 1571. Const Ann. 1597.



Preaching  
in Cathedrals, &c.

C A N O N S 1603.

Abridgment.

1 Jac. 1.

li. Strangers not admitted to Preach in Cathedral Churches, without sufficient Authority.

Can. Ann. 1571.

THE Deans, Presidents, and Residentiaries of any Cathedral or Collegiate Church, shall suffer no Stranger to preach unto the People in their Churches, except they be allowed by the Archbishop of the Province, or by the Bishop of the same Diocese, or by either of the Universities. And if any in his Sermon shall publish any Doctrine, either strange or disagreeing from the Word of God, or from any of the Articles of Religion agreed upon in the Convocation House, Anno 1562. or from the Book of Common-Prayers, the Dean or the Residents shall by their Letters subscribed with some of their Hands that heard him, so soon as may be, give notice of the same to the Bishop of the Diocese, that he may determine the Matter, and take such Order therein as he shall think convenient.

No Stranger shall Preach in Cathedral Churches, but an allowed Preacher;

--and if any preach false Doctrin, he shall be certified to the Bishop by the Dean and Residentiaries.

A.D. 1661.

13 Car. II. Cap. 4.

In an Act, Entituled, *An Act for the Uniformity of Publick Prayers, &c.*

XX. Provided always, that if the said Sermon or Lecture be to be preached or read in any Cathedral or Collegiate Church or Chappel, it shall be sufficient for the said Lecturer, openly at the time aforesaid, to declare his assent and consent to all things contained in the said Book, according to the form aforesaid.

Lecturer being chosen in a Cathedral Church need not read Common Prayer, but only declare Assent.

C A P. VI.

Cathedral and Collegiate Churches of the NEW FOUNDATION.

A.D. 1539.

31 Henr. VIII. Cap. 9.

*An Act authorizing the King's Highness to make Bishops by his Letters Patents.*

FORasmuch as it is not unknown, the slothful and ungodly life which hath been used among all those sorts, which have borne the name of religious folk, and to the intent that from henceforth any of them might be turned to better use; as hereafter shall follow, where by Gods word might the better be set forth, Children brought up in Learning. Clerks nourished in the Universities, old servants decayed to have livings, alms-houses of poor folk to be sustained in, + Readers of Greek, Hebrew and Latin to have good stipend, daily alms to be ministered, mending of high-ways, exhibition for ministers of the Church: It is thought therefore unto the King's highness most expedient and necessary, that more Bishopricks, Collegial and Cathedral Churches, shall be established instead of these aforesaid religious houses, within the foundation whereof these other titles aforesaid-rehearsed, shall be established: Be it therefore enacted by authority of this present Parliament, that his Highness shall have full power and authority from time to time, to declare and nominate by his Letters-Patents or other writings to be made under his great Seal, such number of Bishops, such number of Cities, & Sees for Bishops, Cathedral Churches and Dioceses, by metes and bounds; for the exercise and

The sloth of Religious in Monasteries being known, and the Revenue capable of being employed to better purposes, ---viz. to new Bishopricks, Cathedrals, &c. ---the King shall have power to Erect and endow new Bishopricks;

+ Readers.] From this Clause, it appears, that the great design was, to make Cathedrals Nurseries of young Divines for the Service of the Church; who, being trained up in the Study of Divinity, under the immediate inspection of the Bishops, Deans, and Chapters, might be by them employed in the Cures of the respective Dioceses, as they became vacant.

e Sees for Bishops.] It appears by a Scheme for new Cathedrals and Bishopricks, under the hand of King Henry VIII. that his design was, to erect many more (pursuant to the Powers given by this Act) than were erected. The form of the Foundation-Charters is specified by Bishop Burnet, in that of Westminster; which he has printed at large, and to which, as he observes, the rest are conformable.

Born. V. 1. p. 263.

Ibid. App. p. 246.



Abridgment.  
---and to devise  
Translations, Sta-  
tutes, &c.

---all which shall  
be of as good  
strength, as if done  
by authority of  
Parliament.

Repeal of the fore  
going Statute.

King Henry 8th  
erected, endowed  
and incorporated  
several Cathedral  
and Collegiate  
Churches,

---and granted that  
they should be ru-  
led by Statutes to  
be Specified in In-  
dentures,

---which Statutes  
were given by  
Commis'sners, but  
not Indented, and  
are therefore null,

---and the authori-  
ty of making Sta-  
tutes being reserved  
to King Henry, and  
not to his heirs,  
---the Queen, du-  
ring life, shall have

ministracion of their Episcopal offices and administration, as shall appertain, and to endow them with such possessions, after such manner, form and condition as to his most excellent wis- dom shall be thought necessary and convenient. And also shall have power and authority to make and devise translations, ordinances, rules and statutes, concerning them all and every of them, and further to do all and every other thing and things, whatsoever it be, which shall be devised and thought requisite, convenient and necessary by his most excellent wisdom and discretion, for the good perfection and accomplishment of all and singular his said most Godly and Gracious purposes and intents, touching the premises, or any other Charitable or Godly deeds to be devised by his Highness concerning the same. And that all and singular such translations, no- minations of Bishops, Cities, Sees, and limitation of Dioceses for Bishops, erections, es- tablishments, foundations, ordinances, statutes, rules, and all and every other thing and things which shall be devised, comprised and expressed by his graces sundry and several Letters-pa- tents or other writings under his great Seal, touching and concerning the premises, or any of them, or any circumstances or dependences thereof, necessary and requisite for the perfecti- on of the premises, or any of them, shall be of as good strength, force, value and effect to all intents and purposes, as if such things as shall be so devised, expressed and mentioned in his Letters-patents or other writings under his great Seal had been done, made and had by authority of Parliament.

1, 2 Phil. & Mar. Cap. 8.

In an Act, Entituled, *An Act repealing all Articles and Provisions made against the See Apostolick, &c.*

XVIII. And also one other Act made at the Parliament holden at West- minster in the 31. year of the Reign of the said late King Henry the eight, Entituled, An Act authorizing the Kings Highness to make Bishops by his Letters-patents: — Shall henceforth be repealed, made frustrate, void, and of none effect.

1 Mar. (Parl. 2.) Cap. 9.

*An Act touching Ordinances and Rules in Cathedral Churches and Schools.*

Whereas the late noble Prince of famous memory, King Henry the eight, father unto our most gracious Sovereign Lady the Queen, amongst other his godly acts and doings, did erect, make and establish divers and sundry Churches, aswell Cathedral, as Collegiat, and endowed every of the same, with divers manors, lands, tenements, and possessions, for the maintenance of the Deans, Prebendaries, and Ministers within the same, and for other cha- ritable Acts to be done and executed by the same Deans, Prebendaries, and Ministers, and also did incorporate the same Deans, Prebendaries and Ministers, and made them bodies poli- tick in perpetual succession, according to the laws of this Realm of England. And where also as the said late King, for the better maintenance and preservation of the said Churches in a godly unity, and good order and governance granted unto the several corporations, and bodies corporate of every of the said Churches, that they should be ruled and governed for ever, according unto certain ordinances, rules and Statutes, to be specified in certain indentures, then after to be made by his Highness, and to be delivered and declared to every of the bodies corporate of the said several Churches, as by the several erections and foundations of the said Churches more plainly it doth and may appear. Since which said erections and foundations, the said late King did cause to be delivered to every of the said Churches, so as is aforesaid erected, and incorporated by certain commissioners by his Highness appointed, divers and sundry statutes and ordinances, made and declared by the same commissioners, for the order, rule and governance of the said several Churches, and of the Deans, Prebendaries, and Ministers of the same, which said statutes and ordinances, were made by the said commissioners, and delivered unto every of the corporations of the said several Churches in writing, but not indented, according to the form of the said foundations and erections, by reason whereof the said Churches, and the seve- ral Deans, Prebendaries, and Ministers of the same, have no statutes, or ordinances of any force or authority, whereby they should be ruled and governed, and therefore remain as yet not fully established in such sort, as the godly intent of the said late King Henry the eight was, to the great imperfection of the Churches, and the hindrance of Gods service, and good order and regiment to be had and continued amongst the Ministers of the same.

II. And soasmuch as the authority of the making of the said statutes, ordinances, and orders was reserved only unto the said King and no mention made of any like authority to be reser- ved unto his heirs and successors, the same orders and statutes cannot now be made and pro- vided without authority of Parliament.

III. May it therefore please the Queens Highness, that it may be established and enacted by her Highness, by the assent of the Lords Spiritual and Temporal, and the Commons of this present Parliament assembled, and by the authority of the same, that our said Sovereign

[In certain Indentures.] The Clause in the Foundation-Charter, is thus: Per presentes volumus etiam & ordinamus — quod predicti Decanus & Præbendarii dicti—

se gerent, exhibebunt, & occupabunt, secundum Ordinationem, Regulas, & Statuta, eis per nos in quadam Indentura in posterum fiend' specifi- cand' & declarand'.

Burn. V. 1.  
App. p. 248.

Cathedrals  
&c. of the  
New Foun-  
dation.

A. D. 1554.

A. D. 1553.

E X P.



Cathedrals &c. of the New Foundation.

Lady the Queen, from henceforth & during her natural life (which our Lord God long preserve) shall have by virtue of this Act, full power and authority, to make and prescribe unto every of the said Churches, and the Deans, Prebendaries, and Ministers of the same, and to their Successors, such statutes, ordinances, and orders, for the good governance, rule, and order of every of the same Churches, Deans, Prebendaries and Ministers of the same, and of the lands, manors, tenements, and possessions of every the same Churches, as shall seem good to her Highness: the same statutes, and ordinances to be made by her Highness by writing, sealed with the great Seal of England, and to be delivered to the Deans, Prebendaries, and Ministers of every of the said Churches for the time being.

IV. And that it may be further enacted by the authority aforesaid, that our said Sovereign Lady the Queen, during the time aforesaid, by writing, sealed with the great Seal of England, shall and may alter, transpose, change, augment, or diminish the said orders, statutes, and ordinances of every of the said Churches, from time to time, as occasion shall serve, and as it shall seem good to her Highness; and that all and every of the said statutes, ordinances, and orders to be made, altered, transposed, changed, augmented, or diminished, as is aforesaid, shall be and remain good and effectual according to the making, alteration, transposing, changing, augmenting, or diminishing of the same.

V. Be it also further enacted by the authority aforesaid that the Queens Highness may have like power and authority to make, ordain, and establish statutes, ordinances, and foundations, for the good order and government of such Grammar schools, as have been erected, founded, or established in any part of this Realm by the most noble Princes, King Henry the eighth, or King Edward the sixth, and of the ministers and scholars of the same schools, and to alter and transpose such other statutes and ordinances there made heretofore from time to time, as to her Highness shall seem most convenient.

[During her natural Life.] In the last year of which, we find this Direction given by Cardinal Pole, Archbishop, at the Opening of the Convocation: Deinde voluit Reverendissimus, Statuta Ecclesiarum noviter erectarum aut mutatarum a Regularibus

ad Seculares, expendi per Episcopos Lincoln' Cicestr' & Petriburg'. Item & Nicolao Winton, Cant. Edmundo Stuard, Winton, & Seth Holland Wigorn. Ecclesiarum Decanis; & quae consideranda sunt, referri Reverendissimo quam primum commode poterunt.

Reg. Conv. 1557. Sess. 2.

1 Eliz. (not printed in the former Books.)

An Act that the Queens Majesty may make Ordinances and Rules in Collegiate Churches, Corporations and Schools.

As much as certain cathedral and collegiate Churches, and other Ecclesiastical Corporations, and some Schools, have been created, founded, or ordained by the late Kings of worthy memory, King Henry the eighth, and King Edward the sixth, or by either of them, or by our late Sovereign Lady Queen Mary, and by the late Lord Cardinal Pole, not having as yet ordained and established such good orders, rules and constitutions, as should be meet and convenient for the good order, safety and continuance for the same: Be it therefore enacted, by the authority of this present Parliament, that the Queens Majesty, during her natural Life, (which our Lord God long preserve) shall by virtue of this Act, have full power and authority to make and prescribe unto every of the foresaid Churches, incorporations and schools, and unto all and every the officers, ministers, and scholars, in them or in any of them, and to their successors for ever, such statutes, ordinances, and orders, as well for the good use and government of themselves, being officers, ministers or scholars, and for the order of their service, ministry, functions and duties, as also for their houses, lands, tenements, revenues, and hereditaments with the appurtenances: And further, that her Majesty shall and may at her pleasure alter or change, augment or diminish, all and every the statutes, ordinances and orders of the aforesaid churches, corporations, and schools, from time to time, as to her Majesty shall seem expedient: And be it further enacted by the authority of this present Parliament, that the said Churches, incorporations, and schools, or any of them, and all and every person and persons in the same, for the which the Queen's Majesty shall make or appoint any statutes, ordinances, or orders, or shall alter, change, diminish, or augment, any orders, rules, or ordinances, and set forth the same under her Majesty's great Seal of England, shall from thenceforth keep, preserve and observe all the same statutes, orders, and ordinances (any former rules, laws or constitutions in any wise notwithstanding) and that all the said statutes, orders, ordinances and rules, so made, ordained and set forth, under her Majesty's great Seal, as is aforesaid, shall be and remain good and effectual to all intents and purposes, and be observed and kept according to the true intent and purport of the same, without alteration or violation of them, or any of them.

[Full Power] Pursuant to the Powers vested in the Queen by this Act, there seems to have been a Confirmation presently made, of the Statutes of King Henry VIII. for a Rule to the several Churches, until they could be Reviewed and Reformed: For so it plainly was, in the Church of Peterborough, as appears by Bishop Scambler's Letter to the Queen, concerning those Statutes: After this House was Erected, there came to the same certain Statutes for the Government thereof, under his Majesty's Name, and so have continued, not without regard; the rather, through

a Confirmation made of them by your Majesty's Visitors, appointed for that Place and Countries adjacent, anno primo of your most happy Reign.

Afterwards (special Powers for that end having been inserted in the Body of the Ecclesiastical Commission) new Statutes were prepared by the Archbishop and others, and finished in the Month of July, 1572. and the several Bodies were ready for the Royal Confirmation; but this (for what reason, or by what accident, appears not) was never obtained.

Streyke, Vit. Park. p. 342.

Ann. 1582. Streyke, App. p. 103.

Abridgment.

power by virtue of this Act to give statutes to the said Cathedrals,

---and to alter them at pleasure.

The Queen also shall give statutes to Grammar Schools, erected by Hen. 8. and Edm. 6.

New Cathedral and Collegiate Churches, and Schools, having been erected, ---but no Statutes made;

Enacted, that, The Queen, during life, shall have power to give Statutes to the said Foundations, ---and alter the same, at pleasure;

---which Statutes being under the great Seal, shall be observed by the respective Foundations.

Streyke, Vit. Park. p. 342.



## Abridgment.

Strype, Vit.  
Grind. App.  
p. 69.

Three Years after that, the like Powers, most word for word, were inserted in the Ecclesiastical Commission granted to Archbishop Grindal, and others; which I will here Transcribe, out of that Commission.

And whereas, there were divers Cathedral and Collegiate Churches, Grammar-Schools, and other Ecclesiastical Corporations, erected, founded, or ordained by the late King of famous Memory, our dear Father King Henry VIII; and by our late dear Brother King Edward VI; and by our late Sister Queen Mary; and by the late Lord Cardinal Pool, the Ordinances, Rules and Statutes whereof, be either none at all, or altogether imperfect, or being made at such time as the Crown and Regiment of this Realm was subject to the foreign usurped Authority of the See of Rome, they be in some points contrary, diverse and repugnant to the Dignity and Prerogative of our Crown, the Laws of this our Realm, and the present State of Religion within the same; We therefore do give full Power and Authority unto you, or six of you, of whom We will you, the fore-named Archbishop of Canterbury, the Bishops of London, Winchester, Ely, Worcester, Norwich, Chichester, Rochester, for the time being, Gabriel Goodman, William Dey, or Tho. Watts, always to be one; to Cause and Ordain in our Name, all and singular the Ordinances, Rules and Statutes of all and every the said Cathedral and Collegiate Churches, Grammar-Schools, and other Ecclesiastical Corporations, together with their several Letters Patents, and other Writings touching, and in any thing concerning their several Erections and Foundations, to be brought and exhibited before you, or six of you, as is aforesaid; Willing and Commanding you, &c. upon the Exhibiting, and upon diligent and deliberate view, Search and Examination of the said Statutes, Rules, and Ordinances, Letters Patents and Writings; not only to make speedy and undelayed Certificates of the Enormities, Disorders, Defects, Surplusage or Wants, of all and singular

the Statutes, Rules, and Ordinances, but also with the same, to advertise us of such good Orders and Statutes, as you, or six of you, &c. shall think meet and convenient to be by Us made, and set forth for the better Order and Rule of the said several Churches, Erections and Foundations, and the Possessions and Revenues of the same: And as may best tend to the Honour of Almighty God, the increase of Vertue and Unity in the said Places, and the publick Weal and Tranquillity of this our Realm: To the intent we may thereupon further proceed to the Altering, Making and Establishing of the same, and other Statutes, Rules and Ordinances, according to an Act of Parliament thereof made in the First Year of our Reign.

But nothing appears to have been done, in pursuance of those Powers; although the Inconveniencies and Mischiefs of wanting a certain Rule, appear evidently by the tenor of the foresaid Letter, which was written to the Queen by Bishop Scambler: The Bishop, after a complaint of Non-residence, and want of Disciplin, with his own fruitless Endeavours to reform what was amiss; adds, *One chief and sole Cause, in a manner, of all this matter, besides the perverseness of Men's natures, being the uncertainty of the Authority of the Statutes of the said Church; the froward and disobedient always pretending for their Defence, that the same were and are of no force, and that they stand at liberty to do or not to do the premisses at their pleasure; because they are not extant under the Great Seal, and Indented.* Whereupon, his Prayer to the Queen, is, *Let not then, I most humbly beseech you, the matter of Government of these Houses (for they, all that are of your Father's Foundation, be in like uncertainty of the Authority of their Statutes, and especially this Church, where I am) stand any longer doubtful; but let it be by your most Sacred Majesty decided and determined, under what Rules and Orders they shall live.*

Cathedrals  
&c. of the  
New Founda-  
tion.

## 6 Annæ, Cap. 21.

A.D. 1707.

An Act for the avoiding of Doubts and Questions touching the Statutes of divers Cathedral and Collegiate Churches.

Doubts have arisen concerning the Validity of the Statutes of the new Foundations of King Henry 8th, --- occasioned by the foregoing Stat. 1. Mar. c. 9,

-- and by the loss of Records in the Civil Wars.

Enacted, that, --- such Statutes as have been usually practised and sworn to, since 1660, shall be the Statutes of the respective Churches,

Whereas several Doubts and Questions have arisen, and may hereafter arise, in relation to the Validity and Force of the Statutes of divers Cathedral and Collegiate Churches, founded by King Henry the Eighth, of famous Memory, which Doubts and Questions have been Occasioned, partly by a Temporary Act of Parliament made in the first Year of the Reign of Queen Mary the first, in relation to such Statutes made by the said late King Henry the Eighth, and in Order to Defeat the True and Pious Ends and Designs of the said Foundations, and partly by reason of the known Loss of many Records and Evidences during the late Rebellion in this Kingdom: And whereas the said Doubts and Disputes may in time not only turn to the great Disquiet and Prejudice of the said Foundations, but may prove a manifest Obstruction to the Peace, Order, good Government and Discipline of the Church, unless some Speedy and Effectual Remedy be provided; Be it therefore Enacted and Declared by the Queens most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and the Commons in this present Parliament Assembled, and by the Authority of the same, That in all Cathedral and Collegiate Churches, founded by the said King Henry the Eighth, such Statutes as have been usually received and practised in the Government of the same respectively, since the late happy Restoration of King Charles the

Second



Cathedrals  
&c. of the  
New Founda-  
tion.

Second, and to the Observance whereof the Deans and Prebendaries, and other Members of the said Churches, from the said time have used to be sworn at their Instalments or Admissions, shall be, and shall be taken and adjudged to be good and valid in Law, and shall be, and be taken and adjudged to be the Statutes of the said Churches respectively, nevertheless so far forth only as the same, or any of them, are in no manner repugnant to or inconsistent with the Constitution of the Church of England, as the same is now by law Established, or the Laws of the Land.

II. Provided always, and be it further Enacted by the Authority aforesaid, That no Person or Persons shall at any time hereafter be liable to any Prosecution, Censure, or Punishment whatsoever, for not having observed any of the Statutes hereby Ratified and Confirmed, or for having done any thing contrary to the same, on or before the Ninth Day of March, One thousand seven hundred and seven; Any thing herein contained to the contrary notwithstanding.

III. Provided always, and be it Enacted, That it shall and may be Lawfull for Her Majesty, during Her Life (which God long preserve) from time to time to Alter, Amend, Correct, Revoke, Diminish, or Enlarge the said Statutes, or any of them, and to Make new Statutes and Ordinances for the said Cathedral and Collegiate Churches, and for Resuming or Settling the Local Visitation of them, or any of them, in such manner, from time to time, as to Her Majesty shall seem meet.

Abridgment.

---so far forth, as they are consistent with the Constitution of the Church of England.

No Person shall be punished for having acted against them, heretofore,

---and the Queen, during life, shall have power to alter them,

---and to resume the Local Visitation.

A.D. 1554.

1, 2 Mar. Cap. 8.

In an Act, Entituled, *An Act repealing all Articles and Provisions made against the See Apostolick, &c.*

XXVIII. First, That all Bishopricks, Cathedral Churches, Hospitals, Colleges, Schools, and other such Foundations now continuing, made by authority of Parliament, or otherwise established according to the order of the Laws of this Realm, since the schism, may be confirmed and continued for ever.

The publick Foundations of Henr. 8. and Edw. 6. Confirm'd.

35 Eliz. Cap. 3.

*An Act for the Explanation of the Statute made in the four and thirtieth Year of King Henry the Eighth, as well touching Grants made to his Majesty, as for Confirmation of Letters Patents made by his Highness to others.*

**F**Orasmuch as divers ambiguities, doubts and questions have risen and been moved as well touching divers surrenders, grants, and con-

[Explanation.] This Act, 34, 35 H. 8. is only a general Confirmation of Grants made by the King, and the Letters Patents whereby they were made; and is therefore placed under the Title, *State of Religious Persons, &c.*

[Letters Patents.] Many years before this, in the Eighth Year of the Queen, we find a Bill in the House of Lords (for the Confirmation of late erected Deanries and Prebends) read a second time, and committed; but it proceeded no further. Whereupon, great disturbance having been given to the Deans and Chapters of the New Foundation, under pretence, that the Possessions thereof were passed by Letters Patents of Concealment; they did, this Year, unanimously apply themselves to the Lord Treasurer Burleigh, for a Confirmation of them by Parliament; as appears from a Letter sent by them from the Convocation-house, bearing date March 16th 1592. in which they beseech him, that by his ho-

nourable Mediation and Countenance, a Remedy may at this Parliament (by Confirmation of the said Grants) be obtained.

This Application produced the present Act, in favour of the New Foundations; notwithstanding which, five Years after, divers Persons, labouring a dissolution of the Cathedral Church of *Norwich*, under the old pretence of Concealments, brought this matter to a solemn Hearing; and it was declared, That if any Imperfection were in the Translation made by King Henry VIII. from Prior and Convent to Dean and Chapter, this Act had made it without question. To which my Lord Coke subjoins, That all defects are remedied by this most excellent Act of Parliament, the fatal Plea to all Concealment as to those Possessions: Adding, that tho' the Case then under consideration did only concern the Church of *Norwich*, it would serve as well for many other Cathedral Churches, as for divers Colleges in the two Universities.

Divers Doubts, touching the Surrenders of Religious Houses,

Co. Rep. 3.  
Dean and  
Chapter of  
*Norwich*.

veniences

Journ. Prec.

Strype, Vi. Park.  
APP. P. 143.



Abridgment.

---and the validity of the new Foundations.

Enacted,  
---That all Estates, of Religious Houses surrendered to King *Henr. 8th.*

---shall be adjudged to have been lawfully in the possession of the said King,

---notwithstanding any defect in the Surrender;

---and, that all Letters Patents for erecting Deans and Chapters, &c. shall be good.

Saving of Rights to others.

conveniences made and granted by sundry late Abbots, Priors, and other Religious and Ecclesiastical persons to the late King of famous memory, King Henry the Eighth, after the fourth day of February, in the seven and twentieth year of his Reign, of divers their Honors, Manors, Lands, Tenements, and Hereditaments, as also touching and concerning the validity of the erections of such Deans and Chapters, and such Colleges as were erected, ordained, made or founded by the said late King Henry the eighth, after the said fourth day of February, in the said seven and twentieth year of his Reign: And forasmuch as the same doubts and questions seem not to be sufficiently remedied or provided for, by the Statute made in the four and thirtieth year of the Reign of the said late King Henry the eighth, entituled, An Act for confirmation of Letters Patents notwithstanding misnaming of any thing contained in the same.

II. Be it therefore declared, explained, and enacted by Authority of this present Parliament, that all and every Honors, Manors, Lands, Tenements, and Hereditaments, which at any time heretofore were the possessions of any Abbey, Monastery, Priory, Nunnery, or other Religious or Ecclesiastical house or houses, and which after the said fourth day of February, in the said seven and twentieth year of the said late King Henry the eighth, came to the hands or possession of the said late King Henry the eighth, or which were put in charge to or for his highness, in Court of Exchequer, or any other Courts to the said late King concerning his Majesties revenues, or by any Auditor, or other officer of the said late King, or which after the said fourth day of February, in the xxvii. year aforesaid, were granted or conveyed, or mentioned to be granted or conveyed, in or by any Letters Patents whatsoever, made by the said late King Henry the eighth, to any person or persons, body politick or corporate, were and shall be reputed, taken and adjudged to have been lawfully and perfectly in the actual and real possession of the said late King and his Heires and Successors, at such time as the same did so come to his Majesties hands and possession, or were so put in charge, or granted, or conveyed by the late King Henry the eighth, as aforesaid; notwithstanding any defect, want, or insufficiency of or in any surrender, grant or conveyance of the same Honors, Manors, Lands, Tenements, or hereditaments, or any part thereof, to the said late King Henry the eighth, or any other matter or cause whatsoever, by which his highness was or might have been intituled to the same.

III. And be it further declared and enacted by the authority aforesaid, that all and singular Letters Patents made by the said King Henry the eighth, at any time after the said iii. day of February, in the said xxvii. year of his Reign, for the erection, foundation, incorporation, or indowment of any Dean and Chapter, or College, were and shall be reputed, taken, and adjudged to have been good, perfect, and effectual in the Law for all things therein contained, according to the true intent and meaning of the same, any thing, matter, or cause to the contrary thereof in any wise notwithstanding.

IV. Saving always, unto all person and persons, bodies politick and corporate, their Heires and Successors, and every of them, other than the late Abbots, Abbesses, Priors, Prioresses, and other governours of such Abbeyes, Monasteries, Priories, Nunneries, and other Religious and Ecclesiastical houses, and their successors, and such as pretended to be Founders, Patrons, or Donors of the same or any of them, or of any Manors, Lands, Tenements, or hereditaments belonging to the same, or to any of them, and their, and every of their heires and successors, all such right, title, interest, claim and demand, as they or any of them, or their, or any of their ancestors or predecessors might or ought to have had of, in, to or out of any such Honors, Manors, Lands, Tenements, or hereditaments, before the said fourth day of February, in the xxvii. year of the Reign of the said King Henry the eighth, or before the making of such letters patents by the said King Henry the eighth; as if the said letters patents made by the said King Henry the eighth, and the said Statute made in the said xxxiii. year of his reign, and this present Act had never been made; this Act or any thing therein contained to the contrary notwithstanding.

Cathedrals &c. of the New Foundation.



## T I T. IX.

PAROCHIAL CHURCHES  
and CHAPELS, with the proper  
OFFICERS thereunto belong-  
ing.

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Abridgment.

## CAP. I.

## CONSECRATION of Churches.

O T H O.

## De Consecratione &amp; Reformatione status Ecclesiæ.

## Summarium.

*Basilicarum seu majorum Ecclesiarum Consecratio in veteri testamento instituta, & in novo studiosius observata, licet in quibusdam partibus Angliæ fuerit neglecta, sic est per Diocesanos aut eorum vicarios Episcopos diligenter facienda, ut nulla maneat biennio postquam parietes ejus perfecti fuerint, consecranda. Alioquin solemnibus missarum Officiis noscatur interdicta; nisi tamen legitime fuerit excusata. Consecrata vero non diruentur sine maturo Diocesani consensu: quæ diruta mox reparentur. Quod autem de perfectis dictum est, de cæptis etiam dictum censeatur. Capellarum autem seu sacellorum consecrationes legatus nihil novi statuens, ad Canonicas refert definitiones.*

Temples and Churches having ever been dedicated, both under the Old and New Testament,

a



*Basilicarum Dedicatio initium à Veteri Testamento dignoscitur habuisse, & in Novo est à patribus sanctis observata; in quo est eo dignius & studiosius facienda, quo in illo tantum offerebantur hostiæ animalium mortuorum: in isto verò cælestis hostia viva, & vera, Christus scilicet, unigenitus Dei filius, in altari offertur pro nobis, manibus Sacerdotis. Quare statuerunt providè Sancti Patres, ne in aliis locis quam dedicatis (nisi b necessitatis causa) celebretur Officium tam sublime.*

Porro quia vidimus per nosipos, & à plerisque audivimus, tam salubre mysterium contemni, vel saltem negligi à nonnullis, dum multas invenimus Ecclesias, & aliquas Cathedrales, quæ licet fuerint ab antiquo constructæ, nondum tamen sunt sanctificationis Oleo consecratæ:

Volentes huic tam periculosa negligentia obviare, Statuimus, & statuendo præcipimus, ut omnes Cathedrales, Conventuales, & Parochiales Ecclesiæ, quæ perfectis parietibus sunt constructæ, infra biennium per Diocesanos Episcopos, ad quos pertinent, vel eorum auctoritate per alios consecrentur; sicque infra simile tempus fiat in Ecclesiis construendis.

Et ne tam salubre Mysterium ac Statutum transeat in contemptum, si loca hujusmodi non fuerint infra biennium à perfectionis tempore dedicata, à Missarum solemnibus usque ad Consecrationem manere Statuimus interdicta, nisi aliquâ causâ rationabili excusentur.

Ad hæc, nec præsumant Abbates aut Ecclesiarum Rectores antiquas Ecclesias consecratas, sub pretextu amplioris vel pulchrioris fabricæ faciendæ, diruere absque licentia diocesani Episcopi & consensu, præsentis statuto districtius inhibemus. Diocesanus verò diligenter consideret, an expediat dare licentiam vel negare: & si dederit, attendat & intendat ut opus quam celerius poterit consummetur, quod extendi statuimus ad jam cæpta.

De capellis verò minoribus nihil novi duximus statuendum; consecrationes earum quando & qualiter fieri debeant, definitionibus canonicis relinquentes.

a Basilicarum.] Hic propriè sumitur Basilica, quæ nondum fuit Consecrata: sed Ecclesia propriè vocatur post ejus Consecrationem. J. de

Athon.

b Necessitatis causâ.] Puta infirmitatis, vel hujusmodi.

---and that neglected in many parts of England,

---it is decreed, that all Churches be Consecrated, within two years after building,

---on pain of Interdict from doing divine Service.

None shall pull down ancient Churches, without Licence of the Diocesan,

---and Chapels are left to former Constitutions.

A.D. 1237.  
22 H. 3.

Consecration of Churches.

Exit. Oxon.  
P. 5.

OTHOBON



Consecra-  
tion of  
Churches.

A.D. 1268.  
52 H. 3.

## O T H O B O N.

## De Consecratione &amp; Reformatione status Ecclesie.

## Summarium.

Quicumque contra Constitutionem Domini Othonis, Ecclesie nondum consecratae Rector seu Governator, aut Vicarius ejus extiterit, infra annum constructionis Episcopum super Consecratione requirat, saltem per Archidiaconum: Quod si Rector aut Vicarius neglexerit, aut Archidiaconus postposuerit, ab Officio suspendatur. Episcopus vero, si requisitus Ecclesiam detrectaverit, per se vel per alium consecrare, cum legitimum non habeat impedimentum, à Dalmaticæ Tunice, & Sandaliorum usu, se noverit suspensum, donec ad Consecrationem (quam gratis faciet) accingatur.

**D**omus Dei materiali subiecto non differens à privatis, per Mysterium Dedicationis invisibile fit Templum Domini, ad expiationem delictorum & Divinam misericordiam implorandam: ut in ea sit mensa, in qua panis vivus, qui de cælo descendit pro vivorum & mortuorum suffragiis, manducatur.

Nè igitur tam salubre Mysterium contemni vel negligi videatur, à dicto Legato invenimus providè Constitutum, ut omnes Cathedrales Ecclesie, & Conventuales, ac Parochiales, à tempore perfectionis ipsarum infra biennium per Diocesanos ad quos pertinent, vel eorum auctoritate per alios consecrationes acciperent. Quod si hujusmodi loca à perfectionis tempore infra biennium minime fuerint Dedicata, idem Legatus eadem usque ad Consecrationem à Missarum solemnibus Statuit manere interdicta, districtè inhibens, nè Abbates, aut Ecclesiarum Rectores antiquas Ecclesias consecratas, sub prætextu amplioris vel pulchrioris fabricæ faciendæ, diruere præsumant absque Diocesani Episcopi licentia & consensu, qui diligenter consideret; utrum expediat dare licentiam hujusmodi, an negare.

Nos igitur hujusmodi salubre Statutum negligi aut contemni à pluribus cognoscentes, adjiciendo Statuimus, ut is, qui Ecclesie nondum consecratae Rector, seu Governator existit, seu Vicarius ipsius, infra annum post Ecclesie constructionem Episcopum suum (si commodè fieri possit) super ipsius Ecclesie Consecratione requirat; alioquin Archidiaconum suum, ut per ipsum infra dictum tempus super hoc Episcopus requiratur.

Quod si Rector seu Governator hujusmodi, sive Vicarius, sive Archidiaconus, ab hujusmodi requisitione destiterit, ipsos extunc donec eam fecerint, ab Officio fore Decernimus suspensos: Episcopus autem, qui ab eis taliter requisitus Ecclesiam detrectaverit per se vel per alium consecrare, nisi consecrandarum Ecclesiarum in sua Diocesi multitudo tempus in aliquibus differat consecrandi, aut aliud legitimum impedimentum excuset, extunc à Dalmaticæ Tunice, & Sandaliorum usu, donec eam duxerit consecrandam, noverit se suspensum; quæ in ipso Consecrationis actu illico reassumat. Gratis autem, & sine omni penitus exactione, exceptâ debitâ Procuracione, studeat Episcopus ministerium Consecrationis præbere, nè ultione Divinâ cum Simone & Gehazi percellatur.

## 15 Ric. II. Cap. 5.

*Assurance of Lands to certain Places, Persons and Uses, shall be adjudged Mortmain.*

**I**tem, Whereas it is contained in the Statute De religiosis, that no religious, nor other whatsoever he be, do buy or sell, or under colour of gift, or term, or any other manner of title whatsoever, receive of any man, or in any manner, by gift or engine, cause to be appropriated unto him any Lands or Tenements, upon pain of forfeiture of the same, whereby the said Lands and Tenements in any manner might come to Mortmain. And if any Religious, or any other, do against the said Statute by art or engine in any manner, that it be lawful to the King, and to other Lords, upon the said Lands and

Abridgment.

The House of God is separated from common use, by Dedication,

---and therefore Otho made the foregoing Constitution for the Dedication of new Churches,

---and against the pulling down of old ones;

---to which we add, that the Rector or Vicar of any unconsecrated Church shall apply to the Bishop within a year,

---upon pain of Suspension, ---and the Bishop shall Consecrate it,

---upon the like pain

---exacting nothing but the accustomed Procuracion.

Recital of the Stat. de Religiosis (7. E. 1.) by which Lands in Mortmain, are forfeited,

Edit. Oxon.  
p. 83.

A.D. 1391.

† Vid. sub Tit.  
Mortmain.



Abridgment.

... and declared, That, to add Lands to Church-yards, and hallow them, is within the said Statute.

and Tenements to enter, as in the said Statute doth more fully appear. And now of late by subtile imagination, and by art, and engine, some religious persons, Vicars and other spiritual persons, have entred in divers Lands and Tenements, which be adjoining to their Churches, and of the same by suffrance and assent of the Tenants have made Church-yards, and by Bulls of the Bishop of Rome, have dedicated and hallowed the same, and in them do make continually Parochial burping without licence of the King and of the chief Lords: therefore it is declared in this Parliament, That it is manifestly within the compass of the said Statutes.

Consecration of Churches.

Rules of Common and Canon Law, concerning the Erecting and Consecrating of Churches.

16. q. 1. c. 44.

Dist. 1. de Consecr. c. 9.

Nov. 67. c. 2.

Spel. Vol. 2. P. 41. c. 12.

Extra. 1. 5. de Priv. Tit. 33. c. 14. 3 Inst. p. 201.

I. NO Person may erect a Church, without the Leave and Consent of the Bishop. — Quicumque voluerit in sua proprietate Ecclesiam edificare, & consensum et voluntatem Episcopi habuerit, in cujus Parochia est; licitum sit. --- And again, Nemo Ecclesiam edificet, antequam Episcopus Civitatis veniat, & ibidem Crucem figat, publice Atrium designet, &c. in conformity to the Rule of the Civil Law, Sancimus igitur pre omnibus quidem illud fieri, & nulli licentiam esse, neque monasterium, neque Ecclesiam, neque Orationis domum incipere edificare, antequam Civitatis Deo amabilis Episcopi Orationem in loco faciat, & crucem figat, &c. and to the Fourth Canon of the Council of Lateran; Εδοξε παντα πανταμ ομοδομειν πανδ ομωσαν Μοναστηριον, η εκκλησιον ολον, πασα γυναικα ης η ανδρωσ επιουοντα. Placuit, nullum edificare aut constituere Monasterium, vel Orationis domum, preter conscientiam [vel voluntatem] Civitatis Episcopi. The necessity of which Consent or Licence, was made an expres Law of the Church of England, in the Council of Westminster, Apostolica Autoritate prohibemus, ne quis absque licentia Episcopi sui in possessione sua Ecclesiam vel oratorium constituat. Nor could this Right of the Bishop be defeated by the Exemptions of Religious Persons from Episcopal Jurisdiction; who might not, under colour of such Exemptions, erect Churches in any part of their Possessions not Exempt, without leave from the Bishop; as we find it specially adjudged, in the Body of the Canon-Law.

My Lord Coke will have it, that by the Common-Law, and general Custom of the Realm, Earls, Barons, and other Lay-Persons, might have built Churches in their own Possessions, without Consent of the Bishop; and he grounds this, upon a Letter of King John to the Pope, representing that, as the Usage of England; which, whether true or not true, is now only matter of Speculation. But it may be observed, that in the Reign of King Stephen, many Years before, the contrary had been made a Law of the Church of England, by the above-mentioned Canon of the Council of Westminster; to which Canon the Pope's Answer is exactly agreeable, Laicis quidem Principibus id licere nullatenus denegamus, dummodo Diocesani Episcopi eis suffragetur Assensus. And whereas, my Lord Coke refers us to the Writ of Prohibition de Decimis separatis pro

alio quam Rege, it is certain, that that Writ relates, not to the Erecting, but Endowing of Churches when erected; for the words are, Quia etiam consimiles Decimas conferimus in quibusdam Dominicis, & similiter quamplures magnates regni nostri in Dominicis suis. Nor does King John's Letter relate to a right of erecting with, or without Licence; since the occasion of it, was the building a Collegiate Chapel at Lambeth by the Archbishop, who was his own Licence; and the only objection was, That the building of it would be prejudicial to the Church of Canterbury.

II. After a new Church is erected, it may not be Consecrated, without a competent Endowment: So saith the fifth Canon of the Council of Bacara, Unusquisque Episcoporum meminerit, ut non prius dedicerit Ecclesiam, nisi antea dotem Basilicæ, & obsequium ipsius, per dotationem Chartulæ confirmatum, accipiat. And, here at home, to the same purpose, is the sixteenth Canon made in the Council of London; Ne Ecclesia sacretur, donec provideantur necessaria & Presbytero & Ecclesie. And the Canon-Law goes further; requiring the Endowment, not only to be made before Consecration, (cum non sit Ecclesia, nisi de dote provisum ei fuerit, consecranda, &c.) but even to be ascertained and exhibited, before they begin to build: Nemo Ecclesiam edificet, antequam presinat, qui edificare vult, quæ ad Luminaria, & ad custodiam, & ad stipendia custodum [Sacerdotum & Hospitum, Gloss.] sufficient, & ostensâ Donatione sic domum edificet. And the Civil Law is yet more strict, enjoying, that the Endowment be actually made, before the Building be begun, Faciat prius donationem eorum, quæ futura sunt deputari, & ita Domus edificetur.

Upon this head, my Lord Coke saith, Albeit they might build Churches without the King's Licence, (which by the way, Noy denies, because they are Sanctuaries, tho' it is certain, the Erection did not make them such,) yet could they not erect a Spiritual Politick Body to continue in Succession, and capable of Endowment, without the King's Licence: But by the Common-Law, before the Statutes of Mortmain, they might have endowed this Spiritual Body, once incorporated, perpetuis futuris temporibus, without any Licence from the King, or any other. Which Body, to incorporated, is not dissolved, tho' the Church is drowned, or otherwise destroyed; but, in that Case, one may be presented to the Rectory,

Dist. 1. 2. c. 1.

Spel. Vol. 2. p. 21. 1102.

Extra. 1. 3. T. 40. c. 8. Dist. 1. de Consecr. c. 9.

3. Inst. p. 202.

p. 117.

1. Mod. Rep. p. 200.



## Consecration of Churches.

Decretal. l. 3.  
T. 40. c. 2.Pagi, in Baroa.  
An. 335.De Consecr. Dist.  
l. c. 13.Reg. Conv. Scil.  
71, 100, 106, 121.

Dist. 63. c. 3.

Decretal. l. 3.  
T. 40. c. 6.Reg. Laud.  
285. b.

Rectory, and shall be liable to Annuities and other Charges: the Church (in consideration of Law) being properly, the Cure of Souls and the Right of Tythes.

III. The Consecration of Churches may be performed, indifferently, on any Day: So it was established by the Decretal Epistle of Innocent III. *Inquisitioni tuæ taliter respondemus, quod in Diocesi tuâ licet tibi Ecclesiis dedicationem impendere, tam diebus Dominicis, quam privatis*: And, according to the calculation of learned Men, Constantine's famous Dedication of the Church of Jerusalem, in a full Synod, was on a Saturday, and not on Sunday.

IV. At the Consecration of every Church, Divine Service ought to be performed: *Ecclesias per congrua & utilia facite loca, quæ divinis precibus sacrare oportet*: And, *Omnes Basilicæ cum Missâ debent semper consecrari*. The Gloss makes a doubt, whether this is not de substantiâ Consecrationis; but be that as it will, it is certainly very decent: And, that all the other parts of an Office so Solemn, might be established in a Grave, Decent and Uniform method, it is to be wished, that the good Design which we meet with in the Convocation of 1661. of drawing up a Form for Consecrating Churches and Chapels (occasioned, as some think, by the Offence taken at Archbishop Laud's Ceremonious manner of Consecrating St. Katharine Creed Church in London) were again set-foot by the Bishops and Clergy.

V. In the Consecration of a new Church, Provision is to be made, that no Damage accrue in point of Rights or Revenues, to any other Church: *Omnino providendum est Episcopo, ut aliæ Ecclesiæ antiquiores, propter novas, suam justitiam aut decimam, non perdant; sed semper ad antiquiores Ecclesias persolvatur*. And, in the forementioned Letter of Innocent III. to King John, one express condition of building new Churches, is, *dummodo per novam structuram veterum Ecclesiarum Justitia non lædatur*.

VI. A Church once Consecrated, may not be Consecrated again: *Ecclesiis semel Consecratis Deo, non iterum debet Consecratio adhiberi*. To which general Rule, one exception was, *nisi sint Sanguinis effusione polluta*; and in that case the Canon supposes a Reconsecration; tho' the common Method in England was, a Reconciliation only, as appears by innumerable Instances in our Ecclesiastical Records. But in point of Ruins, or Decay, the only exception to the general Rule, laid down in the Canon, is, *nisi sint ab igne exusta* (i. e. pro majori parte, aliâ scilicet, as the Gloss adds.) And a Decretal Epistle of Innocent III. where the Covering was consumed, is, *Inquisitioni tuæ taliter respondemus, quod cum Parietes in suâ integritate permanserint, & Tabula Altaris mota vel enormiter læsa non fuerit; ob causam prædictam, nec Ecclesia, nec Altare, debet denuò Consecrari*. Thus, a Chapel in the Suburbs of Hereford, which belonged to the Priory of S. John of Jerusalem, had been from the time of the Dissolution of Monasteries, ad sæculares usus applicata, & profanata, Scilicet Cubile factum pro bestiis, ac pabuli pro eisdem, & feni Repositorium; yet because the Walls and Roof were never demolished, a Reconciliation was

judged sufficient: *Quoniam Parietes & Tecta ejusdem Capellæ nunquam devoluta erant, Reconsecrationem ejusdem omnino necessariam non esse censentes, eandem Capellam ab omni Impedimento Canonico de & ex profanatione prædictâ contracto & incurso, quantum in nobis est & de jure possumus, eximimus, & relaxamus, & eandem reconciliamus*. In like manner, when another Chapel had been long disused, and was repaired, and made fit for Divine Service, the tenor of the Reconciliation was, *Eandem Capellam ab omni Impedimento Canonico, & ex profanatione quacunque (si quæ esset) contracto & incurso, quantum in nobis est & de jure possumus, auctoritate nostrâ eximimus & relaxamus, eandemque reconciliamus*.

But, on the contrary, when the Church of Southmalling had not only been polluted (per bestias & animalia diversorum generum, aliisque modis, profanata, & polluta, & sic diu per Incolas & Inhabitantes ejusdem Parochiæ pollui & profanari permisso;) but was also New-built, and then used for Divine Offices without new Consecration; Archbishop Abbot Interdicted the Minister, Churchwardens, and Parishioners, *ab ingressu Ecclesiæ—donec Ecclesiâ præfata & Cæmeterium ejusdem, per nos, aut alium auctoritate nostra munitum, Canonice & legitime Consecrata fuerint; prout Jurâ & Sanctiones Ecclesiæ in eâ parte editæ postulavit*.

Instances of this, and the foregoing kinds, do sometimes happen; and I was willing, that those who may be concerned in them, should have at least a general Aim of the proper and regular method of Proceeding, from the Practice of former Times, in cases of the like nature.

VII. The Law takes no notice of Churches or Chapels, till they are Consecrated by the Bishop; And this is the Reason, why a Church or not a Church, a Chapel or not a Chapel, shall be certified by the Bishop. But the Canon-Law supposes, that, with consent of the Bishop, Divine Service may be performed, and Sacraments administered in Churches and Chapels not Consecrated; inasmuch as it provides, That a Church shall have the privilege of Immunity, *in quâ divina mysteria celebrantur, licet adhuc non extiterit Consecrata*; and there are many Licences to that effect, (granted on special occasions) in our Ecclesiastical Records.

VIII. A reasonable Procuration is due to every Bishop, who Consecrates a Church, from the Person or Persons, praying such Consecration. Not for the Consecration, but for the necessary Refreshment of the Bishop and his Servants. For, whereas Ordinations, Institutions, and other Acts of the like Nature, are performed by the Bishop within his own Walls; this draws him oft-times to a great distance from his Palace, where proper Accommodations cannot be procured; and therefore, as in his Visitations, so also in his Consecrations of Churches, the Law hath provided a reasonable Procuration. At first, the Laws of the Church forbade the demanding or taking any thing, but what the Founder voluntarily offered\* (and some even forbade that;) but afterwards, the Prohibition was limited, *Salvis honestis & licitis Consuetudinibus Ecclesiasticorum*; and, præter Procurationem; and, as

## Abridgment.

Ibid. 296. b.

Reg. Abbot.  
f. 125. b.  
par. 3.Cok. 4. Infit.  
p. 203.Decret. l. 3  
T. 49. c. 10.Bracar. 2.  
c. 5.  
Caus. 1. 9.  
2. c. 1.  
\* Lateran.  
2. c. 2. ann.  
1139.



Abridgment.

Parif. 1212. Con. Wellm. 1138. Spel. Vol. 2. p. 41.

it is in the foregoing Constitution of Orthon, excepta debita Procurratione; the measure and proportion of which must be determined by the Usage of every Diocese; and I can give no further light into it than this,

that in Archbishop Warbam's time, the See of Bath and Wells being vacant, there is returned among the Revenues of the Vacancy, for the Consecration of three Churches 10 l. i. e. 3 l. 6 s. 8 d. each.

C A P. II.

Churches and Church-yards shall not be VIOLATED nor PROFANED.

13 Edw. I. (Stat. 2.) Cap. 6.

A.D. 1285.

In an Act, Entituled, ----- Fairs or Markets shall not be kept in Church-yards.

No Fairs nor Markets shall be kept in Church-yards.

Spel. Gloss. v. Feria.

— AD the King commandeth and forbiddeth, that from henceforth neither *bb* Fairs nor Markets be kept in Church-yards, for the honour of the Church.

*bb* Fairs nor Markets.] How they came to be kept in Church-Yards, is well accounted for by Sir Henry Spelman: Cum Christiani ad insignes aliquas celebritates, praesertim Encenia, & Dedicacionis Ecclesiarum Festa annua peragenda, convenirent; adesse utique Mercatores solebant, sua mercimonia sub ipsis Ecclesiis atque in Caemiteriis distraeturi. Ita Festum cum Nundinis, Nundinas cum

Festo miscuerunt. Invaluit subsequenter aevi usus hic nequam, virisque maxime obtinuisse videtur in Enceniis (ut diximus) & annuis Dedicacionis Ecclesiarum Festis. — Plurimas igitur antiquas Ferias in his ipsis Festis institutas animadverto. — Nec difficile est saepe conjicere ex Nundinarum die, cui olim Sanctorum illa Parochia commendabatur.

S T E P H A N U S.

A.D. 1222. 6 H. 3.

In Const. Caeterum praesentis--- sub Tit. Ne Clerici vel Monachi.

Causes of Blood shall not be heard in Church, or Church-yard,

Decretal. l. 3. T. 49. c. 5. Idem. Spel. Vol. 2. p. 104.

— His quoque duximus adjungendum, ne scilicet *c* Judicium Sanguinis in Locis Sacris tractetur, in Ecclesia videlicet, vel *d* Caemiterio.

Edit. Oxon. p. 270.

*c* Judicium Sanguinis.] Cum Ecclesia Dei, secundum Evangelicam veritatem, Domus Orationis esse debeat, non spelunca latronum, aut sanguinis forum; Seculares Judices causas, ubi de sanguinis effusione & corporali poena agitur, in Ecclesiis vel Caemiteriis agitare, sub interminatione Anathematis, prohibemus: Absurdum

enim est & crudele, ibi judicium sanguinis exerceri, ubi est tutela Refugii constituta. *d* Caemiterio.] Sic Caemiterium gaudet eadem Immunitate cum Ecclesia, ut quod in uno prohibetur, prohibitum videatur & in reliquo. Lyndw.

O T H O B O N.

A.D. 1268. 52 H. 3.

Quod Negotiationes non fiant in Ecclesiis.

Summarium.

Cum Ecclesia sit domus Dei, Orationi, & non Negotiationi dedicata, nemo in tota Anglia, Scotia, & Hibernia, in Templis Deo dicatis Mercatum teneat, nec ullam prorsus Negotiationem exercere praesumat; quod Statutum Ecclesiarum Praelati diligentissime per censuram Ecclesiasticam curent observandum.

Churches were built for appeasing the Wrath of God, by Prayer and other Religious Offices,

Omnipotens Dominus, qui cum propter peccata nostra nobis irascitur, non obliviscitur misereri, sciens se posse ac debere placari per Contritorum, & humiliatorum gemitus, & orationes, Tempia & Oratoria construi voluit, in quibus convenientes fideles abstracti a cunctis exterioribus actibus, & seipso, clausis corporis sensibus, in suis conscientiis colligentes, per Oblationes & Hostias

Edit. Oxon. p. 136.



Churches & Church-yards shall not be violated, &c.

stias, & precipuè per Sacrificia contriti cordis & Orationes, quibus Deo conjungimur, iram justì Judicis mitigarent, ut, in misericordiam conversâ Justitiâ, peccatores justè non consumantur pro suis meritis, sed pro clementia conditoris misericordiam consequantur. Hoc ipse Dei filius, quam acceptum sibi sit, verbis & operibus indicavit, Ecclesiam (cum sit Deus omnium) specialiter asserens domum suam, eam non Negotiationis sed Orationis domum voluit nominari; tantum adhorrens in Templo Negotiationis commercia exerceri, ut de funiculis flagello factò vendentes & ementes de Templo ejiceret, licet in eo, quæ ad usum Sacrosanctorum erant necessaria, venderentur; apertè significans, quàm detestabile sit illorum delictum, qui Mercata in Ecclesiis faciunt, & Negotiationes exercent, de domo Dei speluncam latronum, & domum Diaboli facientes, cum in hujusmodi contractibus se invicem decipiant, vel intendant decipere contrahentes. Eapropter districtùs Inhibemus, & inhibendo Statuimus, ut e in Ecclesiis quibusunque nostræ Legationes nullus de aliquibus rebus venalibus Mercatum teneat, nec ullam prorsus f Negotiationem exercere præsumat. Archiepiscopis, Episcopis, & aliis Ecclesiarum Prælatiis in virtute obedientiæ firmiter injungentes, ut hoc salubre Statutum per censuram Ecclesiasticam ab omnibus inviolabiliter faciant observari.

e In Ecclesiis.] Nec earum Cœmiteriis. J. de Athon.  
f Negotiationem.] In Archivis Ecclesiasticis

frequentè occurrunt Monitiones & Injunctiones Episcoporum, ne mercatura & negotiationes tenerentur in Cœmiteriis.

Abridgment.

---and our Saviour declares it to be the House of Prayer, and not a Houle of Merchandise.

---wherefore we decree, that there be no Traffick or Merchandise, in any Church.

Reg. Winch. 29. b. 296. b. Court. 52. b. Arundel. 413. b.

I Jac. I:

C A N O N S 1603.

Ixxxviii. Churches not to be prophaned.

**T**H E Church-wardens, or Quest-men, and their Assistants shall suffer no *g* Plays, *h* Feasts, Banquets, Suppers, Church-Ales, Drinkings, *i* temporal Courts or Leets, Lay-juries, Musters, or any other prophane Usage to be kept in the Church, Chapel or Church-yard; neither the Bells to be rung superstitiously, upon Holy-days or Eves abrogated by the Book of Common-Prayer, nor at any other times, without good cause to be allowed by the Minister of the place, and by themselves.

*g* Plays.] The Acting of Plays in Churches, seems to have been too common in this and other Nations, during the times of Popery; as appeats, from the Decretal Epistle against those *Ludi Theatrales in Ecclesiis*. (Not unlike to which, is the solemn Mandate we meet with in the Register of Adam, Bishop of Winchester, *Ne hastiludia exercentur in Cœmiterio*.) At the Reformation, and for some time after, those Plays and Interludes were very common; and, being Representations of the Corruptions of the Monks, and the Popish Clergy, were very acceptable to the People. In the time of Archbishop Grindal, there were an idle sort of People, who set up Bills daily, but especially on Holy-days, inviting to their Plays, by whose impure mouths God's word was prophaned and turned into Scoffs; and the Archbishop moved Secretary Cecil for a Proclamation to suppress them. And it appears by this Canon, and that of 1571. that this profane Usage was not quite driven out of the Churches and Church-yards.

*h* Feasts, Banquets, &c.] These five Prohibitions (of Feasts, Banquets, Suppers, Church-ales, Drinkings,) do all refer to the Wake, or the Feast of the Dedication of Churches; the Observation of which, among

Christians, was very ancient, and is particularly enjoynd by the Canon-Law: *Solemnitates Dedicacionum Ecclesiarum, &c. per singulos annos solemniter sunt celebranda.* And, in the Law of Edward the Confessor, *De temporibus & diebus Pacis Regis*, one time is, *Item in Parochiis Ecclesiarum, ubi propria Festivitas Sancti celebratur*. But the Observation of them (however piously intended) grew by degrees, into great Excesses of Eating and Drinking, and other Irregularities; which, by the way, were at first in some sort indulged the English by Gregory the Great, at this Feast of the Dedication, in lieu of their Sacrifices while they were Heathens, viz. That they might set up Booths round the Church, and there feast and entertain themselves: But the Entertainments being forbidden, the Solemnity it self (tho' revived by the Book of Sports) hath been since in great measure, disused; and, together with it, these Disorders in our Churches and Church-yards.

*i* Tempozal Courts.] Ut in Domibus Ecclesiarum, *neque Missas, neque Comes, vel Judex publicus, vel Minister, quasi pro Consuetudine, Placitum vel Hospitium vendicent; sed in publicis locis Domos constituent, in quibus Placitum teneant, & etiam hospitentur*.

There shall be no Plays, nor temporal Courts, &c. in Churches or Church-yards. nor shall the Bells be rung upon Holy-days and Eves abrogated.

De Consecr. Dist. 1. c. 16, 17.

Cap. 3.

Bed. Eccl. Hist. l. 1. c. 30.

Decret. l. 3. t. 49. c. 1.

Decretal. l. 3. T. 1. c. 12.

Reg. f. 120 b.

Burn. V. 1. p. 318.

Strype, p. 82.



Abridgment.

5 Edw. VI. Cap. 4.

## The Penalty for striking or drawing a Weapon in Church or Church-yard.

Churches &amp; Church-yards shall not be violated, &amp;c. A.D. 1551.

Whosoever shall quarrel, by *Words*, in Church, or Churchyard, shall be suspended by the Ordinary,

**F**Orasmuch as of late divers and many outrageous and barbarous behaviours and Acts have been used and committed by divers ungodly and irreligious persons, *ii* by quarreling, brawling, fraying and fighting openly in *k* Churches and Church-yards: Therefore it is enacted by the King our Sovereign Lord, with the assent of the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, and by the authority of the same, That if any person whatsoever, shall at any time after the first day of May next coming, by words only quarrel, chide or brawl in any Church or Church-yard, that then it shall be lawful unto the Ordinary of the place, where the same offence shall be done, and proved by two lawful witnesses, *l* to suspend every person so offending; that is to say, if he be a Layman, ab ingressu Ecclesiæ, and if he be a Clerk, from the ministracion of his office, for so long time as the said Ordinary shall by his discretion think meet and convenient, according to the fault.

---and, by smiting, shall be *ipso facto* Excommunicate.

II. And further it is enacted by the authority aforesaid, that if any person or persons after the said first day of May, *m* shall smite or lay any violent hands upon any other, either in any Church or Church-yard: That then *n* ipso facto, every person so offending shall be deemed excommunicate, and be excluded from the fellowship and company of Christ's congregation.

Any Person, striking, or drawing Weapon in Church or Church-yard, shall have one Ear cut off,

III. And also it is enacted by the authority aforesaid, that if any person after the said first day of May, shall *o* maliciously strike any person with any weapon in any Church or Church-yard, or after the same first day of May, shall draw any weapon in any Church or Church-yard, to the intent to strike another with the same weapon, that then every person so offending, and thereof being convicted by verdict of twelve men, or by his own confession, or by two lawful witnesses, before the Justices of Assize, Justices of Oyer and Determiner, or Justices of Peace in their Sessions, by force of this Act shall be adjudged by the same Justices, before whom such person shall be convicted to have one of his ears cut off. And if the person or persons so offending have none ears, whereby they should receive such punishment as is before declared, that then he or they to be marked and burned in the cheek with an hot iron, having the letter F. whereby he or they may be known and taken for fray-makers and fighters, and besides that every such person to be and stand ipso facto, excommunicated, as is aforesaid.

---and if he have no Ears, he shall be burnt in the Cheek,

---and stand *ipso facto* Excommunicate.

*ii* By quarrelling.] *Qui in Templo pugnaverit, 120 solidis noxam sarcito.* Leg. Inæ, c. 6.

Case is not justifiable, though in his own Defence.

*k* Churches and Church-yards.] In *Detbick's Case*, who struck another in the Church-yard of *St. Paul's, London*, the Court were clearly of Opinion, that *Cathedral-Churches* are within the meaning of this Statute.

*n* Ipso Facto.] Though this takes away the necessity of any Sentence of Excommunication, yet he that strikes doth not stand Excommunicate, until he be thereof Convicted at Law, and such Conviction be transmitted to the Ordinary. This was left in Suspence in the Case of *Forman and Mounson*, viz. whether Excommungement might be pleaded against the Plaintiff, immediately upon having committed the Offence and before Conviction; but, in the Case of *Sonbam and Trundle*, the like Plea was ruled to be ill, and declared, that it could not be admitted, without *showing* an Excommunication by the Ordinary, or under his Seal.

Leon. part. 1. p. 248. 1. Cro. p. 224.

2. Cro. p. 462.

107, p. 104.

*l* To suspend.] Prohibition to the Spiritual Court was prayed upon this Statute, because Costs were there given, &c. and it was denied; the Costs being *pro expensis litis*; otherwise, if it had been *pro damnis*.

*m* Shall smite.] It was resolved, in the Case of *Day and Bedingfield*, That if one be Assaulted in the Church, or within a Church-yard, he may not beat the other, or draw a Weapon there, although it be in his own Defence. For it is a sanctified Place, and he may be punished for that, by 5 E. 6. And it is the same in any of the King's Courts, or within view of the Courts of Justice; because a force in that

*o* Maliciously—to the intent.] It is not enough, to say in the Indictment, *quod percussit*, and *quod extraxit*: for, unless *maliciose* be added to the first, and *cum intentione*, &c. to the Second, it is not good.

Ventris, p. 14 part. 1. Dier vers. East.

Dyer, 275. b.

1 Cro. 919. Hcl. p. 86.

2. Len 189. 1. Cro. 231. Noy, 171.



## C A P. III.

## REPAIRS of Churches and Church-yards.

A.D. 1285.

13 Edw. I. Cap. 1. (*circumspecte agatis.*)

In an Act, Entituled, *Certain Cases wherein the King's Prohibition doth not lie.*

— **A**L S O if the Prelates do punish for leaving the p Church-yard unclosed, or for that q the Church is uncovered, or not conveniently decked: in which cases none other penance can be enjoined but pecuniary.

p Church-yard unclosed.] Tho' this Statute is absolute, in all Cases, yet it was declared 14 Car. 1. in the Case of *Claydon* and *Duncomb*, that where particular Persons are bound, by Custom, to make good so much of the Fence as adjoyns to their several Grounds; they shall be Sued, upon Neglect, in the *Temporal*, and not in the *Spiritual Court*.

q The Church.] *Reparatio Ecclesie ad curam & sollicitudinem Episcopi pertinet*, saith *John de Athon*; First, to him immediately, as receiving the whole Revenue of the Diocese, and applying the fourth part to this use; but afterwards to him, by *Direction* and *Authority*, as taking care that it was done by the Person who received the *quarta pars* for that end, and to whom therefore, *de jure communi*, *Fabrica seu Reparatio Ecclesie pertinet, juxta ordinationem & sollicitudinem Episcopi*. To which he adds, *Sed certe de consuetudine Parochiani etiam Laici ad hujusmodi Reparationem compelluntur; Populus itaque Laicus hujusmodi laudabilem consuetudinem cogitur observare*; i. e. as to all, except the *Chancel*. But this transferring the care of Repairs to the Laity, did not alter the *Cognisance* of them; not only the Nave, or Body of the Church, being under the direction of the *Spiritual Court*, but also all such Chapels as are *Publick*, and are not repaired by private hands, whose Property they are; which will be best understood by the *Writ of Consultation*, provided by our Law, in case a *Prohibition* be obtained, contrary to the tenor of this Statute:

“ Rex, venerabili in Christo patri H. eadem gratia Lincoln' episcopo & ejus commissariis salutem. Ex parte vestra nobis est intimatum, quod cum vos nuper ad corrigendum crimina & excessus subditorum vestrorum juxta officii vestri debitum procedens, R. de C. militi & parochiano ecclesie parochialis de C. vestre dioc' objeceritis, quod ipse parochianus dictae ecclesie existens, imminentes & notabiles defectus in navi seu in corpore ejusdem ecclesie parochialis & capella beatae Mariae eidem annexa, quorum defectuum emendatio & reparatio ad ipsum & ceteros parochianos de consuetudine notoria & approbata pertinere dignoscitur, una cum certis parochianis, prout ad ipsum pertinet, emen-

“ dare & reparare non curavit, quin potius recusavit & expresse contradixit, in animae suae periculum, aliorumque exemplum perniciosum, ecclesiaeque praedictae danimum non modicum & gravamen; volentes contra eundem R. ad correctionem animae suae in praemissis procedere, statuere, & facere quod justum foret, & animae suae saluti expediens juxta canonicas Sanctiones: praedictus R. cognitionem vestram & correctionem animae suae in hac parte satagens declinare, ac suggerens in cancellaria nostra ipsum tractum fuisse in placitum coram vobis in curia christianitatis de laico foedo suo in C, breve nostrum de prohibitione, ne placitum illud sequeremini in curia christianitatis, vobis dirigi procuravit: quo praetextu vos in correctione praedicta procedere distulistis, ad grave periculum animae suae & laesionem libertatis ecclesiae manifestam. Et quia nolumus cognitionem ecclesiasticam in iis quae ad forum ecclesiae & maxime ad correctionem animae pertinent, contra justitiam impediri: vobis significamus quod super reparatione & emendatione defectuum corporis ecclesiae juxta consuetudinem approbatam faciend' procedere poteritis, & ea facere quae ad forum ecclesiasticum noveritis pertinere, dicta prohibitione non obstante. T. &c.

In like manner, the Ecclesiastical Jurisdiction herein is confirmed, and secured, by a *Writ of Consultation*, in the case of a *Legacy* given to the *Repairs* of the Church, or the *Enclosure* of the *Church-yard*:

“ Rex, Archidiacono Surr' & ejus Official. ac eorum Commissar. salutem. Cum vos nuper, ut accepimus, juxta officii vestri debitum, objeceritis Joanni de E. parochiano ecclesiae parochialis de C. infra archidiaconatum vestrum praedictum (praetate archidiacone) quod ipse quandam vaccam & diversa alia bona & catalla, per quamplures parochianos ejusdem ecclesiae in testamentis suis in ultimis voluntatibus, pro reparatione & emendatione corporis ecclesiae praedictae, & clausurae coemeterii ejusdem, quae jam multipliciter minatur ruinam, ut asseritis, a jamdiu legata, contra piam intentionem testatorum praedictorum detinet occupata, eaque custodibus fabricae ecclesiae

No Prohibition shall lie, where *Spiritual Court* punishes for neglecting Church, or Church yard.

2 Rolles Abr. p. 287.

Otho, de Consecr. v. Consensu.

Regillr. 5. 44. b.

Regillr. fol. 57. a.



Abridgment.

“ ecclesiæ prædictæ, ad quos hujusmodi le-  
 “ gata de jure pertinent custodienda, libe-  
 “ rare recusat, in animæ suæ periculum,  
 “ ac ecclesiæ & cœmiterii prædictorum de-  
 “ teriorationem manifestam; procedentes  
 “ contra ipsum in hac parte ad debitam  
 “ restitutionem de vacca, bonis, & catallis  
 “ prædictis, pro reparatione & emendati-  
 “ one corporis ecclesiæ & clausuræ cœmite-  
 “ rii prædictorum, præfatis custodibus fa-  
 “ ciendam, & ad pœnam canonicam eidem  
 “ Joanni pro detentione legatorum præ-  
 “ dictorum imponendam: Idem I. proces-  
 “ sum per vos in præmissis contra ipsum  
 “ inchoatum callidè machinans declinare,  
 “ asserensque in cancellaria nostra ipsum  
 “ Joannem coram vobis in curia christiani-  
 “ tites de catallis & debitis, quæ non sunt de  
 “ testamento vel matrimonio, implacitari,  
 “ quandam prohibitionem nostram, &c.

“ placitum hujusmodi teneretis in curia  
 “ christianitatis, vobis dirigi procuravit,  
 “ quo prætextu vos ulterius in causa illa  
 “ hucusque procedere distulistis & adhuc  
 “ differtis in libertatis ecclesiasticæ læsio-  
 “ nem manifestam. Et quia nolumus quòd  
 “ cognitiones, quæ ad forum ecclesiasti-  
 “ cum pertinent, per hujusmodi prohibi-  
 “ tiones nostras impediatur: vobis signi-  
 “ ficamus quod in causa prædicta, quatenus  
 “ ad restitutionem eidem custodibus de  
 “ legatis prædictis in forma prædicta facien-  
 “ dam, & ad pœnam canonicam eidem I.  
 “ Pro detentione legatorum eorundem im-  
 “ ponendam coram vobis tantummodo agi-  
 “ tur, licitè procedere & ulterius facere po-  
 “ teritis, quod ad forum ecclesiasticum no-  
 “ veritis pertinere, prohibitionem nostram non  
 “ obstante. T. &c.

Repairs of Churches & Church-yards.

WALTERUS.

Ecclesiarum reparationi debite Archidiaconus indigilet.

A. D. 1322. 16 Edw. 2.

Edit. Oxon. p. 53.

Archdeacons shall enquire of Defects in Church and Chancel, ---and decree Reparation; ---and also correct what other Excesses they find.

**A**rchidiaconi & infra: Injungimus Archidiaconis & eorum Officialibus, ut in visitationibus Ecclesiarum faciendis diligentem adhibeant considerationem ad r fabricam Ecclesiæ, & maxime cancelli, si forte indigeant reparatione: si quos invenerint defectus hujusmodi, certum s sub pœna præfigant terminum, infra quem emendentur vel suppleantur: per se etiam & suos inquirent, si in parochia, in qua officium visitationis impendunt, in rebus vel personis aliquid fuerit corrigendum: & excessus si quos ibidem invenerint, vel tunc vel in proximo capitulo corrigantur.

r Fabricam.] i. e. Structuram, sive Constructionem, quæ consistit in Parietibus, Fenestris, & Tecto. Lyndw.  
 s Sub pœna.] Hac, pœna Excommunicationis non potest esse, in quantum concernit Paro-

chianos, ut universos, qui tenentur ad Fabricam Navis Ecclesiæ. Nam pœna Excommunicationis non infligitur in Universitatem: Tunc potest infligi in singulares personas Singulariter, quæ in eâ parte essent culpabiles. Lyndw.

CANONS 1603.

1 Jac. 1.

LXXXV. Churches to be kept in sufficient Reparations.

Church-wardens shall see that the Church be kept in good repair, and decent, ---and the Church-yard fenced, ---and shall take care of good order, and that Persons Excommunicate be kept out of the Church.

**T**HE Church-wardens or Questmen shall take care, and provide, that u the Churches be well and sufficiently repair'd, and so from time to time kept and maintained, that the Windows be well glazed, and that the Floors be kept paved, plain and even; all things there in such an orderly and decent sort, without dust, or any thing that may be either noisome or unseemly, as best becometh the House of God, and is prescribed in an Homily to that effect. The like care they shall take, that v the Church-yards be well and sufficiently repaired, fenced and maintained with Walls, Rails or Pales, as have been in each place accustomed, at their charges unto whom by Law the same appertaineth: But especially they shall see that in every meeting of the Congregation, Peace be well kept, and that all persons Excommunicated, and so denounced, be kept out of the Church.

u The Churches.] That is, as hath been observed before, all parts of them, (as by ancient Custom belonging to the Parishioners, in point of Repairs) except the Chancel, and private Hles or Chapels, belonging to private Persons.

v The Church-yards.] Altho' the Freehold of the Church yard is in the Parson, yet, as it is the common Burial-place of the Parishioners, the fencing and keeping it in good Order belongs to the Parish; and the rather, because if the Church-yard be not

well enclosed, the Church cannot be decently kept.

But if the Owners of Lands adjoining to the Church-yard, have used time out of mind to repair so much of the Fence thereof, as adjoined to their Ground; the Church-wardens have a good Action against them, at Common-Law; but if they sue in Court Christian, it is said, a Prohibition will be granted, because it is in order to charge a temporal Inheritance.

2. Rolles Abr. p. 287.

2. Inst. p. 489.



Repairs of Churches & Church-yards.

1 Jac. 1.

CANONS. 1603.

LXXXVI. Churches to be Surveyed, and the Decays certified to the High Commissioners.

Every Dean, Dean and Chapter, Archdeacon, and others which have Authority to hold Ecclesiastical Visitations by Composition, Law or Prescription, shall Survey the Churches of his or their Jurisdiction, once in every three Years in his own person, or cause the same to be done, and shall from time to time within the said three Years, certify the High Commissioners for causes Ecclesiastical, every Year, of such Defects in any the said Churches, as he or they do find to remain unrepaired, and the Names and Surnames of the parties faulty therein. Upon which Certificate we desire that the said High Commissioners will *ex officio mero* send for such parties and compel them to obey the just and lawful Decrees of such Ecclesiastical Ordinaries making such Certificates.

Abridgment.

Archdeacons &c. shall Survey Churches every 3 years,

...and certify Defects to the High Commissioners,

...who are desired to compel the Parties to obey the Decrees of the Ordinary.

C A P. IV.

RATES for Repairs of Churches and Church-yards.

JOHANNES STRATFORD.

*De possessionibus ad ecclesias reficiendas non pertinentibus, earum possessores pro legitima consuetudine conferant.*

Licet Parochiani, & *infra*. Præsentis approbatione Concilii duximus Statuendum, quod tam Religiosi quam alii quicunque possessiones aut prædia, seu redditus, quæ de x Gleba y reficiendarum Ecclesiarum seu dote non existunt, in quibuscunque Parochiis nostræ Provinciæ obtinentes, seu in posterum habituri, in ipsis degentes vel alibi, ad quævis onera Parochianos ipsos ipsorum Ecclesiam ac ornamenta ejusdem concernentia, & eis in his de Jure vel Consuetudine incumbentia, consideratis Possessionum & Reddituum hujusmodi quantitatibus cum z cæteris Parochianis Ecclesiarum prædictarum, quoties opus fuerit, a contribuere teneantur.

Ad quod, cum necesse fuerit, Censuris Ecclesiasticis, & aliis Juris remediis per locorum Ordinarios compellantur.

x Gleba.] i. e. Terra in qua consistit. Dos Ecclesiæ; & sic hic Gleba Ecclesiæ sumitur pro dote Ecclesiæ, quæ erit præsertim libera. Lyndw y Reficiendarum Ecclesiarum.] Ex hac litera apparet, quod si terræ existentes infra Parochiam aliquam, pertineant ad aliam Ecclesiam & sint de Gleba sive Dote Ecclesiæ alterius, debent tamen contribuere terras hujusmodi obtinentes, ad Reparationem & Ornamenta illius Ecclesiæ, infra cujus Parochiam sitæ sunt. Lyndw. z Cæteris Parochianis.] Hæc litera innuit, quod etiam illi qui morantur ad extrâ, habent

tamen Terras ad intrâ, censeri debent inter Parochianos illius Ecclesiæ, ubi sunt Terræ; & hoc intelligo verum, respectu rerum & onerum realium, quæ imminent infra Parochiam, ubi Possessiones sitæ sunt, non tamen respectu Personarum. Lyndw.

a Contribuere.] Hæc litera ostendit, quod loquitur de onere reali, quod exigitur per viam Tributi [i. e. Contributionis, ratione ipsarum Possessionum] non autem per viam Collectæ, [i. e. Oneris, quod imponitur Personæ pro rebus.] Lyndw.

Religious and others having Possessions in any Parish, which are not of the Endowment of the Church,

...shall contribute to the Repairs thereof,

...upon pain of Ecclesiastical Censures.

A.D. 1342. 16 Edw. 3.

Edit. Oxon. p. 254.

Rules of Common and Canon-Law, concerning Rates.

I. The Cognizance of Rates made for the Reparation of Churches and Church-yards, belongs to the Spiritual Court. This is in consequence of the foregoing Statute, 13 Edw. 1. concerning Repairs, as of Spi-

ritual Cognizance; inasmuch as the Right of judging of Rates and the enforcing of them, is of absolute necessity to render the Statute effectual; and therefore, by that tenor of the Writ, the whole concern is declared



## Abridgment.

De Offic.  
Arch. Walt.  
Sub panā.

Paget verſ.  
Crumpton, 1.  
Cro. 659.

Latch. 203.  
Anonym.

Longmore  
ver. Church-  
yard.  
Latch. p.  
217.

Poph. 197.

Ventris, par.  
1. p. 308.

2 Rolle Abr.  
p. 230.

declared to belong to the Spiritual Court; whose proceeding in the present Case is thus set down by Lyndwood. *Si vero aliqui sint, qui tenentur ad reparationem contribuere, & dum possunt, nolunt, vel nimis remissi sunt; tales, monitione præmissa, potest [Archidiaconus] ad hujusmodi Contributionem compellere per Excommunicationis pœnam; ne propter eorum culpam etiam Ecclesia diu maneat irreparata.*

Pursuant to this general Doctrine, Prohibitions have on many occasions been denied, or Consultations granted, by the Temporal Courts: As, where it was moved, That they of the Spiritual Court would try the quantity of the Land (the Tax being according to the rate of their Land, and the Person pretending that he was taxed for more Land than he really had) and it was alledged, that this was always triable at the Common Law; the Resolution of the Court was, that the *Principal* being suable in the Spiritual Court, the *Circumstances* concerning it are inquirable and triable there also; and a Consultation was Awarded. So also, where it was suggested, in order to a Prohibition, that the Lands were over-rated; and, that the Custom of the Parish was not to be Rated according to *Lands* and *Houses*, but according to *Sheep-walks*; the Court declared, as to the first Suggestion, that it was not material, because Rates being to be proportioned to the value of the Land, the valuing of the Land must properly belong to the Spiritual Court. And, as to the Second, it was said by *Haughton* (but not finally resolved by the Court) that, of common right, the House and all the Lands are chargeable to the Reparation of the Church; and that Customs, in prejudice of such Reparation, are void; as, at another time, the discharge by Custom, of 900 Acres of Wood, from Payment of Church rates, was declared to be a Custom against Law. Again, where the Suggestion was, that, by Custom, the Rate ought to be in proportion to the King's Tax, and that the Party was rated above that Proportion; *Bulstrode* said, This was a Spiritual Matter, and ought to be tried in the Spiritual Court; unless it appeared, that some Proof which ought to be allowed, by the Rules of the Common-Law, had been offered there, and disallowed; and, in the event, Consultation was Awarded by the whole Court. So, where it was alledged, That the Rate was imposed needlessly (viz. for casting new Bells, where there were four before) a Prohibition was denied. In like manner, where a Prohibition was prayed, upon a Surmise that the Tax was imposed upon one part of the Parish, omitting the rest; the Court doubted, in regard it was not alledged, That they had offered that Plea in the Ecclesiastical Court; because *Reparation of Churches is proper for their Cognizance*. And tho' a Prohibition was granted, that the others might demur, if they thought fit, yet it was afterwards countermanded. For this may be properly pleaded in the Spiritual Court, and, if not allowed, is cause of Appeal.

II. Rates for Reparation of the Church

are to be made by the Church-wardens, † together with the Parishioners assembled, upon Publick Notice given in the Church. \* And the major part of them that appear, shall bind the Parish: or † if none appear, the Church-wardens alone may make the Rate; because they, and not the Parishioners, are to be Cited and Punished, in defect of Repairs. But the Bishop cannot direct a Commission to rate the Parishioners and appoint what each one shall pay: This must be done by the Church-wardens and Parishioners; and the Spiritual Court may inflict Spiritual Censures, till they do.

III. A Rate for the Reparation of the Fabrick of a Church, is Real, charging the Land, and not the Person; but a Rate for Ornaments, is Personal, upon the Goods, and not upon the Land. Thus it was defined, and agreed, in the Court of King's Bench, 8 Jac. 1. where the Tax was, for the Reparation of the Church, for Church-Ornaments, and for Sexton's Wages; and because the Person rated, tho' an occupier of Lands in the Parish, dwelt out of it; he was declared to be unduely rated in the two last Articles; and it was further agreed, that if a Tax be made for the Reparation of Seats in a Church, a Foreigner shall not be taxed for that, because he hath no Benefit by them, in particular. The same distinction, as to Ornaments, was again declared to be good, 20 Jac. 1. And, long after these, in *Woodward's Case*, 4 Jac. 2. where the matter was, a Tax for the Bells of the Church, a Prohibition was granted, upon this Suggestion, that the Party who pray'd it, was not an Inhabitant of the Parish; and the Court gave for Reason, because 'tis a personal charge to which the Inhabitants alone are liable, and not those who only occupy in that Parish and live in another.

IV. In consequence of the foregoing Position, (that a Rate for Reparation of the Fabrick of a Church is a real Charge;) the Rate shall be laid upon all Lands within the Parish, tho' the Occupiers inhabit in another Parish. This Point was first fully settled in *Jeffery's Case*; where it was also resolved, (pursuant to the Opinion of divers learned Civilians, under their hands) That such Occupation of Land maketh the Person occupying, a Parishioner, and entitles him to come to the Assemblies of the same Parish, when they meet together for such purposes; and it was said, that if such Lands were not liable to be Rated, one who inhabiteth in one Parish might occupy the greatest part of the Lands in another Parish, and so, Churches might come to ruin. And tho', seven Years after this, in the Case of *Paget and Crumpton*, a Prohibition was obtained, upon a Surmise, that he lived not in the Parish; yet, upon sight of this Precedent, *Popbam* Chief Justice changed his Opinion, and it was resolved by him and the whole Court, That a Consultation should be granted: And now (as my Lord Coke says) it is generally allowed, and received for Law. To this head, I will only add, that it hath been declared, That if a man take a Lease of a Stall in a Market-Town, where he useth once a week to sell his Wares, but liveth

Rates for  
Repairs of  
Churches,  
&c.

1. Nov. 61.  
Mod. Rep. Vol.  
1. p. 79.  
Mod. Rep. Vol.  
1. p. 236.  
1. ibid p. 79.  
1. Ventris, 367.  
Mod. Rep. V. 1.  
p. 194.  
V. 2. p. 8, 223.

2. Rolle Abridg.  
p. 262, 270.

5. Rep. f. 64. b.

1. Cro. 659.

2. Roll Abr.  
288.



Rates for Repair of Churches, &c.

5 Rep. f. 67. b.

Mod. Rep. par. 4. p. 148. Anonym.

2 Rolle, p. 211.

2 Rolle, 255. Hob. 66.

Hob. ibid.

liveth in another Parish, he shall not be charged towards the Repairs of the Church, in that Market-Town.

V. Where such Lands are in Farm; not the Lessor, but the Tenant, shall pay. For (as it was determined in the forecited Case) there is an Inhabitant, and Parishioner, who may be charged; and the receipt of the Rent doth not make the Lessor a Parishioner. And so it was resolved in the King's Bench, 4 W. & M. where a Libel was in the Spiritual Court, for not paying a Rate; and the Suggestion, in order to a Prohibition, was, That the Lands were in the occupation of his Tenant, and himself was not a Parishioner; and it was held to be a good Suggestion, and that the Tenant should be charged, and not the Owner.

VI. An Impropriator of Rectory or Parsonage, tho' bound to repair the Chancel, is also bound to contribute to the Reparations of the Church, in case he hath Lands in the Parish. This was adjudged by the whole Court, in Serjeant Davies's Case, without any Question made of it.

VII. The Inhabitants of a Precinct where is a Chapel, (though it is a Parochial Chapel, and though they do repair it) are, of common right, contributory to the Repairs of the Mother Church. And if they have Seats at the Mother Church, to go thither when they please, or receive Sacraments or Sacramentals, or Marry, Christen, or Bury

at it, there can be no pretence for a Discharge; nor can any thing support that Plea, but that they have, time out of mind, been discharged (which also is doubted, whether it be, of it self, a full discharge) or that (in consideration thereof) they have paid so much to the repair of the Church, or the Wall of the Church-yard, or the keeping a Bell, or the like Compositions, which are clearly a Discharge.

VIII. If a Church be so much out of Repair, that it is necessary to pull it down, or so little, that it needs to be enlarged; the major part of the Parishioners (having first obtained the Consent of the Ordinary to do what is needful, and meeting upon due notice) may make a Rate for new Building, or Enlarging, as there shall be Occasion. This was declared 29 Car. 2. by all the three Courts successively; notwithstanding the Cause was much laboured by a great number of Quakers, who opposed the Rate.

IX. The Hall of a Company being rated to the Repairs of a Church, the Spiritual Court, in case of Non-payment, may proceed against the Master and Wardens of such Company. For the Hall is liable to pay, and they cannot proceed otherwise than by Citation, which may be executed upon an aggregate Corporation; and therefore the Officers of the Corporation are to be cited; and the Rate paid by them, is to be allowed in their Accounts.

Abridgment.

2 L. 116.

2 Rolle, 290.

1 Bul. p. 6.

17.

Hob. 66.

Noy, 41.

3 Keble,

791.

Mod. Rep.

Vol. 1. 235.

Vol. 2. 222.

Jones (S r

Tho.) 1. 7.

Poph. 140.

2 Rolle 24.

2 Bull. r. 151

Moor, 873.

Hob. 69.

1 Keble, p.

370.

Siderf. 88.

## Rules of Common-Law, concerning the Repairing and Ordering of Seats.

I. OF common right, the Soil and Freehold of the Church is the Parson's; the use of the Body of the Church and the Repair of it, common to the Parishioners; and the Disposing of the Seats therein, the right of the Ordinary: And (generally) where the Parishioners repair, the Ordinary shall dispose. These Heads are every where laid down in the Cases on this Subject, and have never been contested.

II. An Ile in a Church, which hath time out of mind belonged to a particular House, and been maintained and repaired by the Owner of that House, is part of his Frank-tenement, and the Ordinary cannot dispose of it, or intermeddle in it: The reason is, because the Law, in that Case, presumes, that the Ile was erected by his Ancestors, or those whose Estate he hath, and is thereupon particularly appropriated to their House. (The same thing is to be said of Chapels annexed to the Houses of Noblemen, &c. the Seats of which are out of the power of the Ordinary.) But otherwise it is, if he hath only used to Sit and Bury in the Ile, and not repaired it; for the constant Sitting and Burying, without Reparation, doth not gain any peculiar Property therein; but, the Ile being repaired at the common Charge of the Parish, the common right of the Ordinary takes place, and he may, from time to time, appoint whom he pleaseth to Sit there.

III. A Seat may not be granted by the Ordinary, to a Person and his Heirs absolutely: For the Seat doth not belong to the Person, but to the Inhabitant; otherwise, if he and his Heirs go away, and dwell in another Parish, they shall yet retain the Seat, which is unreasonable.

IV. A Seat in the Nave or Body of a Church may also be prescribed for, as belonging to a House. This Doctrin was heretofore doubted, and sometimes denied and overruled, with regard to the general right of the Ordinary, and the Jurisdiction of the Spiritual Authority; but it seems now to be the Doctrin received. Only, the Reparation of it by the Person pleading such Prescription, and praying a Prohibition thereupon, must of necessity be alledged here, because the Ordinary in the body of the Church *primâ facie* hath the Right, and nothing but such private Reparation can divest him of that Right; which Right stands good and entire, (notwithstanding Possession and Use time out of mind) if the Parish have but Repaired. But it hath been held, that in two Cases, Reparation need not be particularly pleaded; First, in case of Prescription for an Ile, because (say they) by Common-Law the particular Persons are supposed to Repair, and so need not shew it; and the foundation of the Right may be for other causes than Repairing, as for being Founder, or having been contributory to its Building;

2 Rolles Abridg. 287.

2 Cro. 605.

2 Cro. 365.



Abridgment.

1 Lev. 71.  
3 Lev. 73.  
Raym. 57.

1 Inst. 1. 2.  
§ 184.

Siderf. 361.  
2. Keb. 342

Noy, 78.  
Palm. 424.  
Larch. 116.

Building; but this is not out of question: The Second case (which hath been often declared for Law) is, where an Action upon the Case is brought against one who disturbs another in a Seat; which Disturber being a Stranger, and having not any right *prima facie*, the Possession of the other is a sufficient ground of Action, and it need not be *alleged*, that he Repairs.

V. *A Seat cannot be claimed by Prescription, as Appendant to Land, but to a House.* For such a Seat belongeth to the House in respect of the Inhabitants thereof; and yet it hath been held, that a Seat in an Ile may be prescribed for by an Inhabitant of another Parish.

VI. *As a Seat in the Church, so Priority in a Seat, may be prescribed for.* Thus it was delared in the case of Carleton and Hutton: Carleton claimed the upper place in a

Seat; Hutton disturbed him: the Archbishop of York sent an Inhibition to Carleton, till the matter should be determined before him; but Prescription was surmised, and thereupon Prohibition obtained; *because as well the Priority in the Seat, as the Seat itself, may be claimed by Prescription.*

VII. *A Custom time out of mind, of disposing of Seats by Churchwardens, and major part of the Parish, or by Twelve or any particular number of the Parishioners, is a good Custom; And, if the Ordinary interpose, a Prohibition will be granted. Which I humbly hope, will be observed by Ordinaries and Incumbents; to the end, that such private Practices, and By-Laws, may not, by long connivance, grow so strong, as to make head against the Ecclesiastical Jurisdiction.*

Rates for Repair of Churches, &c.

2. Rolle, 24.  
Lutw. 1032.

2. Lev: 241  
Ray: 296  
Salk: 167  
10-12a

C A P. V.

Repairs of CHANCEL.

O T H O B O N.

In Const. De Domibus Ecclesiarum reficiendis.

A.D. 1268.  
52 H. 3.

Edit. Oxon.  
p. 112.

A.D. 1305.  
33 Edw. I.

Edit. Oxon.  
p. 251.

Archdeacons shall see Chancels repaired.

Walr. de Off. Arch.

— a Cancellus etiam Ecclesie per eos qui ad hoc tenentur, refici faciant, ut superius est expressum.

a Cancellus.] Cancellus est Intersticium inter propugnacula murorum; quale est quod claudit Chorum a nave Ecclesie. Lyndw.—Et J. de Athon, in hunc locum, Alludit communi Consuetudini Anglicane, per quam Refectio Navis Ecclesie, ubi insident ipsi Parochiani Laici, ad ipsos Parochianos pertinet; Cancelli vero Refectio ad Rectorem.

W I N C H E L S E A.

In Const. Ut Parochiani, Tit. De Eccl. adif.

Chancel, &c. shall be repaired by Incumbent, or other to whom Repairs belong.

Steph. de Off. Vic. v. Onera.

— Cætera autem omnia, tam in Reparatione Cancelli, quam in aliis hic non expressis, secundum diversas Consuetudines approbatas, a locorum b Rectoribus & Vicariis, seu c ad quos pertinet, habent in omnibus reparari sumptibus eorundem.

b Rectoribus & Vicariis.] Potes hoc intelligere, ut, scilicet, ubi sunt Rector & Vicarius in eadem Ecclesia, quod sumptus, de quibus hic loquitur, fiant communiter inter eos, saltem secundum quantitatem Beneficii unius & alterius. Quod verum intelligas, ubi non est Ordinatio certa, ad quem spectabit reparatio talis, vel ministratio hujusmodi sumptuum. Lyndw.— Ubi plures in eadem Ecclesia sunt Beneficiati, singuli tenentur, secundum quod percipiunt de proventibus Ecclesie, conferre ad hujusmodi reparationem [ubi non est super reparatione aliqua Ordinatio vel Compositio facta,] nam qui Emolumentum percipit, debet sentire & onus. Si autem unus tantum in Ecclesia Beneficiatus sit, tunc ad ipsum pertinebit totaliter Reparatio, cum totales Proventus recipiat.

c Ad quos pertinet.] Hoc dicit propter eos forsan, qui nec sunt Rectores neque Vicarii; & tamen de consuetudine, vel compositione, vel ordinatione, aliqua proviso aliquarum rerum hic non expressarum, ad usum Ecclesie necessariorum, pertinet ad tales, qui neque sunt Rectores neque Vicarii.— Et in quibusdam Ecclesiis etiam Parochiani reparant Cancellum—sicut satis constat in multis Ecclesiis Londini. Lyndw.



Repairs of  
Chancels.

A.D. 1551.

5, 6 Edw. VI.-----13, 14 Car. II.

## Rubrick before Common Prayer.

— The Chancels shall remain, *d* as they have done in times past.

*d* As they have done.] That is, distinguished from the Body of the Church, by a frame of open work, &c. against which *distinction*, Bucer inveighed vehemently, as tending only to magnify the Priesthood; but tho' the King and Parliament yielded so far, as

to allow the *daily Service* to be read *elsewhere*, if the Ordinary thought fit; they would not suffer the *Chancel* it self to be taken away, or altered. See Title, *Manner and Order of Daily Service*, Cap. 2.

Abridgment.

Chancels shall  
not be altered.Cof. in Nichols,  
p. 16.

## Rules of Common-Law, concerning the Repairs of the Chancel, and the Seats therein.

I. **T**HE Parson is bound to repair the Chancel: Not, because the Freehold is in him, for so is the Freehold of the Church; but by the Custom of England, which hath allotted the Repairs of the Chancel to the Parson, and the Repairs of the Church to the Parishioners: Yet so, that if the Custom hath been for the Parish, or the Estate of a particular person, to repair the Chancel, that Custom shall be good; which is plainly intimated by *Lyndwood*, as the Law of the Church; and is also confirmed by the Common-Law, in the Books of Reports. But as to the obligation resting upon the Parson, or upon the Vicar; concerning that, the Books of Common-Law say nothing; and so, it is wholly left upon that foot, on which the Law of the Church hath placed it.

II. As Rectors or Spiritual Parsons, so also Impropriators, are bound of Common Right, to repair the Chancels. This Doctrin (under the limitations expressed in the foregoing Article) is clear and uncontested: the only difficulty hath been, in what manner they shall be compelled to do it; whether by Spiritual Censures only, in like manner as the Parishioners are compelled to contribute to the Repairs of the Church, since Impropriations are now become Lay-Fees; or whether by Sequestrations (as Incumbents, and, as it should seem, Spiritual Impropriators of all kinds may be compelled;) since Impropriations, before they became Lay-fees, were undoubtedly liable to Sequestration; since the King was to enjoy them, in the same manner as the Religious had done, and nothing was conveyed, but what the Religious enjoyed, *i. e.* the Profits over and above the finding of Divine Service, and the repairing of the Chancel, and other Ecclesiastical Burdens; and since the general Saving (31 H. 8. c. 13.) of all Rights which any person had before, may well be extended to a saving of the Right of the Ordinary in this particular; which Right he undoubtedly had by the Law and Practice of the Church, not abrogated (so far as I know) by any Statute whatsoever.

This point was twice under consideration, in the reign of King Charles II. ann.

22, & 29; in the first of which it is said, that the Court inclined, that there could be no Sequestration; and in the second (notwithstanding the foregoing Arguments) the whole Court, besides Justice *Atkins*, held. That the Lay Impropriator was not to be sequestred.

Besides what hath been already said it may not be improper to add these three Observations, 1. That, tho' (as was expressly alleged) this Power had been frequently exercised by the Spiritual Courts; no instances appear before these, of any Opposition made. 2. That, in both the Instances, Judgment was given, not upon the matter or point in hand, but upon Errors found in the Pleadings. 3. That one Argument against the allowing the Ordinary such Jurisdiction, was, *ab Inconvenienti*, that such allowance would be a step towards giving Ordinaries a Power to Augment Vicarages; as they might have done, and frequently did, before the Dissolution.

III. Repairing of the Chancel, is a discharge from contributing to the Repairs of the Church. This is supposed to be the known Law of the Church, in the Gloss of *John de Atton*, upon the foregoing Constitution of *Othobon*; where, speaking of the Repairs of the Church, he says, *Licet enim, per consuetudinem, exoneretur Rector a sumptibus prestandis; non tamen eximitur a cura & solitudine impendenda*; which he presently explains, *Audiet ergo Rector computum Expensarum circa hujusmodi Fabricam, & etiam legatorum ad usum Fabricae relictorum, & omnium consimilium*. This is also evident from the ground of the respective Obligations upon Parson and Parishioners to repair, the first the Chancel, and the second the Church; which was evidently a division of the Burden, and by consequence a mutual disengaging of each, from that part which the other took. And therefore, as it was declared in *Serjeant Davies's Case*, that there could be no doubt, but the Impropriator was rateable to the Church, for Lands which were not parcel of the Parsonage, notwithstanding his Obligation, as Parson, to repair the Chancel; so, when this Plea of the Farmer of an Impropriation, to be exempt from the Parish-rate because he repaired

Vide supra.

In Const. Winch.  
ut supra.2. Ventris, 239.  
Mod. Rep. V. 5.  
389.

Lyndw. v. supra.

2. Ventris, p. 35.  
Mod. Rep. P. 1.  
p. 258. P. 2. p.  
254.Degge, p.  
171.Verb. Ad  
hoc tenentur2. Rolle, p.  
211.2. Keble,  
730, 742.



## Abridgment.

repaired the Chancel, was refused in the Spiritual Court, it must probably have been a Plea offered to exempt other Possessions also, from Church-rates.

IV. Seats in the Chancel are under the Disposition of the Ordinary, in like manner as those in the Body of the Church. Which need only be mentioned, because there can be no real ground for exempting it from the power of the Ordinary; since the Freehold of the Church is as much in the Parson, as the Freehold of the Chancel; but this hin-

ders not the Authority of the Ordinary, in the Church; and therefore not in the Chancel.

V. The Rector Improprate is entitled, as such, to the Chief Seat in the Chancel. This was resolved by the Court of King's Bench 7 Jac. 1. that so it is of common right, in regard to his repairing the Chancel; but declared, at the same time, that, by prescription, another Parishioner may have it.

Repairs of Chancels.

Nov. 133.

## C A P. VI.

## The Proper ORNAMENTS and FURNITURE of Churches and Chapels.

## EDMUNDUS.

Archidiaconus, ne res sacra in prophanum usum cedat, observet & caveat.

**P**anni Chrismales non nisi in usum c Ornamentorum Ecclesiæ convertantur: Similiter, alia Ornamenta Ecclesiæ quæ Pontificalem accipiunt benedictionem, nullo modo in prophanos usus deputentur. Et Archidiaconus in sua Visitatione, an hoc observetur, diligenter inquiret.

b Panni Chrismales.] i. e. Quibus induitur Baptizatus, post Chrismationem in vertice; & est vestis candida. Lyndw. c Ornamentorum Ecclesiæ.] Videlicet, Su-

perpelliceorum, vel aliter, ad involvendum Caput; lices, ad cooperiendum Cruces, ad faciendum Amictus, ad reparandum Albas, & hujusmodi. Lyndw.

## ROBERTUS WINCHELSEA.

In Ecclesiis Parochialibus omnis supellex rei Divinae aut Parochiali opportuna, hic annotata reperiatur.

**U**T parochiani Ecclesiarum singularum nostræ Cantuariensis Provinciae sint de cætero certiores de defectibus ipsos contingentibus, nè d inter Rectores & ipsos ambiguitas generetur temporibus successivis, Volumus de cætero, & præcipimus, quod teneantur invenire omnia inferius annotata, viz. e Legendam; f Antiphonarium, g Gradale, Psalterium, h Troperium, Ordinale, i Missale, k Manuale, l Calicem, l Vestimentum principale cum m Casula, n Dalma-

d Inter Rectores.] Supple, vel Vicarios; ubi forsitan ex Ordinatione Vicariæ, vel Compositione, onus Ecclesiasticum translatus est in ipsum Vicarium. Lyndw.

e Legendam.] i. e. Librum, in quo scribuntur Lectiones in Officiis matutinis legendæ. Lyndw.

f Antiphonarium.] Sic dictum ab Antiphonis in illo libro contentis, — quia pars una illius cantatur ab una parte Chori, alia ab altera. Lyndw.

g Gradale.] Liber integer, in quo contineri debent officium asperisionis Aquæ Benedictæ, Missarum Inchoationes, sive Officia, &c. quæ ad Chorum spectant in Missæ solennis decantatione. Lyndw.

h Troperium.] i. e. Librum Sequentiarum. Lyndw.

i Missale.] i. e. Librum, in quo contine-

buntur omnia ad Missam singulis diebus dicendam pertinentia. Lyndw.

k Manuale.] In eo continebuntur omnia quæ spectant ad Sacramentorum & Sacramentalium Ministracionem: Item, benedictiones tam Fontium, quam aliorum secundum usum Ecclesiasticum benedicendorum. Et hic, in hoc loco, manualis nuncupatione, puto etiam contineri ea quæ sunt usitata in Processionibus Ecclesiasticis quandoque fiendis. Lyndw.

l Vestimentum principale.] i. e. Pro Festis principalibus. Lyndw.

m Casula.] Quæ induitur Presbyter celebraturus Missam; Et dicitur Casula, quia, ad instar parvæ Casæ, totum hominem tegit. Lyndw.

n Dalmatica.] i. e. Veste Sacerdotali vel Diaconali; sic dicta, quia primò in Dalmaticâ Regione contexta est. Lyndw.

Archdeacon shall see, that no Ornaments which have received Benediction, be converted to profane Uses.

A.D. 1236.  
21 H. 3.

Edit. Oxon.  
p. 33.

A.D. 1305.  
33 Edw. 1

Edit. Oxon.  
p. 251.

The Parishioners shall provide for the Church, all the things here Specified,



Proper Ornaments & Furniture of Churches and Chapels.

tica o Tunica, & cum p Capa in Choro cum omnibus suis q appendiciis, r Frontale ad s magnum Altare cum t tribus Tuellis, u tria Superpellicia, unum w Rochetum, Crucem Proceffionalem, Crucem pro mortuis, Thuribulum, Lucernam, Tintinnabulum ad deferendum coram corpore Christi in Visitatione infirmorum, Pyxidem pro corpore Christi, honestum Velum, Quadragesimale, vexilla pro Rogationibus, Campanas cum Chordis, Feretrum pro defunctis, Vas pro aqua Benedicta, x Osculatorium, Candelabrum pro cereo Paschali, Fontem cum ferura, Imagines in Ecclesia, y Imaginem principalem in Cancellulo, claufuram Cœmeterii, Reparationem Navis Ecclesiæ interius, & exterius, tam in Imaginibus quam in Fenestris vitreis; Reparationem Librorum, & Vestimentorum, quodocunque contigerit eadem Reparationibus indigere. Cœtera autem omnia tam in Reparatione Cancelli quam in aliis hic non expressis, secundum diversas Consuetudines approbatas à locorum Rectoribus & Vicariis, seu ad quos pertinent, habent in omnibus reparari sumptibus eorundem.

o Tunica.] i. e. Veste subdiaconali, quæ utitur in officiendo sacerdoti ad Missam. Lyndw.

p Capa.] Sacerdos extra tempus Missæ, dum exercet divina Officia, præsertim dum ministrat Incensum ad Altare, vel dicit Collectas, utitur Capâ. Lyndw.

q Appendiciis.] Scil. Amictibus, albis cingulis, Manipulis, & Stolis. Lyndw.

r Frontale.] i. e. Apparatum pendentem in fronte Altaris, qui Apparatus aliàs dicitur Palla. Lyndw.

s Magnum Altare.] Illud, ad cuius honorem Ecclesia est dedicata: & solet hujusmodi Altare collocari in Choro, tanquam in solenniori loco Ecclesiæ. Lyndw.

t Tribus Tuellis.] Duobus scil. penendis

super Altare subitis Corporale; tertium verò erit ad usum lavatorii, pro manibus tergendis Lyndw.

u Tria Superpellicia.] Ad usum scil. trium Ministrorum Ecclesiæ, viz. Sacerdotis, Diaconi, & Subdiaconi.

w Rochetum.] Quod differt à superpelliceo, quia Superpellicium habet Manicas pendulas, seu Rochetum est sine Manicis, & ordinatur pro Clerico ministraturo sacerdoti, vel forsitan ad opus ipsius Sacerdotis in baptizando pueros, nè per Manicas ipsius brachia impediuntur. Lyndw.

x Osculatorium.] sc. Pacis ad Missam.

y Imaginem principalem.] sc. illius Sancti, ad cuius honorem Ecclesia consecrata est.

Abridgment.

---and what is not Specified, shall be done by the Incumbent, &c. as well as the Repairs of the Chancel.

## WALTERUS.

Archidiaconus curet ut altaris ornamenta sint decentia, & Ecclesiarum libri idonei, sacerdotumque vestimenta in officio honesta & saltem duplicata.

Sint Ecclesiarum Rectores, & infra. Provideant Archidiaconi ut linreamina & alia ornamenta altaris, sicut decet, sint honesta; & libros habeat ecclesia idoneos ad psallendum pariter & legendum: & ad minus duplicia sacerdotalia vestimenta: & ut honor debitus divinis officiis in omnibus impendatur. Præcipimus etiam ut qui altari ministrat, superpellicio induatur.

Archdeacon shall take care, that the Church have due Ornaments, and in good order.

### 1 Eliz. Cap. 2.

In an Act, Entituled, *An Act for the Uniformity of Common Prayer, &c.*

XXV. Provided always, and be it Enacted, That such ornaments of the Church and of the Ministers thereof, shall be retained and be in use, as was in this Church of England, by authority of Parliament, in the second year of the Reign of King Edward the Sixth, until & other order shall be therein taken by the authority of the Queens Majesty, with the advice of her Commissioners appointed and authorized under the Great Seal of England for causes Ecclesiastical, or of the Metropolitan of this Realm.

The Ornaments of the Church shall be according to 2 B. 6.

--- unless altered by the Queen, with advice of High Commission, or Metropolitan.

& Other Order.] Pursuant to this Clause, the Queen, Anno Regni 3<sup>o</sup>, granted a Commission to the Archbishop, Bishop of London, Dr. Bill, and Dr. Haddon, to reform the Disorders of Chancels, and to add to the Ornament of them, by ordering the Commandments to be placed at the East-End.

A. D. 1322.  
16 Edw. 2.

Edit. Oxon.  
p. 52.  
Defumpt. ex Constitutione Stephani, Ornamentis Ecclesiæ.

A. D. 1558.

typ. Vit. Park.  
pp. p. 25.



## Abridgment.

13, 14 Car. II.

## Rubrick before Common Prayer.

Ornaments of the Church shall be according to 2 E. 6.

And here is to be noted, that such Ornaments of the Church and of the Ministers thereof at all times of their Ministration, shall be retained and be in use, as were in this Church of *England* by the Authority of Parliament, in the second year of the Reign of King *Edward* the Sixth.

C A N O N S 1603.

lxxx. *The great Bible, and Book of Common-Prayer, to be had in every Church.*

The Church-wardens shall provide the Book of Common-prayer,

...and the Bible of the largest Volume, ...and the Book of Homilies.

**T**HE Church-wardens or Quest-men of every Church and Chapel, shall at the Charge of the Parish provide the Book of Common-Prayer, a lately explained in some few points by his Majesty's Authority according to the Laws and his Highness Prerogative in that behalf, and that with all convenient speed, but at the furthest within two Months after the publishing of these our Constitutions. And if any Parishes be yet unfurnished of the *b* Bible of the largest Volume, or of the Books of Homilies allowed by Authority, the said Church-wardens shall within convenient time, provide the same at the like Charge of the Parish.

*a* Lately explained.] In the Conference at *Hampton-Court*: the particulars of which Explications, and Alterations, will be noted in their proper Places.

*b* Bible of the largest Volume.] This was directed by the second of *Cromwell's* Injunctions, under King *Henry VIII*; and in the 33<sup>d</sup>. Year of the same Reign, it was enforced by Proclamation and a Penalty of 40 s. The like Order, for this, and also for the Paraphrase of *Erasmus*, was in the Injunctions of *Edw. VI.* and continued in those of *Queen Elizabeth*; and (together

with the Book of Homilies) in the Canons of 1571. But what Bible is here meant, by that of the *largest Volume*, I cannot certainly tell. King *James I's* Translation was not yet made: *Queen Elizabeth's* Bible was called the *Bishops Bible*; and the Translations and Reviews, commonly called the *Great Bible*, were those of *Tindal*, and *Coverdale*, in the time of King *Henry VIII.* and that which was published by direction of Archbishop *Cranmer*, in the Reign of *Edward VI.*

Born. V. 1.  
P. 178, 250,  
251.

Spr. 31, 69,  
234.

1 Eliz. Cap. 2.

In an Act, Entituled, *An Act for the Uniformity of Common Prayer, &c.*

The Book of Common-prayer shall be provided at the Charge of the Parishioners.

XIX. Prohibited also, and be it enacted by the authority aforesaid, That the Books concerning the said Services, shall at the costs and charges of the Parishioners of every Parish and Cathedral Church, be attained and gotten before the said Feast of the Nativity of *St. John Baptist* next following, and that all such Parishes and Cathedral Churches, or other places, where the said Books shall be attained and gotten before the said Feast of the Nativity of *St. John Baptist*, shall within three weeks next after the said Books so attained and gotten, use the said Service, and put the same in ure according to this Act.

*c* Of the Parishioners.] In the several Injunctions mentioned under the last head, the Charge was divided between the Parson and Parishioners.

Proper Ornaments & Furniture, of Churches and Chapels.

A.D. 1661.

1 Jac. 1.

Can. 1571.  
P. 234.

A.D. 1558.



Proper Ornaments & Furniture, of Churches and Chapels.

A.D. 1661.

13, 14 Car. II. Cap. 4.

In an Act, Entituled, *An Act for the Uniformity of Publick Prayers, &c.*

XXVI. Provided also, and be it enacted by the authority aforesaid, That a true printed Copy of the said Book, entituled, The Book of Common Prayer and Administration of the Sacraments, and other Rites and Ceremonies of the Church, according to the Use of the Church of England, together with the Psalter or Psalms of David, Pointed as they are to be sung or said in Churches, and the form and manner of Making, Ordaining and Consecrating of Bishops, Priests and Deacons, shall at the cost and charges of the Parishioners of every Parish Church and Chappelry, Cathedral Church, Colledge and Hall, be attained and gotten before the feast day of Saint Bartholomew, in the year of our Lord, One thousand six hundred sixty and two, upon pain of forfeiture of three pounds by the month, for so long time as they shall then after be unprovided thereof, by every Parish or Chappelry, Cathedral Church, Colledge and Hall, making default therein.

[Note, The Rubricks and Canons concerning Fonts, Vessels, and Vestments, are placed under their several Heads, of Baptism, Communion, and Order of Daily Service.]

1 Jac. I.

CANONS 1603.

Ixxxiii. *A Pulpit to be provided in every Church.*

Can. 1571. p. 235

THE Church-wardens or Quest-men at the common Charge of the Parishioners, in every Church shall provide a comely and decent Pulpit, to be set in a convenient place within the same, by the discretion of the Ordinary of the place, if any Question do arise, and to be there seemly kept for the Preaching of God's Word.

A.D. 1535.

27 Henr. VIII. Cap. 25.

In an Act, Entituled, *An Act for Punishment of Sturdy Vagabonds, &c.*

O B S.

XVII. Item, the money of all and every the foresaid free and charitable Collections shall be kept in the common coffer or box standing in the Church of every Parish, or else shall be committed unto the hands and safe custody of any other such good and substantial trusty man, as they can agree upon, where they shall think it always sure and safe, and where it may be surely delivered unto the uses before expressed from time to time as necessity shall require, making always mention thereof in two several places of the said Book, as it is before declared; as oftentimes as any part thereof shall be spent or gathered.

Money collected for the Poor, shall be kept in the Poor's box, &c.

A.D. 1548.

2 Edw. VI.

*Rubrick in Communion-Service.*

O B S.

IN the meane tyme, whyles the Clearkes do Syng the Offertory, so many as are disposed, shall offer to the poore Mennes Boxe every one accordyng to his habilitie and charitable mynde.

Offerings made to the Poor man's box.

Abridgment.

The Book of Common-prayer shall be provided before the Feast of St. Bartholomew, at the Charge of the Parishioners,

...upon pain to forfeit 3*l.* per Month, till they be provided.



## Abridgment.

Offerings shall be put in the Poor man's box.

† The same repeated, 2, 3 Ph. and M. c. 5. 5 Eliz. c. 3.

Surplusage of Money, after Accounts of Collectors, shall be put in the common Chest.

The Church-wardens shall provide a Chest for Alms, with three keys,

---and Ministers shall excite the People to Charity, by proper Motives,

---and the Keepers of the Keys shall take out, and distribute the Alms, publickly.

5, 6 Edw. VI.

*Rubrick in Communion-Service.*

**T**hen shall the Churchwardens, or some other by them appointed, gather the devotion of the people, and put the same into the pore mens boxe.

† 5, 6 Edw. VI. Cap. 2.

*In an Act, Entituled, An Act for the Provision and Relief of the Poor.*

IV. And further be it enacted by the authority aforesaid, that the said gatherers or collectors, shall make their just account quarterly, to the Maiors or cheif officers of the said cities, boroughs, and towns corporat, and in every parish of the country to the parson, vicar or curat, and churchwardens of the parish; at which account, such of the parish as will, may be present, and when they go out of the office, they shall deliver, or cause to be delivered forthwith upon the end of their accmpts, all such surplusage of money as then shall remain of their collection undistributed, to be put in the common chest of the Churches or in some other safe place, to the use of the poor, at the oversight and discretion of the maiors, officers and other befoze mentioned.

## C A N O N S 1603.

*lxxxiv. A Chest for Alms in every Church.*

**T**HE Church-wardens shall provide and have within three months after the publishing of these Constitutions, a strong Chest, with a hole in the upper part thereof, to be provided at the charge of the Parish (if there be none such already provided) having three Keys; of which one shall remain in the custody of the Parson, Vicar or Curate, and the other two in the custody of the Church-wardens for the time being: which Chest they shall set and fasten in the most convenient place; to the intent the Parishioners may put into it their Alms for their poor Neighbours. And the Parson; Vicar or Curate shall diligently from time to time, and especially when men make their Testaments, call upon, exhort, and move their Neighbours to confer, and give as they may well spare to the said Chest, declaring unto them, That whereas heretofore they have been diligent to bestow much substance otherwise than God commanded, upon superstitious uses, now they ought at this time to be much more ready to help the Poor and Needy, knowing that to relieve the Poor, is a sacrifice which pleaseth God: And that also whatsoever is given for their comfort, is given to Christ himself, and is so accepted of him, that he will mercifully reward the same. The which Alms and Devotion of the people, the keepers of the Keys shall yearly, quarterly, or oftner (as need requireth) take out of the Chest, and distribute the same in the presence of most of the Parish, or six of the chief of them, to be truly and faithfully delivered to their most poor and needy Neighbours.

## C A N O N S 1603.

*In Can. lxxxii. Entit. A decent Communion-Table in every Church.*

—And that the *d* Ten Commandments be set upon the *East-end* of every Church and Chapel where the people may best see and read the same, and

Str. Ref. p. 219. Coll. Can. p. 239.

*d* Ten Commandments.] This was of Queen *Elizabeth*, and afterwards inserted one of the Orders, set forth by Direction | in the Canons of 1571.

other

Proper Ornaments & Furniture, of Churches and Chapels.

A.D. 1551.  
O B S.

A.D. 1551.

O B S.

I Jac. I:

Inj. Hd. 6. p. 9.  
Inj. Eliz. p. 74.

I Jac. I.



other chosen Sentences written upon the Walls of the said Churches and Chapels in places convenient; and likewise, that a convenient Seat be made for the Minister to read Service in. All these to be done at the Charge of the Parish.

## C A P. VII.

## REGISTERS in Churches and Chapels.

## C A N O N S 1603.

## Ixx. Ministers to keep a Register of Christenings, Weddings and Burials.

**I**N every Parish-Church and Chapel within this Realm, *e* shall be provided one Parchment Book at the charge of the Parish, wherein shall be written the day and year of every Christening, Wedding and Burial, which have been in that Parish since the time that the Law was first made in that behalf, so far as the ancient Books thereof can be procured, but especially since the beginning of the Reign of the late Queen. And for the safe keeping of the said Book, the Church-wardens at the charge of the Parish, shall provide one sure Coffer with *f* three Locks and Keys; whereof the one to remain with the Minister, and the other two with the Church-wardens severally; so that neither the Minister without the two Church-wardens, nor the Church-wardens without the Minister, shall at any time take that Book out of the said Coffer. And henceforth upon every Sabbath-day, immediately after Morning or Evening Prayer, the Minister and Church-wardens shall take the said Parchment Book out of the said Coffer, and the Minister in the presence of the Church-wardens shall Write and Record in the said Book, the Names of all Persons Christened, together with the Names and Surnames of their Parents, and also the Names of all Persons Married and Buried in that Parish, in the Week before, and the day and year of every such Christening, Marriage and Burial: And that done, they shall lay up that Book in the Coffer as before: And the Minister and Church-wardens unto every Page of that Book, when it shall be filled with such Inscriptions, shall subscribe their Names. And the Church-wardens shall once every year within one Month after the Five and twentieth day of *March*, transmit unto the Bishop of the Diocese, or his Chancellor, a true Copy of the Names of all Persons Christened, Married or Buried in their Parish in the year before (ended the said Five and twentieth day of *March*) and the certain days and months in which every such Christening, Marriage and Burial was had, to be subscribed with the Hands of the said Minister and Church-wardens, to the end the same may *g* faithfully be preserved in the Registry of the said Bishop: which Certificate shall be received without Fee. And if the Minister or Church-wardens *h* shall be negligent in performance of any thing herein contained, it shall be lawful for the Bishop or his Chancellor to convent them, and proceed against every of them as Contemners of this our Constitution.

*e* Shall be provided.] This (in the main of it) was one of *Cromwell's* Injunctions, *Ann.* 1538. and was continued in those of *Edw.* 6. and *Queen Elizabeth*; in whose Reign, a Protestation being appointed to be made and Subscribed by Ministers at Institution, one head of it was, *I shall keep the Register-Book, according to the Queen's Majesty's Injunctions.*

*f* Three Locks.] Only two in the fore-mentioned Injunctions; the one to remain with the Incumbent or Curate, the other with the Church-wardens.

*g* Faithfully be preserved.] And being so, it is good Evidence, and the falsifying of it is punishable at Common-Law; for instance one was fined 200 *l.* for forging the Entry of a Marriage.

*h* Shall be negligent.] In all the three Injunctions of *Henry VIII.* *Edw.* VI. and *Queen Elizabeth*, the penalty upon the person in fault, was, 3 *s.* 4 *d.* one half to the Poors-box, the other half to the Repairs of the Church.

## Abridgment.

The ten Commandments shall be set up in Churches, --and a Convenient Seat shall be made for the Minister to read Service in.

There shall be a Register of Christenings, Weddings, and Burials, in every Parish, as far back, as can be procured, --which shall be kept in a Coffer, with 3 keys,

--and on Sunday the Minister, in the presence of the Church-wardens, shall make the Entries of the Week before,

--to every Page of which, the Minister and Church-wardens shall subscribe their names. --and Church-wardens shall transmit a Copy thereof, every year, to the Bishop's Registry.

Minister or Church-wardens offending herein, shall be proceeded against.

Siderf. part. 2. p. 71.

Registers in Churches and Chapels.

I Jac. I.

Burn. V. 1. p. 180. Spar. p. 5, 70, 271.



## Abridgment.

All Ministers shall keep an exact Register of persons Buried.

All Ministers shall keep a Register of persons married, buried, &c.

---to which all Collectors shall have free access;

--- and Ministers neglecting to keep such Register shall forfeit 100 l.

Ministers together with the Names of the persons buried, &c, shall set down their Quality,

---and the Names of the persons who are liable to pay the Duties,

upon pain of 20 l.

Persons who ought to pay the duties, not giving an account or giving an untrue account of Quality &c, shall forfeit 20 l.

## 30 Car. II. Cap. 3.

In an Act, Entituled, *An Act for Burying in Woollen.*

IV. And it is enacted by the Authority aforesaid, That all persons in holy Orders, Deans, Parsons, Deacons, Vicars, Curates, and their or any of their Substitutes, do within their respective Parishes, Precincts and places, take an exact account, and keep a Register of all and every person or persons buried in his or their respective Parishes or Precincts, or in such common Burial Places, as their respective Parishioners are usually buried.

## 6, 7 Will. III. Cap. 6.

In an Act, Entituled, *Certain Rates and Duties upon Marriages, Births, &c.*

XXIV. And be it further enacted, for the better Levying and Collecting the Duties granted by this Act, that all persons in holy Orders, Deans, Parsons, Deacons, Vicars, Curates, and their or any of their Substitutes, do within their respective Parishes, Precincts and Places, take an exact and true account, and keep a Register in writing of all and every person or persons Married, Buried, Christened or Born in his or their respective Parishes or Precincts, or in such common Burying places as their respective Parishioners are usually Buried in, to which Book or Register, the Collectors for the respective Parishes and Places, and all other persons concerned shall have free access to view the same at all seasonable times, without any Fee or Reward; And if any such Parson or Minister shall refuse, or neglect to keep a true Register thereof, as before is directed, such Parson or other Minister so offending, shall forfeit the sum of one hundred pounds, to be recovered by such person as shall sue for the same in any of his Majesties Courts of Record at Westminster, by any action of debt, Bill, Plaint or Information, wherein no Essoign, Wager of Law or Protection shall be allowed, and wherein the prosecutor shall recover his full Costs, the moiety of which Forfeiture shall be to the use of the Kings Majesty, his Heirs and Successors, and the other moiety to the persons who shall inform and sue for the same.

## 9, 10 Will. III. Cap. 35.

In an Act, Entituled, *An Act for preventing Frauds and Abuses in-----the Duties upon Marriages, &c.*

III And to the end all persons liable to the payment of the said duties may be duly charged therewith, according to their respective degrees, conditions and qualities chargeable in or by the said former Acts, Be it further enacted by the authority aforesaid, That every Ecclesiastical or other Person required by the said former Acts, or any of them, to keep a Register of Persons buried, christened, born or married, shall in the same Registers respectively, according to the best of his knowledge or Information, together with the Name of every Person so married, buried, christened or born, set down and express, or cause to be set down and expressed in writing, the respective degree, condition or quality, according to which his Majesty's duty ought to be paid for every such burial, birth or marriage respectively; and in the case of burials, the names of the Heirs, executors, administrators, fathers, mothers, guardians churchwardens, overseers or others, who by the said Acts ought to pay for the same, and where they dwell respectively; And in case of births, the names of the fathers, mothers, or those that take on them the guardianship or care of such children so born, and where they live respectively; and in the case of marriages, the places of abode of the several Husbands: Upon pain that any dean, parson, register, deacon, vicar, curate, substitute, or ecclesiastical person whatsoever, having due knowledge or information, whereby such addition may be made in his Register, and neglecting to insert the same, or wilfully or knowingly setting down, or consenting to the setting down in his register any matter of falsehood, as to the degree, quality, condition, person or place of abode, with intent that his Majesty may be defrauded of all or any part of the duty payable for or upon any such burial, birth or marriage, shall for every such offence forfeit the sum of twenty Pounds (that is to say) one moiety thereof to the King, and the other moiety thereof to such person or persons as will inform and sue for the same; And that every person who ought to pay the said duty for any marriage, birth or burial, shall, and he, she or they are hereby strictly enjoined and required to give, or cause to be given to the respective minister, or person who shall perform the office for such marriage or burial, or the christening, upon any birth, a true relation of the degree, quality or condition, according to which his Majesty's duty for such marriage, birth or burial ought to be paid, and where such person or persons who ought to pay the same do live or reside, to the end such additions may be inserted in the register, as aforesaid; upon pain that every such person for every default or offence in not giving, as aforesaid, such relation (being demanded) or giving any untrue relation as to the degree, quality, condition, or place of abode, shall forfeit the sum of twenty Pounds (that is to say) one moiety thereof to the King, the other moiety thereof to such person or persons as will inform and sue for the same.

Registers in Churches and Chapels.  
A.D. 1678.

A.D. 1694.

E X P.

A.D. 1697.

E X P.



Registers  
in Churches and  
Chapels.  
A.D. 1705.

4, 5 Annæ. Cap. 12.

In an Act, Entituled, *An Act for making some Provisions to the Stamp Duties, &c.*

E X P.

§. X. And whereas by several Acts of Parliament, relating to the duties on marriages, births, and burials, all parsons, vicars, curates, and other ecclesiastical persons are required to take an exact and true account, and keep a Register in writing of all and every person or persons married, buried, christened, or born, to set down and express in writing the respective degree, condition, and quality, according to which the duty to the Crown ought to be paid: And in case of burials, the heirs, executors, administrators, fathers, mothers, guardians, churchwardens, or others, who by the same Acts ought to pay for the same, and where they dwell respectively: And in case of births, the names of the Fathers and Mothers, or those that take on them the Guardianship, or care of such Children so born, and where they live respectively: And in case of marriages, the place of abode of the several Husbands, under the penalty of one hundred pounds for the said omissions, and other great Penalties for the rest. And whereas several Parsons, Vicars, and Curates, and other Ecclesiastical Persons, not being sufficiently apprized of the full import of the said Acts of Parliament, have not exactly observed the directions therein, as aforesaid given, and thereby incurred the Penalties of the said Acts respectively mentioned, and they and their Families remain therefore exposed to ruin, although the said duties have been duly answered to her Majesty; Be it therefore enacted, by the authority aforesaid, That all and every person and persons in Holy Orders, Parson, Vicar, and Curate, and his and their substitute, having neglected to keep a register in writing as aforesaid, of all and every or any Person or Persons so married, buried, christened or born, as aforesaid, or to set down and express, together with the name of such person so married, buried, christened, or born, the respective degree, condition, or quality, according to which the said late Kings, or her present Majesties duties ought to be paid, or the name or place of abode of any person or persons, who ought to pay the same, in case the said duty for such marriage, birth, or burial be really answered and paid, or notified and brought in charge to the Collector of the said Duties, shall be indemnified against and discharged from all the Penalties and Forfeitures in the said Acts, or any of of them contained, for or upon account of such neglects only.

Abridgment.

Recital of the foregoing Acts, obliging Ministers to keep exact Registers,

--and that several Ministers have not exactly observed the directions thereof,

--and Enacted, that, --- every Minister who has not kept such Registers exactly, shall be discharged from all Forfeitures, --- in case the duties have been really pay'd.

C A P. VIII.

STEALING of Goods out of Churches and Chapels.

O T H O B O N.

In Constit. *De abstrahentibus Confugientes ad Ecclesiam, &c.*

— Q U Æ autem in præmissis statuta sunt omnia, eadem contra Ecclesiarum Incendiarios & Effractores volumus & præcipimus observari.

Penalties of burning or breaking of Churches.

A.D. 1268.  
52 H. 3.

Edit. Oxon.  
p. 101.  
Vid. Tit. *Sanc. tuary.*

A.D. 1529.  
&c.

21 Henr. VIII. Cap. 1. ----- 26 Henr. VIII. Cap. 18.  
37 Henr. VIII. Cap. 18. ----- 7 Edw. VI. Cap. 14.

In the Acts Concerning the King's General Pardon.

Exception out of Pardons;  
--- Robberies of Goods in Churches,

E X P.

--- Except all and singular *i* burglaries of Houses and Churches, and all robberies of goods in Churches or Church.

*i* Burglary.] If a man do break, and enter a Church in the Night, with intent to Steal, it is *Burglary*; because the Church is the *House of God*: And when the Goods of the Church are taken away, the *Churchwardens* may have an *Action* at Common-Law; as in the Case of *Bucksal*, 12 *Fac.* 1. But whereas it is there said, that Suit shall not be therefore in the Spiritual Court; a later Judgment (18 *Car.* 2.) says, that tho' the Churchwardens had an *Action* at Common-Law against those who had taken away the Bells, yet the more proper reme-

dy was in the Spiritual Court, because at Common-Law only *damages* would be recovered, but the Spiritual Court would decree the restoring of the thing it self. The same Report says, that, in such Cases, the Spiritual Court may prosecute *pro salute anime*; which agrees well to what *Lyndwood* saith of *Sacrilege*, That the cognifance of it may belong to the Temporal Court *quoad pœnam*, but that it belongs to the Spiritual, *quoad censuras Ecclesiæ.*

There is a Writ in the Register, entituled, *Consultatio ad procedendum in causâ subtractionis*

De. Pen. c.  
Eter. Sanct.  
v. *Sacrilegio.*

3 Inst. p. 64.  
Dyer.

1 Rolle, 57.

Vide 1. Keil. l.  
743.  
1. Siderf. p. 281.



## Abridgment.

Reglstr. f.  
51. a.

tractionis duarum Caparum Ecclesiæ legatarum; which, having a near affinity to the present Subject, may be usefully inserted in this place:

Rex, officiali, &c. salutem. Ex parte J. S. & G. parochianorum ecclesiæ de D. nobis est ostensum, quod cum nuper compertum est in Visitatione dicti Episcopi, quod cum magister W. dudum rector ipsius ecclesiæ duas capas de serico dictæ ecclesiæ assignaverat, ac postmodum G. de H. Executor Testamenti dicti magistri W. languens in extremis, in testamento suo voluerit, ordinaverit, & injunxerit Rogero de H. & R. Executoribus dicti Testamenti sui, ut dictas capas quas diu indebitè detinuerat, seu valorem earundem, præfatæ ecclesiæ restituerent; vos præfatos R. & R. pro eo quod dictas capas vel va-

lorem earundem sic restituere non curarunt, ex Officio ad promotionem dictorum Parochianorum traxeritis in placitum in curia Christianitatis coram vobis: lidem R. & R. machinantes cognitionem quæ ad forum Ecclesiasticum pertinet in hac parte, impedire, prohibitionem, &c. in jurisdictionis Ecclesiasticæ depressionem, & ipsius ecclesiæ ac parochianorum prædictorum Præjudicium manifestum. Nos jurisdictionem Ecclesiasticam nolentes indebitè impediri, Vobis significamus, quod si contra dictos Executores de dictis capis juxta voluntatem dicti defuncti, ecclesiæ præfatæ, ut præmittitur, restituend' tantummodo agatur coram vobis, tunc in placito illo licitè procedere, &c. prohibitionem, &c. non obstante. T. &c.

Stealing of Goods out of Churches and Chapels.

## 1 Edw. VI. Cap. 15.

In an Act, Entituled, *An Act concerning the King's most Gracious general Pardon.*

Except,  
---Felonious taking of Money or Goods out of Church,

Also except and forprised out of this free pardon, ---all felonious taking of any money or goods out of any Church or Chappel.

A.D. 1547.

E X P.

## 2, 3 Edw. VI. Cap. 39.

In an Act, Entituled, *The King's Majesty's free and general Pardon.*

---Stealing of any Goods or Chattels out of Church,

And except, all Felonious taking or stealing of any goods or chattels out of any Church, Chappel, &c.

A.D. 1548.

E X P.

## 3, 4 Edw. VI. Cap. 24.

In an Act, Entituled, *An Act of the King's Majesty's most free and general Pardon.*

---Robbing of Churches or Chapels.

Except, alwayes, and forprised out of this general and free pardon, ---robbing of Churches or Chappels, done or perpetrated sithence the Feast of Saint Michael the Archangel last past.

A.D. 1549.

E X P.

## 3, 4 Edw. VI. Cap. 24.

In an Act, Entituled, *An Act of the King's Majesty's most free and general Pardon.*

---Goods Feloniously taken in Church or Chapel,

And except and forprised out of this free pardon, all and singular person and persons, being the six and twentieth day of January, in the year of our Lord God 1549. prisoner or prisoners in the Tower of London, in the Fleet, in the Marshalsey, or in any other prison, or in any wise by the Kings commandment, or by the commandment, or order of the Lords of his Privy Council restrained, or stayed from liberty; other than such prisoner and prisoners, as are in any prison, only for felonious stealing of any goods or chattels under the sum and value of twenty shillings, so that the same felonious taking of any such goods or chattels, be not feloniously taken, in or near any high-way, nor in the dwelling house of any person in the night time, nor in any Church or Chappell.

A.D. 1549.

E X P.

## 2 Will. &amp; Mar. Cap. 10.

In an Act, Entituled, *An Act for the King and Queen's most gracious &c. Pardon.*

---Robberies of Churches, and stealing Plate, &c, belonging to the same.

XV. And also except all Robberies of Churches, and stealing any Plate, Utensils or Goods of or belonging to the same.

A.D. 1699.

E X P.

CAP.



C A P. IX.

Goods of Churches excepted in the SUBSIDIES of the LAITY.

A.D. 1541.

32 Henr. VIII. Cap. 50.

Entituled, *An Act for the Grant of two Subsidies, &c. by the Temporality.*

Goods of Churches, excepted in the Subsidies of the Laity.

ALL goods, Chattels, Jewels and Ornaments of Churches or Chappels, and all other things ordained for the honour and service of Almighty God, always of and for any charge to the said Subsidy forepized and excepted.

Goods of Churches shall not be rated to Subsidy.

\* 34, 35 Henr. VIII. Cap. 27.

Entituled, *An Act for the Subsidy of the Temporality.*

A.D. 1542.  
\* The same in all Subsidies, to 7 Jac. 1.

Except and always forepized from the charge and assessment of this Subsidy, all goods, chattels, jewels, and ornaments of Churches and Chappels, ordained and used in Churches or Chappels for the honour and service of Almighty God.

Goods of Churches shall not be rated to Subsidy.

C A P. X.

The TREES and HERBAGE in Church-yards.

A.D. 1307.

35 Edw. I. Cap. 4.

Stat. *Ne Rector prosternat Arbores in Cœmiterio*, made 35 Ed. I. A.D. 1307.

*In what Cases, and by whom, Trees may be felled in Church-yards.*

Trees and Herbage in Church-yards.

BECAUSE we do understand; that controversies do oft-times grow between Parsons of Churches <sup>ii</sup> and their Parishioners, touching Trees growing in the Church-yard, both of them pretending that they do belong unto themselves: We have thought it good, rather to decide this controversie <sup>k</sup> by writing than by Statute; forasmuch as a Church-yard that is dedicated, is the soil of a Church, and whatsoever is planted belongeth to the soil, it must needs follow that those Trees which be growing in the Church-yard, are to be reckoned amongst the goods of the Church, the which Lay-men have no authority to dispose: but as the Holy Scripture doth testifie, the charge of them is committed only to Priests to be disposed of.

Controversies do often arise between Parsons and Parishioners, concerning Trees in Church-yards.

Trees growing in Church-yards, being the Goods of the Church,

1. Rolle, 255.

<sup>ii</sup> And their Parishioners.] And also between Parsons and Vicars; which Case, (*viz.* to which of those two the Trees belong) was considered, but not determined, in 13 Jac. 1. where the Vicar sued the Parson Improprate in the Spiritual Court, for cutting them down, and the Suit being for Damages, and an Action of Trespas lying at Common-Law, a Prohibition was granted, and afterwards, upon the same Grounds, a Consultation denied: But what became of the main point (*i. e.* to whom the Trees of right belonged) appears not:

Only Rolle seems to make the Right turn upon this, that they shall belong to him, who is bound to repair; which Determination agrees well with what follows in this Statute, that the Parson shall not fell, but when the Chancel wants Reparations. See the Constitution below, in verbo *Ecclesiarum*.

2. Abr. 337.

<sup>k</sup> By writing.] And therefore my Lord Coke calls this Law a *Treatise* only; and adds, that it is but a Declaration of the *Common Law*.



Abridgment.

---shall not be cut down, unless (with consent of Parson) to repair the Chancel or Church.

2. Rolle, 335.

2. Rolle, 111.

Reg. Warh. 69. a.

II. And yet seeing those Trees be often planted to defend the force of the wind from hurting of the Church; We do prohibit the Parsons of the Church, that they do not presume to fell them down unadvisedly, but when the Chancel of the Church doth want necessary reparations. Neither shall they be converted to any other use, except the body of the Church doth need like repair: In which case the Parsons of their charity shall do well to relieve the Parishioners with bestowing upon them the same Trees: which we will not command to be done, but we will commend it when it is done.

[But when.] If it appear, that the person whose right they are, intends to cut them down for other purposes; a Prohibition will be granted, to hinder waste; and so, likewise, to hinder the cutting down of such Trees in Church-yard, as are pro defensione Ecclesie. And, if the Trees be actually cut down by any Person, for other use than is here specified, it is thought that he may be indited, and fined upon this Statute.

In a Visitation of Archbishop Warham, a Rector was enjoined, Quid non scindat Arboreas crescentes in Cimiterio, quae sunt necessa-

ria pro defensione Ecclesie. And not only so, but a Vicar was enjoined, Quid non succidat Arboreas crescentes extra praecinctum Cimiterii, neque alteras Arboreas stantes & crescentes prope viam Processionalem existen' necessar' pro defensione Ecclesie, sub pana Juris.

It is remarkable, that this Statute was made the same Year, in which the famous Resolution passed in Parliament, That the Bishop of Durham should be prohibited by Writ out of Chancery, from wasting the Woods of his Bishoprick; of which, more will be said, when we come to the Possessions of Bishops.

Trees and Herbage in Church-yards.

Ibid. 68. b.

Rot. Parl. 35 Edw. 1.

JOHANNES STRATFORD.

A.D. 1342. 16 Edw. 3.

Herbarum, Arborum, aut Fructuum in Cæmiteriis nascentium Usurpatores violenti, Majoris Excommunicationis Sententiâ mulctati, à Communione Fidelium, donec satisfecerint, repellantur.

Divers Parishioners claim and take the Trees and herbage of Church-yards,

---without and against the Consent of the Incumbents,

---which we forbid upon pain of Excommunication of the greater sort.

---and command the Incumbents to denounce accordingly.

Quia n̄ Divinis & sæculi legibus prohibetur, ne de rebus Ecclesiasticis disponendi Laicis sit facultas, usurpationis illius contumelia longè noscitur depellenda; qua quidam nostræ provinciæ Ecclesiarum Parochiani, suæ potestatis ignorantes terminos limitatos, seu arroganter potius non servantes, arbores ac herbas in Ecclesiarum ac Capellarum nostræ Provinciæ Cæmiteriis crescentes, suæ voluntatis arbitrio prostermentes, ac etiam evellentes, seu metentes, præter & contra voluntatem o Rectorum aut Vicariorum Ecclesiarum aut Capellarum hujusmodi, seu Custodum deputatorum per ipsos, eas suis aut p Ecclesiarum vel aliorum usibus ausu sacrilego applicare noscuntur; unde & animarum pericula, Contentiones, & Scandala gravia inter Ecclesiarum q Prælatos & Parochianos eorum quasi quotidie suscitantur: Præsentis Auctoritate Concilii Declaramus, temerarios hujusmodi contemptores, Majoris Excommunicationis sententiis latis tam in Constitutione Othoboni quondam Apostolicæ Sedis Legati in Anglia, quam in Concilio Oxoniensi, contra violatores Ecclesiasticæ Libertatis, existere involutos. Quos post usurpationem in his de cætero factam illicitè Excommunicatos fore Præcipimus ritè & Canonicè publicè nunciari per Rectores aut Vicarios, qui Ecclesias suas offensas senserint ex præmissis: ac Usurpatores prædictos in eorum confusionem & ruborem à Communione Fidelium Decernimus repellendos, donec pro præmissis effectualem emendam offerant, & fecerint competenter.

Edit. Oxon. P. 267.

n̄ Divinis.] i. e. Ecclesiasticis. Lyndw. o Rectorum aut Vicariorum.] Ubi scilicet in Ecclesia est, dare solum Rectorem, vel solum Vicarium. Sed si in eadem Ecclesia sit, dare Rectorem & Vicarium; ad quem ipsorum tales Arboreas aut Herbæ pertinebunt, posset dubitari. Sed dic, quod pertinebunt ad Rectorem, nisi in portione Vicario assignata de eis fiat mentio in specie, aut in genere, ut scilicet ad ipsum Vicarium pertineant; nam tunc pertinebunt ad Vicarium. Lyndw.

p Ecclesiarum.] Scilicet, ad usum Fabricæ Ecclesie; quod etiam non licet, absque consensu Rectoris vel Vicarii, ad quem pertinent.

Satis æquum est, ut nec Rector, nec Vicarius prosterнат hujusmodi Arboreas, nisi propter evidentem necessitatem Reparationis Mansi Rectorie, vel ipsius Cancelli. Laici verò nullo modo debent eas prostertere, auctoritate propria. Sed si Navis Ecclesie indigeat Reparatione, Rector vel Vicarius non reddet se difficilem in concedendo eis licentiam, ut ad illum usum unam vel duas prosterнат. Lyndw.

In Actis Visitationis Gulielmi Warham Archiep. Cant. ita scribitur: Commissarius, ex consensu Rectoris, assignavit Iconomis arborem succisam, pro reparatione Cæmiterii.

q Prælatos.] i. e.] Rectores, sive Vicarios.

Reg. Warh. 81. b.



C A P. XI.

CHAPELS of EASE under a Mother-Church.

O T H O B O N.

De Oblationibus Capellarum restituendis Ecclesie Matrici.

Summarium.

Capellani ministrantes in Capellis, quæ salvo jure Matricis Ecclesie sunt concessæ, universas Oblationes, & cætera quæ Matrici provenire deberent, restituant Matricis Rectori, sub vinculo Suspensionis, donec restituerint.

**G**ratia quæ de concedentis benignitate procedit, recipientem manifestè redit ingratum, si vertitur in abusum, vel suis non contenta finibus extenditur in læsionem alterius. Ecclesiasticæ quidem providentiæ pietas, dum alteri per alterum non vult iniquam conditionem afferrî, sed quando privata persona Capellam propriam desiderat obtinere, idque, justâ causâ mediante, Episcopus concesserit, semper adjicere consuevit, quod id fiat sine præjudicio Juris alieni. Quod & nos salubri & opportuno remedio prosequentes, statuimus & districtè præcipimus, ut \* Capellani ministrantes in Capellis hujusmodi, quæ salvo Jure Matricis Ecclesie sunt concessæ, universas Oblationes, & cætera, quæ ipsis non recipientibus, ad Ecclesiam Matricem pervenire deberent, ipsius Ecclesie Rectori sine difficultate \*\* restituant; cum illud, tanquam alienum, † justè nequeant retinere. Si quis autem restituere contempserit, suspensionis vinculo, quousque restituerit, se noverit innodatum.

Chapels being erected, on condition not to prejudice the Mother-Church,

---the Chaplains thereof shall account for Oblations, &c.

---on pain of Suspension.

\* Capellani Ministrantes.] *Sive sint ibi perpetuè intitulati, sive temporales Stipendiarii.* J. de Athon.  
 \*\* Restituant.] *Etiam exacto ab eis corporali Juramento, per partem Rectoris, de fidei Computo inde reddendo.* J. de Athon.

† Justè.] *Nisi aliud indulerit tenor Privilegii specialis, vel antiquitas Consuetudinis, — vel, nisi ex pacto cum Rectore Matricis Ecclesie, Fructus obvientes Capellæ retineat annuatim, pro illis aliquid certum ipsi Rectori solvendo.* J. de Athon.

Rules of Common-Law concerning Chapels under the Mother-Church.

**I.** OF Chapels subject to a Mother Church, some are merely Chapels of Ease, others Chapels of Ease and Parochial. Which distinction will be best understood, by the definition of a Parochial Chapel, which we find in Lyndwood: *Ubi, scilicet, Parochianis deservitur de Ecclesiasticis Sacramentis & Sacramentalibus, sic quod non teneantur accedere ad Ecclesiam majorem pro divinis audiendis, vel recipiendis Sacramentis, & habent ad hoc Sacerdotem specialiter limitatum.* And so, a Chapel merely of Ease, is that, which was not allowed a Font at its Institution, and which is used only for the ease of the Parishioners in Prayers and Preaching (Sacraments and Burials being received and performed at the Mother Church) and commonly, where the Curate is removable at the pleasure of the Parochial Minister: *Quando Prælati superioris Ecclesie est Curatus utriusque, exercet tamen ibi Curam per Vicarium non perpetuum, sed temporalem, ac removitivum ad libitum;* tho', in this Case, Lyndwood observes elsewhere, that there may be (in other respects) the Rights of a Parochial

Chapel by Custom; *Si autem in tali Capellâ non sit institutus proprius Curatus perpetuus, sed remotivus ad libitum Prælati majoris Ecclesie; potest nihilominus, in casu, talis Capella habere Jura Parochialia, videlicet, ex Consuetudine præscriptâ.* But where a Chapel is instituted, tho' with Parochial Rights, there is usually (if not always) a reservation, of repairing to the Mother-Church, on a certain Day, or Days, in order to preserve the Subordination.  
**II.** A Chapel may prescribe for Tythes against the Mother-Church. So saith Lyndwood, (speaking of those which have perpetual Curates) *Tales namque Capellæ possunt præscribere Decimas, & alia Jura Spiritualia, contra matricem Ecclesiam.* And, in the Case of Saer and Bland, when the Parson libelled for Tythes against an Inhabitant of a Hamlet where was a Chapel of Ease, and it was shewed, on the other side, that time out of mind the said Hamlet had found a Clerk to do Divine Service in the said Chapel with part of their Tythes, and (what was an usual Composition, upon the Erection

A.D. 1268.  
52 H. 3.

Edit. Oxon.  
P. 111.

De Cel. Miss. c.  
Efferen. v. Capel.

Kennet Par. Ant.  
P. 590.

De Cens. c.  
Quamvis Lex, v.  
Una Eccl.

De Clan. Desp.  
c. ult. Ab aut.

2. Rolle, 126  
Ken. Ant.  
p. 595.

Ut supra.

4. Len. p.  
24.



Abridgment.

tion of a Chapel) paid a certain Sum of Money to the Parson and his Predecessors for all Tythes; the Prescription was held to be good, and a Prohibition was granted.

III. The Repairs of a Chapel are to be done by Rates on the Landholders within the Chapelry, in the same manner, as the Repairs of a Church; and such Rates are to be also enforced by Ecclesiastical Authority. But the repairing of the Chapel is (of it self) no discharge from contributing to the Repairs of the Mother-Church (as hath been already shown;) which, tho' at first sight it may seem hard, hath this good foundation of reason, That all Chapels, and all discharges from attending Divine Service at the Mother-Church, were originally matters of Grace and Favour; and the Ease or Convenience of particular Inhabitants, ought not to be purchased with inconvenience and damage to the Mother-Church; in whose right it was specially provided on those occasions, that nothing should be done, per quod præjudicium fieri poterat matriæ Ecclesiæ.

VI. If the Patron of a Chapel do present to that Chapel, it shall become a Church, and be Presentative. This was affirmed by Doderidge, and assented to by Coke, in the Court of King's-Bench, 12 Jac. 1. agreeably to what is said elsewhere of Donatives, That if the true Patron present, and his Clerk is admitted and instituted, it is become pre-

sentable, and never shall be donative after. But on the other hand, if one is Patron of two Churches, and presents to one only as the Mother Church, cum capella de (naming the other;) that other, having been originally a distinct Parish Church, shall so remain, notwithstanding such Presentment; and that never so often repeated.

V. A Chapel, or no Chapel, ought to be try'd by the Spiritual Judge. For a Chapel dependant on a Mother Church, cannot be founded, but with Licence of the Ordinary: And in Archbishop Winchelsey's time, we find this Case, among the Petitions of the Clergy, Si Rector unius Ecclesiæ Parochialis petat quandam Capellam coram Judice Ecclesiastico, tanquam ad Ecclesiam suam pertinentem, & ab eâ dependentem, & Incumbens possessioni dictæ Ecclesiæ Capellæ asserat eam non esse Capellam, sed Ecclesiam Parochialem, & fuisse à tempore cujus memoria non existit; and the prayer of the Clergy is, that, in this Case, the Spiritual Judge may not be disturbed by Writs from the Temporal Courts. What the Answer was, I cannot tell; but what my Lord Coke laid down, is exactly agreeable to the Tenor of this Petition, viz. A Chapel is Spiritual, as well as a Church; and when two Spiritual things are to be tried, no Prohibition shall be granted; in like manner, as it goes not, when a Modus is pleaded, in a Dispute between two Spiritual Persons, viz. (the Rector and Vicar) about Tythes.

Chapels of Ease under a Mother Church.

Reg. Winch. 2.

1. Rolle, 126.

Of Rates, supra.

2 Rolle, p. 126. Co. Lit. 344

C A P. XII.

FREE CHAPELS.

JOHANNES STRATFORD.

In Const. Quam sit inhonestum: Tit. de Celebr. Missarum.

— SACERDOTES insuper quos in Oratoriis seu Capellis Regum aut r Regina- rum Angliæ, s liberorumve suorum, erectis, vel erigendis, Missas celebrare contigerit, t pœnâ prædictâ nolumus coartari.

r Reginarum.] Quæ hoc nomine decorantur, quamdiu Regibus viventibus conjunctæ sunt: Nam, Rege mortuo, uxor ejus desinit esse Regina. Lyndw. s Liberorum.] Appellatio Liberorum non

extendit se ad omnes inferiores in infinitum, sed propriè verbum Liberorum porrigitur ad Nepotes, ultra quos alii, Posterii nuncupantur. t Pœnâ prædictâ.] Suspensionis à Divinorum celebratione per mensem, ipso facto.

Royal Chapels need not the Licence of the Ordinary.

A.D. 1342. 17 Edw. 3.

Edic. Oxon. p. 234.

Rules of Common-Law concerning Free Chapels.

I. THE distinction of Free Chapels is grounded on their freedom or Exemption from all Ordinary Jurisdiction. Other reasons have been aimed at; but that this is the true one, seems to be plain from the Tenor of the following Writ; " Rex, Abbati sancti Jacobi Northampton. salutem. Cum Ecclesia sanctæ Cæde de de Salop. per progenitores nostros quondam reges Angliæ fundata, & variis

" libertatibus & privilegiis communita, " capella libera dictorum progenitorum " nostrorum à primæva sua Fundatione " continuè fuerit, & sic nostra sit in præ- " senti, nobisque & ministris nostris solis " & in solidum omni jure subjecta, & ab " omni provisione de decanatu, canonicalibus, & præbendis, ac Officiis quibuscun- " que dictæ capellæ, auctoritate sedis apostolicæ seu quavis alia concedenda vel facienda

Co. Inst. 386 6 H: 7, 19, a.

Reg. 40. b.



Free Cha-  
pels.

“ facienda exempta penitus & immunis,  
 “ quibus quidem privilegiis & libertatibus,  
 “ exemptione & immunitate dicti proge-  
 “ nitores nostri & nos, ac etiam dicta cap-  
 “ pella nostra liberè, pacificè, & quietè  
 “ absque interruptione qualibet, prout de  
 “ jure coronæ ad nos pertinere dignoscitur,  
 “ usi sumus hætenus & gavisi; ac jam in-  
 “ tellexerimus quòd vos privilegiorum, li-  
 “ bertatum, exemptionum, & immunita-  
 “ tum prædictarum considerationem non  
 “ habentes, sub colore quorundam manda-  
 “ torum seu commissionum vobis in hac  
 “ parte factorum, processus & executiones  
 “ facere nitimini, in derogationem privi-  
 “ legiorum, libertatum, exemptionis &  
 “ immunitatis prædictorum; quæ si fierent,  
 “ in nostri & juris coronæ nostræ præjudi-  
 “ cium ac exhæredationis nostræ periculum  
 “ cederent manifestum: nos conservationi  
 “ jurium nostrorum volentes prospicere ut  
 “ debemus, vobis prohibemus ne quicquam  
 “ in præmissis quòd in nostri vel dictæ cap-  
 “ pellæ nostræ præjudicium, seu jurium  
 “ nostrorum, cedere valeat quovis modo,  
 “ attentetis indebitè, seu per alios attentari  
 “ faciatis. Et si quæ per vos in hac parte  
 “ perperam attentata fuerint, ea sine dila-  
 “ tione revocari faciatis: T. &c.

To this Testimony, I will add what I  
 have observed in the Register of Arch-  
 bishop *Winchelsey*; where, upon complaint  
 of the Clergy, that possession of Dignities  
 and Benefices was given by Lay-men with-  
 out the Bishop; the King forbids it, except  
 in Liberis Capellis suis, de quibus nullus alius  
 Ordinarius se habet intrromittere; and, before  
 that, in the time of *Edward I.* the Bishop  
 of *Exeter* was attached, to answer before  
 the King, *Quare exerceret Jurisdictionem in*  
*Capella Regia S. Burianæ.*

II. Free Chapels may continue such, in point  
 of exemption from Ordinary Visitation,  
 tho' the Head or Members receive Institution  
 from the Ordinary. This appears, beyond  
 exception, from the King's Presentation of  
 a Prebend of the Free Chapel of *Hastings*  
 made to the Bishop of *Chichester*, and a

Royal Mandate for Instalment, reciting  
 the Admission and Institution of the Person  
 presented; both which we find in the Re-  
 gister, as follows:

“ Rex, venerabili in Christo patri T.  
 “ eadem gratia episcopo *Cicestren'* salu-  
 “ tem. Ad Præbendam, quam W. de C.  
 “ dum vixit obtinuit in libera capella no-  
 “ stra de *Hastyns*, vacantem, & ad no-  
 “ stram donationem spectantem, dilectum  
 “ nobis H. de B. vobis præsentamus, intu-  
 “ itu charitatis rogantes quatenus ipsum  
 “ H. de B. ad Præbendam illam admit-  
 “ mittatis, & Præbendarium admittatis in  
 “ eadem, cum suis juribus & pertinentiis  
 “ quibuscunque, in cujus, &c.

“ Rex, Decano & Capitulo liberæ capel-  
 “ læ suæ de *Hastyns* salutem. Cum ve-  
 “ nerabilis pater T. episcopus *Cicestren'*  
 “ dilectum nobis H. de B. ad Præben-  
 “ dam, quam W. de C. dum vixit ob-  
 “ tinuit in capella prædicta, ad præsentati-  
 “ onem nostram admiserit, & præbenda-  
 “ rium instituerit in eadem, prout per litem  
 “ inde ostensas plenius poterit apparere:  
 “ Vobis mandamus quòd eidem H. stallum  
 “ in choro & locum in capitulo ratione  
 “ præbendæ illius prout moris est assignetis,  
 “ & ipsum in corporalem possessionem  
 “ ejusdem, cum suis juribus & pertinentiis  
 “ quibuscunque, inducatis seu induci faci-  
 “ atis. T. &c. Et præsentatio inde facta  
 “ episcopo sic.

III. The King may erect a Free Chapel, and  
 exempt it from the Jurisdiction of the Ordina-  
 ry. This is agreed on all hands; and our  
 Law-books add, that he may License any  
 Subject to found such a Chapel, with such  
 Exemption: Which, however positively  
 said, seems not to be a self-evident Truth;  
 and yet I find not any Instances alledged,  
 to confirm it. That many Free-Chapels  
 have been in the hands of Subjects, is not  
 denied; but it does not therefore follow,  
 that those were not, originally, of Royal  
 Foundation.

Abridgment.

Registr. f.  
307. b.

Reg. Winch. 2. a.

17 Ed. 1. Rot. 57  
B. R.

## CAP. XIII.

## CHAPELS in PRIVATE HOUSES.

## JOHANNES STRATFORD.

*Celebrans in Loco non Consecrato sine Diæcesani permissione, mense uno, de facto  
 suspensus sit à Celebrandi Officio; nec Diæcesanus permittat, nisi Magnati-  
 bus à Consecrato late distantibus. Prælati tamen & Regis Capellani hic  
 Canon non præjudicat.*

Quàm sit inhonestum, & infra. De fratrum nostrorum, & totius Concilii  
 assensu, Decernimus quemcunque in u Oratoriis, Capellis, aut domibus  
 non consecratis, seu in loco minimè Dedicato, seu delibato, Missarum So-

u Oratoriis.] Oratorium differt ab Ecclesiâ: non est ædificatum ad Missam dicendam, nec  
 nam in Ecclesiâ statuitur certa Dos pro Rectore, & aliis necessariis: Oratorium verò dicitur, quod

None shall Cele-  
brate in Place un-  
consecrated, with-  
out licence of theEdit. Oxon.  
P. 233.



## Abridgment.

Bishop, upon pain of Suspension, --and all such Licences granted to Noblemen, shall be null, --but Clergy may celebrate in their own Oratories,

--and Priests, in the Royal Chapels.

lennia, Diocesani non obtentâ licentiâ, contra Canonum prohibitionem de cætero celebrantem, Suspensionem à Divinorum celebratione per mensem incurere ipso facto. Licentiam autem ab Episcopis nostræ Provinciæ Missas in locis hujusmodi non consecratis concessam celebrandi, & in posterum concedendam personis aliis quàm Magnatibus, seu Nobilibus moram facientibus in locis ab Ecclesiis Parochialibus notabiliter distantibus, aut notoriè debilibus vel infirmis, irritam Decernimus, & inanem. Per hoc tamen Prælati, & Rectoribus, & Canonicis Ecclesiarum Cathedralium, vel Religiosis non intendimus derogare, quo minus ipsi in Oratoriis suis ab antiquo constructis Missas possint licitè celebrare, seu facere celebrari, sicut fieri consuevit. Sacerdotes insuper, quos in Oratoriis, seu Capellis Regum, aut Reginarum *Angliæ*, liberorumve suorum erectis vel erigendis, Missas celebrare contigerit, pœnâ prædictâ Nolumus coartari.

uu Prælati.] Abbatibus, Decanis, Archipresbyteris, & Archidiaconis. Lyndw.

2 Edw. VI. Cap. 1. ----- 1 Eliz. Cap. 4.

*In the Acts for Uniformity of Service.*

§. I. Open Prayer in and throughout this Act, is meant that Prayer which is for others to come unto, or hear, either in common Churches or Private Chappels or Oratories, commonly called the Service of the Church.

23 Eliz. Cap. 1.

*In an Act, Entituled, An Act to retain the Queen's Majesties Subjects in their due Obedience.*

—XII. Provided also, That every person, which usually on the Sunday shall have in his or her house Divine Service which is established by the Law of this Realm, and be thereat himself or her self usually or most commonly present, and shall not obstinately refuse to come to Church, and there to do as is aforesaid, and shall also four times in the year at the least be present at the Divine Service in the Church of the Parish where he or she shall be resident, or in some open common Church, or such Chapel of Ease, shall not incur any pain or penalty limited by this Act, for not repairing to Church.

u Established by the Law.] Which Law requires the Licence of the Bishop to celebrate Divine Service there: *Oratorium potest quis ædificare sine consensu Episcopi, tamen sine licentiâ Episcopi non potest ibi celebrari*, saith Lyndwood. Abundance of such Licences both before and since the Reformation, remain in our Ecclesiastical Records; not only for Prayers, and Sermons, † but, in some instances, for Sacraments also. But the Law is, that such Licences be granted sparingly; *Episcopi potentibus licentiam audiendi Missas extra Ecclesiam Parochialem, nisi cum magnâ difficultate, concedere non debent*;

as Lyndwood hath it; who also saith, in his Gloſs on the same Constitution, *Hanc Licentiam non concedet Episcopus in majoribus Festivitatibus*; and that, without the like Licence, they shall not have a Bell, *In dictis tamen Oratoriis non possunt imponi Campanæ, sine auctoritate Episcopi*. Which Restrictions were laid on private Oratories, out of a just regard to the places of Publick Worship; that, while the Laws of the Church provided for great Infirmities, or great Distance, such Indulgence might not be abused to an unnecessary neglect of Publick or Parochial Communion.

C A N O N S 1603.

*Lxxi. Ministers not to Preach or Administer the Communion in Private Houses.*

**N**O Minister shall Preach or Administer the holy Communion in any private House, except it be in times of necessity, when any being either so impotent as he cannot go to the Church, or very dangerously Sick, are desirous to be Partakers of the Holy Sacrament; upon pain of Suspension for the first

Chapels in Private Houses.

A.D. 1548.

A.D. 1580.

ibid.

1 Jac. 1:

Open Prayer in Chapels.

Attending Divine Service in private Chapels, shall be construed coming to Church.

De Cel. Miss. c. Quam Sit. v. Oratorii

† Reg. Cran. f. 15, 16, 17, 20, 34, 39, 40. Abb. 3. 142. Ibid.

In private Houses, where there is a Chapel, there may be Preaching and Communion,



Chapels in  
Private  
Houses.

first Offence, and Excommunication for the second. Provided, that Houses are here reputed for Private Houses, wherein are no Chapels dedicated and allowed by the Ecclesiastical Laws of this Realm. And provided also under the pains before expressed, that no Chaplains do Preach or Administer the Communion in any other places, but in the Chapels of the said Houses; and that also they do the same very seldom upon *Sundays* and Holy-days: So that both the Lords and Masters of the said Houses and their Families shall at other times resort to their own Parish Churches, and there receive the Holy Communion at the least once every year.

Abridgment.

-- which shall be administered only in such Chapels;

---the Family communicating at the Church, once a year at least.

## Rules of Common-Law concerning Bounds of Parishes, and Perambulations.

I. **T**HE Bounds of Parishes, tho' coming in question in a Spiritual matter, shall be tried in the Temporal Court. This is a Maxim, in which all the Books of Common-Law are unanimous; tho' our Provincial Constitutions expressly mention *Limites Parochiarum*, among the matters *quæ merè ad forum Ecclesiasticum pertinere noscuntur*, and, *quæ non possunt ad seculare Forum aliquatenus pertinere*; complaining of this, as one Encroachment, among others, which the Temporal Courts were making upon the Spiritual, at that time.

But the said Books of Common-Law are not so uniform, in their accounts of the Foundation of this Right, to try the Bounds of Parishes, exclusive of the Spiritual Courts. My Lord Coke, speaking of the determination of the Limits of Towns, as well as Parishes, says, *That the Law hath great reason in it; for thereupon depends the Title of the Inheritance of the Lay-fee, whereof the Tythes are demanded: For Fines and Recoveries are the common Assurances of Lay-Inheritances; and if the Spiritual Court should try the Bounds of Towns, if they determine that my Land lieth in another Town than is contained in my Fine, Recovery, or other Assurance, I shall be in danger to lose my Inheritance.* But on a later occasion, 26 Car. 2. it was said (as it seems) by Hale and Bridgman, *That the reason why the Bounds of Parishes is triable at Common-Law, is, because Prescription is the ground thereof.*

Whether the two points of Inheritance, and Prescription, may not be equally concerned in the limits of two *Vills* of the same Parish, as in the limits of two different Parishes; must be left to the Judgment of the Learned in the Law. In the mean time, it is certain, that in 14 Charles II. when a Prohibition was pray'd to the Spiritual Court, for proceeding to determine a Case of Tythes, the right to which depended on the Lands lying in this or that *Ville*; it was denied by the whole Court of King's Bench, who declared, that the Bounds of *Vills* are triable in the Ecclesiastical Court.

II. If a question is depending, whether a Chapel of Ease, or a Parish Church, it shall be tried, as to Limits, in the Temporal Court. And so it is, if the point be, Whether a Chapel of Ease or a Parochial Chapel. Both these depend entirely upon the foregoing Maxim; which greatly checks the Proceedings of

the Spiritual Courts, not only in Cases of Tythes, but in other matters also; as, in Suits for not frequenting Parish Church, not contributing to the Repairs of it, and the like.

III. In the Perambulation of a Parish, no Refreshment can be claimed by the Parishioners, as due of right from any House or Lands in virtue of Custom. The making good such a Right upon that foot, hath been twice attempted in the Spiritual Courts (13 Jac. 1. and 27, 28 Car. 2.) but in both Cases, Prohibitions were granted, and the Custom declared to be against Law and Reason.

These Perambulations (tho' of great use, in order to preserve the Bounds of Parishes) were, in the times of Popery, accompanied with two great Abuses, viz. with *Feastings*, and with *Superstition*; being performed, in the nature of *Processions*, with Banners, Hand-bells, Lights, staying at Crosses, &c. And therefore, when *Processions* were forbidden, the useful and innocent part of Perambulations was retained, in these Words: *But yet for the retaining of the Perambulation of the Circuits of Parishes, they shall once in the Year, at the time accustomed, with the Curate and the substantial Men of the Parish, walk about the Parishes, as they were accustomed, and, at their return to the Church, make their Common Prayers.* Provided that the Curate, in their said common Perambulations, used heretofore in the days of Rogations, at certain convenient places, shall admonish the people to give thanks to God, in the beholding of God's Benefits, for the increase and abundance of his Fruits upon the face of the Earth, with the saying of the 103 Psalm, *Benedic anima mea, &c.* At which time also the same Minister shall inculcate these or such Sentences, Curled be he which translateth the bounds and dolles of his Neighbour; or such other order of Prayers, as shall be hereafter appointed.

But the Superstitions here laboured against, were not so easily suppressed; as may be gathered from the Endeavours used to suppress them, so late as the time of Archbishop \*Grindal: And now, that hath been long effected, it were to be wished, that Perambulations were held more regularly and frequently, than now a days they are; to the end, the Limits of Parishes (which it seems must be only try'd in the Temporal Courts) may come in question, as rarely as may be.

De Pœn. c. 2.  
tern. Sanc.

Sel. Caf. p. 17.

3. Keble, p. 286.

1. Lev. p. 78.  
2. Rolle Abridg.  
p. 312.

Ibid. p. 291.

1 Rolle, p.  
259.  
2. Lev. p.  
163.

Eliz Inj. c.  
18. p 73.

\*Life, p. 32,  
38, 163.



Abridgment.

Parish-  
Clerks.

## C A P. XV.

## PARISH-CLERKS.

## B O N I F A C I U S.

*Clericis pauperibus ad divinum Officium idoneis, & Rectori suo obtemperaturis, conferantur Aquæ Benedictæ ferendæ Beneficia, & à Parochianis alimenta.*

A.D. 1261.  
45. H. 3.

The Officer for Holy Water shall be given to poor Clerks,

--by the Incumbents, who best know the disposition and abilities of the Persons;

--and the Parishioners shall pay them.

Edit. Oxon.  
P. 142.

**S**Tatuimus, quòd Clericis pauperibus Aquæ Benedictæ Beneficia conferantur. Et quia inter Rectores & Vicarios Ecclesiarum, & suos Parochianos, super collatione hujusmodi Beneficiorum lites nonnunquam audivimus & suscitari, quas, sicut cordi nobis est, amputare debemus; decernendo Statuimus, ut iidem Rectores & Vicarii, quorum magis est scire qui ad hujusmodi Beneficia existunt idonei, tales Clericos in prædictis Beneficiis *y* præficere studeant, qui juxta corda eorum sciant & valeant in divinis Officiis sibi congruè deservire, & suis velint obtemperare mandatis. Quibus si Parochiani *z* maliciosè subtrahere velint *a* Eleemosynas *aa* consuetas, ad ipsas largiendas sibi sollicitè *b* moneantur; & si opus fuerit, per quasunque Censuras Ecclesiasticas districtius compellantur.

*x* Suscitari.] Parochianis forsan assentibus Collationem hujusmodi ad eos spectare; Rectoribus vel Vicariis contrarium assentibus. Lyndw.

*y* Præficere studeant.] Ad Prælatum enim pertinet, in Ecclesiâ suâ inferiores Ministros instituere, nec potest Patronus tale jus sibi vendicare— Si ergò hoc Patronus in Ecclesiâ facere non potest; multò minùs hoc poterunt facere Parochiani. Lyndw.

*z* Maliciosè.] Possent enim Parochiani eos forsan de factò repellere, quia per eos, vel de eorum consensu, non sunt introducti; quorum malitiis obviandum est, nec est per Judicem justum hujusmodi malitiis indulgendum. Lyndw.

*a* Eleemosynas.] Ex hoc potes colligere, quòd tales Clerici non possunt aliquid vendicare per viam certi Beneficii [al' Præsentationis, MS. Aton] sive Dotationis. Sed ipsorum sustentatio per eos colligi & levari debet à Parochianis secundum morem & consuetudinem Patriæ. Lyndw.

*aa* Consuetas.] Hæc Consuetudo considerari debet secundum morem antiquitus observatum; quæ etiam, in quantum concernit augmentationem Cultûs divini in Ecclesiasticis Officiis, voluntariè immutari non debet: Sed ad hoc Parochiani compelli possunt per Episcopum. Lyndw.

Et nota, quòd in hac materiâ posset dici Consuetudo laudabilis, illa quæ forsan est introducta, ut unusquisque Paterfamilias die quolibet Dominico Clerico deferenti Aquam Benedictam aliquid secundum Exigentiam status sui tribuat: Et quod in Natali Domini habeat à singulis Domiciliis unum Panem, & etiam certa Ova ad Pascha, & in Autumno certas Garbas. Posset etiam dici Consuetudo laudabilis, ut Clericus talis, singulis anni quarteriis, aliquid certum habeat in pecuniâ, ad suam sustentationem, quod colligi debeat & levari in totâ Parochiâ. ib.

*b* Moneantur.] Non solum per ipsos Curatos; sed potiùs per locorum Ordinarios. Lyndw.

## C A N O N S 1603.

I Jac. I.

## xci. Parish Clerks to be chosen by the Minister.

Parish-Clerk shall be appointed by the Minister alone,

**N**O Parish Clerk upon any vacation shall be chosen within the City of London, or elsewhere within the Province of Canterbury, but by *c* the Parson

*c* By the Parson or Vicar.] Parish-Clerks were heretofore real Clerks; of whom every Minister had at least one, to assist under him, in the celebration of Divine Offices; and, for his better maintenance, the Profits of the Office of Aquæbajulus were annexed to it by the foregoing Constitution of Archbishop Boniface; so as, in after-times, Aquæbajulus was only another name for the Clerk officiating under the chief Minister. And, notwithstanding he was maintained by the Parishioners, he was appointed to the Office by the Minister, as well according to the said Constitution, as

by the Custom of the Realm: Witness, what is said in Archbishop Courtney's Register, concerning this matter, on occasion of carrying the Holy Water.— *Quæ de consuetudine laudabili legitime præscriptæ & hactenus pacificè usitatæ quasi ubique per totum regnum Angliæ per Clericos Aquæbajulos, ex donatione Rectorum & Vicariorum locorum, Parochianorum sumptibus sustentandæ deferrî consuevit.*

Since the making of this Canon, the Right of putting-in the Parish Clerk, hath often been contested between Incumbents and Parishioners, and Prohibitions pray'd,

or Vicar,

Reg. 4. Epp.  
194. 2.



Parish-Clerks.

or Vicar: or where there is no Parson or Vicar, by the Minister of that place for the time being. Which choice shall be signified by the said Minister, Vicar or Parson, to the Parishioners, the next Sunday following in the time of Divine Service. And the said Clerk shall be of twenty years of age at the least, and known to the said Parson, Vicar or Minister, to be of honest Conversation, and sufficient for his Reading, Writing, and also for his competent skill in Singing (if it may be.) And the said Clerks so chosen shall have and receive their *d* ancient Wages, without fraud or diminution, either at the hands of the Church-wardens at such times as hath been accustomed, or by their own Collection, according to the most ancient Custom of every Parish.

and always obtained, to the Spiritual Court, for maintaining the Authority of the Canon, in favour of the Incumbent, against the Plea of Custom in behalf of the Parishioners. Upon this foot Prohibitions were granted, in the several Cafes of the Church-wardens of St. *Alphage* in *Canterbury*, St. *Thomas* the Apostle, St. *Foster*, and *Colemanstreet* in *London*, and in the Cafes of *Germin* and *Crashaw*, &c. And tho' the necessity of the Ordinary's Admission of him to the Place, is *supposed* in those Cafes; yet, upon his refusal, Writs have gone, requiring him to admit, as to a merely Temporal Office; and tho' it is said, the Parishioners who chuse may *displace*, yet the Ordinary is only allowed to Excommunicate for Misbehaviour; and when he attempted to *Deprive*, a Prohibition was granted.

There is a remarkable Passage, to this purpose, in the Register of the Convocation of 1640. *Dominus Præses Colloquium habuit cum Episcopis — de magnâ illâ Injurîâ, clerô per laicos illatâ, in eligendo tales Guardianos & Clericos Parochiales, qui eos opponunt & inquietant, ad maximum eorum præjudicium & incommodum.* And, without the Authority of such a Synodical Complaint, it is easy to imagin, in reason, how much the Peace and Quiet of Parochial Ministers, especially in Towns and Cities, may be interrupted by those, who are any way to act under them, in the Ministerial Office;

supposing them perverse, and in an independent State. Which I mention here, in hopes that it may be a means to induce all Incumbents, who have received the Right of Nomination from their Predecessors, to be careful to transmit the same to their Successors, and not to suffer that Right (which all Incumbents once had as well by Common-Law, as by the Laws of the Church) to be lost, or called in question, through Condescension and Disuse.

*d* Ancient Wages.] In the Visitation of Archbishop *Warham*, a little before the Reformation, one Inhabitant was enjoyn'd, *Quod solvat ad Salarium Aquæbajuli ibidem Cessionem suam; and two others, Sub penâ Excommunicationis, ad solvend' salarium Aquæbajuli ibidem, ut alii Parochiani solvunt; and, in another place, it is noted as follows, Iconomi dixerunt, quod omnes subtrahentes Salarium Aquæbajuli, satisfecerunt & composuerunt.*

In case such customary allowance is denied, the foregoing Constitution, and the Practice thereupon, direct where it is to be sued for, viz. before the Ordinary, in his Ecclesiastical Court. That Constitution (as we see) calls those Wages, *Elemosynas consuetas*; and, in the Register, there is a Consultation provided, in a Case of the same nature, for what the Writ calls *Largitio Charitativa* (as being originally, a free gift) which, by parity of Reason, may be fairly extended to the present Case.

Abridgment. ---and declar'd the Sunday following; ---being a Person of good Conversation and skill, ---and shall receive the Ancient Wages.

Reg. Warh. f. 60. a. f. 62. b.

f. 68. a.

f. 52. b.

Co. Sel. Caf. p. 70. 2. Rolle, Abr. 224. 286. 2. Cro. 670. 3. Cro. 589. Palm. 379.

2. Rolle, 481. 2. Abridg. 224. March, 101. Co. Sel. Caf. p. 70. 1. Keble, p. 286.

sess. 12.

C A P. XV.

CHURCHWARDENS and SIDEMEN.

C A N O N S 1603.

Lxxxix. The Choice of Church-wardens, and their Account.

ALL Church-wardens or Questmen in every Parish, shall be chosen by the joynt consent of the Minister and the Parishioners, if it may be: But

*e* Church-wardens.] In the Foundation of a Chantry, in the time of Archbishop *Warham*, they are called *Wardens of the Goodes, Workis, and Ornamentis of the Church.* Who, by reason of such Trust, are so far Incorporated by the Law, as to sue for the Goods, and to bring an Action of Trespafs for them; and also to purchase Goods for the use of the Parish; but they are not a

Corporation, in such sort as to purchase Lands, or take by Grant; except in *London*, where they are, by Custom, a Corporation for those purposes also.

The Release of one Church-warden is in no case a Bar to the Action of the other; for what they have, is to the use of the Parish.

Churchwardens shall be chosen by the Minister, and Parishioners,

1. Infl. f. 3. a. Heil. 74. Noy, 139. 2. Cro. 532. Jones, (W.) 439.

Church-wardens and Sidemen.

Reg. War. f. 408. a.

Kelw. f. 32. a.



## Abridgment.

--and continue but one year; -- at the end of which, they shall account to the Parish,

--and deliver up the Money &c, remaining.

if they cannot agree upon such a choice, then *f* the Minister shall chuse one, and the Parishioners another: And without such a joint or several Choice, none shall take upon them to be Church-wardens, neither shall they continue any *g* longer than one year in that Office, except perhaps they be chosen again in like manner. And all Church-wardens at the end of their Year, or within a Month after at the most, shall before the Minister and the Parishioners, give up *b* a just account of such Money as they have received, and also what particularly they have bestowed in Reparations, and otherwise for the use of the Church. And last of all, going out of their Office, they shall truly *i* deliver up to the Parishioners whatsoever Money or other things of right belonging to the Church or Parish, which remaineth in their hands, that it may be delivered over by them to the next Church-wardens *k* by Bill indented.

*f* Minister shall chuse one.] The Books of Common-Law interpret this branch of the Canon, with a Limitation: "If the Custom hath not been, for the Parishioners to chuse both. In which case, when two have been chosen by the Parish, on pretence of Custom, and one by the Incumbent on the foot of this Canon, and the Ecclesiastical Judge hath refus'd to admit and Swear more than *one* of those who have been chosen by the Parish; upon surmise of such Custom, *Mandamus's* have been frequently granted by the Temporal Courts to Swear the person so Elected by the Parish; and also, Prohibitions have gone, † in cases where the Spiritual Court hath attempted to try or over-rule the Custom, or otherwise to do any thing to the prejudice of that title. Upon which occasions, it hath been said, That Church-wardens are *Lay-Incorporations* and *Temporal Officers*; and, that of *Common Right*, every Parish ought to choose their own Church-wardens, which right is not to be overthrown, but by proof of a contrary Custom: And, that altho' one is *Sworn*, a Writ may go to Swear another into the same place, to the end both Parties may be made *capable* to try the Right.

Upon this Head, I will take leave to remind the Clergy, that the forementioned Complaint in Convocation (*Anno* 1640.) was upon the difficulties brought upon Incumbents by *Church wardens*, as well as by *Parish-Clarks*; and that therefore, in this Case, as in the other, so many as are entitled, by Custom as well as Canon, to nominate one, are concern'd (for the good of themselves, and their Successors) that

the Right be not lost, or invalidated, by *disuse*.

*g* Longer than one Year.] For altho' in some places, there is but one *new* Church-warden yearly Elected (he who was junior Church-warden the year before, being continued of Course) yet in that case the Books of Common-Law, as well as the Canon, suppose a *new Election* to be made of *both*.

*b* A just Account.] If the Custom of the Parish is, for a certain number of persons to have the Government thereof, and the Account is given up to them; the Custom is a good Custom, and the Account given to them, a good Account. And if a Church-warden, in any case, is maliciously Sued in the Spiritual Court for not making up his Account, and is Excommunicated; when, in Fact, it hath been duely made; he may have a Prohibition, and also an Action upon the Case will lie.

*i* Deliver up.] The Goods of the Church having been taken away in the time of a Predecessor Church-warden, may be recovered at the Suit of the Successor; because, otherwise (the time of the Predecessor being past) the Church could have no remedy for the wrong. And if any of the Goods of the Church are detained or not delivered by the Predecessor, the Successor hath an Action against *him* also.

*k* By Bill indented.] *Lyndwood*, speaking of the Inventory of the Goods of the Church to be delivered in Writing to the Archdeacon, says, *Ut hæc scripta indentata forent, bonum esset, sic ut una pars remaneret penès Archidiaconum, alia penès Parochianos*; from whence, this Branch of the present Canon, seems to have been taken.

Cro. Car. 551.  
Lu'w. 10.0.  
1. Ventr. 266  
Raym. 439.  
† Noy, 132.  
Cro. Jac. 532.  
Cro. Car. 552.

Hardres, 379  
Mod. Rep. P. 5. p. 324

*Car. 118*

1 Keble, p. 517.

Church-wardens, and Sidemen.

Noy, 31.  
Cro. Jac. 532.

Barr, ver. Watkinson.

2. Rolle, p. 73.  
Jones (T.) 132.

1. Cro. 145.  
1. Len. 177.

De Off. Archid. c. Ut Arch.

1 Jac. 1.

## C A N O N S 1603.

xc. *The choice of Sidemen, and their joynt Office with Church-wardens.*

Sidemen shall be chosen by the Minister and Parishioners, --and shall see that Divine Service be regularly attended,

**T**H E Church-wardens or Quest-men of every Parish and two or three or more discreet persons in every Parish to be chosen for *l* Sidemen or Assistants, by the Minister and Parishioners, if they can agree, (otherwise to be appointed by the Ordinary of the Diocese) shall diligently see, that all the Parishioners duly resort to the Church upon all Sundays and Holidays, and there continue the whole time of Divine Service: And none to walk or to

*l* Sidemen.] The Oath of a Sideman (said to be agreed on by the Civilians and Common-Lawyers, *ut infra*, in *Not. ad Can. prox.*) is this:

**Y**O U shall Swear, that you will be Assistant to the Church-wardens, in the execution of their Office, so far as by Law you are bound. So help you God.

stand



Church-wardens, and Side-men.

stand idle or talking in the Church, or in the Church-yard, or the Church-porch, during that time. And all such as shall be found slack or negligent in resorting to the Church, (having no great or urgent cause of absence) they shall earnestly call upon them: and after due monition (if they amend not) they shall present them to the Ordinary of the place. The choice of which Persons, viz. Church-wardens or Quest-men, Side-men or Assistants, shall be yearly made in *Easter-week*.

Abridgment.

--- and shall present the negligent to the Ordinary.

1 Jac. 1.

CANONS 1603.

cxviii. *The old Church-wardens to make their Presentments, before the new be Sworn.*

**T**HE Office of all Church-wardens and Side men, shall be reputed ever hereafter to continue until the new Church-wardens that shall succeed them, *m* be sworn, which shall be the first week after *Easter*, or some week following, according to the direction of the Ordinary.

Old Church-wardens, and Side-men, shall continue, till new are Sworn.

*m* Be sworn.] Divers doubts having been raised concerning the Oath of a Church-warden, especially in the point of Presentments and the Oath *ex Officio*, as forbidden by 13 *Car. 2. c. 12.* the following Form is said to have been agreed on, and allowed to be used in all Dioceses, upon mutual Consultation between the Civilians and Common-Lawyers.

this, the Ecclesiastical Court are not to judge of the Qualifications of the Person, any more than of an Executor or Administrator; but the Parishioners who chuse him, are the most proper Judges of his Fitness for the Office. And it must be owned, with regard to the *Goods* of the Church, that Parishioners, who are to repair what is lost or spoiled, ought to be Judges, in what hands they shall be lodged, because they may well be presumed to chuse such hands as are safe; but, with regard to the Duty of preserving Order, and presenting Vice, the presumption does not hold so strong, that the Parishioners will always chuse such as shall be *zealous* in that work; which yet is a very considerable branch of the Office of Church-warden.

**Y**OU shall Swear truly and faithfully to execute the Office of a Church-warden within your Parish, and according to the best of your Skill and Knowledge present such things and Persons as to your Knowledge are presentable by the Laws Ecclesiastical of this Realm. So help you God, and the Contents of this Book.

For refusal to obey a *Mandate* from the Temporal Court, an Action upon the Case hath been brought against the Ecclesiastical Judge; but what is *said* elsewhere, that in such Circumstances, a Church-warden Elect may exercise the Office *without Oath*, seems, with Submission, to be not an *overruling*, but a *setting aside* the Ecclesiastical Jurisdiction.

Any person Elected to be Church-warden, and refusing to take the Oath according to Law, may be Excommunicated for such Refusal, and no Prohibition will lie. But if the party Elected offer himself, and the Ecclesiastical Judge refuse to tender the Oath to him, a *Mandamus* from the Temporal Court will be granted, and will not be revoked upon a Return that he is not *habilis persona*; because they say, that, in

Law: 196. (1214)

Lutw. ib' d. 3 Reble, p. 419.

Mod. Rep. p. 2. p. 180.

Palm. 50. Lutw. 1010. 5 Mod. Rep. 325.

*Note, The Canons which contain the Duty of Church-Wardens, as to PRESENTMENTS, are under the Title of Visitations and Presentments.*



Abridgment.

Exemptions from Parish Offices.

## C A P. XVI.

## Exemptions from PARISH-OFFICES.

2. Rolle,  
368.

[Note, Before the Instances of Exemption that follow, viz. (21 Jac. 1.) Stampe, Clerk of the King's Bench, was chosen Churchwarden of Kingston, and had a Writ of Privilege to the Spiritual Court, requiring them, not to compel him to take the Oath; which Writ being disobeyed, he had a Prohibition.]

## 1 Will. &amp; Mar. Cap. 18.

A.D. 1688.

In an Act, Entituled, *An Act exempting their Majesties Protestant Subjects, dissenting from the Church of England, from the Penalties of certain Laws.*

Dissenters being chosen into Parish-Offices,

VII. **A**ND be it further enacted by the authority aforesaid, That if any person Dissenting from the Church of England as aforesaid, shall hereafter be chosen, or otherwise appointed to bear the office of High Constable or Petty Constable, Churchwarden, Overseer of the Poor, or any other Parochial or Ward office, and such person shall scruple to take upon him any of the said offices, in regard of the Oaths, or any other matter or thing required by the Law to be taken or done, in respect of such office; Every such person shall and may execute such office or Employment by a sufficient Deputy by him to be provided, that shall comply with the laws on this behalf.

---may serve them by Deputies;

---and Dissenting Teachers shall be exempt from such Offices.

XI. And be it further enacted by the authority aforesaid, That every teacher or preacher in holy orders, or pretended holy orders, that is a minister, preacher, or Teacher of a Congregation, that shall take the Oaths herein required, and make, and subscribe the Declaration aforesaid, and also subscribe such of the aforesaid Articles of the Church of England as are required by this Act in manner aforesaid, shall be thenceforth Exempted from serving upon any Jury, or from being chosen or appointed to bear the Office of Churchwarden, Overseer of the Poor, or other office in any Hundred of any Shire, City, Town, Parish, Division, or Wapentake.

## 6 Will. &amp; Mar. Cap. 4.

A.D. 1694.

*An Act for Exempting Apothecaries from serving the Offices of Constable, Scavenger, and other Parish and Ward-Offices, and from serving upon Juries.*

Apothecaries are interrupted in their Business by Parish-Offices, &amp;c.

---They were incorporated by K. James the I.

**W**HEREAS the Art of the Apothecary is of great and general use and benefit, by reason of their constant and necessary assistance to his Majesties Subjects, which should oblige them solely to attend the duty of their Professions; yet by reason that they are compelled to serve several Parish, Ward and Leet Offices in the places where they live, and are frequently summoned to serve on Juries and Enquests, which take up great part of their time, they cannot perform the trusts reposed in them as they ought, nor attend the Sick with such diligence as is required. And whereas King James the first, by his Letters Patents under the great Seal of England, did incorporate the Apothecaries exercising that Art within London and Seven miles compass, by the name of the Master, Wardens and Society of the Art and Mystery of Apothecaries of the City of London;

II. Be



Exemptions from Parish-Offices.

II. Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the authority of the same, that all and every person and persons, using and exercising, or that hereafter shall use and exercise the Art of an Apothecary within the said City of London, and Seven miles thereof, being free of the said Society, and who already hath been, or hereafter shall be duly examined of his Skill in the said Mystery, and shall be approved of for the same, and every of them, for so long as he or they shall use and exercise the said Art, and no longer, shall and may at all times hereafter, be freed and exempted from the several Offices of Constable, Scavenger, Overseer of the Poor, and all other Parish, Ward and Lect-Offices, and of and from the being put into, or serving upon any Juries or Enquests: and if at any time hereafter any such person or persons using the said Art, and being qualified, as aforesaid, shall be chosen or elected into any of the said Offices, or returned, required or appointed to serve in any Jury, Leet or Enquest, or be disquieted or disturbed by reason thereof, that then such person or persons, producing a Testimonial under the Common Seal of the said Corporation, of such his examination, approbation and freedom, to the person or persons, by whom he shall be so elected or appointed, or by or before whom he shall be summoned, returned or required to serve or hold any of the said Offices or Duties, shall be absolutely discharged from the same, and such nomination, election, return and appointment shall be utterly void, and of none effect; any Order, Custom, Law or Statute to the contrary in any wise notwithstanding.

III. And be it further enacted by the authority aforesaid, That all persons using and exercising, or that hereafter shall use and exercise the said Art of an Apothecary within any other parts of this Kingdom, Dominion of Wales or Town of Berwick upon Tweed, and who have been brought up and served, or hereafter shall be brought up and serve in the said Art as an Apprentice, by the space of Seven years, according to the Statute of the Fifth of Queen Elizabeth, shall likewise from henceforth be freed and exempted from all and singular the Offices and Duties aforesaid, within the several Counties, Cities and Places where they Live and Inhabit, for so long as he or they shall use and exercise the said Art, and no longer; and if any person or persons so qualified shall be elected or chosen into any of the said Offices, or returned to serve in any Jury, Leet or Enquest, such nomination, election, return and appointment shall be void, unless such person or persons shall voluntarily consent and agree to hold such Office, or serve upon such Jury, Leet or Enquest. Provided always, that nothing herein contained shall be construed to Exempt or Excuse any Apothecary that is or shall, before the Commencement of this Act, be elected or appointed to serve any of the said Offices, from serving in the said Offices for the usual time for which he was so elected and appointed. Provided always, that this Act shall continue for the space of Seven years, and from thence to the end of the next Session of Parliament, and no longer.

Abridgment.

Every Apothecary in London, and within 7 Miles, shall be exempted from Parish offices,

--and being chosen unto any, shall produce a Testimonial of his Freedom,

--and be discharged.

Every Apothecary, in any other part of the Kingdom, shall likewise be exempted,

--unless he voluntarily consent to serve.

This Act shall continue 7 years, &c.

A.D. 1701.

I Annæ, Cap. II.

An Act for Reviving the Act, Entituled, An Act for exempting Apothecaries from Serving the Offices of Constable, Scavenger, and other Parish and Ward Offices, and from serving upon Juries.

Whereas an Act made in the Sixth and Seventh Years of the Reign of His late Majesty King William the third, Intituled, An Act for Exempting Apothecaries from Serving the Offices of Constable, Scavenger, and other Parish and Ward Offices, and from Serving upon Juries, has been by Experience found very Useful and Necessary: And whereas the said Act was to Continue but for Seven Years and to the end of the next Session of Parliament, and is now near Expiring, Be it therefore Enacted by the Queens most Excellent Majesty, by and with the Advice and consent of the Lords Spiritual and Temporal, and Commons in this present Parliament Assembled, and by the Authority of the same, That the said Recited Act, with all the Clauses and Powers therein contained, shall Continue and be in Force for the Space of Eleven Years, from and after the Expiration thereof, and from thence to the end of the next Sessions of Parliament.

The foregoing Act Continued for eleven years.



Abridgment.

12 Annæ, Cap.-----

In an Act, Entituled, *An Act for the Reviving and Continuing several Acts therein mentioned, &c.*

Exemptions from Parish Offices.

A.D. 1712.

The foregoing Act continued for eleven years,

§ III. And be it further Enacted by the Authority aforesaid, That an Act made in the Sixth and Seventh Years of the Reign of his late Majesty King William the Third, Intituled, An Act for Exempting Apothecaries from Serving the Offices of Constable, Scavenger, and other Parish and Ward-Offices, and from Serving upon Juries, which Act was to Continue for the space of Seven Years, and from thence to the End of the next Session of Parliament; Which Act was by an Act made in the First Year of her present Majesties Reign, Intituled, An Act for Reviving the Act, Intituled, *An Act for Exempting Apothecaries from Serving the Offices of Constable, Scavenger, and other Parish and Ward-Offices, and from Serving upon Juries*, Continued for the space of Seven Years, and from thence to the end of the next Session of Parliament; Which Act will Expire at the End of the next Session of Parliament, after the Eleventh Day of February One thousand seven hundred and twelve; shall be and remain in full Force, from and after the Expiration thereof, for the space of Eleven Years, and from thence to the End of the next Session of Parliament.

C A P. XVII.

SELECT-VESTRIES.

15 Car. II. Cap. 5.

A.D. 1663.

*An Act for the Regulating Select Vestries.*

FOR prevention of the Evils which may arise from Vestry-men not conforming to the Government and Discipline of the Church of England, as it is now by Law established,

Select Vestries.

E X P.

Every Vestry-man of Select Vestry, within one month after Election,

--shall Sign the Declaration, 13. 14 Car. 2, c. 4. before the Bishop, &c.

II. Be it enacted by the King's most excellent Majesty, by the Advice, and with the Consent of the Lords Spiritual and Temporal, and of the Commons in this present Parliament assembled, That all and every person who now is a Vestry-man, or member of any Vestry, within any Parish in the Cities of London and Westminster, Borough of Southwark, and weekly Bills of Mortality, and in all other Cities, Boroughs and Towns Corporate where Select Vestries are used, in the Kingdom of England, on or before the Nine and twentieth day of September next; and all and every person, who at any time hereafter shall be elected to be a Vestry-man, or member of any Vestry, within any Parish in any the places aforesaid, within one month after such his Election; shall before the respective Archbishop, Bishop or Ordinary, Vicar-General or Chancellor of the Diocess, make and subscribe the Declaration and Acknowledgment enjoyned in the late wholsom good Act, (entituled *An Act for the Uniformity of Publick Prayers, and Administration of Sacraments, and other Rites and Ceremonies, and for establishing the Form of Making, Ordaining, and Consecrating Bishops, Priests and Deacons in the Church of England*) in these words following,

“ Select Vestries. ] These seem to have grown from the Practice of chusing a certain number of Persons yearly, to manage the concerns of the Parish for that Year; which, by degrees, came to be the first method, and the Parishioners lost not only their Right to concur in the publick Management, as oft as they would attend,

but also (in most places, if not in all) the Right of electing the Managers. And such a Custom of the Government of Parishes by a select number, hath been adjudged a good Custom; in that the Church-wardens accounting to them, was adjudged a good Account, as hath been observed before, in the Chapter of *Church-wardens*.

Vid. Super.



Select Vestries.

\* This part is abrogated by 1 Will. & Mar. c. 8. § 11.

† This part expired 1682. See 13, 14 Car. 2. c. 4.

III.\* I A. B. do declare, That it is not lawful, upon any pretence whatsoever, to take Arms against the King; and that I do abhor that Traiterous Position of taking Arms by his Authority against his Person, or against those that are Commissioned by him; And that I will conform to the Liturgy of the Church of England, as it is now by Law established; † And I do declare, That I do hold there lies no Obligation upon me, or any other Person, from the Oath, commonly called, The Solemn League and Covenant, to endeavour any change or alteration of Government either in Church or State; And that the same was in it self an unlawful Oath, and Imposed upon the Subjects of this Realm against the known Laws and Liberties of this Kingdom:

IV. And that all and every such person who shall neglect or refuse to do the same within the respective times aforesaid, shall (ipso facto) be deprived of such his place of Vestry-man, and of being a member of such Vestry, to all intents and purposes, and such place shall be actually void; as if such person were naturally dead; any Usage or Custom to the contrary notwithstanding: And that from and after such neglect or refusal, it shall be lawful for all persons who shall have right of election or nomination of such Vestry-men, or Members of such Vestry, to proceed to election or nomination of some other discreet person of the respective Parish, in the room of such person so neglecting or refusing as aforesaid: and if such person so to be elected in the room of such person so neglecting or refusing as aforesaid, shall also neglect or refuse to make and subscribe the said Declaration and Acknowledgement, in manner and time aforesaid, whereby such place shall again become void; or if such persons who shall have right of election or nomination as aforesaid, shall not proceed to election within one month after such vacancy; then it shall be lawful to and for the respective Archbishop, Bishop, or Ordinary of the Diocess, under his Hand and Seal to elect and nominate a discreet person of the respective Parish in such vacant room; which person so to be elected and nominated, after his making and subscription in manner and time aforesaid, shall be, and shall to all intents and purposes be reputed, deemed and taken to be a Vestry-man, or member of such Vestry, in like manner as if he had been chosen by the respective Electors; any Law, Custom or Usage to the contrary notwithstanding.

V. And be it enacted by the authority aforesaid, that the respective Archbishop, Bishop or Ordinary, Vicar-General or the Chancellor of the Diocess, shall upon request to him made by any Vestry-man so making and subscribing the said Declaration and Acknowledgment aforesaid, deliver a Certificate of his so doing, for which no Fee shall be paid.

VI. Provided always, That nothing in this Act shall be construed to give any new power to any Select Vestry-man, or to confirm any usurped power heretofore exercised by any Select Vestry-man, which before the making of this Act is not warranted by the Law of the Land.

VII. Provided also, That this Act shall continue in force to the end of the first Session of the next Parliament, and no longer.

Abridgment.

---upon pain of being ipso facto deprived,

--and a new Election made.

Persons who have the Right of Election, neglecting to Elect; the Archbishop or Bishop shall nominate.

A Certificate of Subscription shall be given without Fee.

This Act shall not give new Powers to Vestry-men,

---and shall only continue to the end of next Session.

E X P.



Abridgment.

Parochial  
Libraries.

## C A P. XVIII.

## PAROCHIAL-LIBRARIES.

7 Annæ, Cap. 14.

A.D. 1709.

*An Act for the better Preservation of Parochial Libraries in that part of Great Britain called England.*

Libraries, erected in several places, to supply the poor Clergy with Books,

---shall be preserved for the Use, and by the Rules, directed by the Founders;

---for which every Incumbent shall give good Security,

---and may bring an Action in the Name of the Ordinary,

--- who shall have Power to Visit such Libraries,

---by Commission, or in Person.

Catalogues of the Books shall be taken, and Signed by the Incumbents,

---and delivered to the Ordinary.

**W**hereas in many Places in the South Parts of Great Britain called England and Wales, the Provision for the Clergy is so Mean, that the necessary Expence of Books for the better Prosecution of their Studies cannot be defrayed by them; And whereas of late years, several Charitable and well disposed Persons have by Charitable Contributions erected Libraries within several Parishes and Districts in England and Wales; But some Provision is wanting to preserve the same, and such others as shall be provided in the same Manner, from Embezzlement: Be it therefore Enacted by the Queens most excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the Authority of the same, That in every parish or place where such a Library is or shall be erected, the same shall be preserved for such use and uses, as the same is and shall be given, and the orders and rules of the founder or founders of such Libraries shall be observed and kept.

II. And for the encouragement of such Founders and Benefactors, and to the intent they may be satisfied, that their Pious and Charitable intent may not be frustrated, Be it also enacted by the Authority aforesaid, That every Incumbent, Rector, Vicar, Minister, or Curate of a parish, before he shall be permitted to use and enjoy such Library, shall enter into such security by Bond, or otherwise, for preservation of such Library, and due observance of the rules and orders belonging to the same, as the proper Ordinaries within their respective jurisdictions in their discretion shall think fit; and in case any Book or Books belonging to the said Library shall be taken away and detained, it shall and may be lawful for the said Incumbent, Rector, Vicar, Minister, or Curate for the time being, or any other person or persons, to bring an action of trover and conversion, in the name of the proper Ordinaries within their respective jurisdictions, whereupon treble damages shall be given with full costs of suit, as if the same were his or their proper Book or Books, which damages shall be applied to the use and benefit of the said Library.

III. And it is further enacted by the authority aforesaid, That it shall and may be lawful to and for the proper Ordinary, or his commissary or official in his respective jurisdiction, or the Arch-Deacon, or by his direction his official or surrogate, if the said Arch-Deacon be not the Incumbent of the place where such Library is, in his or their respective visitation, to enquire into the State and Condition of the said Libraries, and to amend and redress the grievances and defects of and concerning the same as to him or them shall seem meet; and it shall and may be lawful to and for the proper Ordinary from time to time, as often as shall be thought fit, to appoint such person or persons as he shall think fit, to view the state and condition of such Libraries; and the said Ordinaries, Arch-Deacons or Officials respectively, shall have free access to the same at such times as they shall respectively appoint.

IV. And be it also further enacted by the authority aforesaid, that where any Library is appropriated to the use of the Minister of any parish or place, every Rector, Vicar, Minister or Curate of the same within six months after his institution, induction or admission, shall make or cause to be made a new catalogue of all Books remaining in, or belonging to such Library, and shall sign the said catalogue, thereby acknowledging the custody and possession of the said Books; which said catalogue so signed, shall be delivered to the proper Ordinary within the time aforesaid, to be kept or registred in his Court, without any fee or reward for the same.

And



Parochial  
Libraries.

V. And be it further enacted by the authority aforesaid, That where there are any parochial Libraries already erected, the Incumbent, Rector, Vicar, Minister, or Curate of such parish or place, shall make or cause to be made a catalogue of all Books in the same, thereby acknowledging the custody and possession thereof, which catalogue so signed, shall be delivered to the proper Ordinary, on or before the nine and twentieth day of September, which shall be in the year of our Lord One thousand seven hundred and nine; and where any Library shall at any time hereafter be given and appropriated to the use of any parish or place, where there shall be an Incumbent, Rector, Vicar, Minister, or Curate in possession, such Incumbent, Rector, Vicar, Minister, or Curate, shall make or cause to be made a catalogue of all the Books, and deliver the same, as aforesaid, within six months after he shall receive such Library.

VI. And to prevent any embezzlement of Books upon the death or removal of any Incumbent, Be it also enacted by the authority aforesaid, That immediately after the death or removal of any Incumbent, Rector, Vicar, Minister, or Curate, the Library belonging to such parish or place shall be forthwith shut up, and locked, or otherwise secured by the Churchwarden or Churchwardens for the time being, or by such person or persons as shall be authorized or appointed by the proper Ordinary, or Arch-Deacon respectively, so that the same shall not be opened again, till a new Incumbent, Rector, Vicar, Minister, or Curate shall be inducted or admitted into the Church of such parish or place.

VII. Provided always, That in case the place where such Library is or shall be kept shall be used for any publick occasion for meeting of the Vestry, or otherwise, for the dispatch of any business of the said parish, or for any other publick occasion, for which the said place hath been ordinarily used, the place shall nevertheless be made use of as formerly for such purposes, and after such business dispatched, shall be again forthwith shut and locked up, or otherwise secured, as is before directed.

VIII. And be it also further enacted by the authority aforesaid, That for the better preservation of the Books belonging to such Libraries, and that the Benefactions given towards the same may appear, a Book shall be kept within the said Library for the Entering and Registering of all such Benefactions, and such Books as shall be given towards the same, and therein the Minister, Rector, Vicar, or Curate of the said parish or place, shall enter or cause to be fairly entered such Benefaction, and an account of all such Books as shall from time to time be given, and by whom given.

IX. And for the better governing the said Libraries, and preserving of the same, It is hereby further enacted by the authority aforesaid, That it shall and may be lawful to and for the proper Ordinary, together with the Donor of such Benefaction (if living) and after the Death of such Donor, for the proper Ordinary alone, to make such other rules and orders concerning the same, over and above, and besides, but not contrary to such as the Donor of such Benefaction shall in his discretion judge fit and necessary; Which said orders and rules so to be made, shall, from time to time, be entered in the said Book, or some other Book to be prepared for that purpose, and kept in the said Library.

X. And it is further enacted and declared by the authority aforesaid, That none of the said Books shall in any case be Alienable, nor any Book or Books that shall hereafter be given by any Benefactor or Benefactors shall be Alienated without the Consent of the proper Ordinary, and then only when there is a Duplicate of such Book or Books; And that in case any Book or Books be taken or otherwise lost out of the said Library, it shall and may be lawful to and for any Justice of Peace within the County, Riding or Division, to grant his Warrant to search for the same, and in case the same be found, such Book or Books so found shall immediately, by order of such Justice, be restored to the said Library; Any Law, Statute or Usage to the contrary in any wise notwithstanding.

XI. Provided always, That nothing in this Act contained shall extend to a Publick Library lately erected in the Parish of Ryegate in the County of Surry, for the use of the Freeholders, Vicar, and Inhabitants of the said parish, and of the Gentlemen and Clergymen inhabiting in parts thereunto adjacent; the said Library being constituted in another manner than the Libraries provided for by this Act.

Abridgment.

---as well in Libraries, which now are,

--- as in those that shall be.

Upon the death or removal of Incumbent, the Library shall be shut up,

---till there shall be a new Incumbent;

---unless the Place be used for Parish-Business,

--- for which it may be opened.

--- Benefactions of Books shall be entered by the Minister,

---and additional Rules and Orders may be made by the Ordinary.

No Books, but duplicates, may be alienated;

--- and if any are lost, a Warrant shall be granted to search;

---and being found, shall be restored.

This Act shall not extend to the Library at Ryegate in Surry.



## Abridgment.

## C A P. XIX.

## Parochial PROVISIONS for the POOR.

43 Eliz. Cap. 2.

## An Act for the Relief of the Poor.

A.D. 1601.

Parochial  
Provision  
for Poor,  
since the  
first Rates.

The Church wardens with 4, 3, or 2 others, nominated by the Justices, shall be Overseers,

---for setting poor Children and People to work,

---and to raise, by Taxation, a convenient Stock of Flax, &amp;c.

---and Money for the Lame, &amp;c.

---and for putting out Children Apprentices.

Churchwardens and Overseers shall meet every month,

---and at the end of the year, shall account to the Justices,

---and deliver the remaining money to their Successors,

---upon pain to forfeit 20s.

**B**E it enacted by the authority of this present Parliament, That the Church-wardens of every parish, and four, three, or two substantial householders there, as shall be thought meet, having respect to the proportion and greatness of the same parish and parishes, to be nominated yearly in Easter week or within one month after Easter, under the hand and seal of two or more Justices of the Peace in the same county, whereof one to be of the Quorum, dwelling in or near the same parish or division where the same parish doth lie, shall be called Overseers of the poor of the same parish: And they or the greater part of them, shall take order from time to time, by, and with the consent of two or more Justices of the Peace, as is aforesaid, for setting to work the children of all such whose parents shall not, by the said Church-wardens and Overseers, or the greater part of them, be thought able to keep and maintain their children. And also for setting to work all such persons, married or unmarried, having no means to maintain them, and use no ordinary and daily trade of life to get their living by: And also to raise weekly or otherwise (by taxation of every inhabitant, parson, vicar, and other, of every occupier of lands, houses, tythes impropriate, appropriations of tythes, coal-mines, or sale under-woods in the same parish, in such competent sum and sums of money as they shall think fit) a convenient stock of flax, hemp, wooll, thread, iron, and other ware and stuff to set the poor on work: And also competent sums of money for and towards the necessary relief of the lame, impotent, old, blind, and such other among them, being poor and not able to work: And also for the putting out of such children to be Apprentices, to be gathered out of the same parish, according to the ability of the same parish, and to do and execute all other things, as well for the disposing of the said stock, as otherwise concerning the premises, as to them shall seem convenient.

II. Which said Church-wardens and Overseers so to be nominated, or such of them as shall not be lett by sickness, or other just excuse to be allowed by two such Justices of peace, or more, as is aforesaid, shall meet together at the least once every month, in the Church of the said parish, upon the Sunday in the afternoon, after Divine Service, there to consider of some good course to be taken, and of some meet order to be set down in the premises, and shall within four days after the end of their year, and after other Overseers nominated, as aforesaid, make and yield up to such two Justices of peace, as is aforesaid, a true and perfect account of all sums of money by them received, or rated and assessed, and not received, and also of such stock as shall be in their hands, or in the hands of any of the poor to work, and of all other things concerning the said office; and such sum and sums of money as shall be in their hands, and shall pay and deliver over to the said Church-wardens and Overseers newly nominated and appointed, as aforesaid, upon pain that every one of them absenting themselves without lawful cause, as aforesaid, from such monthly meeting for the purpose aforesaid, or being negligent of their office, or in the execution of the orders aforesaid, being made by and with the assent of the said Justices of the peace, or any two of them before mentioned, to forfeit for every such default of absence or negligence, twenty shillings.

[Note, Although Rates and Settlements of Statutes relating to those two Heads; that the Poor are wholly under the Cognisance while the Determination of such difficult and Jurisdiction of the Temporal Courts, and Points and Cases as may arise upon them, cannot therefore properly be part of a Body is left to their proper Courts; Parochial of Ecclesiastical Laws; yet, the Concern Ministers may not be unacquainted with being Parochial, and such is not foreign to that part which may be sometimes of use the business of an Incumbent, I may be allowed to insert in this place the principal to them, namely, the plain Tenor, and Letter, of the Law.]

III. And



Parochial  
Provision  
for Poor,  
since the  
first Rates.

III. And he it also enacted, That if the said Justices of the peace do perceive, that the inhabitants of any parish are not able to levy among themselves sufficient sums of money for the purposes aforesaid; that then the said two Justices shall and may tax, rate and assess, as aforesaid, any other of other parishes, or out of any parish within the hundred where the said parish is, to pay such sum and sums of money to the Church-wardens and Overseers of the said poor parish, for the said purposes, as the said Justices shall think fit, according to the intent of this law: And if the said hundred shall not be thought to the Justices able and fit to relieve the said several parishes not able to provide for themselves, as aforesaid, then the Justices of the peace, at their general quarter Sessions, or the greater number of them, shall rate and assess, as aforesaid, any other of other parishes, or out of any parish within the said county for the purposes aforesaid, as in their discretion shall seem fit.

IV. And that it shall be lawful, as well for the present as subsequent Church-wardens and Overseers, or any of them, by warrant from any such two Justices of peace, as is aforesaid, to levy as well the said sums of money, and all arrearages, of every one that shall refuse to contribute according as they shall be assessed, by distress and sale of the offenders goods, as the sums of money or stock which shall be behind upon any account to be made, as aforesaid, rendering to the parties the over-plus; and in defect of such distress, it shall be lawful for any two Justices of the peace to commit him or them to the common Gaol of the County, there to remain without either bail or mainprize, until payment of the said sum, arrearages and stock: And the said Justices of the peace, or any one of them, to send to the House of Correction, common Gaol, such as shall not employ themselves to work, being appointed thereunto, as aforesaid: And also any such two Justices of the peace to commit to the said prison every one of the said Church-wardens and Overseers which shall refuse to accompt, there to remain without bail or mainprize, until he have made a true accompt, and satisfied and paid so much, as upon the said accompt shall be remaining in his hands.

V. And he it further enacted, That it shall be lawful for the said Church-wardens and Overseers, or the greater part of them, by the assent of any two Justices of the peace aforesaid, to bind any such children, as aforesaid, to be Apprentices, where they shall see convenient, till such man-child shall come to the age of four and twenty years, and such woman-child to the age of one and twenty years, or the time of her Marriage; the same to be as effectual to all purposes, as if such child were of full age, and by Indenture of covenant bound him or her self. And to the intent that necessary places of habitation may more conveniently be provided for such poor impotent people, Be it enacted by the authority aforesaid, That it shall and may be lawful for the said Church-wardens and Overseers, or the greater part of them, by the leave of the Lord or Lords of the Manor, whereof any waste or Common within their parish is or shall be parcel, and upon agreement before with him or them made in writing, under the hands and seals of the said lord or lords, or otherwise, according to any order to be set down by the Justices of peace of the said county at their general quarter sessions, or the greater part of them, by like leave and agreement of the said lord or lords, in writing under their hands and seals, To erect, build, and set up in fit and convenient places of habitation in such waste or common, at the general charges of the parish, or otherwise of the hundred or county, as aforesaid, to be taxed, rated, and gathered in manner before expressed, convenient houses of dwelling for the said impotent poor, and also to place inmates, or more families than one in one cottage or house; One Act made in the xxxi. year of her Majesties Reign, entituled, An Act against the erecting and maintaining of Cottages, or any thing therein contained to the contrary notwithstanding: Which cottages and places for inmates shall not at any time after be used or employed to or for any other habitation, but only for impotent and poor of the same parish, that shall be there placed from time to time by the Church-wardens and Overseers of the poor of the same parish, or the most part of them, upon the pain and forfeiture contained in the said former Act made in the said xxxi. year of her Majesties Reign.

VI. Provided always, That if any person or persons shall find themselves grieved with any less or tax, or other Act done by the said Church-wardens, or other persons, or by the said Justices of the peace, that then it shall be lawful for the Justices of the peace, at their general quarter sessions, or the greater number of them, to take such order therein, as to them

Abridgment.

Any Parish being unable, may be relieved, by Justices, from other Parishes.

Churchwardens, &c. may levy the Poors-rate by distress,

---and, in defect thereof two Justices may commit the Party to Gaol,

---and such as will not work, to the House of Correction,

---and Church-wardens refusing to account, to Gaol.

Churchwardens, &c. may bind Children Apprentices,

---and with Consent of the Lords, may build Houses for the Poor on Wastes,

---and place more Families than one, in the same House,

--- which House shall be used only for the Poor,

Justices at Sessions, may relieve any Person over-rated.



## Abridgment.

Parents &c. shall  
relieve Children  
&c.

---upon pain to for-  
feit 20s a month.

Mayors, &c.  
shall have the same  
authority as Ju-  
stices,

---and Aldermen  
of London, in their  
Wards.

Parish lying in  
2 Counties, or  
Liberties, the Ju-  
stices shall only  
meddle in their  
proper District

---but the Church  
wardens, shall act  
jointly.

Justice, or Major  
not nominating,  
Overseers, shall  
forfeit 5l.

All Forfeitures  
by this Act, shall  
be for the use of  
the Poor,

---and levied by  
distress,

---or imprisonment.

them shall be thought convenient, and the same to conclude and bind all the said parties.

VII. And be it further enacted, That the Father and Grandfather, and the Mother and Grandmother, and the children of every poor, old, blind, lame and impotent person, or other poor person not able to work, being of sufficient ability, shall at their own charges relieve and maintain every such poor person in that manner, and according to that rate, as by the Justices of peace of that county where such sufficient persons dwell, or the greater number of them, at their general quarter sessions shall be assessed, upon pain that every one of them shall forfeit twenty shillings for every month which they shall fail therein.

VIII. And be it further hereby enacted, That the Mayors, Bailiffs, or other head-officers of every town or place corporate, and city within this Realm, being Justice or Justices of peace, shall have the same authority by virtue of this Act, within the limits and precincts of their jurisdictions, as well out of sessions, as at their sessions, if they hold any, as is herein limited, prescribed and appointed to Justices of the peace of the county, or any two or more of them, or to the Justices of peace in their general quarter sessions, to do and execute for all the uses and purposes in this Act prescribed, and no other Justice or Justices of the peace or enter or meddle there. And that every Alderman of the city of London within his ward, shall and may do and execute in every respect, so much as is appointed and allowed by this Act to be done and executed by one or two Justices of the peace of any county within this Realm.

IX. And be it also enacted, That if it shall happen any parish to extend itself into more counties than one, or part to lie within the liberties of any city, town or place corporate, and part without, that then as well the Justices of peace of every county, as also the head officers of such city, town or place corporate, shall deal and intermeddle only in so much of the said parish as lieth within their liberties, and not any further: And every of them respectively within their several limits, wards and jurisdictions to execute the ordinances before mentioned, concerning the nomination of overseers, the consent to binding Apprentices, the giving Warrant to levy taxations unpaid, the taking account of the Churchwardens and Overseers, and the committing to prison such as refuse to account, or deny to pay the arrearages due upon their accounts; and yet nevertheless, the said Churchwardens and Overseers, or the most part of them, of the said Parishes that do extend into such several Limits and Jurisdictions, shall without dividing themselves, duly execute their Office in all places within the said Parish, in all things to them belonging, and shall duly exhibit and make one account before the said Head Officer of the town or place corporate, and one other, before the said Justices of the Peace, or any such two of them, as is aforesaid.

X. And further be it enacted by the authority aforesaid, That if in any place within this Realm, there happen to be hereafter no such nomination of Overseers yearly, as is before appointed, that then every Justice of the Peace of the County, dwelling within the division where such default of nomination shall happen, and every Mayor, Alderman, and Head-officer of City, Town, or place corporate where such default shall happen, shall lose and forfeit for every such default v. l. to be employed towards the relief of the poor of the said parish or place corporate, and to be levied as aforesaid, of their goods, by warrant from their general Sessions of the Peace of the said County, or of the same city, town, or place corporate, if they keep Sessions.

XI. And be it also enacted by the authority aforesaid, That all penalties and forfeitures before mentioned in this Act, to be forfeited by any person or persons, shall go and be employed to the use of the poor of the same parish, and towards a stock and habitation for them, and other necessary uses and relief, as before in this Act are mentioned and expressed, and shall be levied by the said Churchwardens and Overseers, or one of them, by warrant from any two such Justices of Peace, or Mayor, Alderman, or Head-officer of city, town, or place corporate respectively within their several limits, by distress and sale thereof, as aforesaid; or in defect thereof, it shall be lawful for any two such Justices of Peace, and the said Aldermen and Head-officers within their several limits, to commit the offender to the said prison there to remain without bail or mainprize, till the said forfeitures shall be satisfied and paid.

XII. And be it further enacted by the authority aforesaid, That the Justices of Peace of every County or place corporate, or the most part of them, in their general Sessions to be holden next after the feast of Easter next, and so yearly

Parochial  
Provision  
for Poor,  
since the  
first Rates.



Parochial Provisions for the Poor, since first Rates.

yearly as often as they shall think meet, shall rate every parish to such a weekly sum of money as they shall think convenient, so as no parish be rated above the sum of six pence, nor under the sum of one halfpenny, weekly to be paid, and so as the total sum of each taxation of the Parishes in every County, amount not above the rate of two pence for every Parish within the said County: Which sums so taxed, shall be yearly assessed by the agreement of the Parishioners within themselves, or in default thereof, by the Churchwardens and petty Constables of the same Parish, or the more part of them: or in default of their agreement, by the order of such Justice or Justices of Peace as shall dwell in the same Parish, or (if none be there dwelling) in the parts next adjoining.

XIII. And if any person shall refuse or neglect to pay any such portion of money so taxed, it shall be lawful for the said Churchwardens and Constables, or any of them, or in their default, for any Justice of Peace of the said limit, to levy the same by distress, and sale of the goods of the party so refusing or neglecting, rendering to the party the overplus: And in default of such distress, it shall be lawful to any Justice of that limit, to commit such person to the said prison, there to abide without bail or mainprize, till he have paid the same.

XIV. And be it also enacted, That the said Justices of the Peace at their general quarter Sessions to be holden at the time of such taxation, shall set down what competent sums of money shall be sent quarterly out of every County or place corporate, for the relief of the poor prisoners of the Kings Bench and Marshalsey; and also of such Hospitals and Alms-houses as shall be in the said County, and what sums of money shall be sent to every one of the said Hospitals and Alms-houses, so as there be sent out of every County yearly, *xx. s.* at the least, to each of the said prisons of the Kings Bench and Marshalsey, which sums ratably to be assessed upon every Parish, the Churchwardens of every parish shall truly collect and pay over to the High Constables in whose division such Parish shall be situate, from time to time, quarterly, ten days before the end of every quarter; and every such Constable at every such quarter Sessions in such County, shall pay over the same to two such Treasurers, or to one of them, as shall by the more part of the Justices of Peace of the County be elected to be the said Treasurers to be chosen by the Justices of Peace of the said County, City or Town, or place corporate, or of others which were leased and taxed at *v. li. lands, or x. li. goods* at the least, at the tax of Subsidy next before the time of the said election to be made; And the said Treasurers so elected, to continue for the space of one whole year in their office, and then to give up their charge, with a due account of their receipts and disbursement, at the quarter Sessions to be holden next after the feast of Easter in every year, to such others as shall from year to year in form aforesaid, successively be elected Treasurers for the said County, City, Town or place corporate; which said Treasurers, or one of them, shall pay over the same to the Lord chief Justice of England, and the Knight Marshal for the time being, equally to be divided to the use aforesaid, taking their acquittance for the same, or in default of the said chief Justice, to the next ancientest Justice of the Kings Bench as aforesaid. And if any Church-warden or High Constable, or his Executors or Administrators shall fail to make payment in form above specified, then every Church-warden, his Executors or Administrators so offending, shall forfeit for every time, the sum of *x. s.* and every High Constable his Executors or Administrators, shall forfeit for every time, the sum of *xx. s.* the same forfeitures, together with the sums behind, to be levied by the said Treasurer and Treasurers, by way of distress and sale of goods, as aforesaid, in form aforesaid, and by them to be employed towards the charitable uses compiled in this Act.

XV. And be it further enacted, That all the surplusage of money which shall be remaining in the said Stock of any County, shall by discretion of the more part of the Justices of Peace in their quarter Sessions, be ordered, distributed and bestowed for the relief of the poor Hospitals of that County, and of those that shall sustain losses by fire, water, the sea, or other casualties, and to such other charitable purposes, for the relief of the poor, as to the more part of the said Justices of Peace shall seem convenient.

XVI. And be it further enacted, That if any Treasurer elected shall wilfully refuse to take upon him the said Office of Treasurership, or to refuse to distribute and give relief, or to account, according to such form

Abridgment.

The Justices shall rate every Parish to a Weekly Sum,

---to be assessed by the Parishioners, or Churchwardens, &c, --or by the Justices,

---and levy'd, by distress,

--or imprisonment

The Justices shall set down the sums to be sent to Hospitals,

---to be delivered to the High Constable,

--and by him, to the Treasurers,

-(which Treasurers shall continue one year,)

---and by the Treasurers, to the Lord Chief Justice and Knight Marshal.

Churchwardens failing, shall forfeit *10s.* and High Constable, *20s.*

Surplus-money shall be given to Hospitals and other Charitable uses.

Any Person refusing to be Treasurer,



## Abridgment.

---may be fin'd by discretion, but not more than 3*l*.

Stat. 39 *El.* shall continue to *Easter*,

---and be in force, as to all Taxes made before.

The Isle of *Fowlness*, tho' no Parish, shall have separate Overseers,

--and shall not contribute to the poor of the Parishes it is in.

Any Person sued for the Execution of this Act,

--may plead, that it was done, by authority hereof,

---and the Defendant shall recover treble Damages.

as shall be appointed by the more part of the said Justices of Peace, That then it shall be lawful for the Justices of Peace in their Quarter Sessions, or in their default, for the Justices of Assize, at the Assizes to be holden in the same County, to fine the same Treasurer by their discretion; the same fine not to be under three pounds, and to be levied by sale of his goods, and to be prosecuted by any two of the said Justices of Peace, whom they shall authorize.

Provided always, That this Act shall not take, until the Feast of Easter next.

XVII. And be it Enacted, That the Statute made in the nine and thirtieth year of her Majesties reign, entituled, An Act for the relief of the poor, shall continue and stand in force until the Feast of Easter next, And that all taxations heretofore imposed and not paid, nor that shall be paid before the said Feast of Easter next; and that all taxes hereafter before the said Feast to be taxed by vertue of the said former Act, which shall not be paid before the said Feast of Easter, shall and may after the said Feast of Easter be levied by the Overseers and other persons in this Act respectively appointed to levy taxations by distress, and by such warrant in every respect, as if they had been taxed and imposed by vertue of this Act, and were not paid.

XVIII. Provided always, That whereas the Island of Foulness in the County of Essex, being environed with the Sea, and having a Chappel of Ease for the inhabitants thereof, and yet the said Island is no parish, but the lands in the same are situated within divers parishes, far distant from the said Island: Be it therefore Enacted, by the authority aforesaid, That the said Justices of Peace shall nominate and appoint inhabitants within the said Island, to be Overseers for the poor people dwelling within the said Island. And that both they the said Justices, and the said Overseers shall have the same power and authority to all intents, considerations and purposes, for the execution of the parts and articles of this Act, and shall be subject to the same pains and forfeitures; and likewise that the inhabitants and occupiers of lands there, shall be liable and chargeable to the same payments, charges, expences and orders, in such manner and form as if the same Island were a Parish. In consideration whereof, neither the said inhabitants, or occupiers of land within the said Island, shall not be compelled to contribute towards the relief of the poor of those parishes, wherein their houses or lands which they occupy within the said Island are situated, for or by reason of their said habitations or occupings, other than for the relief of the poor people within the said Island; neither yet shall the other inhabitants of the parishes wherein such houses or lands are situated, be compelled, by reason of their resiency or dwelling, to contribute to the relief of the poor inhabitants within the said Island.

XIX. And be it further Enacted, That if any Action or Trespass, or other suit shall happen to be attempted and brought against any person or persons, for taking of any distress, making of any sale, or any other thing doing, by authority of this present Act; the defendant or defendants in any such Action or suit, shall and may either plead not guilty, or otherwise make abowry, cognizance, or justification for the taking of the said distresses, making of sale, or other thing doing, by vertue of this Act; alledging in such abowry, cognizance, or justification, That the said distress, sale, trespass, or other thing, whereof the plaintiff or plaintiffs complained, was done by authority of this Act, and according to the tenor, purport and effect of this Act, without any expressing or rehearsal of any other matter or circumstance contained in this present Act. To which abowry, cognizance, or justification, the plaintiff shall be admitted to reply, That the defendant did take the said distress, made the said sale, or did any other Act or trespass, supposed in his declaration of his own wrong, without any such clause alledged by the said defendant, whereupon the issue in every such action shall be joined, to be tried by verdict of twelve men, and not otherwise, as is accustomed in other personal actions. And upon the tryal of that issue, the whole matter to be given on both parties in evidence, according to the very truth of the same. And after such issue tryed for the defendant or nonsuit of the plaintiff, after appearance, the same defendant to recover treble damages, by reason of his wrongful vexation in that behalf, with costs also in that part sustained, and that to be assessed by the same Jury, or Wit to enquire of the damages, as the same shall require. XX. Pro-

Parochial Provisions for the Poor, since first Rates.



Parochial  
Provisions  
for the  
Poor, since  
first Rates.

A.D. 1603.

XX. Provided always, That this Act shall endure no longer than to the end of the next Session of Parliament.

1 Jac. I. Cap. 25.

In an Act, Entituled, *An Act for continuing divers Statutes, and for Repeal of some others.*

XXIII. An Act entituled, An Act for the Relief of the Poor, with this Addition, *viz.* Be it enacted, That all persons to whom the Overseers of the poor shall, according to this Act, bind any Children Apprentices, may take and receive, and keep them as Apprentices; any former Statute to the contrary notwithstanding, — shall be continued and remain in full force until the end of the first Session of the next Parliament.

A.D. 1623.

21 Jac. I. Cap. 28.

In an Act, Entituled, *Divers Statutes revived and continued.*

§ I. — An Act for the relief of the poor, with one addition therunto made by an Act made in the first year of his Majesties reign of England, entituled, An Act for continuing divers Statutes, and for repeal of some others, and with this further addition, And be it enacted, That all persons to whom the Overseers of the poor shall, according to the said Act, bind any Children Apprentices, may take and receive, and keep them as Apprentices; any former Statute to the contrary notwithstanding, — shall by virtue of this Act be adjudged ever since the Session of Parliament in the seventh year of his Majesties reign of England, to have been of such force and effect, as the same were the last day of that Session, and from thenceforth until the end of the first Session of the next Parliament.

A.D. 1627.

3 Car. I. Cap. 4.

In an Act, Entituled, *An Act for Repeal and Continuance of divers Statutes.*

§ XXII. An Act entituled, An Act for the Relief the Poor, with the addition thereunto made by an Act made in the first year of the Reign of the late King James, entituled, An Act for continuing of divers Statutes, and for Repeal of some others, and with this further addition, And be it enacted, That all persons to whom the Overseers of the poor shall, according to this said Act, bind any Children apprentices, may take and receive, and keep them as apprentices; and also that the Church-wardens and Overseers of the poor, mentioned in the said Act made in the said thirte and fortieth year, may by and with the consent of two or more Justices of the Peace, whereof one to be of the Quorum, within their respective limits, wherein shall be more Justices than one; and where no more shall be than one, with the assent of that one Justice of the Peace, set up, use, and occupy any Trade, Mystery, or Occupation, only for the setting on work, and better Relief of the poor of the Parish, Town, or Place of, or within which they shall be Church-wardens or Overseers of the poor, any former Statute to the contrary notwithstanding: — by virtue of this Act shall be and continue until † the end of the first Session of the next Parliament, in force and effect, as the same were the first day of the Session of Parliament, holden in the first year of the Reign of our Sovereign Lord the King that now is.

† Vid. Stat. 13, 14, Car. 2. Cap. 12. §. 21, 22. in pag. 258.

Abridgment.

The foresaid Act, continued, with addition, that Apprentices bound, may be kept as such.

Continuation of the said Act, 43 Eliz.

Continuation of the said Act, 43 Eliz.

--with further addition, that the Church-wardens may set up any Trade for the use of the Poor.



## Abridgment.

to be under the direction of the Justices, as the Parishes are.

Justices, at the Quarter Sessions, may transport Rogues to the Plantations.

Proviso, for the Liberties of the Dean and Chapter of Westminster.

This Act shall continue till May 29, 1665, &c.

Continuation of 13, 14, Car. II. c. 12. for seven years.

Forty days continuance shall not be a Settlement, unless Notice be given to the Church-wardens or Overseers.

XXII. And be it further enacted by the authority aforesaid, That the Justices of Peace within the said Counties, shall have and enjoy such and the like powers and authorities to raise and levy moneys, and to do and execute all and every such other Act and thing whatsoever, within every Township or Village within the said County where they are Justices, as is given, limited and appointed unto, and for them to do and execute within any Parish or Parishes, in and by the said Act made in the said thirteenth and fortieth year of the said late Queen Elizabeth, under such and the like pains and penalties for the non-performance of their Duties, to be levied and disposed of as is nominated and expressed in the said Act.

XXIII. Provided always, and be it enacted by the authority aforesaid That it shall and may be lawful for the Justices of the Peace in any of the Counties of England and Wales, in their Quarter-Sessions assembled, or the major part of them, to transport or to cause to be transported such Rogues, Vagabonds and sturdy Beggars, as shall be duly convicted, and adjudged to be incorrigible, to any of the English Plantations beyond the Seas.

XXIV. Provided also, That neither this Act, nor any thing therein contained, shall extend to be, or to be construed, expounded or taken to the prejudice or infringement of any of the franchises, Rights, Liberties or Privileges heretofore granted by the Kings and Queens of this Realm, his Majesties Royal Predecessors, to the Dean and Chapter of the Collegiate Church of St. Peter in Westminster.

XXV. Provided always, That this Act, as to all the matters therein contained (excepting what relates unto the Corporations mentioned and constituted thereby) shall extend, and be in force until the nine and twentieth day of May, One thousand six hundred sixty five, and the end of the first Session of the next Parliament then next ensuing, and no longer.

1 Jac. II. Cap. 17.

A.D. 1685.

In an Act, Entituled, *An Act for reviving and continuance of several Acts, &c.*

II. And be it enacted by the King's most excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the Authority of the same, That one Act of Parliament made in the thirteenth and fourteenth years of his said late Majesty's Reign, Entituled, An Act for the better Relief of the Poor of this Kingdom, (except what relates to the Corporation therein mentioned and constituted thereby) shall be in force from the first day of this present Session of Parliament, and so to continue for the space of seven years, and from thence to the end of the next Session of Parliament.

III. And forasmuch as such poor persons at their first coming to a Parish do commonly conceal themselves, Be it therefore hereby prohibited and enacted by the Authority aforesaid, That the forty days Continuance of such person in a Parish, intended by the said Act to make a Settlement, shall be accounted from the time of his or her delivery of Notice in Writing (which they are hereby required to do) of the house of his or her abode, and the number of his or her family, if he or she have any, to one of the Church-wardens or Overseers of the Poor of the said Parish to which they shall so remove.

3, 4 Will.

Parochial  
Settle-  
ments for  
the Poor.



Parochial  
Settle-  
ments for  
the Poor.

A.D. 1691

3, 4 Will. & Mar. Cap. 81

An Act for the better Explanation and Supplying the defects of former Laws for the Settlement of the Poor.

Whereas one Act of Parliament made in the thirteenth and fourteenth years of his late Majesty King Charles the second, Entituled, An Act for the better Relief of the Poor of this Kingdom; (except what relates to the Corporations therein mentioned and constituted thereby) was revised and continued with some alterations by one other Act made in the first year of the late King James the second, and have been found by experience to be good and wholesom Laws, but may shortly expire:

II. Be it therefore enacted by the King and Queen's most excellent Majesties, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by authority of the same, That the said Acts, as to what relates to the Settlements of the Poor, shall be in force from the first day of March, One thousand six hundred ninety one.

III. But forasmuch as the said Acts are somewhat defective and doubtful; for supplying and explaining the same, Be it further provided and enacted by the Authority aforesaid, That the forty days continuance of such person in a Parish or Town, intended by the said Acts to make a Settlement, shall be accounted from the Publication of a Notice in writing, which he or she shall deliver, of the house of his or her abode, and the number of his or her family, if he or she have any, to the Church-warden or Overseer of the Poor, which said notice in writing the said Church-warden and Overseer of the Poor, is or are hereby required to read or cause to be read publickly immediately after Divine Service, in the Church or Chappel of the said Parish or Town, on the next Lords day, when there shall be Divine Service in the same; And the said Churchwarden or Overseer of the Poor, is or are hereby required to Register, or cause to be Registered the said notice in writing in the Book kept for the Poores accounts.

IV. Provided always, and be it enacted, that no Soldier, Seaman, Shipwright, or other Artificer or workman imployed in their Majesties Service shall have any Settlement in any Parish, Port-town, or other Town, by delivery and publication of a notice in writing as aforesaid, unless the same be after the dismissal of such person out of their Majesties Service.

V. And be it further enacted, That if any Church-warden or Overseer of the Poor shall refuse or neglect to read, or cause to be read such notice in writing as aforesaid, in such manner, place and time as aforesaid, he or they for every such offence (upon proof thereof by two credible Witnesses upon Oath before any Justice of the peace of the same county, riding or division, city or town-corporate, where complaint thereof shall be made) shall forfeit the sum of forty shillings to the use of the party grieved, to be levied by distress and sale of the offender or offenders goods, by Warrant under the hand and seal of any Justice of the peace within the said jurisdiction respectively, to the Constable of the parish, or town where such offender or offenders dwell, the overplus, if any be, to be returned to the owner or owners; and for want of such sufficient distress, the said Justice shall commit him or them to the common Gaol of the said County, City or Town-Corporate, there to remain without Bail or Mainprize for the space of one month; and if any Churchwarden or Overseer of the Poor shall refuse or neglect to Register or cause to be Registered such notice in writing as aforesaid, he or they so offending upon the like conviction shall forfeit the sum of forty shillings to the use of the Poor of the Parish, or Town where such offender or offenders dwell, to be levied as aforesaid, the overplus if any be, to be returned to the owner or owners; And for want of such sufficient distress, then the said Justice shall commit such offender or offenders as aforesaid, for the time aforesaid.

VI. Provided

Abridgment.

Continuation of  
Stat. 13, 14 Car. II.  
c. 12.

--- and further enacted, That,

--- forty days Continuance, to make it a Settlement, shall be from Notice in Writing,

---to be published in the Church,

---and registred in the Poores-book.

No Soldier, &c. shall claim a Settlement.

Church-wardens, &c. nor reading such Notice,

---shall forfeit 40s. to the Party grieved,

and not registring it 40s. to the Poor.



## Abridgment.

Any Person, bearing Office, or paying Rates, shall be adjudged to have a Settlement,

---and so, Persons unmarried, being Servants for one year,

---and Apprentices.

Appeal shall lie from the Justice to the Quarter Sessions.

Church-wardens, &c. refusing to receive any Person removed by this Act,

---shall forfeit 5*l.* to the Poor of the Parish aggrieved,

---or be imprisoned 40 days.

The Church-wardens, &c. giving relief to whom they please, being inconvenient,

---all Persons, receiving Pensions, shall be entred into a Book, and called over,

VI. Provided always, and be it enacted, That if any person who shall come to inhabit in any Town or Parish, shall for himself and on his own Account, Execute any publick, annual office, or charge in the said town or parish during one whole year, or shall be charged with and pay his share towards the publick Taxes or Levies of the said town or parish, then he shall be adjudged and deemed to have a legal Settlement in the same, though no such notice in writing be delivered and published, as is hereby before mentioned

VII. And it is hereby further enacted, That if any unmarried person, not having Child or Children shall be lawfully hired into any parish or town for one year, such Service shall be adjudged and deemed a good Settlement there: though no such notice in writing be delivered and published, as is herein before required.

VIII. And it is hereby further enacted, That if any person shall be bound an Apprentice by Indenture, and inhabit in any Town or Parish, such Binding and Inhabitation shall be adjudged a good Settlement, though no such notice in writing be delivered and published as aforesaid.

IX. Provided always, and be it hereby enacted, That if any person or persons shall find him, her or themselves aggrieved by any determination which any Justice or Justices of the peace shall make in any of the cases abovesaid, the said person or persons shall have liberty to appeal to the next general quarter Sessions of the peace, to be held for the said county, riding or division, city or town-corporate, who upon full hearing of the said Appeal shall have full power finally to determine the same.

X And be it further enacted, That if any person be removed by virtue of this Act from one county, riding, city, town-corporate, or liberty to another, by warrant under the hands and seals of two Justices of the peace, the Church-wardens and Overseers of the poor of the said parish or town, to which the said person shall be so removed, are hereby required to receive the said person; and if he or they shall refuse so to do, he or they so refusing or neglecting (upon proof thereof by two Credible Witnesses upon Oath before any Justice of the peace of the county, riding, city, or town-corporate to which the said person shall be so removed) shall forfeit for each offence the sum of five pounds to the use of the poor of the parish or town from which the said person was removed, to be levied by distress and sale of the offender or offenders Goods, by warrant under the hand and seal of any Justice of the peace of the county, riding, city or town-corporate to which such person was removed, to the Constable of the parish or town where such offender or offenders dwell, which warrant the said Justice is hereby impowred and required to make, the overplus if any be, to be returned to the owner or owners, and for want of such sufficient distress, then the said Justice shall commit the said offender or offenders to the common Gaol of the said county, riding, city, or town-corporate or liberty, there to remain without bail or mainprize for the space of forty days. Provided always, and be it hereby enacted, That all such persons who shall think themselves aggrieved with any such Judgment of the said two Justices, may appeal to the next general quarter Sessions of the peace to be held for the county, riding, city or town corporate or liberty, from which the said person was so removed.

XI. and whereas many inconveniences do daily arise in cities, towns-corporate, and parishes where the inhabitants are very numerous, by reason of the unlimited power of the Church-wardens and Overseers of the poor, who do frequently upon frivolous pretences (but chiefly for their own private ends) give relief to what persons and number they think fit, and such persons being entred into the collection bill, do become after that a great charge to the parish, notwithstanding the occasion or pretence of their receiving collection oftentimes ceases, by which means the Rates for the poor are daily increased, contrary to the true intent of a Statute made in the forty third year of the Reign of her Majesty Queen Elizabeth, Entituled, An Act for the Relief of the Poor. For remedying of which, and preventing the like abuses for the future, Be it further enacted, that from and after the first day of March, there shall be provided and kept in every parish (at the charge of the same parish) a Book or Books, wherein the names of all such persons who do or may receive collection shall be Registered, with the day and year when they were first admitted to have Relief, and the occasion which brought them under that necessity: and that yearly in Easter week (or as often as it shall be thought convenient) the parishioners of every parish shall meet in their vestry

Parochial Settlements for the Poor.



Parochial  
Settle-  
ments of  
the Poor.

or other usual place of meeting in the same parish, before whom the said Book shall be produced, and all persons receiving Collection to be called over, and the reasons of their taking relief examined, and a new list made and entered, of such persons as they shall think fit and allow to receive Collection, and that no other person be allowed to have or receive Collection at the charge of the said parish, but by authority under the hand of one Justice of peace residing within such parish, or if none be there dwelling, in the parts next adjoining, or by order of the Justices in their respective quarter Sessions, except in cases of pestilential diseases, plague or small-pox, for and in respect of such families only as are or shall be therewith infected.

XII. And whereas many Church-wardens and Overseers of the poor, and other persons intrusted to receive Collections for the poor, and other publick moneys relating to the Churches and Parishes whereunto they do belong, do often mispend the said moneys, and take the same to their own use, to the great prejudice of such parishes, and the poor and the other Inhabitants thereof: And because that many times the Judges, when actions are brought against such Church-wardens and Overseers, to recover the money so mispent taken or misapplied by the persons aforesaid, refuse to admit the parishioners to be witnesses in such cases, who are the only persons that can make proof thereof: wherefore to prevent all such evil and deceitful practices of Churchwardens, and Overseers, and other persons, Be it enacted and declared, That in all Actions to be brought in their Majesties courts of record at Westminster, or at the assizes for the recovery of any sum or sums of money so mispent, or taken by Church-wardens or Overseers of the poor, the evidence of the parishioners or any of them, other than of such as receive Alms, or any Pension or Gift out of such Collections, or publick monies of such parish or parishes respectively, whereof the defendant or defendants is, or are inhabitant or inhabitants, shall be taken and admitted in all such cases in the courts aforesaid; Any custom, rule, order or usage to the contrary notwithstanding.

4, 5 Will. & Mar. Cap. 24.

In an Act, Entituled, *An Act for Reviving, Continuing, &c. severall Laws therein mentioned.*

XI. And whereas an Act made in the thirteenth and fourteenth years of the Reign of King Charles the Second, Entituled, An Act for the better Relief of the Poor of this Kingdom, was enacted to have continuance (except what related to the Corporations therein mentioned, and thereby constituted) until the nine and twentieth day of May, One thousand six hundred sixty five, and from thence to the end of the first Session of the next Parliament; Which said Act, by an Act made in the first year of the Reign of the late King James (except as to what related to the Corporations therein mentioned, and constituted thereby) was enacted to be in force, from the first day of May, One thousand six hundred eighty five, and so to continue for the space of seven years, and from thence to the end of the next Session of Parliament. And whereas by an Act made in the last Session of this present Parliament the said last mentioned Act (as to what therein related to the settlement of the Poor) was enacted to be in force from the first day of March, One thousand six hundred ninety one, but no provision was thereby made for continuing of divers other parts of the said Act, which by Experience are found to be useful and beneficial for the publick: Be it enacted by the authority aforesaid, That the said Act for the better relief of the poor of this Kingdom, as to all parts thereof, not mentioned and continued in and by the said Act made in the last Session of this present Parliament (other than, and except what relates to the Corporations mentioned in the said Act for the better relief of the poor of this Kingdom, and thereby constituted,) shall be continued, and shall be in force for the space of seven years, from the thirteenth day of February, One thousand six hundred ninety two, and from thence to the end of the next Session of Parliament and no longer.

Abridgment.

---and none else shall be relieved the Parish-charge, but by order of Justice,  
---except in case Infection.

In Actions a gainst Church-wardens, &c. for misapplying of money,

---the Evidence of the Parishioners shall be taken,

---other than of such as receive Alms.

Some part of Stat. 13, 14 Car. 2 were continued before.

Continuation of the parts of 13, 14 Car. 2. that were not continued before,

---for 7 years.

A.D. 1692.



Abridgment.

8, 9 Will. III. Cap. 30.

Parochial  
Settle-  
ments for  
the Poor.

A.D. 1696.

*An Act for Supplying some Defects in the Laws for the Relief  
of the Poor of this Kingdom.*

Poor people be-  
ing oft-times un-  
able to settle where  
work is to be had,  
for want of Se-  
curity

Enacted, that,

--- any Person,  
bringing a Certifi-  
cate from a Parish,  
that he has a legal  
Settlement there,

-- if he become  
chargeable to an  
other Parish, shall  
be received again  
by the Parish who  
gave such Certifi-  
cate,

poor persons re-  
ceiving Relief  
from the Parish,

--- shall wear a  
Badge upon the  
Sleeve,

**F**Orasmuch as many poor persons chargeable to the parish, town-  
ship or place where they live, meerly for want of Work, would, in  
any other place where sufficient Employment is to be had, maintain  
themselves and Families, without being burthensome to any parish,  
township or place, but not being able to give such Security as will or  
may be expected and required upon their coming to settle themselves in  
any other place, and the Certificates that have been usually given in  
such cases having been oftentimes construed into a notice in hand-writ-  
ting, they are, for the most part, confined to live in their own Parishes,  
Townships, or Places, and not permitted to inhabit elsewhere, though  
their Labour is wanted in many other Places, where the increase of  
Manufactures would employ more hands: Be it therefore Enacted by  
the King's most Excellent Majesty, by and with the Advice and Consent  
of the Lords Spiritual and Temporal, and the Commons in this pre-  
sent Parliament assembled, That if any Person or Persons whatsoever,  
that from and after the first day of May, which shall be in the Year of  
our Lord, One thousand six hundred ninety seven, shall come into any  
Parish or other Place there to inhabit and reside, shall at the same  
time procure, bring and deliver to the Church-wardens or Overseers  
of the Poor of the Parish, or place where any such Person shall come to  
inhabit, or to any or either of them a Certificate, under the Hands  
and Seals of the Church-wardens and Overseers of the Poor of any  
other Parish, Township, or Place, or the major part of them, or under  
the Hands and Seals of the Overseers of the Poor of any other place  
where there are no Church-wardens, to be attested respectively by two  
or more credible Witnesses, thereby owning and acknowledging the per-  
son or persons mentioned in the said Certificate to be an inhabitant or  
inhabitants legally settled in that Parish, Township or Place, every  
such Certificate having been allowed of, and subscribed by two or more  
Justices of the Peace of the County, City, Liberty, Borough or Town-  
Corporate, wherein the parish or place from whence any such Certificate  
shall come, doth lie, shall oblige the said Parish or place to receive and  
provide for the person mentioned in the said Certificate, together with  
his or her Family, as inhabitants of that parish when ever he, she  
or they shall happen to become chargeable to, or be forced to ask Relief  
of the Parish, Township or place to which such Certificate was given;  
And then, and not before, it shall and may be lawful for any such person,  
and his or her Children, though born in that parish, not having o-  
therwise acquired a Legal Settlement there, to be removed, conveyed  
and settled in the parish or place from whence such Certificate was  
brought.

II. And to the end that the Money raised only for the Relief of such  
as are as well impotent as poor, may not be misapplied and consumed  
by the idle, sturdy and disorderly Beggars, Be it further Enacted by the  
Authority aforesaid, That every such person as, from and after the  
first day of September, One thousand six hundred ninety seven, shall be  
upon the Collection, and receive Relief of any Parish or Place, and the  
Wife and Children of any such person cohabiting in the same House  
(such Child only excepted, as shall be by the Church-wardens and Over-  
seers of the Poor permitted to live at home, in order to have the care of,  
and attend an impotent and helpless Parent) shall upon the Shoulder  
of the right Sleeve of the uppermost Garment of every such Person, in  
an open and visible manner, wear such Badge or Mark as is herein after  
mentioned and expressed, That is to say a large Roman P, together, with  
the first Letter of the Name of the Parish or Place whereof such poor Per-  
son is an Inhabitant, cut either in red or blue Cloth, as by the Church-  
wardens and Overseers of the Poor it shall be directed and appointed:  
And if any such poor Person shall at any time neglect or refuse to wear  
such



Parochial  
Settle-  
ments for  
the Poor

such Badge or Mark, as aforesaid, and in manner as aforesaid, It shall and may be lawful for any Justice of the Peace of the County, City, Liberty or Town Corporate, where any such offence shall be committed, upon complaint to him for that purpose to be made, to punish every such Offender for every such offence, either by ordering of his or her Relief or usual Allowance on the Collection to be abridged, suspended or withdrawn, or otherwise by committing of any such offender to the House of Correction, there to be whipt and kept to hard Labour, for any number of days not exceeding one and twenty, as to the said Justice in his discretion it shall seem most meet: And if any such Church-warden or Overseer of the Poor, from and after the said first day of September, shall relieve any such poor Person, not having and wearing such Badge or Mark as aforesaid, being thereof convicted, upon the Oath of one or more credible Witnesses or Witnesses, before any Justice of the Peace of the County, City, Liberty or Town Corporate, where any such offence shall be committed, shall forfeit for every such Offence the Sum of Twenty Shillings, to be levied by distress and Sale of the Goods of every such Offender, by Warrant under the Hand and Seal of any such Justice, one moiety thereof to be to the use of the Informer, and the other to the Poor of the Parish where the Offence shall be committed.

III. And for the more effectual preventing of Veracious Removals and frivolous Appeals, Be it further enacted by the authority aforesaid, That the Justices of the Peace of any County or Riding, in their General or Quarter Sessions of the Peace, upon any Appeal before them there to be had, for and concerning the Settlement of any Poor person, or upon any proof before them there to be made, of notice of any such appeal, to have been given by the proper officer to the Church-wardens or Overseers of the poor of any parish or place (though they did not afterwards prosecute such appeal) shall at the same Quarter Sessions, award and order to the party for whom, and in whose behalf such appeal shall be determined, or to whom such notice did appear to have been given, as aforesaid, such costs and charges in the law as by the said Justices in their discretion shall be thought most reasonable and just, to be paid by the Church-wardens, Overseers of the poor, or any other person, against whom such appeal shall be determined, or by the person that did give such notice, as aforesaid; and if the person ordered to pay such costs, shall happen to live in any County, Riding, City, or Town Corporate, or elsewhere out of the Jurisdiction of the said Court, it shall and may be lawful for any Justice of the peace, of the County, Riding, City, Liberty or Town Corporate, wherein such person shall inhabit, and every such Justice is hereby required, upon request to him for that purpose to be made, and a True Copy of the order for the payment of such costs produced, and proved by some credible Witness upon Oath by Warrant under his hand and seal, to cause the money mentioned in that order to be levied by Distress and Sale of the Goods of the person that is ordered, and ought to pay the same; And if no such distress can or may be had, to Commit such Person to the Common Gaol of that County or Liberty, there to remain by the Space of Twenty Days.

IV. And whereas some Doubts have Arisen touching the Settlement of Unmarried Persons, not having Child or Children, Lawfully Hired into any Parish or Town for One Year: Be it therefore Enacted and Declared by the Authority aforesaid, That no such Person so Hired, as aforesaid, shall be Adjudged or Deemed to have a good Settlement in any such Parish or Township, unless such Person shall Continue and Abide in the same Service during the Space of One whole Year.

V. And whereas by an Act made in the Thirte and fortieth Year of the Reign of Queen Elizabeth, Intituled, An Act for the Relief of the Poor, It is amongst other things Enacted, that it shall be Lawful for the Church-wardens and Overseers of the Poor of any Parish, or the greater part of them, by the Assent of Two Justices of the Peace, whereof one to be of the Quorum, to bind poor Children Apprentices, where they shall see Convenient; but there being Doubts whether the Persons to whom such Children are to be Bound, are Compellable to receive such Children as Apprentices, that Law hath failed of its due Execution

Abridgment.

---upon pain of having such Relief withdrawn,

---or being sent to the House of Correction.

Church-wardens, &c. relieving any without Badge, shall forfeit 20 s.

In case of Appeal concerning Settlements, &c. the Justices shall have power to give Costs,

---and the person who is to pay Costs, living in another County, &c. shall be compell'd to pay, by the Justices of that other County,

---or to be 20 days imprisoned.

No Servants shall have Settlement, unless they continue one whole year.

There being some Doubt concerning the binding of Apprentices in Stat. 43 El. c. 9.

Execution



## Abridgment.

---Enacted, that,  
---Persons unto  
whom Children are  
appointed to be  
bound by the said  
Act, shall receive  
and provide for  
them,

---upon pain of  
forfeiting 10 l.

---saving an appeal  
to the Quarter-  
Sessions,

---whose Order  
shall be final.

Appeals against  
removing shall be  
heard only before  
the Justices of that  
County, from  
whence the Person  
is to be removed.

This Act shall  
not void any En-  
gagements already  
made.

Proviso for  
the Rights of the  
Justices of St. Al-  
bans.

Recital of the  
foregoing Stat 8, 9  
W. 3. c. 30. cor-  
cerning Certificate  
to receive poor a-  
gain, when bur-  
thenome,

Execution: Be it therefore enacted and declared by the authority aforesaid, That where any poor children shall be appointed to be bound Apprentices, pursuant to the said Act, the person or persons to whom they are so appointed to be bound, shall receive and provide for them, according to the Indenture signed and confirmed by the two Justices of the peace, and also execute the other part of the said Indentures; And if he or she shall refuse so to do, oath being thereof made by one of the Church-wardens, or Overseers of the poor, before any two Justices of the peace for that county, liberty or riding, he or she shall for every such offence forfeit the sum of ten pounds, to be levied by distress and sale of the goods of any such offender, by warrant under the hands and seals of the said Justices, the same to be applied to the use of the poor of that parish or place where such offence was committed; saving always to the person to whom any poor child shall be appointed to be bound an Apprentice, as aforesaid, if he or she shall think themselves aggrieved thereby, his or her appeal to the next general or quarter Sessions of the peace for that county or riding, whose order therein shall be final, and conclude all parties.

VI. And be it further enacted by the authority aforesaid, That from and after the first day of May, One thousand six hundred ninety seven, the appeal against any order for the removal of any poor person from out of any parish, township, or place, shall be had, prosecuted and determined at the general or quarter Sessions of the peace for the county, division or riding, wherein the parish, township or place from whence such poor person shall be removed, doth lie, and not elsewhere; Any former law or Statute to the contrary thereof of in any wise notwithstanding.

VII. Provided always, That nothing in this Act contained shall extend, or be construed to extend to make void any promise or engagement already made by the Church-wardens or Overseers of the poor of any parish, township or place, to receive and take back any persons, in case they should become poor or want relief.

VIII. Provided that this Act, nor any thing therein contained, shall be construed to hinder the Justices of the peace within the liberty of St. Albans, from hearing and determining any appeals for the Settlement of the poor in their Quarter Sessions, as they might have done before the making of this Act; any thing therein contained to the contrary in any wise notwithstanding.

9, 10 Will. III. Cap. 11.

A.D. 1697.

*An Act for Explaining an Act made the last Session of Parliament, Entituled, An Act for Supplying some Defects in the Law for the Relief of the Poor of this Kingdom.*

**W**hereas in and by a certain Act made in the last Session of this present Parliament, entituled, An Act for supplying some Defects in the Laws for the Relief of the Poor of this Kingdom, It was amongst other things therein contained, enacted, That if any person or persons whatsoever, that from and after the first day of May, in the year of our Lord one thousand six hundred ninety seven, shall come into any parish or other place, there to inhabit and reside, should at the same time procure, bring and deliver to the Church-wardens and Overseers of the poor of the parish or place where any such person should come to inhabit, or to any or either of them, a Certificate under the hands and seals of the Church-wardens and Overseers of the poor of any other parish, township or place, or the major part of them, or under the hands and seals of the Overseers of the poor, where there are no Church-wardens, to be attested respectively by two or more credible witnesses, thereby owning and acknowledging the person or persons, mentioned in the said Certificate, to be an inhabitant or inhabitants legally settled in that parish, township or place, every such Certificate having been allowed of and subscribed by two or more of the Justices of the peace of the county, city, liberty, borough or town-corporate, wherein the parish or place from whence any such Certificate shall come doth lie, shall oblige the said parish or place to receive and provide for the person mentioned in the Certificate, with his or her family as inhabitants of that parish, whenever he, she or they

Parochial  
Settle-  
ments for  
the Poor.

not



Parochial  
Provisions  
for Poor,  
since first  
Rates.

shall happen to become chargeable to, or be forced to ask Relief of the Parish, Township or Place to which such Certificate was given; and that then and not before, it should and might be lawful for any such person, and his or her Children, though born in that Parish, not having otherwise acquired a legal Settlement there, to be removed, conveyed and settled in the Parish or Place from whence such Certificate was brought: And whereas some Doubts have arisen upon Construction of the said Act, by what Acts any person coming to inhabit or reside within any Parish, by virtue of any such Certificate, as aforesaid, may procure a legal Settlement in such Parish, and whether such Certificate did not amount to a notice in writing, in order to gain a Settlement: For explaining thereof, and of the said Act, Be it therefore enacted and declared by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the authority of the same, That no Person or Persons whatsoever, who shall come into any Parish, by any such Certificate, as aforesaid, shall be adjudged by any Act whatsoever to have procured a legal Settlement in such Parish, unless he or they shall really and bona fide take a Lease of a Tenement of the yearly Value of ten Pounds, or shall execute some annual Office in such Parish, being legally placed in such Office,

Abridgment.

--- and Enacted that,

---no Person coming into a Parish by such a Certificate, shall procure a Settlement,

--- unless he lease a Tenement of 10l. or bear Office.

A.D. 1699.

11, 12 Will. III. Cap. 13.

In an Act, Entituled, *An Act for Continuing several Laws therein mentioned.*

VI. And whereas an Act made in the Thirteenth and Fourteenth Years of the Reign of King Charles the Second, Intituled, An Act for the better Relief of the Poor of this Kingdom, was enacted to have continuance (except what related to the Corporations therein mentioned, and thereby constituted) until the 29th Day of May, one thousand six hundred sixty five, and from thence to the end of the first Session of the next Parliament; which said Act, by an Act made in the first Year of the Reign of the late King James the Second (except as to what related to the Corporations therein mentioned, and thereby constituted) was Enacted to be in force, from the first Day of May, One thousand six hundred eighty five, and so to Continue for the space of Seven Years, and from thence to the end of the next Session of Parliament: And whereas by an Act made in the Third and Fourth Years of the Reign of His present Majesty and the late Queen, the said last mentioned Act (as to what therein related to the Settlement of the Poor) was enacted to be in force from the first day of March, One thousand six hundred ninety one: but no provision was thereby made for Continuing of divers other parts of the said Act; which said Act, for the better Relief of the Poor of this Kingdom, as to all the parts thereof, not mentioned and continued in and by the said Act, made in the Third and Fourth years of the Reign of his present Majesty and the late Queen (other than except what relates to the Corporations mentioned in the said Act for the better Relief of the Poor of this Kingdom, and thereby Constituted) was, by an Act made in the fourth and fifth Year of the Reign of His present Majesty and the late Queen, Continued for the space of Seven Years, from the Thirtieth Day of February, One thousand six hundred ninety two, and from thence to the end of the next Session of Parliament: Be it enacted by the Authority aforesaid, That the said Act for the better Relief of the Poor of this Kingdom, as to all parts thereof, which were continued by the said Act made in the fourth and fifth Years of the Reign of His present Majesty and the late Queen, shall be Continued and be in force, for and during the space of Seven years, from the Nine and Twentieth Day of September, One thousand seven hundred, and from thence to the end of the next Session of Parliament.

The several Continuations of the Stat. 13, 14 Car. 2. c. 12.

---by 1 Jac. 2 c. 25.

---and 3, 4 W. M. c. 11.

---and 4, 5 W. M. c. 24.

--- and Enacted,

---that it be Continued, 7 years longer.



Abridgment.

5 Annæ, Cap. 34.

In an Act, Entituled, *An Act for Continuing the Laws therein mentioned, relating to the Poor, &c.*

Parochial  
Provisions  
for Poor,  
since first  
Rates.

A.D. 1706.

The several Cor-  
tinuations of the  
13, 14 Car. 2.

--- by 1 Jac. 2. c.  
25.

--- and 3, 4 W. &  
M. c. 11.

--- and 4, 5 W. &  
M. c. 24.

--- and 11, 12 W.  
3. cap. 13.

--- and Enacted,  
That it be conti-  
nued seven years  
longer.

Whereas the Temporary Laws following, which by experience have been found Useful and Beneficial, are Expired or near Expiring, therefore for continuing the same, Be it Enacted by the Queens most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament Assembled, and by the authority of the same, That an Act made in the Thirtieth and Fourtieth Year of the Reign of King Charles the Second, Intituled, An Act for the better Relief of the Poor of this Kingdom, which was Enacted to have Continuance (except what related to the Corporations therein mentioned, and thereby Constituted) until the Twenty ninth of May, one thousand six hundred and sixty five, and from thence to the End of the first Session of the next Parliament. Which said Act, by an Act made in the first Year of the Reign of the late King James the Second (except what related to the Corporations therein mentioned, and thereby Constituted) was Enacted to be in force from the first Day of May, One thousand six hundred eighty five, and so to Continue for the space of Seven Years, and from thence to the End of the next Sessions of Parliament; And by an Act made in the Third and Fourth Years of the Reign of His late Majesty King William, the said Act (as to what therein related to the Settlement of the Poor) was Enacted to be in force from the first Day of March, one thousand six hundred ninety one; but no Provision was thereby made for Continuing divers other parts of the said Act; which said Act, for the better Relief of the Poor of this Kingdom, as to all parts thereof, not mentioned and continued in and by the said Act made in the Third and Fourth Years of the Reign of their late Majesties (other than and except what relates to the Corporations mentioned in the said Act, for the better Relief of the Poor of this Kingdom, and thereby Constituted) was, by an Act made in the Fourth and fifth Years of the Reign of their late Majesties, Continued for the space of Seven Years, from the thirtieth Day of February, One thousand six hundred ninety two, and from thence to the end of the next Session of Parliament: Which said Act afterwards, by an Act of the Eleventh and Twelfth Years of King William, Intituled, An Act for Continuing several Laws therein mentioned, was Continued for Seven Years, from the Twenty ninth Day of September, One thousand seven hundred; Shall be in force from the five and Twentieth Day of March, One thousand seven hundred and seven (Except what relates to the Corporations therein mentioned, and thereby Constituted) for seven Years, and from thence to the End of the next Sessions of Parliament.

TIT.



# T I T. X.

## Solemn TIMES of Divine Service in the CHURCH of ENGLAND.

### The CONTENTS.

- C A P. I. *Due Observation of the LORD'S DAY.*
- C A P. II. *Observation of SUNDAYS and HOLY-DAYS, jointly.*
- C A P. III. *Observation of FEASTS and FASTS jointly.*
- C A P. IV. *Observation of FEASTS, in particular.*
- C A P. V. *Observation of FASTS, in particular, and of EVES.*
- C A P. VI. *Days and Seasons of ABSTINENCE from FLESH.*

### C A P. I.

#### *Due Observation of the LORD'S DAY.*

#### 1 Car. I. Cap. 1.

*There shall be no Assemblies for Unlawful Pastimes upon the Lord's Day.*

**¶** *Asinuch as there is nothing more acceptable to God, than the true and sincere Service and Worship of him according to his holy Will, and that the holy keeping of the Lords day is a principal part of the true Service of God,*

*a The holy keeping.] Which Duty, Lyndwood, in his Gloſs upon one of Peccham's Constitutions, thus describes, on the word, Sanctifices. i.e. Sanctum & mundum venerando ſerves; generaliter, ſcilicet, illo die à vitiis ceſſando; ſpecialiter, ab operibus Corporalibus, quæ impediunt vacationem ad Deum, abſtinendo; ſpecialiſſimè, contemplationi Divinotum totaliter inherendo. And elſewhere, Diebus Domini- nicis totaliter eſt Deo vacandum. From which, and from the many Laws that were made in the times of our Saxon Anceſtors againſt profaning the Lords day, &c. our Learned Biſhop Stillingfleet draws this pious Concluſion, That the Religious Obſervation of the Lords day is no Novelty, ſtarted by ſome Sects and Parties among us; but that it hath been the general Senſe of the beſt part of the Chriſtian World, and is particularly enforced upon us of the Church of England, not only by the Homilies, but the moſt ancient Eccleſiaſtical Laws among us. Accordingly (before the Book of Sports had*

*been ſet forth by King James the firſt) not only the Injunctions of Edw. 6. and Queen Elizabeth had ſpecially enforced this Duty; but a Bill had been provided by the Biſhops (12 Eliz.) for enforcing the Obſervation of it; and divers Bills, for that end, had alſo been actually brought into Parliament: One (27 Eliz. Des. 7.) Entituled, A Bill for the better and more reverend obſerving of the Sabbath-day; which having paſſed both Houſes (after great diſputation) was denied the Royal Aſſent; probably, upon the diſlike the Queen had of the Parliament's intermeddling in matters of Religion. Three attempts of the like nature were alſo made in the Reign of King James the firſt (annis 3, 12 & 21.) as appears by the Journals of Parliament, in the ſeveral years: and (after what had been done 1 & 3 Car. 1.) we find a Bill in Parliament (16 Car. 2.) for puniſhing divers abuſes, committed on the Lords-day; and in the ſame year, when a Bill for the*

The great Profanation of the Lords day, by unlawful Exerciſes,

Collect. p. 9. 73.

Stry. Ref. p. 3. 6.

D'Ewes 322 323, 325.

Jour. Proc. Jul. 7.

A.D. 1625.

*Due Ob- ſervation of the Lord's day.*

*Ignor. Sacerd. v. d. infra.*

*De maj. & ob. Presb. v. Dieb. Dom. Vil. in Not. infra.*

*Eccleſ. Caſes, V. 1. 197.*

*which*



Abridgment.  
and Meetings of  
Parishes.

There shall be  
no Meetings of  
any out of their  
own Parishes, on  
the Lord's day,  
---nor any unlaw-  
ful Exercises in  
their own Parishes,

--- upon pain to  
forfeit 3s. 4d.  
--- to be levied by  
Warrant from the  
Just ce, or Head  
Officer,

---and, in default  
of Distress, the  
Offender shall sit  
in the Stocks 3  
hours.

Impeachment  
shall be within one  
month.

Ecclesiastical Ju-  
risdiction shall not  
be nor abridged by  
this Act.

which in very many places of this Realm hath been, and now is prophaned and neglected by disorderly sort of People, in exercising and frequenting <sup>b</sup> Bear-baiting, Bull-baiting, Enterludes, common Plays, and other unlawful Exercises and Pastimes upon the Lords-Day: And for that many Quarrels, Blood-sheds, and other great inconveniences have grown by the resort and concourse of People going out of their own Parishes to such disordered and unlawful Exercises and Pastimes, neglecting Divine Service both in their own Parishes and elsewhere: Be it enacted by the King's most excellent Majesty, the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, and by the authority of the same, That from and after forty days next after the end of this Session of Parliament, there shall be no Meetings, Assemblies, or concourse of People out of their own Parishes on the Lords-Day within this Realm of England, or any the Dominions thereof, for any Sports, and Pastimes whatsoever; nor any Bear-baiting, Bull-baiting, Enterludes, common Plays, or other unlawful Exercises and Pastimes used by any person or persons within their own Parishes, and that every person or persons offending in any the premises, shall forfeit for every offence three shillings four pence, the same to be employed and converted to the use of the poor of the Parish where such offence shall be committed: And that if any one Justice of the Peace of the County or the chief Officer or Officers of any City, Borough or Town Corporate where such offence shall be committed, upon his or their view, or confession of the party, or proof of any one or more witnesses by Oath, which the said Justice or chief Officer or Officers, shall by virtue of this Act have authority to minister, shall find any person offending in the premises, the said Justice or chief Officer or Officers shall give Warrant under his or their Hand and Seal to the Constables and Church-wardens of the Parish or Parishes where such offence shall be committed, to levy the said penalty so to be assessed, by way of distress, and sale of the Goods of every such Offender, rendering to the said Offenders the overplus of the money raised of the said Goods so to be sold; And in default of such distress, that the party offending be set publickly in the Stocks for the space of three hours; And that if any man be sued or impeached for execution of this Law, he shall and may plead the general Issue, and give the said matter of Justification in evidence. Provided, That no Man be impeached by this Act, except he be called in question within one month next after the said offence committed. Provided also, That the Ecclesiastical Jurisdiction within this Realm, or any the Dominions thereof, by virtue of this Act, or any thing therein contained, shall not be abridged, but that the Ecclesiastical Court may punish the said offences, as if this Act had not been made: This Act to continue until the end of the first Session of the next Parliament, and no longer.

Due Ob-  
servation  
of the  
Lord's day.

better Observation of the Lords day was prepared for the Royal Assent, and ready to be passed, it was stolen, and could not be recovered, upon a strict Examination made by the House of Lords.

<sup>b</sup> Bear-baiting, &c.] These were the Exercises, which had been specially excepted, in the Order for Allowance of divers Sports on Sundays; published by King James the first, in the 16th year of his Reign, and renewed by King Charles the first, anno regni 9; commonly called *The Book of Sports*. And the other Diversions

and Exercises allowed therein, were under these two Limitations, That they should not begin, till after the end of Divine Service; and, That they should be allowed to none, but such as had first been present at it.

<sup>bb</sup> Out of their own Parishes.] This also was provided against in King James's Book of Sports; *We likewise do straightly command, that every person shall resort to his own Parish Church, to hear Divine Service, and each Parish by it self to use the said Recreation after Divine Service.*

Car. I. Cap. 4.

A.D. 1627.

In an Act, Entituled, *An Act for Repeal and Continuance of divers Statutes.*

§. XXII. And be it also enacted, that one Statute made in the first year of his Majesties Reign that now is, Entituled, An Act for punishing divers Abuses committed on the Lords-day, shall continue in force until the end of the first Session of the next Parliament.

The foregoing  
Act continued till  
the end of the 1st  
Session of the next  
Parliament.



Due Ob-  
serva-  
tion  
of the  
Lord's  
Day.  
A. D. 1640.

## 16 Car. I. Cap. 4.

In an Act, Entituled, *An Act for the further Relief of His Majesties Army, &c.*

—And be it Enacted by the Authority aforesaid, —That all Statutes and Acts of Parliament which have their continuance, or were by an Act of Parliament made in the Third Year of the Reign of His Majesty that now is, Entituled, An Act for the Continuance and Repeal of divers Statutes, continued until the end of the First Session of the then next Parliament, shall, by Virtue of this Act, be adjudged ever since the Session of Parliament in the said Third Year, to have been of such force and effect as the same were the last Day of that Session, and from thenceforth until some other Act of Parliament be made touching the continuance or discontinuance of the said Statutes and Acts in the said Act of the Third Year of His Majesties Reign continued, as aforesaid.

Abridgment.

Act 1 Car. I.  
c. 1. (as Continued  
by 3 Car. I.  
c. 4.)

—shall be in force,  
till discontinued  
by Parliament.

A.D. 1627.

## 3 Car. I. Cap. 1.

*A Restraint of divers Abuses committed on the Lord's Day.*

EXP.

As much as the Lords Day, commonly called Sunday, is much broken and profaned by Carriers, Waggoners, Carters, Wain-men, Butchers, and Drivers of Cattle, to the great dishonour of God, and reproach of Religion; Be it therefore Enacted by the Kings most Excellent Majesty, and the Lords Spiritual and Temporal, and by the Commons in this present Parliament Assembled, and by the Authority of the same, That no Carrier with any Horse or Horses, nor Waggon-men with any Waggon or Waggon, nor Car-men with any Cart or Carts, nor Wain-man with any Wain or Wains, nor Drivers with any Cattle, shall after Forty Days next after the end of this present Session of Parliament, by themselves, or any other, travel upon the said Day, upon pain that every Person and Persons so Offending shall lose and forfeit Twenty Shillings for every such Offence: Or if any Butcher by himself, or any other for him, by his privy or consent, shall, after the end of the said Forty Days, kill or sell any Victual upon the said Day; That then every such Butcher shall forfeit and lose, for every such Offence, the Sum of Six Shillings and Eight Pence; the said Offences, and every of them, being done in view of any Justice of Peace, Mayor, or other Head Officer of any City or Town-Corporate, within their Limits respectively, or being proved upon Oath by Two or more Credible Witnesses, or by the Confession of the Party Offending, before any such Justice, Mayor, or Head Officer, within their several Limits respectively, wherein such Offence shall be committed; To which end every such Justice, Mayor, or Head Officer, shall have Power by this Act to Admit an Oath to such Witness or Witnesses: All which Sums or Penalties shall or may be Levied by any Constable, or Church-warden, by Warrant from any such Justice or Justices of the Peace, Mayor, or other Head Officer, as aforesaid, within their several Limits where such Offence shall be committed or done, by Distress and Sale of the Offenders Goods, rendering to the Party the Overplus; or shall be Recovered by any Person or Persons that will Sue for the same, by Bill, Plaint, or Information, in any of His Majesties Courts of Record, in any City or Town-Corporate, before His Majesties Justices of the Peace in their General Sessions of the Peace: All which Forfeitures shall be employed to and for the use of the Poor of the Parishes where the said Offences shall be committed or done, saving only that it shall be lawful to and for any such Justice, Mayor, or Head Officer, out of the said Forfeitures, to Reward any such Person or Persons, that shall Inform or otherwise Prosecute any Person or Persons offending against this present Act, according to their Discretions, so that such Reward exceed not the Third Part of the Forfeiture: Provided that such Bill, Plaint, or Information shall be commenced, sued, and prosecuted in the County, City, or Town-Corporate, where such Offence shall be committed and done, and not elsewhere, wherein no Escoin, Protection or Wager of Law shall be allowed to the Defendant. Provided always, That it shall be lawful for any Constable or Church-warden, that shall have any Suit or Action brought against them for any Distress by them or any of them to be taken by force of this present Act, to plead the General Issue, and give the special matter in Evidence. Provided likewise, That no Person or Persons whatsoever shall be Impeached by this Act, unless he be thereof questioned within Six Months after the Offence committed. Provided further, That this Act shall not in any sort abridge or take away the Authority of the Court Ecclesiastical. This Act to continue to the end of the First Session of the next Parliament.

No Carrier, Waggoner, Car-man, Wain-man, nor Drover, shall travel on the Lords Day,

—upon Pain to  
forfeit 20 s.

—and any Butcher  
killing, or selling  
Meat, shall forfeit  
6 s. 8 d.

—and the said  
Sums shall be Le-  
vied by Warrant  
from Justice, or o-  
ther Head Officer,  
by Distress,  
—or by any other  
that will Sue for  
it,

—who for his Re-  
ward may have  
the Third Part of  
the Forfeitures.

No Impeach-  
ment but within  
Six Months.

This Act shall  
not abridge the  
Ecclesiastical Juris-  
diction.

A.D. 1661.

## 13 Car. II. Cap. 9.

In an Act, Entituled, *An Act for the Regulating, &c. of His Majesties Navies.*

§. I. — That the Lord's Day be Observed, according to Law.

The Lord's Day  
shall be duly Ob-  
served at Sea.



## Abridgment.

29 Car. II. Cap. 7.

An Act for the better Observation of the Lord's Day,  
commonly called Sunday.Due Ob-  
servation  
of the  
Lord's  
Day.  
A.D. 1676.

All Laws relating to the Observation of the Lords Day shall be put in Execution,

—and all Persons shall exercise themselves in Piety.

No Labour shall be done on the Lord's Day,

—upon pain of 5 s.

No Person shall cry Goods, or expose them to Sale, upon pain of Forfeiting them.

No Drover, &c. shall come to an Inn, upon pain of 20 s.

—nor any Waterman be Employed upon pain of 5 s.

—which said Seizures and Forfeitures shall be made and Levied by Warrant,

Cap. 3.

Cap. 15.

FOR the better Observation and Keeping holy the Lord's Day, commonly called Sunday, Be it Enacted by the Kings most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal and of the Commons in this present Parliament Assembled, and by the Authority of the same, That all the Laws Enacted and in Force concerning the Observation of the Lord's Day, and repairing to the Church thereon, be carefully put in Execution: And that all and every Person and Persons whatsoever, shall on every Lord's Day, apply themselves to the Observation of the same, by Exercising themselves thereon in the Duties of Piety and True Religion, Publickly and Privately; And that no Tradesman, Artificer, Workman, Labourer, or other Person whatsoever, shall do or exercise any worldly Labour, Business or Work of their ordinary Callings upon the Lord's Day, or any Part thereof (Works of Necessity and Charity only excepted;) And that every Person being of the Age of Fourteen Years or upwards, offending in the Premises, shall, for every such offence, Forfeit the Sum of Five Shillings; And that no Person or Persons whatsoever, shall publickly cry, shew forth, or expose to Sale, any Wares, Merchandizes, Fruit, Herbs, Goods or Chattles whatsoever, upon the Lord's Day, or any Part thereof, upon Pain that every Person so Offending, shall Forfeit the same Goods so cried, or shewed forth, or exposed to Sale.

II. And it is further Enacted, That no Drover, Horse-courser, Waggoner, Butcher, Higler, their or any of their Servants, shall travel, or come into his or their Inn or Lodging upon the Lord's Day, or any Part thereof, upon Pain that each and every such Offender shall Forfeit Twenty Shillings for every such Offence; and that no Person or Persons shall Use, Employ or Travel upon the Lord's Day, with any Boat, Wherry, Lighter or Barge, except it be upon extraordinary Occasion, to be allowed by some Justice of the Peace of the County, or Head Officer, or some Justice of the Peace of the City, Borough or Town-Corporate where the Fact shall be committed; upon Pain that every Person so Offending, shall Forfeit and Lose the Sum of Five Shillings for every such Offence. And that if any Person Offending in any of the Premises, shall be thereof Convicted before any Justice of the Peace of the County, or the Chief Officer or Officers, or any Justice of the Peace of or within any City, Borough or Town-Corporate, where the said Offence shall be committed, upon his or their View, or Confession of the Party, or Proof of any one or more Witnesses by Oath (which the said Justices, Chief Officer or Officers, is by this Act Authorized to Administer) the said Justice, or Chief Officer or Officers, shall give Warrant under his or their Hand and Seal, to the Constables or Church-wardens of the Parish or Parishes where such Offence shall be committed, to Seize the said Goods cried, shewed forth, or put to Sale, as aforesaid, and to Sell the same, and to Levy the said other Forfeitures or Penalties, by way of Distress and Sale of the Goods of every such Offender Distrained, rendering to the said Offenders the Overplus of the Monies

worldly Labour] To which purpose, is the ancient Law of King Ina, *Servus si quid operis patraret die Dominico ex precepto Domini sui, liber esto; Dominus 30 Solidos dependito. Verum si id operis, injussu Domini sui, aggressus fuerit, verberibus caditor, aut saltem virgarum metum pretio redimito. Liber, si die hoc operetur injussu Domini sui, aut servituti addicitur, aut 60 Solidos dependito. Sacerdos si in hanc partem deliquerit, pena in duplum augetur*: And that other of King Ethelred, *Dominica solennia diei cum summo honore magnoperè celebranda sunt, nec quicquam in eadem operis agatur servilis*. In which case there was one Exception in the

Injunctions of Queen Elizabeth, viz. for Labour in time of Harvest, after Divine-Service was over: but this (as well as other Abuses of the Lord's Day) stands Prohibited, and is made Punishable by the present Act.

d Expose to Sale] *Negotiatio die Dominica*, is Strictly forbidden by the Laws of our Saxon Kings, Alfred, Ethelstan, and Edgar. And whereas in the Canons of 1571, where Fairs and Markets are forbidden, an Allowance is Implied, for the Selling of some small Matters, after Divine-Service; here nothing shall be exposed to Sale upon the Lord's Day, or any Part thereof.

Spel. 377. 404. 450.

Coll. Can. p. 236.

Raised



Due Observation  
of the  
Lord's  
Day.

Raised thereby; and in Default of such Distress, or in case of insufficiency, or inability of the said Offender to Pay the said Forfeitures or Penalties, that then the Party offending be set publickly in the Stocks by the space of Two Hours. And all and singular the Forfeitures or Penalties aforesaid, shall be employed and converted to the Use of the Poor of the Parish where the said Offences shall be committed; saving only that it shall and may be Lawful to and for any such Justice, Mayor, or Head-Officer or Officers, out of the said Forfeitures or Penalties, to Reward any Person or Persons that shall inform of any Offence against this Act, according to their Discretions, so as such Reward exceed not the Third Part of the Forfeitures or Penalties.

III. Provided, That nothing in this Act contained, shall extend to the prohibiting of Dressing of Meat in Families, or Dressing or Selling of Meat in Inns, Cooks Shops, or Utiqualling-Houses, for such as otherwise cannot be Provided, nor to the Crying or Selling of Milk before Nine of the Clock in the Morning, or after Four of the Clock in the Afternoon.

IV. Provided also, That no Person or Persons shall be Impeached, Prosecuted or Molested for any Offence before mentioned in this Act, unless he or they be Prosecuted for the same within Ten Days after the Offence committed.

V. Provided and be it further Enacted by the Authority aforesaid, That if any Person or Persons whatsoever, which shall Travel upon the Lords-Day, shall be then Robbed, That no Hundred, or the Inhabitants thereof, shall be charged with, or answerable for any Robbery so committed, but the Person or Persons so Robbed, shall be barred from bringing any Action for the said Robbery; any Law to the contrary notwithstanding: Nevertheless, the Inhabitants of the Counties and Hundreds (after Notice of any such Robbery to them or some of them given, or after Hue and Cry for the same to be brought) shall make, or cause to be made, fresh Suit and Pursuit after the Offenders, with Horsemen and Footmen, according to the Statute made in the Twenty seventh Year of the Reign of Queen Elizabeth, upon Pain of Forfeiting to the Kings Majesty, his Heirs and Successors, as much Honey as might have been recovered against the Hundred by the Party Robbed, if this Law had not been made.

VI. Provided also, That no Person or Persons, upon the Lords Day, shall serve or execute, or cause to be served or executed, any Writ, or Process,

*e* In Inns ] In the Injunctions of Queen Elizabeth, it is provided, That no Inn-holders, or Alehouse-keepers, shall use to Sell Meat or Drink in the time of Common Prayer, Preaching, or Reading of the Homilies, or Scriptures. Which is taken, word for word, from the Articles of Visitation, 2 Edw. 6.

*f* Shall be charged ] This Clause was probably inserted, with reference to a Judgment given in the Court of Kings Bench, 16 Jac. 1. in the Case between Waite and the Hundred of Stoke, where the Question was, Whether one being Robbed upon the Sunday Morning in time of Divine-Service, and making Hue and Cry, and the Hundred not producing any of the Robbers, the said Hundred should be chargeable by the Statute? And this Question was twice Argued at the Bar, on both Sides; and (the Justices delivering their Opinions *Seriatim*, because it was a leading Case in this Point, and had never before been questioned) Croke, Doderidge, and Houghton held, That the Hundred was Chargeable; but Mountague Chief Justice held the contrary, for this, among other Reasons, Because the Law appoints that Men should be at Divine-Service on Sunday, and it is at the Peril of those who will Travel upon Sundays, if they be Robbed. However Judgment was given otherwise; and it appears not by the Report, what the particular occasion was to Travel on Sunday.

*g* Shall serve or execute ] Before this Statute, one might have been Attached for Arresting another on Sunday (as in *Prinsor's* Case, who was Fined 20 s. for so doing;) but with this Circumstance, That he might have Arrested him upon any Day of the Week: agreeably to which Keeling said upon such a Motion 21 & 22 Car. 2. That he had known many Attachments for Arresting a Man upon a Sunday, but still the Affidavit contained, That he might have been taken on another Day: To which *Twisden* added, That so also it was for Arresting a Man as he was going to Church, to disgrace him.

*h* Process ] A Libel was exhibited in the Spiritual Court of Durham against a Woman for Incontinence, and the Citation was Fixed upon the Church-Door on a Sunday, according to Custom; upon which it was urged as the Opinion of *Civilians*, That such Citation was sufficient without any Personal serving, and that that had been the constant Practice both before and since this Statute; and *Holt* Chief Justice said, If the Ecclesiastical Law was and had always been to serve this Process on a Sunday, (in which respect it was different from Temporal Process, which may be as well served on any other Day,) that then it did not seem to be the intent of this Statute to take away the serving it in that manner.

Abridgment.

—and in default of Distress, the Offender shall sit Two Hours in the Stocks.

The Informer may have One Third of the Forfeitures.

This Act doth not Prohibit dressing of Victuals, nor crying of Milk.

No Impeachment but within Ten Days.

The Hundred shall not be answerable for Robberies on the Lords Day,

—but yet they shall pursue the Offenders.

No Person shall serve any Writ, Process, &c. on the Lords Day;

Injunct. 33.

Pag. 31.

2 Cro. 495.  
2 Roll 59.

3 Cro. 602.

Mod. Rep.  
Vol. 1 p. 56.

Mod. Rep.  
V. 5. p. 449.

Warrant,



## Abridgment.

—and if any be served, it shall be void.

Raym. 25c.

The total restraint upon Driving of Hackney-Coaches, by the foregoing Statute, being inconvenient ;

— Commissioners may Licence 175 to Ply on *Sundays*, within the Bills of Mortality.

Abuses of Boys Plying upon the *Thames* on *Sundays*,

—for the preventing of which, the Rulers of the Watermens Company may appoint Forty Watermen to Ply at convenient Places.

Warrant, Order, Judgment or Decree (except in cases of Treason, Felony, or Breach of the Peace) but that the service of every such Writ, Process, Warrant, Order, Judgment or Decree, shall be void to all intents and purposes whatsoever : And the Person or Persons so serving or executing the same, shall be as liable to the Suit of the Party grieved and to answer Damages to him for doing thereof, as if he or they had done the same without any Writ, Process, Warrant, Order, Judgment or Decree at all.

of the Peace ] A Justice of Peace by the Court, who resolved that a Warrant made a Warrant to a Constable to take another Person, and to find Sureties for good Behaviour : The Constable Executed the Warrant on a *Sunday*, and he was justified Peace.

5, 6 W. & M. Cap. 22.

In an Act, Entituled, *An Act for the Licensing and Regulating Hackney-Coaches, &c.*

XVIII. And whereas by one Act of Parliament made in the Nine and twentieth Year of the Reign of King Charles the Second, Entituled, An Act for the better Observation of the Lords Day, commonly called *Sunday*, The standing to Hire and Driving of Hackney-Coaches on the Lords Day are restrained ; And whereas the said restraint is many times found to be Inconvenient, as well in order to the Observation of the Day, as otherwise, Be it therefore Enacted by the Authority aforesaid, That it shall and may be lawful to and for the said Commissioners, to appoint (without any Fee or Reward for the same) One hundred seventy five and no more of the said Hackney-Coaches to Ply, Stand and Drive on the Lords Day within the Weekly Bills of Mortality only, so as the whole Number of Seven hundred may be employed successively.

11, 12 Will. III. Cap. 21.

In an Act, Entituled, *An Act for the---execution of former Acts made touching Watermen, &c.*

XIII. And whereas great Numbers of Idle and Loose Watermen and Boys do Work on the Lords Day, commonly called *Sunday*, and exact large Prices from Passengers, whose necessary Occasions oblige them to pass and repass the River of *Thames*, and generally spend such their Gains in Drunkenness and Profaneness the succeeding Week : For prevention whereof, and to the end that what shall be got thereby may be applied to the Charitable Relief of such Aged and Haimed Watermen and Lightermen, their Widows and Children, whose Circumstances want Assistance, Be it Enacted by the Authority aforesaid, That from and after the first Day of June next, it shall and may be lawful to and for the said Rulers and Overseers, Auditors and Assistants of the said Society and Company for the time being, or the major part of them, on their respective Court-Days, to appoint any Number of Watermen, not exceeding Forty, to Ply and Work on every Lords Day between Vaux-Hall above London-Bridge, and Limehouse below the same Bridge, at such Common Stairs or Places of Plying, as to the Rulers and Overseers, Auditors and Assistants, or the major part of them, shall seem most convenient for the Carrying and Recarrying of Passengers cross the said River, between the Limits aforesaid, at Due Penny each Person so to be Carried.

C A P.

Due Observation of the Lord's Day.

A.D. 1693.

A.D. 1699.



Observation of  
Sundays  
and Holy-  
days,  
jointly.

A.D. 1354.

## CAP. II.

## Observation of SUNDAYS and HOLY-DAYS, jointly.

28 Edw. III. Cap. 14.

In An Act, Entituled, *An Act for shewing of Wools, &c.*

OBS.

Item, It is accorded and established, That shewing of Wools shall be made at the Staple every Day of the Week, except the Sunday and solemn Feasts of the Year.

A.D. 1388.

12 Ric. II. Cap. 6.

*An Act concerning---unlawful Games---*

OBS.

Item, It is accorded and assented, That no Servant of Husbandry, or Labourer, nor Servant, or Artificer, nor of Victualler, shall from henceforth bear any Buckler, Sword, nor Dagger, upon forfeiture of the same, but in the time of War for Defence of the Realm of England, and that by the Surveying of the Arrears for the time being, or Travelling by the Country with their Master, or in their Masters Message, but such Servants and Labourers shall have Bows and Arrows, and use the same the Sundays and Holy-days, and leave all playing at Tennis or Foot-ball, and other Games called Coytes, Dice, Casting of the Stone, Bailes, and other such importune Games. And that the Sheriffs, Mayors, Bailiffs, and Constables, shall have Power to Arrest, and shall Arrest all doers against this Statute, and Seize the said Bucklers, Swords, and Daggers, and keep them till the Sessions of the Justices of the Peace, and the same present before the same Justices in their Sessions, together with the Names of them that did bear the same.

A.D. 1409.

11 Hen. IV. Cap. 4.

*An Act against Labourers using Unlawful Games.*

OBS.

Item, Whereas in the Statute made at Canterbury the xii. Year of the Reign of King Richard, amongst other things it was accorded and assented, That the Servants and Labourers of Husbandry, and Labourers and Servants of Artificers, and of Victuallers, should have Bows and Arrows, and use the same the Sundays and other Festival Days, and utterly leave playing at the Balls, as well Hand-ball as Foot-ball, and other Games called Coytes, Dice, Bowling, and Bailes, and other such Unchisty Games, and that the Sheriffs, Mayors, Bailiffs, and Constables, shall have Power to Arrest all that do contrary, as in the said Statute is more fully contained: Our Sovereign Lord the King will, That the said Statute be firmly holden and kept: Joyned to the same, That every such Labourer or Servant that doth contrary to the same Statute, shall have Imprisonment by Six Days. And the Mayors and Sheriffs, or the Mayors and Bailiffs of Cities and Boroughs, and the Constables in other Towns, shall have Power to put this Statute in Execution from time to time, and if they do not thereof Execution, the same Mayors and Sheriffs, or Mayors and Bailiffs aforesaid, shall pay to the King for every Default xx. s. and the Constables or Constable of every Town that doth not like Execution of this Statute, shall pay for every their or his Default vi. s. iiii. d. and that the Justices of Assizes shall have Power to enquire in this case in their Sessions from time to time, of them that do contrary to this Statute, and thereof to Certifie in the Chancery.

A.D. 1464.

4 Edw. IV. Cap. 7.

*An Act touching Cordwainers, &c.*

Item, Our Sovereign Lord the King, by the Advice of his Lords Spiritual and Temporal, and at the Prayer of the said Commons in the said Parliament Assembled, and by Authority of the same, hath Ordained and Established, That no Person, Cordwainer or Cöbler, within the City of London, or within Three Miles of any part of the same City, be he within Franchise or without, upon any Sunday in the Year, or in the Feasts of the Nativity or Ascension of our Lord, or in the Feast of Corpus Christi, shall sell or command, or to do to be sold any Shoes, Hulseaus, or Galoches, or upon the Sunday, or any of the said Feasts, shall set or put upon the Feet or Legs of any Person, any Shoes, Hulseaus, or Galoches, upon Pain of Forfeiture and Lois of xx. s. Sterling, as often and when any Person shall do the contrary of this Ordinance, or any part of the same. Whereof vi. s. viii. d. shall be had to the Kings Use, and vi. s. viii. d. to the Use of the Governours of the Mystery of Cordwainers, and the other vi. s. viii. d. residue of the said xx. s. to the Use of him that shall find, discover, and prove the breaking of this Ordinance. And that every Person that will Sue for the said Forfeiture, shall have an Action of Debt by Writ or Plaint at his Election, and such Process and Execution of the same as is had in an Action of Debt. And that the Defendant in the same Action be not admitted to Wage his Law.

4 B

14, 15 Hen.

Abridgment.

No Wooll shall be shewed on Sunday, nor other Feasts.

Labourers and Servants shall use only Bows and Arrows on Sundays and Holy-days; and leave other Games, —upon Pain of Arrest.

Recital of Stat. 12. R. 2. c. 6.

—which said Statute is further enforced, by an Imprisonment of Six Days,

—with Penalties upon all Officers neglecting their Duty.

No Cordwainer shall sell Shoes on Sundays or certain Holy-days,

—upon Pain to forfeit 20s.



Abridgment.

14, 15 Hen. VIII. Cap. 9.

*An Act concerning the Liberty of Cordwainers or Shoemakers.*

Observation of Sundays and Holy-days, jointly.

A.D. 1523.

Recital of Stat. 4 E. 4. against selling Shoes on Sundays and Holy-days,

Whereas the Commons in this present Parliament Assembled, That where in the Parliament holden at Westminster in the Fourth Year of the Reign of the Excellent Prince, of Famous Memory, Edward the Fourth, late King of England, your Noble Grandfather, among other things it was Ordained, Established, and Enacted, That no Person, Cordwainer of the City of London, or within Three Miles next about the same, upon any Sunday of the Year, in the Feasts of the Nativity or Ascension of our Lord, or Corpus Christi, should sell, command or make to be sold any Shoes, Boots, or Galeges, or upon any of the said Sundays or Feasts, should put upon the Foot or Legs of any Person or Persons, any Shoes, Boots, or Galeges, upon Pain to forfeit and lose xx. s. Sterling, as often and whensoever any Person should do contrary to the said Ordinance or any parcel thereof.

—and a Repeal thereof.

And where by the same Statute it is Ordained and Provided, That the same Act should not extend to the Damage or Prejudice, nor in any manner be Hurtful or Prejudicial to the Dean and Chapter (for the time being) of the free Chapel of the King, of S. Martins le Grand of London, nor to any Person or Persons dwelling, abiding, or being within any Place or Places in S. Martins-Lane in London, or within any Place or Places within the Precinct, Fee, or Franchise, of the said Dean, or of the said Dean and Chapter: Wherefore to the Honour of Almighty God, and to the intent that the Kings Subjects may be hereafter at their Liberty, as well as the said Inhabitants within the Liberties and Precinct of the said S. Martins the Grand, be it Enacted by the Authority of this present Parliament, That the said Statute made in the Parliament holden at Westminster in the said Fourth Year of the Reign of King Edward the Fourth, stand and be from henceforth utterly void and of none effect.

27 Hen. VI. Cap. 5.

A.D. 1448.

*Certain Days wherein Fairs and Markets ought not to be kept.*

The great Abuses and Mischiefs, of keeping Fairs and Markets upon Sundays, and the principal Feasts.

Item, Considering the abominable Injuries and Offences done to Almighty God, and to his Saints, always Aiders and singular Assistants in our Necessities; because of Fairs and Markets upon their high and principal Feasts, as in the Feast of the Ascension of our Lord, in the Day of Corpus Christi, in the Day of Whitsunday, in Trinity Sunday, with other Sundays, and also in the high Feast of the Assumption of our Blessed Lady, the Day of All-Saints, and on Good Friday, accustomed and miserably holden and used in the Realm of England: In which Principal and Festival Days, for great earthly covetise, the People is more willingly vexed, and in bodily Labour foiled, than in other ferial Days, as in fastening and making their Booths and Stalls, bearing and carrying, lifting and placing their Wares outward and homeward; as though they did nothing remember the horrible defiling of their Souls in buying and selling, with many deceitful Lies and false Perjury, with Drunkenness and Strifes, and so specially withdrawing themselves and their Servants from Divine Service: The foresaid Lord the King, by the Advice and Assent of the Lords Spiritual and Temporal, and the Commons of this Realm of England, being in the said Parliament, and by Authority of the same Parliament, hath Ordained, That all manner of Fairs and Markets in the said principal Feasts and Sundays, and Good Friday, shall clearly cease from all shewing of any Goods or Merchandises (necessary Victual only except) upon pain of forfeiture of all the Goods aforesaid so shewed, to the Lord of the Franchise or Liberty where such Goods, contrary to this Ordinance, be, or shall be shewed (the Four Sundays in Harvest except.) Nevertheless of his special Grace by Authority aforesaid, granteth to them Power, which of old time had no Day to hold their Fair or Market, but only upon the Festival Days aforesaid, to hold by the same Authority and Strength of his old Grant, & within Three Days next before the said Feast, or next after Proclamation first made to the

No Fairs nor Markets shall be kept on Sundays and other high Feasts,

—but Three Days before, or after.

& Within Three Days ] In the 8th and 9th of Queen Elizabeth, a Bill was Read the First and Second time, to avoid Fairs and Markets on Sunday, to the next Work-day following; which therefore seems

to be the Bill, that had been prepared in the Convocation of 1562. whereby it was Provided, That upon every Sabbath-day, and principal Feast-day, be kept neither Open Fair nor Market throughout the Year; simple

Str. Hist. Ref. pag. 316.



Observation of  
Sundays  
and Holy-  
Days,  
jointly.

simple common People, upon which Day the aforesaid Fair shall be holden, always to be certified without any Fine or Fee to be taken to the Kings Use. And they which of old time have by special Grant sufficient Days before the Feasts aforesaid, or after, shall in like manner, as is aforesaid, hold their Fairs and Markets the full number of their Days. The said Festival Days and Sundays, and Good Fridays except.

II. Provided always, That this present Ordinance shall begin to take effect at the Feast of Saint Michael next coming, and not before, and shall endure until the next Parliament, / and so forth, except in the said Parliament a reasonable Cause be Alleged, Shewed and Proved, for the which it shall seem not expedient that the foresaid Ordinance should endure.

and that all Persons or Corporations, having by Patent such Days expressed, may change the same Days with the Days immediately following, or going before the said Sundays, or principal Feast-day.

In the Third Year of Charles the First, a National Fast having been appointed; the Bishop of Winchester was directed to move the King, That, whereas on that Day divers Fairs and Markets were Granted to divers Towns by Charter, His Majesty would be pleased, That in those Places they might have Liberty to keep the said Fast the next Day after the said Fairs ended, notwithstanding His Majesties Proclamation to that Day; with which His Majesty was well pleased, and the Bishops of each Diocese were directed by the House, to take care accordingly.

[ And so forth ] Long after this, 3 H 8. a Bill was brought into the House of Lords, *de Feriis & Mercatis, diebus Dominicis, & aliis Festis Principalibus, non tenendis*; and another of the like import (as we have seen) was twice Read in the House of Commons (8 & 9 Eliz.) Neither of which taking effect, Fairs and Markets seem to have been commonly kept on Sundays and other great Festivals, notwithstanding this Statute. In somuch, that the Queens Articles published in 1564 go no further, than that *in all Fairs and common Markets, falling upon the Sunday, there be no shewing of any Wares before the Service be done.* But in the Canons of 1571. the Prohibition was absolute, *Nundinas & Mercatus publicos celebrare diebus Dominicis non licebit.*

Abridgment.

This Statute shall be perpetual, unless a reasonable cause to the contrary be alledged in the next Parliament.

Journ. Proc.

Str. Ref.  
p. 158.Journ. Proc.  
Apr. 10.

I Jac. I.

## C A N O N S, 1603.

xiii. *Due Celebration of Sundays and Holy-Days.*

ALL manner of Persons within the Church of England, shall from henceforth Celebrate and Keep the Lord's Day, commonly called *Sunday*, and other Holy-Days, according to Gods Holy Will and Pleasure, and the Orders of the Church of England, prescribed in that behalf; that is, in hearing the Word of God Read and Taught, in Private and Publick Prayers, in Acknowledging their Offences to God, and Amendment of the same; in Reconciling themselves Charitably to their Neighbours, where Displeasure hath been, in oftentimes Receiving the Communion of the Body and Blood of Christ, in Visiting of the Poor and Sick; Using all Godly and Sober Conversation.

*Sundays* and Holy-Days shall be Religiously Employed, in Publick and Private.

xiv. *The Prescript Form of Divine-Service to be used on Sundays and Holy-Days.*

THE Common Prayer shall be said or sung Distinctly and Reverently upon such Days as are Appointed to be kept Holy by the Book of Common Prayer, and their Eves.

Holy-Days, and their Eves, shall be duly observed.

CAP.



Abridgment.

## C A P. III.

## Observation of FEASTS and FASTS, jointly.

5, 6 Edw. VI. Cap. 3.

## An Act for the keeping Holy-Days and Fasting-Days.

The necessity, and ends, of appointing Holy-Days in the Church.

**INASMUCH** as at all times Men be not so mindful to laud and praise God, so ready to resort and hear Gods holy Word, and to come to the holy Communion and other Laudable Rites, which are to be Observed in every Christian Congregation, as their Bounden Duty doth Require: therefore to call Men to remembrance of their Duty, and to help their Infirmitie, it hath been wholesomly Provided, that there should be some certain times and Days appointed, wherin Christians should cease from

**INASMUCH** as ] How the Law stood in this particular, from the 28th Year of the Reign of K. Henry 8th, will best appear, from the Decree made in Convocation that Year, and confirmed by the King's Authority; the Tenor of which is as follows:

Coll Can. p. 167.

*A Copy of thate made for thabrogacion of certayne holy-dayes, according to the transumpt late sent by the Kings Hyghnes to all Bysshops, with his Graces strayght commaundement, to signifie his farther pleasure to all Colleges, Religious Houses and Curates, within theyr Dioceffe, for the publicacion, and also effectual and universal observation of the same. An. 1536.*

Many Mischiefes of a great multitude of Holy-Days.

**FOR** as moch as the number of holy-dayes is so excessively growen, and yet dayly more and more by mens devocyon, yea rather supersticyon, was like further to encrease, that the same was and sholde be not onely prejudiciall to the common weale, by reason that it is occasion as well of moche slouth and ydelnes, the very nouryshe of theves, vacaboundes, and of dyvers other unthryftynesse and inconvenyencies, as of decaye of good mysteryes and artes, utyle and necessary for the common welthe, and losse of mans sode, many tymes, beyngelene destroyed through the superstitious observance of the said holy-dayes, in not takyng the oportunitie of good and serene wheather offered upon the same in time of harvest, but also petnicuous to the soules of many men, whiche beyng entysed by the lycencious vacacyon and libertye of those holy-dayes, do upon the same commonly use and practyse more excessie ryote, and superfluitie than upon any other dayes. And sith the Sabbooth-day was ordeyned for mans use, and therefore ought to gyve place to the necessitie and behove of the same when soever that shall occurre: mouch rather any other holy-day institute by man. It is therefore by the Kyngs Hyghnes auctority, as supreme head in earth of the Church of Englande, with the common assente and content of the prelates and clergy of this his realme in Convocacyon laufullly assembled and congregated, among other thynges decreed, ordeyned and established.

¶ Fyrst that the feest of Dedicacyon of the church shall in all places throughout this realm be celebrated and kept on the fyrst Sunday of the moneth of Octobre for ever, and upon none other day. ¶ Item that the feest of the patrone of every church within this realm, called commonly the Church holy-day, shall not from henceforth be kepte or observed as a holy-day, as heretofore hath been used, but that it shall be lafull to all and singular persons, resident or dwellynge within this realme, to go to their work, occupacyon or mystery, and the same truely to exercyse and occupy upon the said feest, as upon any other workeday, excepte the said feest of the Church-holy-day be such as must be ells univrsally observed, as a holy-day by this ordinaunce following.

Feast of Dedication.

Also that all those feestes or holy-days which shall happen to occurre, eyther in the harvest time which is to be compted from the fyrst day of July unto the xxix. day of Septembre, or ells in the terme time at Westmynster, shall not be kepte or observed from henceforth as holy-dayes, but that it may be lafull for every man to go to his work or occupacion upon the same as upon any other workeday; except alwayes the feestes of the Apostles, of our blessed Lady, and of Saynt George. And also such feestes as wherein the kings Judges at Westmynster-hall do not vse to fyte in Judgment, all which shall be kepte holy and solemne of every man, as in tyme past have been accustomed. Provided alwayes, that it may be lafull unto all Preestes and Clerkes, as well secular as regular, in the foresayd holy-dayes now abrogate, to syng or saye their accustomed servyce for those holy-dayes in their churches: so that they do not the same solemprely, nor do ryng to the same after the manner used in hygh holy-dayes, ne do commaunde or indict the same to be kepte or observed as holy-dayes.

Holy-Days, in Harvest, and Term-time.

Finally, that the feest of the Nativitie of our Lord, of Easter, of the Nativitie of Saynt John the Baptyste, and of Saynt Mychaell, shall be from henceforth compted, and accepted and taken for the iiiij. general offering dayes.

Offering-Days.

all

Observation of Feasts and Fasts, jointly.

A.D. 1551.



Observation of Feasts and Fasts, jointly.

all other kind of labours, and should apply themselves only and wholly unto the aforesaid holy Works, properly pertaining unto true Religion; that is, to hear, to learn, and to remember Almighty Gods great benefits, his manifold mercies, his ineffimable gracious goodnes, so plenteously poured upon all his Creatures, and that of his infinite and unspeakable Goodnes, without any Mans desert; And in remembrance hereof, to render unto him most high and hearty thanks, with Prayers and Supplications for the relief of all our daily necessities: And because these be the chief and principal Works wherein Man is commanded to Worship God, and do properly pertain unto the First Table; therefore as these Works are both most commonly, and also may well be called Gods Service, so the times appointed specially for the same, are called Holy-Days; not for the matter and nature either of the Time or Day, nor for any of the Saints sake whose memories are had on those Days (for so all Days and Times considered are Gods Creatures, and all of like holiness) but for the Nature and Condition of those Godly and Holy Works, wherewith only God is to be Honoured, and the Congregation to be Edified, whereunto such Times and Days are Sanctified and Hallowed; that is to say, separated from all Prophane Uses, and Dedicated and Appointed, not unto any Saint or Creature, but only unto God and his true Worship: Neither is it to be thought that there is any certain time or definite number of Days prescribed in Holy Scripture, but that the appointment both of the time, and also of the number of the Days, is left by the Authority of Gods Word, to the liberty of Christs Church, to be Determined and Assigned orderly in every Country, by the Discretion of the Rulers and Ministers thereof, as they shall judge most expedient to the true setting forth of Gods Glory, and the Edification of their People: Be it therefore Enacted by the King our Sovereign Lord, with the Assent of the Lords Spiritual and Temporal, and the Commons in this present Parliament Assembled, and by the Authority of the same, That all the Days hereafter mentioned, shall be kept, and commanded to be kept Holy-Days, and none other; that is to say, all Sundays in the Year, the Days of the Feast of the Circumcision of Our Lord Jesus Christ, of the Epiphany, of the Purification of the Blessed Virgin, of Saint Matthe the Apostle, of the Annunciation of the Blessed Virgin, of Saint Mark the Evangelist, of Saint Philip and Jacob the Apostles, of the Ascension of Our Lord Jesus Christ, of the Nativity of Saint John Baptist, of Saint Peter the Apostle, of Saint James the Apostle, of Saint Bartholomew the Apostle, of Saint Matthew the Apostle, of Saint Michael the Archangel, of Saint Luke the Evangelist, of Saint Simon and Jude the Apostles, of All Saints, of Saint Andrew the Apostle, of Saint Thomas the Apostle, of the Nativity of Our Lord, of Saint Stephen the Martyr, of Saint John the Evangelist, of the holy Innocents, Munday and Tuesday in Easter-Week, and Munday and Tuesday in Whitsun-Week; And that none other Day shall be kept and commanded to be kept Holy-day, or to Abstain from Lawful Bodily Labour.

II. And it is also Enacted by the Authority aforesaid, That every Even or Day next going before any of the aforesaid Days of the Feasts of the Nativity of Our Lord, of Easter, of the Ascension of Our Lord, Pentecost, and the Purification, and the Annunciation of the aforesaid Blessed Virgin, of All Saints, and of all the said Feasts of the Apostles, (other than of Saint John the Evangelist, and of Philip and Jacob) shall be Fasted, and commanded to be kept and observed, and that none other Even or Day shall be commanded to be Fasted.

III. And it is Enacted by the Authority abovesaid, That it shall be lawful to all Archbishops and Bishops in their Dioceses, and to all other having Ecclesiastical or Spiritual Jurisdiction, to enquire of every Person that shall

And for further declaracyon of the premises, be it known that Easter terme begynneth alwayes the xviii. day after Easter, reckenyng Easter-day for one, and endeth the monday next after thascencyon day. Trinite terme begynneth alwayes the Wednesday next after thoctaves of Trinite Sondag, and endeth the xi. or xii. day of July. Mychelmas terme beginneth the ix. or x. day of October, and endeth the xxviii. or xxix. day of November.

Hillary terme begynneth the xxiii. or xxiiii. day of January, and endeth the xii. or xiii. day of February.

In Easter terme upon thascencyon daye. In Trinite terme upon the Nativity of Saynt John Baptist. In Mychelmas terme upon Alhollon day. In Hillary terme upon Candlemas day: The kyngs Judges at Westmynster do not use to syt in Judgment, nor upon any sondayes.

Abridgment.

Holy-Days are so called, not from the Saints, but from the Holy Work,

—and the Church having power to appoint the time, and number, of Holy-Days,

—the days in this Act declared, shall be kept as Holy-Days,

—and none other,

—and also the Eves herein specified,

—and none other.

Ordinaries, and Spiritual Judges may punish Offences against this Act.



Abridgment.

Observation of Feasts and Fasts, jointly.

This Statute shall not take away Abstinence from Flesh, as already settled ;

Offend in the Premises, and to Punish every such Offendor by the Censures of the Church, and to enjoyn him or them such Penance as shall be to the Spiritual Judge by his direction thought meet and convenient.

IV. Provided always, That this Act, or any thing therein contained, shall not extend to Abrogate or take away the Abstinence from Flesh in Lent, or on Fridays and Saturdays, or any other Day which is already appointed so to be kept, by virtue of an Act made and provided in the Third Year of the Reign of Our Sovereign Lord the Kings Majesty that now is, saving only of those Evens or Days whereof the Holy Day next following is Abrogated by this Statute ; Any thing above mentioned to the contrary in any wise notwithstanding.

—but a Feast falling upon Monday, the Eve shall be kept upon Saturday.

V. Provided also, and it is Enacted by the Authority aforesaid, That when and so often as it shall chance any of the said Feasts, (the Evens whereof be by this Statute commanded to be observed and kept fasting-day) to fall upon the Munday ; That then as it hath always been heretofore accustomedly used, so hereafter the Saturday then next going before any such Feast or Holy day, and not on the Sunday, shall be commanded to be Fasted for the Even of any such Feast or Holy Day ; Any thing in this Statute before mentioned or declared to the contrary in any wise notwithstanding.

Labourers may Work on Holy-days.

VI. Provided always, and it is Enacted by the Authority aforesaid, That it shall be lawful to every Husbandman, Labourer, Fisherman, and to all and every other Person and Persons, of what Estate, Degree or Condition he or they be, upon the Holy-Days aforesaid, in Harvest, or at any other times in the Year when necessity shall require, to Labour, Ride, Fish, or Work any kind of Work, at their free Wills and Pleasure ; Any thing in this Act to the contrary in any wise notwithstanding.

The Knights of the Garter may keep the Feast of Saint George as usual.

VII. Provided always, and be it Enacted by the Authority aforesaid, That it shall be lawful to the Knights of the Right Honourable Order of the Garter, and to every of them, to keep and celebrate solemnly the Feast of their Order, commonly called Saint George's Feast, Yearly from henceforth the xxii, xxiii, and xxiv. Days of April, and at such other time and times, as Yearly shall be thought convenient by the Kings Highness, his Heirs and Successors, and the said Knights of the said Honourable Order, or any of them now being, or hereafter to be ; Any thing in this Act heretofore mentioned to the contrary notwithstanding.

I Mar. Sess. 2. Cap. 2.

A.D. 1553.

In an Act, Entituled, *An Act for the Repeal of certain Statutes, &c.*

Repeal of the foregoing Act.

And one other Act made in the same last Session, Entituled, An Act for the keeping of Holy-Days, and Fasting-Days—shall be from henceforth utterly Repealed, Void, and adnihilate, and of none effect.

D'Ewes 27. 53.

Utterly Repealed ] In the First of Queen Elizabeth, a Bill to revive the Act of Parliament made Anno 5 Ed. 6. for keeping of Holy-Days and Fasting-Days, was brought into Parliament, but passed not ; so that the Repeal of Queen Mary remained upon this Act till 1 Jac. cap. 25. by which Her Repeal was Repealed ; and it is a Rule, that by Repealing of a Repeal, the first Act is revived.

the Articles Published by the Queen in the 7<sup>th</sup> Year of Her Reign, one was, That there be none other Holy-Days observed, besides the Sundays, but only such as be set out for Holy-Days, as in the Statute Anno 5 & 6 Ed. 6. and in the New Kalendar Auth. rized by the Queens Majesty : who appears in other instances (as She did probably in this) to have greatly disliked the Parliament's intermeddling in matters of Religion, the Ordering of which, She reckoned one great Branch of the Royal Supremacy.

2 Inst. p. 686.

In the mean while, the Kalendar, before the Book of Common Prayer, had directed what Holy-Days should be observed ; and in

I Jac.



Observation of Feasts and Fasts, jointly.  
A.D. 1603.

## I Jac. I. Cap. 25.

In an Act, Entituled, *An Act for Continuing and Reviving Divers Statutes, and for Repealing of some others.*

§. XLVIII. And be it further Enacted by the Authority of this present Parliament, that an Act made in the first Year of the Reign of Queen Mary, Entituled, An Act for the Repeal of certain Statutes made in the time of King Edward the Sixth, shall stand Repealed and Void.

A.D. 1661.

## 13, 14 Car. II.

*Rubrick before Common Prayer.*

Certain Solemn Days, for which particular Services are Appointed.

THE Fifth Day of *November*, being the Day of the Papists Conspiracy.  
The Thirtieth Day of *January*, being the Day of the Martyrdom of King *Charles* the First.

The Nine and twentieth Day of *May*, being the Day of the Birth and Return of King *Charles* the Second †.

† To these may be added a Fourth (tho' not enjoyed by Act of Parliament) viz. The Inauguration-Day, or the Day when the King or Queen, for the time being, began their respective Reigns. The Observation of which Day (as to K. *Charles* the First) was Enforced by a particular Canon, in the Year 1640; after the Example as well of the *Godly Christian Emperors in the former times, as of our own most Religious Princes since the Reformation*, as it is in the Preface to that Canon; which says further, That a particular Form of Prayer was appointed by Authority, for that Day and Purpose, and enjoyns all Church-wardens to pro-

vide Two of those Books at least. This Festival was difused in the Reign of K. *Charles* the Second, upon Occasion of the Murder of His Royal Father, which changed the Day into a Day of Sorrow and Fasting, as is set forth in the Order for Reviving that Usage, in the First Year of K. *James* the Second, before the Service composed for that purpose: Which Service (after another disuse of that Festival, during the Reign of K. *William*) was Revised, and the Observation of the Day commanded by a special Order thereunto annexed, in the Second Year of our Gracious Sovereign Queen *Anne*.

## 2 &amp; 5 Edw. VI.---13, 14 Car. II.

*Rubrick after Nicene Creed.*

† Then" the Curate shall declare to the People what Holy-days, or Fasting-days are in the Week following to be observed.

† After Sermon, in 2 & 5 Edw. VI.

Holy-days shall be declared in the Church.

I Jac. I.

## C A N O N S, 1603.

Ixiv. *Ministers solemnly to bid Holy-days.*

EVERY Parson, Vicar, or Curate, shall in his several Charge declare to the People every Sunday, at the time appointed in the Communion-Book, whether there be any Holy-days, or Fasting-days the Week following. And if any do hereafter wittingly offend herein, and being once admonished thereof by his Ordinary, shall again omit that Duty, let him be censured according to Law, until he submit himself to the due performance of it.

All Ministers shall declare Holy-days, &c.

—upon pain of Censure, by the Ordinary.



Abridgment.

## CAP. IV.

## Observation of FEASTS, in particular.

## SIMON M E P H A M.

*Festum Conceptionis Divæ Virginis Mariæ Festivè & solemniter celebretur.*

The Memory of the Blessed Virgin being most frequently repeated, as matter of the greatest joy to Men, —and the Feast of the Conception having been appointed by Archbishop *Anselm*, —the said Feast shall be observed throughout the Province of *Canterbury*.

AD hæc, quia inter omnes Sanctos Memoria Beatissimæ Virginis Mariæ Matris Domini, eò frequentius agitur atque festivius, quò majorem gratiam apud Deum, qui ejus conceptionem prædestinatam ad Unigeniti sui temporalem originem & omnium salutem veraciter ordinavit, creditur invenisse, ut per hoc salutis nostræ quamvis remota primordia, in quibus devotis occurrit mentibus spiritualium materia gaudiorum, devotionem omnibus augeant & salutem; Venerabilis *Anselmi* prædecessoris nostri, qui post alia quædam ipsius o antiquiora solennia Conceptionis superaddere dignum duxit, vestigiis inhærentes, Statuimus, & firmiter præcipiendo mandamus, quatenus festum Conceptionis prædictæ in cunctis Ecclesiis nostræ Cantuariensis Provinciæ festivè & solennitè decætero celebretur.

o Antiquiora solennia ] viz. Nativitatis, Annunciationis, Purificationis, & Assumptionis. Lyndw.

## SIMON ISLEPE.

*Festa hæc Constitutione contenta, solemniter sunt celebranda: in cæteris licet impunè consueta facere opera.*

The particular Days which shall be kept Holy, by abstaining from all servile Labour,

EX Scripturis, & *infra*. De fratrum nostrorum consilio, dies festos præsentibus inferere duximus; quibus ab Universis fervilibus operibus etiam p reipublicæ utilibus, per nostram Cantuariensem Provinciam fuerit regulariter abstinendum. In primis sacrum diem Dominicum ab horâ diei Sabbati vespertinâ inchoandum; non ante horam ipsam præveniendò, ne Judaicæ professionis participes videamur. Quod etiam in festis, quæ suas habent vigiliis, observetur. Item festum Nativitatis Domini, Sanctorum Stephani, Johannis Evangelistæ, Innocentium, q Thomæ Martyris, Circumcisionis Domini, Epiphaniæ Domini, Purificationis Beatæ Mariæ Virginis, Sancti Matthiæ Apostoli, Annunciationis Beatæ Mariæ, Paschæ cum tribus diebus sequentibus, Sancti Marci Evangelistæ, Apostolorum Philippi & Jacobi, Inventionis Sanctæ Crucis, Ascensionis Domini, Pentecostes cum tribus diebus sequentibus, Corporis Christi, Nativitatis Beati Johannis Baptistæ, Apostolorum Petri & Pauli, Translationis Sancti Thomæ Martyris, Sanctæ Mariæ Magdalenæ, Sancti Jacobi Apostoli, Sancti Laurentii, Assumptionis Beatæ Mariæ, Sancti Bartholomæi, Nativitatis Beatæ Mariæ, Exaltationis Sanctæ Crucis, Sancti Matthæi Apostoli & Evangelistæ, Sancti Michaelis, Sancti Lucæ Evangelistæ, Apostolorum Simonis & Judæ, Omnium Sanctorum, Sancti Andreæ Apostoli, Sancti Nicolai, Conceptionis Beatæ Mariæ, Sancti Thomæ Apostoli, Solennitas dedicationum Ecclesiarum Parochialium, & Sanctorum in quorum honorem Ecclesiæ Parochiales dedicantur: aliaq; Festa quæ in singulis Diocæsisbus dictæ Provinciæ per r locorum Ordinarios ex certâ scientiâ peculiariter indicuntur, & *infra*. Reliquis enim Sanctorum festivitibus impunè poterint opera fieri consueta.

p Reipublicæ utilibus ] His videlicet, glia secundo post Conquestum, martyrizatus quæ expediri solent per Mercenarios & Mechanicis Artibus insistentes. Lyndw. est. Lyndw.  
q Thomæ Martyris ] Hic erat Archiepiscopus Cantuariensis, qui sub Henrico Rege Ar- r Locorum Ordinarios ] i. e. Episcopos. Lyndw.

—to which Days of Saints, are added, the Dedications of Parish-Churches, —and Diocesan-Feasts.

Observation of Feasts, in particular.

A.D. 1328.  
3 Edw. 3.

Edit. Oxon.  
p. 101.  
OBS.

A.D. 1362.  
26 Edw. 3.

Edit. Oxon.  
p. 101.

H E N-



Observation of Feasts, in particular.

A.D. 1415.  
3 H. 5.

## HENRICUS CHICHELEY.

*Divi Georgii Martyris Festum Officio duplici, ad modum majoris duplicis Festi, tam à Clero quàm à Laico, celebretur. Festa quoque Sanctorum Episcoporum David & Ceddæ, necnon & Wenefredæ Virginis, cum regimine Chori & 9. lectionibus, suis diebus celebrentur.*

Edit. Oxon.  
p. 103.

**I**neffabilis, & *infra*. Nos qui Dei laudem in Sanctis suis, in quibus gloriosus existit, in nostrâ Provinciâ cupimus ampliari, regis & regni incolarum ad hoc hortatibus excitati, confratrumque nostrorum, & Cleri Provinciæ nostræ ducti consiliis, quinimò & nostri provincialis Concilii robore ac decreto suffulti, antiquorum Patrum pium erga Sanctos Dei devotionis affectum prosequentes; Festum Beati Georgii Martyris sub officio duplici, & ad modum Majoris duplicis Festi tam per Clerum quàm per Populum dictæ Provinciæ, per universas Ecclesias ejusdem, de expresso consensu nostrorum fratrum & Cleri antedicti, volumus, statuimus & præcipimus, annis singulis perpetuis futuris temporibus solenniter celebrari; & in ipso Festo ab omni servili opere per omnes civitates & loca ipsius Provinciæ, sicut & prout in Festo Natalis Domini, præcipimus ferari: quo magis in ipso Festo plebs fidelis ad Ecclesias convenient, Deum laudent, & ipsius Sancti & omnium Beatorum patrocinia devotius implorent, & pro Rege ac Regni salute instent frequentius & exorent. Ad hæc, dicti Provincialis Concilii auctoritate decrevimus, & etiam Statuimus per præsentem, quòd Festa Sanctorum Davidis & Ceddæ Episcoporum, & Wenefredæ Virginis de cætero per totam Provinciam nostram antedictam suis temporibus, viz. Sancti Davidis primo, Sancti Ceddæ secundo mensis Martii diebus, Wenefredæ autem tertio die Novembris, cum regimine Chori & novem lectionibus, perpetuis futuris temporibus etiam celebrentur.

## HENRICUS CHICHELEY.

*Divi Johannis de Beverlaco Confessoris & Pontificis Depositionis Festum ad modum Festi unius Confessoris & Pontificis Paschalis temporis, cum regimine Chori secundum usum Sarum 7. Maii celebretur. Translationis autem ejus dies cum Festo Crispini & Crispiniani agatur.*

Edit. Oxon.  
p. 103.

**A**nglicanæ Ecclesiæ, & *infra*. De fratrum nostrorum & Cleri in præsentem Concilio præsentium voluntatibus & assensu, & nihilominus ad Christianissimi Principis & s Regis nostri instantiam specialem, Sanctissimi Confessoris Pontificis Johannis Beverlaco memoriam, ubique per nostram Provinciam votivis & devotis affectibus duximus exaltandam. Statuimus igitur, & de prædictorum fratrum nostrorum Consilio & assensu pro perpetuis futuris temporibus ordinamus, quòd Festum t Depositionis dicti Sancti, quod septimo die Maii, viz. in crastino Sancti Johannis ante portam Latinam dignoscitur contingere, ad modum Festi unius Confessoris & Pontificis Paschalis temporis, cum regimine Chori secundum usum Sarum Ecclesiæ per Provinciam nostram antedictam futuris temporibus perpetuò celebretur. Cæterum quia in Festo Translationis ejusdem, quod 25. die mensis Octobris etiam annuatim contingit, de Sanctis Crispino & Crispiniano secundum usum Sarum Ecclesiæ prædictæ consuevit quasi per omnes Ecclesias prædictæ Provinciæ celebrari, & servitium fieri ab antiquo: nè unius Festi introductio diminutio alterius existat, sed magis sub unâ celebritatis lætitiâ dicti Martyres unâ cum præfato Confessore almifico pariter honorentur; de fratrum nostrorum & Cleri prædictorum consensu unanimi, Statuimus, decernimus & ordinamus, quòd de cætero singulis annis dictus dies 25. mensis Octobris ubique per Provinciam prædictam cum novem lectionibus celebris habeatur: quarum tres primæ erunt de proprietate Sanctorum Crispini & Crispiniani; tres mediæ de translatione Sancti Johannis prædicti; & tres ultimæ de expositione Evangelii plurimorum Martyrum, cum servitio secundum usum Sarum in talibus fieri consueto.

s Regis ] *Scil. Henrici quinti.* Lyndw. | t Depositionis ] *i. e. Obitus sive mortis.* Lyndw.

Abridgment.

The Feast of St. George the Martyr,

—shall be celebrated with the Office of a double Holy-day,

—and with abstinence from all servile Labours;

—The Feasts of St. David, St. Chad, and St. Winifrid, shall also be observed.

The Feast of St. John of Beverley,

—shall be observed for ever, as for a Confessor, &c.

—and the Day of his Translation falling out on the Feast of S. Crispin and Crispinian,

—the Office of that Day shall have respect to both Occasions.



Abridgment.

6 Hen. VI. Cap. 3.

In an Act, Entituled, *An Act touching Wages of Husbandmen, &c.*

Observation of Feasts, in particular. A. D. 1427.

No Labourer by the Week shall take ought for Festivals or Eves.

Provided always, That if any Man be retained by the Week for Husbandry or other Labour, that he shall take nothing for the Festival Days in such Week, nor for the Half-Days of the Evens of such Feasts.

5, 6 Edw. VI.----13, 14 Car. II.

A. D. 1551, &c.

*Rubrick before the Common Prayer.*

The Feasts of the the Church of England.

A Table of all the Feasts that are to be observed in the Church of England through the Year.

The names of the Feasts, observed in the Church of England.

|                                       |                                            |                             |
|---------------------------------------|--------------------------------------------|-----------------------------|
| ALL Sundays in the Year.              |                                            |                             |
| The Days of the Feasts of             | The Circumcision of our Lord JESUS CHRIST. |                             |
|                                       | The Epiphany.                              |                             |
|                                       | The Conversion of S. Paul.                 |                             |
|                                       | The Purification of the Blessed Virgin.    |                             |
|                                       | S. Matthias the Apostle.                   |                             |
|                                       | The Annunciation of the Blessed Virgin.    |                             |
|                                       | S. Mark the Evangelist.                    |                             |
|                                       | S. Philip and S. Jacob the Apostles.       |                             |
|                                       | The Ascension of our Lord JESUS CHRIST.    |                             |
|                                       | S. Barnabas.                               |                             |
|                                       | The Nativity of S. John Baptist.           |                             |
|                                       | Munday and Tuesday } in Easter-week.       |                             |
|                                       | The Days of the Feasts of                  | S. Peter the Apostle.       |
|                                       |                                            | S. James the Apostle.       |
|                                       |                                            | S. Bartholomew the Apostle. |
| S. Matthew the Apostle.               |                                            |                             |
| S. Michael and all Angels.            |                                            |                             |
| S. Luke the Evangelist.               |                                            |                             |
| S. Simon and S. Jude the Apostles.    |                                            |                             |
| All Saints.                           |                                            |                             |
| S. Andrew the Apostle.                |                                            |                             |
| S. Thomas the Apostle.                |                                            |                             |
| The Nativity of our Lord.             |                                            |                             |
| S. Stephen the Martyr.                |                                            |                             |
| S. John the Evangelist.               |                                            |                             |
| The Holy Innocents.                   |                                            |                             |
| Munday and Tuesday } in Whitsun-week. |                                            |                             |

3 Jac. I. Cap. 1.

A. D. 1605.

*Yearly Prayer shall be made for the Delivery of the King, &c. from the Gun-powder Treason.*

The happy State of the English Church and Nation under K. James the First,

As much as Almighty God hath in all Ages shewed his Power and Mercy, in the miraculous and gracious deliverance of his Church, and in the protection of religious Kings and States, and that no Nation of the Earth hath been blessed with greater benefits than this Kingdom now enjoyeth, having the true and free profession of the Gospel under our most Gracious Sovereign Lord King JAMES, the most great, learned, and religious King that ever Reigned therein, enriched with a most hopeful and plentiful Progeny, proceeding out of his Royal Loyns, promising continuance of this happiness and profession to all Posterity: the which many malignant and devilish Papists, Jesuits, and Seminary Priests much envying and fearing, conspired most horribly, when the Kings most Excellent Majesty, the Queen, the Prince, and all the Lords Spiritual and Temporal, and Commons should have been assembled in the Upper-House of Parliament upon the fifth Day of November, in the Year of our Lord, 1605. suddenly to have blown up the said whole House with Gun-powder: An Invention so inhuman, barbarous and cruel, as the like was never before heard of, and was (as some of the Principal Conspirators thereof confess) purposely devised and concluded to be done in the said House, that where sundry necessary and religious Laws for preservation of the Church and State were made, which they falsely and slanderously term Cruel Laws, enacted against them and their Religion, both Place and Person should be all destroyed and blown up at once, which would have turned to the utter Ruin of this whole Kingdom, had it not pleased Almighty God, by inspiring the Kings most Excellent Majesty with a Divine Spirit, to interpret some dark phrases of a Letter shewed to his Majesty, above and beyond all ordinary construction,

—which the Papists envying, contriv'd the Gun-powder-plot,

—an inhuman Invention, to Destroy the Place and Persons, concern'd in making Laws against them,

—which had succeeded, if the King had not been inspired to interpret a Letter.



Observation of Feasts, in particular.

struation, thereby miraculously discovering this hidden Treason not many Hours before the appointed time for the Execution thereof: Therefore the Kings most Excellent Majesty, the Lords Spiritual and Temporal, and all his Majesties faithful and Loving Subjects, do most justly Acknowledge this great and infinite Blessing to have proceeded meerly from *G D D* His great mercy, and to His most holy Name do ascribe all Honour, Glory and Praise: And to the end this unfeigned Thankfulness may never be forgotten, but be had in a perpetual remembrance, that all Ages to come may yield Praises to His Divine Majesty for the same, and have in Memory THIS JOYFUL DAY OF DELIVERANCE.

II. Be it therefore Enacted by the Kings most Excellent Majesty, The Lords Spiritual and Temporal, and the Commons in this present Parliament Assembled, and by the Authority of the same, That all and singular Ministers in every Cathedral and Parish Church, or other usual Place for Common Prayer, within this Realm of England and the Dominions of the same, shall always upon the fifth Day of November say Morning Prayer, and give unto Almighty God Thanks for this most happy Deliverance: And that all and every Person and Persons Inhabiting within this Realm of England and the Dominions of the same, shall always upon that Day diligently and faithfully resort to the Parish Church or Chapel accustomed, or to some usual Church or Chapel where the said Morning Prayer, Preaching, or other Service of God shall be used, and then and there to abide orderly and soberly during the time of the said Prayers, Preaching, or other Service of God there to be used and ministered.

III. And because all and every Person may be put in mind of his Duty, and be then better prepared to the said holy Service, Be it Enacted by Authority aforesaid, That every Minister shall give warning to his Parishioners publickly in the Church at Morning Prayer the Sunday before every such fifth Day of November, for the due observation of the said Day. And that after Morning Prayer, or Preaching upon the said fifth Day of November, they Read publickly, distinctly and plainly this present Act.

*u* Give, &c. Thanks ] It should seem, by the Tenor of this Act, That the Form or Manner of giving Thanks was left to the discretion of every Minister; but that there was a standing Form for this Day, in the 16<sup>th</sup> of Charles the First, appears from this Order of the House of Lords; Ordered, That the Title before the Prayers for the Deliverance from the Gunpowder-Plot, shall be altered and Printed hereafter, in hæc verba, viz. A Thanksgiving for the Delivery from the Gunpowder Treason; And the Printer is to be sent for to appear before this House, to be asked how this Title that is now prefixed, viz. A Thank-

giving for Peace and Victory, came to be introduced.

This Office was Revised by Convocation, in the Year 1662. *Dominus Episcopus London' de et cum consensu Confratrum suorum, &c. Curam & Revisionem Libri Publicarum Precum concernent' 5 diem Novembris, Reverendo Patri Domino Episcopo Dunelm' commisit.*—And afterwards, *Forma Precum pro 5 Novembris, introduct' & Publicè perlect' & unanimi consensu approbat'* In which Form some few Additions and Alterations were made, upon a new Revisal, in the Second Year of King William and Queen Mary.

Abridgment.

That this great Mercy may never be forgotten;

--all Ministers shall publickly say Morning Prayer, on Nov. 5.

--and the People shall resort to it.

Notice shall be given the Sunday before,

--and this Act shall be Read on the Day.

Journ. Proc. Aug. 24.

Journ. Sup. Dom. Apr. 21.

Apr. 26.

## 12 Car. II. Cap. 14.

A.D. 1660.

### An Act for a perpetual Anniversary Thanksgiving on the Nine and twentieth Day of May.

As much as Almighty God the King of kings, and sole Disposer of all earthly Crowns and Kingdoms, hath by His All-swaying Providence and Power miraculously demonstrated in the view of all the World, His transcendent Mercy, Love and Graciousness, towards His most Excellent Majesty CHARLES the Second, by His especial Grace, of England, Scotland, France, and Ireland King, Defender of the true Faith, and all His Majesties Loyal Subjects of this His Kingdom of England, and the Dominions thereunto annexed, by His Majesties late most Wonderful, Glorious, Peaceable and Joyful Restauration to the actual Possession and Exercise of His undoubted hereditary Sovereign and Regal Authority over them (after sundry Years forced Extermination into Foreign Parts, by the most Traiterous Conspiracies, and Armed Power of usurping Tyrants, and execrable perfidious Traytors) and that without the least Opposition, or Effusion of Blood, through the Unanimous, Cordial, Loyal Votes of the Lords

The Hand of God, evidently appear'd in the Restauration of King Charles 2<sup>d</sup>.

--without opposition, or Effusion of Blood,



## Abridgment.

—on *May 29<sup>th</sup>* his Majesty's Birth-Day.

The Congratulations of the People and Parliament,

—and the many Blessings it brought with it.

All Ministers shall celebrate the *29<sup>th</sup> of May*, with Praises and Thanksgivings,

—and the People shall resort to Church.

Notice of the Day shall be given the *Sunday* before,

—and this Act shall be Read on the Day.

Reg. Sup.  
Dom.

Lords and Commons in this present Parliament Assembled, and passionate desires of all other His Majesties Subjects; which unexpressible Blessing (by Gods own most wonderful Dispensation) was completed on the Twenty ninth Day of May last pass, being the most memorable Birth-day, not only of His Majesty, both as a Man and Prince, but likewise as an Actual King, and of this and other His Majesties Kingdoms, all in a great measure New-Born and raised from the Dead on this most joyful Day, wherein many Thousands of the Nobility, Gentry, Citizens, and other His Lieges of this Realm, conducted His Majesty unto His Royal Cities of London and Westminster, with all possible Expressions of their publick Joy and loyal Affections, in far greater Triumph than any of His most Victorious Predecessors Kings of England, returned thither from their Foreign Conquests; and both His Majesties Houses of Parliament with all dutiful and joyful Demonstrations of their Allegiance, publicly received and cordially congratulated His Majesties most happy Arrival, and Investiture in His Royal Throne, at His Palace at White-Hall. Upon all which Considerations, this being the Day which the Lord himself hath made and Crowned with so many publick Blessings and signal Deliverances, both of His Majesty and His People, from all their late most deplorable Confusions, Divisions, Wars, Devastations, and Oppressions; to the end that it may be kept in perpetual Remembrance in all Ages to come, and that His Sacred Majesty, with all His Subjects of this Realm, and the Dominions thereof, and their Posterities after them, might Annually Celebrate the perpetual memory thereof, by sacrificing their unfeigned hearty publick Thanks thereon to Almighty God, with one heart and Voice, in a most devout and Christian manner, for all these publick Benefits Received and Conferred on them, upon this most joyful Day: Be it therefore Enacted by the Kings most Excellent Majesty, the Lords and Commons in this present Parliament Assembled, and by the Authority of the same, That all and singular Ministers of Gods Word and Sacraments, in every Church, Chapel, and other usual Place of Divine Service, and publick Prayer, which now are, or hereafter shall be within this Realm of England and the respective Dominions thereof, and their Successors, shall in all succeeding Ages, Annually Celebrate the Twenty ninth Day of May, by rendering their hearty publick \* Praises and Thanksgivings unto Almighty God, for all the forementioned extraordinary Mercies, Blessings, and Deliverances received, and mighty Acts done thereon, and declare the same to all the People there Assembled, and the Generations yet to come, that so they may for ever praise the Lord for the same, whose Name alone is Excellent, and his glory above the Earth and Heavens. And be it further Enacted, That all and every Person and Persons inhabiting within this Kingdom, and the Dominions thereunto belonging, shall upon the said Day Annually Resort with Diligence and Devotion to some usual Church, Chapel, or Place where such publick Thanksgivings and Praises to Gods most Divine Majesty shall be rendered, and there Orderly and Devoutly abide during the said publick Thanksgivings, Prayers, Preaching, Singing of Psalms, and other Service of God there to be used and ministered.

II. And to the end that all Persons may be put in mind of their Duty thereon, and be the better prepared to discharge the same with that Piety and Devotion as becomes them, Be it further Enacted, That every Minister shall give notice to his Parishioners publickly in the Church at Morning Prayer the Lords-Day next before every such Twenty ninth Day of May, for the due Observation of the said Day, and shall then likewise publickly and distinctly Read this present Act to the People.

\* Praises and Thanksgivings] The Performance of this (as of that on the 5<sup>th</sup> of November) seems to have been left at first to the discretion of every Minister; till the Convocation, April 26 1662, had Finished a Form for that purpose: *Forma Precum* pro 29 Maii introduc<sup>t</sup> & publicè perlect<sup>a</sup> & unanimi consensu approbat<sup>a</sup>. Which Form had been under consideration, from May 16<sup>th</sup> 1661. when the preparing of it was referred to Four Members of the Upper, and Eight of the Lower House.

Observation of Feasts, in particular.



Observation of  
Fasts in  
particular,  
and of  
Eves.

A. D. 1661.

## 13 Car. II. Cap. II.

In an Act, Entituled, *An Act for Continuing of Three Acts therein mentioned.*

—And one other Act Entituled, An Act for a perpetual Anniversary Thanksgiving on the Twenty ninth Day of *May*; and all and every the Clauses, Sentences, and Articles in them and every of them contained, shall be, and hereby are Ratified, and Confirmed, and Enacted, and Declared to have the full force and strength of Acts of Parliament, according to the Tenour and Purport hereof; and so shall be adjudged, deemed, and taken, to all intents and purposes whatsoever, and as if the same had been made, declared and enacted by Authority of this present Parliament.

Abridgment.

## CAP. V.

*Observation of FASTS in particular, and of EVES.*

## O T H O B O N.

*Quod fiat Processio pro Pace Regni.*

## Summarium.

*In toto Regno Angliæ, Scotiæ, & Hiberniæ, fiat quotannis Pro-  
cessio publica & Solemnis ab omnibus Christi fidelibus in Crastino  
Octavæ Pentecostes pro Pace jam obtentâ semper conservandâ,  
& terrâ Sanctâ recuperandâ.*

**J**ustus & misericors Dominus, qui non vult mortem peccatoris, sed ut conver-  
tatur & vivat, hominum peccata quandoq; punit temporaliter, ut æter-  
naliter non condemnet, justè visitat, & misericorditer affligendo castigat, ut  
convertantur ad eum, & non pereant peccatores. Unde quando peccata nostra  
dividunt inter nos & Deum nostrum, ipse languores, & pestilentias immittit, &  
fames, & bella exoriri permittit, dissensiones, & guerras, & alia multa mala,  
quibus incessanter peccatis eorum exigentibus homines affliguntur.

Ex hoc siquidem Regnum *Angliæ* inclytum, quod pacis pulchritudine gaudere  
solebat, guerris, dissensionibus, & bellis afflictum est multipliciter temporibus  
istis, & miserabiliter desolatum: & (quod pudori & dolori est toti populo  
Christiano) Terram Sanctam, in quâ ipse Dei filius salutem humani generis  
operatus est, tradidit in manus hostium nominis Christiani, ut propter delicta  
nostra nos terræ tam Sanctæ habitationis indignos ostendens, populum Christianum  
ad bellandum bellum suum exerceat ad salutem.

Ipse vero Dominus, quos diligit, arguit & castigat, qui vulnerat & medetur,  
conversus ad Orationes fidelium ad se revertentium, misericordiam in irâ non  
continet, sed cum justè iratus fuerit, misericordiæ recordabitur, ut pestilentis  
& malis cessantibus, afflictis consolationem tribuat, languidis sanitatem restituat,  
& discordantibus unitatem. Eapropter antiqui Patres deliberatione providâ  
ordinaverunt, ut y certis temporibus publicæ Processiones fierent & solennes, in  
quibus conveniens fidelium populus visitatione Domini castigatus, & eo zelo  
devotionis & dilectionis accensus, Orationibus ad miserandum Dominum provo-  
caret: & ne vitio ingratitude arguatur, de collatis Beneficiis Deo gratias  
exhibeat, & laudes exsolvat.

Quod nos dignâ æmulatione sequentes, statuendo Præcipimus, ut in omnibus  
terrâs Legationis nostræ, quolibet anno, in crastino Octavæ Pentecostes, fiat una

[ y Certis temporibus ] Putà, temporibus | cantantur Litanis pro Pestilentis, & aliis  
Rogationum, ante Ascensionem Domini, quando | Plagis amovendis. J. de Athon.

God visits the  
Sins of People with  
Judgments and  
Calamities,

—and particularly  
he hath visited  
*England* with Wars;  
and all Christen-  
dom, by suffering  
the Holy Land to  
fall into the Ene-  
mies hands;

—but yet he hear-  
eth the Prayers of  
the Faithful, and  
in the midst of  
judgment remem-  
breth mercy;

—wherefore, in i-  
mitation of the Fa-  
thers in Ancient  
Times,

—we Appoint a  
Yearly Procession,

A. D. 1268.  
52 H. 3.

Edit. Oxon.  
p. 137.



Abridgment. for Restoring of Peace, and of the Holy Land.

Processio publica & solennis, in qua convenientes fideles tam Religiosi quam Sæculares, de Pace misericorditer restitutâ Deo gratias exsolventes, orent ad Dominum, ut ipse, converso furore suo, Regnorum & terrarum ipsarum gubernacula dirigat, Pacem fidelibus tribuat, & restitutam concordiam continuet & confirmet, & Terram Sanctam quam suo proprio sanguine rubricavit, ad laudem & gloriam nominis sui restituat cultui Christiano.

Observation of Fasts in particular, and of Eves.

SIMON MEPHAM.

Dies Parasceves sancta tota sanctis ac piis Officiis impertiatur.

A.D. 1328. 3 Edw. 3. Edit. Oxon. p. 99.

Good-Friday shall be kept Holy,

ANIMARUM saluti prospicere cupientes, initium ordimur de fontibus Salvatoris. Statuimus itaque & Ordinamus, ut dies illa Sancta & Parasceves, qua Salvator noster Dominus Jesus Christus pro salute hominum pretiosam animam suam post multa flagella posuit in Cruce, secundum Ritus Ecclesie in Lectione & cum silentio, in oratione cum jejunio, in compunctione cum Lachrymis, b festivè celebretur. Auctoritate etiam presentis Concilii districtius inhibemus, ne decætero quispiam servilibus ipsa die intendat operibus, vel quævis alia exerceat, quæ à Pietatis cultu fuerint aliena. Per hoc tamen Legem Pauperibus non imponimus, nec Divitibus prohibemus, quin ad agriculturam Pauperum promovendam c suffragia consueta, Charitatis intuitu, subministrent.

—with due Solemnity,

—and Abstinence from Labour, —except by, or for, the Poor.

a Parasceves ] i. e. Preparationis; quia sexta feriâ Judæi preparabant ea quæ erant necessaria ad Sabbatum. Lyndw.

Lectiones leguntur, audientes silentium teneant. Lyndw.

a Cum silentio ] Potes intelligere de silentio servando, à parte ipsius legentis, ut scil. silenter & contemplativè legat: vel potes intelligere de silentio tenendo à parte audientis; ut scil. dum

b Festivè ] i. e. Ad instar diei Festi. c Suffragia consueta ] scil. sive ministrando servientes, vel animalia, vel alia quæcumque ad tale opus necessaria & consueta. Lyndw.

5, 6 Edw. VI. Cap. 13.

A.D. 1551.

In an Act, Entituled, An Act for the keeping Holy-Days and Fasting-Days.

Eves appointed in the Church of England.

II. And it is also Enacted by the Authority aforesaid, That every Even or Day next going before any of the aforesaid Days of the Feasts of the Nativity of our Lord, of Easter, of the Ascension of our Lord, Pentecost, and the Purification, and the Annunciation of the aforesaid Blessed Virgin, of All Saints, and of all the said Feasts of the Apostles, (d other than of Saint John the Evangelist, and of Philip and Jacob) shall be fasted, and commanded to be kept and Observed, and that none other Even or Day shall be commanded to be fasted.

Any Feast falling on Monday, the Eve shall be kept on Saturday.

V. Provided also, and it is Enacted by the Authority aforesaid, That when and so often as it shall chance any of the said Feasts (the Evens whereof be by this Statute commanded to be Observed and kept fasting-days) to fall e upon the Munday; That then as it hath always been heretofore accustomedly used, so hereafter the Saturday then next going before any such Feast or Holy-Day, and not the Sunday, shall be commanded to be fasted for the Even of any such Feast or Holy-day; Any thing in this Statute before mentioned or declared to the contrary in any wise notwithstanding.

Decretal. l. 3 tit. 46. c. 2 Spel. Vol. 1. p. 518.

d Other than ] Omnium Apostolorum Vigiliae sunt in observatione jejunii celebranda, prater Vigiliis Apostolorum Philippi & Jacobi, & Beati Johannis Evangelista; quoniam ipsorum solemnitas infra solemnitatem Paschalem,

istius antem infra Natalem Domini, celebratur. e Upon the Munday ] Sanctorum quoque Vigiliis, quorum Festivitates oportet secundâ feriâ celebrari, in præcedenti sunt Sabbato jejunanda.

Decretal. ibid.

13, 14 Car.



Observation of Fasts in particular, and of Eves. A.D. 1661.

Abridgment.

13, 14 Car. II.

Rubrick before the Common Prayer.

A Table of the f Vigils, Fasts, and Days of Abstinence, to be Observed in the Year.

|                            |                              |                                              |                       |
|----------------------------|------------------------------|----------------------------------------------|-----------------------|
| The Evens or Vigils before | } The Evens or Vigils before | The Nativity of our Lord.                    | S. John Baptist.      |
|                            |                              | The Purification of the Blessed Virgin Mary. | S. Peter.             |
|                            |                              | The Annunciation of the Blessed Virgin.      | S. James.             |
|                            |                              | Easter-Day.                                  | S. Bartholomew.       |
|                            |                              | Ascension-day.                               | S. Matthew.           |
|                            |                              | Pentecost.                                   | S. Simon and S. Jude. |
| S. Matthias.               | S. Andrew.                   |                                              |                       |
|                            |                              | S. Thomas.                                   |                       |
|                            |                              | All Saints.                                  |                       |

Vigils in the Church of England.

Note, That if any of these Feast-days fall upon a Munday, then the Vigil or Fast-day shall be kept upon the Saturday, and not upon the Sunday next before it.

Any Feast falling on Munday, the Eve shall be on Saturday.

Lyndw. de Fer. c. ex scrip.

f Vigils.] Sic dictas, quod in eis non solum jejunandum est, sed Vigiliis & Orationibus pernoctanter insistendum.

A.D. 1661.

13, 14 Car. II.

Rubrick before the Common Prayer.

Days of Fasting or Abstinence.

I. THE Forty days of Lent.

II. The g Ember-days at the Four Seasons, being the Wednesday, Friday, and Saturday after the First Sunday in Lent. The Feast of Pentecost. September 14. December 13.

Days of Fasting or Abstinence in the Church of England.

III. The Three Rogation-days, being the Munday, Tuesday, and Wednesday before Holy Thursday, or the Ascension of our Lord.

IV. All the i Fridays in the Year, except Christmas-day.

g Ember-days] The Fejunia quatuor Temporum, were Fasts observed by the Church very early; and, particularly, by the Church of England in the Saxon times, who called them Embryne dagas, from whence (and not from Embers, or from the Greek ἠμῆρας, as some have conjectured) our name of Ember-days is to be derived. Saxonum Embryne (says Dr. Marshal) significat Circuitum, Circulum, Curriculum, Decursum. Quum igitur hoc quadruplex Jejunium non sit conceptivum, aut indictivum, sed anniversarium, ac statis fixisque vicibus recurrens, vocatur id propterea Embryne, quod Anglus non incommode diceret a Fast in course.

Francorum regni conditoris—à Mamerto Viemensis urbis Episcopo. Territâ quippe crebris prodigiis urbe illâ, & frequenti sic concussa terra-motu, ut per annum integrum cervorum fieret & luporum statio, flagranteq; cœlitus in perniciem reliquis urbis domo Regiâ; Mamerti lacrymis & orationibus mulcetur Dominus.

In our Liturgy, there is no particular Service appointed for the Rogation-days; but there are Four Homilies, specially provided to be read with the ordinary Service, on the Three Days before, and on the Fourth, namely Ascension, or the Day of Perambulation; and in the Injunctions of Queen Elizabeth, where Processions are forbidden, and a reservation made for Perambulations, it is provided, That the Curate in the said common Perambulations (used heretofore in the Days of Rogations) at certain convenient places, shall Admonish the People to give Thanks to God, in the beholding of God's Benefits, for the increase and abundance of his fruits upon the face of the Earth.

Injunct. 19.

b Rogation-days] Triduana Litanis; quod tribus diebus ante Ascensionem Domini, annuò, per omnes Galliarum, Germaniarum, & Britanniarum Ecclesias, celebrata fuit— Non exolevit apud nos Consuetudo: nam vicatim sub his diebus lustramus annuò camporum terminos, Dei munificentiam in collatis agnoscentes beneficiis, & in desideratis misericordiam expetentes. Institutam ferunt hanc Litaniam apud Gallos, Clodovei ævo, primi

i Fridays] Quaque etiam die Veneris jejunandum est, nisi Festum sit.

Concil. Ænham. Spel. Vol. I. p. 518.

Observ. in Sax. Evang. p. 529.

Spel. Gloss. Litanis.



Abridgment.

CANONS, 1603.

Observation of Fasts in particular, and of Eves. I Jac. I.

lxxii. Ministers not to appoint publick or private Fasts or<sup>h</sup> Prophesies, or to Exercise, but by Authority.

No Minister shall appoint private Fasts, without Licence of the Ordinary,

—upon severe Penalties.

NO Minister or Ministers shall, without the Licence and Direction of the Bishop of the Diocese first obtained and had under his Hand and Seal, appoint or keep any solemn Fasts, either publickly or in any private Houses, other than such as by Law are, or by publick Authority shall be appointed, nor shall be wittingly present at any of them, under pain of Suspension for the first fault, of Excommunication for the second, and of Deposition from the Ministry for the third.

Life of Grindal, App. 32.

[<sup>h</sup> Prophesies] The Prophesies or Exercises refer'd to in this place, are those which were practis'd in England in the time of Archbishop Grindal; consisting chiefly of Explications of Holy Scripture, and Conferences thereupon. These, the Clergy within particular Districts made and held at certain Times and Places appointed by the Bishop; who also Constituted Two or Three of the Gravest and most Learned among them to Moderate in those Assemblies. The Laity might be present, but might not speak; and no Controversie of the present Time and State was to be dealt withal.

Ibid. p. 32.

The chief design of these Exercises, was to oblige the Clergy to Study the Scriptures, and to make them skilful and ready therein; as we see by a large Letter of Archbishop Grindal to the Queen, against the Suppressing of them; in which he says, For my part, because I am very well assured, both by Reasons and Arguments taken out of the Holy Scriptures, and by Experience (the most certain Seal of sure Knowledge) that the said Exercises, for the Interpretation and Expositi-

on of the Scriptures, and for Exhortation and Comfort drawn out of the same, are both profitable to encrease Knowledge among the Ministers, and tend to the Edifying of the Hearers; I am forced, with all Humility, and yet plainly, to profess, That I cannot with safe Conscience, and without the offence of the Majesty of God, give my Assent to the Suppressing of the said Exercises; much less can I send out any Injunction for the utter and universal Subversion of the same.

But, on the other hand, it was urged, That those Exercises were not warranted by any Law of the Realm, and were the occasion of drawing great numbers of People from their Labour, and out of their own Parishes, and of leading them into unnecessary Disputes about Religion, and that they might prove, in the end, of dangerous Consequence to the Established Government in Church and State; as the Queen sets forth in her Letter to the Bishops for the Suppressing of them. In which Letter, all Persons were forbidden to hold them, upon pain of Imprisonment, and other exemplary Punishments to be inflicted.

Ibid. p. 85.

12 Car. II. Cap. 30.

A.D. 1660.

In an Act, Entituled, An Act for the Attainder of several Persons Guilty of the Horrid Murder of His late Sacred Majesty King CHARLES the First.

The Thirtieth of January shall be an Anniversary Fast, for ever.

§. I. We do further beseech Your most Excellent Majesty, that it may be Enacted, and be it hereby Enacted by the Kings most Excellent Majesty, by and with the Advice and Consent of the Lords and Commons in this present Parliament Assembled, That every Thirtieth Day of January, unless it falls out to be upon the Lords Day, and then the next Day following, shall be for ever hereafter set apart to be kept and observed in all the Churches and Chapels of these Your Majesties Kingdoms of England and Ireland, Dominion of Wales, and Town of Berwick upon Tweed, and the Isles of Jersey and Guernsey, and all other Your Majesties Dominions, as an Anniversary Day of Fasting and Humiliation, to implore the Mercy of God, that neither the Guilt of that Sacred and Innocent Blood, nor those other Sins by which God was provoked to deliver up both us and our King into the Hands of Cruel and Unreasonable Men, may at any time hereafter be visited upon us or our Posterity.

CAP.



Days and  
Seasons of  
Absti-  
nence  
from  
Flesh.

A.D. 1548.

## CAP. VI.

## Days and Seasons of ABSTINENCE from FLESH.

2, 3 Edw. VI. Cap. 19.

*An Act for the Abstinence from Flesh.*

Albeit the Kings subjects, now having a more perfect and cleere light of the Gospell and true Word of God, through the infinite mercy and clemency of almightie God, by the hands of the Kings Majesty, and his most noble father, of famous memory, promulgat, shewed, declared and opened; and thereby perceiving that one day, or one kinde of meat, of it selfe, is not more holy, more pure, nor more cleane than other, for that all daies and meats be of their nature of one equall purity, cleanness, and holinesse, and that all men should by them live to the glozie of God, and at all times, and for all meats give thanks unto him; of which meats none can defile Christian men, or make them uncleane at any time, to whom all meats be lawfull and pure, so that they be not used in disobedience and vice: yet forasmuch as divers of the Kings subjects, turning their knowledge therein to satisfie their sensuality, where they should thereby increase in vertue, have of late time more than in times past, broken and contemned such abstinence, which have been used in this Realme upon Fridayes and Saturdayes, the Embzing daies, and other daies commonly called Vigils, and in the time commonly called Lent, and other accustomed times: The Kings Majesty considering that due and godly abstinence is a meane to vertue, and to subdue mens bodies to their soule and spirit, and considering also specially that Fishers, and men using the trade of living by fishing in the Sea, may thereby the rather be set on worke, and that by eating of fish, much flesh shalbe saved and increased, and also divers other considerations and commodities of this Realme: Doth ordeine and enact, with the assent of the Lords spiritual and tempozal, and the Commons in this present Parliament assembled, and by the authoritie of the same; that all manner of Statutes, Lawes, Constitutions, and Usages, concerning any manner of fasting and abstinence from any kindes of meates heeretofore in this Realme made or used, shall from the first day of May next ensuing, lose their force and strength, and bee void and of none effect. And also that no person or persons, of what estate, degree, or condition he or they be, shall at any time after the first day of May, in the yeere of our Lord God one thousand five hundred fortye and nine, willingly and wittingly eat any maner of flesh, after what maner of kinde or sort it shalbe ordered, dressed or used, upon any Friday or Saturday, or the Embzing daies, or in any day in the time commonly called Lent, nor at any such other day, as is or shall bee at any time heereafter commonly accepted and reputed as a fish day within this Realme of England, wherein it hath beene commonly used for to eat fish and not flesh: upon paine that every person eating any maner of flesh upon any of the said daies or times prohibited by this Act, to forfeit for the saide first offence tenne shillings of lawfull money of England, and also to suffer imprisonment by the space of tenne dayes, and during the time of his or her sayde imprisonment, to abstaine from eating of any maner of flesh.

II. And if any person after he shalbe lawfully convicted of any offence contrary to this Act, doe elscoones offend contrarie to this Act, and bee thereof lawfully convicted, that then everie person so offending the second time, shall for his second offence forfeit twenty shillings of lawfull money of England, and also suffer imprisonment by the space of twentie daies, and during the time of his or her saide imprisonment, to abstaine from eating of any maner of flesh, and so like paine and imprisonment as often as he or she afterwards shall offend.

III. And furthermore it is ordeined and enacted by the authority aforesaid, That the Justices of Gaole Delivery, or Justices of Peace, in all and singular Counties, Cities, Townes corporat, and other places within this Realme of England, and other the Kings dominions, shall have full power

Abridgment.

The Light of the Gospel was much increased by the Reformation,

—particularly, as to the taking away the distinction of Meats and Days;

—but the People ran into the Extreme of rejecting all Fasts.

All Statutes, &c. concerning Abstinence from Flesh, shall be Abolished.

None shall eat Flesh on Fish-days, upon pain of 10 s. and 10 Days Imprisonment,

—and for the Second Offence, 20 s. and 20 Days Imprisonment.

The Justices of Gaole Delivery, or of the Peace, shall Enquire, and Determine,



## Abridgment.

—and of the Forfeitures, one half shall be to the King, the other to him that will Sue.

This Act shall not extend to Persons Licensed by the King,

—nor to Aged,

—nor to Sick,

—nor Women with Child,

—nor Prisoners,

—nor to Officers, and Soldiers,

—nor to Days or Eves Abrogated,  
—nor to Persons Licensed by Archbishop of Canterbury.

Ordinaries, and Ecclesiastical Judges, shall also Enquire.

All Impeachments shall be within 3 Months.

Statute 5 Edw. 6. shall not take away Abstinence from Flesh, on Days appointed.

Wednesdays shall be Fish-days, in like manner as Saturdays.

and authority to inquire, heare, and determine, all and all maner offences that shall be committed or done contrary to this Act, in like maner and forme as they may inquire, heare, and determine any trespassse, or other offence against the Kings peace committed or done within the limits or place where they then shall be Justices of Soale Delivery, or Justices of peace. And the moiety of every such forfeiture shalbe extreated into the Court of the Erchequer in like maner and forme as fines for any trespasss or other offence committed against the Kings peace ought or should be extreated. And the other moiety of the said forfeiture shalbe to him that will sue for the same, by bill, plaint, information or otherwise, in any of the Kings Courts of Record, in which no essoine, protection, or wager of law shalbe allowed.

IV. Provided alwaies, and be it ordeined and enacted by the authority aforesaid, That this Act or any thing therein contained, shall not in any wise extend to any person or persons that heretofore hath, or hereafter shall have obtained any licence of our Sovereign Lord the King, his heirs or successors, nor to any person being in great Age, and in debility and weakenesse thereby, nor to any person being sick or notably hurt, without fraud or covin, during the time of his or her sayde sicknesse, nor to any woman being with childe, or lying in child-bed, for eating of such one kinde of flesh as she shall have great lust unto, nor to any person being in prison for any other offence, than for any offence contrary to this Act, neither to any that is or hereafter shall be the Kings highnesse Lieutenant, Deputy, or Captaine of any of his Majesties army, hold, or fortress; but the same themselves may eat flesh, and licence and permit their souldiers to doe the same in times prohibited, upon the want and lacke of other kinde of victuals. Neither shall extend to S. Laurence even, S. Markes day, or any other day or even being abrogate, neither to any such as heretofore have obtained any licence in due forme of the Archbishop of Canterbury.

V. And further be it enacted by Authority aforesaid, That all Archbishops, Bishops, Archdeacons, and their officers, or the officers of any of them, shall have power to inquire of the offendours in the premisses, and present the same to such from time to time, as by vertue of this Act have authority to heare and determine the same.

VI. Provided alwaies, and be it enacted, that no maner of person or persons be impeached, molested, or troubled, or shall incur any peine, penaltie or forfeiture for any offence, contrary to the Act before rehearsed, committed or done, except he or they be accused, convented, or indicted of and for the saide offence, according to the tenor of this Statute, within three months next after the committing of the said offence.

## 5 Edw. VI. Cap. 3.

A.D. 1551.

In an Act, Entituled, *An Act for the keeping Holy-days and Fasting-days.*

S. IV. Provided always, That this Act, or any thing therein contained, shall not extend to abrogate or take away the abstinence from Flesh in Lent, or on Fridays and Saturdays, or any other Day which is already appointed so to be kept, by virtue of an Act made and provided in the Third Year of the Reign of our Sovereign Lord the King's Majesty that now is; Saving only of those Evens or Days, whereof the Holy-day next following is abrogated by this Statute; Any thing abovementioned to the contrary in any wise notwithstanding.

## 5 Eliz. Cap. 5.

A.D. 1562.

In an Act, Entituled, *An Act touching certain Politick Constitutions made for the Maintenance of the Navy.*

XIV. And for increase of Provision of Fish by the more usual and common eating thereof, Be it further Enacted by the Authority aforesaid, That from the Feast of St. Michael the Archangel, in the Year of our Lord God M.D.LXIV. every Wednesday in every Week throughout the whole Year, which heretofore hath not by the Laws or Customs of this Realm been used

Days and Seasons of Abstinence from Flesh.



Days and  
Seasons of  
Absti-  
nence  
from  
Flesh.

used and observed as a Fish-day, and which shall not happen to fall in Christmas-week, or Easter-week, shall be hereafter observed and kept, as the Saturdays in every Week be or ought to be: And that no manner of Person shall eat any Flesh on the same Day, otherwise than ought to be upon the common Saturday.

XV. And be it further Enacted by the Authority aforesaid, for the benefit and commodity of this Realm, to grow as well in maintenance of the Paby, as in sparing and increase of Flesh: That from and after the Feast of Pentecost next coming, it shall not be lawful to any Person or Persons within this Realm, to eat any Flesh upon any Days now usually observed as Fish-days, or upon any Wednesday now newly limited to be observed as Fish-day, upon pain that every Person so offending herein, shall forfeit Three Pound for every time he or they shall offend, or else suffer Three Months close Imprisonment without Bail or Mainprize.

XVI. And every Person or Persons within whose House any such Offence shall be done, and being privy or knowing thereof, and not effectually publishing or disclosing the same to some publick Officer, having Authority to punish the same, for every such offence to forfeit Forty Shillings. All which Forfeitures for not abstaining from Meats shall be divided into Three equal parts; that is, One part to the use of the Queens Majesty, Her Heirs or Successors, the other part to the Informer, the Third to the common use of the Parish where the Offence is or shall be committed, and to be Levied by the Churchwardens, after any Conviction in that behalf.

XVII. Provided always, and be it Enacted, That this Act, nor any thing herein contained concerning eating of Flesh, shall in any wise extend to any Person or Persons that shall hereafter have any special Licence, upon causes to be contained in the same Licence, and to be granted according to the Laws of this Realm in such cases provided;

XVIII. All and every which said Licence and Licences shall be void to all intents, unless the same contain the Conditions hereafter mentioned; that is to say, Every Licence made to any Person or Persons being of the Degree of a Lord of Parliament, or of their Wives, shall be upon Condition, That every such Person so to be Licensed, shall pay to the poor Hans Wor within the Parish where they shall dwell or remain, in the Feast of the Purification of the Blessed Virgin Mary, or within Six Days after the same Feast, Six and twenty Shillings and Eight Pence, the same to be paid within One Month next after the same Feast, upon pain of forfeiture of every such Licence. And every Licence to any Person of the Degree of a Knight, or a Knights Wife, shall be upon Condition, That every such Person so Licensed, shall pay yearly Thirteen Shillings and Four Pence, to the use aforesaid, and in Form aforesaid. And every Licence to any Person or Persons being under the Degrees aforesaid, shall be upon Condition, That every such Person so Licensed, shall pay yearly Six Shillings and Eight Pence to the said use, and in Form aforesaid.

XIX. Provided always, That no Licence shall extend to the eating of any Beef at any time of the Year, nor to the eating of any Veal in any Year, from the Feast of Saint Michael the Archangel, unto the First Day of May.

XX. Provided also, That all Persons which by reason of notorious Sicknes shall be enforced for recovery of Health to eat Flesh for the time of their Sicknes, shall be sufficiently Licensed by the Bishop of the Diocese, or by the Parson, Vicar or Curate of the Parish where such Person shall be Sick, or of one of the next Parish adjoining, if the said Parson, Vicar, or Curate of his or their own Parish be wilful, or if there be no Curate within the same Parish; which Licence shall be made in Writing signed with the Hand of the Bishop of the Diocese, or of the Parson, Vicar or Curate, and not endure longer than the time of the Sicknes: And that if the Sicknes shall continue above the space of Eight Days after such Licence granted, then the Licence shall be Registered in the Church-Book, with the knowledge of one of the Churchwardens, and the Party Licensed shall give to the Curate Four Pence for the Entry thereof, and that Licence to endure no longer, but only for the time of his, her, or their Sicknes.

XXI. And if any Licence by any Parson, Vicar or Curate, be granted to any Person or Persons, other than such as evidently appear to have need thereof, by reason of their Sicknes, not only every such Licence shall be void, but also every such Parson, Vicar or Curate, shall forfeit for every such Licence otherwise granted, Five Marks.

XXII. Provided also, and be it Enacted, That all Licences heretofore granted to any Subject of this Realm, by any of the late Kings, or by the late Queen Mary, or the Queens Majesty now being, or by any Archbishop of this Realm, having Authority so to do, shall be of as good force in Law for the Wednesday now limited, and other accustomed Fish-days, as they were before the making of this Act for the said other accustomed Fish-days; so as the Parties Licensed, do hereafter observe all such Conditions as be limited in this Statute to such as shall hereafter obtain any Licences.

XXIII. And such Persons also as heretofore were or ought to be Licensed by reason of Age, or other Impediment or Cause, by order of the Ecclesiastical Laws, shall enjoy the same Privilege and accustomed Licences; Any thing in this Act to the contrary hereof in any wise notwithstanding.

XXXVI. Provided, and be it likewise Enacted, That it shall be Lawful to any Person or Persons, to have at his or their Table, upon every Wednesday being ordered by this Statute to be observed as a Fish-day, one only usual competent Dish of Flesh of one kind, and no more, so that he, she, or they have also served to the same Table and Meat at the same Meal, Three full competent usual Dishes of Sea-fish of sundry kinds, either fresh or salt, and that without fraud or covin, and so shall also order that the same Fish be meet and seasonable, and that it shall be eaten or spent in like manner as upon Fridays or Saturdays in like case are used.

XXXVII. And also such Persons as have, or hereafter shall have, upon good and just consideration, any lawful Licence to eat Flesh upon any Fish-day (except such Persons as for Sicknes shall for the time be Licensed by the Bishop of the Diocese, or by their Curates, or shall be Licensed by reason of Age, or other impediment, allowed heretofore by the Ecclesiastical Laws of this Realm) shall be bound by force of this Statute, to have for every one Dish of Flesh served to be eaten at their Table, one usual Dish of Sea-fish, fresh or salt, to be likewise served at the same Table, and to be eaten or spent without fraud or covin, as the like kind is or shall be usually eaten or spent on Saturdays.

XXXVIII. And that these Two Articles and Clauses next above, shall be taken and interpreted from time to time, in the favour of expence of Sea-fish, and that the offender or offenders here- in shall be punished in like manner as is ordered by this Statute, for punishment of such as shall eat Flesh upon Fridays, Saturdays or other Fish-days.

XXXIX. And

Abridgment.

Every Person eating Flesh on Fish-days, shall forfeit 3*l.* or suffer 3 Months Imprisonment;

--and every House-keeper concealing it, 40*s.*

Proviso for Persons having Licence,

--with certain Conditions of paying to the Poor, viz.

--a Peer, 1*l.* 6*s.* 8*d.*

--a Knight, 13*s.* 4*d.*

--all, under, 6*s.* 8*d.*

--but not to extend to Beef; nor to Veal, from Michaelmas to May-day.

Sick Persons shall be Licensed by the Bishop or Minister, --and, Sicknes continuing above 8 Days, the Licence shall be Registered,

--and shall continue no longer, than the Sicknes.

Any Parson, &c. granting Licence, except in case of Sicknes, shall forfeit 5 Marks.

Licences already granted, shall be in force, for the new Fish-days.

Reasons for Licences, allowed by the Ecclesiastical Laws, shall continue.

On Wednesdays, there may be one Dish of Flesh, provided there be Three of Fish.

All Persons having Licence (except in cases of just Impediment) shall have one Dish of Fish, for one of Flesh.

The Offenders shall be punished, as they that eat Flesh, on other Fish-days.



## Abridgment.

This being an Act meerly Political,

—whoever shall preach, &c. That eating or not eating is necessary to Salvation, shall be Punished as a Spreader of false News.

The Act to continue 10 Years.

Repeal of Stat. 5 Eliz. so far as concerns the Eating of Fish and Flesh.

All sorts of Sea-Fish may be Sold on any Day, except Sunday.

No Publick house shall Sell Flesh on Fish-days, upon pain to Forfeit 5 l. with ten Days Imprisonment,

—except to Persons Licenced.

Every Person Eating Flesh on Fish-days, shall Forfeit only 20 s. —or suffer 1 Months Imprisonment, —and any Person Concealing it, only 13 s. 4 d.

XXXIX. And because no manner of Person shall misjudge of the intent of this Statute, limiting orders to eat Fish, and to forbear eating of Flesh, but that the same is purposely intended and meant politickly for the increase of Fishermen and Mariners, and Repairing of Ports, Towns and Navigation, and not for any Superstition to be maintained in the choice of Pears:

XL. Be it Enacted, That whosoever shall by preaching, teaching, writing, or open speech, notify, That any eating of Fish, or forbearing of Flesh mentioned in this Statute, is of any necessity for the saving of the Soul of Man, or that it is the Service of God, otherwise than as other politick Laws are and be; that then such Persons shall be punished as spreaders of false News are and ought to be.

LI. This Act shall continue and endure until the end of Ten whole Pears; to be accounted from the Feast of Saint Michael the Archangel, which shall be in the Year of our Lord God 1564, and from thence to the end of the next Parliament then following the end of the said Ten Pears.

## 27 Eliz. Cap. II.

In an Act, Entituled, *An Act for the Reviving, &c. of divers Statutes.*

III. Provided also, and be it likewise Enacted, That so much and such part and partes of the Statute, onely made in the said Fifth Peere of the Queenes Majesties Reigne that now is, Entituled, An Act touching certaine politike constitutions made for the maintenance of the Navy, as concerne the Eating of Fish, or restraine the Eating of Flesh, or prohibiting the suffering of any Flesh to be Eaten upon any Wednesday, not being before the making of the said Statute by the Lawes of the Realme used as a Fish Day, and every Matter, Clause, Article and Penalty in the said Statute contained, concerning the same, shall so farre forth onely as they concerne the same, from henceforth be repealed, cease and be utterlie void: Any thing in the said Statute contained to the contrary notwithstanding.

IV. And for the better encouragement of Fishermen to go to the Seas, and to bestow their time and travell in Fishing: Be it Enacted by the Authority of this present Parliament, that from henceforth it shall and may be lawfull, to and for every the Queenes Highnesse Subjects, to utter and Sell all manner of Sea-Fish, upon any Flesh Day in the weeke, other than the Sundayes, in every City, Borough, Towne corporate or Market Towne whatsoever within this Realme: Any Priviledge, Charter or Prescription to the contrary notwithstanding.

V. And to the intent that the Fridaies, Saturdaies, and Daies appointed by former Lawes to be Fish Daies, may the better bee Observed for the utterance and expence of Fish, and for the sparing of Flesh: Be it Enacted, That from the Feast of Pentecost next ensuing, no Inholder, Taverner, Alehouse-keeper, common Victualler, common Cooke, or common Table-keeper, shall utter or put to Sale, or cause to be uttered or put to Sale upon the said Daies, not being Christmasse day, or upon any Day in the time of Lent, any kinde of Victuals (except it be to such Person and Persons resorting to his or their said House or Houses, as have or shall have lawfull Licence to Eat the same) according to the tenor and true meaning of the said Statute made in the said Fifth Peere of the Reigne of the Queenes Highnesse that now is, upon paine of forfeiture of Five Pounds, and shall also suffer Ten Daies Imprisonment without Waile, Maineprie, or remober for any time so Offending; one Third Part thereof to be to the Queenes Majestie, Her Heirs and Successors, one other Third Part thereof to the Lord or Lords of the Leete for the time being, where such Offence shall be committed, and the other Third Part thereof, to him or them that will sue for the same in any of Her Majesties Courts of Record, by Action of Debt, Bill, Plaint or Information, in which no Collone, Protection, or Wager of Law shall be allowed: and the said Offence and Offences, by vertue of this Statute shall be required of, heard, and determined, in manner and forme as is expressed for the Offences contained in the saide Statute, made in the saide Fifth Peere of Her Majesties saide Reigne.

## 35 Eliz. Cap. 7.

In an Act, Entituled, *An Act for the Reviving, Continuance, &c. of divers Statutes.*

XXII. Provided also, and be it further Enacted by the Authority aforesaid, That every Person Eating any Flesh upon Fish-days, contrary to the form of the said Statute made for the maintenance of the Navy, shall Forfeit only Twenty Shillings, or else suffer only one Month close Imprisonment without Bail or Mainprie: and every Person or Persons within whose House any such Offence shall be done, and being privy, or knowing thereof, and not effectually Publishing or disclosing the same to some publick Officer having Authority to punish the same, for every such Offence to Forfeit only xiii. s. iv. d. any thing in the said Statute contained to the contrary notwithstanding.

Days and Seasons of Abstinence from Flesh.

† vid. pag. 151.

A. D. 1584.

A. D. 1592.

O B. S.



Days and  
Seasons of  
Absti-  
nence  
from  
Flesh.

A. D. 1603.  
E X P.

## I Jac. I. Cap. 29.

*An Act to Encourage the Seamen of England to  
take Fish, whereby they may increase, to furnish the  
Navie of England.*

FOR the better increase of Seamen, to bee readie at all times to serve in the Kings Na-  
vies Navie, and the Navie of England, of which the Fishermen of England have ever been the  
chiefest Seminary and Nurserie, which in this latter Age have greatly Decayed: Be it Enacted  
by the Kings most Excellent Majesty, the Lords Spiritual and Temporal, and the Commons in  
this present Parliament Assembled, and by the Authority of the same, That no Licence or Li-  
cences heretofore made or granted, or hereafter to be made or granted, to any Sicke or Infirm  
Person or Persons, to Eate Flesh during the time of his, her, or their Sicknesse or Infirmity,  
by force of the Statute of Anno quinto Regina Elizabethæ, shall from the Feast of Saint Michael  
next coming, be any sufficient Warrant to any such Person or Persons, to Eat any Beeffe,  
Weale, Porke, Mutton or Bacon, in the time of Lent, or upon any Day now Observed as a Fish  
day, but that the said Sick or Infirm Person or Persons, shall for Dressing or Eating of such  
Beeffe, Weale, Porke, Mutton or Bacon, incurre the Danger and Penalty compised theretofore in  
the said Statute, notwithstanding any such Licence heretofore granted, or hereafter to be granted  
to the contrary.

II. And be it further Enacted by the Authority aforesaid, That no Butcher, or other Person,  
whether he be Licensed, or not Licensed to Kill Flesh, shall from henceforth at any time in the  
time of Lent, Kill, or Dresse, to the intent to put to Sale, any Dre, or Dren, Beeves, Beevets,  
Hogges, Calves, Hammes, Cwes, or Weathers, except Dren or Beeves for Victualling of  
Ships into Forreine Parts, and except all Flesh to bee Killed thre Daves next before Easter  
Peerely, upon Paine to Forfeit and lose the same Dren, Beeves, Beevets, Hogges, Calves,  
Hammes, Cwes, and Weathers, so Killed and Dressed contrary to this Statute, or the Value  
of them.

III. And be it further Enacted, That all Justices of the Peace, Maiors Bailiffes, Head-  
Officers, and Constables, aswell of Cities, and Townes Corporate, as in every County of  
this Realm, shall have Power and Authority by Force of this Act, Peerely in the time of Lent,  
to enter into all Houses of Victuallers and common Victualling Houses within their Juris-  
dictions, where such Offences shall be suspected to be committed, and finding any such Dren,  
Beeves, Beevets, Hogges, Calves, Hammes, Cwes, or Weathers Killed, or Dressed, or any  
Part or Parcell of the same, contrary to this Statute, shall take and seize the same as For-  
feited, and shall give and distribute the same unto Prisoners, and other Poore Folkes by their  
Discretion.

IV. And because the greatest Disorder and Liberty in Eating of Flesh upon Fish-daves, and  
Daves prohibited by the Law, is commonly found to be in Taverns, common Innes, Tabling-  
houses, Cooks-houses, Ale-houses, and Tipling-houses: Be it therefore Enacted, That every  
Taverner, Innekeeper, Keeper of every common Tabling-house, common Cooke, common Tipler,  
or Alehouse-keeper, Offending at any time hereafter in the Dressing of any Flesh-Viduall,  
contrary to the said Statute of Anno quinto Elizabethæ, or contrary to this Statute, shall not  
onely Forfeit all the said Flesh so Dressed, but also the Penalty imposed by the same Statute of  
Anno quinto Elizabethæ, for every Offence to be committed, after the Feast of Saint Michael  
the Archangel next coming: The one halfe of all which Forfeitures, (except such Forfeitures  
as shall bee found and taken by the Justices of Peace, Maior, Bailiffes, Head-officers and  
Constables, according to the Tenor of this Act) shall be to our Sovereigne Lord the King,  
and the other halfe to such Person or Persons, as shall Sue or Informe for the same in any Court  
of Record, by Action of Debt, Bill, Plaint, or Information, wherein no Elloyne, Protection, or  
Wager of Law shall be allowed to the Defendant.

This Act to continue to the end of the First Session of the next Parliament.

Abridgment.

Persons who have  
Licence to Eat  
Flesh, shall yet be  
restrained from di-  
vers sorts of Flesh,

—which sorts no  
Butcher shall kill  
in Lent.

Justices of Peace,  
and Head-Officers  
shall Punish Offen-  
ces against this Act.

The keepers of  
any Publick-house  
Offending herein,  
shall Forfeit the  
Flesh Dressed, and  
the Penalty of 5 *l.*  
c. 5.



## TIT. XI.

UNIFORMITY in the Publick  
WORSHIP and CEREMO-  
NIES of the CHURCH.

## The CONTENTS.

- CAP. I. *Uniformity in Publick Worship, from the Second Year of K. EDWARD the Sixth, to the First Year of Queen ELIZABETH.*
- CAP. II. *Uniformity in Publick Worship, from the First Year of Queen ELIZABETH, to the Thirteenth and Fourteenth of King CHARLES the Second.*
- CAP. III. *Uniformity in Publick Worship, from the Thirteenth and Fourteenth of K. CHARLES the Second, to the PRESENT TIME.*
- CAP. IV. *CEREMONIES in the Publick Worship of the Church.*
- CAP. V. *The COMMON-PRAYER in WELCH.*

2, 3 Edw. VI. Cap. I.

A.D. 1548.

<sup>a</sup> *An Act for the Uniformity of Service, and Administration of the Sacraments throughout the Realm.*

Divers Forms of Service have been hitherto used in the Church of England,



**V**HERE <sup>b</sup> of long time there hath been had in this Realm of England, and in Wales, divers formes of Common Prayer, commonly called the Service of the Church; that is to say, <sup>c</sup> the Use of Sarum, of York, of Bangor, and of Lincoln: and besides the same now of late, much more divers and sundry forms and fashions have been used in the Cathedral and Parish Churches of England and Wales, aswell concerning the Mattens, or Morning Prayer, and the Evensong, as concerning the holy Communion,

*Uniformity, from 2 E. 6. to 1 Eliz.*

Journ. Proc.  
Jan. 15.

<sup>a</sup> An Act ] *Billa, for an Uniformity of Service — quæ Communi omnium Procerum assensu, conclusa est, except' Comite Darby, Episcopis London', Dunelm', Norwicen', Carlolen', Hereford', Wigorn', Westminster', Cice-stren', & Domino Dacres & Domino Wind-sor'.*

*nomine, in omnibus Provinciis, tam ipsius Missæ ordo, quam psallendi, vel Ministrandi, consuetudo servetur.* Which Lyndwood owns to be the Common Law of the Church, and intimates, That the use of several Services in the same Province (as was here in England) was not to be warranted, but by long Custom.

De Fer. c.  
Angl. Ec. v.  
Ul. Sar.

<sup>b</sup> Of long time ] In the more early Ages of the Church, every Bishop had a power to Form a Liturgy for his own Diocese; and, if he kept to the Analogy of Faith and Doctrine, all Circumstances were left to his own Discretion. Afterwards, the practice was, for the whole Province to follow the Service of the Metropolitan Church; which also became the general Rule of the Church; *Institutio Missarum sicut in Metropolitanâ Ecclesiâ agitur, ita in Dei*

<sup>c</sup> The use of Sarum ] Lyndwood speaking of the Use of Sarum, says, *Quasi tota Provincia [Cantuariensis] hunc Usu sequitur;* and adds, as one reason of it, *Episcopus namque Sarum in Collegio Episcoporum est Præcentor, & temporibus quibus Archiepiscopus Cantuariensis solemniter celebrat Divina, præ-sente Collegio Episcoporum, Chorum in divinis Officiis regere debet, de observantiâ & consuetudine antiquâ.*

Ibid.

De Consecr.  
Dist. 2.  
c. 31.

com.



Uniformity, from  
2 E. 6. 10  
1 Eliz.

commonly called the Masse, with Divers and sundry Rites and Ceremonies concerning the same, and in the administration of other Sacraments in the Church. And as the doers and executors of the said Rites and Ceremonies, in other form than *d* of late years they have been used, were pleased therewith; so other not using the same Rites and Ceremonies were thereby greatly offended. And albeit the Kings Majesty, with the advice of his most intirely beloved Uncle, the Lord Protector, and other of his Highness Council, hath heretofore divers times assaid to stay Innovations, or new Rites concerning the premises: yet the same hath not had such good success as his Highness required in that behalf. Whereupon his Highness, by the most prudent advice aforesaid, being pleased to bear with the frailty and weaknes of his subjects in that behalfe, of his great clemency hath not been onely content to abstain from punishment of those that have offended in that behalfe, for that his Highness taketh that they did it of a good zeale: but also to the intent a uniforme, quiet and godly order should be had concerning the premises, hath appointed the Archbishop of Canterbury, and certain of the most learned and discreet Bishops, and other learned men of this Realm, to consider and ponder the premises, and thereupon having as well eye and respect to the most sincere and pure Christian Religion taught by the Scripture, as to the usages in the Primitive Church, should draw and make one convenient and meet order, rite and fashion, of common and open prayer and administration of the Sacraments, to be had and used in his Majesties Realm of England, and in Wales, the which at this time by the aid of the Holy Ghost, with one uniform agreement, is of them concluded, set forth and delivered to his Highness, to his great comfort and quietness of mind, in a book, intituled, The Book of Common Prayer, and Administration of the Sacraments, and other Rites and Ceremonies of the Church, after the Use of the Church of *England*. Wherefore the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, considering as well the most godly travel of the Kings Highness, of the Lord Protector, and of other his Highness Council, in gathering and collecting the said Archbishop, Bishops, and learned men together, as the godly Prayers, Orders, Rites and Ceremonies in the said Book mentioned, and the considerations of altering those things which be altered, and retaining those things which be retained in the said Book, and also the honour of God, and great quietness, which by the grace of God shall ensue upon the one and uniform rite and order, in such common Prayer and Rites, and extreme Ceremonies to be used throughout England, and in Wales, at Calice, and the Marches of the same; do give to his Highness most hearty and lowly thanks for the same, and humbly prayen, That it may be ordained and enacted by his Majesty with the assent of the Lords and Commons in this present Parliament assembled, and by the Authority of the same, That all and singular Person and Persons that have offended concerning the premises, other than such Person and Persons as now be and remain in Ward in the Tower of London, or in the Fleet, may be pardoned thereof; and that all and singular Ministers in any Cathedral or Parish Church, or other place within this Realm of England, Wales, Calice, and Marches of the same, or other the Kings Dominions, shall from and after the Feast of Pentecost next coming, be bounden to say and use the Mattens, Evensong, celebration of the Lords Supper, commonly called the Mass, and administration of each the Sacraments, and all their common and open prayer, in such order and form as is mentioned in the same Book, and none other, or otherwise. And albeit that the same be so godly and good, that they give occasion to every honest and conformable man most willingly to embrace them, yet lest any obstinate Person who willingly would disturb so godly order and quiet in this Realm, should go unpunished, That it may also be ordained and enacted by

*d* Of late Years] The Latin Services, as they had been used in *England* before, continued all *Henry* the Eighth's Reign, without any Alteration, saving some *Rasures* of Collects for the Pope, and of the Office of *Thomas Becket*, and of some other Saints, whose Days were, by the King's Injunctions, no more to be observed: But those *Rasures* or Deletions were so few, that the old

Masse-Books, Breviaries, and other Rituals, did still serve, without new Impressions; and *Queen Mary*, having call'd in and destroy'd the *rased* Books, required all Parishes to furnish themselves with new complete ones, and Enacted, That the Service should stand, as it was *most commonly* used in the Last Year of *K. Henry* the Eighth.

Abridgment.

—and have occasioned great Dissensions.

The King's Endeavours to stay Innovations, have not succeeded; nor the Offenders (as meaning well) been punished,

—but he appointed the Archbishop, &c. to draw up one uniform Order,

—which is now finished.

The Thanks of the Parliament to the King; with their Motives thereunto.

All Offenders hitherto shall be pardon'd, except those in Ward, &c.

All Ministers shall use the Form aforesaid, and no other,

1 Mar. Seff 2.  
c. 2. S. 3. Vid.  
infra.

the



## Abridgment.

—and any Minister refusing to use it,

—or using any other,

—or speaking in Derogation of the said Book,

—shall for the first Offence, lose one Years Profit of one Spiritual Promotion, and suffer six Months Imprisonment,

—for the 2<sup>d</sup> he shall suffer 1 Years Imprisonment, and be deprived of all his Promotions,

—for the 3<sup>d</sup>, Imprisonment during Life.

Persons having no Promotions, shall suffer for the first Offence six Months Imprisonment,

—for the 2<sup>d</sup>, Imprisonment during Life.

Any Person who shall speak in Derogation of the said Book,

—or shall cause any Minister to use other Forms,

—or shall interrupt the use of *this*,

—shall Forfeit for the first Offence 10 *l*.

—for the 2<sup>d</sup>, 20 *l*.

the Authority aforesaid, That if any manner of Parson, Vicar, or other whatsoever Minister that ought or should sing or say Common Prayer mentioned in the said Book, or minister the Sacraments, shall after the said Feast of Pentecost next coming, refuse to use the said Common Prayers, or to minister the Sacraments in such Cathedral or Parish Church, or other place as he should use or minister the same, in such order and form as they be mentioned and set forth in the said Book, or shall use, wilfully and obstinately standing in the same, any other Rite, Ceremony, Order, Form or manner of Vials openly or privily, or Mattens, Evensong, Administration of the Sacraments, or other open Prayer than is mentioned and set forth in the said Book: [ Open Prayer in and throughout this Act, is meant that Prayer which is for other to come unto or hear, either in common Churches, or private Chapels or Oratories; commonly called the Service of the Church ] or shall Preach, Declare or Speak any thing in the Derogation or Depraving of the said Book, or any thing therein contained, or of any part thereof, and shall be thereof lawfully Convicted, according to the Laws of this Realm, by verdict of twelve Men, or by his own Confession, or by the notorious Evidence of the Fact; shall Lose and Forfeit to the Kings Highness, his Heirs and Successors, for his first Offence, the Profit of such one of his spiritual Benefices or Promotions as it shall please the Kings Highness to Assign or Appoint, coming and arising in one whole Year next after his Conviction: And also that the same Person so Convicted, shall for the same Offence suffer Imprisonment by the space of Six Months, without Bail or Mainprize: And if any such Person once Convicted of any such Offence concerning the Premises, shall after his first Conviction afterwards offend, and be thereof in form aforesaid lawfully Convicted, that then the same Person shall for his second Offence suffer Imprisonment by the space of one whole Year, and also shall therefore be deprived ipso facto of all his spiritual Promotions; and that it shall be lawful to all Patrons, Donors, Grantees of all and singular the same spiritual Promotions, to present to the same any other able Clerk, in like manner and form, as though the party so Offending were Dead: And that if any such Person or Persons, after he shall be twice Convicted in form aforesaid, shall offend against any of the Premises the third time, and shall be thereof in form aforesaid lawfully Convicted, that then the Person so Offending, and Convicted the third time, shall suffer Imprisonment during his Life. And if the Person that shall Offend and be Convicted in form aforesaid, concerning any of the Premises, shall not be Beneficed, nor have any spiritual Promotion, that then the same Person so Offending and Convicted, shall for the first Offence suffer Imprisonment during six Months, without Bail or mainprize: And if any such Person not having any spiritual Promotion, after his first Conviction shall afterwards Offend in any thing concerning the Premises, and shall in form aforesaid be thereof lawfully Convicted, that then the same Person shall for his second Offence suffer Imprisonment during his Life.

II. And it is Ordained and Enacted by the Authority aforesaid, That if any Person or Persons whatsoever, after the said Feast of Pentecost next coming, shall in any Enterludes, Plays, Songs, Rhimes, or by other open Words Declare or Speak any thing in the Derogation, Depraving or Despising of the same Book, or any thing therein contained, or any part thereof; or shall by open Fact, Deed, or by open Threatnings, compel, or cause, or otherwise procure or maintain any Parson, Vicar, or other Minister, in any Cathedral or Parish Church, or Chapel, or in any other place, to sing or say any common and open Prayer, or to minister any Sacrament otherwise, or in any other manner or form than is mentioned in the said Book; or that by any of the said means shall unlawfully interrupt or let any Parson, Vicar, or other Ministers in any Cathedral or Parish Church, Chapel or any other place, to sing or say common and open Prayer, or to minister the Sacraments, or any of them, in such manner and form as is mentioned in the said Book, That then every Person being thereof lawfully Convicted in form aforesaid, shall Forfeit to the King our Sovereign Lord, his Heirs and Successors, for the first Offence, Ten Pounds. And if any Person or Persons, being once Convicted of any such Offence, afterwards offend against any of the Premises, and shall in form aforesaid be thereof lawfully Convicted, that then the same Person so offending and Convicted shall for the second Offence Forfeit to the King our Sovereign Lord, his Heirs and Successors, Twenty Pound: and if any Person after he in form aforesaid,

Uniformity, from 2 E. 6. to 1 Eliz.

Vide 1 Mar. Sess. 2. c. 3. S. 3. & Comment. sub Tit. Preachers.



Uniformity, from  
2 E. 6. to  
1 Eliz.

aforsaid, shall have been twice Convict of any Offence concerning any of the Premises, shall Offend the third time, and be thereof in Form abovesaid lawfully Convict, that then every Person so offending and Convict, shall for his third Offence Forfeit to our Sovereign Lord the King, all his Goods and Chattels, and shall suffer Imprisonment during his Life: And if any Person or Persons, that for his first Offence concerning the Premises, shall be Convict in Form abovesaid, do not Pay the Sum to be Paid by Vertue of his Conviction, in such manner and form as the same ought to be Paid, within Six Weeks next after his Conviction, that then every Person so Convict, and so not Paying the same, shall for the same Offence, instead of the said Ten Pounds, suffer Imprisonment by the space of Three Months without Bail or Mainprise. And if any Person or Persons, that for his second Offence concerning the Premises, shall be Convict in form, abovesaid, do not Pay the Sum to be Paid by vertue of his Conviction, in such manner and Form as the same ought to be Paid, within Six Weeks next after his said Conviction, that then every Person so Convicted, and not so paying the same, shall for the same second offence, in the stead of the said Twenty Pounds, suffer Imprisonment during Six Months, without Bail or Mainprise.

III. And it is ordained and Enacted by the Authority abovesaid, That all and every Justices of Oyer and Determiner, or Justices of Assise, shall have full Power and Authority in every of their open and general Sessions to enquire, hear and determine all and all manner of Offences that shall be committed or done contrary to any Article contained in this present Act, within the limits of the Commission to them directed, and to make Process for the Execution of the same, as they may do against any Person being indicted before them of Treasons, or lawfully convicted thereof.

IV. Provided always, and be it Enacted by the Authority abovesaid, That all and every Archbishop and Bishop shall or may, at all time and times at his liberty and pleasure, joyn and associate himself by vertue of this Act, to the said Justices of Oyer and Determiner, or to the said Justices of Assise, at every of the said open and general Sessions to be holden in any Place within his Diocese, for, and to the enquiry, hearing and determining of the Offences abovesaid.

V. Provided always, That it shall be lawful to any man that understandeth the Greek, Latine and Hebrew Tongue, or other strange Tongue, to say and have the said Prayers heretofore specified of Mattens and Evensong, in Latine or any such other Tongue, saying the same privately, as they do understand.

VI. And for the further encouraging of Learning in the Tongues, in the Universities of Cambridge and Oxford, to use and exercise in their common and open Prayer in their Chapels (being no Parish Churches) or other Places of Prayer, the Mattens, Evensong, Litany, and all other Prayers (The holy Communion, commonly called the Mass, excepted) prescribed in the said Book, in Greek, Latine or Hebrew; any thing in this present Act to the contrary notwithstanding.

VII. Provided also, that it shall be lawful for all men, as well in Churches, Chapels, Oratories, or other places, to use openly any Psalms or Prayer taken out of the Bible, at any due time, not letting or omitting thereby the Service, or any part thereof, mentioned in the said Book.

VIII. Provided also, and be it Enacted by the Authority abovesaid, That the Books concerning the said Services, shall at the cost and charges of the Parishioners of every Parish and Cathedral Church, be attained and gotten before the Feast of Pentecost next following, and that all such Parishes and Cathedral Churches, or other places, where the said Books shall be attained and gotten before the said Feast of Pentecost, shall within three Weeks next after the said Books so attained and gotten, use the said Service, and put the same in use according to this Act.

IX. And be it further Enacted by the Authority abovesaid, That no Person or Persons shall be at any time hereafter impeached, or otherwise molested, of, or for any of the Offences above mentioned, hereafter to be committed or done contrary to this Act, unless he or they so Offending be thereof Indicted at the great general Sessions to be holden before any of the Justices of Oyer and Determiner, or Justice of Assise next after any Offence committed or done contrary to the tenor of this Act.

Abridgment.

—for the 3<sup>d</sup>, Goods and Chattels, with Imprisonment during Life.

Any Person not paying the said Forfeitures for 1<sup>st</sup> and 2<sup>d</sup> Offence, shall suffer Imprisonment.

Justices of Oyer and of Assise, shall Enquire of Offences against this Act,

—and the Bishop of the Diocese may associate himself with them.

Private Prayer may be used in other Tongue,

—and also Prayers in the University-Chapels,

—the Communion-Service excepted.

Psalms and Prayer taken out of the Bible, may be used by particular Persons.

The Books shall be provided, at the charge of the Parish, before the Feast of Pentecost, and be used 3 Weeks after.

None shall be impeached, but at the next Assises.



Abridgment.

Lords of Parliament offending, shall be tried by their Peers.

Mayors and other Head-Officers shall enquire, where the Justices do not come.

X. Provided always, and be it Ordained and Enacted by the Authority aforesaid, That all and singular Lords of the Parliament, for the said Offences abovesaid, shall be tried by their Peers.

XI. Provided also, and be it Ordained and Enacted by the Authority aforesaid, That the Mayor of London, and all the Mayors, Bailiffs, and other Head-Officers of all and singular Cities, Boroughs and Towns-corporate within this Realm, Wales, Calice, and the Marches of the same, to the which Justices of Assise do not commonly repair, shall have full Power and Authority, by vertue of this Act, to enquire, hear and determine the Offences abovesaid, and every of them yearly, within fifteen Days after the Feast of Easter, and Saint Michael the Archangel, in like manner and form as Justices of Assise and Oyer and Determiner may do.

1 Mar. Sess. 2 Cap. 2.

In an Act, Entituled, *An Act for the Repeal of certain Statutes, &c.*

Repeal of the foregoing Act.

§ II.—And also one other Act made in one other Session of the said Parliament, holden upon Prorogation at Westminster, the Fourth Day of November, in the Second Year of the Reign of the said late King Edward the Sixth, and there continued and kept to the Fourteenth Day of March, in the Third Year of the said late King's Reign, Entituled, An Act for the Uniformity of Service and Administration of the Sacraments throughout the Realm—shall be from henceforth utterly Repealed.

1 Jac. I. Cap. 25.

In an Act, Entituled, *An Act for ----- Repealing of divers Statutes.*

Reviver of 2 E. 6. by Repeal of 1 Mar.

§ XLVIII. And be it further Enacted by the Authority of this present Parliament, That an Act made in the First Year of the Reign of Queen Mary, Entituled, An Act for the Repeal of certain Statutes made in the time of King Edward the Sixth, shall stand Repealed and Void.

2 & 5 Edw. VI.----13, 14 Car. II.

*Preface concerning the Service of the Church.*

All human Establishments are by degrees corrupted.

There was never any thing by the wit of Man so well devised, or so <sup>1</sup> sure<sup>2</sup> Established, which, in continuance of time, hath not been corrupted; As, among other things, it may plainly appear by the Common Prayers in the Church, commonly called *Divine-Service*. The first original and ground whereof, if a Man would search out by the Ancient Fathers, he shall find, that the same was not Ordained, but of a good purpose, and for a great advancement of Godliness. For they so ordered the matter, that all the whole Bible, (or the greatest part thereof) should be Read over once <sup>2</sup> every<sup>3</sup> Year; intending thereby, that the Clergy, and especially such as were Ministers <sup>3</sup> in<sup>4</sup> the Congregation, should (by often Reading, and meditation <sup>4</sup> in<sup>5</sup> Gods Word) be stirred up to Godliness themselves, and be more <sup>5</sup> able to<sup>6</sup> Exhort others by wholesome Doctrine, and to confute them that were Adversaries to the Truth; and further, that the People (by daily hearing of Holy Scripture Read in the Church) <sup>6</sup> might<sup>7</sup> continually profit more and more in the knowledge of God, and be the more inflamed with the love of his true Religion.

The profit of reading over the Bible every Year, both to Minister and People.

But these many Years passed, this godly and decent Order of the Ancient Fathers hath been so altered, broken, and neglected, by planting-in uncertain <sup>7</sup> e Stories and Legends<sup>8</sup>, <sup>8</sup> with multitude of<sup>9</sup> f Responds, Verses, vain Repe-

Corruptions in the Popish Service, by mixing Legends &c with Scripture.

<sup>1</sup> Surely, 2 & 5 E. 6. <sup>2</sup> In the, 2 & 5 E. 6. <sup>3</sup> Of, 2 & 5 E. 6. <sup>4</sup> Of, 2 & 5 E. 6. <sup>5</sup> Able also to, 2 & 5 E. 6. <sup>6</sup> Should, 2 & 5 E. 6. <sup>7</sup> Stories Legends. <sup>8</sup> Not in 2 nor 5 E. 6.

DeEcl. ad. c. iii Par. v. Legendam.

<sup>e</sup> Stories and Legends] Lyndwood in his Gloss upon a Constitution of Archbishop Winchelsey, reckons up many Applications of the word Legend in the Roman Liturgies; but the Legend here meant, is that *de Vitis Sanctorum*; and, there being such a number

of Saints in the Church of Rome, few days are free from the *Legendary* Tales they relate of them.

<sup>f</sup> Responds] A short Anthem sung, after reading three or four verses of a Chapter; after which, the Chapter proceeds.

titions,

Uniformity, from 1 E. 6. to 1 Eliz.

A.D. 1553.

A.D. 1603.

A.D. 1548.



Uniformity from  
1 E. 6. to  
1 Eliz.

titions, *g* Commemorations, and *b* Synodals; that commonly, when any Book of the Bible was begun, <sup>9</sup> after three or four Chapters were Read out, all the rest were unread. And in this sort the Book of *Isaiab* was begun in *Advent*, and the Book of *Genesis* in *Septuagesima*; but they were only begun, and never read through: After like sort were other Books of holy Scripture used. And moreover, whereas *S. Paul* would have such Language spoken to the People in the Church, as they might understand, and have profit by hearing the same; The Service in this Church of *England* these many Years, hath been read in Latin to the People, which they understand not; so that they have heard with their Ears only; and their Heart, Spirit, and Mind have not been edified thereby. And furthermore, notwithstanding that the Ancient Fathers have divided the *Psalms* into seven Portions, whereof every one was called a *Nocturn*: Now of late time, a few of them have been daily <sup>10</sup> said, and the rest utterly omitted. Moreover, the number and hardness of the Rules called the *k Pie*, and the manifold changings of the Service, was the cause, that to turn the Book only was so hard and intricate a matter, that many times there was more business to find out what should be read, than to read it when it was found out.

These inconveniencies therefore considered, here is set forth such an Order, whereby the same shall be redressed. And for a readiness in this matter, here is drawn out a Kalendar for that purpose, which is plain and easie to be understood; wherein (so much as may be) the reading of holy Scripture is so set forth, that all things shall be done in order, without breaking one <sup>11</sup> piece from another. For this cause be cut off Anthems, Responds, *l* Invitatories, and such like things as did break the continual course of the reading of the Scripture.

Yet, because there is no remedy, but that of necessity there must be some Rules; therefore certain Rules are here set forth; which as they are few in number, so they are plain and easie to be understood. So that here you have an Order for Prayer, <sup>12</sup> and for the reading of the holy Scripture, much agreeable to the mind and purpose of the old Fathers, and a great deal more profitable and commodious, than that which of late was used. It is more profitable, because here are left out many things, whereof some are untrue, some uncertain, some vain and superstitious, and nothing is ordained to be read, but the very pure Word of God, the holy Scriptures, or that which is <sup>13</sup> agreeable to the same; and that in such a Language and Order, as is most easie and plain for the understanding both of the readers and hearers. It is also more commodious, both for the shortness thereof, and for the plainness of the Order, and for that the Rules be few and easie.<sup>14</sup>

And whereas heretofore there hath been great diversity in saying and singing in Churches within this Realm; some following *Salisbury* Use, some *Hereford* Use, and some the Use of *Bangor*, some of *York*, some of *Lincoln*; now from henceforth all the whole Realm shall have but one Use.<sup>15</sup>

And forasmuch as nothing can <sup>16</sup> be so plainly set forth, but doubts may arise in the use and practice of the same; to appease all such diversity (if any arise) and for the Resolution of all doubts, concerning the manner how to understand, do, and execute the things contained in this Book; the Parties that so doubt, or diversly take any thing, shall alway resort *m* to the Bishop of the

<sup>9</sup> Before, 2 & 5 E. 6. <sup>10</sup> Said, and oft Repeated, and, 2 & 5 E. 6. <sup>11</sup> Piece thereof, 2 & 5 E. 6. <sup>12</sup> As touching the Reading of Holy Scripture, 2 & 5 E. 6. <sup>13</sup> Evidently grounded upon, 2 & 5 E. 6. <sup>14</sup> Furthermore by this Ordre, the Curates shall note none other Bokes for their Publique Service, but this Boke and the Bible: by the meane whereof, the People shall not be at so great Charge for Bookes, as in tyme past they have been. 2 & 5 E. 6. <sup>15</sup> And if any would judge this waye more painfull, because that all thynges must be Read upon the Boke, wheras before, by the Reason of sooften Repetition, they could saye many things by heart: if those Men will waye their labor with the profite in knowlege, whiche dayely they shal obtain by Reading upon the Boke, they will not refuse the payn in consideration of the greates profite that shall ensue thereof. 2 & 5 E. 6. <sup>16</sup> Almost be, 2 & 5 E. 6.

*g* Commemorations ] The Service of a lesser Holy-day falling in with a greater.

*b* Synodals ] Constitutions made in Provincial or Diocesan Synods, and published in the Parish-Churches.

*i* Nocturn ] From the Ancient Christians rising in the night, to perform them.

*k* Pie ] A Table to find out the Service belonging to each Day; which becomes very difficult, by the co-incidence of many Offices on the same Day.

*l* Invitatories ] Some Text of Scripture, adapted and chosen for the Occasion

of the Day, and used before the *Venite*; which also it self is called the *Invitatory Psalm*.

*m* To the Bishop of the Diocese ] In virtue of this Power, and with expreis reference to this Clause, the Archbishop and Bishops in Convocation, Anno 1575. Expounded and Resolved, and every of them did Expound and Resolve, That Private Baptism (concerning which some doubt had Risen as to what Persons might Administer it,) was only to be Ministred by a Lawful Minister or Deacon, but this Article was not Printed with the rest.

Abridgment.

—by leaving much of it unread,

—by saying it in Latin,

—by omitting several of the Psalms,  
—with the Difficulty of the Rules, and Method of that Service.

These Inconveniencies are amended in the new Service,

—which is more profitable,

—and more commodious.

All doubts concerning the use of the Book, shall be referred to the Bishop, or Archbishop.

Str. Vit.  
Grind. App.  
p. 61.

Diocese,



## Abridgment.

Diocese, who by his Discretion shall take Order for the Quieting and Appeasing of the same; so that the same Order be not contrary to any thing contained in this Book. <sup>17</sup> And if the Bishop of the Diocese be in <sup>18</sup> doubt, then <sup>19</sup> he may send for the Resolution thereof to the Archbishop.

<sup>17</sup> What follows is not in 2 E. 6. <sup>18</sup> In any doubt, 5 E. 6. <sup>19</sup> May he, 5 E. 6.

2 & 5 E. VI.---- 13, 14 Car. II.

*Rubrick, at the end of the foresaid Preface.*

Private Prayer may be said in any Language.

Though it be <sup>18</sup> Appointed, That all things shall be Read and Sung in the Church in the English Tongue, to the end, that the Congregation may be thereby Edified; yet it is not meant, but that when Men say <sup>19</sup> Morning and Evening Prayer privately, they may say the same in any Language, that they themselves do understand. <sup>20</sup>

<sup>18</sup> Appointed in the aforesaid Preface, 2 & 5 E. 6. <sup>19</sup> Mattins and Evensong, 2 & 5 E. 6. <sup>20</sup> Neither that any Man shall be bounde to the saying of them, but such as from tyme to tyme, in Cathedrall and Collegiate Churches, Parishes Churches and Chapels to the same annuall, shall serve the Congregation, 2 E. 6.

3, 4 Edw. VI. Cap. 10.

*An Act for abolishing and putting away divers Books and Images.*

The Excellency of the Book of Common Prayer, in comparison of the other Services,

Where the Kings most Excellent Majesty hath of late set forth, and established by authority of Parliament, an uniform, quiet and godly Order of Common and Open Prayer, in a Book Entituled, The Book of Common Prayer, and Administration of the Sacraments, and other Rites and Ceremonies after the Church of England, to be used and observed in the said Church of England, agreeable to the Order of the Primitive Church, much more comfortable unto his loving Subjects, than other diversity of Service, as heretofore of long time hath been used; being in the said Book ordained nothing to be read but the very pure Word of God, or which is evidently grounded upon the same, and in the other, things corrupt, untrue, vain, and superstitious; and as it were a preparation to superstition: which for that they be not called in, but permitted to remain undefaced, do not only give occasion to such perverse persons, as do impugn the order and godly meaning of the Kings said Book of Common Prayer, to continue in their old accustomed superstitious Service, but also minister great occasion to diversity of Opinions, Rites, Ceremonies and Services: Be it therefore Enacted by the King our Sovereign Lord, the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, That all Books called Antiphoners, Missals, Gradles, Processionals, Manuals, Legends, Pies, Portuasses, Primers, in Latin and English, Tonchers, Journals, Ordinals, or other Books or Writings whatsoever, heretofore used for Service of the Church, Written or Printed in the English or Latin Tongue, other than such as shall be set forth by the Kings Majesty, shall be by authority of this present Act clearly and utterly abolished, extinguished, and forbidden for ever to be used or kept in this Realm, or elsewhere within any the Kings Dominions.

—which Services being not call'd in, keep up diversity of Opinions:

Enacted, That all Popish Missals, &c. be utterly abolish'd,

—and that all Persons, neglecting to give up Popish Books and Images, to the Mayor, &c.

II. And be it further enacted by the authority aforesaid, That if any person or persons, of what degree, estate or condition soever he, she or they be, bodies politick or corporate, that now have, or hereafter shall have in his, her, or their custody, any the Books or Writings of the sorts aforesaid, or any Images of stone, timber, alabaster or earth, graven, carved or painted, which heretofore have been taken out of any Church or Chapel, or yet stand in any Church or Chapel, and do not before the last day of June next ensuing, deface and destroy, or cause to be defaced and destroyed the same Images, and every of them, and deliver, or cause to be delivered all and every the same Books to the Mayor, Bailiff, Constable or Church-wardens

Journ. Proc.

An Act ] Allata à Domo Comuni Billa, Derby, Episcopis Dunelm', Coven' & Lichen',  
For the abolishing and putting away of divers Carliolen', Wigorn', Westm' & Cicestr', & Do-  
Books and Images—Conclusa, dissentien' Comite minis Morly, Sturton, Windsor, and Wharton.

of

Uniformity, from 1 E. 6. to 2 Eliz.

A. D. 1548.

A. D. 1549.



Unifor-  
mity, from  
2 E. 6. to  
1 Eliz.

of the Town where such Books then shall be, to be by them delivered over openly within three Months next following after the said delivery, to the Archbishop, Bishop, Chancellor, or Commissary of the same Diocese, to the intent the said Archbishop, Bishop, Chancellor, or Commissary, and every of them, cause them immediately after, either to be openly burnt, or otherwise defaced and destroyed; shall for every such Book or Books willingly retained in his, her, or their hands or custody, within this Realm, or elsewhere within any the Kings Dominions, and not delivered, as is aforesaid, after the said last day of June, and be thereof lawfully convicted, forfeit and lose to the King our Sovereign Lord, for the first offence, ten shillings, and for the second offence shall forfeit and lose (being thereof lawfully convicted) four pounds: and for the third offence, shall suffer imprisonment at the Kings will.

III. And be it further enacted by the authority aforesaid, That if any Mayors, Bailiffs, Constables or Church-wardens, do not within three Months after receipt of the same Books, deliver, or cause to be delivered such Books so by them received, to the Archbishop, Bishop, Chancellor, or Commissary of their Diocese; and if the said Archbishop, Bishops, Chancellor, or Commissaries, do not within forty days after the receipt of such Books, burn, deface, and destroy, or cause to be burned, defaced, or destroyed the same Books, and every of them; that then they and every of them so offending, shall lose and forfeit to our Sovereign Lord the King, being thereof lawfully convicted, forty pounds: The one half of all which forfeitures shall be to any of the Kings Subjects that will sue for the same in any of the Kings Courts of Record, by bill, plaint, action of debt, or information; in which action no essoin, protection, wager of law, or other delay shall be allowed.

IV. And for better execution of the said Act, be it enacted by the authority aforesaid, That as well Justices of Assize in their Circuits, as Justices of Peace within the Limits of their Commission in the general Sessions, shall have full power and Authority to enquire of the offences aforesaid, and to hear and determine the same, in such form as they may do in other such like cases.

V. Provided always, That this Act, or any thing therein contained, shall not extend to any Image or Picture, set or graven upon any Tomb in any Church, Chapel, or Church-yard, only for a Monument for any King, Prince, Noble man or other dead person, which hath not been commonly reputed and taken for a Saint; but that all such Pictures and Images may stand and continue in like manner and form, as if this Act had never been had nor made; any thing in this Act to the contrary in any wise notwithstanding.

VI. Provided also, and be it enacted by the authority aforesaid, That any person or persons may use, keep, have and retain any Primers in the English or Latin Tongue, set forth by the late King of famous memory, King Henry the Eighth, so that the sentences of Invocation, or Prayer to Saints in the same Primers, be blotted, or clearly put out of the same; any thing in this Act to the contrary notwithstanding.

Abridgment.

—in order to be delivered to the Archbishop, Bishop, &c. to be burnt, or defaced,

—shall forfeit, for the first Offence, 10 s. for second, 4 l. for third, shall suffer Imprisonment at the Kings Will.

Mayor, &c. or Archbishop, &c. offending in the Premises, shall forfeit 40 l.

—one half of which shall be to him that will sue for the same.

Justices of Assize, and Peace, shall Enquire of the said Offences.

All Monuments of Persons, not reputed Saints, shall stand.

King Henry's Primers may be kept, blotting out the Prayer to Saints.

Repeal of the foregoing Statute.

A.D. 1553.

I Mar. Sess. 2. Cap. 2.

In an Act, Entituled, *An Act for the Repeal of certain Statutes, &c.*

§ II. —And also one other Act made in one other Session of the said Parliament, holden upon Prorogation at Westminster, the Fourth Day of November, in the Third Year of the Reign of the said late King Edward the Sixth, and there continued and kept to the First Day of February, in the Fourth Year of his Reign, Entituled, An Act for the abolishing and putting away of divers Books and Images—shall be from henceforth utterly Repealed—



## Abridgment.

I Jac. I. Cap. 25.

In an Act, Entituled, *An Act for----Repealing divers Statutes.*

Reviver of the Statute 3, 4 E. 6. c. 10.

§. XLVIII. And be it further enacted, by the Authority of this present Parliament, That an Act made in the first Year of the Reign of Queen Mary, Entituled, An Act for the Repeal of certain Statutes made in the time of King Edward the Sixth, shall stand Repealed and Void.

5, 6 Edw. 6. Cap. 1.

*Uniformity of Prayer, and Administration of Sacraments shall be used in the Church.*

The great Excellency and Benefit of the Common-Prayer,

Where there hath been a very godly order set forth by the authority of Parliament, for Common-Prayer and Administration of the Sacraments to be used in the mother Tongue within this Church of England, agreeable to the word of God, and the primitive Church, very comfortable to all good people, desiring to live in Christian conversation, and most profitable to the estate of this Realm; upon the which the mercy, favour and blessing of Almighty God is in no wise so readily and plenteously poured, as by Common-Prayers, due using of the Sacraments, and often preaching of the Gospel, with the devotion of the hearers: and yet this notwithstanding, a great number of People in divers parts of this Realm, following their own sensuality, and living either without knowledge or due fear of God, do wilfully and damnably before Almighty God, abstain and refuse to come to their Paroch-Churches, and other places, where Common-Prayer, Administration of the Sacraments, and Preaching of the word of God, is used upon Sundays and other days ordained to be Holy-days.

— notwithstanding which, many Persons refuse to come to Church.

Enacted, That, every Person shall resort to Church,

II. For Reformation hereof, be it enacted by the King our Sovereign Lord, with the assent of the Lords and Commons in this present Parliament assembled, and by the authority of the same, That from and after the Feast of All Saints next coming, all and every person and persons inhabiting within this Realm, or any other the Kings Majesties Dominions, shall diligently and faithfully (having no lawful or reasonable excuse to be absent) endeavour themselves to resort to their Paroch-Church or Chapel accustomed, or upon reasonable let thereof, to some usual place where Common-Prayer, and such Service of God shall be used in such time of let, upon every Sunday, and other Days ordained and used to be kept as Holy-days, and then and there to abide orderly and soberly, during the time of the Common-Prayer, Preachings, or other Service of God, there to be used and ministered; upon pain of punishment by the censures of the Church.

—and behave himself orderly,  
—upon pain of Eccl. Censures:

The Parliament pray the Bishops to be careful in punishing all Neglects of this Law;

III. And for the due execution hereof, the Kings most excellent Majesty, the Lords Temporal, and all the Commons in this present Parliament assembled, doth in Gods name earnestly require and charge all the Archbishops, Bishops, and other Ordinaries, that they shall endeavour themselves to the uttermost of their Knowledges, that the due and true execution thereof may be had throughout their Dioceses and Charges, as they will answer before God for such evils and plagues, wherewith Almighty God may justly punish his people, for neglecting this good and wholsom Law.

—and all Ecclesiastical Judges are empower'd by this Act, to punish by Censures.

IV. And for their authority in this behalf, be it further likewise enacted by the Authority aforesaid, That all and singular the same Archbishops, Bishops, and all other their Officers exercising Ecclesiastical Jurisdiction, as well in places exempt as not exempt, within their Dioceses, shall have full power and authority by this Act, to reform, correct and punish, by censures of the Church, all and singular persons which shall offend within their Jurisdictions or Dioceses, after the said Feast of All Saints next coming, against this Act and Statute; any other Law, Statute, Priviledge, Liberty or Provision heretofore made, had or suffered to the contrary notwithstanding.

V. And because there hath risen in the use and exercise of the aforesaid Common Service in the Church, heretofore set forth, divers doubts for the fashion and manner of the ministrations of the same, rather by the curi-

Uniformity, from 2 E. 6. to 1 Eliz. A.D. 1603.

A.D. 1551.



Uniformity, from  
2 E. 6. to  
1 Eliz.

curiosity of the Minister and Mistakers, than of any other worthy cause; therefore, as well for the more plain and manifest explanation thereof, as for the more perfection of the said Order of Common Service, in some places where it is necessary to make the same Prayer and Fashion of Service more earnest and fit to stir Christian People to the true honouring of Almighty God, the Kings most excellent Majesty, with the assent of the Lords and Commons in this present Parliament assembled, and by the Authority of the same, hath caused the aforesaid Order of Common Service, Entituled, The Book of Common Prayer, to be faithfully and godly perused, explained, and made fully perfect, and by the aforesaid authority hath annexed and joyned it, so explained, and perfected, to this present Statute; adding also a form and manner of Making and Consecrating of Archbishops, Bishops, Priests, and Deacons, to be of like force, authority and value, as the same like aforesaid Book, Entituled, The Book of Common Prayer, was before, and to be accepted, received, used, and esteemed in like sort and manner, and with the same clauses of provisions and exceptions, to all intents, constructions and purposes; as by the Act of Parliament made in the Second Year of the Kings Majesties Reign, was ordained, limited, expressed and appointed for the uniformity of Service and Administration of the Sacraments throughout the Realm, upon such several pains as in the said Act of Parliament is expressed: And the said former Act to stand in full force and strength, to all intents and constructions, and to be applied, practised, and put in ure, to and for the establishing of the Book of Common Prayer, now explained, and hereunto annexed, and also the said form of making Archbishops, Bishops, or Priests and Deacons hereunto annexed, as it was for the former Book.

VI. And by the authority aforesaid it is now further enacted, That if any manner person or persons, inhabiting and being within this Realm, or any other the Kings Majesties Dominions, shall after the said Feast of All Saints, willingly and wittingly hear and be present at any other manner or form of Common Prayer, or Administration of the Sacraments, or making of Ministers in the Churches, or of any other Rites contained in the Book annexed to this Act, than is mentioned and set forth in the Book, or that is contrary to the form of sundry Provisions and Exceptions contained in the aforesaid former Statute, and shall be thereof convicted, according to the Laws of this Realm, before the Justices of Assize, Justices of Oyer and Determiner, Justices of Peace in their Sessions, or any of them, by the verdict of twelve men, or by his or their own confession or otherwise; shall for the first offence suffer imprisonment for six months, without Bail or Mainprise, and for the second offence, being likewise convicted, as is aforesaid, imprisonment for one whole year, and for the third offence, in like manner, imprisonment during his or their lives. And for the more knowledge to be given hereof, and better observation of this Law, be it enacted by the Authority aforesaid, That all and singular Curates, shall upon one Sunday every quarter of the year, during one whole year next following the aforesaid Feast of All Saints next coming, read this present Act in the Church at the time of the most solemn Assembly, and likewise once in every year following; at the same time declaring unto the people by the Authority of the Scripture, how the mercy and goodness of God hath in all ages been shewed to his people in their necessities and extremities, by means of hearty and faithful Prayers made to Almighty God, especially where the People be gathered together with one faith and mind to offer up their hearts by Prayer, as the best Sacrifices that Christian men can yield.

A.D. 1553.

I Mar. Seff. 2. Cap. 2.

In an Act, Entituled, *An Act for the Repeal of certain Statutes, &c.*

§ II. — And also one other Act made in one other Session of the said Parliament holden upon Prorogation at Westminster the three and twentieth day of January, in the fifth year of the reign of the said late King Edward the sixth, and there continued and kept, till the fifteenth day of April in the sixth year of the reign of the said late King, Entituled, An Act for the Uniformity of Common Prayer, and the Administration of the Sacraments — shall be from henceforth utterly Repealed.

Abridgment.

For removing such Doubts and Imperfections, as were in the former Book,

—the King hath caused it to be perused and perfected,

—and hath added a Form of Consecrating, &c. to be of the same Authority,

—and the use of both to be enforced by the Penalties 2, 3 E. 6.

Any Person who shall be present at other Form, shall suffer,

—for the 1<sup>st</sup> Offence, 6 Months Imprisonment,  
—for the 2<sup>d</sup>, 12 Months,  
—for the 3<sup>d</sup>, Imprisonment during Life.

Ministers shall read this Act in the Church, once every Year,

—and declare to the People the Efficacy of Prayer, especially Publick.

Repeal of Stat. 5, 6 Ed. 6. c. 1.



## Abridgment.

I Jac. I. Cap. 25.

In an Act, Entituled, *An Act for----- Repealing of divers Statutes.*

Reviver of the Stat. 5, 6 E. 6. cap. 1.

§ XLVIII. And be it further Enacted by the Authority of this present Parliament, That an Act made in the first Year of the Reign of Queen Mary, Entituled; An Act for the Repeal of certain Statutes made in the time of King Edward the Sixth, shall stand † Repealed and Void.

Uniformity, from  
2 E. 6. to  
1 Eliz. 1  
A. D. 1603.

† Vide infra  
1 Eliz. c. 2.  
S. 1.

I Mar. Sess. 2. Cap. 2.

In an Act, Entituled, *An Act for the Repeal of certain Statutes, &c.*

The Service used in the last Year of K. H. 8. shall be used, and no other.

III. And be it further Enacted by the Authority aforesayd, That all such Divine Service and Administration of Sacraments, as were most commonly used in the Realme of England, in the last Yeere of the Reigne of our late Sovereigne Lord King Henrie the Eighth, shall be, from and after the Twentieth Day of December, in this present Yeere of our Lord God 1553. used and frequented through the whole Realme of England, and all other the Queenes Majesties Dominions. And that no other kind nor order of Divine Service, nor Administration of Sacraments, be after the sayd Twentieth Day of December, used, or ministred in any other maner, forme, or degree, within the said Realme of England, or other the Queenes Dominions, than was most commonly used, ministred, and frequented in the sayd last Yeere of the Reigne of the sayd late King Henrie the Eighth.

A. D. 1553.

R E P.

No Person shall be molested for having used either other Service, or that.

IV. And be it further Enacted by the Authority aforesayd, That no Person shall be impeached or molested, in body, or goods, for using heeretofore, or until the sayd 20 Day of December, the Divine Service mentioned in the sayd Acts, or any of them, nor for the using of the old Divine Service and Administration of Sacraments, in such maner and forme, as was used in the Church of England, before the making of any of the sayd Acts. †

† Repealed by  
1 Eliz. c. 2. and  
1 Jac. I. c. 25.  
as in this page.

## C A P. II.

*Uniformity in Publick Worship, from the First Year of Queen ELIZABETH, to the Thirteenth and Fourteenth of King CHARLES the Second.*

I Eliz. Cap. 2.

*An Act for the Uniformity of Common Prayer, and Service in the Church, and Administration of the Sacraments.*

Act of Uniformity, 5, 6 E. 6. was taken away by 1 Mar. Sess. 2.

WHere at the Death of our late Sovereign Lord King Edward the Sixth, there remained one Uniform Order of Common Service and Prayer, and of the Administration of Sacraments, Rites and Ceremonies of the Church of England, which was set forth in one Book, Entituled, The Book of Common Prayer, and Administration of Sacraments, and other Rites and Ceremonies in the Church of England, Authorized by Act of Parliament, holden in the Fifth and Sixth Yeers of our said late Sovereign Lord King Edward the Sixth, Entituled, An Act for the Uniformity of Common Prayer, and Administration of the Sacraments; the which was Repealed and taken away by Act of Parliament in the first Year of the Reign of our late Sovereign Lady Queen Mary, to the great decay of the due honour of God, and discomfort to the professors of the truth of Christs Religion:

Uniformity, from  
1 Eliz. 10  
13, 14  
Car. 2.  
A. D. 1558.

Queen Mary's Statute shall be Repealed, as to the Common Prayer, and King Edward's Book restored,

II. Be it therefore Enacted by the Authority of this present Parliament, that the said Statute of repeal, and every thing therein contained, only concerning the said Book, and the Service, Administration of Sacraments, Rites and Ceremonies, contained or appointed in or by the said Book, shall

be



Uniformity, from  
1 Eliz. to  
13, 14  
Car. 2.

be void and of none effect, from and after the Feast of the *o* Nativity of Saint John Baptist next coming, and that the said Book, with the order of Service and of the Administration of Sacraments, Rites and Ceremonies, with the Alteration and Additions therein added, and appointed by this Statute, shall stand and be, from and after the said Feast of the Nativity of Saint John Baptist, in full force and effect, according to the tenor and effect of this Statute; any thing in the aforesaid Statute of Repeal to the contrary notwithstanding.

III. And further be it Enacted by the Queens Highness, with the assent *p* of the Lords and Commons in this *q* present Parliament Assembled, and by Authority of the same, that *r* all and singular Ministers in any Cathedral or Parish Church, or other place within this Realm of England, Wales, and the Marches of the same, or other the Queens Dominions, shall from and after the Feast of the Nativity of Saint John Baptist next coming, be bound to say and use the Mattens, Evening Song, Celebration of the Lords Supper, and Administration of each of the Sacraments, and all their common and open Prayer, in such order and form as is mentioned in the said Book so Authorized by Parliament, in the said Fifth and Sixth Years of the Reign of King Edward the Sixth, with one Alteration or Addition of *s* certain Lessons to be used on every Sunday in the Year, and the Form of the Litany *t* altered and corrected, and *u* two sentences only added in the delivery of the Sacraments to the Communicants, and none other or otherwise.

IV. And that if any manner of Parson, Vicar, or other whatsoever Minister, that ought or should sing or say Common Prayer, mentioned in the said Book, or minister the Sacraments, from and after the Feast of the Nativity of Saint John Baptist next coming, refuse to use the said Common Prayers, or to minister the Sacraments in such Cathedral or Parish Church, or other places, as he should use to minister the same in

*o* Nativity of S. John Baptist ] For a Month and more, after Queen Mary's Death, the Service continued as before, nothing being forbidden, but the *Elevation*; but December 27 the Queen set forth a Proclamation, to charge and command all manner of Her Subjects, as well those that be called to Ministry in the Church, as all others, that they do forbear to Preach or Teach, or to give Audience to any manner of Doctrine or Preaching, other than to the Gospels and Epistles, commonly called the Gospel and Epistle of the Day, and to the Ten Commandments, in the vulgar Tongue, without Exposition or Addition of any manner sense or meaning to be applied or added; or to use any other manner of Publick Prayer, Rite or Ceremony in the Church, but that which is already used, and by Law received, or the common Litany used at this present in Her Majesty's own Chapel, and the Lord's Prayer and the Creed in English; until Consultation may be had by Parliament, by Her Majesty, and Her Three Estates of this Realm, for the better Conciliation and Accord of such Causes, as at this present are moved in matters and Ceremonies of Religion.

*p* Of the Lords and Commons ] Not said Lords Spiritual, as is usual; because all the Bishops present Dissented; — Read *tertia vice, & conclusa, dissentientibus Archiepiscopo Eborac' Marchione Wint. Comite Salop. Vice Comite Mountague, Episcopis London' Elien' Wigorn' Landaven' Coven' Exor' Cestren' Carlhol' ac Dominis Morley, Stafford, Dudley, Wharton, Rich and North.*

*q* This present Parliament ] Which was not opened and begun on the 23<sup>d</sup> of January, as the common Statutes have it; but the Members having been Summoned to meet that Day, were by Writ discharged from Attendance, by reason of the Queen's Indisposition, till the 25<sup>th</sup>, on which Day the

Parliament was opened; and, two Years after, an Indictment upon this Statute, was held by all the Justices of both Benches to be insufficient, because it was said *contra formam cujusdam Statuti inchoat' & tent' apud Westmonast' 23 die Januarii*. It is there also implied, That this is a general Act, and need not be particularly Recited.

*r* All and singular Ministers ] In an Action upon this Statute brought against a Popish Priest 3 Eliz. for saying of Masse, it was held by the whole Court, that he was within the purview of this Statute; it appearing clearly by the next Clause (Sect. 4.) That the design of the Parliament was, to abolish the Superstitious Service, and to establish the new Service in it's place.

*s* Certain Lessons ] Two Years after this, the Queen Issued Her Commission to the Archbithop and Three others, to peruse the Order of the Lessons throughout the whole Year, and to cause some new Calendars to be Imprinted; which were Finished, and sent to the several Bishops to see them observed in their Dioceses, in the Month of February, 1560.

*t* Altered and Corrected ] By the Omission of the Clause [ *From the Tyranny of the Bishop of Rome and all his detestable Enormities* ] which had been in 2 & 5 Edw. 6.

*u* Two Sentences added ] Of the two Forms now used at the delivering of the Bread and Wine; the first part of each (to the word *Life* inclusive) was in the Book of the Second Year of King Edw. 6. but not the second part; but in the Book of the Fifth Year, was the second part, without the first; and the Alteration made by virtue of this Act, was the inserting of both as they now Stand.

Abridgment.

—to be used by all Ministers,

—with certain Additions, and Alterations.

Any Person refusing to use the said Book, or using other,

Dyer, f. 203. 4

Dyer, f. 203. 4, b.

Str. Hist. Ref. 218. Vit. Park. App. p. 28.

Str. Ref. p. 3. App.

D' Ewes p. 28.

D' Ewes p. 3.



## Abridgment.

—or Preaching, &c. in Derogation of it, shall,

—for his first Offence, lose 1 Years profit of Promotions, and be Imprisoned 6 Months,

—for the 2<sup>d</sup>, shall be Imprisoned a whole Year, and deprived,

—for the 3<sup>d</sup>, shall be deprived, and suffer Imprisonment during Life.

Offender not having Spiritual Promotions, shall suffer for 1<sup>st</sup> Offence, 1 Years Imprisonment,

1 Len. p. 295. Vid. Godb. p. 119.

Mo1. Rep. V. 3. P. 79.

Co. 5. Rep. Vid. Godb. 162.

Stat. 23.

such order and form as they be mentioned and set forth in the said Book; or shall wilfully or obstinately standing in the same, use *v* any other Rite, Ceremony, Order, Form, or manner of celebrating the Lords Supper, openly, or privily, or Mattens, Evensong, Administration of the Sacraments, or other open Prayers, than is mentioned and set forth in the said Book, [Open Prayer in and throughout this Act, is meant that Prayer which is for others to come unto, or hear, either in common Churches or private Chapels, or Oratories, commonly called, the Service of the Church] or shall *w* preach, declare, or speak any thing in the Derogation or Depraving of the said Book, or any thing therein contained, or of any part thereof, and shall be thereof lawfully Convicted, according to the Laws of this Realm, by verdict of twelve Men, or by his own Confession, or by the notorious Evidence of the Fact; shall Lose and Forfeit to the Queens Highness, her Heirs and Successors, for his first Offence *x* the profit of all his Spiritual Benefices or Promotions, coming or arising in one whole Year next after his Conviction: And also that the Person so Convicted, shall for the same Offence, suffer Imprisonment for the space of Six Months, without Bail or Mainprise.

V. And if any such Person once Convict of any offence concerning the Premises, shall after his first Conviction *est*soons offend, and be thereof in form aforesaid *y* lawfully Convict, that then the same Person shall for his second Offence suffer Imprisonment by the space of one whole Year, and also shall therefore be deprived, ipso facto, of all his Spiritual Promotions; and that *z* it shall be lawful to all Patrons or Donors of all and singular the same Spiritual Promotions, or of any of them, to present or collate to the same, as though the Person or Persons so Offending were Dead.

VI. And that if any such Person or Persons, after he shall be twice Convicted in form aforesaid, shall Offend against any of the Premises the third time, and shall be thereof in form aforesaid lawfully Convicted, that then the Person so Offending and Convicted the third time, shall be deprived, ipso facto, of all his Spiritual Promotions, and also shall suffer Imprisonment during his Life.

VII. And if the Person that shall Offend, and be Convicted in form aforesaid, concerning any of the Premises, shall not be Beneficed, nor have any Spiritual Promotion, that then the same Person so Offending and Convict, shall for the first Offence suffer Imprisonment during one whole Year next after his said Conviction, without Bail or Mainprise.

*v* Any other Rite ] In 26 & 27 Eliz. Fleming was Indicted upon this Statute, and punished according to it, because he had given the Sacrament of Baptism in other form than is hereby prescribed. In 1 Jac. 2. an Indictment for using *alias preces* in the Church, and *alio modo*, seems to have been Judged insufficient, because the Prayers used may be upon some extraordinary Occasion, and so no Crime: And it was said that the Indictment ought to have alledged, that the Defendant used other Forms and Prayers instead of those enjoined, which were neglected by him; for otherwise every Parson may be Indicted, that useth Prayers before his Sermon, other than such which are required by the Book of Common Prayer.

*w* Preach, Declare or Speak ] In the 31<sup>st</sup> of Elizabeth, Robert Caudry Clerk was deprived of his Benefice before the High Commissioners; as well for that he had Preached against the Book of Common Prayer, as also for that he refused to Celebrate Divine Service according to the said Book: which Deprivation, tho' not prescribed by this Statute for the first Offence, was declared to be good, because the Ecclesiastical Judge might lawfully inflict such Sentence before the making of this Statute, and is not inhibited (on the contrary his ancient Power is reserved) by this Statute.

*x* The profit of ] A Clerk was Indicted upon this Statute at the Quarter-Sessions for using *alias preces*, &c. and was Fined 100 Marks, and it was held by the whole Court to be ill; because tho' the Justices of Peace were supposed to have Power in their Sessions to enquire into this matter, yet they could inflict no other punishment than what is directed by the Statute.

*y* Lawfully Convict ] So that altho' an Offender after the First Offence, commit another; and after the Second, many more; yet shall he not be deprived for any of the latter Offences, unless judicially Convicted, so as the second Offence, for which he must be deprived, must be committed after such judicial and solemn Conviction and Punishment: (and also the second Indictment ought to make mention of the first Indictment; especially, if the second be before other Justices) Upon this Foundation when one was Indicted *pro auditu trium privatar' Missar' tribus separalibus diebus*, and that upon several Indictments, and found guilty upon all three; he was only Fined 100 Marks for the First.

*z* It shall be Lawful ] This Power given to the Patron implies an immediate Viodance, without Declaration; especially if interpreted according to the judgments given upon 13 Eliz. in case of Deprivation for not subscribing the Articles.

Uniformity, from 1 Eliz. to 13, 14 Car. 2.

Mod. Rep. V. 3. P. 79. ut supra.

Co. 5. Rep. Caudry's Case. 2 Inst. 479.

1 Len. p. 295.

Dyer, 325. b.

Vid. 13 Eliz. c. 12. Cro. Eliz. 681.

VIII. And



Unifor-  
mity, from  
1 Eliz. to  
13, 14  
Car. 2.

VIII. And if any such person not having any Spiritual Promotion, after his first conviction shall afterwards offend in any thing concerning the premises, and shall in form aforesaid be thereof lawfully convicted, that then the same person shall for his second offence suffer Imprisonment during his Life.

IX. And it is ordained and enacted by the Authority aforesaid, That if a any person or persons whatsoever, after the said Feast of the Nativity of Saint John Baptist next coming, shall in any Enterludes, Plays, Songs, Rhymes, or by other open words, declare or speak any thing in the derogation, depraving or despising of the same Book, or of any thing therein contained, or any part thereof, or shall, by open fact, deed, or by open threatenings, compel or cause, or otherwise procure or b maintain any Parson, Vicar, or other Minister in any Cathedral or Parish Church, or in Chapel, or in any other place, to sing or say any Common or Open Prayer, or to minister any Sacrament otherwise, or in any other manner and form than is mentioned in the said Book, or that by any of the said means shall unlawfully interrupt, or let any Parson, Vicar or other Minister in any Cathedral or Parish Church, Chapel, or any other place, to sing or say Common and Open Prayer, or to minister the Sacraments or any of them, in such manner and form, as is mentioned in the said Book; that then every such person being thereof lawfully convicted, in form aforesaid, shall forfeit to the Queen our Sovereign Lady, her Heirs and Successors, for the first offence an hundred Marks.

X. And if any person or persons being once convicted of any such offence, afterwards offend against any of the last recited offences, and shall in form aforesaid be thereof lawfully convicted; that then the same person so offending and convicted, shall for the second offence forfeit to the Queen our Sovereign Lady, her Heirs and Successors, four hundred Marks.

XI. And if any person after he, in form aforesaid, shall have been twice convicted of any offence concerning any of the last recited offences, shall offend the third time, and be thereof in form aforesaid lawfully convicted, That then every person so offending and convicted, shall for his third offence forfeit to our Sovereign Lady the Queen, all his goods and chattels, and shall suffer Imprisonment during his Life.

XII. And if any person or persons, that for his first offence concerning the premises, shall be convicted in form aforesaid, do not pay the Sum to be paid by virtue of his conviction, in such manner and form as the same ought to be paid, within six Weeks next after his conviction; that then every person so convicted, and so not paying the same, shall for the same first offence, instead of the said Sum, c suffer Imprisonment by the space of six Months, without bail or mainprize.

XIII. And if any person or persons, that for his second offence concerning the premises, shall be convicted in form aforesaid, do not pay the Sum to be paid by virtue of his conviction and this Statute, in such manner and form as the same ought to be paid, within six Weeks next after his said second conviction, That then every person so convicted, and not so paying the same, shall for the same second offence, instead of the said Sum, suffer imprisonment during twelve Months, without bail or mainprize.

a Any Person ] Feme-Covert is within this Statute; as in the forecited Case in *Dyer*, where the Wife, &c. was Indicted with the Husband, and Priest; & habuerunt separalia Judicia sua, scilicet, quilibet forisfaceret 100 Marcas Domine Regine. The like is also mentioned in *Hobart*, &c. as an uncontested Point.

b Maintain ] In the Case cited before out of *Dyer*, where the Indictment was for the saying and hearing of Mass; the Tenor thereof, with reference to the bearers, was, fuerunt presentes, audientes Missam predictam, ac manutinent' & confortant' predicti J. R. [ the Priest ] ad missam predictam dicend' & celebrand'. And it was held, That the Indictment was good, not only against him

who said Mass, but also against those *queux oyent & maintene le dit Masse*; implying, That to hear, is to maintain.

c Suffer Imprisonment ] In the forecited Case, Sir *Edward Walgrave* refused to pay the 100 Marks, and was Imprisoned, but dy'd within the Six Months; and *Saunders* Chief Baron desired to be informed by the Justices of the Queens Bench, whether his Executors were obliged to pay the 100 Marks? It appears not, what the Answer was; but the Circumstance with which he puts it, should seem to determine it in favour of the Executors, viz. That it was by the Act of God, that his Body could not sustain the Imprisonment of the Six Months, which he chose in lieu of the Forfeiture.

Abridgment.

—for the 2d, Imprisonment during Life.

Any Person in Plays, &c. speaking in derogation of the Book,

—or causing any other to be used,

—or interrupting the use of this,

—shall forfeit —for the 1st Offence, 100 Marks,

—for the 2d, 400 Marks,

—for the 3d, Goods and Chattels; with Imprisonment during Life.

Any Person neglecting to pay for the 1st Offence, shall suffer Six Months Imprisonment,

—and for the 2d, 12 Months.

*Dyer*. f. 231. b.

*Hob.* 97. 1 *Relle*, 93.



## Abridgment.

Every Person shall resort to Church, on *Sundays* and *Holy-days*,

---and behave himself orderly,

---upon pain of Ecclesiastical Censures, and 1 s.

The Parliament beseech the Bishops to be diligent in the Execution of this Act,

---by which all Ecclesiastical Judges are empower'd to punish by Censures.

Justices of Oyer, and Assise, shall Enquire of Offences against this Act,

---and the Bishop may Associate with them.

The Book shall be provided at the Charge of the Parish,

---and used Three Weeks after *S. John Baptist*.

There shall be no Impeachment, but at the next Assises.

*Vid. infr.*  
P. 357.

XIV. *d* And that from and after the said Feast of the Nativity of St. John Baptist next coming, all and every person and persons inhabiting within this Realm, or any other the Queens Majesties Dominions, shall diligently and faithfully, having no lawful or reasonable excuse to be absent, endeavour themselves to resort to their Parish Church or Chapel accustomed, or upon reasonable let thereof, to some usual place where Common Prayer, and such Service of God shall be used in such time of let, upon every Sunday, and other Days ordained and used to be kept as Holy-days, and then and there to abide orderly and soberly, during the time of the Common Prayer, Preaching, or other Service of God there to be used and ministered, upon pain of punishment by the Censures of the Church, and also upon pain that every person so offending, shall forfeit for every such offence, twelve Pence, to be levied by the Church-wardens of the Parish where such offence shall be done, to the use of the poor of the same Parish, of the goods, lands and tenements of such offender, by way of Distress.

XV. And for due execution hereof, the Queens most excellent Majesty, the Lords Temporal, and all the Commons in this present Parliament assembled, do in Gods Name earnestly require and Charge all the Archbishops, Bishops, and other Ordinaries, that they shall endeavour themselves to the uttermost of their knowledges, that the due and true execution hereof may be had throughout their Diocese and Charges, as they will answer before God, for such evils and plagues wherewith Almighty God may justly punish his people for neglecting this good and wholesome Law.

XVI. And for their authority in this behalf, be it further enacted by the authority aforesaid, That all and singular the said Archbishops, Bishops, and all other their Officers exercising Ecclesiastical Jurisdiction, as well in place exempt as not exempt, within their Diocese, shall have full power and authority by this Act, to reform, correct and punish by Censures of the Church, all and singular persons which shall offend within any their Jurisdictions or Diocese, after the said Feast of the Nativity of St. John Baptist next coming, against this Act and Statute; any other Law, Statute, Privilege, Liberty or Provision heretofore made, had or suffered to the contrary notwithstanding.

XVII. And it is ordained and enacted by the authority aforesaid, That all and every Justices of Oyer and Determiner, or *e* Justices of Assise, shall have full power and authority in every of their open and general Sessions, to enquire, hear and determine all and all manner of offences that shall be committed or done contrary to any Article contained in this present Act, within the limits of the Commission to them directed, and to make Process for the execution of the same, as they may do against any person being indicted before them of trespass, or lawfully convicted thereof.

XVIII. Provided always, and be it enacted by the authority aforesaid, That all and every Archbishop and Bishop, shall or may at all time and times, at his liberty and pleasure, joyn and associate himself, by virtue of this Act, to the said Justices of Oyer and Determiner, or to the said Justices of Assise, at every of the said open and general Sessions to be holden in any place within his Diocese, for and to the enquiry, hearing and determining of the offences aforesaid.

XIX. Provided also, and be it enacted by the authority aforesaid, That the Books concerning the said Services, shall at the costs and charges of the Parishioners of every Parish and Cathedral Church, be attained and gotten before the said Feast of the Nativity of St. John Baptist next following, and that all such Parishes and Cathedral Churches, or other places, where the said Books shall be attained and gotten before the said Feast of the Nativity of St. John Baptist, shall within three Months next after the said Books so attained and gotten, use the said Service, and put the same in use according to this Act.

XX. And be it further enacted by the authority aforesaid, That no person or persons shall be at any time hereafter impeached, or otherwise molested of or for any of the offences above mentioned, hereafter to be committed or done contrary to this Act, unless he or they so offending, be thereof indicted

*d* And that ] The Cases relating to this Section, will be found under the Title, *Attendance upon the Publick Worship*; to which Title they properly belong.

*e* Justices of Assise ] But not Justices of the Peace in their Sessions; as was practised by mistake, in the First Year of King James the Second.

*Uniformity, from*  
1 Eliz. to  
13, 14  
Car. 2.

Mod. Rep.  
V. 3. p. 79.

at



Uniformity, from  
1 Eliz. 10  
13, 14  
Car. 2.

at the next general Sessions to be holden before any such Justices of Oyer and Determiner, or Justices of Assise, next after any offence committed or done contrary to the tenor of this Act.

XXI. Provided always, and be it ordained and enacted by the authority aforesaid, That all and singular Lords of the Parliament, for the third offence above mentioned, shall be tried by their Peers.

XXII. Provided also, and be it ordained and enacted by the authority aforesaid, That the Mayor of London, and all other Mayors, Bailiffs, and other head officers of all and singular Cities, Boroughs and Towns-corporate within this Realm, Wales, and the Marches of the same, to the which Justices of Assise do not commonly repair, shall have full power and authority, by virtue of this Act, to enquire, hear and determine the offences abovesaid, and every of them, yearly within fifteen days after the Feasts of Easter, and Saint Michael the Archangel, in like manner and form as Justices of Assise, and Oyer and Determiner may do.

XXIII. Provided always, and be it ordained and enacted by the authority aforesaid, That all and singular Archbishops and Bishops, and every of their Chancellors, Commissaries, Archdeacons, and other Ordinaries, having any peculiar Ecclesiastical Jurisdiction, shall have full power and authority, by virtue of this Act, as well to enquire in their Visitations, Synods, and elsewhere within their Jurisdiction, at any other time and place, to take accusations and Informations of all and every the things above mentioned, done, committed, or perpetrated within the limits of their Jurisdiction and Authority, and to punish the same by admonition, excommunication, sequestration or deprivation, and other censures and processes, in like form as heretofore hath been used in like cases by the Queens Ecclesiastical Laws.

XXIV. Provided always, and be it enacted, That whatsoever person offending in the premises, shall for their offences, first receive punishment of the Ordinary, having a testimonial thereof under the said Ordinaries Seal, shall not for the same offence afterwards be convicted before the Justices: And likewise receiving for the said offence punishment, first by the Justices, shall not for the same offence afterwards receive punishment of the Ordinary; any thing contained in this Act, to the contrary notwithstanding.

XXV. Provided always, and be it enacted, That such Ornaments of the Church and of the Ministers thereof, shall be retained and be in use, as was in this Church of England, by authority of Parliament, in the second year of the reign of King Edward the Sixth, until other order shall be therein taken by the authority of the Queens Majesty, with the Advice of her Commissioners appointed and authorized under the Great Seal of England for causes Ecclesiastical, or of the Metropolitan of this Realm.

XXVI. And also, That if there shall happen any contempt or irreverence to be used in the Ceremonies or Rites of the Church, by the misusing of the Orders appointed in this Book, the Queens Majesty may, by the like advice of the said Commissioners or Metropolitan, ordain and publish such further Ceremonies or Rites as may be most for the advancement of Gods glory, the edifying of his Church, and due reverence of Christs holy Mysteries and Sacraments.

[All and singular] In *Caudry's Case* before mentioned, who was deprived by the High Commissioners for the first Offence; it was alledged against the Validity of that Deprivation, That tho' the High Commission might be within this Proviso, yet they ought not to have deprived him for the first Offence, but to have proceeded according to the Form and Order of this Act, against which it was that the Offence was committed. But this Objection was overruled by the Court, not only because the Statute is affirmative, and hath not the Clauses, not otherwise, or in no other manner or form, or the like, by which negative words Ecclesiastical Jurisdiction and Process might be thought to be abrogated: but chiefly, because the Ecclesiastical Judge, before this Act, had Power to punish such Crime with Deprivation, and the Act doth not only not

take away, but confirm to him, all the Power which he had before; and, to pursue the form prescribed in the Act, would be, to punish according to the Temporal, and not according to the Ecclesiastical, Law.

[Ceremonies or Rites] Pursuant to this Clause, the Queen Granted a Commission to the Archbishop, the Bishop of London, Dr. *Bill*, and Dr. *Haddon*, her Ecclesiastical Commissioners, to peruse the Order of the Lessons throughout the whole Year, and to cause some new Kalendars to be imprinted: Whereby such Chapters or Parcels of less Edification may be removed, and others more profitable may supply their rooms. Which Commission is, at length, in the Register of Archbishop *Parker*; and is now Published by Mr. *Strype*, as is also the Archbishop's Mandate to the Bishop of London, for Publishing the Alterations by them made.

Abridgment.

Lords of Parliament shall be try'd by their Peers.

Head Officers shall Enquire and Determine, in places whither Judges do not come,

—and all Ecclesiastical Ordinaries and Judges shall also Enquire in their Visitations and Synods,

—and punish according to the Ecclesiastical Laws.

None shall be punished both in Ecclesiastical and Temporal Courts.

Ornaments of Church and Ministers, shall be the same, as in 2 E. 6.

—till altered by the Queen, with Advice of High Commissioners, or Metropolitan;

—and by the like Authority and Advice, Ceremonies may be altered.

See Life of  
Park. p. 29.  
App.  
Registr.  
Park. 215. a.  
228. a.

See Tit. Parochial Churches,  
Cap. 6. p. 225.

Co. 5. Rep.



Abridgment.

All Laws appointing other Service, shall be Repealed.

All Offenders against 1 Eliz. c. 2. shall be excepted out of general Pardon.

All Offenders against 1 Eliz. c. 2. shall be excepted out of general Pardon,

—unless they Conform themselves,

—and having Conformed, they shall have the Benefit of it.

Statute, 1 Eliz. c. 2.

—as to Book of Common Prayer,

—and Consecration and Ordination,

—shall stand in full force and effect.

XXVII. And be it further Enacted by the Authority aforesaid, That all Laws, Statutes and Ordinances, wherein or whereby any other Service, Administration of Sacraments or Common Prayer, is limited, established, or set forth to be used within this Realm, or any other the Queens Dominions or Countries, shall from henceforth be utterly void and of none effect.

23 Eliz. Cap. 16.

In an Act, Entituled, *An Act of the Queens Majesties most Gracious, &c. Pardon.*

And also except all Offences committed or done by any Person or Persons, contrary to the forme and effect of the Statute made in the First Yeere of her Majesties reigne, touching the Uniformitie of Common Prayer, and the Administration of Sacraments in the Church, and whereof any Person or Persons at any time, since the Twentieth Day of June last past have been, or is Lawfully Indicted or Convicted.

27 Eliz. Cap. 30. --- 29 Eliz. Cap. 9. --- 31 Eliz. Cap. 16.

In an Act, Entituled, *An Act of the Queens Majesties most Gracious, &c. Pardon.*

And excepted also, all Persons which have committed or done any Offence either contrary to the Statute made in the First Yeere of her Majesties Raigue, Entituled, An Act for the Uniformitie of Common Prayer and Service in the Church, and the Administration of the Sacraments, or any part thereof, or contrary to the Statute made in the Twenty third Yeere of her Majesties Raigue, Entituled, An Act to Retaine the Queens Majesties Subjects in their due Obedience, or of any part thereof: And all Outlawries, Proceedings, and Judgements, and Executions upon the same Offences or any of them, for such and so long time as they shall continue Disobedient or wilfully Obstinat in any the same Offences: And yet nevertheless whensoever the same Persons, or any of them shall willingly submit themselves in their due Obedience to her Majesty, and will come to the Church to hear Divine Service, and willingly refuse the said wilfull Obstinate and conforme themselves to the said causes of Religion and Doctrine, and continue in such their Conformity and due Obedience to her Majesty, according as by the Laws and Statutes of this Realme they ought to doe: That then and from thenceforth all and every such Person and Persons, so submitting and yielding themselves in their due Obedience towards her Majesty, and so continuing in the same, shall forthwith be received and enabled by force of this Act, to have and enjoy the full Benefit of this generall Pardon, as largely and fully in all respects, as any other of Her Majesties good Subjects have or ought to enjoy, by vertue of this Act of generall Pardon.

8 Eliz. Cap. 1.

In an Act, Entituled, *An Act declaring the Making and Consecrating of Archbishops and Bishops, &c.*

§ III.— Wherefore for the plain Declaration of all the Premisses, and to the intent that the same may the better be known to every of the Queens Majesties Subjects, whereby such evil speech, as heretofore hath been used against the high state of Prelacy, may hereafter cease; Be it now Declared and Enacted by the Authority of this present Parliament, That the said Act and Statute made in the first Year of the Reign of our said Sovereign Lady the Queens Majesty, whereby the said Book of Common Prayer, and the Administration of Sacraments, with other Rites and Ceremonies, is authorized and allowed to be used, shall stand and remain good and perfect to all respects and purposes: and that such order and form for the Consecrating of Archbishops and Bishops, and for the making of Priests, Deacons, and Ministers, as was set forth in the time of the said late King Edward the Sixth, and added to the said Book of Common Prayer, and Authorized by Parliament in the Fifth and Sixth Yeeres of the said late King, shall stand and be in full force and effect, and shall from henceforth be used and observed in all Places within this Realm, and other the Queens Majesties Dominions and Countries.

I Will.

Uniformity, from 1 Eliz. 10. 13, 14. Car. 2.

A. D. 1580.

E X P.

A. D. 1584, &c.

E X P.

A. D. 1566.



Uniformity, from  
1 Eliz. to  
13, 14  
Car. 2.  
A.D. 1688.

## 1 Will. &amp; Mar. Cap. 18.

In an Act, Entituled, *An Act for Exempting Their Majesties Protestant Subjects, &c.*

§ II. — No; that Branch or Clause of a Statute made in the first Year of the Reign of the said Queen, Entituled, An Act for the Uniformity of Common Prayer and Service in the Church, and Administration of the Sacraments; whereby all Persons having no Lawful or Reasonable Excuse to be Absent, are required to Resort to their Parish-Church or Chapel, or some usual Place where the Common Prayer shall be used, upon pain of Punishment by the Censures of the Church, and also upon pain that every Person so Offending shall Forfeit for every such Offence Twelve pence — shall be construed to extend to any Person or Persons dissenting from the Church of England —

Abridgment.

The foregoing Stat. as to Sect. 14 shall not extend to the Dissenters.

1 Jac. I.

## C A N O N S, 1603.

iv. *Impugners of the Publick Worship of God established in the Church of England, censured.*

Whoever shall hereafter affirm, That the Form of God's Worship in the Church of *England*, established by Law, and contained in the Book of Common Prayer and Administration of Sacraments, is a corrupt, superstitious, or unlawful Worship of God, or containeth any thing in it that is repugnant to the Scriptures: Let him be Excommunicated *ipso facto*, and not restored, but by the Bishop of the Place, or Archbishop, after his Repentance and Publick Revocation of such his wicked Errors.

To affirm that the Form of Worship in the Common Prayer, is corrupt, &c. shall be Excommunication *ipso facto*.

1 Jac. I.

## C A N O N S, 1603.

xiv. *The prescript Form of Divine Service to be used on Sundays and Holy-Days.*

The Common Prayer shall be said or sung distinctly and reverently upon such Days as are appointed to be kept holy by the Book of Common Prayer, and their Eves, and at convenient and usual times of those Days, and in such place of every Church, as the Bishop of the Diocese, or Ecclesiastical Ordinary of the Place, shall think meet for the largeness or straitness of the same, so as the People may be most edified. All Ministers likewise shall observe the Orders, Rites, and Ceremonies prescribed in the Book of Common Prayer, as well in reading the holy Scriptures, and saying of Prayers, as in Administration of the Sacraments, without either diminishing in regard of preaching, or in any other respect, or adding any thing in the matter or form thereof.

The Common Prayer shall be said in due time and place,

—and according to the Rites and Ceremonies prescribed,

—without diminishing, or adding.

C A N O N S,



Abridgment.

CANONS, 1603.

In Can. xxxvi. Entituled, Subscription required of such as are to be made Ministers.

The Book of Common Prayer shall be declared by all Ministers to be according to the Word of God.

II. That the Book of Common Prayer, and of Ordering of Bishops, Priests, and Deacons, containeth in it nothing contrary to the Word of God, and that it may lawfully so be used, and that he himself will use the Form in the said Book prescribed in Publick Prayer, and Administration of the Sacraments, b and none other.

h And none other ] After the passing of the Canons of 1603. divers Alterations were made in the Book of Common Prayer, upon the Conference held before K. James I. at Hampton Court. The particulars of which Alterations (so far as they fall within the design of this work,) will be noted in their proper Places, according to the matter of each; but the Occasion and Result of the Conference it self, will best appear from the King's own Proclamation, for Authorizing the Book so altered :

By the KING, A PROCLAMATION,

For the Authorizing an Uniformity of the Book of Common Prayer, to be used throughout the Realm.

The Excellency of the Established Service ;

Although it cannot be unknown to our Subjects by the former Declarations We have published, what our purposes and proceedings have been in Matters of Religion since our coming to this Crown: Yet the same being now by Us reduced to a settled Form, We have occasion to repeat somewhat of that which hath passed: And how at our first Entry into the Realm, being entertained and impo-rtuned with Informations of sundry Ministers, complaining of Errors and Imperfections of the Church here, as well in matter of Doctrine, as of Discipline: Although We had no reason to presume that things were so far amiss as was pretended, because We had seen this Kingdom under that form of Religion which by Law was Established in the Days of the late Queen of famous Memory, blessed with a Peace and Prosperity, both extraordinary and of many Years continuance (a strong Evidence that God was therewith well pleased) yet because the importunity of the Complainers was great, their Affirmations vehement, and the Zeal wherewith the same did seem to be accompanied, very specious: We were moved thereby to make it our occasion to discharge that Duty which is the chiefest of all Kingly Duties, that is, to settle the Affairs of Religion and the Service of God before our own. Which while We were in hand to do, as the Contagion of the Sickness reigning in our City of London, and other Places, would permit an Assembly of Persons to meet for that purpose; some of those who mistook the State of Religion here Established, presuming more of our intents than ever We gave them cause to do, and transported with Humour, began such proceedings, as did rather raise a Scandal in the Church, than take Offence away. For both they used Forms of publick serving of God not here allowed, held Assemblies without Authority, and did other things, carrying a very apparent shew of Sedition more than of Zeal; whom We restrained by our former Proclamation in the

--notwithstanding which, it hath been oppugned by divers Persons,

Month of October last, and gave Intimation of the Conference We intended to be had with as much speed as conveniently could be, for the ordering of those things in the Church, which accordingly followed in the Month of January last, at our Honour of Hampton-Court; where before our Self, and our Privy Council, were Assembled many of the greatest Bishops and Prelates of the Realm, and many other Learned Men, as well of those that are conformable to the State of the Church Established, as of those that Dissented. Among whom, what our pains were, what our patience in Learning and Replying, and what the indifferency and uprightness of our judgment in determining, We leave to the report of those who heard the same, contenting our Self with the sincerity of our own heart therein. But We cannot conceal, that the Success of that Conference was such as happeneth to many other things, which moving great Expectation before they be entered into, in their Issue produce small Effects. For We found mighty and vehement Informations, supported with so weak and slender proofs, as it appeareth unto Us and our Council, That there was no cause why any change should have been at all in that which was most impugned, the Book of Common Prayer, containing the Form of the publick Service of God here Established, neither in the Doctrine which appeared to be sincere, nor in the Forms and Rites which were justified out of the practice of the Primitive Church. Notwithstanding, We thought meet, with consent of the Bishops, and other Learned Men there present, that some small things might rather be explained than changed; not that the same might not very well been born with by Men who would have made a reasonable Construction of them; but for that in a matter concerning the Service of God, We were nice, or rather jealous, that the publick Form thereof should be free not only from Blame, but from Suspicion, so as neither the common Adversary should have Occasion to wrest ought therein contained, to other sense than the Church of England intendeth, nor any troublesome or ignorant Person of this Church be able to take the least Occasion of cavil against it: and for that purpose gave forth our Commission under our Great Seal of England, to the Archbishop of Canterbury, and others, according to the Form which the Laws of this Realm in like case prescribe to be used, to make the said Explanation, and to cause the whole Book of Common Prayer, with the same Explanations, to be newly Printed. Which being now done, and Established anew after so serious a Deliberation, although We doubt not, but all our Subjects, both Ministers and others, will receive the same with such reverence as appertaineth, and conform themselves thereto, every man in that which him concerneth: yet We have thought it necessary, to make known by Proclamation our Authorizing of the same; and to require and enjoin all Men, as well Ecclesiastical as Temporal, to conform themselves unto it, and to the practice thereof, as the only publick Form

Uniformity, from 1 Eliz. 10 13, 14 Car. 2. 1 Jac. 1.

--and that, occasioned the Conference at Hampton-Court;

--pursuant to which, some Explanations were made,

--according to the Stat. 1 Eliz. c. 2. s. 26.



Uniformity, from 1 Eliz. to 13, 14 Car. 2.

Archbishops and Bishops required to enforce Conformity;

—with a Declara-

Form of serving God, Established and Allowed to be in this Realm. And the rather, for that all the Learned Men, who were there present, as well of the Bishops as others, promised their Conformity in the practice of it, only making suit unto Us, that some few might be born with for a time.

Wherefore We require all Archbishops, Bishops, and all other Publick Ministers, as well Ecclesiastical as Civil, to do their Duties in causing the same to be obeyed, and in punishing the Offenders according to the Lawes of the Realm heretofore Established, for the Authorizing of the said Book of Common Prayer. And We think it also necessary, that the said Archbishops and Bishops, do each of them in his Province and Diocese take Order, That every Parish do procure to themselves, within such time as they shall think good to limit, one of the said Books so Explained. And last of all, We do admonish all Men, that hereafter they shall not expect, nor attempt any farther Alteration in the common and publick Form of Gods

Service, from this which is now Established: for that neither will We give way to any to presume, that Our own judgment having Determined in a matter of this weight, shall be swayed to Alteration by the frivolous Suggestions of any light Spirit; neither are We ignorant of the inconveniencies which do arise in Government, by admitting Innovation in things once settled by mature Deliberation; and how necessary it is to use constancy in the upholding of the publick Determination of States: For that such unquietness and unstedfastness of some Dispositions, affecting every Year new Forms of things, as if they should be followed in their inconsistency, would make all actions of State ridiculous and contemptible; whereas the steadfast maintaining of things by good Advice Established, is the Weal of all Commonwealths.

Given at Our Palace of Westminster, the Fifth Day of March, in the First Year of Our Reign of England, France and Ireland, and of Scotland the Seven and thirtieth.

Abridgment.

tion, that no further Alterations are to be expected.

C A P. III.

Uniformity in Publick Worship, from the Thirteenth and Fourteenth of K. CHARLES the Second, to the PRESENT TIME.

Uniformity, from 13, 14 Car. 2. to the present Time. A.D. 1661.

13, 14 Car. II. Cap. 4.

An Act for the Uniformity of Publick Prayers, and Administration of Sacraments, and other Rites and Ceremonies: And for Establishing the Form of Making, Ordaining and Consecrating Bishops, Priests, and Deacons, in the Church of England.

Whereas in the first Year of the late Queen Elizabeth, there was one Uniform Order of Common Service and Prayer, and of the Administration of Sacraments, Rites and Ceremonies of the Church of England, (agreeable to the Word of God, and usage of the Primitive Church) compiled by the Reverend Bishops and Clergy, set forth in one Book, Entituled, The Book of Common Prayer, and Administration of Sacraments, and other Rites and Ceremonies in the Church of England, and enjoyned to be used by Act of Parliament, holden in the said first Year of the said late Queen, Entituled, An Act for Uniformity of Common Prayer, and Service in the Church, and Administration of the Sacraments, very comfortable to all good people desirous to live in Christian conversation, and most profitable to the Estate of this Realm, upon the which the Mercy, Favour and Blessing of Almighty God is in no wise so readily and plentifully poured, as by Common Prayers, due using of the Sacraments, and often Preaching of the Gospel, with Devotion of the Hearers: And yet this notwithstanding, a great number of people in divers parts of this Realm, following their own sensuality, and living without knowledge, and due fear of God, do wilfully and Schismatically abstain and refuse to come to their Parish Churches, and other publick places where Common Prayer, Administration of the Sacraments, and Preaching of the Word of God is used, upon the Sundays, and other Days ordained and appointed to be kept and observed as Holy-days: And whereas by the great and scandalous neglect of Ministers in using the said Order or Liturgy so set forth and enjoyned, as aforesaid, great mischiefs and inconveniencies, during the time of the late unhappy Troubles, have arisen and grown, and many people have been led into

A Book of Common Prayer was Established 1 Eliz. c. 2.

—to the great comfort and benefit of all good Christians,

—but a great number of People refuse to come to their Parish Churches,

—and Ministers in the late times have neglected to use the Liturgy:



## Abridgment.

Whereupon,  
The King granted his Commission, first to the Bishops, &c. and then to the Two Convocations to review the Common Prayer,

—which has accordingly been by them reviewed, and presented to the King,

—and been by him approved and allowed to be used,

—under such Penalties as the Parliament shall think fit.

Nothing more conducing to Peace than Uniformity in Worship;

Factions and Schisms, to the great decay and scandal of the Reformed Religion of the Church of England, and to the hazard of many Souls: For prevention whereof in time to come, for settling the Peace of the Church, and for allaying the present Distempers which the indisposition of the time hath contracted, The Kings Majesty (according to his Declaration of the five and twentieth of October, One thousand six hundred and sixty) granted *k* his Commission under the Great Seal of England, to several Bishops, and other Divines, to review the Book of Common Prayer, and to prepare such Alterations and Additions as they thought fit to offer; And afterwards the Convocations of both the Provinces of Canterbury and York, being by his Majesty called and assembled, (and now sitting) his Majesty hath been pleased to authorize and require the Presidents of the said Convocations, and other the Bishops and Clergy of the same, to review the said Book of Common Prayer, and the Book of the Form and Manner of Making and Consecrating of Bishops, Priests, and Deacons; And that after mature consideration, they should make such Additions and Alterations in the said Books respectively, as to them should seem meet and convenient; And should exhibit and present the same to his Majesty in Writing for his further Allowance or Confirmation. Since which time, upon full and mature deliberation, they the said Presidents, Bishops and Clergy of both Provinces, have accordingly reviewed the said Books, and have made some Alterations, which they think fit to be inserted to the same; and some Additional Prayers to the said Book of Common Prayer, to be used upon proper and emergent occasions; And have exhibited and presented the same unto his Majesty in Writing, in one Book, Entituled, The Book of Common Prayer, and Administration of the Sacraments, and other Rites and Ceremonies of the Church, according to the Use of the Church of England, together with the Psalter or Psalms of David, Pointed as they are to be sung or said in Churches; and the Form and Manner of Making, Ordaining and Consecrating of Bishops, Priests, and Deacons: All which his Majesty having duly considered, hath fully approved and allowed the same, and recommended to this present Parliament, that the said Books of Common Prayer, and of the Form of Ordination and Consecration of Bishops, Priests, and Deacons, with the Alterations and Additions which have been so made and presented to his Majesty by the said Convocations, *m* be the Book which shall be appointed to be used by all that Officiate in all Cathedral and Collegiate Churches and Chapels, and in all Chapels of Colleges and Halls in both the Universities, and the Colleges of Eaton and Winchester, and in all Parish Churches and Chapels, within the Kingdom of England, Dominion of Wales, and Town of Berwick upon Tweed, and by all that Make or Consecrate Bishops, Priests, or Deacons, in any of the said places, under such sanctions and penalties as the Houses of Parliament shall think fit.

II. Now in regard that nothing conduceth more to the settling of the Peace of this Nation (which is desired of all good men) nor to the Honour of our Religion, and the Propagation thereof, than an universal Agreement in the publick Worship of Almighty God; and to the intent that every person within this Realm, may certainly know the Rule to which he is to

*i* Declaration] Which recites the Discourses that the King had in Holland with several of the principal Asserters of the Presbyterian Opinion, who were sent to him from England; together with the Zeal they then discovered for the Peace of Church and State; being (as they said) neither Enemies, as they had been given out to be, of Episcopacy or Liturgy; but modestly desiring such Alterations in either, as, without Shaking Foundations, might best allay the present Distempers.

*k* His Commission] Which bore date March 25th. 1661. and was directed to Twelve Bishops, and Twelve Presbyterian Divines; with Nine Assistants on each side, to supply the Places of the Principals, when they should be occasionally absent. The

Commission hath been printed at large: in Virtue of which, the Commissioners met frequently at the Savoy, and Disputations were held, but nothing concluded.

*l* Additions and Alterations] Their Progress therein, and the several Steps of it, will best appear by the Acts of Convocation, now printed; from the 25th Session (Nov. 21. 1661.) in which they received the King's Letter of Direction to enter upon the Review; to the 48th Session (Decemb. 20th 1661.) in which the Bishops and Clergy *Subscribed* the Book.

*m* Be the Book] Before the King transmitted the Book of the Convocation, to the House of Lords, they had received another from the Commons; but the Lords followed the Book from the King.

Uniformity, from 13, 14 Car. 2. to the present Time.

Nicols Pr. Numb. II.

Journ. Proc. Mar. 13, 17.



Uniformity, from  
13, 14  
Car. 2. to  
the pre-  
sent Time.

conform in publick Worship, and Administration of Sacraments, and other Rites and Ceremonies of the Church of England, and the manner how, and by whom Bishops, Priests, and Deacons are, and ought to be Made, Ordained and Consecrated, Be it enacted by the Kings most Excellent Majesty, by the advice and with the consent of the Lords Spiritual and Temporal, and of the Commons in this present Parliament assembled, and by the authority of the same, That all and singular Ministers in any Cathedral, Collegiate or Parish Church or Chapel, or other place of publick Worship, within this Realm of England, Dominion of Wales, and Town of Berwick upon Tweed, shall be bound to say and use the Morning Prayer, Evening Prayer, Celebration and Administration of both the Sacraments, and all other the Publick and Common Prayer, in such order and form as is mentioned in the said Book annexed and joynded to this present Act, and Entituled, The Book of Common Prayer and Administration of the Sacraments, and other Rites and Ceremonies of the Church, according to the Use of the Church of England; together with the Psalter or Psalms of David; Pointed as they are to be sung or said in Churches; and the Form and Manner of Making, Ordaining and Consecrating of Bishops, Priests, and Deacons: and that the Morning and Evening Prayers therein contained, shall upon every Lords Day, and upon all other Days and Occasions, and at the times therein appointed, be openly and solemnly Read by all and every Minister or Curate, in every Church, Chapel, or other place of publick Worship within this Realm of England, and places aforesaid.

III. And to the end that Uniformity in the publick Worship of God, (which is so much desired) may be speedily effected, Be it further enacted by the authority aforesaid, That every Parson, Vicar or other Minister whatsoever, who now hath, and enjoyeth any Ecclesiastical Benefice or Promotion within this Realm of England, or places aforesaid, shall in the Church, Chapel or place of publick Worship belonging to his said Benefice or Promotion, upon some Lords Day before the Feast of Saint Bartholomew, which shall be in the Year of our Lord God, One thousand six hundred sixty and two, openly, publickly and solemnly Read the Morning and Evening Prayer appointed to be Read by, and according to the said Book of Common Prayer, at the times thereby appointed, and after such reading thereof, shall openly and publickly before the Congregation there assembled, declare his unfeigned assent and consent to the use of all things in the said Book contained and prescribed, In these words and no other:

IV. **I** A. B. Do here declare my unfeigned Assent and Consent to all and every thing contained and prescribed in and by the Book, Entituled, *The Book of Common Prayer and Administration of the Sacraments, and other Rites and Ceremonies of the Church, according to the Use of the Church of England; together with the Psalter or Psalms of David, Pointed as they are to be sung or said in Churches; and the Form or Manner of Making, Ordaining, and Consecrating of Bishops, Priests, and Deacons.*

V. And that all and every such person, who shall (without some lawful impediment to be allowed and approved of by the Ordinary of the place) neglect or refuse to do the same within the time aforesaid, (or in case of such impediment) within one Month after such impediment removed, shall ipso facto be deprived of all his Spiritual Promotions; And that from thenceforth it shall be lawful to and for all Patrons and Donors of all and singular the said Spiritual Promotions, or of any of them, according to their respective Rights and Titles, to present or collate to the same, as though the person or persons so offending or neglecting were dead.

VI. And be it further Enacted by the Authority aforesaid, That every Person who shall hereafter be presented or collated, or put into any Ecclesiastical Benefice or Promotion within this Realm of England, and places aforesaid, shall in the Church, Chapel or place of publick Worship belonging to his said Benefice or Promotion, within two Months next after that he shall be in the actual Possession of the said Ecclesiastical Benefice or Promotion, upon some Lords day, openly, publickly and solemnly, Read the Morning and Evening Prayers, appointed to be Read by, and according to the said Book of Common Prayer, at the times thereby appointed, or to be appointed,

Abridgment.

Enacted, That,  
—all Ministers shall duly perform Divine Service, according to the Book of Common Prayer,

—and every Minister that now is, shall declare Assent and Consent to the use thereof.

(The Form of Assent and Consent—)

—upon pain of Deprivation ipso facto.

Also, every Minister hereafter to be presented, shall publickly read the Common Prayer,



## Abridgment.

—and declare Assent and Consent,

—upon pain of deprivation *ipso facto*.

Every Incumbent, keeping a Curate, shall read Common Prayer, and (if Occasion be) Administer Sacraments, once a Month,

—upon pain to forfeit 5*l.*

Declaration shall be subscribed, by  
—Members of Cathedral Churches,  
—Heads, Tutors, &c in Colleges,  
—Masters of Hospitals,  
—Professors,  
—Incumbents, Curates, and Lecturers,  
—all Persons in Orders,  
—School-masters,

viz.

—That it is not lawful to take up Arms against the King,  
—That they will Conform to the Liturgy,

—That the Solemn League, &c. doth not oblige any, as being an unlawful Oath.

Journ. P. oc.  
Apr. 5.

appointed, and after such Reading thereof, shall openly and publickly, before the Congregation there Assembled, declare his unfeigned Assent and Consent to the use of all things therein contained and prescribed, according to the form before appointed: And that all and every such Person, who shall (without some lawful impediment to be allowed and approved by the Ordinary of the place) neglect or refuse to do the same within the time aforesaid, (or in the case of such impediment, within one Month after such impediment removed) shall (ipso facto) be deprived of all his said Ecclesiastical Benefices and Promotions; And that from thenceforth, it shall and may be lawful to and for all Patrons and Donors of all and singular the said Ecclesiastical Benefices and Promotions, or any of them, according to their respective Rights and Titles, to present or collate to the same, as though the Person or Persons so offending or neglecting, were dead.

VII. And be it further Enacted by the Authority aforesaid, That in all places where the proper Incumbent of any Parsonage, or Vicarage, or Benefice with Cure, doth reside on his Living, and keep a Curate, the Incumbent himself in Person (not having some lawful impediment to be allowed by the Ordinary of the place) shall once (at the least) in every Month, openly and publickly, Read the Common Prayers and Service, in and by the said Book prescribed, and (if there be Occasion) administer each of the Sacraments, and other Rites of the Church, in the Parish Church or Chapel, of or belonging to the same Parsonage, Vicarage or Benefice, in such order, manner and form, as in and by the said Book is appointed; upon Pain to Forfeit the Sum of Five Pounds to the use of the Poor of the Parish for every offence, upon Conviction by Confession, or proof of two credible witnesses upon Oath, before two Justices of the Peace of the County, City or Town-Corporate where the offence shall be committed, (which Oath the said Justices are hereby impowered to Administer;) and in default of Payment within Ten Days, to be levied by distress and sale of the Goods and Chattels of the Offendor, by the Warrant of the said Justices, by the Church-wardens, or Overseers of the Poor of the said Parish, rendering the surplusage to the Party.

VIII. And be it further Enacted by the Authority aforesaid, That every Dean, Canon, and Prebendary of every Cathedral or Collegiate Church, and all Masters, and other heads, Fellows, Chaplains and Tutors of or in any Colledge, Hall, House of Learning, or Hospital, and every publick Professor and Reader in either of the Universities, and in every Colledge elsewhere, and every Parson, Vicar, Curate, Lecturer, and every other Person in holy Orders, and every School-master keeping any publick or private School, and every Person instructing or Teaching any Youth in any House or private Family as a Tutor, or School-master; who upon the first Day of May, which shall be in the Year of our Lord God, One thousand six hundred sixty two, or at any time thereafter shall be Incumbent, or have Possession of any Deanry, Canonry, Prebend, Mastership, Headship, Fellowship, Professors place, or Readers place, Parsonage, Vicarage, or any other Ecclesiastical Dignity or Promotion, or of any Curates place, Lecture or School; or shall instruct or teach any Youth as Tutor or School-master; shall before the Feast-day of Saint Bartholomew, which shall be in the Year of our Lord, One thousand six hundred sixty two, or at or before his or their respective Admission to be Incumbent, or have Possession aforesaid, subscribe the Declaration or Acknowledgment following, Scilicet,

IX. **I** A. B. Do declare, That it is not lawful upon any pretence whatsoever to take Arms against the King; and that I do abhor that Traiterous Position of taking Arms by his Authority against his Person, or against those that are Commissionated by him; And that I will conform to the Liturgy of the Church of *England*, as it is now by Law established. *n* And I do declare, That I do hold there lies no Obligation upon me, or any other Person, from the Oath commonly called the *Solemn League and Covenant*, to endeavour any Change, or Alteration of Government, either in Church or State; and that the same was in it self an unlawful Oath, and imposed upon the Subjects of this Realm against the known Laws and Liberties of this Kingdom.

*n* And I do declare ] There was a long Debate in the House of Lords, whether *Ministers* should be obliged to make any Declaration against the Covenant.

Uniformity, from 13, 14 Car. 2. to the present Time.

X. Which



Uniformity, from  
13, 14  
Car. 2. to  
the pre-  
sent Time.

X. Which said Declaration and Acknowledgment shall be subscribed by every of the said Masters and other Heads, Fellows, Chaplains, and Tutors, of or in any Colledge, Hall, or House of Learning, and by every publick Professor and Reader in either of the Universities, before the Vice-chancellor of the respective Universities for the time being, or his Deputy; And the said Declaration or Acknowledgment shall be subscribed before the respective Arch-bishop, Bishop, or Ordinary of the Diocese, by every other Person hereby enjoyned to subscribe the same: upon pain, that all and every of the Persons aforesaid, failing in such Subscription, shall lose and forfeit such respective Deanry, Canonry, Prebend, Masterhip, Headship, Fellowship, Professors place, Readers place, Parsonage, Vicarage, Ecclesiastical Dignity or Promotion, Curates place, Lecture, and School, and shall be utterly Disabled, and (ipso facto) deprived of the same; And that every such respective Deanry, Canonry, Prebend, Masterhip, Headship, Fellowship, Professors place, Readers place, Parsonage, Vicarage, Ecclesiastical Dignity or Promotion, Curates place, Lecture and School, shall be void, as if such Person, so failing, were naturally dead.

XI. And if any Schoolmaster or other Person, Instructing or Teaching Youth in any private House or Family, as a Tutor or Schoolmaster, shall Instruct or Teach any Youth as a Tutor or Schoolmaster, before Licence obtained from his respective Archbishop, Bishop, or Ordinary of the Diocese, according to the Laws and Statutes of this Realm, (for which he shall pay Twelve Pence only) and before such Subscription and Acknowledgment made, as aforesaid; then every such Schoolmaster and other, Instructing and Teaching, as aforesaid, shall for the first Offence suffer three Months Imprisonment without Bail or Mainprize; and for every second and other such Offence shall suffer three Months Imprisonment without Bail or Mainprize, and also Forfeit to his Majesty the Sum of five Pounds. And after such Subscription made, every such Parson, Vicar, Curate and Lecturer, shall procure a Certificate under the Hand and Seal of the respective Archbishop, Bishop, or Ordinary of the Diocese, (who are hereby enjoyned and required, upon demand, to make and deliver the same) and shall publickly and openly Read the same, together with the Declaration, or Acknowledgment aforesaid, upon some Lords day within three Months then next following, in his Parish-Church where he is to Officiate, in the presence of the Congregation there assembled, in the time of Divine Service; upon pain that every Person failing therein, shall lose such Parsonage, Vicarage or Benefice, Curates place, or Lecturers place respectively, and shall be utterly disabled, and ipso facto deprived of the same; and, That the said Parsonage, Vicarage, or Benefice, Curates place, or Lecturers place shall be void, as if he were naturally dead.

XII. Provided always, That from and after the Twenty fifth Day of March, which shall be in the Year of our Lord God, One thousand six hundred eighty two, there shall be omitted in the said Declaration, or Acknowledgment so to be Subscribed and Read, these words following, scilicet,

And I do declare, That I do hold there lies no Obligation on me, or on any other Person, from the Oath, commonly called, the *Solemn League and Covenant*, to endeavour any Change or Alteration of Government either in Church or State; and that the same was in it self an unlawful Oath, and imposed upon the Subjects of this Realm against the known Laws and Liberties of this Kingdom.

So as none of the Persons aforesaid shall from thenceforth be at all obliged to Subscribe or Read that part of the said Declaration or Acknowledgment.

XIII. Provided always, and be it Enacted, That from and after the Feast of Saint Bartholomew, which shall be in the Year of our Lord, One thousand six hundred sixty and two, no Person, who now is Incumbent, and in Possession of any Parsonage, Vicarage or Benefice, and who is not already in holy Orders by Episcopal Ordination, or shall not, before the said Feast-day of Saint Bartholomew, be Ordained Priest or Deacon, according to the Form of Episcopal Ordination, shall have, hold, or enjoy the said Parsonage, Vicarage, Benefice with Cure, or other Ecclesiastical Promotion within

Abridgment.

This shall be Subscribed,

—in the Universities, before the Vice-chancellor, —and in every Diocese, before the Ordinary:

—upon pain of Deprivation *ipso facto*.

Any private Schoolmaster, Teaching without Licence and Subscription, shall suffer,

—for the 1<sup>st</sup> Offence three Months Imprisonment, —for the 2<sup>d</sup>, three Months, and Forfeit 5 l.

Every Incumbent shall procure a Certificate of his Subscription, and Read it in his Church with the Declaration,

—upon pain of Deprivation *ipso facto*.

The Clause relating to the *Solemn League, &c.* shall be omitted, after *Mar. 5. 1682.*

No Incumbent, who shall not be in Episcopal Orders before *Bartholomew-tide*, shall be capable of holding Benefice.



## Abridgment.

None but a Priest shall be capable of Institution, or of Consecrating and Administering the Sacrament,

—upon pain to forfeit 100 *l.*

—and not to be admitted Priest for one Year.

Proviso for the foreign Churches.

No Avoidance shall accrue by Deprivation, *ipso facto*, upon this Act, but when it is notify'd by the Bishop, or Read in the Church.

No other Form shall be used, other than what is prescribed.

Heads of Colledges, &c. shall Subscribe to the 39 Articles, and to the Book of Common Prayer; and declare Assent and Consent,

—and shall Read Common Prayer once every Quarter,

—upon pain of Suspension from Profits for 6 Months,

—and Deprivation, if the things aforesaid be not done in those 6 Months.

this Kingdom of England, or the Dominion of Wales, or Town of Berwick upon Tweed; but shall be utterly disabled, and (*ipso facto*) deprived of the same; and all his Ecclesiastical Promotions shall be void, as if he was naturally dead.

XIV. And be it further Enacted by the Authority aforesaid, That no Person whatsoever, shall thenceforth be capable to be admitted to any Parsonage, Vicarage, Benefice, or other Ecclesiastical Promotion or Dignity whatsoever, nor shall presume to Consecrate and Administer the Holy Sacrament of the Lords Supper, before such time as he shall be Ordained Priest according to the Form and Manner in and by the said Book prescribed, unless he have formerly been made Priest by Episcopal Ordination, upon pain to forfeit for every Offence, the Sum of One hundred Pounds; one moiety thereof to the Kings Majesty, the other moiety thereof to be equally divided between the Poor of the Parish where the Offence shall be committed, and such Person or Persons as shall sue for the same by Action of Debt, Bill, Plaint or Information, in any of his Majesties Courts of Record, wherein no Escoin, Protection or Wager of Law shall be allowed, and to be disabled from taking, or being admitted into the Order of Priest, by the space of one whole Year then next following.

XV. Provided, That the Penalties in this Act shall not extend to the Foreigners or Aliens of the Foreign Reformed Churches, allowed or to be allowed by the Kings Majesty, his Heirs and Successors, in England.

XVI. Provided always, That no Title to confer, or present by lapse, shall accrue by any Avoidance of Deprivation (*ipso facto*) by virtue of this Statute, but after six Months after notice of such Avoidance or Deprivation given by the Ordinary to the Patron, or such sentence of Deprivation openly and publickly Read in the Parish Church of the Benefice, Parsonage or Vicarage becoming void, or whereof the Incumbent shall be deprived by virtue of this Act.

XVII. And be it further Enacted by the Authority aforesaid, That no Form or Order of Common Prayers, Administration of Sacraments, Rites or Ceremonies, shall be openly used in any Church, Chapel, or other publick place, or in any Colledge or Hall in either of the Universities, the Colledges of Westminster, Winchester or Eaton, or any of them, other than what is prescribed, and appointed to be used in and by the said Book; And that the present Governour, or Head of every Colledge and Hall in the said Universities, and of the said Colledges of Westminster, Winchester and Eaton, within one Month after the Feast of Saint Bartholomew, which shall be in the Year of our Lord, One thousand six hundred sixty and two; And every Governour or Head of any the said Colledges or Halls hereafter to be elected or appointed, within one Month next after his Election, or Collation, and Admission into the same Government or Headship; shall openly and publickly in the Church, Chapel, or other publick place of the same Colledge or Hall, and in the presence of the Fellows and Scholars of the same, or the greater part of them then resident, Subscribe unto the Nine and thirty Articles of Religion, mentioned in the Statute made in the Thirteenth Year of the Reign of the late Queen Elizabeth, and unto the said Book, and declare his unfeigned Assent and Consent unto, and Approbation of the said Articles, and of the same Book, and to the use of all the Prayers, Rites and Ceremonies, Forms, and Orders in the same Book prescribed and contained, according to the Form aforesaid; And that all such Governours or Heads of the said Colledges and Halls, or any of them, as are or shall be in Holy Orders, shall once (at least) in every Quarter of the Year (not having a lawful impediment) openly and publickly Read the Morning Prayer and Service, in and by the said Book appointed to be read, in the Church, Chapel, or other publick place of the same Colledge or Hall: upon pain to lose, and be suspended of and from all the Benefits and Profits belonging to the same Government or Headship, by the space of Six Months, by the Visitor or Visitors of the same Colledge or Hall. And if any Governour or Head of any Colledge or Hall, suspended for not subscribing unto the said Articles and Book, or for not Reading of the Morning Prayer and Service, as aforesaid, shall not, at or before the end of Six Months next after such Suspension, subscribe unto the said Articles and Book, and declare his Consent thereunto, as aforesaid, or Read the Morning Prayer and Service, as aforesaid, then such Government or Headship shall be *ipso facto* void.

XVIII. Provided

Uniformity from 13, 14 Car. 2. to the present Time.



Uniformity, from  
13, 14  
Car. 2. to  
the pre-  
sent Time.

XVIII. Provided always, That it shall and may be lawful to use the Morning and Evening Prayer, and all other Prayers and Service prescribed in and by the said Book, in the Chapels or other publick places of the respective Colledges and Halls in both the Universities, in the Colledges of Westminster, Winchester, and Eaton, and in the Convocations of the Clergy of either Province, or in Latin; Any thing in this Act to the contrary notwithstanding.

XIX. And be it further Enacted by the authority aforesaid, That no persons shall be, or be received as a Lecturer, or permitted, suffered, or allowed to Preach as a Lecturer, or to Preach, or Read any Sermon or Lecture in any Church, Chapel, or other place of publick Worship, within this Realm of England, or the Dominion of Wales, and Town of Berwick upon Tweed, unless he be first approved, and thereunto Licensed by the Archbishop of the Province, or Bishop of the Diocese, or (in case the See be void) by the Guardian of the Spiritualities, under his Seal, and shall in the presence of the same Archbishop, or Bishop, or Guardian, read the Nine and thirty Articles of Religion mentioned in the Statute of the Thirteenth Year of the late Queen Elizabeth, with declaration of his unfeigned Assent to the same; And that every person and persons who now is, or hereafter shall be Licensed, Assigned and Appointed, or received as a Lecturer, to Preach upon any Day of the Week in any Church, Chapel or place of publick Worship within this Realm of England, or places aforesaid, the first time he Preacheth (before his Sermon) shall openly, publickly, and solemnly Read the Common Prayers and Service in and by the said Book appointed to be Read for that time of the Day, and then and there publickly and openly declare his Assent unto, and Approbation of the said Book, and to the use of all the Prayers, Rites and Ceremonies, Forms and Orders therein contained and prescribed, according to the Form before appointed in this Act; And also shall, upon the first Lecture-day of every Month afterwards, so long as he continues Lecturer or Preacher there, at the Place appointed for his said Lecture or Sermon, before his said Lecture or Sermon, openly, publickly and solemnly Read the Common Prayers and Service in and by the said Book appointed to be Read for that time of the Day at which the said Lecture or Sermon is to be Preached, and after such Reading thereof, shall openly and publickly, before the Congregation there assembled, declare his unfeigned Assent and Consent unto, and Approbation of the said Book, and to the use of all the Prayers, Rites and Ceremonies, Forms and Orders therein contained and prescribed, according to the Form aforesaid; And that all and every such person or persons who shall neglect or refuse to do the same, shall from thenceforth be disabled to Preach the said, or any other Lecture or Sermon in the said, or any other Church, Chapel or place of publick Worship, until such time as he and they shall openly, publickly and solemnly read the Common Prayers and Service appointed by the said Book, and conform in all points to the things therein appointed and prescribed, according to the purport, true intent and meaning of this Act.

XX. Provided always, That if the said Sermon or Lecture be to be Preached or Read in any Cathedral or Collegiate Church or Chapel, it shall be sufficient for the said Lecturer, openly at the time aforesaid, to declare his Assent and Consent to all things contained in the said Book, according to the Form aforesaid.

XXI. And be it further Enacted by the authority aforesaid, That if any person who is by this Act disabled to Preach any Lecture or Sermon, shall during the time that he shall continue and remain so disabled, Preach any Sermon or Lecture; that then for every such offence, the person and persons so offending, shall suffer Three Months Imprisonment in the Common Goal without bail or mainprize; And that any Two Justices of the Peace of any County of this Kingdom and places aforesaid, and the Mayor or other Chief Magistrate of any City or Town corporate within the same, upon Certificate from the Ordinary of the place made to him or

o In Latin ] Altho' no Provision was made for this Liberty, in the foregoing Act, 1 Eliz. c. 2. yet the Queen, by her Letters Patents, bearing date April 6. 1560. granted it (nostra autoritate & privilegio Regali) to the Colledges of the Two Universities, and to those

of Winchester and Eaton. But afterwards (Anno Regni 3<sup>o</sup>) the Archbishop, Bishop of London, Dr. Bill, and Dr. Haddon, were Commissioned (among other things) to limit the use of that Liberty in Collegiate Churches, with regard to those of the Laity who resorted thither.

them

Abridgment.

Common Prayer may be said in Latin, in Colleges, and in Convocation.

Every Lecturer, before preaching, shall be Licensed,

—and read the 39 Articles,

—and the Common Prayer, with Assent and Consent,

—which he shall also read, afterwards, the first Lecture-day of every Month,

—and shall be disabled from Preaching till he hath done, as aforesaid.

Lecturer in Cathedrals need only declare Assent and Consent.

Lecturer, if he Preach during disability, shall be imprisoned,

—upon Certificate from the Bishop to Justices, Mayor, &c.



## Abridgment.

No Lecture shall be preached, without Reading Common Prayers,

—(at which the Lecturer shall be present)

—except in the Universities.

All former Laws and Penalties, for Establishing the Common Prayer, shall be in force, and applied to the present Form.

Names of King, Queen, &c. may be changed.

A printed Copy of the said Book shall be provided at the Charge of the Parish, before the Feast of S. Bartholomew,

—upon pain to forfeit 3*l.* for every Month after.

The Bishops of Hereford and Wales shall take care, that the Book be translated into Welch,

them of the offence committed, shall and are hereby required to commit the person or persons so offending, to the Goal of the same County, City or Town corporate accordingly.

XXII. Provided always, and be it further enacted by the authority aforesaid, That at all and every time and times when any Sermon or Lecture is to be Preached, the Common Prayers and Service in and by the said Book appointed to be read for that time of the Day, shall be openly, publickly and solemnly read by some Priest or Deacon, in the Church, Chapel, or place of publick Worship where the said Sermon or Lecture is to be Preached, before such Sermon or Lecture be Preached; And that the Lecturer then to Preach shall be present at the Reading thereof.

XXIII. Provided nevertheless, That this Act shall not extend to the University Churches in the Universities of this Realm, or either of them, when or at such times as any Sermon or Lecture is Preached or Read in the said Churches, or any of them, for or as the publick University Sermon or Lecture; but that the same Sermons and Lectures may be Preached or Read in such sort and manner as the same have been heretofore Preached or Read; this Act, or any thing herein contained to the contrary thereof in any wise notwithstanding.

XXIV. And be it further enacted by the authority aforesaid, That the several good Laws and Statutes of this Realm, which have been formerly made, and are now in force for the Uniformity of Prayer and Administration of the Sacraments, within this Realm of England, and places aforesaid, shall stand in full force and strength to all intents and purposes whatsoever, for the Establishing and Confirming of the said Book, Entituled, The Book of Common Prayer, and Administration of the Sacraments, and other Rites and Ceremonies of the Church, according to the use of the Church of England; together with the Psalter or Psalms of David, Pointed as they are to be said or sung in Churches; and the Form and Manner of Making, Ordaining, and Consecrating of Bishops, Priests, and Deacons, herein before mentioned to be joynd and annexed to this Act; and shall be applied, practised, and put in ure for the punishing of all Offences contrary to the said Laws, with relation to the Book aforesaid, and no other.

XXV. Provided always, and be it further enacted by the authority aforesaid, That in all those Prayers, Litanies, and Collects, which do any way relate to the King, Queen, or Royal Progeny, the Names be altered and changed from time to time, and fitted to the present occasion, according to the direction of *p* lawful Authority.

XXVI. Provided also, and be it enacted by the authority aforesaid, That a true printed Copy of the said Book, Entituled, The Book of Common Prayer, and Administration of the Sacraments, and other Rites and Ceremonies of the Church, according to the use of the Church of England; together with the Psalter or Psalms of David, Pointed as they are to be sung or said in Churches; and the Form and Manner of Making, Ordaining, and Consecrating of Bishops, Priests, and Deacons, shall at the Cost and Charges of the Parishioners of every Parish Church, and Chapelry, Cathedral Church, Colledge, and Hall, be attained and gotten before the Feast-day of Saint Bartholomew, in the Year of our Lord, One thousand six hundred sixty and two; upon pain of Forfeiture of Three Pounds by the Month, for so long time as they shall then after be unprovided thereof, by every Parish, or Chapelry, Cathedral Church, Colledge, and Hall, making default therein.

XXVII. Provided always, and be it enacted by the authority aforesaid, That the Bishops of Hereford, Saint Davids, Aſaph, Bangor, and Landaff, and their Successors, shall take such order among themselves, for the Souls health of the Flocks committed to their Charge within Wales, that the Book hereunto annexed be truly and exactly Translated into the British or Welch Tongue, and that the same so Translated, and being by them, or any Three of them at the least, viewed, perused, and allowed, be Imprinted to such number at least, so that one of the said Books so Translated and Imprinted, may be had for every Cathedral, Collegiate, and Parish Church, and Chapel of Ease in the said respective Dioceses, and places in Wales, where the Welch is commonly spoken or

*p* Lawful Authority ] *i. e.* (according to practice) of the King or Queen, in Council.

used,

Uniformity, from 13, 14 Car. 2. to the present Time.



Uniformity, from 13, 14 Car. 2. to the present Time.

used, before the first Day of May, One thousand six hundred sixty five; and, That from and after the Imprinting and Publishing of the said Book so Translated, the whole Divine Service shall be used and said by the Ministers and Curates throughout all Wales within the said Dioceses where the Welch Tongue is commonly used, in the British or Welch Tongue, in such manner and form as is prescribed according to the Book hereunto annexed to be used in the English Tongue, differing nothing in any Order or Form from the said English Book; for which Book so Translated and Imprinted, the Church-wardens of every the said Parishes shall pay out of the Parish-money in their Hands for the use of the respective Churches, and be allowed the same on their Account; and, That the said Bishops and their Successors, or any Three of them, at the least, shall set and appoint the Price, for which the said Book shall be sold; And one other Book of Common Prayer in the English Tongue shall be bought and had in every Church throughout Wales, in which the Book of Common Prayer in Welch is to be had by force of this Act, before the first Day of May, One thousand six hundred sixty and four, and the same Book to remain in such convenient places, within the said Churches, that such as understand them may resort at all convenient times to read and peruse the same, and also such as do not understand the said Language, may by conferring both Tongues together, the sooner attain to the knowledge of the English Tongue; any thing in this Act to the contrary notwithstanding. And until Printed Copies of the said Book so to be Translated may be had and provided, the Form of Common Prayer, Established by Parliament before the making of this Act, shall be used as formerly in such Parts of Wales, where the English Tongue is commonly understood.

XXVIII. And to the end that the true and perfect Copies of this Act, and the said Book hereunto annexed, may be safely kept, and perpetually preserved, and for the avoiding of all Disputes for the time to come; Be it therefore enacted by the authority aforesaid, That the respective Deans and Chapters of every Cathedral or Collegiate Church within England and Wales, shall at their proper Costs and Charges, before the Twenty fifth Day of December, One thousand six hundred sixty two, obtain under the Great Seal of England, a true and perfect printed Copy of this Act, and of the said Book annexed hereunto, to be by the said Deans and Chapters, and their Successors, kept and preserved in safety for ever, and to be also produced and shewed forth in any Court of Record, as often as they shall be thereunto lawfully required; And also there shall be delivered true and perfect Copies of this Act, and of the same Book, into the respective Courts at Westminster, and into the Tower of London, to be kept and preserved for ever among the Records of the said Courts, and the Records of the Tower, to be also produced and shewed forth in any Court, as need shall require; which said Books, so to be exemplified under the Great Seal of England, shall be examined by such persons as the Kings Majesty shall appoint, under the Great Seal of England for that purpose, and shall be compared with the Original Book hereunto annexed, and shall have power to Correct and Amend in Writing, any Error committed by the Printer in the printing of the same Book, or of any thing therein contained, and shall certify in Writing under their Hands and Seals, or the Hands and Seals of any Three of them, at the end of the same Book, that they have examined and compared the same Book, and find it to be a true and perfect Copy; which said Books, and every one of them, so exemplified under the Great Seal of England, as aforesaid, shall be deemed, taken, adjudged and expounded to be good and available in the Law, to all intents and purposes whatsoever, and shall be accounted as good Records as this Book it self hereunto annexed; Any Law or Custom to the contrary in any wise notwithstanding.

XXIX. Provided also, That this Act, nor any thing therein contained, shall not be prejudicial or hurtful unto the Kings Professor of the Law within the University of Oxford, for or concerning the Prebend of Shipton within the Cathedral Church of Sarum, united and annexed unto the place of the same Kings Professor for the time being, by the late King James of Blessed Memory.

XXX. Provided always, That whereas the Six and thirtieth Article of the Nine and thirty Articles agreed upon by the Archbishops and Bishops of both Provinces, and the whole Clergy holden at London, in the Year

Abridgment.

—and from the First of May, 1665. it shall be used in Wales,

—and a Book provided in every Church, at the Charge of the Parish; the price being set by the Bishops,

—and also an English Common Prayer,

—for the promoting of the English Tongue.

Copies of this Act, and the Book under the Great Seal, shall be kept in Cathedral and Collegiate Churches,

—and in the Courts of Westminster-Hall, and the Tower,

—which being compared with the Original,

—shall be as Records.

This Act shall not be prejudicial to the King's Professor of Law in Oxon.



## Abridgment.

The Six and thirtieth Article concerning Consecration and Ordination,

—shall, in all Subscriptions, be applied to the present Book.

The former Book, of *Q. Elizabeth*, shall be used till the Feast of *S. Bartholomew*, 1662.

Recital of the Clause in the foregoing Act (Sect. 8.) that requires Subscription to the Declaration,

of our Lord, One thousand five hundred sixty two, for the avoiding of diversities of Opinions, and for establishing of Consent touching true Religion, is in these words following, viz.

**T**HAT the Book of Consecration of Archbishops and Bishops, and Ordaining of Priests and Deacons, lately set forth in the time of King *Edward* the Sixth, and Confirmed at the same time by Authority of Parliament, doth contain all things necessary to such Consecration and Ordaining, neither hath it any thing that of it self is superstitious and ungodly: And therefore whosoever are Consecrated or Ordered according to the Rites of that Book, since the Second Year of the aforementioned King *Edward* unto this time, or hereafter shall be Consecrated or Ordered according to the same Rites, We decree all such to be rightly, orderly, and lawfully Consecrated and Ordered;

XXXI. It be enacted, and be it therefore enacted by the Authority aforesaid, That all Subscriptions hereafter to be had or made unto the said Articles, by any Deacon, Priest, or Ecclesiastical person, or other person whatsoever, who by this Act, or any other Law now in force, is required to Subscribe unto the said Articles, shall be construed, and taken to extend, and shall be applied (for and touching the said Six and thirtieth Article) unto the Book containing the Form and Manner of Making, Ordaining and Consecrating of Bishops, Priests, and Deacons, in this Act mentioned, in such sort and manner as the same did heretofore extend unto the Book set forth in the time of King *Edward* the Sixth, mentioned in the said Six and thirtieth Article; Any thing in the said Article, or in any Statute, Act or Canon heretofore had or made, to the contrary thereof in any wise notwithstanding.

XXXII. Provided also, That the Book of Common Prayer, and Administration of the Sacraments, and other Rites and Ceremonies of this Church of England, together with the Form and Manner of Ordaining and Consecrating Bishops, Priests, and Deacons, heretofore in use, and respectively established by Act of Parliament in the first and eighth Years of Queen *Elizabeth*, shall be still used and observed in the Church of England, until the Feast of *St. Bartholomew*, which shall be in the Year of our Lord God, One thousand six hundred sixty and two.

15 Car. II. Cap. 6.

A.D. 1663.

*An Act for the Relief of such Persons, as by Sicknesse or other Impediment were disabled from subscribing the Declaration in the Act of Uniformity, and Explanation of part of the said Act.*

**W**HEREAS by an Act of this present Parliament, entitled, An Act for Uniformity of Publick Prayer and Administration of the Sacraments, and other Rites and Ceremonies, and for the Establishing of the Form of Making, Ordaining and Consecrating Bishops, Priests, and Deacons in the Church of England, It was Enacted, That every Dean, Canon and Prebendary, of every Cathedral or Collegiate Church, and all Masters and Fellows, of any Colledge, Hall, House of Learning or Hospital, and every Parson, Vicar, Curate, and every other person in Holy Orders, who upon the first Day of May, which should be in the Year of our Lord God, One thousand six hundred sixty and two, or at any time thereafter should be Incumbent or have Possession of any Deanry, Canonry, Prebendary, Mastership, Fellowship, Parsonage, Vicarage, or any other Ecclesiastical Dignity or Promotion, should before the Feast of *Saint Bartholomew*, which should be in the Year of our Lord, One thousand six hundred sixty and two, subscribe the Declaration or Acknowledgment in the said Act mentioned and expressed, before the respective Archbishops, Bishops, Ordinaries or Vice-Chancellors of the respective Universities, upon pain that all and every of the persons aforesaid, failing in such Subscription, should lose and forfeit such respective Deanry, Canonry, Prebendary, Mastership, Fellowship, Parsonage, Vicarage, Ecclesiastical

Uniformity, from 13, 14 Car. 2. to the present Time.



Uniformity, from  
13, 14  
Car. 2. to  
the present  
Time.

Ecclesiastical Dignity or Promotion, and should be utterly disabled, and ipso facto deprived of the same; and that every such respective Deanry, Canonry, Prebendary, Rectorship, Fellowship, Parsonage, Vicarage, Ecclesiastical Dignity or Promotion, should be void, as if such Person so failing were naturally dead: And that after such Subscription made, every such Parson, Vicar, Curate and Lecturer, should procure a Certificate under the Hand and Seal of the respective Archbishop, Bishop, or Ordinary of the Diocese, and should publickly and openly read the same, together with the Declaration or Acknowledgment aforesaid, upon some Lords day within thre Months then next following, in his Parish Church where he was to Officiate, in the presence of the Congregation there Assembled, in the time of Divine Service, upon pain that every Person failing therein, should lose such Parsonage, Vicarage or Benefice respectively, and should be utterly disabled, and ipso facto deprived of the same; and that the said Parsonage, Vicarage or Benefice should be void, as if he were naturally dead.

II. And whereas divers Persons of eminent Loyalty to his Majesty, and of known Affection to the Liturgy of the Church of England, who by the said Act were required to Subscribe the said Declaration or Acknowledgment, at the time of the passing of the said Act were out of this Realm, in Ireland or other parts beyond the Seas, upon lawful and justifiable Occasions, and had no knowledge or notice thereof until their return into England, being after the said Feast of Saint Bartholomew; and divers other of the said Loyal and well-affected Persons, by reason of Sicknes, Imprisonment, Disability of Body, or otherwise, could not or did not resort unto their respective Archbishops, Bishops, or Ordinaries, or Vice-Chancellors of the respective Universities, before whom such Subscription was appointed by the said Act to be made: All which said Persons are by force of the said Act utterly disabled, and ipso facto deprived of their respective Deanries, Canonries, Prebendaries, Rectorships, Fellowships, Parsonages, Vicarages or other Ecclesiastical Benefices or Promotions, by reason of such their Defaultion:

III. For remedy whereof, and for the relief of such Persons, Be it enacted by the Kings most excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and the Commons in this present Parliament Assembled, and by the Authority of the same, That all Deans, Canons, Prebendaries, Rectors and Fellows of any Colledges, Halls, or other Houses of Learning; and all Parsons, Vicars, and other Ecclesiastical Persons aforesaid, who at the time of passing of the said Act, being in Ireland, or any the parts beyond the Seas, did not return into this Kingdom before the said Feast of Saint Bartholomew, One thousand six hundred sixty and two, or who being in England, by Imprisonment, Sicknes, Disability of Body or otherwise, did not resort unto their respective Archbishop, Bishop, Ordinary, or Vice-Chancellor of the said respective Universities, to Subscribe the said Declaration and Acknowledgment, before the said Feast in the Year of our Lord aforesaid, shall be, and are hereby declared to be restored unto, and preserved in their respective Deanries, Canonries, Prebendaries, Rectorships, Fellowships, Parsonages, Vicarages, and other Ecclesiastical Benefices and Promotions, whereunto no other Persons before the first Day of August in the Year of our Lord, One thousand six hundred sixty and three, were or shall be lawfully Instituted, Inducted, Collated or Placed: And shall and may hold and enjoy the same according to his and their former right; The aforesaid Act, or any thing therein contained to the contrary notwithstanding.

IV. Provided, That every such Dean, Canon, Prebendary, Rector and Fellow of any Colledge, Hall, or House of Learning, and all Parsons, Vicars and Curates, and other Ecclesiastical Persons, who are or shall by virtue of this Act be restored to, or preserved in their said several and respective Promotions, shall before the Feast of the Nativity of our Lord next ensuing, if he be in England, or if beyond the Seas, within forty Days after his return into England, Subscribe the said Declaration or Acknowledgment before the respective Archbishop, Bishop or Ordinary of the Diocese, or Vice-Chancellor aforesaid respectively, and that every such Parson, Vicar, Curate or Lecturer shall procure a Certificate under the Hand and Seal of the respective Archbishop, Bishop or Ordinary of the Diocese (who are hereby required and enjoined, upon demand, to make and deliver such Certificate,) and shall publickly and openly Read the same, together with the

Abridgment.

—and the reading  
a Certificate thereof  
in the Church,

—which divers  
Persons were inca-  
pable of doing, by  
reason of absence  
out of the Realm,  
or of Sicknes, &c.

Enacted that,  
—all Persons who  
did not return  
from beyond Sea,  
before St. Bartholo-  
mew, or were other-  
wise disabled,

—shall keep their  
Promotions,

—if no other was  
Inducted, before  
Aug. 1. 1663,

—and provided  
they Subscribe be-  
fore *Christmase*,

—or within forty  
Days after their  
return,

—and read the  
Certificate in their  
Churches.



## Abridgment.

Subscription before the Chancellor, shall be as good as before the Bishop.

Persons restored by this Act, shall answer all Charges.

Persons prohibited and disabled to Preach, shall be liable to the same Penalties.

That part of the Declaration in the Act of Uniformity, &c. which concerns the taking up of Arms against the King,

—shall not be required; nor any Forfeiture incurred for not Subscribing that said part.

Alterations in Publick Liturgies ought not to be easily admitted,

Journ. Sup. Dom. Conv.

the Declaration or Acknowledgment aforesaid, upon some Lords day within three Months then next following such Subscription, in his Parish Church where he is to Officiate, in the presence of the Congregation then Assembled, in the time of Divine Service.

V. And be it further Enacted and Declared by the Authority aforesaid, That every Subscription already made, or hereafter to be made before any Vicar-General, or Chancellor to any Archbishop or Bishop, or Commissary to the Archbishop of Canterbury, or any other Bishop, is and shall be as effectual and beneficial in Law to all intents and purposes to every Person and Persons which have or shall make such Subscription as aforesaid, as if the same had been made before the Archbishop or Bishop of the Province or Diocese respectively; Any thing in the aforesaid Act to the contrary notwithstanding.

VI. Provided also, That every Person who shall have benefit by this Act, shall make such allowance for serving the Cure since the 24th of August 1662. as shall be judged fit by the Ordinary of the place, and shall pay and discharge all Tenths, Pensions and other Charges, wherewith the Benefice to which he is by this Act restored, had been, or might be legally charged since the Day aforesaid.

VII. And whereas some doubt hath arisen, whether Persons prohibited to preach by the said Act, are in the same plight as to punishment, with Persons disabled by the said Act to preach; Be it Declared and Enacted by the Authority aforesaid, That the Penalties by the said Act to be inflicted upon any person disabled by the said Act to preach, for any Offence against the said Act, shall in like manner be inflicted upon every person so Offending, that is prohibited by the said Act to preach; Any thing, doubt, or ambiguity in the said Act to the contrary notwithstanding.

## I Will. &amp; Mar. Cap. 8.

A. D. 1688.

In an Act, Entituled, *An Act for the Abrogating the Oaths of Supremacy and Allegiance.*

§ XI. —And be it further Enacted, That the Oath appointed by the Statute made in the thirteenth Year of King Charles the Second, Entituled, An Act for Ordering the Forces in the several Counties of this Kingdom, the Form and words of which Oath are in the same Statute expressed; And also so much of a Declaration prescribed in another Act made in the same Year, Entituled, An Act for the Uniformity of Publick Prayers, and Administration of the Sacraments, and other Rites and Ceremonies; and for Establishing the Form of Making, Ordaining and Consecrating Bishops, Priests, and Deacons in the Church of England, as is expressed in these words, viz.

I A. B. declare, That it is not Lawful upon any pretence whatsoever to take Arms against the King, and that I do abhor that Trayterous Position of taking Arms by his Authority against his Person, or against those that are Commissioned by him:

Shall not from henceforth be required or enjoyned, nor any Person suffer any Forfeiture, Penalty or Loss, by the not Taking, Subscribing or Making the said Oath, or the said recited part of the said Declaration; the last forementioned Statutes, or any other Law or Statute to the contrary in any wise notwithstanding.

## 13, 14 Car. II.

A. D. 1661.

## q Preface to the Book of Common Prayer.

IT hath been the Wisdom of the Church of England, ever since the first compiling of her Publick Liturgy, to keep the Mean between the two Extremes, of too much Stiffness in refusing, and of too much easiness in admitting any Variation from it. For, as on the one side common Experience sheweth,

q Preface } Dec. 2. 1661. *Præfatium sive Exordium Libri publicarum Precum fuit introductum & publicè perlectum* — Committed, Reverendis Patribus Matthæo Elien' Roberto

Oxon' Humfredo Sarum, & Georgio Asaphen' — Dec. 6, & 13. The Emendations made by them, considered.

That

Uniformity, from 13, 14 Car. 2. to the present Time.



Unifor-  
mity, from  
13, 14  
Car. 2. to  
the pre-  
sent Time.

That where a change hath been made of things advisedly established ( no evident necessity so requiring ) sundry inconveniencies have thereupon ensued ; and those many times more, and greater than the evils that were intended to be remedied by such change : So on the other side, the particular Forms of Divine Worship, and the Rites, and Ceremonies appointed to be used therein, being things in their own nature Indifferent, and alterable, and so acknowledged ; it is but reasonable, that upon weighty and important Considerations, according to the various exigency of times and occasions, such changes and alterations should be made therein, as to those that are in place of Authority should from time to time seem either necessary or expedient. Accordingly we find, that in the Reigns of several Princes, of blessed memory, since the Reformation, the Church upon just and weighty Considerations her thereunto moving, hath yielded to make such Alterations in some particulars, as in their respective times were thought convenient : Yet so, as that the main Body and Essentials of it ( as well in the chiefest materials, as in the frame and order thereof ) have still continued the same unto this Day, and do yet stand firm and unshaken, notwithstanding all the vain attempts and impetuous assaults made against it by such men as are given to change, and have always discovered a greater regard to their own private fancies and interests, than to that duty they owe to the publick.

By what undue means, and for what mischievous purposes, the use of the Liturgy ( though enjoined by the Laws of the Land, and those Laws never yet Repealed ) came, during the late unhappy Confusions, to be discontinued, is too well known to the World, and we are not willing here to remember. But when, upon His Majesties happy Restauration, it seemed propable, that amongst other things, the use of the Liturgy also would return of course ( the same having never been legally abolished ) unless some timely means were used to prevent it ; those Men who under the late usurped Powers had made it a great part of their business to render the People disaffected thereunto, saw themselves in point of reputation and interest concerned ( unless they would freely acknowledge themselves to have erred, which such Men are very hardly brought to do ) with their utmost endeavours to hinder the Restitution thereof. In order whereunto divers Pamphlets were published against the Book of *Common Prayer*, the old Objections mustered up, with the Addition of some new ones more than formerly had been made, to make the number swell. In fine, great importunities were used to His Sacred Majesty, that the said Book might be Revised, and such Alterations therein, and Additions thereunto made, as should be thought requisite for the ease of tender Consciences : Whereunto His Majesty, out of His pious Inclination to give Satisfaction ( so far as could be reasonably expected ) to all His Subjects of what persuasion soever, did graciously condescend.

In which Review we have endeavoured to observe the like Moderation, as we find to have been used in the like case in former times. And therefore of the sundry Alterations proposed unto us, we have rejected all such as were either of dangerous consequence ( as secretly striking at some established Doctrine, or laudable Practice of the Church of *England*, or indeed of the whole Catholick Church of Christ ) or else of no consequence at all, but utterly frivolous and vain. But such Alterations as were tendred to us ( by what Persons, under what pretences, or to what purpose soever so tendred ) as seemed to us in any degree requisite or expedient, we have willingly, and of our own accord assented unto : Not enforced so to do by any strength of Argument, convincing us of the necessity of making the said Alterations : For we are fully perswaded in our judgments ( and we here profess it to the World ) that the Book, as it stood before Established by Law, doth not contain in it any thing contrary to the Word of God, or to sound Doctrine, or which a godly Man may not with a good Conscience use and submit unto, or which is not fairly defensible against any that shall oppose the same ; if it shall be allowed such just and favourable Construction as in Common Equity ought to be allowed to all Humane Writings, especially such as are set forth by Authority, and even to the very best Translations of the Holy Scripture it self.

Our general aim therefore in this undertaking was, not to gratifie this or that party in any their unreasonable demands ; but to do that, which to our best understandings we conceived might most tend to the Preservation of Peace and Unity in the Church ; the procuring of Reverence, and exciting of Piety, and Devotion in the Publick Worship of God ; and the cutting off Occasion from

Abridgment.

—but yet being alterable in their natures, they may be changed by publick Authority,

--as hath been done in several Reigns since the Reformation,

—the Body of the Liturgy being still preserved.

The Common Prayer was disused during the late Rebellion,

—and vehemently opposed and excepted against at the Restauration,

—which occasioned a *Review* in favour of tender Consciences :

Wherein great Moderation was used in the admitting and rejecting of Alterations,

—none of which were necessary to be made, as if unlawful before,

—but they were admitted for the sake of Peace and Piety.



## Abridgment.

The matters altered are generally either,  
—for better direction of the Minister,  
—or for clearing of obsolete and doubtful phrases,  
—or for the better Translation of Scripture.

Some new Prayers and Thanksgivings were added,  
—and the Office of Baptism for Riper Years, occasioned by the growth of Anabaptism.

The Impossibility of pleasing all, in Works of this kind.

them that seek occasion of cavil, or quarrel against the Liturgy of the Church. And as to the several variations from the former Book, whether by Alteration, Addition, or otherwise, it shall suffice to give this general account, That most of the Alterations were made, either first, for the better direction of them that are to officiate in any part of Divine Service; which is chiefly done in the Kalendars and Rubricks: Or secondly, for the more proper expressing of some words or phrases of ancient usage, in terms more suitable to the language of the present times, and the clearer explanation of some other words and phrases, that were either of doubtful signification, or otherwise liable to misconstruction: Or thirdly, for a more perfect rendring of such portions of holy Scripture, as are inserted into the Liturgy; which, in the Epistles and Gospels especially, and in sundry other places are now ordered to be read according to the last Translation: And that it was thought convenient, that some Prayers and Thanksgivings, fitted to special occasions, should be added in their due places; particularly for those at Sea; together with an Office for the Baptism of such as are of Riper Years; which, although not so necessary when the former Book was compiled, yet by the growth of Anabaptism, through the licentiousness of the late times crept in amongst us, is now become necessary, and may be always useful for the Baptizing of Natives in our Plantations, and others converted to the Faith. If any man, who shall desire a more particular account of the several Alterations in any part of the Liturgy, shall take the pains to compare the present Book with the former, we doubt not but the reason of the change may easily appear.

And having thus endeavoured to discharge our duties in this weighty affair, as in the sight of God, and to approve our sincerity therein (so far as lay in us) to the consciences of all men; although we know it impossible (in such variety of apprehensions, humours, and interests, as are in the world) to please all; nor can expect that Men of factious, peevish, and perverse spirits, should be satisfied with any thing that can be done in this kind by any other than themselves: Yet we have good hope, that what is here presented, and hath been by the Convocations of both Provinces with great diligence examined and approved, will be also well accepted and approved by all sober, peaceable, and truly conscientious sons of the Church of *England*.

## I Will. &amp; Mar. Cap. 18.

In an Act, Entituled, *An Act for Exempting Their Majesties Protestant Subjects, &c.*

Dissenters shall not be liable to the Penalty of 13, 14 Car. 2 c. 4 § 14. for officiating in Conventicles.

§ VIII. — Noz — shall be liable — to the Penalty of One hundred Pounds mentioned in an Act made in the Thirteenth and Fourteenth of King Charles the Second, Intituled, An Act for the Uniformity of Publick Prayers, and Administration of Sacraments, and other Rites and Ceremonies: And for Establishing the Form of Making, Ordaining and Consecrating of Bishops, Priests, and Deacons in the Church of *England*, for Officiating in any Congregation for the Exercise of Religion permitted and allowed by this Act.

## 4, 5 Annæ. Cap. 8.

In an Act, Entituled, *An Act for the better Security of Her Majesties Person and Government, and of the Succession to the Crown of England, in the Protestant Line.*

Lords Justices appointed by the Act of Succession, shall not give Assent to any Bill for Altering the Act of Uniformity,

And it is hereby further Enacted, That the Lords Justices constituted, as aforesaid — shall be and are hereby restrained and disabled from giving the Royal Assent in Parliament, to any Bill or Bills for the Repealing or Altering the Act made in the Thirteenth and Fourteenth Years of the Reign of King Charles the Second, Entituled, An Act for the Uniformity of Publick Prayers, and Administration of Sacraments, and other Rites and Ceremonies: And for Establishing the Form of Making, Ordaining and Consecrating Bishops, Priests, and Deacons, in the Church of *England*;

Uniformity, from 13, 14 Car. 2. to the present Time.

A.D. 1688.

A.D. 1705.



Uniformity, from 13, 14 Car. 2. to the present Time. A.D. 1706.

England; and all and every the said Lords Justices concurring in giving the Royal Assent to any Bill or Bills for Repealing or Altering the said Act, shall be guilty of High Treason, and shall suffer and forfeit as in case of High Treason.

Abridgment. —upon pain of High Treason.

5, 6 Annæ. Cap. 5.

In an Act, Entituled, *An Act for Securing the Church of England, as by Law Established.*

—And also another Act made in the Thirteenth Year of the Reign of the late King Charles the Second, Entituled, An Act for the Uniformity of Publick Prayers, and Administration of Sacraments, and other Rites and Ceremonies: And for Establishing the Form of Making, Ordaining, and Consecrating Bishops, Priests, and Deacons in the Church of England (other than such Clauses in the said Acts, or either of them, as have been Repealed or Altered by any subsequent Act or Acts of Parliament) —shall remain and be in full force for ever.

Act of Uniformity shall be unalterable, under the Union of England and Scotland.

C A P. IV.

CEREMONIES in the Publick Worship of the Church.

A.D. 1536.

28 Hen. VIII. Cap. 10.

In an Act, Entituled, *An Act Extinguishing the Authority of the Bishop of Rome.*

§ VIII. **P**ROVIDED always, and be it Enacted, That this Act, nor any thing or things in the same rehearsed, mentioned, or comprised, be in any wise prejudicial, hurtful, or derogatorie to the Ceremonies, Uses, and other laudable and politike Ordinances, for a Tranquillitie, Discipline, Concord, Devotion, Anttie, and decent Order heretofore in the Church of England used, instituted, taken, and accepted, nor to any person or persons accordingly using the same, or any of them.

Stat. 28 H. 8. c. 10. shall not be prejudicial to the Ceremonies of the Church.

Ceremonies in the Publick Worship of the Church.

A.D. 1548.

2 Edw. VI.

*Rubrick at the end of the Service-Book.*

As touching kneeling, crossing, holding up of hands, knocking upon the brest, and other gestures: they may be used or lefte, as every mans devocyon serveth, without blame.

Outward Gestures shall be left to every man's pleasure.

OBS.

A.D. 1548, &c. † In 2 E. 6. this is at the end of the Book.

† 2, & 5 Edw. VI. --- 13, 14 Car. II.

*A Preface before the Book of Common Prayer.*

*Of Ceremonies, why some be abolished, and some retained.*

**O**F such Ceremonies as be used in the Church, and have had their beginning by the institution of Man, some at the first were of godly intent and purpose devised, and yet at length turned to vanity and superstition: Some entred into the Church by undiscreeit devotion, and such a zeal as was without knowledge; and for because they were winked at in the beginning, they grew daily to more and more abuses; which not only for their unprofitableness, but also because they have much blinded the people, and

Ceremonies; when turn'd to Superstition, ought to be rejected,



## Abridgment.

—but Ceremonies, for Order and Edification, ought to be retained,

—and, being appointed by publick Authority, must not be contemned.

A mean observed, between making conscience of observing old Ceremonies, and utterly rejecting them.

Many Ceremonies are abolished, —because of the multitude of them,

—because the Gospel requires no more, than for decent Order, and Devotion,

—and because they were turned to Superstition.

Old Ceremonies, if useful, ought to be retained,

—and revered on account of their Antiquity,

—of which, therefore, those only that were abused, were taken away,

—and the rest preserved.

and obscured the glory of God, are worthy to be cut away, and clean rejected: Other there be, which although they have been devised by Man, yet it is thought good to reserve them still, as well for a decent order in the Church (for the which they were first devised) as because they pertain to edification, whereunto all things done in the Church (as the Apostle teacheth) ought to be referred.

And although the keeping or omitting of a Ceremony, in it self considered, is but a small thing; yet the wilful and contemptuous transgression and breaking of a common Order and Discipline, is no small offence before God. *Let all things be done among you, saith St. Paul, in a seemly and due order;* The appointment of the which Order pertaineth not to private men; therefore no man ought to take in hand, or presume to appoint or alter any publick or common Order in Christs Church, except he be lawfully called and authorized thereunto.

And whereas in this our time, the minds of men are so divers, that some think it a great matter of conscience to depart from a piece of the least of their Ceremonies, they be so addicted to their old customs; and again on the other side, some be so new-fangled, that they would innovate all things, and despise the old, that nothing can like them, but that is new: It was thought expedient, not so much to have respect how to please and satisfy either of these parties, as how to please God, and profit them both. And yet lest any man should be offended, whom good reason might satisfy, here be certain causes rendered, why some of the accustomed Ceremonies be put away, and some retained and kept still.

Some are put away, because the great excess and multitude of them hath so increased in these latter days, that the burden of them was intolerable; whereof St. *Augustine* in his time complained, that they were grown to such a number, that the estate of Christian people was in worse case concerning that matter, than were the Jews. And he counselled, that such yoke and burthen should be taken away, as time would serve quietly to do it. But what would St. *Augustine* have said, if he had seen the Ceremonies of late days used among us; whereunto the multitude used in his time was not to be compared? This our excessive multitude of Ceremonies was so great, and many of them so dark, that they did more confound and darken, than declare and set forth Christ's benefits unto us. And besides this, Christ's Gospel is not a Ceremonial Law (as much of *Moses* Law was) but it is a Religion to serve God, not in bondage of the figure or shadow, but in the freedom of the spirit; being content only with those Ceremonies which do serve to a decent Order, and godly Discipline, and such as be apt to stir up the dull mind of man to the remembrance of his Duty to God, by some notable and special signification, whereby he might be edified. Furthermore, the most weighty cause of the abolishment of certain Ceremonies, was, that they were so far abused; partly by the superstitious blindness of the rude and unlearned, and partly by the unsatiable avarice of such as sought more their own lucre, than the glory of God; that the abuses could not well be taken away, the thing remaining still.

But now as concerning those persons, which peradventure will be offended, for that some of the old Ceremonies are retained still: If they consider, that without some Ceremonies it is not possible to keep any Order or quiet Discipline in the Church, they shall easily perceive just cause to reform their judgments. And if they think much, that any of the old do remain, and would rather have all devised anew: then such men granting some Ceremonies convenient to be had, surely where the old may be well used, there they cannot reasonably reprove the old only for their age, without bewraying of their own folly. For in such a case they ought rather to have reverence unto them for their antiquity, if they will declare themselves to be more studious of unity and concord, than of innovations and new-fangleness, which (as much as may be with true setting forth of Christs Religion) is always to be eschewed. Furthermore, such shall have no just cause, with the Ceremonies reserved to be offended. For as those be taken away which were most abused, and did burden mens consciences without any cause; so the other that remain, are retained for a Discipline and Order, which (upon just causes) may be altered and changed, and therefore are not to be esteemed equal with Gods Law. And moreover, they be neither dark nor dumb Ceremonies, but are so set forth, that every man may understand what they do

Ceremonies in the Publick Worship of the Church.

<sup>1</sup> And so do despise, 2 & 5 E. 6.    <sup>2</sup> Of Spirit, 2 & 5 E. 6.



*Ceremonies in the Publick Worship of the Church.*

mean, and to what use they do serve. So that it is not like, that they in time to come should be abused as others have been. And in these our doings we condemn not other Nations, nor prescribe any thing but to our own people only: For we think it convenient, that every Country should use such Ceremonies as they shall think best to the setting forth of Gods honour and glory, and to the reducing of the people to a most perfect and godly living, without error or superstition; and that they should put away other things, which from time to time they perceive to be most abused, as in mens ordinances it often chanceth diversly in divers Countries.

**Abridgment.**

All other Nations are left to their own Judgment, in the use of Ceremonies.

A.D. 1558.

1 Eliz. Cap. 2.

In an Act, Entituled, *An Act for the Uniformity of Common Prayer, &c.*

§ XXVI.—And also, That if there shall happen any contempt, or irreverence to be used in the Ceremonies or Rites of the Church, by the misusing of the Orders appointed in this Book; the Queens Majesty may by the like advice of the said Commissioners, or Metropolitan, ordain and publish such further Ceremonies or Rites, as may be most for the advancement of Gods glory, the edifying of his Church, and the due reverence of Christs holy Mysteries and Sacraments.

Upon any abuse of Ceremonies, the Queen, with the Advice of the High Commissioners, or Metropolitan, may ordain new ones.

A.D. 1562.

39 ARTICLES.

xx. *Of the Authority of the Church.*

Vide Tit. XVI. Cap. 4.

**T**HE Church hath power to decree Rites or Ceremonies, and Authority in Controversies of Faith: And yet it is not lawful for the Church to ordain any thing that is contrary to Gods Word written, neither may it so Expound one place of Scripture, that it be repugnant to another. Wherefore although the Church be a Witness and a Keeper of Holy Writ, yet as it ought not to Decree any thing against the same, so besides the same ought it not to enforce any thing to be believed for necessity of Salvation.

The Church hath Power to Decree Ceremonies, &c.

—provided they be agreeable to Gods Word.

A.D. 1562.

39 ARTICLES.

xxxiv. *Of the Traditions of the Church.*

**I**T is not necessary that Traditions and Ceremonies be in all places one, or utterly like; for at all times they have been divers, and may be changed according to the diversity of Countries, <sup>1</sup> Times, and mens Manners, so that nothing be ordained against Gods Word. Whosoever, through his private Judgment, willingly and purposely doth openly break the Traditions and Ceremonies of the Church, which be not repugnant to the Word of God, and be ordained and approved by Common Authority, ought to be rebuked openly, (that other may fear to do the like) as he that offendeth against the Common Order of the Church, and hurteth the Authority of the Magistrate, and woundeth the Consciences of weak Brethren.

Ceremonies need not be the same in all Places,

—but being ordained, ought not to be wilfully broken.

<sup>2</sup> Every particular or National Church, hath Authority to ordain, change, and abolish Ceremonies or Rites of the Church, ordained only by mans Authority, so that all things be done to edifying.

Every Nation hath right to ordain its own Ceremonies.

<sup>1</sup> Not in Art. 1552.

<sup>2</sup> This Clause was not in the Articles of 1552.

1 Jac. I.

CANONS, 1603.

vi. *Impugners of the Rites and Ceremonies, established in the Church of England, censured.*

**W**Hosoever shall hereafter affirm, That the Rites and Ceremonies of the Church of England by Law Established, are wicked, Antichristian, or superstitious, or such as being commanded by Lawful Authority, men who

To affirm that the Ceremonies of the Church, are wicked, &c.



## Abridgment.

—shall be Excommunication *ipso facto* &c.

The Church of England retained all Ceremonies, which did not endamage the Church, nor offend sober minds.

Any Minister, omitting the use of the Common-Prayer and Ceremonies, after Subscription, —shall be punished by Spiritual Censures.

In Proceses for Contemning of Ceremonies, no Appeal shall be allowed,

—unless the Appellant first promise to observe them.

are zealously and godly affected, may not with any good conscience approve them, use them, or as occasion requireth, subscribe unto them: Let him be Excommunicated *ipso facto*, and not restored until he repent, and publickly revoke such his wicked Errors.

## C A N O N S, 1603.

In Can. xxx. Entituled, *The Lawful Use of the Cross in Baptism explained.*

—Nay, so far was it from the purpose of the Church of England to forsake and reject the Churches of Italy, France, Spain, Germany, or any such like Churches, in all things which they held and practised, that, as the Apology of the Church of England confesseth, it doth with reverence retain those Ceremonies, which do neither endamage the Church of God, nor offend the minds of sober men: and only departed from them in those particular points, wherein they were fallen both from themselves in their antient integrity, and from the Apostolical Churches which were their first Founders—

## C A N O N S, 1603.

xxxviii. *Revolters, after Subscription, censured.*

IF any Minister, after he hath once subscribed to the † said three Articles, shall omit to use the Form of Prayer, or any of the Orders or Ceremonies prescribed in the Communion-Book, let him be suspended: and if after a Month he do not Reform, and submit himself, let him be Excommunicated: and then if he shall not submit himself within the space of another Month, let him be deposed from the Ministry.

## C A N O N S, 1603.

xcviii. *Inhibitions not to be granted to Factionous Appellants, unless they first Subscribe.*

FORasmuch as they who break the Laws cannot in reason claim any benefit or protection by the same: We decree and appoint, that after any Judge Ecclesiastical hath proceeded judicially against obstinate and factionous persons, and Contemners of Ceremonies, for not observing the Rites and Orders of the Church of England, or for contempt of publick Prayer, no Judge *ad quem*, shall admit or allow any his or their Appeals, unless he having first seen the Original Appeal, the party Appellant do first personally promise and avow, that he will faithfully keep and observe all the Rites and Ceremonies of the Church of England, as also the prescript Form of Common Prayer, and do likewise Subscribe to the three Articles formerly by us specified and declared.

Ceremonies in the Publick Worship of the Church.

† Fac. I.

† Vid. pag. 852.

† Fac. I.



The Com-  
mon Prayer  
in Welch.

## CAP. V.

## The COMMON-PRAYER in WELCH.

A.D. 1562.

5 Eliz. Cap. 28.

By whose Order the Bible, and Book of Common Prayer, shall be Translated into the Welch Tongue.

The Bishops of Hereford, Saint Davids, Afaph, Bangor and Landaff, and their Successors, shall take such order amongst themselves, for the Soules health of the Flocks committed to their charge within Wales, That the whole Bible containing the New Testament and the Old, with the Book of Common Prayer, and Administration of the Sacraments, as is now used within the Realm in English, to be truly and exactly Translated into the British or Welch Tongue; and that the same so Translated, being by them viewed, perused and allowed, be imprinted to such number at the least, that one of every sort may be had for every Cathedral, Collegiate and Parish Church, and Chapel of Ease, in such Places and Countries of every the said Dioceses where that Tongue is commonly spoken or used, before the first Day of March, Anno Dom. 1566. And that from that Day forth, the whole Divine Service shall be used and said by the Curates and Ministers throughout all the said Dioceses, where the Welch Tongue is commonly used, in the said British or Welch Tongue, in such manner and form as is now used in the English Tongue, and differing nothing in any order or form from the English Book: for the which Books so imprinted, the Parishioners of every of the said Parishes shall pay the one half or moiety, and the said Parson and Vicar of every of the said Parishes (where both be) or else the one of them, where there is but one, shall pay the other half or moiety: the prices of which Books shall be appointed and rated by the said Bishops and their Successors, or by three of them at the least; The which things if the said Bishops or their Successors neglect to do, then every one of them shall forfeit to the Queens Majesty, her Heirs and Successors, the Sum of xl. li. to be levied of their goods and chattels.

II. And one Book containing the Bible, and one other Book of Common Prayer in the English Tongue, shall be bought and had in every Church throughout Wales, in which the Bible and Book of Common Prayer in Welch is to be had by force of this Act (if there be none already) before the first Day of March, One thousand five hundred sixty six; and the same Books to remain in such convenient places within the said Churches, that such as understand them may resort at all convenient times to read and peruse the same: And also such as do not understand the said Language, may, by conferring both Tongues together, the sooner attain to the knowledge of the English Tongue: any thing in this Act to the contrary notwithstanding.

Abridgment.

The Bishops of Hereford and Wales shall see that the Bible and Common Prayer be Translated into Welch, and Printed,

--and being Printed, it shall be used, and provided in all Churches,

—at the charge of the Parish and Minister,  
—and the prices be appointed by the Bishops,  
—who, if they neglect their part, shall forfeit 40 l.

An English Bible and Common Prayer shall also be in every Church of Wales,

—for the learning of the English Tongue.



Abridgment.

The Com-  
mon Pray-  
er in  
Welch.

13, 14. Car. II. Cap. 4.

In an Act, Entituled, *An Act for the Uniformity of Publick Prayers, &c.*

The Bishops of Hereford and Wales shall take care, that the Book be translated into Welch,

—and from the First of May, 1665. it shall be used in Wales,

—and a Book provided in every Church, at the Charge of the Parish; the price being set by the Bishops,

—and also an English Common Prayer,

—for the learning of the English Tongue.

§ XXVII. Provided always, and be it enacted by the authority aforesaid, That the Bishops of Hereford, Saint Davids, Asaph, Bangor, and Landaff, and their Successors, shall take such order among themselves, for the Souls health of the Flocks committed to their Charge within Wales, that the Book hereunto annexed be truly and exactly Translated into the British or Welch Tongue, and that the same so Translated, and being by them, or any Three of them at the least, viewed, perused, and allowed, be Imprinted to such number at least, so that one of the said Books so Translated and Imprinted, may be had for every Cathedral, Collegiate, and Parish Church, and Chapel of Ease, in the said respective Dioceses, and places in Wales, where the Welch is commonly spoken or used, before the First Day of May, One thousand six hundred sixty five; and, That from and after the Imprinting and Publishing of the said Book so Translated, the whole Divine Service shall be used and said by the Ministers and Curates throughout all Wales, within the said Dioceses where the Welch Tongue is commonly used, in the British or Welch Tongue, in such manner and form as is prescribed according to the Book hereunto annexed to be used in the English Tongue, differing nothing in any Order or Form from the said English Book; for which Book so Translated and Imprinted, the Church-wardens of every the said Parishes shall pay out of the Parish-money in their Hands for the use of the respective Churches, and be allowed the same on their Account; and, That the said Bishops and their Successors, or any Three of them, at the least, shall set and appoint the Price, for which the said Book shall be sold; And one other Book of Common Prayer in the English Tongue shall be bought and had in every Church throughout Wales, in which the Book of Common Prayer in Welch is to be had by force of this Act, before the First Day of May, One thousand six hundred sixty and four; and the same Book to remain in such convenient places, within the said Churches; that such as understand them may resort at all convenient times to read and peruse the same, and also such as do not understand the said Language, may by conferring both Tongues together, the sooner attain to the knowledge of the English Tongue; any thing in this Act to the contrary notwithstanding. And until Printed Copies of the said Book so to be Translated may be had and provided, the Form of Common Prayer, Established by Parliament before the making of this Act, shall be used as formerly in such Parts of Wales, where the English Tongue is commonly understood.

T I T.



## T I T. XII.

Attendance upon the PUBLICK  
WORSHIP, and Orderly Beha-  
viour in the CHURCH.

## The CONTENTS.

CAP. I. *Duty of ATTENDING the Publick Worship of  
the Church.*

CAP. II. ORDERLY BEHAVIOUR in the Church.

## CAP. I.

*Duty of ATTENDING the Publick Worship of the Church.*

2 Edw. VI.

*Rubrick after Communion-Service.*

**F**urthermore, every Man and Woman to be bound to hear, and be at the Divine Service, in the Parishes Church where they be Resident, and there with devout Prayer, or Godly Silence and Meditation, to Occupy themselves: There to pay their Duties, to Communicate once in the Year at the least, and there to receive and take all other Sacramentes and Rites in this Book appointed. And whosoever willingly, upon no just cause, doeth absent themselves, or doeth ungodly in the Parish-Church occupy themselves, Upon proffere thereof, by the Ecclesiastical Lawes of the Realme, to be Excommunicate, or suffer other Punishment, as shal to the Ecclesiastical Judge (accordyng to his discrecion) seme convenient.

All persons shall come to Divine Service in their Parish-church,

---upon pain of Excommunication, or other Censure, at the discretion of the Judge.

5 &amp; 6 Edw. VI. Cap. 3.-----1 Eliz. Cap. 2.

In an Act, Entituled, *An Act for the Uniformity of Common Prayer, &c.*

XIV.—And that from and after the said feast of \* the Nativity of S. John Baptist next coming, all *a* and every person and persons inhabiting within this Realm or any other the *Queen's* Majesties dominions, shall diligently and faithfully, having no lawfull or *aa* reasonable excuse to be absent, endeavour themselves to resort to their Parish Church or Chappel accustomed, or *b* upon reasonable lett thereof, to some

\* Sec. 11, 111, IV. 5 E. 6. \* All Saints, 5 E. 6. \* King's, 5 E. 6.

All Persons shall resort to Divine Service,

*a* All and every.] Feme-Covert is within this and the following Statutes:

*aa* Reasonable Excuse.] In the Case of Elizabeth Dormer, an Exception was taken to the Indictment, because these Words were omitted, *Non habens aliquam rationabilem causam*; but it was agreed by all, that those words are to come on the other side,

and were not to be put into the Indictment.

*b* Upon reasonable lett.] Lyndwood, upon the words *Ecclesiis, Parochialibus*, says, *Quorum jus Parochiale consistit in multis, puta quod in diebus festivis Parochiani in ipsis Missas audire debent, & non alibi*; and by the Common-Law or Practice of the Church of Eng-

usual

A.D. 1548.

Duty of attending the Publick Worship of the Church.

A.D. 1551.

Heb. 97.  
Rolle, 93.



Abridgment.

-- upon pain of Censures of the Church, and 1 s. forfeiture.

The Bishops are intreated by the Parliament, to see to the due Execution hereof,

--and all persons, having Ecclesiastical Jurisdiction, are empower'd by this Act to punish Offenders by Censures.

usual place where Common prayer and such Service of God shall be used in such time of lett, upon every Sunday, and other days ordained and used to be kept as Holydays, and then and there to abide orderly and soberly, during the time of the Common-prayer, Preachings, or other Service of God, there to be used and ministered; upon pain of punishment by the censures of the Church, and also upon pain that every person so offending, shall forfeit for every such offence twelwe pence, to be levied by the Church-wardens of the Parish where such offence shall be done, to the use of the poor of the same Parish, of the goods, lands and tenements of such offender, by way of distress.

XV. And for due execution hereof, the 'Queen's' most excellent Majesty, the Lords Temporal, and all the Commons in this present Parliament assembled, do in Gods name earnestly require and charge all the Archbishops, Bishops, and other Ordinaries, that they shall indeavour themselves to the utmost of their knowledges, that the due and true execution hereof may be had throughout their Dioceses and Charges, as they will answer before God, for such evils and plagues wherewith Almighty God may justly punish his people for neglecting this good and wholesome law.

XVI. And for their authority in this behalf, be it further enacted by the authority aforesaid, that all and singular the same Archbishops, Bishops, and other their officers, exercising Ecclesiastical jurisdiction, as well in place exempt, as not exempt, within their diocess, shall have full power and authority by this Act, to reform, correct and punish by censures of the Church, all and singular persons, which shall offend within any their jurisdictions or Diocess, after the said feast of the Nativity of S. John Baptist next coming, against this Act and Statute: any other Law, Statute, Privilege, Liberty, or provision heretofore made, had or suffered to the contrary notwithstanding.

<sup>3</sup> This Clause of Forfeiture is not in 5 E. 6. <sup>4</sup> King's, 5 E. 6. <sup>5</sup> Likewise further, 5 E. 6. <sup>6</sup> And all other, 5 E. 6. <sup>7</sup> All Saints, 5 E. 6.

land, no person can be duly discharged from attending his own Parish Church, or warranted in resorting to another, unless he be first duly Licensed by his Ordinary, who is the proper Judge of the Reasonableness of his Request, and grants him Letters of Licence under Seal, to be exhibited (as there shall be occasion) in proof of his Discharge. These are very common in our Ecclesiastical Records; and as the Practice is an excellent means to preserve Parochial Communion and Order in the Church; so, having been the Law of the Church both before and since the making of these Statutes, it should seem reasonable, that no person were admitted to plead such lett in any Court, without exhibiting his Letters of Licence from the Ordinary. In order to which, the Temporal Courts have gone so far, as to declare, That when one was Libelled against in the Spiritual Court for not coming to his Parish Church, and there alledged his repairing to another by reason of the great distance of his own, and they would not allow the Plea; a Prohibition should not be granted, even tho' Custom was pleaded in his behalf: And I conceive, if he had first represented to the Ordinary the Inconvenience of repairing to his Parish Church, and the Convenience of one

more near, and had thereupon obtained Letters of Licence, and exhibited them; these had been a full and legal Warrant to him, upon that Article of absenting from his Parish Church.

But if the Plea in the Spiritual Court be, that this is not his Parish Church, and they refuse the Plea; a Prohibition will be granted, because that Court cannot intermeddle with the Precincts of Parishes.

c To abide orderly.] It is not enough to come, unless he also abide; nor enough to abide when he is come, unless he come so, as to be present at the several parts of Divine Service, and also remain there, throughout, Orderly and Soberly; the Clause being penn'd *Conjunctively*, and so the Guilt and Forfeiture incurr'd by the violation of any one Branch.

d Shall have full Power.] Which, as to this Article at least, they certainly had before, by the Laws of the Church, without the aid of any Statute; but it was the making of a Statute, which in this and many other Cafes, first introduced a Power of Cognisance in the Temporal Courts, of matters which till then had been wholly cognisable in the Spiritual Court, as being merely of a Spiritual nature.

Registr. Grindal. 313  
2. Whit. 2d. 154. b.  
--- 3 d.  
102. a. Bancr. 132. a.  
Abb. 2 d. 232. a.  
--- 3 d.  
110. b. 142. a.  
Laud. 232. 2. 275. b.  
2. Rolle, 458, 455.

Duty of Attending the Publick Worship of the Church.

1. Bulliv. p. 159

Levinz. Entr. p. 12. Vid. Cap. 1640 c. 5.

1. Polle, 75. Godb. 148.

23 Eliz. Cap. 1.

A.D. 1580

In an Act, Entituled, *An Act to retain the Queen's Majesty's Subjects in their due Obedience.*

--V. Be it also further enacted by the authority aforesaid, That every person above the age of sixteen years, which shall not repair to some Church, Chappel, or usual place of Common Prayer, but forbear the same, contrary to the tenour of a Statute

Every Person absenting from Church, shall for-

a Statute



Duty of Attending the Publick Worship of the Church. A.D. 1605.

a Statute made in the first year of her Majesty's Reign, for the Uniformity of Common Prayer, and being thereof lawfully convicted, shall forfeit to the Queen's Majesty for every Month after the end of this Sessions of Parliament, which he or she shall so forbear, twenty pounds of lawful English money.

3 Jac. I. Cap. 4.

In an Act, Entituled, An Act for the better discovering and repressing of Popish Recusants.

—XXVII. And be it further enacted, That if any Subjects of this Realm, at any time after one month next after the end of this present Session of Parliament, shall not resort or repair every Sunday to some Church, Chappel, or some other usual place appointed for Common Prayer, and there hear Divine Service, according to the Statute made in that behalf, in the first year of the Reign of the late Queen Elizabeth; that then it shall and may be lawful to and for any one Justice of Peace of that Limit, Division or Liberty, wherein the said party shall dwell, upon proof unto him made of such default, by confession of the party, or oath of witness, to call the said party before him: And if he or she shall not make a sufficient excuse, and due proof thereof, to the satisfaction of the said Justice of Peace; that it shall be lawful for the said Justice of Peace to give Warrant to the Church-warden of the said Parish wherein the said party shall dwell, under his hand and seal, to levy twelve pence for every such default, by distress and sale of the goods of every such Offendor, rendering to the said Offendor the overplus of the money raised of the said goods so to be sold. And that in default of such distress, it shall and may be lawful for the said Justice of Peace, to commit every such Offendor to some prison within the said Shire, Division, Limit or Liberty, wherein such Offendor shall be inhabiting, untill payment be made of the said sum or sums so to be forfeited; which forfeiture shall be employed to and for the use of the poor of that Parish wherein the Offendor shall be resident or abiding at the time of such offence committed.

Provided, that no man be impeached upon this Clause, except he be called in question for his said default within one month next after the said default made.

And that no man being punished according to this Branch, shall for the same offence be punished by the forfeiture of twelve pence, upon the Law made in the first year of the late Queen Elizabeth.

CANONS. 1603.

xc. The choice of Sidemen, and their joynt Office with Church-wardens.

THE Church-wardens or Questmen of every Parish, and two or three or more discreet persons in every Parish to be chosen for Sidemen or Assistants, by the Minister and Parishioners, if they can agree (otherwise to be appointed by the Ordinary of the Diocese) shall diligently see, that all the Parishioners duly resort to the Church upon all Sundays and Holidays, and there continue the whole time of Divine Service; and none to walk or to stand idle or talking in the Church, or in the Church-yard, or the Church-porch, during that time. And all such as shall be found slack or negligent in resorting to the Church (having no great or urgent cause of absence) they shall earnestly call upon them: And after due monition (if they amend not) they shall present them to the Ordinary of the place.

The whole time.] Among the Constitutions of Egbert, Archbishop of York, one is, Sacerdote verbum in Ecclesia faciente, qui egressus de Auditorio fuerit, Excommunicetur; and it is taken out of the Fourth Council of Carthage.

Rules of Common-Law, concerning Church-ways.

THE right to a Church-way may be claimed and maintained by Libel in the Spiritual Court. This is supposed, in the several Reports upon this head, by the mention of particular Circumstances, without which, Prohibitions would not have laid.

Abridgment. feit 20 l. per Month.

Persons neglecting to repair every Sunday to Church, may be called by a Justice of Peace, before him,

who shall issue a Warrant to levy 1 s. for every Offence,

and in default of payment, commit the Offender to Gaol.

Nor shall be impeached, after a Month.

None shall be punish'd both upon this Act, and upon Stat. 1 El. c. 4.

Churchwardens &c. shall see, that all the Parishioners resort to Church, and behave themselves orderly,

which if they do not, they shall present them.

Vide Inj. Eliz. p. 77. 78. Can. 1571. p. 233, 234, 236.

Inj. E. 6. p. 8. Art. VII. 1. Eliz. p. 179

del. V. 1. p. 266. gath. c. 47. urelian. 1. c. 26.



## Abridgment.

<sup>2</sup> Rolle  
Abr. p. 287.

ib. p. 41.

II. A Church-way may commonly be claimed as a private-way; And, as upon Suggestion that it is a High-way, a Prohibition will be granted; so, if the Suggestion prove true, the right is triable at Common Law.

III. Prescription for a Church-way may be pleaded by any Inhabitant, in the Spiritual Court. This was done, 16 Jac. 1. but

upon Suggestion, that it had been enjoyed by permission only, and not as of Right, a Prohibition was granted: as it was also, in a case which Rolle mentions in the same Year; when the Church-wardens of *Birthorne* and *Bowe* sued for a Church-way, as appertaining to all the Parishioners, by Prescription.

ib. p. 287.

## C A P. II.

## ORDERLY BEHAVIOUR in the Church.

## C A N O N S 1603.

## xviii. A Reverence and Attention to be used within the Church in time of Divine Service.

Particular directions for Decency in the Church, viz.

---to be uncovered,

---to kneel,

---to stand at the Creed,

---to bow at the Name of Jesus,

---to attend quietly,

---to say Confession, Lord's Prayer and Creed, after Minister,

---to make the Responses

---not to disturb divine Service,

---nor depart.

Churchwardens shall not suffer Loiterers in Church-yard, or porch.

IN the time of Divine Service, and of every part thereof, all due Reverence is to be used; for it is according to the Apostle's Rule, *Let all things be done Decently, and according to Order*: Answerable to which Decency and Order, we judge these our Directions following: No man shall cover his Head in the Church or Chapel in the time of Divine Service, except he have some Infirmity; in which case, let him wear a Night-cap or Coif. All manner of Persons then present, shall reverently kneel upon their knees when the general Confession, Letany, and other Prayers are read; and shall stand up at the saying of the Belief, according to the Rules in that behalf prescribed in the Book of Common-Prayer: And likewise when in time of Divine Service the Lord Jesus shall be mentioned, due and lowly Reverence shall be done by all Persons present, as it hath been accustomed; testifying by these Outward Ceremonies and Gestures, their inward Humility, Christian Resolution, and due acknowledgement, that the Lord Jesus Christ, the true Eternal Son of God, is the only Saviour of the World, in whom alone all the Mercies, Graces and Promises of God to Mankind, for this Life and the Life to come, are fully and wholly comprized. None, either Man, Woman or Child, of what calling soever, shall be otherwise at such times busied in the Church, than in quiet attendance to hear, mark and understand that which is Read, Preached or Ministred; saying, in their due places audibly with the Minister, the Confession, the Lord's Prayer and the Creed; and making such other Answers to the Publick Prayers, as are appointed in the Book of Common-Prayer: Neither shall they disturb the Service or Sermon by walking or talking, or any other way, nor depart out of the Church during the time of Service or Sermon, without some urgent or reasonable cause.

## xix. Loiterers not to be suffered near the Church in time of Divine Service.

THE Church-wardens or Questmen, and their Assistants, shall not suffer any idle Persons to abide either in the Church-yard or Church-porch, during the time of Divine Service or Preaching; but shall cause them either to come in, or to depart.

[Cover his head.] In the 18 Car. 2. an Action of Trespats for Assault and Battery was brought against a Church-warden; who pleaded, that the Plaintiff had his Hat on in time of Divine Service, and that he desired him to put it off, and, upon refusal, took it off, and delivered it into his hand: and all the Court held, that the Plea was

good; except *Twisden*, who conceived that all that the Church-warden could do, was to present him to the Spiritual Court; tho' it is very apparent, how necessary an immediate Remedy is, in case of this or the like Disorders committed in the Worship of God.

Orderly Behaviour in the Church.

1 Jac. 1.

Can. 1571. P. 233.

Can. 1571. P. 236.



Orderly Behaviour in the Church.

CANONS 1603.

Abridgment.

cxii. Disturbers of Divine Service to be presented.

1 Jac. I. Can. 1571. p. 234

IN all Visitations of Bishops and Archdeacons, the Church-wardens or Questmen and Sidemen, shall truly and personally present the names of all those which behave themselves rudely and disorderly in the Church, or which by untimely Ringing of the Bells, by Walking, Talking, or other noise shall hinder the Minister or Preacher.

All who behave themselves disorderly in the Church shall be presented at Visitation.

A.D. 1584. &c.

27 Eliz. Cap. 30----- 29 Eliz. Cap. 9.----- 31 Eliz. Cap. 16----- 35 Eliz. Cap. 14.----- 43 Eliz. Cap. 19----- 3 Jac. I. Cap. 27.----- 7 Jac. I. Cap. 24.

In the General Pardons.

E X P.

And also excepted out of this Pardon, all misdemeanors and disturbances committed and made in any Church or Chappel in time of common Prayer, Preaching or divine Service there used, to the disturbance thereof, and all outlawries and prosecutions upon the same.

Disturbers of Divine Service excepted out of General Pardon.

A.D. 1688.

1 Will. & Mar. Cap. 18.

In an Act, Entituled, An Act for Exempting their Majesties Protestant Subjects, dissenting from the Church of England, from the Penalties of certain Laws.

XVI. Provided always, and be it enacted by the Authority aforesaid, that if any person or persons, at any time or times after the tenth day of June, do and shall willingly and of purpose, maliciously or contemptuously, come into any Cathedral or Parish Church, Chappel, or other Congregation permitted by this Act, and disquiet or disturb the same, or misuse any Preacher or Teacher; such person or persons, upon proof thereof before any Justice of Peace, by two or more sufficient Witnesses, shall find two Sureties to be bound by Recognisance in the penal sum of fifty pounds, and in default of such Sureties shall be committed to Prison, there to remain till the next general or quarter Sessions: And upon Conviction of the said offence at the said general or quarter Sessions, shall suffer the pain and penalty of twenty pounds, to the use of the King and Queen's Majesties, their Heirs and Successors.

Any Person disturbing Divine Service,

---shall find Sureties, or be committed to prison,

---and, upon conviction, shall suffer the penalty of 20*l*.



Abridgment.

## TIT. XIII.

Manner and Order of DAILY SERVICE  
in the CHURCH.

## The CONTENTS.

- CAP. I. HABIT of Minister Officiating.  
 CAP. II. The PLACE for Reading of Divine Service.  
 CAP. III. The Common-Prayer shall be read DISTINCTLY, and as ORDERED.  
 CAP. IV. The severall PARTS of Divine Service.  
 CAP. V. DECLARING and READING of Matters in the Church.

## CAP. I.

## HABIT of Minister Officiating.

1 Henr. VIII. Cap. 14. &amp; 6, Cap. 1. &amp; 7, Cap. 7.

In the Acts, Concerning Reformation of Apparel, &amp;c.

A.D. 1509.  
EXP.

Proviso, for Ornaments of Ministers in time of divine Service.



Provided always, That this Act be not prejudicial or hurtfull to any Spiritual or Temporal Man, in wearing any Ornaments of the Church, in executing Divine Service.

Habit of Minister Officiating.

2 Edw. VI.

A.D. 1548.

At the End of the Service-Book.

A Surplice shall be used in Divine Service, in Parish Churches,

and besides that, in Cathedrals &c. Hoods according to degrees,

but in other places, a Surplice may be used or let none.

Seemly, that Graduates preach in Hoods.

Bishop officiating shall use Rochet, Surplice or Albe, Cope, and Pastoral Staff.

IN the Saying or Singing of Matens and Evensonge, Baptizing and Burying, the Minister in Parishes Churches and Chapels annexed to the same, shall use a Surples. And in all Cathedrall Churches and Colledges, The Archdeacons, Deanes, Provestes, Maisters, Prebendaryes and Fellowes, beinge Graduates, may use in the Quiere, beside theyr Surpleses, suche Hoodes as pertaineth to their severall Degrees, whiche they have taken in any Universitie within this Realme. But in all other places, every Minister shall be at Libertie to use any Surples or no. It is also seemly that Graduates, when they dooe Preache, shoulde use suche Hoodes as pertayneth to theyr severall Degrees.

And whensoever the Bishop shall Celebrate the holye Communion in the Church, or execute any other publique Minystracyon; he shall have upon hym, besyde his Rochette, a Surples or Albe, and a Cope or Vestmente, and also hys Pastoral Staffe, in hys Hande, or elles borne or holden by hys Chapeleyne.



Habit of Minister officiating.

A.D. 1551.

† See the Habits of Ministers at the Communion, under the particular Title concerning the Communion.

5, 6 Edw. VI.

Rubrick before the Common-Prayer.

And here it is to be Noted, That the Minister † at the tyme of the Communion, and at al other times in his Ministracion, shal use neither Albe, Vestement, nor Cope: But beyng Archebishop, or Bishop, he shal have and weare a Rochet: And beyng a Priest or Deacon, he shal have and wear a Surples only.

A.D. 1558.

1 Eliz. Cap. 2.

In an Act, Entituled, An Act for the Uniformity of Common Prayer, &c.

—XXV. Provided always, and be it enacted, that such ornaments of the Church, and of the Ministers thereof, shall be retained and be in use, as was in the Church of England, by authority of Parliament, in the second year of the Reign of King Edward the first, until other order shall be therein taken by the authority of the Queens Majesty, with the advice of her Commissioners appointed and authorized under the great Seal of England for causes Ecclesiastical, or of the Metropolitain of this Realm.

Until other Order.] Which other Order (at least in the method prescribed by this Act) was never yet made; and therefore, legally, the Ornaments of Ministers in performing Divine Service, are the same now as they were in 2 E. 6.

A.D. 1661.

13, 14 Car. II.

Rubrick before the Common-Prayer.

And here is to be Noted, That such Ornaments of the Church and of the Ministers thereof at all times of their Ministration, shall be retained and be in use, as were in this Church of England by the Authority of Parliament, in the second Year of the Reign of King Edward the Sixth.

And here is to be Noted.] Pursuant to the foregoing Clause (tho' not by Authority of Parliament) a Rubrick was prefixt to the Book of Common-Prayer, in the first Year of Queen Elizabeth, and continued till 1661. of the following tenor: And here is to be Noted, that the Minister, at the time of the Communion, and at all other times in his Ministration, shall use such Ornaments in the Church, as were in use by Authority of Parliament, in the Second Year of the Reign of King Edward VI. according to the Act of Parliament set in the beginning of this Book. Which Clause, somewhat altered (as we see) did in 13 & 14 Car. 2. become part of the Book of Common-Prayer, by Authority of Parliament, and not before. The Act referred to, in the foregoing Rubrick, is that of Queen Elizabeth.

Jac. I.

CANONS. 1603.

lviii. Ministers reading Divine Service, and administering the Sacraments, to wear Surplices, and Graduates therewithal Hoods.

1564.p.124.

Every Minister saying the publick Prayers, or ministring the Sacraments, or other Rites of the Church, shall wear a decent and comely Surplice with Sleeves, to be provided at the Charge of the Parish. And if any question arise touching the Matter, Decency, or Comeliness thereof, the same shall be decided by the Discretion of the Ordinary. Furthermore, such Ministers as are Graduates, shall wear upon their Surplices at such times, such Hoods as by the Orders of the Universities are agreeable to their Degrees, which no Minister shall wear (being no Graduate) under pain of Suspension. Notwithstanding it shall be lawful for such Ministers as are not Graduates, to wear upon their Surplices instead of Hoods, some decent Tippet of Black, so it be not Silk.

Abridgment

None shall wear Albe, Vestment, or Cope; ---but Archbishops and Bishops a Rochet, ---and Priests and Deacons, a Surplice.

Habits of Ministers shall be according to Statute 2 E. 6.

---till further order.

Habits of Ministers shall be according to Statute, 2 E. 6.

Ministers, in divine Service, shall wear Surplices,

---and Graduates, Hoods;

and No. Graduates B'ack tippets.



Abridgment.

## C A P. II.

*The PLACE for reading of Divine Service.*

2 Edw. VI.

*Rubrick, before the Common-Prayer.*

Service in the Quire.

**T**HE Priest beeing *c* in the Quire, *d* shall begynne with a loude Voyce the Lord's Prayer, called the *Pater noster*.

Cof. in Nicols, p. 16.

*c* **I**n the Quire.] Namely, in his own Seat there; as the way was, all *Edward* the VI's time, and as is still done in some Churches; but, in the beginning of *Queen Elizabeth*, *Reading-Desks* begun to be set up in the body of the Church, and Divine Service to be Read there, by appointment

of the Ordinaries; according to the Power vested in them by the following Rubrick, 5, 6 E. 6.

*d* **S**hall begin.] All that now goes before, namely the Sentences, Exhortation, Confession, and Absolution; were first inserted in the second Book of *Edw. VI*.

5, 6 Edw. VI.

*Rubrick, before the Common-Prayer.*

Service shall be said in such place, as the Ordinary shall appoint.

**T**HE Morning and Evening Prayer shal be used in suche place of the Church, Chapell, or Chauncell, and the Minister shal so turne him, as the people may best hear. And if there be any Controversie therein, the matter shal be referred to the Ordenarie, and he or his Deputie shal appoynte the place.

*c* **T**he Morning.] This Rubrick was inserted in the former Books (ever since *1 Eliz.* as I suppose) in the very same words, as we see it here; but it became not part of the Common-Prayer, by Authority of Parliament, before 13, 14 *Car. 2*.

## C A N O N S 1603.

In Can. xiv. Entit. *The prescript Form of Divine Service, &c.*

Common Prayers shall be performed in such Place, as Ordinary shall direct.

**T**HE Common-Prayer shall be Said or Sung — in such place of every Church, as the Bishop of the Diocese, or Ecclesiastical Ordinary of the Place shall think meet, for the largeness or straitness of the same, so as the People may be most edified.

13, 14 Car. II.

*Rubrick, before the Common-Prayer.*

Service shall be said in the accustomed Place, — unless the Ordinary shall direct otherwise.

**T**HE Morning and Evening Prayer shall be used in the accustomed place of the Church, Chapel, or Chancel; except it shall be otherwise determined by the Ordinary of the place.

C A P.

The Place for Reading of Divine Service.

A.D. 1548.

A.D. 1551.

1 Jac. 1.

Art. 1564. p. 12

A.D. 1661.



## CAP. III.

The Common-Prayer shall be read **DISTINCTLY**, and  
as **ORDERED**.

## STEPHANUS.

*Officium divinum diligenter & solerter peragatur.*

**A**D excitandos affectus laborantium in vineâ Domini Sabaoth, ut verè Retributionis valeant Denarium recipere post laborem; Decernimus ne opus Dei fiat ab aliquibus negligenter; præsertim cum in *f* Generali Concilio sit statutum & præceptum, ut divinum Officium, *g* nocturnum pariter & *h* diurnum, secundum quod Deus dederit, studiosè celebretur & devotè.—

*f* Generali Concilio.] *scil. Lateranensi sub Innocentio tertio. Vide Decretal. l. 3. Tit. 41. c. 9.*  
*g* Nocturnum.] Officium nocturnum fiat in tribus, *scil. Matutinis, quæ fient mediâ no-*

*te; Primâ, quæ fiet diluculo; & Completorio, quod dici debet in crepusculo. Lyndw.*  
*h* Diurnum.] Quod scilicet, consistit in tertiâ, nonâ, & vespere. Lyndw.

Divine Offices shall be performed carefully and devoutly.

## 39 ARTICLES.

xxiv. *Of speaking in the Congregation in such a Tongue as the People understandeth.*

**I**T is a thing plainly repugnant to the Word of God, and the Custom of the Primitive Church, to have Publick Prayer in the Church, or to minister the Sacraments, in a Tongue not understood of the People.

Publick Service may not be in an unknown Tongue.

*i* It is a thing.] In the Articles of Edward VI. it was thus worded: *It is most seemly, and most agreeable to the Word of God, that in the Congregation nothing be openly Read*

*or Spoke in a Tongue unknown to the People; the which things St. Paul did forbid, except some were present, that should declare the same.*

## CANONS 1603.

xiv. *The prescript Form of Divine Service to be used on Sundays and Holy days.*

**T**HE Common-Prayer shall be Said *k* or Sung *l* distinctly and reverently, upon such days as are appointed to kept holy by the Book of Common-

Common Prayer shall be said on Holydays and Eves,

*k* Or Sung.] The Rule laid down for Church Musick in England, almost a thousand Years ago, was, *Simplicem sanctamque Melodiam, secundum morem Ecclesiæ, sectentur*: And the Rule prescribed by Queen Elizabeth, in her Injunctions, is, "That there be a most distinct and distinct Song, so used in all parts of the Common-Prayers in the Church, that the same may be as plainly understood, as if it were read without Singing. Of the want of which, Grave, Serious, and intelligible way, the *Reformatio Legum*, had complained before: *In divinis Capitibus recitandis, & Psalmis concinendis,—Cantus sit illorum clarus & aptus, ut ad auditorum omnia sensum & intelligentiam proveniant. Itaque vibratam illam & operosam Musicam, quæ figurata dicitur, auferri placet, quæ sic in multitudinis auribus tumultuatur, ut sæpe non possit ipsam loquentem intelligere.*

may be necessary, to guard against indecent Levities, and to make Church Musick truly useful to the ends of Devotion; I shall not presume to say, but humbly refer it to the consideration of our Superiors.

*l* Distinctly and reverently.] Of the Heads of Enquiry, in the Articles of Visitation 1 Eliz. one is, "Whether the Curates and Ministers do leisurely, plainly, and distinctly read the publick Prayers, Chapters, and Homilies, as they ought to do. And of such consequence was this judged then (as it always ought to be judged) to the Honour of God's publick Worship, and the Devotion and Edification of Christians, that in the Protestation which was ordered, five Years after, to be made and subscribed by every Minister at his Admission to any Office, &c. this was singled out for one, *I shall read the Service appointed, plainly, distinctly, and audibly, that all the People may hear and understand.*

Spar. p.182

ibid. p.127.

How far this Complaint may be transferr'd to the present times, and to what degrees an enforcement of those good Rules

A.D. 1222.  
6 H. 3:

Common-Prayer to be read distinctly, & as ordered.

A.D. 1603.

1 Jac. I.

xl. V. I. p. 49.

122 Anj. 49.



Abridgment.

---in such places as the Ordinary shall direct.

---and the Minister shall not diminish, nor add to the Common Prayer.

Spar.p.179.

The Order of Common Prayer shall be used in Colleges and Halls.

Priests and Deacons shall say Prayers daily,

---and the Minister of every Parish publicly, unless hindred.

Officers at Sea shall cause the Common Prayer to be read.

Common Prayer shall be used at Sea.

Prayer, and their Eves, and at *m* convenient and usual times of those days, and in such place of every Church, as the Bishop of the Diocese, or Ecclesiastical Ordinary of the place shall think meet, for the largeness or straitness of the same, so as the people may be most Edified. All Ministers likewise shall observe the Orders, Rites, and Ceremonies prescribed in the Book of Common Prayer, as well in reading the Holy Scriptures, and saying of Prayers, as in Administration of the Sacraments, without either diminishing in regard of Preaching, or in any other respect, or adding any thing in the matter or form thereof.

*m* Convenient and usual.] In the Articles, Whether the Service of the Church be done in the Visitation of Queen Elizabeth, one at due and convenient hours?

CANONS 1603.

xvi. Colleges to use the prescript Form of Divine Service.

IN the whole Divine Service, and Administration of the Holy Communion, in all Colleges and Halls in both Universities, the Order, Form, and Ceremonies, shall be duly observed, as they are set down and prescribed in the Book of Common-Prayer, without any Omission or Alteration.

5, 6 Edw. VI.-----13, 14 Car. II.

Rubrick, before the Common-Prayer.

AND all Priests and Deacons are to say daily the Morning and Evening Prayer, either privately or openly, not being let by Sicknes, or some other urgent cause."

And the Curate that ministrereth in every Parish Church or Chapel, being at home, and not being otherwise reasonably hindred," shall say the same in the Parish Church or Chapel, where he Ministrereth, and shall cause a Bell to be tolled" thereunto a convenient time before he begin, that the People may come to hear God's Word, and to pray to him."

<sup>1</sup> Shall be bound to say, 5 E. 6. <sup>2</sup> Except they be letted by Preaching, Studying of Divinity, or by some other urgent Cause, 5 E. 6. <sup>3</sup> Letted, 5 E. 6. <sup>4</sup> Toll a Bell, 5 E. 6. <sup>5</sup> Such as be dijposed, 5 E. 6. <sup>6</sup> With him, 5 E. 6.

13 Car. II. Cap. 9.

In an Act, Entituled, *An Act for the establishing Articles and Orders, for the regulating of his Majesties Navies.*

THAT all Commanders, Captains and Officers at Sea, shall Cause the publick Worship of Almighty God according to the Liturgy of the Church of England, established by law, to be solemnly, orderly and reverently performed in their respective Ships: And that Prayers and Preachings by the respective Chaplains, in holy Orders, of the respective Ships, be performed diligently.

13, 14 Car. II.

Rubrick, before the Service at Sea:

THE Morning and Evening Service to be used daily at Sea, shall be the same which is appointed in the Book of Common-Prayer.

Common-Prayer to be read distinctly & as ordered.

1 Jac. 1.

A.D. 1551. &c.

A.D. 1660.

A.D. 1661.

CAP.



Abridgment.

C A P. IV.

The several PARTS of Divine Service.

13, 14 Car. II.

[Note, That that in 5 E. 6. the Sentences, Exhortation, Confession, and Absolution were first added; the Book of the 2d. of Edw. 6. beginning with the Lords-Prayer.]

2, & 5 Edw. VI.

And here is also to be Noted, That in this Table, and in all other partes of the Service, where any Psalmes are appointed, the number is expressed after the greate English Bible, whiche from the ix. Psalme, unto the cxlviii. Psalme (folowing the division of the Ebrues) doeth varie in numbers from the common Latine Translation.

Psalter follows the Great Bible, according to the Hebrew-division.

Note, That the Psalter followeth the Division of the Hebrews, and the Translation of the great English Bible, set forth and used in the time of King Henry the Eighth and Edward the Sixth.

Psalter followeth the Division of the Hebrews, and the Great Bible.

2 & 5 Edw. VI.

Rubrick, before the Common-Prayer.

AND (to the ende the People maye the better heare) in suche places where they doe syng, there shall the Lessons be song in playne Tune after the maner of distincte reading: and lykewise the Epistle and Gospell.

Lessons, Epistle and Gospell to be sung by 2 & 5 E. 6.

[Note, Of the Additions, and Alterations of Lessons, somewhat is said in the Act of Uniformity, 1 Eliz. on Sect. 3.]

[Note also, That the Order for Morning and Evening Prayer ended with the third Collect for Grace, in the 2 & 5 Edw. 6; the other five Prayers, that now follow, having been added since.]

2 Edw. VI.

Rubrick, concerning the Litany.

UPON Wednesdaies and Fridaies, the English Letanie shal be Saied or Song in all places, after suche forme as is appointed by the Kynges Majesties Injunctions: Or as is or shall be otherwise appointed by his Highness.

Litany shall be said in such form as the King shall direct.

2 Edw. VI.

At the end of the Book.

Also upon Christmas-daye, Easter-daye, the Ascension-daye, Whitsundaye, and the Feaste of the Trinity, may be used any part of Holy Scripture hereafter to be certaynly limited and appointed, in the steade of the Letany.

On the great Festivals, portions of Scripture, instead of the Litany.

2 & 5 Edw. VI.

Rubrick, before the Litany.

Here foloweth the Letanye, to be used upon Saturdayes, Wednesdayes, and Frydayes, and at other times, when it shall be commanded by the Ordinarye.

Litany shall be said when the Ordinary directs, besides the stated days.

The several Parts of Divine Service. Psalms. A.D. 1661. A.D. 1548.

A.D. 1548.

Lessons.

A.D. 1548.

Litany.

A.D. 1548.

D. 1551.



## Abridgment.

Litany shall be said, when the Ordinary directs; besides the stated Days.

Alteration made in the Litany.

Litany shall be said, when appointed, and in such Place, as the Ordinary shall direct,

---particularly upon *Wednesdays* and *Fridays*.

Coll. Can. p. 79.

13, 14 Car. II.

*Rubrick, before the Litany.*

HERE followeth the Litany or General Supplication, to be Sung or Said after Morning Prayer upon *Sundays, Wednesdays* and *Fridays*, and at other times, when it shall be commanded by the Ordinary.

[Note, *In the Book, 2 Edw. 6. the Litany stands after the Communion-Service; but 5 Edw. 6. it is placed, as now, after the Athanasian Creed.*]

1 Eliz. Cap. 1.

In an Act, Entituled, *An Act for Uniformity of Common Prayer, &c.*

III. With one alteration or addition of certain Lessons, to be used on every Sunday in the Year, and the Form of the Letany altered and corrected.

Form of the Litany.] By the omission of Rome, and all his detestable Enormities. of this Clause, *From the tyranny of the Bishop*

C A N O N S 1603.

xv. *The Letany to be read on Wednesdays and Fridays.*

THE Litany shall be Said or Sung when, and as it is set down in the Book of Common-Prayer, by the Parsons, Vicars, Ministers, or Curates, in all Cathedral, Collegiate, Parish Churches and Chapels, in some convenient Place, according to the discretion of the Bishop of the Diocese, or Ecclesiastical Ordinary of the Place. And that we speak more particularly, upon *Wednesdays* and *Fridays* weekly, though they be not Holydays, the Minister at the accustomed hours of Service, shall resort to the Church and Chapel, and warning being given to the People by tolling of a Bell, shall say the Litany prescribed in the Book of Common-Prayer: whereunto we wish every Householder dwelling within half a mile of the Church, to come or send one at the least of his Household, fit to joyn with the Minister in Prayers.

The Litany.] In the Injunctions of Queen Elizabeth, the Order for the Litany stands thus: Item, That weekly upon *Wednesdays* and *Fridays*, not being Holy-days, the Curate, at the accustomed hours of Service, shall resort to Church, and cause warning to be given by knolling of a Bell, and say the Litany and Prayers.

[Note, *Of the Prayers, and Thanksgivings, which now stand at the end of the Litany-Service; the two first Prayers (for Rain and Fair-weather) were at the end of the Communion-Service in the Book of the 2 Edw. 6; to which were added, in the 5 Edw. 6. these Prayers, in the time of Dearth and Famine, in the time of War, and in the time of Plague and Sicknes. The following Prayers, in the Ember-weeks, for the Parliament, and for all Conditions of Men, were added in 1661; as were also, the General Thanksgiving, and the Thanksgiving for Publick Peace, and for deliverance from the Plague. But the Prayer, to be used after any other, and the Thanksgivings for Rain, Fair Weather, Plenty and Deliverance from Enemies, were brought in before by King James the first.*]

[Note also, *That the Rubricks concerning the three Creeds, Sermons, Baptism, Catechising, Confirmation, Communion, Matrimony, Visitation of the Sick, Burial of the Dead, Churching of Women, and Communion, so far as they fall properly within the Design of this Work, are set down under their proper Heads.*]

The sever-  
ral Parts  
of Divine  
Service.

A.D. 1661.

A.D. 1558.

1 Jac. I.

CAP.



## C A P. V.

## DECLARING and READING of Matters in the Church.

A.D. 1551.

5 &amp; 6 Edw. VI.

*Rubrick, concerning Holydays.*

Declaring  
and Read-  
ing of Mat-  
ters in the  
Church.

After such Sermon, Homelie, or Exhortation, the Curate shall declare unto the People whether there be any Holydayes or Fasting daies the week following, and earnestly exhort them to remembre the Poore, saying one or more of these Sentences following, as he thinketh most convenient by his Discretion. —

Holydays shall  
be declared in the  
Church.

A.D. 1661.

13, 14 Car. II.

*Rubrick, concerning Matters to be published in the Church.*

Then the Curate shall declare unto the People what Holy-days, or Fast-ing-days are in the week following to be observed. And then also (if occasion be) shall notice be given of the Communion, and the Banns of Matrimony published; and Briefs, Citations, and Excommunications read. And nothing shall be Proclaimed or Published in the Church, during the time of Divine Service, but by the Minister: Nor by him any thing, but what is prescribed in the Rules of this Book, or enjoyed by the King, or by the Ordinary of the place.

Matters which  
shall be declared  
in the Church,

---but nothing shall  
be published, but  
by the Minister.

1 Jac. I.

## C A N O N S 1603.

*Ixiv. Ministers solemnly to bid Holydays.*

Every Parson, Vicar or Curate, shall in his several Charge declare to the People every *Sunday* at the time appointed in the Communion Book, whether there be any Holy-days, or Fasting-days the Week following. And if any do hereafter wittingly offend herein, and being once admonished thereof by his Ordinary, shall again omit that Duty, let him be censured according to Law, until he submit himself to the due performance of it.

Ministers shall  
declare Holydays,

---upon pain of  
Censure.

[Note, The Acts of Parliament, and other particular Matters, to be Read and Declared in the Church, are inserted at large under their proper Heads; and what and how many they are, will appear at one view in the Index, under the word Church; with special References to the Pages, where each may be found; but the two which follow, belonging to Acts of a temporal nature, which are therefore not inserted in this Work, may be properly subjoynd to the foregoing Rubricks and Canon.

A.D. 1691.

3, 4 Will. &amp; Mar. Cap. 12.

In an Act, Entituled, *An Act for the better repairing and amending the High-ways, &c.*

§ VIII. And what Defaults or Annoyances they shall find in any of the said High-ways, Cawleys, Bridges, Ditches, Hedges, Trees, Water-Courses, Dreyms, or Cutters next adjoining to the same, they shall from time to time the next Sunday immediately after Sermon ended, give publick Notice of the same in the Parish Church.

The Commis-  
sion of Sewers shall  
give notice of An-  
noyances; after  
Sermon.



Abridgment.

6, 7 Will. III. Cap. 6.

In an Act, Entituled, *An Act for granting to his Majesty certain Rates and Duties upon Marriages, &c.*

Declaring and Reading of Matters in the Church.

A.D. 1694. E X P.

Assessments, to be read in the Church,

---upon pain of 5*l*.

XXI. And be it further enacted by the Authority aforesaid, that the severall and respective Collectors of the Duty granted by this Act, shall every year, during the continuance thereof, within the space of six days after the respective Assessments or Certificates shall be to them delivered, deliver over the same, or a true Copy thereof, unto the respective Parson, Vicar, Rector or Curate for the respective parish, divisions or places, for which they are appointed Collectors, under the penalty of forfeiting the sum of five pounds to his Majesty; And the said persons, rectors, vicars and curates, are hereby required under the like penalty of five pounds, to be forfeited to his Majesty for every offence, on the next Lords day, commonly called Sunday, after the receipt thereof, openly and publickly to read, or cause the same to be read in the Church, immediately after divine Service in the morning, to the end that every person thereby rated or charged, may have notice of such rate or charge; and if he or they find him or themselves aggrieved thereby, they may complain and appeal according to the directions of this Act.

TIT.



## T I T. XIV.

PREACHING, LECTURES,  
and HOMILIES, according to  
the Church of *England*.

## The CONTENTS.

- Cap. I. *Preachers may not be* DISTURBED.  
 Cap. II. MISSION, and LICENCE for *Preaching*.  
 Cap. III. *Preachers* ALLOWED, and NOT-ALLOWED.  
 Cap. IV. *Restraints upon* STRANGE *Preachers*.  
 Cap. V. *Preachers*, ORTHODOX, and CONFORMABLE.  
 Cap. VI. *The* PRAYER *before* Sermon.  
 Cap. VII. *Heads of* MATTER, *to be treated of in* Sermons.  
 Cap. VIII. LECTURES, and LECTURERS.  
 Cap. IX. HOMILIES *of the* Church.

## C A P. I.

*Preachers may not be* DISTURBED.

1 Mariae, (Sess. 2.) Cap. 3.

*An Act against Offenders of Preachers and other Ministers in  
the Church.*

As much as it is most necessary in every Christian Commonwealth, to provide that tranquillity and peace may be preserved and continued amongst the people, and specially in holy Church, in the time of Divine Service, and Administration of the Sacrament and Sacramentals, as before this time it hath been accustomed in holy Church within this Realm, and that all things being contrary thereunto, or that are, or may be in disturbance thereof, may by foresight be eschewed and avoided, and remedy therefore in due time provided, as well for the preservation of the Queens Highness peace, as for an universal quietness and order to be used within this Realm :

II. Be it therefore enacted by the Queen our Sovereign Lady, the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the Authority of the same, That if any person or persons of their own power and authority, at any time or times after the twentieth day of December next coming, do or shall willingly and of purpose, by open and overt word, fact, act or deed, maliciously or contemptuously molest, lett, disturb, vex or trouble, or by any other unlawful ways or means, disquiet or misuse any Preacher or Preachers that now is, or that at any time or times hereafter shall be licensed, allowed or authorized to preach by the Queen's Highness, or by any Archbishop or Bishop of this Realm, or by any other lawful Ordinary, or by any of the Universities of Oxford and Cambridge,

Peace and Tranquillity being necessary, especially in the Church,

... any Person disturbing a Minister in Preaching,



## Abridgment.

--- or in saying  
Mass, or other  
Divine Service,

--- or that shall un-  
reverently handle  
the Sacrament,

--- or deface Altars  
or Crucifixes,

--- shall be appre-  
hended,

--- and committed  
by a Justice of  
Peace,

--- who with one  
other shall examin  
him within 6 days,

--- and, finding him  
guilty, shall com-  
mit him to Gaol,  
till the next Quar-  
ter Sessions.

or otherwise lawfully authorized or charged by reason of his or their cure, be-  
nefice, or other Spiritual promotion or charge, in any of his or their open  
Sermon, Preaching or Collation that he or they shall make, declare, preach  
or pronounce in any Church, Chapel, Church-yard, or in any other place or  
places, used, frequented or appointed, or that hereafter shall be used or  
appointed to be preached in.

III. Or if any person or persons after the said twentieth day of December  
next coming, shall maliciously, willingly, or of purpose molest, lett, disturb, vex,  
disquiet or otherwise trouble any Parson, Vicar, Parish-priest or Curate, or  
any lawful Priest, preparing, saying, doing, singing, ministring or celebra-  
ting the Mass, or other such Divine Service, Sacrament or Sacramentals,  
as was most commonly frequented and used in the last year of the Reign  
of the late Sovereign Lord King Henry the Eighth, or that at any time  
hereafter shall be allowed, set forth or authorized by the Queens Majesty.

IV. Or if any person or persons, at any time or times after the said twen-  
tieth day of December, shall contemptuously, unlawfully, or maliciously, of  
their own power or authority, pull down, deface, spoil, abuse, break, or other-  
wise unreverently handle or alter the most blessed, comfortable, and holy Sa-  
crament of the Body and Blood of our Saviour Jesus Christ, commonly  
called the Sacrament of the Altar, being, or that shall be in any Church  
or Chapel, or in any other decent place, or the pix or canopy wherein the  
same Sacrament is or shall be: or unlawfully contemptuously or maliciously  
of their own power and authority, pull down, deface, spoyle, or otherwise  
break any Altar or Altars, or any crucifix or cross, that now or hereafter shall  
be in any Church, Chapel or Church-yard: that then every such offender  
and offenders in any the premises, his or their aidor, procuror or abettor, aidors,  
procurors or abettors, immediately and forthwith after any of the said act or acts,  
or other the said misdemeanors so committed, done or made, or any time or  
times after shall be apprehended, arrested and taken by any Constable or  
Constables, Church-warden or Church-wardens of the said parish, town or  
place where the said offence or offences shall be so committed, made or done,  
or by any other officer or officers, or by any other person or persons then being  
present at the time of the said offence or offences so unlawfully committed,  
made or done:

V. Which person or persons so apprehended, taken or arrested, with con-  
venient speed shall be brought and carried to any Justice of peace within the  
said shire, or within any city, borough, liberty or town-corporate wherein  
Justices of the peace be, where the said offence or offences shall be so com-  
mitted, done and made: and that the said Justice of peace, upon due accu-  
sation thereupon had and made by the apprehendor or apprehendours, or other  
person or persons, of any of the said person or persons so offending, forth-  
with shall commit the said person or persons so apprehended, arrested and  
taken, to safe keeping and custody, as by the discretion of the said Justice  
shall be thought most meet and convenient, and that within six days next  
and immediately after the said accusation so had and made to the said Justices,  
the said Justice with one other Justice of peace in the said shire, city, bo-  
rough, liberty, or town-corporate, shall diligently examine the act or acts,  
offence or offences aforesaid.

VI. And if they the said two Justices of peace, shall upon their said exa-  
mination, find or perceive the said person or persons so accused, guilty of  
any the said offence or offences whereof he or they shall be so accused, and that  
by two sufficient witnesses, or by his or their own confession or confessions  
that then and immediately with convenient speed, the said two Justices shall

33 Car. 2.  
Jones (Th.)  
P. 159.

a Other such.] In the Case of *Paul Moone*, who was committed to Gaol, upon this Statute, for disturbing a Minister in saying Common-Prayer; it was urged in his behalf, that the Statute was made only against those who should give disturbance in the Celebration of the Mass or of such Service as was in use *ann. ult. Henry VIII.* But the Court resolved, that it extends to the Divine Service now established; and that the word (*such*) hath not reference to the *manner* or *quality* of the Service, but to the Authority establishing it.

b By any other person.] In the Case of *Glover and Hind*, where an Action of Trespas of Assault and Battery was brought, for laying hands on the Disturber; it was declared by the Court, that at *Common-Law*, a Person disturbing Divine Service might be removed by any other Person there present, as being all concerned in the Service of God, that was then performing; so that the Disturber was a Nuisance to them all, and might be removed by the same rule of Law that allows a Man to abate a Nuisance.

Preachers  
may not be  
disturbed.

25 Car. 2.  
Mod. Rep. P.  
168.



Preachers  
may not be  
disturbed.

commit and award the said person or persons so accused as is aforesaid, to the Gaol of or for the said shire, city, borough, liberty or town-corporate where the said offence or offences was so committed, made or done, there to remain without bail or mainprise, by the space of three months then next ensuing, and further to the next Quarter-Sessions to be holden within the said shire, city, borough, liberty or town-corporate, next after the end of the said three months; at which said quarter-sessions, the said person or persons so committed to the Gaol, as is aforesaid, upon his or their reconciliation and repentance in that behalf, before the said Justice of peace, at the said Sessions, shall be delivered and discharged out of Prison and Gaol, upon sufficient surety of his good abearing and behaviour, to be then and there taken by the said Justices for one whole year then next ensuing, as by discretion or discretions of the said Justices then and there being, or of the more part of them, shall be thought meet and convenient: And if the said person or persons so in Gaol, as is aforesaid, will not be reconciled and repent at the said quarter-sessions, that then the said person or persons immediately in time convenient shall be further awarded and committed to the said Gaol by the said Justices, or by the more part of them, there to remain without bail or mainprise, until he or they so committed and awarded to Gaol, as is aforesaid, shall be reconciled, and be penitent for his or their said offence or offences.

VII. And be it further enacted by the authority aforesaid, That if any person or persons at any time or times after the said twentieth day of December, of their own authority and power, willingly and unlawfully do rescue any offender or offenders so apprehended, taken or arrested, as is aforesaid, or will disturb, hinder or lett the said offender or offenders so offending, as is aforesaid, to be apprehended, taken or arrested, that then every one of the the said rescuers, or disturbers shall suffer like imprisonment, as is aforesaid, and further shall pay, forfeit and lose for a fine for every of his or their said offences, five pounds to the Queens Majesty, her heirs and successors.

VIII. And be it further enacted by the authority aforesaid, That if any the said offenders aforesaid be not taken, apprehended or arrested immediately in time convenient, as is aforesaid, but do escape or go away, that then the said escape shall be lawfully presented before the Justices of peace, in the said shire, city, borough, liberty or town-corporate, at the next quarter-sessions to be holden where the said escape was made and suffered, and that then the inhabitants of the parish where the said escape was so suffered, shall forfeit and lose to the Queens Majesty, her heirs and successors, for every such offence five pounds, to be levied and taken as other like amerancements before this time have been levied and taken upon any village, hundred or town; for the escape of any murderer, or other felon, for not making pursuit upon Hue and Cry, according to the Estatute of Winchester, and the Estatute made and provided in the Third year of the worthy King Henry the Seventh.

IX. And be it further enacted by the authority aforesaid, That all and singular Justices of peace, Justices of assize, Justices of Oyer and Determiner, and all and singular Mayors, Bayliffs, and Justices of peace, within any city, borough or town-corporate, in any parts within this Realm, within the limits of their Commission or Commissions, shall have full power and authority by virtue of this Act, after the said twentieth day of December, to enquire of all and singular the offences and misdemeanours aforesaid, and to hear and determine the same, and to set the fines and amerancements of the said offender or offenders, as is aforesaid.

X. Provided always, and be it further enacted by the authority aforesaid, That this Act, or any thing therein contained, shall not in any wise extend to abrogate and take away the authority, jurisdiction, power and punishment of the Ecclesiastical Laws now standing and remaining in their force, of or for the punishment of any the offences and misdemeanours aforesaid; but that the authority, power, jurisdiction and punishment of the said Ecclesiastical Laws,

[Ecclesiastical Laws.] Upon Endictment before Justices of Peace for saying—*Preaching was but prating, and hearing of Service more edifying than two hours Preaching,* the Party was Convicted, and fined a 100 Marks. And the Error assigned to reverse the Judgment, was, that this was not any Offence inquirable by Indictment, and before Justices of Peace, but only before the High Commissioners; which point was referred to Sir H. Yelverton Attorney-Gener-

ral to consider thereof; and he certified, that it was not inquirable before them, and of that opinion was the Court; but they would advise. In another Report of the same Case, it is said, that tho' the words are Spiritual, yet one may be Indicted for them, as *seditions Words*, against the State of the Church, and as drawing after them a *temporal Evil*, namely, the Disturbance of the Peace.

Abridgment.

Person submitting may be discharged by Justices,

--finding Sureties for his good Behaviour,

--but, without Submission, shall remain in Gaol.

Any person, rescuing an Offender, shall be imprisoned, and forfeit 5 l.

-- and if an Offender escape, the Parish shall forfeit 5 l.

Justices and Head-officers shall enquire of the said Offences.

Punishments, by the Ecclesiastical Laws, for the Offences aforesaid, shall remain in force,



## Abridgment.

---no Person shall be punished, both by Temporal and Ecclesiastical Law, for the same Offence.

Any Person disturbing divine Service, or misusing the Preacher,

---shall forfeit 20l.

No Priest, not being Licenced, shall exercise the Office of Preaching.

of and for any of the offences and misdemeanors aforesaid, shall stand in full power and strength, and to be used and exercised in all and in every thing, as though this Act had never been had and made; This present Act, or any thing therein contained to the contrary thereof in any wise notwithstanding.

XI. Provided always, and be it enacted, That whatsoever Person offending in the premises, shall for any of the Offences aforesaid, receive punishment of the Ordinary, having a Testimonial thereof under the said Ordinaries Seal, shall not for the same Offence afterwards be convicted before the Justice; and in likewise receiving for the said Offences Punishment by the Justice, he shall not for the same Offence afterwards receive Punishment of the Ordinary; any thing in this Act to the contrary notwithstanding.

## 1 Will. &amp; Mar. Cap. 18.

In an Act, Entituled, *An Act for the exempting their Majesties Protestant Subjects, &c. from the Penalties of certain Laws.*

§ XVII. Provided always, and be it Enacted by the Authority aforesaid, That if any person or persons, at any time or times, after the tenth day of June, do and shall willingly and of purpose, maliciously or contemptuously come into any Cathedral or Parish Church, Chapel, or other congregation permitted by this Act, and disturb or disturb the same, or misuse any Preacher or Teacher; such person or persons, upon proof thereof before any Justice of Peace, by two or more sufficient Witnesses, shall find two Sureties to be bound by Recognizance in the penal Sum of Fifty pounds, and in default of such Sureties shall be committed to Prison, there to remain till the next General or Quarter-Sessions; And upon Conviction of the said offence at the said General or Quarter-Sessions, shall suffer the pain and penalty of Twenty pounds to the use of the King and Queens Majesty, their heirs and Successors.

## C A P. II.

## MISSION and LICENCE for Preaching.

## 2 Henr. IV. Cap. 15.

In an Act, Entituled, *An Act touching Heresies.*

§. I.----That none within the said Realm, or any other Dominions Subject to his Royal Majesty, presume to Preach openly or privily, without the Licence of the Diocesan of the same place first required and obtained, Curates in their own Churches; and persons hitherto privileged, and other of the Canon Law granted, only except.

## T H O M A S A R U N D E L.

Nullus, nisi legitime examinatus & approbatus, verbi Divini Prædicationem assumat. Curatus autem omnis perpetuus à Jure commissus reputabitur; nec admissus, si suspendatur, ultra se ingerat. Vicarii autem Curatorum, aut temporales Curati prædicent solummodo cum precibus consuetis, quæ in Constitutione Ignorantia habentur; Examinatio autem gratis fiat. Transgressores & fautores pro Hereticis habeantur & excommunicentur.

R Everendissimæ Synodo, & infra. Statuimus, Decernimus, & Ordinamus, quod nullus Sæcularis, aut Regularis ad prædicandum verbum Dei à Jure scripto minimè auctorizatus, privilegiove speciali munitus, officium sive exercitium Prædicationis ejusdem verbi Dei in se assumat, populove aut Clero quovismodo prædicet in Latino sermone seu vulgari in Ecclesia, aut extra, nisi primo Diocesano illius loci, in quo prædicare sic nititur, se præsentet, & examinationem

Preachers may not be disturbed.

A.D. 1688.

A.D. 1400.  
R E P.  
Vid. Stat. in  
Tit. x.

Mission &  
Licence for  
Preaching.

A.D. 1408.  
10 H. 4.

Edit. Oxon.  
p. 293.



Mission &  
Licence for  
Preaching.

minationem subeat. Sicque deinde tam moribus quàm scientia repertus idoneus, per ipsum Diœcesanum ad prædicandum mittatur ad aliquam certam Parochiam, vel ad plures, prout eidem Ordinario secundùm qualitatem Personæ videatur expediens. Nec etiam aliquis præmissorum prædicare præsumat, nisi de missione aut auctorizatione sua primò fides fiat in forma competenti; ita videlicet, quòd ille qui de Jure scripto auctorizatus est, veniat *d* in forma limitata in eo, & qui de *e* Privilegio speciali venire se asserunt, ipsum Privilegium Rectori aut Vicario loci, ubi prædicant, realiter exhibeant. Qui verò per locorum Diœcesanos se missos fore prætendunt, ipsius Diœcesani literas sub *f* Sigillo suo magno ad hoc sibi confectas similiter ostendant. Curatum verò *g* perpetuum missum intelligimus à Jure ad locum & populum Curæ suæ. Si tamen præmissorum quisquam propter errores aut hæreses, quos ante prædicasse, asseruisse, aut docuisse prætenditur, per loci Diœcesanum aliùmve Superiorum à prædicatione hujusmodi *h* suspensus fuerit sive, *i* prohibitus, extunc de prædicando *k* alicubi in nostra Provincia antedicta nullatenus se intromittat, donec ad ipsius *l* Suspendentis sive Prohibentis justum arbitrium defectum suum purgaverit, & ad prædicandum legitimè fuerit restitutus, super quo literas Testimoniales ipsius restituentis ad locum quemcunque, in quo postea prædicabit, secum deferre, & modo supradicto realiter exhibere teneatur. Sacerdotes verò Parochiales seu Vicarii temporales, & non perpetui in forma supradicta non missi in Ecclesiis illis, in quibus hujusmodi Officia gerunt, illa sola simpliciter prædicent, unà cum precibus consuetis, quæ in Constitutione Provinciali à bonæ memoriæ Johanne, Predecessore nostro, benè & sanctè in suppletionem ignorantie Sacerdotum edita (quæ incipit, *Ignorantia Sacerdotum*, &c.) continentur expressè, quam in singulis nostræ *Cantuariensis* Provinciæ Ecclesiis infra tres menses post publicationem præsentium haberi Volumus. & prout ipsa postulat, annis singulis & temporibus per ipsos Sacerdotes effectualiter declarari. Et nè hoc salubre Statutum ratione exactionis pecuniæ difficultatisve alterius tendere videatur ad noxam, Volumus, & Ordinamus quòd examinatio personarum, de qua superius fit mentio, ac literæ Diœcesani faciendæ eisdem, sine aliquali *m* exactione pecuniæ per ipsos, quorum interest, & ad quos spectare & pertinere dignoscitur, celeriter expediantur & gratis, difficultate quacunque semotà. Si quis autem hoc executivum nostrum Juris antiqui Statutum post publicationem ejusdem scienter violare præsumpserint contra formam in eodem descriptam, suâ temeritate propriâ prædicando, Sententiam majoris Excommunicationis incurrant ipso facto; quorum Absolutionem Nobis & Successoribus Nostris tenore præsentium specialiter reservamus. Quòd si hujusmodi prædicatores, hoc salubri Statuto contempto, ipsamque majoris Excommunicationis sententiam minime ponderantes; se secundò ingesserint prædicando, dicendo, asserendo, pertinaciterve verbo aut facto innuendo, non posse per Ecclesiam in personis Prælatorum ejusdem sic statui, Sententia excommunicationis prædicta per Superiores locorum aggravetur debite contra eos, & inhibeatur eisdem omnis communio Christi fidelium, ac super hoc legitimè convicti, nisi resipiscant & abjuraverint in forma Ecclesiæ consueta, per loci Ordinarium pro Hæreticis declarentur; & extunc pro Hæreticis & Schismaticis ab omnibus reputentur ad omnem Juris effectum, Hæreseosque & Schismatis pœnas in Jure expressas incurrant ipso facto, & præsertim ut bona eorundem ipso Jure censeantur confiscata, & ab illis quorum interest, occupentur. Ipsorumque fautores, receptatores, & defensores, si per Superiores suos in hac parte legitimè moniti non destiterint infra mensem, super hoc convicti simili pœnâ

*d* In formâ limitatâ.] Ut scil. quilibet veniat in statu suo. Papæ scil. ubique; Episcopus etiam ubique, nisi prohibeatur ab Episcopo alterius Diœcesis; curatus quilibet in loco Curæ suæ; Doctor in Theologiâ, approbatus ab eo ad quem pertinet, vel alius ab Episcopo approbatus, quando ad hoc invitatus vel vocatus est. Fratres verò in suis Ecclesiis, & locis ubi morantur, & in plateis publicis, &c. Lyndw.

*e* Privilegio speciali.] Potes ponere exemplum de Fratribus Augustinensibus & Carmelitis, qui non censentur circa Prædicationem eodem jure cum Prædicatoribus & Minoribus, nisi super hoc habeant Privilegium speciale. Lyndw.

*f* Sigillo suo magno.] Sic ergò sigillum Armarum, vel Signetum suum, non faceret fidem; sed requiritur sigillum suum, quo utitur genera-

liter in expeditione Ecclesiasticorum Negotiorum, ut sic illud sigillum sit authenticum. Lyndw.

*g* Perpetuum.] Qualis est Episcopus in suâ Diœcesi, Rector & Vicarius in suâ Parochiâ, & quilibet alius perpetuò intitulatus ad Beneficium, cui imminet Cura Animarum. Lyndw.

*h* Suspensus.] Judicialiter per Sententiam. Lyndw.

*i* Prohibitus.] Extrajudicialiter, vel aliâ vivâ voce. Lyndw.

*k* Alicubi.] In alio loco, vel in aliâ Diœcesi. Lyndw.

*l* Suspendentis.] Sive Successoris sui, si mortuus sit; quia successor eodem jure censetur cum eo cui succedit. Lyndw.

*m* Exactione.] Etiam si sic licentiandus gratis voluerit aliquid solvere. Lyndw.

## Abridgment.

---till he is examined and sent by the Bishop, ---and shall produce the Authority by which he Preaches.

Any person, having been suspended for Erroneous Preaching, shall not Preach in the Province  
---till he is

Parish-Priests shall preach only such matters, as are directed by Archbishop Peckham's Constitution,

---which shall be published in all Churches.

---no Money shall be exacted for Examination or Licence.

Every person Preaching, contrary to this Constitution, shall be Excommunicate,

--- and, contemning that Sentence, shall be declared a Heretick, and suffer as such.

---and so also shall all Favourers, Receivers, &c. being obstinate.



**Abridgment.**

No Clerk or People shall suffer any to Preach, without shewing Authority, --- upon pain of Ecclesiastical Interdict. --- Preachers coming as aforesaid, shall Preach against Sins, most common among Clergy and People.

in omnibus percellantur. Præterea nullus Clerus aut populus cujuscunque Parochiæ <sup>n</sup> aut loci nostræ Cantuariensis Provinciæ aliquem in Ecclesiis, Cœmeteriis, aut aliis locis quibuscunque ad prædicandum admittat nisi prius de auctorizatione, privilegio, aut missione ejusdem juxta formam prædictam facta fuerit fides, alioquin Ecclesia, Cœmeterium, aut locus quicunque in quo sic prædicatum fuerit, ipso facto subjaceat Ecclesiastico Interdicto: sicque maneat interdictus, quousque ipsi sic admittentes, seu prædicare permittentes, se congrue emendaverint; & per Diœcesanum, seu alium Superiorem ipsum Interdictum obtineant in debita forma Juris relaxari. Insuper sicut bonus Paterfamilias triticum dispergit in terram ad hoc dispositam, ut fructuum plus afferat, Volumus, & Mandamus, ut Prædicator verbi Dei veniens juxta formam superius annotatam in prædicando Clero seu populo, secundum materiam subjectam honestè se habeat, spergendo semen secundum convenientiam subjecti Auditorii, Clero præsertim prædicans de vitiis pullulantibus inter eos, & Laicis de peccatis inter eos communiter Usitatis, & non è contra. Alioquin sic prædicans secundum qualitatem delicti per loci Ordinarium Canonice & acriter puniatur.

*Mi Con<sup>o</sup> Licence for Preaching.*

<sup>n</sup> Aut loci.] Qui potest comprehendere Parochianos plurius Parochiarum; sicut patet in Civitatibus, Burgis, & aliis locis ubi de diversis Parochiis Populus ad Sermonem congregatur in unum locum. Vel potes dicere Loci, etiam ubi non est aliqua Parochia, verbi gratiâ, in Monasterio, vel Collegio non habente jus Parochiale. Lyndw.

5 & 6 Edw. VI. ----- 13, 14 Car. II.

*In the Form of Ordaining a Deacon.*

A.D. 1551. &c.

Deacons may Preach, if Licensed.

**T**ake thou Authority to read the Gospel in the Church of God, and to Preach the same, if thou be thereto <sup>o</sup> Licensed <sup>1</sup> by the Bishop himself."

<sup>1</sup> Ordinarily commaunded, 5 E. 6.

<sup>o</sup> By the Bishop.] In Archbishop Abbot's Directions to Preachers, the sixth enjoyns, That all Archbishops and Bishops revoke all Grants made to any Chancellor, Official, or Commissary, to pass Licences for Preaching; and by the Canons of 1640. the Bishop was commaunded, in all Patents, to keep in his own hands the power of giving Licences to Preach.

5 & 6 Edw. VI. ----- 13, 14 Car. II.

*In the Form of Ordaining Priests.*

A.D. 1551. &c.

Priests may Preach, if appointed.

**T**ake thou Authority to preach the Word of God, and to minister the holy Sacraments, in <sup>1</sup> the Congregation, where thou shalt be <sup>2</sup> lawfully appointed thereunto".

<sup>1</sup> This, 5 E. 6. <sup>2</sup> Soe appointed; 5 E. 6.

**39 ARTICLES.**

*xxiii. Of Ministering in the Congregation.*

A.D. 1562.

None may Preach, but who are sent by Lawful Authority.

**I**T is not lawful for any Man to take upon him the Office of publick Preaching, or Ministering the Sacraments in the Congregation, before he be lawfully called, and sent to execute the same. And those we ought to judge lawfully called and sent, which be chosen and called to this Work by Men who have publick Authority given unto them in the Congregation, to call and send Ministers into the Lord's Vineyard.



Mission &  
Licence for  
Preaching.

A.D. 1571.

13 Eliz. Cap. 12.

In an Act, Entituled, *An Act for the Ministers of the Church to be of Sound Religion.*

§. V. And that none shall be made Minister, or admitted to preach or minister the Sacraments, being under the age of xiiii. years, nor unless he first bring to the Bishop of that Diocess from men known to the Bishop to be of sound Religion a testimonial both of his honest life, and of his professing the doctrine expressed in the said Articles: nor unless he be able to answer and render to the Ordinary an account of his faith in Latin, according to the said Articles, or have special gift and ability to be a Preacher.

CANONS. 1603.

xxxvi. Entituled, *Subscription required of such as are to be made Ministers.*

NO Person shall hereafter be received into the Ministry, nor either by Institution or Collation admitted to any Ecclesiastical Living, nor suffered to Preach, to Catechize, or to be a Lecturer or Reader of Divinity in either University, or in any Cathedral or Collegiate Church, City or Market-Town, Parish-Church, Chapel, or in any other place within this Realm, except he be Licensed either by the Archbishop, or by the Bishop of the Diocess, (where he is to be placed) under their Hands and Seals, or by one of the two Universities under their Seal likewise.

xxxvii. *Subscription before the Diocesan.*

None Licensed, as is aforesaid, to Preach, Read Lecture, or Catechise, coming to reside in any Diocese, shall be permitted there to Preach, Read Lecture, Catechise or Minister the Sacraments, or to execute any other Ecclesiastical Function (by what Authority soever he be thereunto admitted) unless he first consent and subscribe to the three Articles before mentioned, in the presence of the Bishop of the Diocese, wherein he is to Preach, Read Lecture, Catechise or Administer the Sacraments, as aforesaid.

31 Eliz. Cap. 6.

In an Act, Entituled, *An Act against Abuses in Election of Scholars, and Presentation to Benefices.*

§. X. Provided further, and be it enacted by the authority aforesaid, that if any person or persons whatsoever, shall or do at any time after the end of this Session of Parliament, receive or take any Money, Fee, Reward, or any other Profit, directly or indirectly, or shall take any Promise, Agreement, Covenant, Bond, or other assurance, to receive or have any Money, Fee, or Reward, or any other Profit, directly or indirectly, either to him or themselves, or to any other of their, or any of their Friends (all ordinary and lawful Fees only excepted) for to procure the ordaining or making of any Minister or Ministers, or giving of any Orders, or Licence or Licences to Preach: That then every person and persons so offending, shall for every such Offence, forfeit and lose the Sum of Forty pounds of Lawful money of England.

Abridgment.

None shall be admitted to Preach, under 24 years of age, &c.

---nor unless he be qualified by special Gifts.

None shall Preach, or be Lecturer, without Licence.

None shall Preach or read Lectures &c. till he hath subscribed to the 3 Articles, in Can. 36.

None shall take Reward for procuring or giving Licence to Preach,

---upon pain to forfeit 40<sup>l</sup>.

1 Jac. I.

13. H. 8. Ed. 6.  
& Eliz.  
Can. 1571.

A.D. 1588.



Abridgment.

## C A P. III.

*Preachers ALLOWED and NOT-ALLOWED.*

13 Eliz. Cap. 12.

In an Act, Entituled, *An Act for the Ministers of the Church to be of Sound Religion.*

VI. **A**ND that none hereafter shall be admitted to any benefice with cure, of, or above the value of xxx. pounds yearly in the Queens books, unless he shall then be a Bachelour of Divinity, or a Preacher lawfully allowed by some Bishop within this Realm, or by one of the Universities of Cambridge or Oxford.

Preacher lawfully allowed, may be admitted to Benefice of 30l. a year, in the Queens Books.

A.D. 1571.

Preachers Allowed & Not-allowed.

## C A N O N S 1603.

xlv. *Beneficed Preachers being Resident upon their Livings, to Preach every Sunday.*

Beneficed Preacher shall Preach every Sunday, at his own Cure, or one near it.

**E**VERY Beneficed man allowed to be a Preacher, and residing on his Benefice, having no lawful Impediment, shall in his own Cure, or in some other Church or Chapel where he may conveniently, near adjoining (where no Preacher is) preach one Sermon every Sunday of the Year, wherein he shall soberly and sincerely divide the Word of Truth to the glory of God, and to the best Edification of the People.

xlvi. *Beneficed men, not Preachers, to procure monthly Sermons.*

Beneficed man, not allowed Preacher, shall procure a Sermon, monthly, -- and read a Homily, when there is no Sermon.

**E**VERY Beneficed man, not allowed to be a Preacher, shall procure Sermons to be Preached in his Cure once in every Month at the least, by Preachers lawfully Licensed, if his Living in the Judgment of the Ordinary, will be able to bear it. And upon every Sunday when there shall not be a Sermon preached in his Cure, he or his Curate shall read some one of the Homilies prescribed, or to be prescribed by Authority to the intents aforesaid.

xlvii. *Absence of Beneficed men to be supplied by Curates that are allowed Preachers.*

Non-Residents shall supply by Licensed Preachers, if the Benefice will bear it. -- but every Pluralist shall maintain a Licensed Preacher.

**E**VERY Beneficed man Licensed by the Laws of this Realm, upon urgent Occasions of other Service, not to reside upon his Benefice, shall cause his Cure to be supplied by a Curate that is a sufficient and Licensed Preacher, if the worth of the Benefice will bear it. But whosoever hath two Benefices shall maintain a Preacher Licensed, in the Benefice where he doth not reside, except he preach himself at both of them usually.

## C A N O N S 1603.

xlix. *Ministers not allowed Preachers may not Expound.*

Ministers not Licensed shall only read Homilies.

**N**O Person whatsoever not examined and approved by the Bishop of the Diocese, or not Licensed as is aforesaid, for a sufficient or convenient Preacher, shall take upon him to Expound in his own Cure or elsewhere, any Scripture or matter of Doctrine, but shall only study to read plainly and aptly (without glossing or adding) the Homilies already set forth, or hereafter to be published by Lawful Authority, for the Confirmation of the true Faith, and for the good Instruction and Edification of the People.

1 Jac. 1.

1. Jac. 1.



Abridgment.

C A P. IV.

Restraints upon STRANGE Preachers.

C A N O N S 1603.

1 Jac. 1.

i. Strangers not admitted to Preach without shewing their Licence.

Restraints on Strange Preachers.

Neither the Minister, Church-wardens, nor any other Officers of the Church, shall suffer any Man to Preach within their Churches or Chapels, but such as by shewing their Licence to Preach, shall appear unto them to be sufficiently Authorized thereunto, as is aforesaid.

None shall be suffered to Preach without shewing Licence.

ii. Strangers not admitted to Preach in Cathedral Churches without sufficient Authority.

THE Deans, Presidents, and Residentiaries of any Cathedral or Collegiate Church, shall suffer no Stranger to Preach unto the People in their Churches, except they be allowed by the Archbishop of the Province, or by the Bishop of the same Diocese, or by either of the Universities.

None but who are allowed by Archbishop, Bishop or the Universities, shall be suffered to Preach in Cathedrals.

Can. 1571.

iii. The Names of Strange Preachers to be noted in a Book.

That the Bishop may understand (if Occasion so require) what Sermons are made in every Church of his Diocese, and who presume to Preach without Licence, the Church-wardens and Side-men shall see, that the Names of all Preachers which come to their Church from any other Place, be noted in a Book, which they shall have ready for that Purpose: wherein every Preacher shall subscribe his Name, the Day wherein he Preached, and the Name of the Bishop of whom he had Licence to Preach.

Every strange Preacher shall subscribe his name in a Book, --- with the day and name of the Bishop who Licensed him.

C A P. V.

Preachers, ORTHODOX, and CONFORMABLE.

5 & 6 Edw. VI. ----- 13, 14 Car. II.

A.D. 1551.

In the Ordering of Bishop. Priests.

Preachers orthodox, and Conformable.

Will you then give your Faithful diligence, always so to minister the Doctrine and Sacraments, and the discipline of Christ, as the Lord hath Comanded, and as this Church and Realm hath received the same, according to the Commandments of God; so that you may Teach the people committed to your Care and Charge, with all Diligence, to keep and observe the same.

preaching must be conformable to God's word, and the Laws of the Church.

Answer.

I will so do by the help of God.



## Abridgment.

## C A N O N S 1603.

Restraints  
on Strange  
Preachers.li. Entituled, *Strangers not admitted to Preach in Cathedral Churches, without sufficient Authority.*

I Jac. I.

Falſe Doctrine being preached in any Cathedral, ſhall be notified to the Biſhop.

— And if any in his Sermon ſhall publiſh any Doctrin, either ſtrange or diſagreeing from the Word of God, or from any of the Articles of Religion agreed upon in the Convocation Houſe, Anno 1562. or from the Book of Common Prayers, the Dean or the Reſidents ſhall by their Letters, ſubſcribed with ſome of their Hands that heard him, ſo ſoon as may be, give notice of the ſame to the Biſhop of the Dioceſe, that he may determine the Matter, and take ſuch Order therein as he ſhall think convenient.

## C A N O N S 1603.

liii. *No Publick Opposition between Preachers.*

I Jac. I.

No Preacher ſhall confute the doctrine of another, without order from the Biſhop,

**I**F any Preacher ſhall in the Pulpit particularly, or namely of purpoſe, impugn or confute any Doctrin delivered by any other Preacher in the ſame Church, or in any Church near adjoining, before he hath acquainted the Biſhop of the Dioceſe therewith, and received Orders what to do in that Caſe, becauſe upon ſuch publick Diſſenting and Contradicting, there may grow much Offence and Diſquietneſs unto the People: The Church-wardens or Party grieved, ſhall forthwith ſignifie the ſame to the ſaid Biſhop, and not ſuffer the ſaid Preacher any more to occupy that place which he hath once abuſed, except he faithfully promiſe to forbear all ſuch matter of Contention in the Church, until the Biſhop hath taken further Order therein: Who ſhall with all convenient Speed ſo proceed therein, that publick Satisfaction may be made in the Congregation where the Offence was given. Provided, That if either of the Parties Offending do appeal, he ſhall not be ſuffered to Preach, *pendente lite.*

---and if any do, the Churchwardens ſhall inform,

---and the Biſhop ſhall proceed againſt him.

liv. *The Licences of Preachers refuſing Conformity, to be void.*

If a Licenced Preacher reſuſe to Conform, after Admonition,

**I**F any man Licenced heretofore to Preach, by any Archbiſhop, Biſhop, or by either of the Universities, ſhall at any time from henceforth reſuſe to conform himſelf to the Laws, Ordinances, and Rites Eccleſiaſtical eſtabliſhed in the Church of *England*, he ſhall be admoniſhed by the Biſhop of the Dioceſe; or Ordinary of the Place, to ſubmit himſelf to the Uſe and due Exerciſe of the ſame. And if after ſuch Admonition, he do not conform himſelf within the ſpace of one Month, We determine and decree, That the Licence of every ſuch Preacher ſhall thereupon be utterly void and of none effect.

---his Licence ſhall be void.

## C A N O N S 1603.

lvi. *Preachers and Lecturers to read Divine Service, and Adminiſter the Sacraments twice a Year at the leaſt.*

I Jac. I.

Preachers having Curates, and Lecturers, ſhall read Prayers twice a year,

**E**VERY Miniſter being poſſeſſed of a Benefice, that hath Cure and Charge of Souls, although he chiefly attend to Preaching, and hath a Curate under him to execute the other Duties which are to be performed for him in the Church; and likewise every other Stipendiary Preacher that readeth any Lecture, or Catechiſeth, or Preacheth in any Church or Chapel, ſhall twice at the leaſt every Year read himſelf the Divine Service upon two ſeveral Sundays publickly, and at the uſual times, both in the Fore-noon and After-noon in the Church which he ſo poſſeſſeth, or where he Readeth, Catechiſeth, or Preacheth, as is aforeſaid, and ſhall likewise as often in every Year adminiſter the Sacraments of Baptiſm (if there be any to be Baptized) and of the Lord's Supper, in ſuch Manner and Form, and with the Obſervation of all ſuch Rites and Ceremonies as are preſcribed by the Book of Common-Prayer in that behalf: Which if he do not accordingly perform, then ſhall he that is poſſeſſed

--- and ſhall alſo adminiſter the Sacraments, as often,

of a



Preaching  
Orthodox  
and Con-  
formable.

of a Benefice (as before) be suspended: And he that is but a Reader, Preacher, or Catechiser, be removed from his Place by the Bishop of the Diocese, until he or they shall submit themselves to perform all the said Duties, in such manner and sort as before is prescribed.

Abridgment.  
--- upon pain of  
Suspension or Re-  
moval.

C A P. VI.

The PRAYER before Sermon.

C A N O N S 1603.

IV. The Form of a Prayer to be used by all Preachers before their Sermons.

**B**Efore all Sermons, Lectures and Homilies, the Preachers and Ministers shall move the People to joyn with them in Prayer, in p this Form or to this Effect, as briefly as conveniently they may. Ye shall pray for Christ's holy Catholick Church, that is, for the whole Congregation of Christian People dispersed throughout the whole World, and especially for the Churches of England, Scotland and Ireland. And herein I require you most especially to pray for the King's most excellent Majesty, our Sovereign Lord JAMES, King of England, Scotland, France and Ireland, Defender of the Faith, and Supream Governor in these his Realms, and all other his Dominions and Countries, over all Persons, in all Causes, as well Ecclesiastical as Temporal. Ye shall also pray for our gracious Queen ANNE, the Noble Prince HENRY, and the rest of the King and Queens Royal Issue. Ye shall also pray for the Ministers of God's holy Word and Sacraments, as well Archbishops and Bishops, as other Pastors and Curates. Ye shall also pray for the King's most honourable Council, and for all the Nobility and Magistrates of this Realm, that all and every of these in their severall Callings, may serve truly and painfully to the glory of God, and the edifying and well governing of his People, remembering the Account that they must make. Also ye shall pray for the whole Commons of this Realm, that they may live in the true Faith and Fear of God, in humble Obedience to the King, and Brotherly Charity one to another. Finally let us praise God for all those which are departed out of this Life in the Faith of Christ, and pray unto God that we may have Grace to direct our Lives after their good Example: That this Life ended, we may be made Partakers with them of the glorious Resurrection in the Life everlasting: Always concluding with the Lord's Prayer.

Prayer before  
Sermon;  
---for the Catholick  
Church,  
---for the Church  
of England, &c.  
---for the King as  
Supreme,  
  
-- for the Queen,  
and Royal Family,  
---for the Clergy,  
---for the Council,  
the Nobility, and  
Magistrates,  
  
for the whole Com-  
mons,  
  
--- with Praising  
of God for the  
Faithful departed,  
  
---and concluding  
with the Lord's  
Prayer,

p This Form.] The like Form was enjoined by the Injunctions of Queen Elizabeth, Ann. 1559. and a Form of Bidding was likewise prescribed (but of a different tenor from these two) by the Injunctions of Edward VI; and also before this (and before the Reformation it self) we find the like Bidding Form in English in a Festival printed Ann. 1509. which is much longer than these, and is reprinted at length by my Lord of Sarum.

Journal of the Upper-house of Convocation; Reverendi Patres, unanimi consensu & assensu, in votis dederunt, pro unica forma Precum tam ante quam post Sermonem sive Orationem predicatam usitanda & observanda per Ministros intra Provinciam Cant. And that this Order was pursu'd in Convocation (tho' not to effect) appears from the Minutes of the Lower-house, where, Jan. 31. we find a Committee appointed for this (among other purposes) to compile a Prayer before Sermons.

seff. 40.  
Dec. 9.

In the Year 1661. is this Entry in the

I Jac. I.

The Prayer  
before Ser-  
mon.

Coll. Can. p. 83.

Ibid. p. 12.

Hist. Ref. V. 2.  
App. p. 104.



Abridgment.

## C A P. VII.

HEADS of MATTER to be treated of in Sermons.

## JOHANNES PECCHAM.

*Quilibet sacerdos, curam animarum potissimum gerens, quater in anno dilucide exponat subditis suis Articulos fidei, & præcepta moralia ad salutem necessaria, ut in hoc capitulo summam recitantur.*

Every Priest shall explain to the People, four times a year, the chief Heads of Faith, and Practice,

--- in the Method setdown elsewhere, and in this place.

Explication of the Ten Commandments,  
--- the first,

--- the second,

--- the third,

--- the fourth,

--- the fifth,

--- the sixth,

--- the seventh,

--- the eighth,

--- the ninth.

**I**gnorantia sacerdotum, & infra, Præcipimus ut quilibet sacerdos plebi præsidens quater in anno, hoc est, semel in qualibet quarta Anni, die unâ solenni vel pluribus, per se vel per alium, exponat populo vulgariter, absque cujuslibet subtilitatis textura fantastica, 14. fidei articulos; decem mandata Decalogi; duo præcepta Evangelii, videlicet q̄ geminæ charitatis; septem opera misericordiæ; septem peccata mortalia suâ cum progenie; septem virtutes principales; ac septem gratiæ sacramenta. Et nè quis à prædictis per ignorantiam se excuset, expositis 14. fidei articulis sub titulo congruenti, cætera sub quadam, ut sequitur, perstringimus summaria Brevitate. Decem enim mandatorum præcepta veteris Testamenti, tria ordinantur ad Deum, quæ dicuntur mandata primæ tabulæ; septem verò ad proximum, quæ dicuntur secundæ tabulæ mandata. In primo prohibetur omnis Idololatria, cum dicitur, Non habebis deos alienos coram me: in quo implicitè prohibentur omnia sortilegia, & omnes incantationes cum superstitionibus Characterum, & hujusmodi figmentorum. In secundo mandato cum dicitur, Non assumes nomen Dei tui in vanum, prohibetur principaliter Hæresis Universa: & secundariò omnis Blasphemia, & irreverens Dei nominatio, præcipuè in perjurio. In tertio mandato, cum dicitur, Memento ut sabbatum sanctifices, præcipitur cultus Religionis Christianæ, ad quem indifferenter clerici & laici obligantur. Ubi sciendum est, quòd obligatio ad feriandum in sabbato legali secundum formam veteris Testamenti expiravit omnino cum cæteris in lege cæremoniis: & sufficit in novo Testamento modus vacandi divino cultui diebus Dominicis & cæteris diebus solennibus ad hoc auctoritate Ecclesiæ deputatis; quibus diebus modus vacandi non est sumendus à superstitione Judaica, sed à canonicis institutis. Primum secundæ tabulæ mandatum est, patrem & matrem explicitè temporaliter & spiritualiter honorare, implicitè autem & secundariò omnis homo pro sui gradus merito ex eodem mandato intelligitur honorandus. In hoc autem mandato intelligitur non solum pater & mater carnaliter, verum etiam spiritualiter: ut pater sit Prælati Ecclesiæ r̄ mediatus vel s̄ immediatus, mater autem Ecclesia, cujus sunt filii Catholici universi. Secundum est, Non occides. In quo explicitè inhibetur illicita personæ alicujus interemptio, contensu, verbo, opere, vel favore. Implicitè verò, omnis injusta alicujus personæ læsio inhibetur. Spiritualiter enim occidunt, qui non reficiunt indigentes. Similiter occidunt, qui detrahunt vel qui innocentes opprimunt & confundunt. Tertium mandatum est, Non mœchaberis: in quo explicitè inhibetur adulterium: implicitè verò fornicatio, quæ explicitè prohibetur in Deuteronom. ubi dicitur, Non erit meretrix de filiabus Israel, nec scortator de filiis Israel. Inhibetur etiam in eodem mandato omnis commixtio viri & mulieris, quam t̄ bona matrimonii non excusant. Omnis etiam voluntaria pollutio quocunque modo studiosè, vel voluntariè procurata. Quartum mandatum est, Non furtum facies, in quo explicitè prohibetur clandestina contrectatio rei alienæ invito Domino: implicitè verò omnis injuriosa, seu per fraudem, seu per usuram, seu per violentiam, seu per metum, rei usurpatio alienæ. Quintum mandatum est, Non loqueris contra fratrem tuum, sive proximum, falsum testimonium; in quo explicitè prohibetur falsa testificatio ad nocendum: implicitè autem falsa testificatio ad indignum contra merita promovendum. In hoc etiam mandato omne mendacium, sed perniciosum præcipuè, condemnatur. Sextum mandatum est, Non concupisces domum proximi tui: supple,

q̄ Geminæ Charitatis.] Scil. dilectionem Dei & proximi. Lyndw.  
r̄ Mediatum.] Sicut Papa, Archiepiscopus, & hujusmodi, sub quibus sunt alii medii, sanquam Patres. Lyndw.

s̄ Immediatus.] Proprius Curatus, qui absque medio præest alicui. Lyndw.  
t̄ Bona Matrimonii.] Quæ sunt tria, scil. Fides, Proles, & Sacramentum. Lyndw.

Heads of Matter to be treated of in Sermons.

A.D. 1279.  
7 Edw. 1.

Edit. Oxon.  
P. 54.

† De Summa Trinitate, & Fide Catholica, in Tit. pro 4.



Head s of  
Matter to  
be treated  
of in Ser-  
mons.

1 Cap. 25.

cum ejus Injuria. In quo mandato implicite prohibetur cupiditas possessionis immobilis, Catholici præcipue cujuscunque. Septimum mandatum est: Non desiderabis uxorem proximi tui, neque servum, neque ancillam; non bovem, non asinum, nec omnia quæ illius sunt: in quibus omnis cupiditas possessionis alienæ quantum ad res mobiles condemnatur. His autem decem mandatis superaddit Evangelium duo: videlicet Dilectionem dei & proximi. Deum diligit, qui prædicta mandata ex amore & non timore pænæ custodit. Proximum autem debet quilibet diligere sicut seipsum: ubi hæc particula *sicut*, non dicit æqualitatem, sed conformitatem, ut viz. diligas proximum tuum, ad quod teipsum, hoc est, ad bonum, & non ad malum. Et quomodo teipsum: hoc est, spiritualiter & non carnaliter, secundum quod carnaliter dicit vitium. Item quantum teipsum: hoc est in prosperitate & adversitate, sanitate & infirmitate. Item quantum teipsum respectu temporalium: pro tanto, ut plus diligas omnem hominem & singulos, quam omnem affluentiam temporalem. Item sicut teipsum, pro tanto, ut plus diligas proximi tui animam, sive animæ salutem æternam, quam tuam vitam propriam temporalem; sicut etiam animæ tuæ vitam debes præponere vitæ carnis tuæ. Item qualiter teipsum: ut videlicet omni homini in necessitate subvenias, sicut tibi velles in necessitate consimiliter subveniri. Hæc enim omnia intelliguntur, cum dicitur, Diliges proximum tuum, &c. Sex autem misericordiæ sunt opera, quæ ex † Matth. Evangelio patefunt: quæ sunt, Pascere famelicum, potare sitientem, hospitio recipere peregrinum, vestire nudum, visitare infirmum, consolari carceri mancipatum. Septimum ex Tobia colligitur; quod est, sepelire corpora mortuorum. Septem verò peccata capitalia sunt, superbia, invidia, ira, odium, accidia, avaritia, gula, luxuria. Et est superbia amor excellentiæ propriæ. De qua oriuntur jactantia, ostentatio, hypocrisis, schismata, & similia. Invidia verò est odium scælicitatis alienæ: de qua oriuntur, detractio, murmuratio, dissentio, perversa judicia, & similia. Ira est appetitus vindictæ, & nocuenti alieni, quæ cum perseverat in corde, fit odium: de qua oriuntur persecutiones verborum & factorum, plagæ, homicidia, & similia. Accidia est tedium boni spiritualis, ex quo homo nec in Deo nec in divinis laudibus delectatur: ex qua sequitur ignavia, pusillanimitas, desperatio, & similia. Avaritia est immoderatus amor mobilis vel immobilis affluentiæ, vel illicite acquirendo, vel illicite detinendo: ex qua oriuntur fraus, furta, sacrilegium, simonia, & omne turpe lucrum. Gula est immoderatus amor delectationis secundum gustum in Cibo & potu. In qua quintupliciter peccatur; viz. in tempore, quando comeditur nimis mane vel nimis tarde, aut nimis assidue. Item in qualitate, quando quæruntur Cibaria nimis delicata. Item in quantitate, quando nimis comeditur aut bibitur; quod est vilissimum genus gulæ: est enim nimium in cibo & potu, quando corpus aggravat; vel quando impedit sensum interiorem aut exteriorem: seu quando lædit corporis sanitatem. Item in aviditate seu voracitate; & ultimò in curiosa alimentorum præparatione pro Gulæ deliciis excitandis. Quæ quinq; continentur in hoc versu. *Præpropere, laute, nimis, ardentè, studiose.* Luxuriam verò non oportet notificare, cujus infamia aerem inficit universum. Septem virtutes Principales sunt, fides, spes, charitas, quæ ad Deum ordinantur, & ideo Theologicæ appellantur. Prudentia, Temperantia, Justitia, & Fortitudo; per quas ad seipsum & proximum homo ordinatur. Et est actus prudentiæ, Bonum eligere: Actus justitiæ, recte facere: Actus temperantiæ, non impediri deliciis: Actus fortitudinis, non dimittere bonum agendum pro angustiis vel molestiis quibuscunque. Et dicuntur hæc quatuor virtutes cardinales, hoc est principales; quia istis quatuor plures aliæ sunt subiectæ; de quibus, quia pro simplicibus laboramus, ad præsens amplius non tractamus. De septem gratiæ sacramentis supra dictum est in suo loco.

« Notificare. ] *Scil. per suas differentias — Fornicatio, Meretricium, Adulterium, &c. Lyndw.*

## THOMAS ARUNDEL.

In Const. Reverendissimæ Synodo, sub Tit. de Hæreticis.

— **S**acerdotes vero Parochiales, seu Vicarii Temporales & non perpetui, in formâ supradictâ non missi, in Ecclesiis illis in quibus hujusmodi Officia gerunt, illa sola simpliciter prædicent, unâ cum Precibus consuetis, quæ in Constitutione Provinciali à bonæ memoriæ Johanne, Prædecessore nostro, bene & sanctè, in suppletionem Ignorantiæ Sacerdotum edita (quæ incipit *Ignorantia Sacerdotum, &c.*) continentur expressè; quam in singulis nostræ Cantauriensis

Abridgment.

... the tenth.

To these, the Gospel adds, the Love of God, ---and of our Neighbour.

The six works of Mercy.

The seven deadly Sins.

The seven principal Virtues.

Parochial Ministers shall preach only such Matters as are contained in the foregoing Constitution,

M.D. 1408.  
10 H. 4.

lit. Oron.  
291.



## Abridgment.

And all Preachers shall suit their Discourses to the condition and abilities of the Audience.

tuariensis Provinciae Ecclesiis infra tres menses post publicationem praesentium haberi volumus, & prout ipsa postulat, annis singulis & temporibus per ipsos Sacerdotes effectualiter declarari. — Insuper, sicut bonus Paterfamilias triticum dispergit in terram ad hoc dispositam, ut fructuum plus afferat, Volumus & Mandamus, ut Praedicator Verbi Dei veniens juxta formam superius annotatam, in praedicando Clero seu Populo, secundum materiam subjectam, honeste se habeat, spergendo semen secundum convenientiam subjecti Auditorii; Clero praesertim praedicans de Vitiis pullulantibus inter eos, & laicis de Peccatis inter eos communiter usitatis, & non e contra. Alioquin sic praedicans, secundum qualitatem Delicti, per Loci Ordinarium Canonicè & acriter puniatur.

*Heads of Matter to be treated of in Sermons.*

## C A P. VIII.

## LECTURES and LECTURERS.

## CANONS 1603.

xxxvi. *Subscription required of such as are to be made Ministers.*

Every Lecturer shall be Licensed,

NO Person shall hereafter be received ——— to be a Lecturer or Reader of Divinity in either University, or in any Cathedral or Collegiate Church, City or Market-Town, Parish-Church, Chapel, or in any other place within this Realm, except he be Licensed either by the Archbishop, or by the Bishop of the Diocese, (where he is to be placed) under their Hands and Seals, or by one of the two Universities under their Seal likewise; and except he shall first subscribe to these † three Articles following, in such manner and sort as we have here appointed.

*Lectures and Lecturers.*

† See Articles at length in p. 377.

--- and shall subscribe to the 3 Articles in Canon 36.

## 13, 14 Car. II. Cap. 4.

In an Act, Entituled, *An Act for the Uniformity of Publick Prayers, &c.*

A.D. 1661.

Every Lecturer shall be Licensed under the Seal of the Archbishop or Bishop,

§. XIX. And be it further Enacted by the Authority aforesaid, that no person shall be, or be received as a Lecturer, or permitted, suffered, or allowed to Preach as a Lecturer, or to Preach, or Read any Sermon or Lecture in any Church, Chapel, or other place of Publick worship, within this Realm of England, or the Dominion of Wales and Town of Berwick upon Tweed, unless he be first approved and thereunto Licensed by the Archbishop of the Province, or Bishop of the Diocese, or (in case the See be void) by the Guardian of the Spiritualities, under his Seal, and shall, in the presence of the same Archbishop, or Bishop, or Guardian, Read the Nine and thirty Articles of Religion, mentioned in the Statute of the Thirteenth year of the late Queen Elizabeth, with Declaration of his unfeigned assent to the same; And that every person, and persons, who now is, or hereafter shall be Licensed, Assigned, Appointed, or Received as a Lecturer, to preach upon any day of the week in any Church, Chapel, or place of Publick worship within this Realm of England, or places aforesaid, the first time he Preacheth (before his Sermon) shall openly, and publickly, solemnly Read the Common Prayers and Service in and by the said Book appointed to be read for that time of the day, and then and there publickly and openly declare his assent unto, and approbation of the said Book, and to the use of all the Prayers, Rites and Ceremonies, Forms and Orders therein contained and prescribed, according to the Form before appointed in this Act; And also shall, upon the first Lecture-day of every month afterwards, so long as he continues Lecturer, or Preacher there, at the place appointed for his said Lecture or Sermon, before his said Lecture or Sermon, openly, publickly, and solemnly Read the Common Prayers and Service in and by the said Book appointed

--- and read the 39 Articles, in his presence,

--- and declare his unfeigned Assent to the same.

Every Lecturer shall also read the Common Prayer, the first time,

--- and declare his assent thereto,

--- and continue to do the same, Monthly,



Lectures  
and Lectu-  
rers.

pointed to be Read for that time of the Day, at which the said Lecture or Sermon is to be Preached, and after such Reading thereof, shall openly and publickly, before the Congregation there assembled, declare his unfeigned assent and consent unto, and approbation of the said Book, and to the use of all the Prayers, Rites and Ceremonies, Forms and Orders therein contained and prescribed, according to the Form aforesaid; and, That all and every such Person and Persons who shall neglect or refuse to do the same, shall from thenceforth be disabled to Preach the said, or any other Lecture or Sermon in the said, or any other Church, Chappel, or place of Publick worship, until such time as he and they shall openly, publickly, and solemnly Read the Common-Prayers and Service appointed by the said Book, and Conform in all points to the things therein appointed and prescribed, according to the purport, true intent, and meaning of this Act.

XX. Provided always, that if the said Sermon or Lecture be to be Preached or Read in any Cathedral, or Collegiate Church or Chappel, it shall be sufficient for the said Lecturer openly at the time aforesaid, to declare his assent and consent to all things contained in the said Book, according to the form aforesaid.

XXI. And be it further Enacted by the Authority aforesaid, that if any Person who is by this Act disabled to Preach any Lecture or Sermon, shall, during the time that he shall continue and remain so disabled, Preach any Sermon or Lecture; That then for every such offence the Person and Persons so offending shall suffer three months Imprisonment in the Common Gaol without Bail or Mainprize, and that any two Justices of the Peace of any County of this Kingdom and Places aforesaid, and the Mayor or other chief Magistrate of any City, or Town-Corporate, within the same, upon Certificate from the Ordinary of the place made to him or them of the offence committed, shall, and are hereby required to commit the person or persons so offending to the Gaol of the County, City, or Town-Corporate accordingly.

XXII. Provided always, and be it further Enacted by the Authority aforesaid, That at all and every time and times, when any Sermon or Lecture is to be Preached, the Common Prayers and Service in and by the said Book appointed to be Read for that time of the day, shall be openly, publickly and solemnly Read by some Priest, or Deacon, in the Church, Chappel, or place of Publick worship, where the said Sermon or Lecture is to be Preached, before such Sermon or Lecture is to be Preached; And that the Lecturer then to Preach shall be present at the Reading thereof.

Abridgment.

--upon pain of being disabled, till he shall conform.

In Cathedrals, it shall be sufficient to declare Assent and Consent.

Lecturer preaching while he is disabled, shall suffer 3 Months Imprisonment,

--upon Certificate from the Ordinary to two Justices of the Peace, or Mayor, &c.

At every Lecture, Common Prayer shall be read, and the Lecturer present.

## C A P. IX.

### The HOMILIES of the Church.

2 Edw. VI.

#### Rubrick in the Communion.

After the Crede ended, shall folowe the Sermon or Homelie, or some porcion of one of the Homelies, as they shall be hereafter devided.

5, 6 Edw. VI.-----13, 14 Car. II.

#### Rubrick in the Communion.

1 Then shall follow the Sermon, or one of the Homilies, already set forth, or hereafter to be set forth, by Authority.

<sup>1</sup> After the Crede, if there be noe Sermon, shall follow, 5 E. 6. <sup>2</sup> By commune Authoritie, 5 E. 6.

After Creed, the Sermon, or Homily.

After Creed, the Sermon, or Homily.

A.D. 1548.

Homilies  
of the  
Church.

A.D. 1551  
&c.



Abridgment.

Deacons shall read Homilies.

The Books of Homilies do contain wholesome Doctrine, ---and shall be read in Churches.

Names of Homilies.

Where there is no Sermon, there shall be a Homily.

Ministers not Licensed to preach, shall only read Homilies.

5, 6 Edw. VI.-----13, 14 Car. II.

In the Form of Ordaining Deacons.

IT appertaineth to the Office of a Deacon, in the Church where he shall be appointed to serve, to assist the Priest in Divine Service, and specially when he ministrerth the holy Communion, and to help him in the distribution thereof, and to read holy Scriptures, and Homilies in the Church.

39. ARTICLES.

xxxv. Of Homilies.

THE second Book of Homilies, the several Titles whereof we have joynd under this Article, doth contain a godly and wholesome Doctrine, and necessary for these Times; as doth the former Book of Homilies, which were set forth in the time of *Edward VI.* and therefore we judge them to be read in Churches by the Ministers, diligently and distinctly, that they may be understood of the People.

Of the Names of the Homilies.

- |    |                                                                             |    |                                                                           |
|----|-----------------------------------------------------------------------------|----|---------------------------------------------------------------------------|
| 1  | OF the right Use of the Church.                                             | 11 | Of Alms-doing.                                                            |
| 2  | Against peril of Idolatry.                                                  | 12 | Of the Nativity of Christ.                                                |
| 3  | Of Repairing and keeping clean of Churches.                                 | 13 | Of the Passion of Christ.                                                 |
| 4  | Of good Works, first of Fasting.                                            | 14 | Of the Resurrection of Christ.                                            |
| 5  | Against Gluttony and Drunkenness.                                           | 15 | Of the worthy Receiving of the Sacrament of the Body and Blood of Christ. |
| 6  | Against Excess of Apparel.                                                  | 16 | Of the Gifts of the Holy Ghost.                                           |
| 7  | Of Prayer.                                                                  | 17 | For the Rogation Days.                                                    |
| 8  | Of the Place and Time of Prayer.                                            | 18 | Of the State of Matrimony.                                                |
| 9  | That Common Prayers and Sacraments ought to be Ministred in a known Tongue. | 19 | Of Repentance.                                                            |
| 10 | Of the Reverent Estimation of God's Word.                                   | 20 | Against Idleness.                                                         |
|    |                                                                             | 21 | Against Rebellion.                                                        |

*Edward VI.*] In whose Articles, that which concerns the Homilies, is thus: *The Homilies of late given and set out by the King's Authority, be godly and wholesom, containing Doctrine to be received of all Men, and therefore are to be read to the People diligently, distinctly, and plainly.*

CANONS 1603.

In Can. xlvi. Entituled, *Beneficed Men, not Preachers, to procure monthly Sermons.*

—And upon every Sunday when there shall not be a Sermon Preached in his Cure, he or his Curate shall read some one of the Homilies prescribed, or to be prescribed, by Authority, to the intents aforesaid.

CANONS 1603.

xliv. *Ministers not allowed Preachers, may not Expound.*

NO Person whatsoever not examined and approved by the Bishop of the Diocese, or not Licensed as is aforesaid, for a sufficient or convenient Preacher, shall take upon him to Expound in his own Cure or elsewhere, any Scripture or matter of Doctrine, but shall only study to read plainly and aptly (without glossing or adding) the Homilies already set forth, or hereafter to be published by Lawful Authority, for the Confirmation of the true Faith, and for the good Instruction and Edification of the People.

Homilies of the Church. A.D. 1551. &c.

A.D. 1562.

I Jac. I.

Can. 1571.

I Jac. I.



## T I T. XV.

ORTHODOX PREACHING,  
according to SCRIPTURE, CREEDS,  
and ARTICLES.

## The CONTENTS.

- CAP. I. *The AUTHORITY of the Holy SCRIPTURES.*  
 CAP. II. *The STUDY of the Holy SCRIPTURES.*  
 CAP. III. *The Three CREEDS.*  
 CAP. IV. *The ARTICLES of Religion.*

## C A P. I.

*The AUTHORITY of the Holy SCRIPTURES.*

## 39. A R T I C L E S.

vi. *Of the Sufficiency of the Holy Scriptures for Salvation.*

**H**OLY Scripture containeth all things necessary to Salvation: So that whatsoever is not read therein, nor may be proved thereby, *a* is not to be required of any Man, that it should be believed as an Article of the Faith, or be thought requisite or necessary to Salvation. *b* In the name of the holy Scripture we do understand those Canonical Books of the Old and New Testament, of whose Authority was never any Doubt in the Church.

*a* *[Is not to be required.]* In the Articles of Edward VI. --- *Although it be sometime received of the Faithful, as Godly and Profitable, for an Order and Comeliness, yet noe Man ought to be constrained to believe it, as an Article of Faith.*

*b* *[In the Name.]* What follows, to the end of this Article, was not in the Articles of Edward VI.

*Of the Names and Number of the Canonical Books.*

**G**enesis,  
Exodus,  
Leviticus,  
Numeri,  
Duteronomium,  
Jofue,  
Judges,  
Ruth,  
The 1. Book of Samuel,  
The 2. Book of Samuel,  
The 1. Book of Kings,  
The 2. Book of Kings,

The 1. Book of Chronicles,  
The 2. Book of Chronicles,  
The 1. Book of Esdras,  
The 2. Book of Esdras,  
The Book of Hester,  
The Book of Job,  
The Psalms,  
The Proverbs,  
Ecclesiastes or the Preacher,  
Cantica, or Songs of Solomon,  
4 Prophets the greater,  
12 Prophets the less.

The Canonical  
Books of Scripture.

And

A.D. 1562.

*The Authority of the Holy Scriptures.*

No Doctrine is necessary to Salvation, but what is contained in Scripture.



Abridgment.

And the other Books (as Hierome faith) the Church doth read for example of Life, and instruction of Manners; but yet doth it not apply them to establish any Doctrine; such are these following,

The Authority of the Holy Scriptures.

The Apocryphal Books.

- The 3. Book of Esdras,
- The 4. Book of Esdras,
- The Book of Tobias,
- The Book of Judith,
- The rest of the Book of Hester,
- The Book of Wisdom,
- Jesus the Son of Sirach,

- Baruch the Prophet,
- The Song of the three Children.
- The Story of Susanna,
- Of Bel and the Dragon,
- The Prayer of Manasses,
- The 1. Book of Maccabees,
- The 2. Book of Maccabees.

The received Books of the new Testament, are all Canonical.

All the Books of the New Testament as they are commonly received, we do receive and account them Canonical.

vii. Of the Old Testament.

The old Testament offers Life by Christ,

THE Old Testament is not contrary to the New: For both in the Old and New Testament, everlasting Life is offered to Mankind by Christ, who is the only Mediator between God and Man, being both God and Man. Wherefore they are not to be heard, which feign that the Old Fathers did look only for transitory Promises. d Although the Law given from God by Moses, as touching Ceremonies and Rites, do not bind Christian Men, nor the civil Precepts thereof ought of necessity to be received in any Commonwealth: yet notwithstanding, no Christian Man whatsoever, is free from the Obedience of the Commandments which are called Moral.

---and the old Fathers did look for it.

Christians are bound by the Moral Law.

c The Old Testament.] In Edward VI's Articles, The Old Testament is not to be put away, as though it were contrary to the New, but to be kept still, &c.

Addition, Wherefore, they are not to be hearkened unto, who affirm that Holy Scripture is given only to the weak, and do boast themselves continually of the Spirit, of whom they say they have learned such things as they teach, although the same be most evidently repugnant to the Holy Scripture.

d Although the Law.] What follows, was not in this Article, but was part of Art. 19. in those of Edward VI. with this

5, 6 Edw. VI. --- 13, 14 Car. II.

A.D. 1551. &c.

In the Forms of Ordaining Priests, and Consecrating Bishops.

Scriptures contain all things necessary to Salvation, --and nothing shall be taught of necessity, but what may be proved from thence.

ARE you perswaded that the holy Scriptures contain sufficiently all Doctrine required of necessity to Eternal Salvation through Faith in Jesus Christ? And are you determined out of the same holy ' Scriptures' to instruct the People committed to your Charge; and to teach ' or maintain' nothing as required of necessity to Eternal Salvation, but that ' which' you shall be perswaded may be concluded and proved by the ' same'?

Answer.

I am so perswaded ' and determined' by God's Grace.

' With the said Scriptures, in the Form of Ordaining Priests. With the same, in the Form of Consecrating Bishops. 5. E. 6. ' Not in 5 E. 6. ' Not in 5 E. 6. ' Scripture, 5 E. 6. ' And have soe determined, 5 E. 6.

5, 6 Edw. VI. ----- 13, 14 Car. II.

A.D. 1551. &c.

In the Form of Ordaining Deacons.

The Bishop.

DO you unfeignedly believe all the Canonical Scriptures of the Old and New Testament?

Scriptures to be Canonical to be unfeignedly believed,

Answer.

' I do believe them.'

' Not in 5 E. 6.

The Bishop.

WILL you diligently read the same unto the People assembled in the Church where you shall be appointed to serve?

---and diligently read to the People.

Answer.

I will.



The Authority of the Holy Scriptures. A.D. 1562.

39. ARTICLES.

xvii. Entituled, Of Predestination, and Election.

Furthermore, we must receive God's Promises in such wise as they be generally set forth to us in holy Scripture. And in our doings, that Will of God is to be followed, which we have expressly declared unto us in the Word of God.

Abridgment.

The Promises, and Will of God, shall be interpreted according to Scripture.

xix. Entituled, Of the Church.

As the Church of Hierusalem, Antioch, and Alexandria, have erred; so also the Church of Rome hath erred, not only in their living, and manner of Ceremonies, but also in matters of Faith.

Particular Churches have erred, and may err, in matters of Faith,

xx. Of the Authority of the Church.

The Church hath power to Decree Rites or Ceremonies, and Authority in matters of Faith. And yet it is not lawful for the Church to ordain any thing that is contrary to God's Word written; neither may it so expound one place of Scripture, that it be repugnant to another. Wherefore, although the Church be a Witness and Keeper of Holy Writ, yet as it ought not to decree any thing against the same, so, besides the same, ought it not to enforce any thing to be believed for necessity of Salvation.

The Church hath power in Ceremonies, and matters of Faith; --but not so, as to decree any thing contrary to Scripture, --or to enforce any thing, as of Necessity, but what is in Scripture.

[The Church.] This first Clause, to the word (yet) inclusive, was not in the Articles of King Edward VI. and it hath been affirmed, with great Assurance, that neither is it a genuine part of the Articles of 1562. Which Position hath been already considered, and overthrown in part; and, it being still under consideration, I shall not here descend to particulars; but we may hope to see that matter (however intricate) set in such a light, as will be sufficient to convince all indifferent and reasonable Men, that the Charge upon that head against some of the most learned and eminent Members of our Reformed Church, hath been very malicious, and ill-grounded.

xxi. Of the Authority of General Councils.

General Councils may not be gathered together without the Commandment and Will of Princes. And when they be gathered together (forasmuch as they be an Assembly of Men, whereof all be not governed with the Spirit and Word of God) they may err, and sometime have erred, even in things pertaining unto God. Wherefore things ordained by them as necessary to Salvation, have neither Strength nor Authority, unless it may be declared that they be taken out of holy Scripture.

General Councils, to be called by Princes,

--may ordain nothing as necessary to Salvation, but what is taken from Scripture.

C A P. II.

The STUDY of the HOLY SCRIPTURES.

5, 6 Edw. VI. ----- 13, 14 Car. II.

In the Form of Consecrating a Bishop.

The Archbishop.

Will you then faithfully exercise your self in the same holy Scriptures, and call upon God by Prayer, for the true understanding of the same; so as ye may be able by them to Teach and Exhort with wholsome Doctrine, and to withstand and convince the Gain-sayers?

Bishops shall study the Scriptures.

Answer.

I will so do, by the help of God.

A.D. 1551.

The Study of the Holy Scriptures



Abridgment.

5, 6 Edw. VI.-----13, 14 Car. II.

*In the Form of Ordaining Priests.**The Bishop.*

Clergy shall study the Scriptures.

Will you be diligent in Prayers, and in reading of the holy Scriptures, and in such Studies as help to the knowledge of the same, laying aside the study of the World and the Flesh?

*Answer.*

I will endeavour my self so to do, the Lord being my helper.

C A N O N S 1603.

Ixxv. *Sober Conversation required in Ministers.*

Clergy shall exercise themselves, in reading the Scriptures.

NO Ecclesiastical Person shall at any time, other than for their honest Necessities, resort to any Taverns or Ale-houses, neither shall they board or lodge in any such Places. Furthermore, they shall not give themselves to any base or servile Labour, or to Drinking, or Riot, spending their time Idly by Day or by Night, playing at Dice, Cards or Tables, or any other unlawful Game: But at all times convenient, they shall hear or read somewhat of the Holy Scriptures.

C A N O N S 1603.

In Can. xlii. Entit. *Residence of Deans in their Churches.*

Petty-Canons in Cathedrals shall be obliged to study the Scriptures.

—And that the Petty Canons, Vicars Choral, and other Ministers of their Church, be urged to the Study of the holy Scriptures; and every one of them to have the New Testament not only in English, but also in Latin.

C A N O N S 1603.

In Can. lxxix. Entit. *The Duty of School-masters.*

School-masters shall teach their Scholars Sentences of Scripture.

—Upon other days, and at other times, they shall train them up with such Sentences of holy Scriptures, as shall be most expedient to induce them to all Godliness.

C A P. III.

*The Three CREEDS.*

39. A R T I C L E S.

viii. *Of the Three Creeds.*

The 3 Creeds may be proved by Scripture.

THE Three Creeds, *Nice Creed, Athanasius's Creed*, and that which is commonly called the *Apostles Creed*, ought thoroughly to be received and believed: for they may be proved by most certain warrants of holy Scripture.

[And believed.] These words were not in the Articles of King Edward VI.

*The Study of the Holy Scriptures.*

A. D. 1551.

1 Jac. 1.

1 Jac. 1.

1 Jac. 1.

A. D. 1562.

*The Three Creeds.*

2 Edw VI.



The Three  
Creeds.  
A.D. 1548.

## 2 Edw. VI.

After the Gospel ended, the Priest shall begin;  
*I believe in one God.*  
The Clerkes shall Syng the rest.

Abridgment.

Nicene Creed  
shall be sung.

A.D. 1551.  
&c.

## 5, 6 Edw. VI. ----- 13, 14 Car. II.

And <sup>1</sup> the Gospel ended, shall be <sup>2</sup> sung or said the Creed <sup>3</sup> following,  
the people still standing, as before.

<sup>1</sup> The Epistle and Gospel being ended, 5 E. 6.    <sup>2</sup> Not in 5 E. 6.    <sup>3</sup> The rest not in 5 E. 6.

Nicene Creed  
shall be said; and  
sung or said.

A.D. 1551.

## 2, 5, &amp; 6 Edw. VI.

In the Feastes of *Christmas*, the Epiphany, <sup>1</sup> *Saincte Matthee*, *Easter*, *Thas-  
sencion*, *Pentecost*, <sup>2</sup> *Sainct John Baptist*, *Sainct James*, *Sainct Bartholomew*,  
*Sainct Mathewe*, *Sainct Symon* and *Jude*, *Sainct Andrewe*, and *Trinitie* Sunday:  
shall be song or said immediatly after *Benedictus*, this Confession of our Chri-  
sten Fayth.

<sup>1</sup> Not in 2 Edw. 6.    <sup>2</sup> Not in 2 Edw. 6.

Days, on which  
the *Athanasian*  
Creed shall be u-  
fed.

A.D. 1661.

## 13, 14 Car. II.

Upon these Feasts; *Christmas-day*, the *Epiphany*, *Saint Matthias*, *Easter-  
day*, *Ascension-day*, *Whitsun-day*, *Saint John Baptist*, *Saint James*, *Saint  
Bartholomew*, *Saint Matthew*, *Saint Simon* and *Saint Jude*, *Saint Andrew*, and  
upon *Trinity* Sunday, shall be sung or said at Morning-Prayer, instead of the  
Apostles Creed, this Confession of our Christian Faith, commonly called the  
Creed of *Saint Athanasius*, by the Minister and People standing.

Days on which  
the *Athanasian*  
Creed shall be u-  
fed.

## 2 &amp; 5 Edw. VI. ----- 13, 14 Car. II.

Then shall be said <sup>1</sup> or sung the <sup>2</sup> Apostles' Creed, by the Minister and  
the People, standing.

<sup>1</sup> Not in 2 nor 5 E. 6.    <sup>2</sup> Not in 2 nor 5 E. 6.

Apostles Creed  
shall be said or  
sung.

## CAP. IV.

## The ARTICLES of Religion.

## JOHANNES PECCHAM.

Quatuordecim Fidei Catholicae Articulos (quorum septem ad sacrosanctae Tri-  
nitatis mysterium, & totidem ad Christi humanitatem pertinent) omnes Mi-  
nistri Ecclesiae & scire & credere tenentur; ut hac Constitutione recitantur.

Ignorantia Sacerdotum, & infra. Ne quis per ignorantiam se excuset, quin  
sciat articulos fidei, quos omnes Ecclesiae ministri scire tenentur: eos sum-  
maria, ut sequitur, perstringimus brevitate. Sciendum enim est, septem esse  
fidei articulos pertinentes ad mysterium Trinitatis; quorum quatuor pertinent  
ad

A brief Explica-  
tion of the Articles  
of Faith,  
---7 of which be-  
long to the 3 Per-  
sons in the Trinity,

A.D. 1279.  
Edw. I.

lit. Oxon.  
1.

The Arti-  
cles of Re-  
ligion.



Abridgment.

ad Divinitatis intrinseca: tres verò pertinent ad effectus. Primus est unitas Divinæ essentiæ in strium personarum indivisibili Trinitate, juxta illud, *Credo in unum Deum*. Secundus est, credere Patrem ingenitum esse Deum. Tertius est credere filium unigenitum esse Deum. Quartus est credere Spiritum sanctum nec genitum, nec ingenitum esse Deum, sed à patre & filio pariter procedentem. Quintus est creatio cœli & terræ, hoc est, omnis visibilis & invisibilis creatura à tota & indivisibili Trinitate. Sextus est sanctificatio Ecclesiæ per Spiritum sanctum, & gratiæ sacramenta, & cætera omnia in quibus communicat Ecclesia Christiana: in quo intelligitur, quòd Ecclesia cum suis sacramentis & legibus per Spiritum sanctum omni homini, quantumcunque peccatori, sufficit ad salutem, & quòd extra Ecclesiam non est salus. Septimus est consummatio Ecclesiæ per gloriam æternam in carne & anima veraciter resuscitandæ, & per oppositum intelligitur damnatio æterna reprobòrum. Item alii septem articuli pertinent ad Christi humanitatem. Primus est incarnatio, seu vera carnis assumptio ex sola per Spiritum sanctum virgine gloriosâ. Secundus est verè incarnati Dei nativitas ex virgine incorrupta. Tertius est vera Christi passio, & mors in cruce sub Tyranno Pilato. Quartus est descensio Christi ad inferos in anima, quiescente corpore in sepulchro, ad spoliationem Tartari. Quintus est vera Christi resurrectio. Sextus est vera ipsius ad cœlos ascensio: Septimus est ipsius venturi ad judicium certissima expectatio.

The Articles of Religion.

---and 7 others to  
Christ's Human  
Nature.

## 39. ARTICLES.

A.D. 1562.

[Note, That the Articles which follow, are such only as directly concern Faith and Doctrin, which are the proper Subject of this Chapter; the other Articles being inserted under several other Heads, according to the matter of each; for the finding of which, a particular Table will be provided.]

## i. Of Faith in the Holy Trinity.

There is but one  
God,

---and three Per-  
sons.

**T**HERE is but one living and true God, everlasting, without Body, Parts, or Passions; of infinite Power, Wisdom, and Goodness; the Maker, and Preserver of all things both visible and invisible. And in Unity of this Godhead there be three Persons of one substance, power and eternity; the Father, the Son, and the Holy Ghost.

## ii. Of the Word or Son of God, which was made very Man.

The Godhead,  
and Manhood, are  
joyned in Christ,

---who truly suf-  
fered, &c.

**T**HE Son, which is the Word of the Father, & begotten from everlasting of the Father, the very and eternal God, of one substance with the Father, took Man's nature in the Womb of the blessed *h* Virgin, of her Substance: So that two whole and perfect Natures, that is to say, the Godhead and Manhood, were joyned together in one Person, never to be divided, whereof is one Christ, very God and very Man, who truly Suffered, was Crucified, Dead and Buried, to reconcile his Father to us, and to be a Sacrifice, not only for original guilt, but also for actual sins of Men.

*g* Begotten.] This Clause, to the word *h* Virgin.] Virgin Mary; in Articles of  
took, exclusive, was not in the Articles of Edward VI.

## iii. Of the going down of Christ into Hell.

Christ went  
down into Hell.

**A**S Christ died for us, and was buried: So also is it to be believed, that he went down into Hell.

*i* Hell.] After which, the Articles of Edward VI. add, as follows: For the body  
did Preach to the same, as the place of St. Peter  
lay in the Sepulchre until the Resurrection; but  
his Ghost departing from him, was with the  
ghosts that were in the Prison or in Hell, and  
doth testifie.

iv.



Articles of Religion.

Abridgment.

iv. Of the Resurrection of Christ.

CHRIST did truly rise again from Death, and took again his Body, with Flesh, Bones, and all things appertaining to the Perfection of Man's Nature; wherewith he ascended into Heaven, and there sitteth until he return to judge all Men at the last day.

Christ rising, took again his Body, with Flesh, Bones, &c.

v. <sup>k</sup> Of the Holy Ghost.

THE Holy Ghost, proceeding from the Father and the Son, is of one Substance, Majesty and Glory, with the Father and the Son, very and eternal God.

The Holy Ghost is very and eternal God.

<sup>k</sup> Of the Holy.] This Article was not in those of Edward VI.

ix. Of Original or Birth-Sin.

ORIGINAL Sin standeth not in the following of Adam (as the Pelagians do vainly talk) but it is the Fault and Corruption of the Nature of every Man, that naturally is ingendred of the Offspring of Adam, whereby Man is very far gone from original Righteousness, and is of his own Nature inclined to Evil, so that the Flesh lusteth always contrary to the Spirit; and therefore in every person born into this World, it deserveth God's Wrath and Damnation. And this infection of Nature doth remain, yea, in them that are regenerated, whereby the Lust of the Flesh, called in Greek, φεινημα σαρκος, which some do expound the Wisdom, some Sensuality, some the Affection, some the Desire of the Flesh, is not subject to the Law of God. And altho' there is no Condemnation for them that believe and are Baptized, yet the Apostle doth confess, that Concupiscence and Lust hath of it self the Nature of Sin.

Original Sin is not a following of Adam, but a corruption of Nature,

--and deserves Damnation, -- and remains in the Regenerate.

Concupiscence hath the Nature of Sin.

<sup>l</sup> Talk.] After this, it follows in the Articles of Edward VI. Which also the Anabaptists do now adays renew.

x. Of Free-will.

THE condition of Man after the Fall of Adam, is such, That he cannot turn and prepare himself by his own natural strength and good Works to Faith and calling upon God: Wherefore we have no power to do good Works pleasant and acceptable to God, without the grace of God by Christ preventing us, that we may have a good will, and working with us, when we have that good will.

We have no power to do good, without the Grace of God.

<sup>m</sup> The Condition.] This, to the word (Wherefore, inclusive) was not in the Articles of Edward VI.

and although those that have no will to good things, he maketh them to will; and those that would evil things, he maketh them not to will the same; yet nevertheless he enforceth not the Will: and therefore no man, when he sinneth, can excuse himself, as not worthy to be blamed, or condemned, by alledging, that he sinned unwillingly, or by compulsion.

<sup>n</sup> Good Will.] After this, in Edw. VI's Articles, followed that Article which was entituled, Of Grace: The Grace of Christ, or the Holy Ghost by him given, doth take away the stony heart, and giveth an heart of flesh;

xi. Of the Justification of Man.

WE are accounted righteous before God, only for the merit of our Lord and Saviour Jesus Christ by Faith, and not for our own works or deservings. Wherefore, that we are Justified by Faith only is a most wholesome Doctrine, and very full of comfort, as more largely is expressed in the Homily of Justification.

We are justified by Faith, and not by Works.

<sup>o</sup> We are accounted.] In the Book of Edward VI. this Article stands thus: Justification by only Faith in Jesus Christ, in that sense as it is declared in the Homily of Justification, is a most certain and wholesome Doctrine for Christian Men.



## Abridgment.

Good works are pleasing to God, as springing from a lively Faith.

Works done before Grace, are not pleasing to God,

---but have the Nature of Sin.

Supererogation, is a Doctrine of Arrogancy and Impiety,

---and against Scripture.

Christ was without Sin,

---but all the rest of Mankind do Sin.

Deadly Sin after Baptism, is pardonable,

---and forgiveness belongs to all true Penitents.

Predestination to Life, is God's purpose and decree, to save,

---and brings with it many glorious Benefits.

## Articles of Religion.

## xii. Of good Works.

Albeit that good Works, which are the fruits of Faith, and follow after Justification, cannot put away our sins, and endure the severity of God's judgment; yet are they pleasing and acceptable to God in Christ, and do spring out necessarily of a true and lively Faith, insomuch that by them a lively Faith may be as evidently known, as a Tree discerned by the Fruit.

## xiii. Of Works before Justification.

Works done before the grace of Christ, and the inspiration of his Spirit, are not pleasant to God, forasmuch as they spring not of Faith in Jesus Christ, neither do they make men meet to receive grace, or (as the School-Authors say) deserve grace of Congruity: Yea, rather for that they are not done as God hath willed and commanded them to be done, we doubt not but they have the nature of sin.

## xiv. Of Works of Supererogation.

Voluntary Works, besides, over and above God's Commandments, which they call Works of Supererogation, cannot be taught, without arrogancy and impiety: For by them men do declare, That they do not only render unto God as much as they are bound to do, but that they do more for his sake, than of bounden duty is required: Whereas Christ saith plainly, When ye have done all that are commanded to you, say, We are unprofitable Servants.

## xv. Of Christ alone without Sin.

Christ in the truth of our Nature, was made like unto us in all things (sin only except) from which he was clearly void, both in his Flesh, and in his Spirit. He came to be a Lamb without spot, who by Sacrifice of himself once made, should take away the sins of the World: And sin (as St. John saith) was not in him. But all we the rest (although Baptized and born again in Christ) yet offend in many things, and if we say we have no sin, we deceive our selves, and the truth is not in us.

## xvi. Of Sin after Baptism.

Not every deadly sin willingly committed after Baptism, is sin against the Holy Ghost, and unpardonable. Wherefore the grant of Repentance is not to be denied to such as fall into sin after Baptism. After we have received the holy Ghost, we may depart from grace given, and fall into sin, and by the grace of God we may arise again, and amend our lives. And therefore they are to be condemned, which say they can no more sin as long as they live here, or deny the place of forgiveness to such as truly *p* repent.

*p* Repent.] After this, in Edward VI's Book, we find an Article under this Title, *manifestly perceived, and being enemy thereunto persecuteth that same: And because such be guilty of God's Curse, they intangle themselves with Blasphemy against the Holy Ghost; which is as follows, Blasphemy against the Holy Ghost, is a most grievous and heinous Crime; whereupon, when a man, of Malice and Stubbornness of this kind of Sin is called, and affirmed of the mind, doth rail upon the truth of God's word, Lord, unpardonable.*

## xvii. Of Predestination and Election.

Predestination to life, is the everlasting purpose of God, whereby (before the foundations of the World were laid) he hath constantly Decreed by his Counsel secret to us, to deliver from Curse and Damnation, those whom he hath chosen *q* in Christ" out of mankind, and to bring them by Christ to everlasting Salvation, as vessels made to Honour. Wherefore they which be endued with so excellent a benefit of God, be called according to God's pur-

*q* In Christ.] These words were not in the Articles of Edward VI.



Articles of Religion.

pose by his Spirit working in due Season: They through grace obey the calling: They be justified freely: They be made Sons of God by Adoption: They be made like the image of his only begotten Son Jesus Christ: They walk religiously in good Works, and at length by God's Mercy they attain to everlasting Felicity.

As the Godly consideration of Predestination and our Election in Christ, is full of sweet, pleasant, and unspeakable comfort to godly Persons, and such as feel in themselves the working of the Spirit of Christ, mortifying the works of the Flesh, and their earthly Members, and drawing up their mind to high and heavenly things; as well because it doth greatly establish and confirm their Faith of eternal Salvation, to be enjoyed through Christ, as because it doth fervently kindle their love towards God: So for curious and carnal persons, lacking the Spirit of Christ, to have continually before their eyes the sentence of God's Predestination, is a most dangerous downfall, whereby the Devil doth thrust them either into Desperation, or into Wretchedness of most unclean living, no less perilous than Desperation.

Furthermore, *qq* we must receive God's Promises in such wise as they be generally set forth to us in holy Scripture. And in our doings, that will of God is to be followed, which we have expressly declared unto us in the Word of God.

*qq* [We must] In the Article of *Edw. V* unknown to us yet we must, &c. Although the Decrees of God's Predestination are |

Abridgment.

Predestination and Election are matter of great comfort to good men,

-and of great terror to the wicked.

God's Promises are to be received, and Will followed, as declar'd in Scripture.

### xviii. Of obtaining Eternal Salvation only by the Name of Christ.

They also are to be had accursed, that presume to say, that every man shall be saved by the Law or Sect which he professeth, so that he be diligent to frame his Life according to that Law, and the Light of Nature: For holy Scripture doth set out unto us only the Name of Jesus Christ, whereby men must be saved

Men cannot be saved by their Sect, and the Light of nature, -but only by Christ.

*r* [Saved.] After this Article in *Ed. VI*'s Book; follows another, entituled, *All men are bound to keep the moral Commandments of the Law*; which is the same with the latter

part of our seventh Article; together with the addition, subjoyned in the Notes on that Article, in the first Chapter of this Title.

### xxii. Of Purgatory.

The Romish Doctrine concerning Purgatory, Pardons, Worshipping and Adoration, as well of Images, as of Reliques, and also Invocation of Saints, is a fond thing, vainly invented, and grounded upon no warranty of Scripture, but rather repugnant to the Word of God. †

Purgatory, and Adoration of Images, &c. are repugnant to Scripture,

[The Romish Doctrine.] In the Article of *Edward VI. The Doctrin of School Authors.*

† After the Article, entituled, *Of a Christian Man's Oath*, which is now the last of our 39; there are four others in the Book of *Edward VI.* as they follow here in their Order:

*The Resurrection of the Dead is not yet brought to pass.*

The Resurrection of the Dead is not as yet brought to pass, as though it only belonged to the Soul, which by the grace of Christ is raised from the death of Sin, but it is to be lookt for at the last day. For then (as Scripture doth most manifestly testify) to all that be Dead, their own Bodies, Flesh and Bone shall be restored, that the whole Man may according to his works have either Reward or Punishment, as he hath lived Virtuously or Wickedly.

*The Souls of them that depart this life, do neither die with the Bodies, nor sleep idly.*

They which say that the Souls of such as depart hence do sleep, being without all Sense, Feeling, or perceiving, until the day of Judgment; or affirm that the Souls die with the Bodies, and at the last day shall be raised up with the same, do utterly dissent from the right Belief, declared to us in holy Scripture.

*Hereticks called Millenarii.*

They that go about to renew the Fable of the Hereticks called *Millenarii*, be repugnant to holy Scripture, and cast themselves headlong into a Jewish Dotage.

*All men shall not be saved at the length.*

They also are worthy of Condemnation, who endeavour at this time to restore the dangerous Opinion, that all Men, be they never so Ungodly, shall at length be Saved, when they have suffered pains for their Sins a certain time appointed by God's Justice.



## Abridgment.

13 Eliz. Cap. 12.

Articles of Religion.

A.D. 1571.

*An Act for Ministers of the Church to be of Sound Religion.*

Every Priest, ordained otherwise than by King Edward's Form,

---shall subscribe to the 39 Articles,

---and have Testimonials thereof, to be read in his Church, with the Articles,

---upon pain to be deprived *ipso facto*.

Any Person maintaining Doctrine contrary to the 39 Articles, and persisting therein,

-- shall be deprived.

That the Churches of the Queens Majesties Dominions may be served with Pastors of sound Religion, Be it enacted by the authority of this present Parliament, That every person under the degree of a Bishop, which doth, or shall pretend to be a Priest or Minister of Gods holy Word and Sacraments, by reason of any other form of Institution, Consecration, than the form set forth by Parliament in the time of the late King of most worthy memory, King Edward the Sixth, or now used in the Reign of our most gracious Sovereign Lady, before the Feast of the Nativity of Christ next following, shall in the presence of the Bishop or Guardian of the Spiritualities of some one Diocess where he hath or shall have Ecclesiastical living, declare his assent, and subscribe to all the Articles of Religion, which onely concern the Confession of the true Christian Faith, and the Doctrine of the Sacraments, comprised in a Book imprinted, Entituled, Articles, whereupon it was agreed by the Archbishops and Bishops of both Provinces, and the whole Clergy in the Convocation holden at London, in the year of our Lord God, One thousand five hundred sixty and two, according to the computation of the Church of England, for the avoiding of the diversities of Opinions, and for the establishing of consent touching true Religion, put forth by the Queens Authority: and shall bring from such Bishop or Guardian of Spiritualities in writing, under his Seal authentick, a testimonial of such assent and subscription, and openly on some Sunday in the time of some publick Service, after noon, in every Church where by reason of any Ecclesiastical living he ought to attend, read both the said Testimonial, and the said Articles, upon pain that every such person which shall not before the said Feast do as is above appointed, shall be (*ipso facto*) deprived, and all his Ecclesiastical promotions shall be void, as if he then were naturally dead.

II. And that if any person Ecclesiastical, or which shall have Ecclesiastical living, shall advisedly maintain or affirm any Doctrine directly contrary or repugnant to any of the said Articles, and being convented before the Bishop of the Diocess, or the Ordinary, or before the Queens Highnesss Commissioners in causes Ecclesiastical, shall persist therein, or not revoke his error, or after such revocation esteem affirm such untrue Doctrine, such maintaining or affirming, and persisting, or such esteem affirming, shall be just cause to deprive such person of his Ecclesiastical promotion; and it shall be lawful to the Bishop of the Diocess, or the Ordinary, or the said Commissioners, to deprive such person so persisting, or lawfully convicted of such esteem affirming, and upon such sentence of deprivation pronounced, he shall be indeed deprived.

5 Annæ, Cap. 5.

A.D. 170

*In an Act, Entituled, An Act for Securing the Church of England, as by Law established.*

The foregoing Act shall remain in force for ever.

§. I. That an Act made in the thirteenth year of the Reign of Queen Elizabeth of famous memory, Intituled, An Act for the Ministers of the Church to be of sound Religion—(other than such clauses—as have been repealed or altered by any subsequent Act or Acts of Parliament)—shall remain and be in full force for ever.

## C A N O N S 1603.

1 Jac.

*v. Impugners of the Articles of Religion established in the Church of England, censured.*

To affirm that the 39 Articles, are superstitious, or erroneous, shall be Excommunication *ipso facto*.

Whosoever shall hereafter affirm, That any of the Nine and thirty Articles agreed upon by the Archbishops and Bishops of both Provinces, and the whole Clergy in the Convocation holden at London, in the Year of our Lord God, One thousand five hundred sixty two, for avoiding diversities of Opinions, and for the establishing of Consent touching true Religion, are in any part superstitious



Articles of Religion.

perfitious or erroneous, or such as he may not with a good Conscience subscribe unto: Let him be Excommunicated *ipso facto*, and not restored, but only by the Archbishop, after his Repentance and publick Revocation of such his wicked Errors.

Abridgment.

1 Jac. 1.

C A N O N S 1603.

In Can. xxxvi. Entituled, *Subscription required of such as are to be made Ministers.*

III. That he alloweth the Book of Articles of Religion agreed upon by the Archbishops, and Bishops of both Provinces, and the whole Clergy in the Convocation holden at *London* in the Year of our Lord God, One thousand five hundred sixty and two: And that he acknowledgeth all and every the Articles therein contained, being in number Nine and thirty, besides the Ratification, to be agreeable to the Word of God.

Subscription to the 39 Articles, as agreeable to the Word of God, shall be made by all Ministers.

A.D. 1688.

1 Will. & Mar. Cap. 18.

In an Act, Entituled, *An Act for exempting their Majesties Protestant Subjects, dissenting from the Church of England, from the Penalties of certain Laws.*

VIII. — And shall also declare his Approbation of, and subscribe the Articles of Religion mentioned in the Statute made in the Thirteenth Year of the Reign of the late Queen Elizabeth, Except the Thirti fourth, Thirti fifth, and Thirti sixth, and these words of the Twentieth Article Viz. [The Church hath power to decree Rites or Ceremonies, and Authority in Controversies of Faith, and yet] —

Dissenting Teachers may subscribe the 39 Articles, with Limitations.

This Body of Articles (which was mainly founded upon a Body compiled and published in the Reign of King Edward VI.) was not only passed in Convocation, and confirmed by Royal Authority, in the Year, 1562. but was also Ratified anew, first by Queen Elizabeth, and afterwards by King James I.

*monwealth. We have therefore, upon mature Deliberation, and with the Advice of so many of Our Bishops as might conveniently be called together, thought fit to make this Declaration following;*

Queen Elizabeth's Confirmation of the 39. Articles.

*That the Articles of the Church of England (which have been allowed and authorized heretofore, and which Our Clergy generally have Subscribed unto) do contain the true Doctrine of the Church of England, agreeable to God's Word: which we do therefore Ratifie and Confirm, Requiring all Our loving Subjects to continue in the Uniform Profession thereof, and prohibiting the least difference from the said Articles, which to that end We Command to be new Printed, and this Our Declaration to be Published therewith.*

**T**His Book of Articles before Rebearsed, is again Approved, and Allowed to be Holden and Executed within the Realm, by the Assent and Consent of our Sovereign Lady Elizabeth, by the Grace of God, of England, France, and Ireland, Queen, Defend.r of the Faith, &c. which Articles were deliberately Read, and Confirmed again by the Subscription of the Hands of the Archbishop and Bishops of the Upper House, and by the Subscription of the whole Clergy of the Nether House in their Convocation, in the Year of our Lord, 1671.

*That we are Supreme Governour of the Church of England: And that if any Difference arise about the External Policy, concerning Injunctions, Canons, and other Constitutions whatsoever thereto belonging, the Clergy in their Convocation is to Order and Settle them, having first obtained leave under Our Broad Seal so to do, and We approving their said Ordinances and Constitutions; providing that none be made contrary to the Laws and Customs of the Land.*

King James's Confirmation of the 39. Articles.

**B**Eing by God's Ordinance, according to Our just Title, Defender of the Faith, and Supreme Governour of the Church, within these Our Dominions, We hold it most agreeable to this Our Kingly Office, and Our own Religious Zeal, to conserve and maintain the Church committed to Our Charge, in the unity of true Religion, and in the Bond of Peace: and not to suffer unnecessary Disputations, Altercations, or Questions, to be raised, which may nourish Faction both in the Church and Com-

*That out of Our Princely Care, that the Churchmen may do the Work which is proper unto them, the Bishop and Clergy, from time to time in Convocation, upon their humble Desire, shall have Licence under Our broad Seal, to deliberate of, and to do all such things, as being made plain by them, and assented unto by Us, shall concern the Settled continuance of the Doctrine and Discipline of the Church of England now Established; from which We will not endure any varying or departing in the least Degree.*



## Abridgment.

That for the present, though some Differences have been ill raised, yet We take comfort in this, that all Clergy men within Our Realm, have always most willingly Subscribed to the Articles Established; which is an Argument to Us, that they all agree in the true usual literal meaning of the said Articles, and that even in those curious Points in which the present Differences lie, Men of all sorts take the Articles of the Church of England to be for them; which is an Argument again, that none of them intend any Desertion of the Articles Established.

That therefore in these both curious and unhappy Differences, which have for so many hundred Years in different Times and Places exercised the Church of Christ, We will that all further curious Search be laid aside, and these Disputes shut up in God's promises, as they be generally set forth to us in the holy Scriptures, and the general meaning of the Articles of the Church of England, according to them. And that no

Man hereafter shall either Print or Preach to draw the Article aside any way, but shall submit to it in the plain and full meaning thereof; and shall not put his own Sense or Comment to be the meaning of the Article, but shall take it in the Literal and Grammatical Sense.

That if any publick Reader in either Our Universities, or any Head or Master of a College, or any other Person respectively in either of them, shall affix any new Sense to any Article, or shall publickly Read, Determine or Hold any publick Disputation, or suffer any such to be Held either way, in either the Universities or Colleges respectively; or if any Divine in the Universities shall Preach or Print any thing either way, other than is already Established in Convocation with Our Royal Assent, he, or they the Offenders, shall be liable to Our Displeasure, and the Churches Censure in our Commission Ecclesiastical, as well as any other: And We will see there shall be due Execution upon them.

## Articles of Religion.



# TIT. XVI.

## PREACHING of HERETICAL Doctrines; and of HERESIE, and HERETICKS.

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### CAP. I.

#### HERETICAL PREACHING, and Teaching, restrained by Statutes in the times of POPYRY.

A.D. 1381.

5 Ric. II. Cap. 5.

#### An Act against Preachers of Heresie.

Heretical Preaching, and Teaching, restrained in time of Popery.



Item, soasmuch as it is openly known, that there be divers evil persons within the Realm, going from county to county, and from town to town, in certain habits under dissimulation of great holiness, and without the licence of the Ordinaries of the places, or other sufficient authority, preaching daily, not only in Churches and Church-yards, but also in Markets, Fairs, and other open places, where a great congregation of people is, diverse Sermons containing heresies and notorious errors, to the great emblesmishing of the Christian Faith, and destruction of the laws and of the estate of holy Church, to the great peril of the Souls of the people, and of all the Realm of England, as more plainly is found and sufficiently proved before the reverend Father in God, the Archbishop of Canterbury, and the Bishops and other Prelates masters of Divinity, and Doctors of Canon and of Civil Law, and a great part of the Clergy of the said Realm specially assembled for this cause: which persons do also preach diverse matters of sclaunder, to engender discord and dissention betwixt diverse estates of the said Realm as well spiritual as temporal, in exciting of the people, to the great peril of all the Realm: which Preachers cited or summoned before the Ordinaries of the places, there to answer of that, whereof they be impeached, will not obey to their summons and commandments, nor care not for their monitions nor censures of the holy Church, but expressly despise them: And moreover by their subtil and ingenious words do draw the people to hear their Sermons, and do maintain them in their errors by strong hand and by great routs: It is ordained and assented in this present Parliament, that the Kings Commissions be made and directed to the Whi-

Many heretical Preachers go about Preaching without Licence,

... as hath been proved before the Archbishop, Bishops, &c.

...and despise the Summons and Centures of the Church.

3 Ric. 41.

[ In this present Parliament.] My Lord Coke supposes, that this general expressi-  
on was made use of, because the Act was  
pass'd only by the King and Lords, and the  
Commons never gave their Assent to it;  
for the proof of which Fact, he alledges  
rises



## Abridgment.

The prelates certifying such Preachers, the Lord Chancellor shall issue Commissions to arrest them,

riffes and other ministers of our Sovereign Lord the King, or other sufficient persons learned, and according to the certifications of the Prelates thereof to be made in the Chancery from time to time, to arrest all such preachers, and also their fautors, maintainors, and abettors, and to hold them in arrest and strong prison, till they will justify them according to the Law and reason of holy Church. And the King will and commandeth, that the Chancelor make such commissions at all times, that he by the Prelates or any of them shall be certified, and thereof required, as is aforesaid.

the Roll of Parliament, *Ann. 6 Rich. 2.* wherein the Commons pray, that the said supposed Statute might be declared void, as not having had their Assent; to which (as the same Rolls sets forth) the King agreed in these words, *Y pleist au Roy.* And, upon this, he founds a severe Charge against Bishop *Braibrook*, the then Lord Chancellor, as having inserted, in the Parliamentary Writ of Proclamation, the said Stat. *5 R. 2.* which was no Statute; but (in the Proclamation of the next Year) omitted the Stat. *6 R. 2.* tho' confirmed by the King.

However these Facts (as to *inserting*, or not *inserting*) may be true; the inference against the Bishop seems not to be sufficiently supported by them. For, *First*, Whereas my Lord *Coke* observes (*marke well*, says he, *the penning of this Act*) that the Style of the Act, is, *It is ordained and assented in the present Parliament*, as if this were a peculiar Style, which they chose to make use of in this Act, because it had not the Assent of the Commons; his Lordship might have added, what he could not but know, that it was no other than the ordinary Stile of those days; commonly, in these general words, *It is accorded and established, It is accorded and enacted, It is established and ordained*; without any mention of King, Lords or Commons, as may be seen throughout the Reigns of *Edward III. Richard II. &c.* and sometimes with the addition of a Parliamentary Assent, as it is here; and as it is also *25 E. 3. c. 1.* *It is accorded and assented in the same Parliament*; and twice *34 E. 3. c. 9.* *It is accorded in this present Parliament.* So that his Lordship's first Suggestion could never have been of weight with any Reader, had he allowed him to know the difference between the Acts of those days and ours, in point of *Stile and Language.* *Secondly*, It appears not, by the Record, that the Stat. *5 Ric. II.* was so passed by the King and Lords, as that

the Commons knew nothing of it, or were not acquainted with it; but their Complaint is, that they never Assented thereunto; which, if meant of a *formal Assent*, might at that time be a *disputable point*; whether they assented or not; considering that in those days the Commons were not such a *distinct and separate Body*, as they have since been; and it is not pretended, that that Statute was inserted, notwithstanding the *dissent of the Commons.* *Thirdly*, As to the Crime of not inserting the Stat. *6 Rich. II.*; before that was charged: it ought to have appeared, that this had the Assent of the Lords, more than the other had the Assent of the Commons. Nothing is alledged for the Repeal, but a Representation from the Commons, and the Assent of the King; so that we may justly presume, that the reason why the Lord Chancellor did not insert it in the Parliamentary Roll, was, because the Lords assented not to the Repeal, as knowing that the *5 Ric. II.* was duly and regularly passed. *Fourthly*, Considering the publick manner in which Acts of Parliament, in those days, were proclaimed in every County; is it credible; either that this omission (had it been a *fraud*;) could have escaped the Commons; or that, if such a fraud had been discovered, it would not have been complained of in the Parliament which met the very next Year? *Fifthly*, That very Statute *5 Ric. II.* (which the Commons are said, not to have assented to) is expressly termed a *Statute*, and mentioned as such, without the least mark of suspicion, by three subsequent Statutes in this Chapter, *viz. 25 H. 8. c. 14. §. 1. — 1 Edw. 6. c. 12. §. 3. — 1, 2 Mar. c. 6.*

These things considered, the Reader must be left to judge, which of the two is most clear, the *Fraud* of Bishop *Braibrook* and the Prelates, or the *Prejudice and Uncharitableness* of my Lord *Coke.*

## 2 Henr. IV. Cap. 15.

## An Act touching Heresies.

The Catholick Faith hath been hitherto preserved,

--but now a new Sect of heretical Preachers is arisen,

-- who promote their Heresies, to the disturbance of the publick peace,

Item, Whereas it is shewed to our Sovereign Lord the King on the behalf of the Prelates and the Clergy of his Realm of England in this present Parliament, that although the Catholick Faith builded upon Christ, and by his Apostles and the holy Church sufficiently determined, declared, and approved, hath been hitherto by good and holy and most Noble Progenitors of our Sovereign Lord the King in the said Realm amongst all the Realms of the world, most devoutly observed, and the Church of England by his said most Noble Progenitors and Ancestors, to the honour of God and of the whole Realm aforesaid, laudably endowed, and in her rights and liberties sustained, without that the same Faith or the said Church was hurt or grievously oppressed, or else perturbed by any perverse doctrine or wicked, heretical or erroneous opinions: Yet nevertheless diverse false and perverse people of a certain new sect, of the faith of the Sacraments of the Church, and the authority of the same damnably thinking, and against the law of God and of the Church usurping the office of preaching, do perversely, and maliciously in divers places within the said Realm under the colour of dissembled holiness, preach and teach these days openly and privily diverse new doctrines and wicked heretical and erroneous opinions, contrary to the same faith and blessed determinations of the holy Church. And of such sect and wicked doctrine and opinions they make unlawful conventicles and confederacies, they hold and exercise Schools, they make and write books, they do wickedly instruct and inform people, and, as much as they may, excite and stirre them to sedition and insurrection, and maketh great strife

Heretical Preaching, and Teaching, restrained in time of Popery.

A.D. 1400.



Heretical Preaching, and Teaching, restrained in times of Popery.

and division among the people, and other enormities horribly to be heard daily do perpetrate and commit, in subversion of the said Catholick faith and doctrine of the holy Church, in diminution of Gods honour, and also in destruction of the estate, rights and liberties of the said Church of England, by which sect and wicked and false preachings, doctrines, and opinions of the said false and perverse people, not only most greatest peril of the Souls, but also many more other hurts, slanders, and perils, (which God prohibite) might come to this Realm, unless it be the more plentifully and speedily holpen by the Kings Majesty in this behalf, namely whereas the Diocefans of the said Realm cannot by their b jurisdiction spiritual, without the aid of the said royal Majesty, sufficiently correct the said false and perverse people, nor refrain their malice, because the said false and perverse people, do go from Diocefs to Diocefs, and will not appear before the said Diocefans, but the same Diocefans and their jurisdiction spiritual, and the keys of the Church, with the censures of the same, do utterly contemn and despise, and so their wicked preachings and doctrines doe from day to day continue and exercise, to the hatred of right and reason, and utter destruction of order and good rule. Upon which nobelties and ex-

b Jurisdiction Spiritual.] It is a just Inference, which my Lord Coke makes from the Preamble of this Statute, That the Bishop of every Diocefe at Common-Law, might convict for Heresie, there being nothing more plain, than that the intention of this Statute was, not to give the Ordinary the Cognifance of Heresie, but to enable him to take Cognifance of it with effect; which he could not so well do before, by reason of their shifting from Diocefe to Diocefe, and their Contempt of the Censures of the Church.

And the Doctrine supposed in this Preamble, concerning the ordinary Jurisdiction of the Bishop in cases of Heresie, is no more than what the Canon Law it self supposed, where, speaking of Hereticks, the Rule is, *Ipsè autem Episcopus ad presentiam suam convocet accusatos; qui nisi se ab ejecto reatu purgaverint, vel si post purgationem exhibitam in pristinam fuerint relapsi perfidiam, Canonice puniantur.* And whereas, regularly, a Clergyman might not be degraded by one Bishop alone, it is provided, that for Heresie, *suus solus possit Episcopus degradare.* So that, altho' Lyndwood wrote after this Statute was made, yet when he asserted this Power to the Bishop of every Diocefe, he spoke according to the Common-Law of the Church; *Cognitio hæresis duobus tantum Judicibus in jure permittitur, viz. Episcopo loci, & Inquisitori hæreticæ pravitatis à sede Apostolica deputato:* And, *est causa hæresis una de majoribus causis, quæ pertinet ad solos Episcopos;* meaning exclusive of the Judges in Exempt Jurisdictions, and of the Deans and Chapters, as Guardians of the Spiritualities, in the time of Vacation.

It had been needless to say thus much on so plain a point, but for these two Reasons; First, That the ancient Statutes relating to Heresie being now abolished, the Cognifance and Punishment thereof subsists mainly upon the ancient Common-Law of the Church; and secondly, that an Error hath been broached and propagated in our Law-books, as if no Person could be convicted of Heresie before this Statute, but in a Provincial Convocation. So saith Coke (inconsistently with his own Doctrine, as mentioned above) *By the ancient Laws Ecclesiastical of this Realm, no man could be convicted of Heresie, but by the Archbishop, and all the Clergy of that Province. — But the Statute of 2 H. 4. c. 15. doth give the Bishop in his Diocefe power to condemn an Heretick.* Which Power, he elsewhere says, was given to the Bishop, because it was troublesome to call a Convocation of the whole Province.

Now, all this is mere Imag'nation, and sprung from a mistake of Fitzherbert, who in his Observations upon the Writ de Heretico comburendo, says, *It appears by that Writ, that a man ought to be convicted of Heresie by the Archbishop and all the Clergy of the Province;* whereas nothing appears from the Writ, but that William Sawire, for the burning of whom the Writ was issued, happen'd to be so convicted (there being no doubt, but a Provincial Convocation might convict in those days) but yet this very Person had also been judicially convened before the Bishop of Norwich, and had recanted his Opinions, a Year before the Statute 2 H. 4. was made; and it appears by our Records of Convocation, to have been very common for Bishops (after the making of that Statute) to bring such Hereticks whom they accounted most notorious, and upon whom they had passed Sentence by their Episcopal Authority, before the next Convocation, in order either to Retraction, or a more solemn Condemnation: So it was, nine Years after, in the case of John Badby: against whom, the Process in Convocation begins with a relation of a former Process before the Bishop of Worcester, *pro tribunali sedente;* and the Archbishop, finding him obstinate, and not by any means to be brought to a Recantation, *Sententiam per Episcopum Wigorniensem contra ipsum Johannem Badby alias latam confirmando & ratificando, ipsum pro hæretico publice declaravit.* Again, Ann. 1416. the Process against John Barton began with a Narrative given by the Bishop of Lincoln, of his having formerly put him under the Sentence of Excommunication; and this (as I said) was frequently practised in those days, after the Statute had expressly empowered the Bishops to deliver Hereticks to the Secular Arm, and the bringing them before the Convocation is to be lookt upon (both before, and after) to have been a matter of Choice, but not at all a matter of Necessity, as if the Bishop himself had not full and entire Power.

Accordingly, with reference to this very Assertion of Fitzherbert (that at the Common-Law a Bishop in his Diocefe might not condemn an Heretick, until 2 H. 4. did give him Authority) it is affirmed by Dr. Cofins, that *this is not Law;* to which he adds, *and so I have heard the two Chief Justices, the Lord Chief Baron, and some other Judges, and the Queen's learned Council, resolve, in a special Consultation holden about the matter of Heresie.*

Abridgment.

-- to the great peril of Men's Souls.

--and contemn the Spiritual Jurisdiction,

Journ. Con. Ann. 1400.

Ibid. Ann. 1409.

Ibid. Ann. 1416.

Col. Apol. P. 81.

Sext. Decret. l. 5. t. 7. c. 13.

De Hæret. Item quia; v. Ordinar.

1 Rep. Cowdry's Case.

12 Rep. p. 56.



## Abridgment.

The Prayer of the Prelates, Clergy, and Commons, and the Kings resolution to suppress them.

Enacted, that none shall preach without Licence,

nor preach or write against the Catholick Faith, nor favour such.

but deliver all heretical Books to the Bishop.

Offenders against this Act shall be arrested by the Diocesan,

and proceeded against according to the Canons,

and being convicted shall be kept in prison,

and fined at the discretion of their Diocesan.

Any person refusing to Abjure, or relapsing, shall

cesses above rehearsed: the Prelates and Clergy aforesaid, and also the Commons of the said Realm being in the same Parliament, praying our Sovereign Lord the King, that his royal highness would vouchsafe in the said Parliament to provide a convenient remedy: The same our Sovereign Lord the King graciously considering the premises, and also the laudable steps of his said most Noble Progenitors and Ancestors, for the conservation of the said Catholick Faith, and sustentation of Gods honour, and also the safeguard of the estate, rights and liberties of the said Church of England, to the laud of God, and merit of our said Sovereign Lord the King, and prosperity and honour of all his said Realm, and for the eschewing of such dissensions, divisions, hurts, disorders, and perils, in time to come, and that this wicked sect, preachings, doctrines and opinions should from henceforth cease and be utterly destroyed, by the assent of the States and other discreet men of the Realm being in the said Parliament, hath granted, stablished, and ordained from henceforth firmly to be observed: That none within the said Realm or any other dominions, subject to his royal Majesty, presume to preach openly or privately, without Licence of the Diocesan of the same place first required and obtained: Curates in their own Churches, and persons hitherto privileged, and other of the Canon law granted, only except: Nor that none from henceforth any thing preach, hold, teach or instruct openly or privately, or make or write any Book contrary to the Catholick Faith, or determination of the holy Church, nor of such sect and wicked doctrines and opinions shall make any conventicles, or in any wise hold or exercise Schools. And also that none from henceforth in any wise favour such Preacher, or maker of any such and like conventicles, or holding or exercising Schools, or making or writing such Books, or so teaching, informing or exciting the people, nor any of them maintain or any wise sustain. And that all and singular having such Books, or any writings of such wicked doctrine and opinions, shall really with effect deliver or cause to be delivered all such Books and writings to the Diocesan of the same place within 11. days, from the time of the Proclamation of this Ordinance and Statute. And if any person or persons, of whatsoever kind, estate, or condition that he or they be, from henceforth do or attempt against the royal Ordinance and Statute aforesaid in the premises or in any of them, or such Books in the form aforesaid do not deliver, then the Diocesan of the same place in his Diocess, such person or persons in this behalf defamed or evidently suspected, and every of them, may by the authority of the said Ordinance and Statute cause to be arrested, and under safe custody in his prisons to be detained, till he or they of the Articles laid to him or them in this behalf, do canonically purge him or themselves, or else such wicked sect, preachings, doctrines, and heretical and erroneous opinions do abjure according as the laws of the Church do require, so that the said Diocesan by himself or his Commissaries do openly and judicially proceed against such persons so arrested, and remaining under his said custody to all the effect of the law, and determine that same business according to the Canonical decrees within three months after the said arrest, any lawful impediment ceasing. And if any person, in any case above expressed, be before the Diocesan of the place or his Commissaries canonically convicted: then the same Diocesan may do to be kept in his prison the said person so convicted for the manner of his default, and after the quality of the offence according and as long as to his discretion shall seem expedient, and moreover to put the same person to the secular Court (except in cases where he according to the Canonical decree ought to be left) to pay to our Sovereign Lord the King his pecuniar fine, according as the same fine shall seem competent to the Diocesan, for the manner and quality of the offence, in which case the same Diocesan, shall be bound to certify the King of the same fine in his Exchequer by his letters Patents sealed with his Seal, to the effect that such fine by the Kings authority may be required and levied to his use of the goods of the same person so convicted. And if any person within the said Realm and dominions, upon the said wicked preachings, doctrines, opinions, Schools, and heretical and erroneous informations or any of them be before the Diocesan of the same place or his Commissaries sententially convicted, and the same wicked sect,

Heretical Preaching, and Teaching, restrained in times of Popery.

Rot. Parl.

[The Prelates and Clergy.] Their Petition is enter'd at large in the Roll of this Parliament; and upon it, both the Preamble and the Law were mainly grounded, as appears by the comparing of them with the Record.

3. Inst. 42.

[Evidently suspected.] In the 5 of Edward IV. John Keyser being Excommunicated for Contempt of the Spiritual Jurisdiction, and remaining so for eight Months, openly affirmed, "That the said Sentence was not to be feared, neither did he fear it: And albeit the Archbishop or his Commissary hath Excommunicated me, yet before God I am not Excommunicated: And he said, that he spake nothing but the truth, for that he, the last Harvest, standing so Excommunicate, had as great plenty of Wheat and other Grain, as any of his Neighbours; saying to them in Scorn, that a man Excommunicated should not have such plenty of Wheat. The Archbishop hereupon committed him to Maidston-Gaol, not for Heresie, but because dictum Johannis non immerito habemus de heresi suspectum, as the words of the Commitment were; and upon his moving the King's Bench (Markham being then Chief Justice) to have an Habeas Corpus, it was granted, and he

was first bailed and then delivered; the Court, upon mature deliberation, and conference with Divines, having resolved, that upon the said words he was not to be suspect of Heresie, within the Statute.

[To the Catholick Faith.] In the 11 Henry VII. Hilary Warner held and published, quod non tenebatur solvere aliquas Decimas Curatori, sive Ecclesie Parochiali, ubi inhabitabat. For which words, (as contra fidem Catholicam & determinationem Ecclesie) he was Arrested, and Imprisoned, by order of the Bishop of London; and, upon an Action of false Imprisonment by him brought, and the Statute pleaded in behalf of the Bishop, it was adjudged by the whole Court of Common Pleas, that the said Opinion was not within this Statute, for that it was an Error, but no Heresie.

3. Inst. 42.

Coke said, in the Case of Bradston, 12 Jac. 1. that Brownlow Prothonotary of the Common Pleas did shew this Record to him; by which it appeared, that it ought to be apparent matter of Heresie; otherwise they could not imprison upon this Statute.

2. Eulfr. 300.

[Arrested.] The Arresting, Imprisoning, and Fining, are agreed on all hands, to be new Powers, with which the Ordinary was invested by this Act.



*Heretical  
Preaching,  
and Teach-  
ing, re-  
strained in  
times of  
Popery.*

Preachings, Doctrines and Opinions, Schools and Informations, do refuse duly to abjure, or by the Diocesan of the same place or his Commissaries after the abjuration made by the same person pronounced fall into relaps, so that according to the holy Canons he ought to be left to the secular Court, whereupon credence shall be given to the Diocesan of the same place, or to his Commissaries in this behalf, then the Sherriff of the County of the same place, and Mayor and Sherriffs or Sherriff, or Mayor and Bailiffs of the City, Town and Borough, of the same County next to the same Diocesan or the said Commissaries, shall be personally present in preferring of such sentences, when they by the same Diocesan or his Commissaries shall be required: and they the same persons and every of them, after such sentence promulgate, shall receive: And them before the people in an high place do to be burnt, that such punishment may strike in fear to the minds of other, whereby no such wicked doctrine and heretical and erroneous opinions, nor their Authors and Followers in the said Realm and dominions against the Catholick faith, christian law, and determination of the holy Church (which God prohibit) be sustained or in any wise suffered, in which all and singular the premises concerning the said Ordinance and Statute, the Sherriffs, Mayors and Bailiffs, of the said Counties, Cities, Boroughs, and Towns, shall be attending, aiding and supporting, to the said Diocesans and their Commissaries.

Abridgment.

be delivered to the Secular Arm,

---and burnt, for the terror of others.

A.D. 1414.

2 Henr. V. Cap. 7.

*An Act for Reformation of Heresie and Lollardy.*

Item, Forasmuch as great rumours, congregations and insurrections, here in the Realm of England by divers of the Kings liege people, as well by them which were of the sect of heresy commonly called Lollardy, as by other of their confederacy, exortation, and abetment, now of late were made, to the intent to adnule, destroy, and subvert the Christian faith, and the law of God and holy Church within the same Realm of England, and also to destroy the same our Sovereign Lord the King and all other manner of estates of the same Realm of England, as well spiritual as temporal, and also all manner of policy, and finally the laws of the land: The same our Sovereign Lord the King, to the honour of God, and in conservation and fortification of the Christian faith, and also in salvation of his royal estate, and of the estate of all his Realm, willing against the malice of such Hereticks and Lollards to provide a more open remedy and punishment than hath been had and used in the case heretofore, so that for fear of the same laws and punishment, such Heresies and Lollardies may the rather cease in time to come, by the advice and assent aforesaid, and at the prayer of the said Commons, hath ordained and established: that first the Chancellor, Treasurer, Justice of the one Bench and of the other, Justices of Peace, Sherriffs, Mayors, and Bailiffs of Cities and Towns, and all other Officers, having governance of people, which now be or hereafter for the time shall be, shall make an oath in taking of their charges and occupations, to put their whole power and diligence, to put out and do to be put out, cease, and destroy all manner of Heresies and errors, commonly called Lollardies, within the places where they exercise their Offices and occupations from time to time with all their power, and that they assist the ordinaries and their commissaries, and their favour and maintain as often as they or any of them to that shall be required by the same ordinaries or their commissaries, so that when the said Officers and Ministers travel or ride to arrest any Lollard, or to make assistance at the instance and request of the ordinaries or their commissaries by virtue of this Statute, that the same ordinaries and commissaries shall pay for their costs reasonably. And that the Kings services, to the which the same Officers be first sworn, be preferred before all other Statutes for the liberty of holy Church and the Ministers of the same, and in especial for the correction and punishment of the Hereticks and Lollards before this time made and not repealed being in their force. And also that all persons convict of heresy, of what estate, condition or degree that they be, by the said ordinaries or other commissaries left to the secular power according to the laws of holy Church, shall lose and forfeit all their lands and tenements, which they have in fee simple in the manner as followeth, that is to say that the King have all the lands and tenements, which the said convicts have in fee simple, and holden of him immediately as forfeit, and that the other Lords, of whom the lands and tenements of such convicts be holden immediately, after that the King is so seized and answered of the year the day and the waste, have liberty out of the Kings hands of the lands and tenements aforesaid of them so holden, as it hath been used in the case of Attainder of felony, except the lands and tenements which be holden of the ordinaries or their commissaries, before whom any such persons impeached of Heresy be convict, which lands and tenements intirely shall remain to the King as forfeit. And moreover that all the goods and chattels of these persons so convicted, be forfeit to our Sovereign Lord the King, so that no person convict of Heresy, and left to the secular power after the laws of holy Church, shall forfeit his lands before that he be dead. And if any such person so convict be infeoffed, be it by fine, by deed, or without deed, in lands or tenements, rents, or services in fee or otherwise, or hath any other possessions or chattels by gift or grant of any person or persons to anothers use, then to the use of such convicts, that the same lands nor tenements, rents nor services, nor such other possessions, nor chattels shall

Lollards subverting the Christian Faith, and the Government of Church and State,

--- against whom there is a necessity of more effectual Remedies,

Enacted, that, ---all Officers, at their admission shall take an Oath, to destroy Lollardy,

---and to assist the Ordinaries therein.

Hereticks Convict shall forfeit their Lands,

---and goods and chattels.

3. Cro. 25.

[*f* Sherriffs.] In the Reign of King Charles I. Sir Edward Coke was made Sherriff of the County of Buckingham, and had a *Dedimus Potestatem* to take his Oath annexed to a Schedule. To which Oath he took divers Exceptions; and the first was, that he found in it this Clause, *That he should seek to suppress all Errors and Heresies, commonly called Lollardies, and should be assistant to the Commissaries and Ordinary in Church matters*; which Clause, he said, was inserted in pursuance of this Statute; and the Sta-

tute being repealed, the Oath ought not to be taken. Whereupon, the Lord-keeper assembling all the Justices, to confer with them about the Exceptions made; they conceived, as to this Point, that it was fit to be omitted, not only because the Statute is Repealed, but because it was originally intended against the Religion now professed and established, which before was condemned for Heresie, and is now held for the true Religion.



## Abridgment.

The Justices shall have power to enquire of Offences against this Act, and to award a Capias, ---and the Offender shall be delivered to the Ordinary, within ten days;

--- who shall not take the Secular Inditeiments in Evidence, but commence new Procefs.

The Party may be let to mainprife.

Every Ordinary shall have Commissaries, to receive Hereticks of the Sheriffs,

--- who shall impanel sufficient Juries.

Heretick breaking Prison shall forfeit his Goods, Lands, &c. till he return,

--- but the Heir may enter, after his Death,

be forfeit to our Sovereign Lord the King in no wise. And moreover that the Justices of the Kings Bench, and Justices of Peace, and Justices of Assize, have full power to enquire of all them which hold any errors or heresies, as Lollards, and which be their maintainers, receivers, savours and sustainers common writers of such Books, as well of the Sermons as of their schools, conventicles, congregations, and confederacies. And that this clause be put in commissions of the Justices of the peace. And if any persons be indicted of any points aforesaid, the said Justices shall have power to award against them a Capias, and the Sherriff shall be bound to arrest the person or persons so indicted as soon as he may them find by him or by his Officers. And forasmuch as the conscience of Heresy, Errors, and Lollardries belongeth to the Judges of holy Church, and not to secular Judges: Such persons indicted shall be delivered to the Ordinaries of the places or to their Commissaries, by indentures betwixt them to be made, within ten days after their arrest, or sooner if it may be, thereof to be acquit or convict by the laws of holy Church, in case that these persons be not indicted of another thing, whereof the conscience belongeth to the secular Judges and Officers, in which case, after that they be acquit or delivered before the secular Judges of such things, to the secular Judges belonging, they shall be sent in safeguard to the said Ordinaries, or to their Commissaries, and to them delivered by indentures, as before, to be acquit or convict of such Lollardries, errors, or heresies, as is aforesaid, after the laws of holy Church, and that within the term aforesaid. Provided always that the said indictments be not taken in evidence, but for information before the Spiritual Judges against such persons so indicted, but that the Ordinaries commence their Procefs against such persons indicted in the same manner as though no indictment were, having no regard to such indictments. And if any be indicted of heresy, error, or Lollardrie, and taken by the Sherriff or other Officer, he shall be let to mainprife within the said ten days by good surety, for whom the said Sherriffs or other Officers will answer, so that the said person, or persons, which were so indicted, be ready to be delivered to the said Ordinaries, or to their Commissaries, before the end of the said ten days, if he may by any means for sickness. And every Ordinary shall have sufficient Commissaries or Commissary dwelling in every County in a place notable, so that if any such person so indicted be taken, that the said Commissaries or Commissary may be warned in the notable place where he dwelleth, by the Sherriff or some of his Officers, to come to the Kings jayle in the same County, there to receive the same person so indicted by indentures as before. And that in the inquest in this case to be taken, the Sherriffs and other Officers, to whom it belongeth shall do to be impanelled good and sufficient persons, not suspected nor procured, that is to say, that every of them which shall be so empanelled in such inquest, have within the Realm of England an hundred shillings of lands, tenements, or of rent by year, upon pain to lose to the Kings use ten pounds; and they which shall be empanelled in such inquests in Wales, every of them shall have to the value of xl. s. by year. And if any such person be arrested, be it by the Ordinary or by the Kings officers or ministers, and escape or break the prison before that he be acquit before the Ordinary, the goods and chattels, which he had the day of such arrest, shall be forfeit to the King, and his lands and tenements, which he had the same day, seised also into the Kings hands, the King shall have the profits thereof from the said day untill he be yielded to the prison from which he escaped. And that the foresaid Justices have full power to inquier of all such escapes, breaking of prison, and also of lands and tenements, goods, and chattels of such persons so indicted. Provided also, that if any such person indicted do not return to the said prison, and die not convict, it shall be lawfull to his heirs to enter into the lands and tenements of their ancestors, without any other pursuit making to the King for this cause, and that all they which have liberties and Franchises royal in England, as in the County of Chester, the County and liberty of Durham, and other like, and also all the Lords which have Jurisdiction and Franchises royal in Wales, where the Kings Writs do not run, have power to execute and put in due execution these Articles in all points by them or by their officers, in like manner as the Justices and other the Kings officers before declared should do.

25 Henr. VIII. Cap. 14.

A.D. 1533.

In an Act, Entituled, *An Act for the Punishment of Heresies.*

Confirmation of Stat. 5 Ric. 2. and 2 H. 5.

§. I.----Be it established, ordained, and enacted, by the authority of this present Parliament, that the Statute made in the fifth year of your noble Progenitor King Richard the second, and the Statute made in the second year of King Henry the fifth, concerning Punishment and Reformation of Hereticks and Lollards, every Provision therein contained, not being repugnant to this Act, shall be and stand in their force, strength and effect.

1 Edw. VI. Cap. 12.

A.D. 1550.

In an Act, Entituled, *An Act for the Repeal of certain Statutes concerning Treasons and Felonies, &c.*

Repeal of the two Statutes, concerning Heresy, 5 R. 2. 2 H. 5. 25 H. 8.

§. III. And also be it enacted by the authority aforesaid, that all Acts of Parliament and Statutes, touching, mentioning, or in any wise concerning Religion or opinions, that is to say, as well the Statute made in the fifth year of the Reign of the Kings noble Progenitor King Richard the second, and the Statute made in the second year of the Reign of King Henry the fifth---and the Statute also made in the xxv. year of the Reign of King Henry the eighth, concerning punishment and reformation of Hereticks and Lollards, and every provision therein contained, --- shall from henceforth be repealed, and utterly void and of none effect.

1 Mar.

Heretical Preaching, and Teaching, restrained in times of Popery.



Heretical  
Preaching  
and Teach-  
ing, re-  
strained in  
times of  
Popery.

D.A. 1554.

1 Mar. Cap. 6.

An Act for the Reviving of three Statutes made for the Punishment of Heresies.

FOR the eschuing and aboiding of errors and heresies, which of late have risen and grown, and much increased within this Realm, for that the Ordinaries have wanted Authority to proceed against those that were infected therewith. Be it therefore ordained and enacted by the authority of this present Parliament, that the Statute made in the fifth year of the Reign of King Richard the second, concerning the arresting and apprehension of erroneous and heretical Preachers, and one other Statute, made in the second year of the Reign of King Henry the fourth, concerning repressing of heresies, and Punishment of hereticks, and also one other Statute made in the second year of the Reign of King Henry the fifth, concerning the Suppression of Heresy and Lollardy, and every Article, branch and sentence contained in the same three several Acts, and every of them, shall from the twentieth day of January next coming, be revived, and be in full force, strength and effect, to all intents, constructions and purposes, for ever.

1 Eliz. Cap. 1.

In an Act, Entituled, An Act to restore to the Crown the ancient Jurisdiction over the Estate Ecclesiastical.

§. XV. And that also it may please your Highness, that it may be further established and enacted by the authority aforesaid, That one Act and Statute made in the first and second years of the late King Philip and Queen Mary, entituled, An Act for the reviving of three Statutes, made for the punishment of Heresies; and also the said three Statutes mentioned in the said Act, and by the same Acts revived, and all and every branches, articles, clauses and sentences contained in the said several Acts and Statutes, and every of them, shall be from the last day of this Session of Parliament, deemed and remain utterly repealed, void and of none effect, to all intents and purposes: any thing in the said several Acts, or any of them contained, or any other matter or cause to the contrary notwithstanding.

Abridgment.

Reviver of the 3 Statutes concerning Heresy--5 R. 2. 2 H. 4. and 2 H. 5.

Repeal of the 1, 2, Mar. c. 6. and of the 3 Statutes thereby revived.

A.D. 1554.

C A P. II.

HERETICAL PREACHING and Teaching, restrained by CONSTITUTIONS Provincial, in the Times of POPERY.

THOMAS ARUNDEL.

Prædicator de Sacramentis nihil aut præter aut contra Ecclesiæ determinationem prædicet, nec ab Ecclesia definita in dubium revocet. Contra faciens excommunicetur; non absolvendus donec Hæresin abjuraverit: & si in eandem relabatur, bona ejus Fisco deputentur, & pœnitentiâ Jure statutâ puniatur.

Item quia turpis est pars, quæ non convenit suo toti; Decernimus, & Ordinamus, ut nullus Prædicator verbi Dei, aut alia quævis Persona, de Sacramento Altaris, Matrimonio, peccatorum Confessione, aliòve quocunque Sacramento Ecclesiæ, seu Fidei articulo aliud doceat, prædicet, aut observet, quàm quod per Sanctam & Matrem & Ecclesiam reperitur discussum: nec vertat in dubium quod per Ecclesiam terminatum fuerit, aut decisum; nec verba scandalosa circa eadem scienter proferat publicè, vel occultè; neque Sectam aut speciem Hæreseos quamcunque prædicet, doceat, vel observet contra sanam doctrinam Ecclesiæ. Qui autem contrarium post publicationem præsentium scienter, & pertinaciter attentare præsumperit, Excommunicationis Sen-

None shall Preach any Doctrin, contrary to the Determination of the Church,

...nor call in question what the Church hath Determined,

...upon pain of Excommunication ip-

[i Matrem.] Sc. Romanam universaliter, vel alicujus Provinciæ particulariter. Lyndw. [k Ecclesiam.] Etiam alicujus Provinciæ particularem, respectu Ecclesiæ universalis. Lyndw.

A.D. 1408.  
10 H. 4.

Edit. Oxon.  
p. 295.  
O B S.



## Abridgment.

o facto, till he abjure, and submit to Penance, -- and to be, for the second Offence, declared a Heretic.

The Penance, beforementioned, shall be, the Retracting of his Errors, Publickly, in the place where they were preached,

--and assenting to the Determinations of the Church.

None shall read the Books of Wickliff his Contemporaries,

--unless they be first Examined, and approved, by one of the Universities,

--upon pain to suffer, as a Promoter of Schism and Heresy.

None shall advance Propositions or Conclusions (tho' in the Schools) that tend to subvert the Catholick Faith.

tentiam ipso facto incurrat, à qua excepto mortis articulo minimè absolvatur, nisi abjuratiōe præmissâ de Hæresi generaliter vel simpliciter, in forma Ecclesiæ consueta, ad arbitrium & Ordinarii, in cujus Territorio convincitur deliquisse, se correxerit, & de hac pro commissis pœnitentiam receperit salutarem. Quod si secundo se ingesserit, sicque recidiverit, vel relapsus fuerit, convictus legitime pro Hæretico & relapso sententialiter declaretur, & ipsius bona pro confiscatis habeantur, & ab illis, quorum interest, occupentur. Pœnitentiam verò (de qua fit mentio superius) Volumus esse talem; quod si quis contrarium determinatis per Ecclesiam, viz. in Decretis, Decretalibus, seu Constitutionibus nostris Provincialibus, sive quacunque Hæreseos speciem, sive Sectam publicè vel occultè docuerit, prædicaverit, sive asseruerit, in Ecclesia Parochiali ipsius loci in quo sic prædicaverit, docuerit, seu asseruerit; uno die Dominico, vel alio solenni pluribusve ad arbitrium Ordinarii ipsius loci (prout magis aut minus convincitur deliquisse) ipsa prædicata, docta, sive affirmata revocabit expressè infra Missarum Solemnia, cum major affuerit populi multitudo, & ipsa determinata per Ecclesiam prædicabit, docebit, & recitabit effectualiter sine fraude, ulteriusque punietur juxta sui demeriti qualiatem, quantum discretioni Ordinarii videbitur expedire.

[Generaliter.] Utputà, quòd abjuret omnem hæresin. Lyndw.  
[simpliciter.] Sc. indefinitè abjurando hæresin. Lyndw.  
[Ordinari.] Est causa hæresis una de majoribus causis, quæ pertinent ad solos Episcopos—

Abbatibus, quantumcunque Exempti, non possunt cognoscere in causâ hæresis, nisi fulsi sint super hoc privilegio speciali. — Lyndw.  
[Nostris.] Sc. quorumcunque Archiepiscoporum Cantuariensium, qui aliquas Constitutiones Provinciales ediderunt. Lyndw.

## THOMAS ARUNDEL.

Johannis Wickliff, aut alterius liber novus non interpretabitur, donec à 12. Universitatis delectis suppositis approbatus fuerit, aut transgressor fautor Hæreseos censeatur.

Quia insuper nova via frequentius seducit quàm antiqua, Volumus, & Ordinamus, quòd nullus Libellus sive Tractatus per p Johannem Wickliff, aut alium quemcunque tempore suo vel citra noviter compositus, sive in posterum componendus, amodò legatur in Scholis, Aulis, Hospitiis sive aliis locis quibuscunque infra nostram Provinciam antedictam, sive secundum ipsum doceatur, nisi per Universitatem Oxonia, aut Cantabrigia, vel saltem per 12. personas ex eisdem, quas eadem Universitates, aut ipsarum altera, sub nostra Successorumve Nostrorum discretione laudabili duxerint eligendas, primitus examinetur, & examinatus unanimiter per easdem, deinde per Nos seu Successores Nostros, expressè approbetur, & Universitatis nomine & auctoritate Stationariis tradatur, ut copietur, & factâ collatione fidei petentibus vendatur justo pretio sive detur; Originali in cista aliqua Universitatis extrunc perpetuò remanente. Quod si quis Libellum aut Tractatum hujusmodi in Scholis, aut alibi, ut supra, legerit, sive secundum ipsum docuerit contra formam supradictam, ut seminator Schismatis, atque iautor Hæresis puniatur, prout delicti qualitas flagitabit.

[p Johannem Wickliff.] Corpus, quod erat sepultum in Ecclesiâ Parochiali de Loterworth, Lincoln. Diocesi, ubi fuit Rector, de mandato & decreto sedis Apostolicæ fuit exhumatum, & ejus ossa combusta, cineribus eorundem projectis

in proximum annum, ad damnationem, & deletionem memoriæ suæ; Reverendo Patre Domino, Richardo Flemmyng, Lincoln. Episcopo Moderno, præmissa exequente. Lyndw.

## THOMAS ARUNDEL.

Nemo propositiones Hæresim sapientes, quamvis per extorsionem verborum, aut insuetam interpretationem ad Catholicum sensum trahi possint, proponat, aut asserat, sub Excommunicationis pœna, nisi revocet.

Præterea cum terminis Philosophicis aut aliis humanitatis adinventis conclusionibus non poterit omnium terminator, Beatusque Augustinus veras conclusiones, quæ Religiosarum aurium fuerant offensivæ, sæpius revocavit; Statuimus, & sub obtestatione Divini Judicii Inhibemus specialissime, ne quis, vel qui cujuscunque gradus, status, aut conditionis existat, conclusiones aut propositiones

Heretical Preaching, &c. restrained by Constitutions Provincial.

A. D. 1408.  
10 H. 4.

Edit. Oxon.  
p. 284.  
O B S.

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10 H. 4.

Edit. Oxon.  
p. 286.  
O B S.



Heretical  
Preaching,  
&c. re-  
strained by  
Constituti-  
ons Pro-  
vincial.

nes de fide Catholica aut bonis moribus adversè sonantes, præter necessariam doctrinam facultatis suæ in Scholis aut extra disputando, aut communicando, protestatione præmissâ, vel non præmissâ, asserat vel proponat, etiamsi quadam verborum aut terminorum curiositate defendi possint. Nam Teste Beato Hugone de Sacramentis, *Sapius quod bene dicitur, non bene intelligitur.* Si quis autem post publicationem præsentium, hujusmodi conclusiones aut propositiones convictus fuerit scienter proposuisse, seu asseruisse, nisi monitus se correxerit infra mensem, auctoritate præsentis Constitutionis, majoris Excommunicationis Sententiam incurrat ipso facto, & pro Excommunicato publicè nuncietur, donec in loco, ubi sic proposuit aut asseruit, publicè suum delictum fateatur, & verum Catholicum intellectum ejusdem conclusionis seu propositionis ad arbitrium Ordinarii publicè prædicaverit, in una Ecclesia, aut diversis, prout ipsi Ordinario videbitur expedire.

## THOMAS ARUNDEL.

De Ecclesia, aut Conciliis tam Universalibus quam Provincialibus, nemo quicquam in dubium revocet, nec disputet, nisi ad habendum verum intellectum. Nec quisquam Juramenta præstari solita, aut Crucis, seu Imaginum Sanctorum venerationes sacra intentione factas damnet: pertinaciter autem contrarium faciens pro Heretico habeatur.

Nullus quoque de q Articulis determinatis per Ecclesiam, prout in Decretis, Decretalibus, & Constitutionibus nostris Provincialibus, sive locorum Synodalibus continentur, nisi ad habendum verum intellectum eorundem, publicè aut occultè disputare præsumat; aut auctoritatem eorundem Decretorum, Decretalium, aut Constitutionum Provincialium, potestatemve condentis eadem in dubium revocet, sive contra determinationem eorundem doceat, & præsertim circa adorationem Crucis Gloriosæ, Imaginum Sanctorum venerationes, seu peregrinationes ad loca aut Reliquias eorundem, aut contra Juramenta in utroque Foro, Ecclesiastico videlicet & Temporali, in casibus consuetis & more solito præstanda: sed ab omnibus deinceps doceatur communiter, atque prædicetur, Crucem, & Imaginem Crucifixi, cæterasque Imagines Sanctorum in ipsorum memoriam & honorem quos figurant, ac ipsorum loca & reliquias Processionibus, Genuflectionibus, Inclinationibus, & Thurificationibus, Deosculationibus, Oblationibus, Luminarium accensionibus, & Peregrinationibus, necnon aliis quibuscunque modis & formis, quibus Nostris & Prædecessorum Nostrorum temporibus fieri consuevit, venerari debere; ac Juramenta tactis Sacrosanctis Dei Evangeliiis, & super ipsis in casibus in Jure expressis, & in utroque Foro usitatis, ab omnibus, quorum interest, legitimè fore præstanda: Contrarium autem asserens, docens, prædicans, aut pertinaciter innuens, nisi resipiscat sub modo & forma aliàs per Nos statutis, & abjuret, ut ibi cavetur, pœnas Hæreseos & relapsi in eventum incurrat, & pro tali ad omnem Juris effectum sententialiter declaretur.

q Articulis.] Non adjicit Fidei, sed, ut sicut, licet non concernant Articulos Fidei. sequitur, determinatis per Ecclesiam; ac si diceret, quod non solum hæresis incurritur ex hoc quod aliquis impugnât Articulos Fidei, sed etiam si impugnât ea quæ sunt determinata per Ecclesiam. Lyndw. r Thurificationibus.] i. e. Incessionibus, vel Sacrificationibus. — Thurificatio significat quod semper faciendum est, scil. Orationem, & Mentis ad Deum Devotionem. Lyndw.

## THOMAS ARUNDEL.

Guardiani, Præpositi, Custodes, vel Principales Collegii, Aulæ, vel Introitus cujuscunque Universitatis singulis mensibus ad minimum semel inquirent, an quisquam Propositionem non Catholicam, aut Doctrinam non sanam proposuerit, aut sustinuerit, inventos admoneant desistere & revocare, recusantes & jure & loco mulctent, sicut & ipsi pertinaciter negligentes mulctandi sunt. Et sicut contra suspectum de crimine lesæ Majestatis largè multisque modis procedi potest, ita contra suspectum de Hæresi omni libertate hic inferius notata procedi fas est.

Abridgment.

---upon pain of the  
Greater Excom-  
munication,

---till he confes  
his Fault, and Re-  
tract.

None shall bring  
into dispute the  
Determinations of  
the Church,

---especially con-  
cerning the Adora-  
tion of Images, &c.

---upon pain of be-  
ing declared a He-  
retick.

Finaliter

A.D. 1408.  
10 H. 4.

Edit. Oxon.  
p. 297.  
O B S.

D. 1408.  
10 H. 4.



## Abridgment.

The University of Oxford being greatly infected with Lollardy,

--to the great Scandal thereof, and of the Church of England,

--every Head shall enquire, Monthly, whether any Scholar hath maintained Doctrines, against the Determinations of the Church,

---who remaining obstinate, shall be ipso facto Excommunicate, &c,

--and expelled his College.

The Heads being found negligent herein,

--shall be excommunicated, and deprived,

--as also, being themselves detected of holding the said unsound Doctrines.

Offenders, in any case, against

**F**inaliter, quia ea quæ de novo & insolite emergunt, novo & maturo indigent auxilio; & ubi majus est periculum, ibi cautius est providendum, & fortius resistendum: nec injuste minus nobile discretè abscinditur, ut quod nobilius est perfectius nutriatur. Considerantes igitur, & doctè referentes, quomodo Alma Universitas Oxonia, quæ sicut vitis abundans suos palmites fructuosos ad honorem Dei, multiplicemque profectum & protectionem Ecclesiæ suæ diffundere consuevit, jam partim versa in s labruscas uvas acerbis gignit, quibus indiscretè comestis à pluribus in Lege videlicet Dei reputantibus te peritos, dentes obtupescunt filiorum, nostraque Provincia variis & infructuosis Doctrinis inficitur, ac novo damnabili & Lollardie nomine maculatur, in ipsius Universitatis scandalum non modicum ad partes exteras & remotas existentium & proficientium in eadem per maximum tadium, necnon Ecclesiæ Anglicanæ (quæ per virtuosam Doctrinam ejusdem tanquam muro inexpugnabili defendi solebat, jam scissis & divisis lapidibus, nisi celerius occurratur, secundum verisimile) damnum irrecoverabile. Ad supplicationem igitur Procuratorum totius cleri nostræ Cantuariensis Provinciæ, de consensu & assensu omnium Confratrum & Suffraganeorum nostrorum & aliorum Prælatorum in hac Cleri Convocatione præsentium, & Procuratorum absentium, nè purgato rivulo maneat fons infectus, & aquam ab eo currentem non sinat esse claram, Volentes honori & utilitati Sanctæ Matris Ecclesiæ & Universitatis prædictæ salubriter providere, Statuimus, & Ordinamus, quod quilibet Guardianus, & Præpositus, seu custos Collegii, aut Principalis Aulae, vel Introitus cujuscunque, Universitatis præfatæ, semel singulis mensibus ad minus inquirat diligenter in Collegio, Aula, vel Introitu cui præest, an aliquis Scholaris sive inhabitans in Collegio, Aula, sive Introitu hujusmodi, aliquam Conclusionem, sive Propositionem, aut Opinionem in Fide Catholica, aut bonis moribus male sonantem, contra determinationem Ecclesiæ, præter necessariam doctrinam suæ facultatis asseruerit, tenuerit, defenserit, seu aliquo modo proposuerit; & si aliquam super hoc suspectum aut diffamatum reperiat, ipsum moneat effectualiter ut desistat; & si postea contra admonitionem hujusmodi iteratò eadem vel consimilia reassumat, præter pœnas alias per Nos Statutas, majoris Excommunicationis Sententiam incurrat ipso facto. Et nihilominus si Scholaris fuerit qui sic reassumpserit, quicquid extunc in eadem Universitate fecerit, non stet sibi pro forma. Et si Doctor, Magister, aut Baccalaureus fuerit, eo ipso ab omni actu Scholastico sit suspensus, & in utroque casu Jus quod habet in Collegio, Aula, vel Introitu amittat ipso facto, & per ipsos Guardianos, Custodes, Præpositos, Principales, sive alios, ad quos hoc spectat, realiter expellatur, & statim via legitima substituatür Catholicus loco suo. Et si ipsi Guardiani, Præpositi, sive Custodes Collegiorum, aut Principales Aularum, sive Introituum, in quibus degunt hujusmodi personæ suspectæ, detectæ, aut diffamatæ, negligentes fuerint circa inquisitiones, & executiones prædictorum, per decem dies continuos à notitiæ tempore veræ vel præsumptæ publicationis præsentium, eo ipso Sententiam majoris Excommunicationis incurrant. Et nihilominus omni Jure quod in ipsis Collegiis, Aulis, sive Introitibus se habere prætendunt, ipso facto sint privati, & ipsa Collegia, Aulae, vel Introitus effectualiter vacent: & factâ super hoc legitima declaratione per ipsos, quorum interest, novi substituantur Guardiani, Custodes, Præpositi, seu Principales, prout secundum antiquum morem Universitatis prædictæ vacantibus Collegiis, Aulis, sive Introitibus fieri consuevit. Quod si ipsi Custodes, Præpositi, sive Guardiani, vel Principales prædicti, de & super hujusmodi Conclusionibus aut Propositionibus diffamati suspective fuerint, aut detecti, seu defensores, protectores, aut fautores earundem, si per Nos, vel auctoritate Nostra, vel per w loci Ordinarium auctoritate sua moniti non desistant, extunc omni Privilegio Scholastico Universitatis prædictæ, & Jure quod sibi competeat in hujusmodi Collegio, Aula, sive Introitu, præter alias pœnas, de quibus supra dictum est, ipso Jure priventur, & Sententiam insuper majoris Excommunicationis incurrant. Quod si quis in aliquo casu præsentis Constitutionis ultimæ, aliòve quocunque, superius expressato Statuta nostra hujusmodi in aliqua sui parte (etiã si pœna alia ibidem expressè limitetur)

s Labruscas.] i. e. Vitem Sylvæstræ; sic dictam, quia in Labris & Extremitatibus Terræ nascitur, id est, juxta vias & semitas. Lyndw. s. Lollardie.] Sic dictæ à Lollio, quia sicut Lollium inficit Segetes; sic Lollardi multoties inficiunt Fideles simplices, inter quos con-versantur. Lyndw.

w Aliorum Prælatorum.] scil. Abbatum, Decanorum, & Archidiaconorum. Lyndw. w Ordinarium Loci.] Puto, quod Cancellarius Oxoniæ poterit in hoc casu dici Ordinarius loci, ad effectum Monitionis, de quâ hic loquitur, faciendæ, Lyndw.

temerè

Heretical Preaching, &c. restrained by Constitutions Provincial.

Edit. Oxon. p. 259.

O B S.



*Heretical  
Preaching,  
&c. re-  
strained by  
Constituti-  
ons Pro-  
vincial.*

temere & pertinaciter violare præsumperit, eo ipso ad quodcunque Beneficium Ecclesiasticum in nostra *Cantuariensi* Provincia obtinendum per triennium extunc absque spe veniæ reddatur inhabilis, & omnino indignus; & nihilominus juxta sua demerita & qualitatem excessus, secundum sui superioris discretionem, Canonicè puniatur. Ad hæc, ne in modo procedendi circa præmissa vagari videamur sub incerto, advertentes quod licet inter crimen Hæreseos & læsæ Majestatis in Legibus diversis quædam paritas reputetur, est tamen dissimilis culpa, pœnamque exigit graviolem Divinam quàm Humanam offendere Majestatem: Cum ergo reum læsæ Majestatis propter pericula quæ ex dilatione poterunt imminere, sufficit convincere & per indicia, procedique poterit contra eum summarie & de plano, ac Citatione præmissâ per Nuncium, per Literas, sive per Edictum, & lite non contestata, ad receptionem Testium & definitivam sententiam; Volumus, Ordinamus, & Declaramus ob faciliorem punitionem delinquentium in præmissis, & reformationem scissuræ Ecclesiæ ex hoc læsæ, quod diffamati, detecti, sive denunciati, sive vehementer suspecti in aliquo casuum prædictorum, sive alio articulo quocunque in Fide Catholica, aut bonis moribus malè sonante, auctoritate loci Ordinarii alteriusve Superioris Citentur personaliter, si apprehendi poterint, per Literas, sive per Nuncium juratum; sin autem per Edictum, ad locum habitationis ipsius delinquentis ubi morari communiter consuevit, & in Ecclesia sua Parochiali, si certum habuerit domicilium, publicè propositum; alioquin in Ecclesia Cathedrali loci originis suæ, & in Ecclesia Parochiali illius loci in quo sic prædicavit, & docuit: ac recepto Certificatorio legitimo de Citatione hujusmodi executâ contra sic Citatum etiam absentem & comparere negligentem, in pœnam contumaciæ suæ hujusmodi summarie & de plano absque strepitu & figura Judicii, ac lite non contestatâ, ad Testium receptionem, & alias probationes Canonicas procedatur. Habitâque informatione legitima, idem Ordinarius omni dilatione semotâ sententiet, & declaret, puniatque secundum qualitatem delicti, modo & forma superius expressatis, ulteriusque faciat quod est justum, ipsius contumacis absentia non obstante.

x Per indicia.] i. e. per Demonstrationes leves, sufficientes tamen. Lyndw.

THOMAS ARUNDEL.

*Scriptura Sacra non transferatur in linguam vulgarem, nec translata interpretetur, donec rite fuerit examinata, sub pœna Excommunicationis, & notâ Hæreseos.*

**P**ericulosa res est, testante Beato *Hieronymo*, Textum Sacræ Scripturæ de uno in aliud Idioma transferre, eò quod in ipsis translationibus non de facili idem sensus in omnibus retinetur, prout idem Beatus *Hieronymus*, etsi inspiratus fuisset, se in hoc læpius fatetur errasse. Statuimus igitur & Ordinamus, ut nemo deinceps Textum aliquem Sacræ Scripturæ auctoritate sua in linguam Anglicanam vel aliam transferat per viam y Libri vel z Libelli, aut a Tractatus, nec legatur aliquis hujusmodi Liber, libellus, aut Tractatus jam noviter tempore dicti *Johannis Wickliff*, sive citra compositus, aut in posterum componendus, in parte vel in toto, publicè vel occultè, sub pœna majoris Excommunicationis, quousque per loci Diœcesanum, seu si b res exegerit, per Concilium Provinciale ipsa translatio fuerit approbata. Qui verò contra hoc fecerit, ut fautor Hæreseos & erroris similiter puniatur.

y Libri.] Appellatione Libri simpliciter sumpti, continetur Liber completus & integer, non secundum partes numerales. Lyndw.  
z Libelli.] Potes intelligere sic, ut scilicet unum Librum particularem Textus Bibliorum transferat. Lyndw.  
a Tractatus.] Sic videlicet, quod de dictis Doctorum, vel propriis, aliquem Tractatum componat, applicando Textum Sacræ Scripturæ, &

illius sensum transferendo in Anglicum, vel aliud Idioma. Lyndw.  
b Res exegerit.] Quia forsan materiæ in tali Libro, Libello, vel Tractatu contentæ, requirunt altiorem indaginem, & plurium Sapientium investigationem. Vel quia concernunt Fidem & Ecclesiam Universalem, & ipsius Regimen, & alia hujusmodi, Lyndw.

**Abridgment.**  
this Constitution, shall be incapable of Benefice for three years, --- besides other Punishments, at the discretion of their Ordinary, --- according to the Summary Methods of proceeding in cases of Treason,

Persons suspected of Heresy, being Cited in due form, and not appearing,

--- shall be Summarily proceeded against,

--- and Sentence shall be given according to the Crime.

It being difficult, to retain the true Sense, in Translations, --- none shall translate Scripture, nor read such Translation, --- (particularly *Wickliff's*) --- unless approved by the Bishop, or a Provincial Council.

A.D. 1408.  
10 H. 4.

Edit. Oxon.  
p. 296.  
O B S.



## Abridgment.

## C A P. III.

HERESIE, and HERETICKS, as Defined, and Restrained,  
in the Time of King Henry VIII.

24 Henr. VIII. Cap. 9.

A.D. 1532.

In an Act, Entituled, *The Bill of Citations.*

Archbishops may cite out of any Diocese for Heresie, if Bishops consent, or neglect.

Ref. Leg. f. 11. b.

§. IV. **P**ROVIDED, that it shall be lawful to every Archbishop of this Realm, to call, cite, and summon any person or persons inhabiting or dwelling in any Bishop's Diocese, within his Province, for causes of Heresie, if the Bishop or other Ordinary immediate therunto consent, or if that the same Bishop, or other immediate Ordinary or Judge do not his duty in punishment of the same.

Heresie & Hereticks, as defined in the time of King Hen. VIII

[Every Archbishop.] The Rule laid down in the *Reformatio Legum*, is thus: *Is qui vel accusatione, vel inquisitione, vel Evangelicâ denunciatione, reus sit, quod aliquam heresin aut affirmaverit, aut defenderit, aut predicaverit, aut docuerit, coram Episcopo vel Archiepiscopo causam dicet. Qui vero Loci Privilegium habent, & Exempti dicuntur, apud illos vel Episcopos, vel Archiepiscopos, causam dicent, intra quorum Dioceses illorum Exempti Loci constituerint. Appellatio remex reo conceditur, ab Episcopo ad Archiepiscopum, & ab Archiepiscopo nostram ad Regalem Personam.*

25 Henr. VIII. Cap. 14.

A.D. 1533.

*An Act for Punishment of Heresie.*

Recital of the foregoing Stat. 2 H. 4. c. 15,

---and that it doth not define what shall be Heresy,

---by which the ignorant are ensnared ;

---that it is not consistent with Law, that Ordinaries should put Men in peril of Life, &c. by declaring them Hereticks.

---and that many things are declared Heresy, as being against Canons, which are Laws meerly human, ---and some of them against the Laws of the Land,

Statute, 2 H. 4. c. 15, shall be repealed,

Lyndw. de Her. c. Rev. v. Declat.

**I**N most humble wise lamentably sheweth unto your highness, your most humble, loving, and obedient Subjects, the Commons of this your Realm, that where the Clergy of the same, in the second year of King Henry the fourth, one of your most noble Progenitors, upon their suggestion did interpret and obtain by authority of the Parliament holden in the said second year, that it should be lawful for every Ordinary to convent, arrest, and imprison any person or persons, whom they thought defamed or suspect of Heresy, and them to keep in their prisons till they were purged thereof, or abjured, or committed to lay power to be burned, after the determination of the holy Church and canonical sanctions, as in an Act made at the Parliament holden in the said second year of King Henry the iiii. amongst other things more at large doth appear: sozasmuch as the said Act doth not in any part thereof declare any certain cases of heresy contrary to the determination of holy Scripture, or the canonical sanctions therein expressed, whereby your most loving and obedient Subjects might be learned to eschew the dangers and peines in the said Act comprised, and to abhor and detest that foul and detestable crime of heresy. And also because those words canonical sanctions, and such other like contained in the said Act, are so general, that unnethe the most expert and best learned man of this your Realm, diligently lying in wait upon himself, can eschew and avoid the penalty and dangers of the same Act and canonical sanctions, if he should be examined upon such captious interrogatories, as is and hath been accustomed to be ministered by the Ordinaries of this Realm in cases where they will suspect any person or persons of heresy. And over this sozasmuch as it standeth not with the right order of Justice nor good equity, that any person should be convicted, and put to the loss of his life, good name, or goods, unless it were by due accusation and witnesses, or by presentment, verdict, confession, or process of outlawry: and also by the Lawes of your Realm, for treasons committed to the peril of your most royal Majesty, upon whose surety dependeth the whole wealth of this Realm, no person can nor may be put to death but by presentment, verdict, confession, or process of outlawry, as is aforesaid. Wherefore it is not reasonable, that any Ordinary by any suspicion conceived of his own fantasy, without due accusation or presentment, should put any Subject of this Realm in the infamy and slander of heresy, to the peril of life, loss of name and goods. And that also there be many heresies and pains, and punishment for heresies declared and ordained, in and by the Canonical sanctions, and by the Lawes and ordinances made by the Popes or Bishops of Rome, and by their authorities, for holding, doing, preaching or speaking of things contrary to the said Canonical sanctions, laws and ordinances, which be but humane, being meer repugnant and contrarious to the prerogative of your Imperial Crown, regal Jurisdiction, Laws, Statutes and Ordinances of this your Realm: by reason whereof your people of the same, observing incontinently, defending, and due executing of your said Laws, Statutes and prerogative royal, by authority of that Act, made in the said second year of King Henry the fourth, may be brought into slander of heresy, to their great infamy and danger, and peril of their lives. In consideration whereof it may please your highness, by the assent of your Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by authority of the same, to annul, abrogate, frustrate, and make void the said Act, made, in the second year of King Henry the

[The Canonical Sanctions.] *Omniñ censetur Hæreticus, qui non tenet id quod docet & sequitur sancta Romana Ecclesia.*

fourth,



Heresie & Hereticks, as defined in the time of King Hen. VIII

fourth, and every thing therein contained. And nevertheless soasmuch as the most foul and detestable crime of heresy, should not hereafter grow and increase, but utterly be abhorred, detested, and eradicate, nor that any hereticks should be favored, but that they should have condigne and sufficient punishment: And for the repress of hereticks, and such erroneous opinions in time coming: Be it established, ordained and enacted, by the authority of this present Parliament, that the Statute made in the fifth, year of your noble progenitor King Richard the second, and the Statute made in the second year of King Henry the fifth, concerning punishment and reformation of Hereticks and Lollards, and every prohibition therein contained, not being repugnant to this Act, shall be and stand in their force, strength and effect.

II. Provided alwayes, and be it enacted for speedy presentment to be had of heresies, that such person and persons, as have in use or in possession to their own use, in fee simple, fee tail for term of their own lives, or of any other persons life, lands, and tenements, to the clear yearly value of forty shillings, shall be impaneled, and have power and authority to inquire and present heresies. And that every presentment made by such persons, shall be as good and effectual, and be put in execution to all intents, in like manner and form, as if every the presenters had had lands and tenements, to the yearly value of a hundred shillings, according to the tenor of the said Act of King Henry the fifth, any thing in the said Act to the contrary thereof notwithstanding.

III. Provided also and be it enacted by authority aforesaid, that Sherriffs in their turns, and all other having turns, and Stewards in their leets, rapes and wapentakes, shall have power and authority to inquire of hereticks like as they inquire of common annoyances, and that every presentment made in any turn, leet, rape, or wapentake concerning heresies, shall be certified to the Ordinary, in such manner and form as presentments afoze any Justice assigned by the said Act of King Henry the fifth, are limited and appointed by the same Act to be certified: and like process shall be had, made and executed, upon every such presentment to be made in any turn, leet, rape, or wapentake, as is limited in the said Act of King Henry the fifth, upon presentments taken afoze the Justices assigned by the same Act to inquire of heresies.

IV. Provided always and be it enacted, that no manner of Licence or authority, or other thing or things be hereafter had or obtained of the Bishop of Rome, otherwise called the Pope, to preach in any part of this Realm, or to doe any thing in the same contrary to the Laws and Statutes of this Realm, or the Kings prerogative Royal, upon the pains limited in the said Laws and Statutes of this Realm: any thing contained in the preamble of the said Statute of King Richard the second, or in any the Statutes before rehearsed, or in any Statutes of this Realm to the contrary thereof notwithstanding.

V. And be it further enacted by the authority aforesaid, that every person and persons being presented or indicted of any heresy, or duly accused or detected thereof by two lawful witnesses at the least, to any Ordinaries of this Realm, having power to examine heresies, shall and may after every such accusation or presentment, and none otherwise, nor by any other means be cited, commanded, arrested, taken or apprehended by any of the said Ordinaries, or any other the Kings Ministers and Subjects whatsoever. And after they shall be so taken and apprehended, shall be committed to the Ordinaries, to answer in open Court, and in an open plate to their such accusation and presentments. And if they shall happen to be lawfully convict of the heresy, whereof they are so accused or presented: that then they shall abjure if they will refuse and renounce their said heresies, whereof they shall be so accused or presented as is aforesaid, and doe such reasonable penance for their offences, as shall be limited by the discretion of the said Ordinaries. And if they after their lawful conviction, refuse to abjure, or after abjuration fall into relapse, and be duly accused or presented, and convict thereof, as is aforesaid, that then in such cases they shall be committed to Lay power, to be burned in open places for example of other, as hath been accustomed, the Kings Writ, De heretico comburendo, first had and obtained for the same.

[The King's Writ.] By the foregoing Statute 2 H. 4, (as we have seen,) the King's Writ was made not necessary; for which reason (as Fitz. Herbert conceives,) it was not put in the new Registers, as not needing to be sued forth. But tho' this Statute is likewise repealed; and the Writ it self, with the Execution thereupon, are both annulled by an express Law; yet, inasmuch as the knowledge of it may in many cases conduce to a right understanding of our ancient Histories and Laws, I will here set-down that Form, by which William Sawtre was commanded to be burnt, in the Year of our Lord, 1400.

REX, &c. Majori & Vic. London, salutem. Cum venerabilis pater, Thomas Archiepiscopus Cantuar', totius Angliæ Primas, & Apostolice Sedis Legatus, de consensu & assensu ac consilio Episcoporum & Confratrum Suffragan' suorum, necnon totius Cleri Provinciae suae in Concilio suo Provinciali congregat', juris ordinibus in hac parte requisit' in omnibus observat', W. Sawtr', aliquando Capellanum, in Heres' dampnat', & per ipsum Willielmum praantea in forma juris abjurat', & ipsum Will. in Heresim praed' relaps', per suam sententiam

definitivam Hereticum manifestum pronunc' & declarav', ac degradandum fore decreverit, & ab omni prerogativa & privilegio Clericali ead' de causa realit' degradaverit, ipsiisque Will. Foro Seculari relinquendum esse decreverit, & realiter reliquit, juxta Leges & Canonicas Sanctiones editas in hac parte, ac Sancta Mat' Ecclesia non habet ulterius quid fac' in praemiss': Nos igitur, zelator justitiae & Fidei Catholicae cultor, volentes Ecclesiam Sanctam ac jura & libertates ejusdem manuteneri & defendere, & hujusmodi Hereses & Errores de Regno nostro Angliæ (quant' in nobis est) radicibus extirpar', ac Hereticos sic convictos animadversione condignâ punire; attendentesque hujusmodi Hereticos in forma praed' convictos, & damnatos juxta Legem divinam & humanam canonica institutione, & in hac parte consuetudinar', ignis incendio comburi debere; vobis distinctius quò possumus praecipimus, firmiter injungentes, quòd praef. Will', in custodia vestra existent', in aliquo loco publico & aperto infra Libertat' Civitatis praed' causâ praemissâ cor' populo public' igni committat' ac ipsum in eod' igne realit' comburi fac', in hujus criminis detestationem, aliorumque Christianorum exemplum manifestum: & hoc sub periculo incumbente nullatenus omittatis. Teste, &c.

Abridgment.

--and 5 R. 2. and 2 H. 5, revived.

Any Person having Lands worth 40 s. a year may be impanel'd to present Heresies.

Stewards in their Leets may enquire of Hereticks, and certify to the Ordinary.

--and Process shall be made, as before Justices.

Nothing in the Statutes revived, &c. shall warrant Licences from Rome.

Any Person accused by 2 Witnesses, may be brought before the Ordinary,

--and, being convict of Heresy, and refusing to Abjure, or relapsing,

- shall be committed to the Lay power, and burnt.

Nat. Brev. f. 269. b.

29 Car. 2. c. 9.

Fitzherb. Nat. Brev. l. 269.



Abridgment.

The delusion, of believing it Heresie, to speak against the Papal Authority and Decrees,

... for which no Person shall be impeached of Heresie.

Persons accused of Heresie may be bailed,

- unless the Ordinary shew reasonable cause to King and Council.

VI. And where the great number of the Kings Subjects, having little or no learning nor knowledge of letters, have been put in opinion, that by divers laws, decrees, ordinances, and constitutions heretofore made by the Bishop of Rome, called the Pope, and his predecessors, or by their authorities for the advancement of their worldly glory and ambition, every man, that in any thing speaketh or doth against the said pretended power, or authority of the same Bishop of Rome, or any the said laws, decrees, ordinances, and constitutions, standeth in danger, and is impeachable of heresy: which effect or matter, nor any such laws, decrees, ordinances or constitutions, not approved and confirmed by holy Scripture. was never commonly accepted or confirmed to be any Law of God or Man within this Realm. Wherefore be it enacted and ordained by authority of this present Parliament, that no manner speaking, doing communication, or holding against the said Bishop of Rome, or his pretended power or authority, made or given by humane Laws or policies, and not by holy Scripture: nor any speaking, doing, communication or holding against any Laws, called Spiritual Laws, made by authority of the See of Rome, by the policy of men, which be repugnant or contrariant to the Laws and Statutes of this Realm or the Kings prerogative Royal, shall be deemed, reputed, accepted, or taken to be heresy. Nor that any Subject or resident of this Realm shall be for any such speaking, doing, communication, or holding, impeached, vexed, or troubled for any point or matter of the said detestable crime of heresy; any whatsoever Canon, Laws, decrees, ordinances, constitutions, or other thing heretofore made, or being, or hereafter to be made, to the contrary thereof notwithstanding.

VII. Provided always, that such person and persons, as shall happen to be accused, presented, or indicted of heresy, as is aforesaid limited by this Act, shall and may be letten to bail by the Ordinaries by their discretions, or els in their default, if they refuse so to do, then by the discretion of two Justices of Peace of that Shire, where such persons so accused or presented, shall inhabit, by four sufficient Sureties to be bounden to the Kings use by obligations or recognizance. to appear before the Ordinaries at such days, times and places, as shall be limited in the said bonds by the said Ordinaries, or in their defaults by the said two Justices; except the Ordinary can and doe declare unto the Kings highness, and to his Council, a reasonable cause, that the said person or persons so accused or presented of heresy, should not be let to bail, as is aforesaid limited.

Two things are to be remarked concerning this Writ: First, that having issued during the Parliament held in the second year of Henry IV. it is probable that the time of issuing was before the publishing if not enacting also of the Statutes therein made; because by that Act, the Writ is in effect superseded, unless we suppose the superseding Clause to extend only to the Diocesan (according to the Letter of the Law) and not to the Archbishop, Bishops,

and Clergy in Convocation. Secondly, That this Writ was made in Parliament, as appears by the following Clause in the Roll of that Year.

Item, Mercredy, &c.—Item, On Wednesday, the second day of March, a Writ was made to the Mayor and Sheriffs of London, by the advice of the Lords Temporal in Parliament, to execute William Sautre, late Chaplain, Heretick. And at the end, Per ipsum Regem & Concilium in Parlamento.

Heresie & Hereticks, as defined and restrained in the time of K. Hen. VIII

Rot. Parl. ann. 2 H. 4.

A.D. 1550.

1 Edw. VI. Cap. 12.

In an Act, Entituled, An Act for the Repeal of certain Statutes concerning Treasons and Felonies, &c.

Repeal of the 3 Statutes, concerning Heresy, 5 R. 2. 2 H. 5. 25 H. 8

§. III. And also be it enacted by the authority aforesaid, that all Acts of Parliament and Statutes, touching, mentioning, or in any wise concerning Religion or opinions, that is to say, as well the Statute made in the fifth year of the Reign of the Kings noble Progenitor King Richard the second, and the Statute made in the second year of the Reign of King Henry the fifth—and the Statute also made in the xxv. year of the Reign of King Henry the eighth, concerning punishment and reformation of Hereticks and Lollards, and every provision therein contained, shall from henceforth be repealed, and utterly void and of none effect.

31 Hen. VIII. Cap. 8.

A.D. 1539.

In an Act, Entituled, An Act that Proclamations made by the King's Highness, with the Advice of his Honourable Council, shall be obey'd and kept, as tho' they were made by Act of Parliament.

This Act shall not take away Estate or Life,

II. Provided always, that the words, meaning and intent of this Act, be not understood, interpreted, construed, or extended, that by virtue of it any of the Kings liege people, of what estate, degree or condition soever he or they be, bodies politick and corporate, their heirs or successors, should have any of his or their inheritances, lawful possessions, offices, liberties, privileges, franchises, goods or chattels, taken from them or any of them: nor by virtue of the said Act suffer any pains of death, other than shall be hereafter in this Act declared.

- except in cases of Heresie.

III. And except such person shall offend any Proclamation to be made by the Kings Highness, his heirs or successors, for and concerning any kind of heresy against Christian Religion.



Heresie &  
Hereticks,  
as defined  
& restrained  
in the  
time of K.  
Hen. VIII

## 31 Henr. VIII. Cap. 14.

## An Act for Abolishing of Diversity of Opinions in certain Articles concerning Christian Religion.

Where the Kings most excellent majestie is by Gods law supreme head immediately under him of this whole Church and congregation of England, intending the conservation of the same Church and congregation in a true, sincere and uniform doctrine of Christs Religion, calling also to his blessed and most gracious remembrance, as well the great and quiet assurance, prosperous increase, and other innumerable commodities, which have ever ensued, come and followed of concord, agreement and unity in opinions, as also the manifold perils, dangers and inconveniences, which have heretofore in many places and regions grown, sprung, and arisen, of the diversities of minds and opinions, especially of matters of christian religion: and therefore desiring, that such an unity might and should be charitably established in all things touching and concerning the same, as the same to being established might chiefly be to the honour of Almighty God, the very Author and fountain of all true unity and sincere concord, and consequently redound to the common wealth of this his highness most noble Realm, and of all his loving Subjects, and other residents and inhabitants of or in the same: hath therefore caused and commanded this his most high Court of Parliament, for sundry and many urgent causes and considerations, to be at this time summoned, and also a synod and convocation of all the Archbishops, Bishops, and other learned men of the Clergy of this his Realm, to be in like manner assembled.

II. And sozasmuch as in the said Parliament, synod and convocation, there were certain Articles, matters and questions proponed and set forth touching Christian religion, that is to say,

First, Whether in the most blessed Sacrament of the Altar, remaineth after the Consecration, the Substance of Bread and Wine, or no?

Secondly, Whether it be necessary by Gods law, that all men should communicate with both kinds, or no?

Thirdly, Whether Priests, that is to say, men dedicate to God by Priesthood, may by the law of God Marry after, or no?

Fourthly, Whether Vows of Chastity or Widowhead, made to God advisedly by man or woman, be by the law of God to be observed, or no?

Fifthly, Whether private Masses stand with the law of God, and be to be used and continued in the Church and congregation of England, as things whereby good Christians may and do receive both godly consolation, and wholsome benefits, or no?

Sixthly, Whether Auricular Confession is necessary to be retained, continued, used and frequented in the Church, or no?

III. The Kings most royal majesty, most prudently pondering and considering, that by occasion of variable and sundry opinions and judgments of the said Articles, great discord and variance hath arisen, as well amongst the Clergy of this his Realm, as amongst a great number of the vulgar people, his loving Subjects of the same: and being in a full hope and trust, that a full and perfect resolution of the said Articles, should make a perfect concord and unity generally among all his loving and obedient Subjects, of his most excellent goodness not only commanded, that the said Articles should deliberately and advisedly, by his said Archbishops, Bishops, and other learned men of his Clergy, be debated, argued and reasoned, and their opinions therein to be understood, declared and known, but also most graciously vouchsafed in his own princely person, to descend and come unto his said high court of Parliament and Council, and there like a Prince of most high prudence, and no less learning, opened and declared many things of high learning and great knowledge, touching the said Articles, matters and questions for an unity to be had in the same: Whereupon after a great and long deliberate, and advised disputation and consultation, had and made concerning the said Articles, as well by the consent of the Kings highness, as by the assent of the Lords Spiritual and Temporal, and other learned men of his Clergy in their Convocations, and by the consent of the Commons in this present Parliament assembled, it was and is finally resolved, accorded and agreed, in manner and form following, that is to say,

IV. First, That in the most blessed Sacrament of the Altar, by the Strength and Efficacie of Christs mighty word (it being spoken by the priest) is present really under the form of Bread and Wine, the natural Body and Blood of our Saviour Jesu Christ, conceived of the Virgin Mary: and that after the Consecration there remaineth no substance of Bread or Wine, nor any other substance, but the substance of Christ, God and Man.

Secondly, That the Communion in both kinds is not necessary *Ad salutem* by the law of God to all persons: and that it is to be believed and not doubted of, but that in the flesh under the form of Bread, is the very Blood; and with the Blood, under form of Wine, is the very Flesh, as well apart as though they were both together.

Thirdly, That Priests, after the order of Priesthood received, as afore, may not Marry by the law of God.

Fourthly, That Vows of Chastity, Widowhead, by man or woman made to God advisedly, ought to be observed by the law of God: and that it exempteth them from other liberties of Christian people, which without that they might enjoy.

Fifthly, That this is meet and necessary, that private Masses be continued and admitted in the Kings English Church and Congregation, as whereby good Christian people, ordering themselves accordingly, doe receive both godly and goodly consolations and benefits: and it is agreeable also to Gods law.

Sixthly, That Auricular Confession is expedient and necessary to be retained and continued, used and frequented in the Church of God.

V. For the which most Godly study, pain and travel of his Majesty, and determination and resolution of the premises, his humble and obedient Subjects, the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, not only render and give unto his highness their most high and hearty thanks, and think themselves most bound to pray for the long continuance of his Graces most royal estate, but also being desirous that his most

The great Advantages of Unity, and Mischiefs of Diversity, of Opinions in Religion,

--by reason of which, Articles have been proposed in Parliament and Convocation, viz. -- Transubstantiation,

--Communion in both kinds.

--Marriage of Clergy,

--Vows of Chastity.

--Private Masses.

--Auricular Confession.

--which Articles being debated, in Parliament, and Convocation,

--It was Resolved,

1. For Transubstantiation.

2. Against Communion in both kinds.

3. Against Marriage of Priests.

4. For Vows of Chastity.

5. For private Masses.

6. For auricular Confession.

The thanks of the Parliament to the King,



## Abridgment.

---and their desire, that the said Articles may be established.

Enacted, that, --offenders against the first Article concerning the real Presence, by Preaching, or otherwise,

--shall be adjudged Hereticks,

--and shall be burnt,

--and forfeit as in cases of High-Treason.

Offenders against the five other Articles, by Preaching, &c. shall be adjudged Felons,

--and shall suffer and forfeit, as in cases of Felony.

Offenders against the 5 Articles, by word, writing, &c.

-- shall forfeit goods and chattels, and all profits during Lite,

-- with imprisonment at the King's will;

--and the second offence shall be Felony.

All Marriages, contrary to the 3d, and 4th, Articles, shall be void.

gotly enterprise may be well accomplished and brought to a full end and perfection, and so established, that the same might be to the honour of God, and after to the common quiet, unity and concord to be had in the whole body of this Realm for ever: most humbly beseeching his royal Majesty, that the resolution and determination above written of the said Articles, may be established and perpetually perfected by authority of this present Parliament: It is therefore ordained and enacted by the King our Sovereign Lord, the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, and by authority of the same, that if any person or persons within this Realm of England, or any other the Kings dominions, after the vii. day of July next coming, by word, writing, imprinting, ciphering, or in any other wise, do publish, preach, teach, say, affirm, declare, dispute, argue, or hold any opinion, that in the blessed Sacrament of the Altar, under the form of Bread and Wine (after the consecration thereof) there is not present really, the natural Body and Blood of our Saviour Jesu Christ, conceived of the Virgin Mary, or that after the said consecration there remaineth any substance of Bread or Wine, or any other substance but the substance of Christ, God and man: or after the time aforesaid, publish, preach, teach, say, affirm, declare, dispute, argue or hold opinion, that in the flesh, under the form of bread is not the very blood of Christ: or that with the blood under the form of wine, is not the very flesh of Christ, as well apart as though they were both together: or by any the means aforesaid, or otherwise, preach, teach, declare or affirm the said Sacrament to be of other substance than is aforesaid, or by any means condemn, deprave or dispise the said blessed Sacrament: that then every such person and persons so offending, their aiders, comfortors, counsellors, consentors and abettors therein, being thereof convicted in form under written by the authority aforesaid, shall be deemed and adjudged hereticks. And that every such offence shall be judged manifest heresy: and that every such offender and offenders shall therefore have and suffer judgment, execution, pain and pains of death, by way of burning, without any abjuration, Clergy or Sanctuary, to be therefore permitted, had, allowed, admitted or suffered: and also shall therefore forfeit and lose to the Kings highness, his heirs and successors, all his or their honours, manors, castles, lands, tenements, rents, reversions, services, possessions, and all other his or their hereditaments, goods and chattels, farms and freeholds, whatsoever they be, which any such offender or offenders shall have at the time of any such offence or offences committed or done, or at any time after, as in cases of high-treason.

VI. And furthermore be it enacted by the authority of this present Parliament, that if any person or persons after the said vii. day of July, preach in any sermon or collation, openly made to the Kings people, or teach in any common school, or to other congregation of people, or being called before such judges, and according to such form of the law, as hereafter shall be declared, do obstinately affirm, uphold, maintain or defend, that the communion of the said blessed Sacrament in both kinds, that is to say, in form of Bread and also of Wine, is necessary for the health of mans soul to be given or ministered, or ought or should be given or ministered to any person in both kinds: or that it is necessary so to be received or taken by any person (other than by Priests being at Mass, and consecrating the same: ) or that any man, after the order of Priesthood received, as aforesaid, may marry and may contract matrimony: or that any man or woman, which advisedly hath vowed or professed, or should vow or profess chastity or widowhood, may marry, or may contract matrimony: or that private Masses be not lawful or not laudable, or should not be celebrated, had, nor used in this Realm, nor be not agreeable to the laws of God: or that auricular confession is not expedient and necessary to be retained and continued, used and frequented in the Church of God: or if any Priest after the said vii. day of July, or any other man or woman which advisedly hath vowed, or after the said day advisedly do vow chastity or widowhood, do actually marry or contract matrimony with any person: that then all and every person and persons, so preaching, teaching, obstinately affirming, upholding, maintaining or defending, or making marriage, or contract of matrimony, as is above specified, be and shall be, by authority above written, deemed and judged a felon and felons. And that every offender in the same being therefore duly convicted or attainted by the laws under written, shall therefore suffer pains of death as in cases of felony, without any benefit of Clergy, or privilege of Church or Sanctuary to him or her to be allowed in that behalf, and shall forfeit all his or her lands and goods as in cases of felony. And that it be lawful to the patron or patrons of any manner of benefice, which any such offender at the time of his said conviction or attainder had, to present one other Incumbent thereunto, as if the same person so convicted or attainted, had been bodily deceased.

VII. Also be it enacted by the authority aforesaid, that if any person or persons after the said seventh day of July, by word, writing, printing, ciphering, or otherwise than is above rehearsed, publish, declare, or hold opinion, that the said communion of the blessed Sacrament in both kinds aforesaid, is necessary for the health of mans soul to be given or ministered in both kinds, and so ought or should be given and ministered to any person, or ought or should be so in both kinds received or taken by any person, other than by Priests being at Mass, and so consecrating the same as is aforesaid: or that any man, after the order of Priesthood received as is aforesaid, may marry, or may make contract of matrimony: or that any man or woman which advisedly hath made or shall make a vow to God of chastity or widowhood, may marry, or may make contract of matrimony: or that private Masses be not lawful or not laudable, or should not be celebrated, had, or used, nor be agreeable to the laws of God: or that auricular confession is not expedient and necessary to be retained and continued, used and frequented in the Church of God: every person being for any such offence duly convicted or attainted by the laws under written, shall forfeit and lose to the King our Sovereign Lord all his goods and chattels for ever, and also the profits of all his lands, tenements, annuities, fees and offices during his life, and all his Benefices and Spiritual promotions shall be utterly void, and also shall suffer imprisonment of his Body at the will and pleasure of our said Sovereign Lord the King. And if any such person or persons being once convicted of any the offences mentioned in this Article as is aforesaid, do afterward estoons offend in any of the same, and be thereof accused, indicted or presented, and convicted again, by authority of the laws under written, that then every such person and persons so being twice convicted and attainted of the said offences, or of any of them, shall be adjudged a felon and felons, and shall suffer judgment execution and pains of death, loss and forfeiture of lands and goods, as in cases of felony, without any privilege of Clergy, or Sanctuary to be in any wise permitted, admitted or allowed in that behalf.

VIII. Be it further enacted by the authority aforesaid, that if any person, which is or hath been a Priest before this present Parliament, or during the time of session of the same, hath married and hath made any contract of matrimony with any woman, or that any man or woman which

Heretic & Hereticks, as defined & restrained in the time of K. Hen. VIII

before



Heresie & Hereticks, as defined & restrained in the time of K. Hen. VIII

before the making of this Act, advisedly hath vowed chastity or widowhood before this present Parliament, or during the Session of the same hath married and contracted matrimony with any person, that then every such marriage and contract of matrimony shall be utterly void and of none effect. And that the Ordinaries, within whose Dioceses or Jurisdictions the person or persons so married or contracted, is or be resident or abiding, shall from time to time make separation and divorces of the said marriages and contracts.

IX. And further it is enacted by the authority aforesaid, that if any man, which is or hath been Priest as is aforesaid, at any time from or after the said twelfth day of July, next coming, do carnally keep or use any woman to whom he is or hath been married, or with whom he hath contracted matrimony, or openly be conversant, keep company or familiarity with any such woman, to the evil example of other persons, every such carnal use, copulation, open conversation, keeping of company and familiarity, be and shall be deemed and adjudged felony, as well against the man as the woman, and that every such person so offending, shall be enquired of, tried, punished, suffer, lose and forfeit all and every thing and things as other felons made and declared by this Act, and as in case of felony as is aforesaid.

X. Be it also further enacted by the authority aforesaid (not giving advantage or detriment to any article afoze rehearsed) that if any man which is or hath been Priest, or hereafter shall be, at any time after the said twelfth day of July, do carnally use and accostume any woman, or keep her as his concubine, as by paying for her board, maintaining her with money, array, or any other gifts or means, to the evil example of other persons; that then every such offender being thereof duly convicted or attainted by the laws mentioned in this Act, shall forfeit and lose all his Goods and Chattels, Benefices, Prebends, and other Spiritual promotions and dignities, and also shall have and suffer imprisonment of his body at the Kings will and pleasure. And that every of the said Benefices, Prebends and other promotions and dignities, shall be to all intents and purposes utterly void, as if the said offender had resigned or permitted, and if any such offender or offenders at any time after the said conviction or attainder, offsoons commit, doe, or perpetrate the said offences or any of them next afoze rehearsed, and be thereof duly convicted or attainted by the laws aforesaid, that then all and every such offence and offences shall be deemed and adjudged felony, and the offender and offenders therein shall suffer paines of death, and lose and forfeit all his and their goods, lands, and tenements, as in cases of felony, without having any benefit of Clergy or Sanctuary.

XI. And be it further enacted by the authority aforesaid, that those women, with whom all and singular the aforesaid Priests shall in any of the aforesaid ways have to doe with, or carnally know as is aforesaid, shall have like punishment as the Priests.

XII. And be it further enacted by authority abovesaid, that if any person or persons at any time hereafter contemn or contemptuously refuse, deny or abstain to be confessed at any time commonly accustomed within this Realm and Church of England, or contemn or contemptuously refuse, deny or abstain to receive the holy and blessed Sacrament abovesaid, at the time commonly used and accustomed for the same; that then every such offender being thereof duly convicted or attainted by the laws underwritten, shall suffer such imprisonment, and make such fine and ransom to the King our Sovereign Lord and his heirs, as by his highness, or by his or their council shall be ordered and adjudged in that behalf. And if any such offender or offenders at any time or times after the said conviction or attainder so had, doe offsoons contemn or contemptuously refuse, deny or abstain to be confessed, or to be communicate in manner and form abovesaid, and be thereof duly convicted or attainted by the laws underwritten, that then every such offence shall be deemed and adjudged felony, and the offender or offenders therein shall suffer paines of death, and lose and forfeit all his and their goods, lands and tenements, as in cases of felony.

XIII. And for full and effectual execution of the premises before devised, ordained and enacted by this Act: Be it furthermore enacted by authority of this present Parliament, that immediately after the said twelfth day of July next coming, sundry Commissions shall be made from time to time, into every shire of this Realm and Wales, and in and to such other places within the Kings dominions, as shall please his Majesty; to be directed to the Archbishop or Bishop of the Dioceses, and to his Chancellor or Commissary, and to such other person as shall be named by his highness, or by such other as his majesty at his pleasure shall appoint to name the same: which Archbishop or Bishop, his Chancellor or Commissary; and other persons so to be named, or three of them at least, whereof the Archbishop or Bishop, or his Chancellor or Commissary to be one, shall hold and keep their Sessions within the limits of their Commission four several times of the year at the least, or oftner if they shall think it expedient by their discretions, and shall have power and authority by virtue of this Act, and their said Commission, as well to take information and accusations by the oaths and depositions of two able and lawful persons at the least, as to enquire by the oaths of twelve men, of all and singular the heresies, felonies, contempts, and other offences above written, committed, done or perpetrated within the limits of their Commission. And that every such accusation and information containing the matter, names, surnames and dwelling places of the offenders, and the day, year, place and County when and whereu their offences were committed, shall be of as good force and effect in the law, as if the matter therein contained had been presented by verdict of twelve men.

XIV. And nevertheless it is further enacted, that every of the said Archbishops and Bishops, and every of their Chancellors, Commissaries, Archdeacons and other Ordinaries having any peculiar Ecclesiastical jurisdictions within this Realm or in Wales, or in any other the Kings dominions, shall have full power and authority by virtue of this Act, as well to enquire in their visitations and Senis, as there and elsewhere within their jurisdictions, at any other time or place, to take accusations and informations as is aforesaid, of the heresies, felonies, contempts and offences abovementioned, done, committed or perpetrated within the limits of their jurisdictions and authorities. And that every such accusation, information and presentment so taken or had as is aforesaid, shall be of as good force and effect, as if the matter therein contained had been presented before the Justices of Peace in their Sessions. And also that Justices of Peace in their Sessions, and every Steward, Under-Steward, and deputy of Steward of any Lat or Lawday, in their Lat or Lawdays, shall have like power, and authority by virtue of this Act, to enquire by the oaths of twelve lawful men, of all and singular the heresies, felonies, contempts and other offences above written, done, perpetrated or committed within the limits of their commissions and authorities.

Abridgment.

---and Divorce shall be made by the Ordinaries;

---and Priest keeping company with a Wife, shall suffer as a Felon.

A Priest keeping Concubine, shall forfeit Goods, Chattels, and Promotions, and suffer Imprisonment at the King's will,

---and the second Offence shall be Felony.

The Women shall be punished as the Priests.

Any Person denying to be confessed, and to communicate, at times accustomed, shall suffer Imprisonment, and make fine at the Kings will,

---and the second Offence shall be Felony.

The King shall appoint Commissioners in every Shire,

---who shall meet 4 times a year,

- and enquire concerning Heresy, &c.

Ecclesiastical Ordinaries, and Judges shall also enquire, in their Visitations, and Senis,

---and also Justices of Peace and Stewards of Leets.



## Abridgment.

Persons, before whom Presentments are made, may bind all who have knowledge thereof, to appear.

Presentments &c. shall be certified to some one Commissioner, within 20 days,

...upon pain to forfeit ten pounds.

Commissioners shall proceed to trial as in cases of Felony,

...and shall hear and determine the said Heresies.

Commissioners shall endeavour to take Offenders,

...two of whom may let them to Bail.

Any Commissioner being accused of Heresie, shall be tried by some others appointed by the King.

There shall be no challenge of a Jurors, but for malice.

Foreign Pleas shall be tried before the same Commissioners and Jurors.

All Civil Ministers shall obey the Orders of the Commissioners,

...and an oath shall be taken by every Commissioner,

...to execute truly and indifferently,

...upon pain for not taking it, to forfeit five Marks.

XV. And it is also enacted by the authority aforesaid, that every such person or persons aforesaid whom any presentment, information or accusation shall be made and taken as is aforesaid, shall examine the accusers what other witnesses were by and present at the time of doing and committing of the offence whereof the information, accusation or presentment shall be made, and how many other than the accusers have knowledge thereof. And shall have power and authority to bind by recognizance to be taken aforesaid, as well the said accusers as all such other persons whom the same accusers shall declare to have knowledge of the offences by them presented or informed, every of them in five pounds to the King our Sovereign Lord, to appear before the Commissioners aforesaid whom the offender or offenders shall be tried at the day of the trial of such offenders.

XVI. And that all and singular Indentures, Presentments, Accusations, Informations and Recognizances taken and had as is aforesaid, within twenty days next after the taking of the same, shall be certified in due form by writing upon parchment by the taker or takers thereof, under his or their seals, unto any of the said Commissioners, to be appointed as is aforesaid, within the limits of whose Commission the heresies, felonies, contempts and offences, whereof any such presentment, indictment, information or accusation shall be taken or had, as is above written, shall be committed, done and perpetrated. And if any person or persons which hereafter shall happen to take any such accusation, information, presentment or recognizance as is above said, doe make default of the certificate thereof contrary to the form abovesaid, that then every person and persons so offending, shall forfeit to our Sovereign Lord the King for every such default, ten pounds.

XVII. And it is further enacted by the authority abovesaid, that the said Commissioners or three of them at the least as is abovesaid, by virtue of this Act and their Commission, shall have full power and authority to make like process against every person or persons, indicted, presented or accused, in form as is above remembred, as is used and accustomed in cases of felony, and that as well within the limits of their Commission, as into all other shires and places of this Realm, of Wales, and other the Kings dominions, as well within liberties as without, and the same process to be good and effectual in the Law, as in cases of felony. And upon the appearance of any of the offenders, shall have full power and authority by virtue of this Act, and the said Commission to hear and determine the aforesaid heresies, felonies, contempts or other offences, according to the laws of this Realm, and the effects of this Act.

XVIII. And it is also enacted by the authority abovesaid, that every of the said Commissioners upon any such accusation, presentment or information, shall endeavour himself effectually, without affection, dread or corruption, to apprehend and take the offenders, and after the apprehension of any such offender or offenders, shall have full power and authority to commit them to ward. And that the said Commissioners, or two of them at the least, shall have full power and authority to let any person or persons so accused or presented, upon sufficient sureties, by their discretions, to bail for their appearance to be tried according to the tenor, form and effect of this Act.

XIX. And further it is enacted by the authority abovesaid, that if any person or persons which hereafter shall be named and assigned to be Commissioner or Commissioners as is abovesaid, be accused, indicted or presented, of or for any the offences above written; that then all and every such Commissioner or Commissioners, so accused, indicted and presented, shall be examined, put to answer, and tried of, and upon any such offence, according to the tenor and effect of this Act. before such other person or persons as it shall please the Kings highness to name, assign and appoint by his gracious Commission, to hear and determine the same.

XX. And it is further enacted by the authority abovesaid, that no person or persons which at any time hereafter shall be accused, indicted or presented as is abovesaid, shall be admitted to the challenge of any person or persons, which shall be impanelled for the trial of his or their offence for any matter or cause, other than for malice or enmity; which challenge shall forthwith be tried in like manner as other challenges be used to be tried in cases of felony.

XXI. And it is further enacted by the authority abovesaid, that all foreign Pleas triable by the Country, which at any time hereafter shall be pleaded by any person or persons hereafter to be arraigned or put to answer upon any accusation, indictment or presentment, or for any of the offences above specified, or of, or for any of them, shall be tried before the same Commissioners aforesaid whom such person or persons shall be arraigned or put to answer, and by the Jurors that shall try the said offence or offences, without any further respect or delay.

XXII. And it is further enacted by the authority abovesaid, that all Bailiffs, Sheriffs, Stewards, Bailiffs of liberties, Gaolers and other officers and ministers, of what name, degree or condition soever they be, and every of them, shall from time to time truly and diligently receive, and serve all and all manner the processes, precepts and commandments to them or any of them by the said Commissioners, or any of them to be made, given or directed, touching or concerning the premises or any parcel thereof, and shall also from time to time be obedient and attendant unto the said Commissioners for the time being, for the due execution of this present Act, or of any thing therein contained.

XXIII. And it is also enacted, that every person, which shall be named to be Commissioner in the said Commission, after that he hath knowledge thereof, shall effectually put his diligence and attendance in and about the execution of the said Commission, and before that he shall take upon him the execution of the same commission, shall take a corporal oath before the Lord Chancellor of England for the time being, or before him or them to whom the Lord Chancellor shall direct the Kings writ of Dedimus potestatem, to take the same; the tenor of which oath hereafter ensueth. Ye shall swear that ye to your cunning, wit and power, shall truly and indifferently execute the authority to you given by the Kings Commission made for correction of heretics and other offenders mentioned in the same Commission, without any favor, affection, corruption or malice to be born to any person or persons, as God you help and all Saints.

XXIV. And in case that any of the said persons named to be Commissioners, refuse to take the said oath, or willingly absent or cloine himself from the taking of the said oath, then every such person so offending, and the same offence extracted or certified into the Kings Exchequer by the said Lord Chancellor, or by him or them to whom any such writ of Dedimus potestatem, as is aforesaid, shall be directed, shall forfeit and lose to our said Sovereign Lord the King for every time so offending, five marks of lawful money.

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XXV. And it is also enacted by the authority abovesaid, that the said Commissioners and every of them shall from time to time have full power and authority by virtue of this Act to take into his or their keeping and possession, all and all manner of books, which be and have been, or hereafter shall be set forth, read and declared within this Realm or other the Kings dominions, wherein is or be contained or comprised, any clause, article, matter or sentence, repugnant or contrary to the tenor, form or effect of this present Act, or any of the articles contained in the same: and the said Commissioners or three of them at the least, to burn or otherwise destroy the said books or any part of them, as unto the said Commissioners or unto three of them at the least, shall be thought expedient by their discretions.

XXVI. And it is also enacted by the authority abovesaid, that every Parson, Vicar, Curate, or parish Priest of every parish Church within this Realm or other the Kings dominions, or his or their deputy, upon the Sunday next after the first day of September next ensuing, and so from thenceforth once in every quarter of the year at the least, shall openly, plainly and distinctly read this present Act in the Parish Church, where he is Parson, Vicar, Curate, or Parish Priest or deputy, unto his or their Parishioners then assembled together to hear divine Service. And that every such Parson, Vicar, Curate, or Parish Priest making default of reading this Act contrary to the form aforesaid, shall forfeit unto our said Sovereign Lord, his heirs or successors, for every such default xl. s. sterling. Saving to all and singular person and persons, bodies politick and corporate, their heirs and successors, and to the heirs and successors of every of them (other than all and singular such person and persons that shall be hereafter convicted or attainted of, or for any of the offences or contempts abovespecified, their heirs and successors, and the heirs and successors of every of them) all such right, title, claim, interest, entree, possession, rents, reversions, fees, annuities, commons, offices, profits and demands whatsoever, as they or any of them have, or then at the time of such conviction or attainder, had, or shall have, of, in or to any Honours, Castles, Lordships, Manors, Lands, Tenements, Liberties, Franchises, Advowson and other hereditaments which any such person or persons being so convicted or attainted, as aforesaid, had or were intituled to have at the time of their offence or offences committed, or at any time after, and that in as ample manner, form and condition, to all intents, constructions and purposes, as if this Act had never been had or made, any thing contained in this Act to the contrary in any wise notwithstanding.

XXVI. Prohibited away, that the Lords shall not have nor claim any Escheats of any offender or offenders that shall be judged to be burned by authority of this Act.

XXVII. And because disputations and doubts might perhaps rise hereafter upon the words in this Act, that is to say, Advowedly made to God. We if therefore provided and enacted by authority aforesaid, that these words in the Act, that is to say, Advowedly made to God for vows of chastity or widowhood, shall be all only taken, expounded and interpreted, to bind such person or persons and none other, saving Priests, to and by the same, which at the time of any of their so bowing, being thereto admitted, were or shall be at the age of one and twenty years and above, and then did or do consent, submit themselves, or condescend to the same, and continue or continued in observation of it any while after, unless any such person or persons doe or can duly prove any unlawful coercion or compulsion done to them or any of them for making of any such vow.

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Commissioners may seize and burn Heretical Books.

Every Minister shall read this Act, 4 times a year,

--- upon pain of 40s.

Saving of Rights to all others.

Lords shall have no Escheats of Offenders burned.

Vows made to God in this Act, shall be interpreted of the age of 21 years.

1 Edw. VI. Cap. 12

In an Act Entituled, *An Act for the Repeal of certain Statutes concerning Treasons and Felonies, &c.*

§ III. And the Statute made for the abolishment of diversity of opinions in certain articles concerning Christian Religion, commonly called the five Articles, made in the Parliament begun at Westminster the eight and twentieth day of July in the xxxi. year of the Reign of the most noble and victorious Prince of most famous memory King Henry the eight, Father to our most dread Sovereign Lord the King that now is, shall from henceforth be repealed, and utterly void, and of none effect.

Repeal of the foregoing Act of the six Articles.

32. Henr. VIII. Cap. 15.

*An Act concerning Archbishops, Bishops, their Chancellors, Commissaries, Archdeacons, and their Officials, to be in the Commission of the Act concerning the oblition of erroneous opinions in Christian Religion.*

Where in the Parliament holden and begun at Westminster, the xxviiij. day of April in the xxxj. year of the Reign of our most dread Sovereign Lord King Henry the eight, and there continued until the xxviij. day of June then next following, amongst divers other things a goodly Act was made by authority of the same Parliament, touching the abolishment of diversity of opinions concerning Christian Religion; and for the full and effectual execution of the same Act, it was then and there enacted by the the same authority, that immediately after the twelfth day of July then next following, divers and sundry commissions should be made from time to time into every Shire within this Realm and Wales, and into other places within the Kings dominions, as should please his Majesty, to be directed to the Archbishop or Bishop of the Diocess, and to the Chancelor and Commissary and to all such other persons as should be named by the Kings highness, or by such other as his Majesty at his pleasure should appoint to name the same. Which Archbishop or Bishop, his Chancelor or Commissary, and other persons so to be named, or three of them at the least, whereof the Archbishop or Bishop, or his Chancelor or his Com-

Recital of the foregoing Statute, concerning Commissions in each Shire,

E X P.

A.D. 1547.

A.D. 1541.



## Abridgment.

... and that the same Diocese extends into several Shires,

...by reason whereof the Archbishops, Bishops, &c. cannot conveniently attend; tho' of the Quorum.

Archdeacons, and Officials, and who else the King shall appoint, shall be added to the Commission.

Commissions shall be good, tho' they do not express the Christian-name of the Bishop &c.

...and shall extend to Peculiar, and privileged Places.

The King's care to preserve Unity in Religion,

...against heretical opinions sprung up of late,

...is shown in his appointing the Archbishops, Bishops, &c. to settle Articles of Religion, according to the Scriptures;

... which being a work too long for this present Session,

missary to be one, should hold and keep their sessions in the limits of their commission, four or several times of the year at the least, or oftner, if they shall think it expedient by their discretions, and should have power and authority by virtue of the said Act, and their commission as well to take information and accusation by the oaths and depositions of two able and lawful persons at the least, as to inquire by the oaths of twelve men, of all and singular the heresies, felonies, and contempts, and other offences mentioned and declared in the same Act, committed, done or perpetrated within the limits of their commissions, as by the same Act among other things therein contained more at large it doth appear. And for so much that as well the Dioceses of the See of York, as other Dioceses within this Realm, be very wide and large, extending into divers shires, and be divided into several ridings, wapentakes, and soles; and in every one of them, be and heretofore usually have been, particular commissions for peace, and also in divers of the said Dioceses be divers peculiar jurisdictions of ordinary powers, by reason whereof the Archbishops and Bishops, Chancellors and Commissaries, or any of them, being in the Quorum, in the said commissions concerning Christian Religion, made according to the said Act, cannot conveniently be at such sessions as necessarily be to be holden by virtue of the same commissions, because of the long distance of places, where these sessions be to be holden within the said Dioceses, according to the tenor of the said Act: Whereby divers of the same sessions have been omitted or deferred, contrary to the true meaning of the said Act. For reformation whereof, be it enacted by the King our Sovereign Lord, with the assent of the Lords Spiritual and Temporal, and by the Commons in this present Parliament assembled, and by the authority of the same, that in all and singular commissions, hereafter to be made within this Realm, Wales, or other the Kings dominions, from time to time concerning the premises, there shall be assigned to the commissioners with the Archbishop or Bishop, Chancellor or Commissary, the Archdeacon and officials of every Diocese, and Archdeacons jurisdictions, and such other person and persons as it shall please the Kings highness, or the Chancellor of England for the time being, to name and appoint to be of the Quorum: which said Archbishop or Bishops, Chancellors, Commissaries, and Officials of Archdeacons, and other such person and persons so to be named by the King our Sovereign Lord, or by the Chancellor of England for the time being, shall have, by force of this Act, and such Commission to them hereafter to be made and directed, the same and like power and authority, to do and execute all things declared in the said Act and Statute to all intents and purposes, and in as ample and large manner and form, as the said Archbishop, Bishop, Chancellor and Commissary, or any of them may or ought to do by virtue of the said former Act or commission to them made or directed.

II. And over that be it enacted by the authority aforesaid, that all and every commission and commissions hereafter to be made and directed to any Archbishop, Bishop, Chancellor, Commissary, Archdeacon and Official of archdeacon, or to any of them, for the execution of the premises by the same names or dignity of office, that is to say, Archbishop, Bishop, Chancellor, Commissary, Archdeacon, and Official of Archdeacon, or any of them, omitting and leaving out their christian names and surnames, shall be good and effectual in the Law to all intents and purposes. And that they and every of them, and every successor of every of them, in every such dignity and office, shall have by the same name of dignity and office, full power and authority to hear and determine, to award and execute, all things contained in every such Commission to them directed, in like manner and form as they might have done if they had been named by their christian names and surnames, with additions of their dignities or offices full expressed in the same Commission. And that every such Commission shall extend and be executed as well within every peculiar jurisdiction and place privileged or having liberties or franchises (and being no Shire in it self) being or lying within the Dioceses and Shire or other limit specified in any such Commission, as elsewhere without the same.

## 32. Henr. VIII. Cap. 26.

*An Act concerning true Opinions, and declaration of Christ's Religion.*

Where the Kings royal Majesty of his blessed and gracious disposition, like as his highness is our Sovereign liege Lord and supreme head of the Church of England, so his Grace taketh the care and solicitude thereof, most diligently foreseeing and providing all that can be to the quiet, union, concord, prosperity, wealth and furtherance of the same: considering also that nothing so much troubleth the Commonwealth, and hindereth quiet and concord, as diversity in opinions and belief, especially in things that concern Almighty God and his Religion. And of his prudence and wisdom well weighing that out of sundry outward parts and places there have sprung, been sown and set forth divers and sundry heretical, erroneous and dangerous opinions and doctrines in the religion of Christ, whereby some of his Graces liege people might be not only disquieted and moved to variances, strifes, commotions or seditions among themselves, to the utter destruction and undoing of themselves and of their whole posterity for ever, but also induced and allured to unfaithfulness, misbelief, miscreance and contempt of God, to the utter confusion and damnation of their souls, unless by his Majesties prudence some good remedy should be ordained for the same: hath of his bountiful royal clemency thereof appointed, established and ordained the Archbishops and sundry Bishops of both Provinces of Canterbury and York within this his Realm, and also a great number of his best learned, honestest and most vertuous sort of Doctors of Divinity, men of discretion, judgment and good dispositions of this said Realm, to the intent according to the very Gospel and Law of God, without any partial respect or affections to the Papistical sect, or any other sect or sects whatsoever they be, they should declare by writing, and publish as well the principal articles and points of our faith and belief, with declaration, true understanding and observation of such other expedient points as by them with his Graces advice, counsel and consent shall be thought needfull and expedient: and also for the lawfull rites, ceremonies and observation of Gods service within this his Graces Realm. And for as much as the true definition, determination and declaration thereof requireth ripe and mature deliberation and advice, and that so high and godly things may not rashly be defined, determined and set forth, nor be assented or restrained to this present Session or any other Session of this Parliament, but from time to time be defined,

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determined, concluded and published as the case shall require, and as his Majesty with the advice of his most honourable Council, and such as is Highness hath appointed, or shall from time to time appoint for the same, shall think most convenient: Be it therefore enacted, ordained and established by the Kings Majesty, with the assent of the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, and authority of the same, that all and every determinations, declarations, decrees, definitions, resolutions and ordinances, as according to Gods word and Christs Gospel, by his Majesties advice and confirmation by his letters patents under his Graces great Seal, shall at any time hereafter be made, set forth, declared, decreed, defined, resolved and ordained by the said Archbishops, Bishops and Doctors now appointed, or other persons hereafter to be appointed by his royal Majesty, or else by the whole Clergy of England, in and upon the matter of Christs religion, and the Christian faith and lawfull rites, ceremonies and observations of the same; shall be in all and every point, limitation and circumstance thereof, by all his Graces subjects and other residents and inhabitants within this his Graces Realm and other his Graces dominions, fully believed obeyed, observed and performed to all purposes, intents, constructions and interpretations, upon the pain and penalties therein to be comprised, as if the same determinations, declarations, decrees, definitions, resolutions and ordinances, and every of them, with the pains and penalties comprised, had been, were, or should be by expresse words, terms and sentences, plainly and fully made, set forth, declared, rehearsed and contained in this present Act: any use, custom or Statute heretofore had, used, observed or accustomed to the contrary thereof in any wise notwithstanding.

II. Prohibited always, that nothing shall be done, ordained, defined or provided by the authority of this Act; which shall be repugnant or contrariant to the Laws and Statutes of this Realm: any thing in this Act contained to the contrary thereof notwithstanding.

A.D. 1541.

32 Henr. VIII. Cap. 49.

In an Act, Entituled, An Act concerning the King's most gracious, general and free Pardon.

Except and always fore-prised out of this general and free Pardon, all and all manner of heresies and erroneous opinions.

E X P.

A.D. 1542.

34, 35 Henr. VIII. Cap. 1.

An Act for the Advancement of the true Religion, and for the Abolishment of the contrary.

Where the Kings most royal Majesty, our gracious and natural Soberaign Liege Lord, supreme Head of the Church of England, and also of Ireland, and his honourable Council, perceiveth the ignorance, fond opinions, errors, and blindness of others and sundry his subjects of this his Realm, in abusing, and not observing, nor following the commandments, precepts, and laws of Almighty God, nor the very true and perfect religion of Christ, notwithstanding such wholesome doctrines, and documents as his Majesty hath heretofore caused to be set forth for that purpose beside the great liberty granted to them in having them amongst them, and in their hands the new and old Testament: which notwithstanding, many seditious people, arrogant and ignorant persons, whereof some pretending to be learned, and to have the perfect and true knowledge, under standing and judgment of the sacred and holy Scriptures, and some other of their perverse, froward and malicious minds, wills and intents, intending to subvert the very true and perfect explications, doctrine, and declaration of the said Scripture, after their perverse fantasies: have taken upon them, not only to preach, teach, declare, and set forth the same by words, sermons, disputations, and arguments, but also by printed Books, printed Ballads, Plays, Rimes, Songs, and other fantasies, subtilly and craftily instructing his highnesses people, and especially the youth of this his Realm, untruly and otherwise than the Scripture ought or should be taught, declared or expounded and contrary to the very sincere, and godly meaning of the same. Whereupon diversity of opinions, sayings, variances, arguments, tumults and schisms have been sprung and arisen amongst his said Subjects within this his Realm, to the great inquietation of his said people, and great displeasure of his Majesty, and contrary to his Graces true meaning, good intention and most godly purpose.

II. For reformation whereof, his Majesty most virtuously and prudently considereth, and thinketh that it is and shall be most requisite, expedient and necessary, not only by laws dreadfull, and penal, to take away, purge and cleanse this his highnesses Realm, territories, confines, dominions and Countries, of all such Books, Writings, Sermons, Disputations, Arguments, Ballads, Plates Rimes, Songs, teachings and instructions, as be pestiferous and noysom, with all the causes, instruments, and means of the same: But also to ordain and establish a certain forme of pure and sincere teaching, agreeable with Gods word, and the true doctrine of the Catholick and Apostolical Church, whereunto men may have recourse for the true decision of some such controversies as have in time past and yet doe happen and arise amongst them: And therefore be it enacted, ordained and established, by our said Soberaign Lord the King, the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, and by the authority of the same, that all manner of Books of the old and new Testament in English, being of the crafty, false, and untrue translation of Tindall, and all other Books and writings in the English tongue, teaching or comprising any matters of Christian Religion, Articles of the Faith, or holy Scripture, or any part of them, contrary to that doctrine, which since the year of our Lord M. D. l. is, or any time during the Kings majesties life, our said Soberaign Lord that now is King Henry the eight, which our Lord long preserve, shall be set forth by his highness, with such superscription, as hereafter shall be declared, shall be by

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Enacted, that All Resolutions in Religion, made by the said Archbishops, Bishops, &c. and confirm'd under the Great Seal, shall be believed, and obey'd,

-- as if expressed in this present Act.

Nothing shall be defined, contrary to the Laws of the Realm.

Heresie excepted out of general Pardon.

Great Error and Blindness continues in Religion,

-- notwithstanding the Doctrines set forth by the King, and the Liberty of Scripture,

-- which is abused by false Expositions,

-- and thereby Schisms have arisen.

The King's Resolution to reform those Abuses,

-- and to set forth a certain Form of Doctrine.

Enacted, that, -- Tindal's Translation, and all Books in English, contrary to the receiv'd Doctrine, shall be abolished,



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and any Person Printing, &c. such prohibited Books, or playing or singing such matters,

shall, for the first offence, be imprisoned 3 months,

and for the second forfeit all his Goods, with perpetual Imprisonment.

Any Person receiving Books against the Sacrament, or in favour of the Anabaptists, &c.

or any other Book before prohibited, shall forfeit five pounds,

and for Sentences interlined, less at discretion.

Bibles, not of Tindal's translation, shall stand, but all Annotations &c. be cut out, or blotted, upon pain of 40s.

Summaries of Chapters shall not be judged Annotations,

nor shall the Kings Injunctions &c. be comprised.

Any Books may be printed, with the King's Licence,

and the Printers name, &c.

and Songs, &c. not contrary to the received Doctrine, shall continue.

None shall read or preach Scripture in English,

unless Licensed by the King or Ordinary.

Lord Chancellor, &c. in Speeches, may continue to use Scripture in English.

by authority of this present Act clearly and utterly abolished, extinguished, and forbidden, to be kept or used in this Realm, or elsewhere in any the Kings dominions.

III. And also be it enacted by the authority aforesaid, that if any Printer, Bookbinder, Bookseller, or any other person or persons, shall after the first day of July, next ensuing, print or cause to be printed, utter, or sell, give or deliver within this Realm or elsewhere within any of the Kings dominions, any of the books or writings aforesaid abolished or prohibited, or play interludes, sing, or rime, any matter contrary to the said doctrine, which since the said year of our Lord H. D. xl. is, or at any time (as is abovesaid) shall be set forth by the Kings Majesty, our said Sovereign Lord that now is, and be of any the offences aforesaid convicted, by sufficient witnesses, before any two of the Kings Council, or the Ordinary of the Diocess, where any such offence shall be committed, and two Justices of Peace of the same Shire where any such Ordinary shall sit within his Diocess, for that purpose, or before any person or persons, whom for this purpose the Kings Majesty shall appoint by his highness commission; shall have and suffer, for the first time, imprisonment of his body for three months, and also lose and forfeit for every such book or writing, printed, uttered and sold, given or delivered (as is aforesaid) the sum of ten pounds sterling. And for the second time so offending in any of the said offences, and being thereof convicted, as is aforesaid, shall lose and forfeit all his goods, and his body to be committed to perpetual prison.

IV. And be it further enacted by the authority aforesaid, that if any person or persons, after the first day of July, next coming, receive in his hands or custody, any English books or writings, concerning matter against the holy and blessed Sacrament of the altar, or for the maintenance of the damnable opinions of the sect of Anabaptists, or any other English books or writings, which heretofore have been abolished and condemned by the Kings Proclamations, and shall be thereof convicted, in manner and form aforesaid: That then every such offender shall for every such Book or writing so retained as is aforesaid, lose and forfeit the sum of five pounds sterling. And if any person or persons, after the first day of October next coming, shall retain in his hands or custody, within this Realm or elsewhere within any the Kings dominions, any other the said books or writings before prohibited, and shall be thereof convicted, in manner and form aforesaid: that then the said person or persons, so being convicted shall for every book or writing, containing special Treaty or Chapter against any doctrine, set forth or to be set forth by the Kings Majesty as is aforesaid, by him or them retained, forfeit and pay the sum of five pounds sterling. And if the book or writing have only words or sentences interlined, contrary to the said doctrine then the fine to be moderate by the discretion of the Judge: so it exceed not forty shillings.

V. Provided always, that the Bibles and new Testament in English, not being of Tindal's translation, shall stand in force, and not be comprised in this abolition or Act. Nevertheless, if there shall be found in any such Bibles or new Testaments, any annotations or preambles, that then every person and persons, having any Bibles or new Testaments, with any such annotations or preambles, shall before the said first day of October, cut or blot the same, in such wise, as they cannot be perceived nor read, upon pain to lose and forfeit for every Bible and new Testament that any person or persons shall have in their hands or custody, after the said first day of October, with any such annotations or preambles as is aforesaid, contrary to this Act, forty shillings.

VI. Provided alway, that this Article next above specified, do not extend to the blotting or cutting out of any quotation or summaries of Chapters expressed or contained in any such Bibles or new Testaments, any thing aforesaid mentioned to the contrary notwithstanding.

VII. Provided also, that all Books in English, printed before the year of our Lord H. D. xl. intitled, the Kings highness Proclamations, Injunctions, Translations of the Pater noster, the Ave Maria and the Creed, the Psalters, Primers, Prayers, Statutes and laws of the Realm, Chronicles, Canterbury tales, Chaucers books, Gowers books, and stories of mens lives, shall not be comprehended in the prohibition of this Act, unless the Kings said Majesty shall hereafter make special Proclamation for the condemnation and reproving of the same, or any of them.

VIII. Provided alway, and be it enacted by authority aforesaid, that all Printers may lawfully print all such Books, containing matters of religion as the Kings Majesty shall by his Bill assigned allow and approve, wherunto the same Printers shall be bound to put the subscription in this form, that is to say, by the King and his Clergy, with addition in the end of the Printers name, his dwelling place, the day and year of printing of the same: which if the same Printer doe omit, he shall incur such penalties as before is limited for printing, selling, giving, or delivering of unlawful Books.

IX. Provided always, and be it enacted by the authority aforesaid, that it shall be lawful to all and every person and persons, to set forth Songs and Plays and Enterludes, to be used and exercised within this realm, and other the Kings dominions, for the rebuking and reprehending of vices, and the setting forth of virtue: So always the said Songs, Plays or Enterludes meddle not with interpretations of Scripture, contrary to the doctrine set forth or to be set forth by the Kings Majesty, our said Sovereign Lord that now is, King Henry the eight, in form aforesaid. Any thing contained in this Act to the contrary notwithstanding.

X. And be it further enacted by the authority aforesaid, that no manner of person or persons after the first day of October next ensuing, shall take upon him or them to read, preach or teach openly to other, in any Church or open assembly within any the Kings dominions, the Bible, or any part of Scripture, in English, or by any other person or persons cause it or any part thereof openly to be read, preached or taught to other, in any Church or open assembly, as is aforesaid, unless he be so appointed thereunto by the Kings Majesty, or by any Ordinary, or by such as have rule, government and authority, to make disputation or assignment for the same, upon pain that every such offender, being thereof convicted, as is aforesaid, shall suffer imprisonment of one month.

XI. Provided always, that the Chancelor of England, Captains of the warres, the Kings Justices, the Recorders of any City, Borough or Town, the Speaker of the Parliament, and all other Justices, officers and ministers, which heretofore have been accustomed to declare or teach any good vertuous or godly exhortations, in any assemblies, may use any part of the Bible or holy Scripture, as they were wont and have been accustomed, so always it be not contrary to the doctrine set forth or to be set forth as is aforesaid, any thing in this Act to the contrary thereof notwithstanding.

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XII. Provided also, that it shall be lawful to every Nobleman and Gentleman being a householder, to read or cause to be read by any of his family, servants, in his house, orchards or garden, and to his own family, any text of the Bible or new Testament, so the same be done quietly and without disturbance of good order. And also that it shall be lawful for every Merchant man being a householder, and occupying the seat of merchandise, to read to himself privately the Bible and New Testament, any thing in this Act to the contrary thereof notwithstanding.

XIII. And where the Kings Majesty, of his most gracious and blessed disposition, hath heretofore caused to be set forth the Bible and New Testament in the English tongue, to be read by his loving subjects, to the intent that they might thereby the better know their duty to Almighty God, and to his Majesty, and also increase in vertue, for wealth of their souls: Albeit his Majesties said most godly purpose and intent hath taken good effect amongst a great multitude of his subjects, and specially amongst the highest and most honest sort, according to his Highnesses good expectation thereof: yet for as much as his highness perceiveth, that a great multitude of his said subjects, most specially of the lower sort, have so abused the same that they have thereby grown and increased in divers naughty and erroneous opinions, and by occasion thereof fallen into great division and dissention among themselves, to the great inquietness of the Realme, and other his Majesties dominions: For remedy whereof, be it enacted by the authority aforesaid, that from and after the first day of July next coming, no Women, nor Artificers, Apprentices, Journey-men, Serving-men of the degrees of Yeomen or under, Husbandmen, nor Labourers, shall read within this Realme, or other the Kings dominions, the Bible or New Testament in English to himself, or to any other privately or openly, upon pain of one months imprisonment for every time offending contrary to this Act, and being thereof convict in such manner and form as is aforesaid, unless the Kings Majesty, our said Sovereign Lord King Henry the eight, perceiving such reformation and amendment in their lives and behaviour, by the diligent and discreet reading, and imprinting in their hearts of the most blessed doctrine, set forth, or hereafter to be set forth by his said majesty, shall of his clemency think good otherwise to enlarge and to give liberty for the reading of the same.

XIV. Provided always, that all manner of persons, other then Women, Artificers, Apprentices, Journey-men, Serving-men of the degrees of Yeomen or under, Husbandmen and Labourers, may read to themselves, and to none other any Text of the Bible and New Testament for their own edifying and increase in vertue, any thing in this Act to the contrary notwithstanding.

XV. Provided always, that every Noble woman and Gentlewoman may read to themselves alone, and not to others, any Text of the Bible or New Testament, any thing in this Act to the contrary notwithstanding.

XVI. Provided also, that it shall be lawful to every person and persons whatsoever, to read and teach in their houses, and in the houses of their Husbands, Parents, or Masters, all such doctrine, as since the said year of our Lord a thousand five hundred and forty, is or shall be set forth by the Kings Majesty, our Sovereign Lord that now is, as is aforesaid. And also the Psalter, Primers, Pater noster, Ave and Creed in English, and all such books and writings, which be above specially named, to be reserved and not to be abolished and prohibited by this Act: So they doe the same quietly, and without disturbance of good order, any thing in this Act to the contrary thereof notwithstanding.

XVII. And be it further enacted by the authority aforesaid, that no person or persons, other than be above limited, shall take upon him openly to dispute or argue, to debate, discusse or expound holy Scripture, or any part thereof, which with all reverence ought to be communicated among Christian men, upon the pain of one months imprisonment.

XVII. And it is also ordained and enacted by authority aforesaid, that the one moiety of all the penalties and forfeitures of summs of money above specified, shall be to the King our Sovereign Lord, and the other moiety thereof to such person or persons as will detect and sue for the conviction of any of the offenders contrary to this Act, in such form as is above limited by this Act, and that the moiety of such forfeiture limited to the party detecting and suing as is aforesaid, shall be levied of the offenders, that shall be convict by authority of this Act, as is aforesaid, after such form, fashion and order of Process, as shall be devised by the Judge or Judges, afoze whom any such conviction shall be had, and the other moiety of such forfeitures, limited to be to the Kings Majesty, shall be extracted by writing into the Kings Exchequer, by the said Judge or Judges, within forty days next after such conviction had: if it be in the term time, and if it be out of the term; then within the twenty days next after the beginning of the term following after such conviction.

XIX. And be it further enacted, that if any Spiritual person or persons shall after the first day of July next coming, preach, teach, defend and maintain any matter or matters, thing or things contrary to the godly instructions or determinations, which since the year of our Lord aforesaid, is or shall be set forth by his Majesty, as is aforesaid: that then every such offender being thereof convicted before the Ordinary of that Diocess within the which the said offence shall be committed, and by two Justices of Peace, as is aforesaid, or before two of the Kings Majesties Council, or such Commissioners as his Majesty shall appoint for that purpose: shall be for the first time admitted to recant and renounce his said errors, after such manner and form as shall be appointed by the Ordinary or Judges, afoze whom such offender shall be convict. And if such offender refuse to recant, in such form as is aforesaid, or if he recant, and after afterwards offend: that then he shall for the second time, or for refusal to recant, abjure and bare a faggot, after such manner and form as shall be assigned by the Ordinary or Judge and two Justices of Peace as is aforesaid, afoze whom such offender shall be convict. And if such offender shall refuse to abjure and bear a faggot, as is aforesaid, or if he abjure and bear a faggot, as is aforesaid, and after offend the third time contrary to this Act, and be thereof convict in manner and form as is aforesaid: That then every such offender, for the third time; or for refusal to abjure, shall be deemed and adjudged an heretick, and suffer theretofore pains of death by burning, and losse and forfeitures of all his goods and chattels. And if any Lay person or persons, shall after the said first day of July next coming, teach, defend or maintain any matter or matters, thing or things, contrary to the godly instructions and determinations, which since the year of our Lord aforesaid, is or shall be set forth by his Majesty, as is aforesaid, every such offender, being thereof duly convicted before the Ordinary of the Diocess, within the which the said offence shall be committed, any two Justices of Peace, as is aforesaid, or before two of the Kings Majesties Council or such Commissioners,

Abridgment.

Noblemen and Gentlemen may read Scripture, in their Families, - and Merchants, to themselves.

The better sort having ben edify'd by Scripture,

- and the lower sort abuted it,

- no Women nor any of the Men of the lower sort, shall read Scripture, upon pain of one month's Imprisonment,

- without the Kings Licerce.

- but all others may read it, for their own Edification,

- and so may Noble Women and Gentlewomen,

All Persons may read, in their Houses, other Books not prohibited.

No Person, other than above limited, shall dispute about Scripture, upon pain of one month's Imprisonment.

Of the forfeitures, one moiety shall be to the King, the other to the Informer.

Any Spiritual Person teaching contrary to the King's Injunctions,

- for the first time, shall be admitted to recant,

- but refusing to recant, or offending a second time, he shall abjure and bear a faggot,

-- and refusing that, or offending a 3d time, shall be burnt as a Heretick.

Any Lay Person offending against the King's Injunctions, shall renounce, and be



## Abridgment.

imprisoned, 20 days,  
— for the second offence, he shall abjure and bear a faggot,  
— for the 3d, he shall forfeit Goods and Chattels, with perpetual Imprisonment.

All Prosecutions shall be within the year.

The Party accused may purge himself by Witnesses.

No offence shall be punished, till the Doctrine hath been set forth one month.

Act of 6 Articles shall stand good.

The King may alter this Act, at pleasure.

Justices of Peace shall attend the Ordinary in the Execution of this Act,

— upon pain to forfeit 40s.

Repeal of the foregoing Statute.

Recital of the Statute of six Articles;

ers, as the Kings highness shall appoint for that purpose, shall renounce and forsake his said error before the said Ordinary or Judges before whom the said offender shall be convicted, and suffer imprisonment in any of the Kings prisons by the space of twenty days. And if such offender refuse to renounce and forsake his said errors, or if he renounce and forsake his said errors and after afterwards offend, That then he shall for the second time, or refusing to renounce, abjure and bear a faggot, in manner and form, as by the Ordinary or Judge, before whom such offender shall be convicted, shall be appointed: and if such offender refuse to abjure and bear a faggot, as is aforesaid or if he abjure and bear a faggot as is aforesaid and after offend the third time contrary to this Act, or refuse to abjure, and be thereof convicted in manner and form that is aforesaid, that then every such offender shall forfeit all his goods and chattels, and have perpetual imprisonment.

XX. Provided always, that the offence of reading, preaching, teaching, defending, or maintaining matter, contrary to the determination set forth or to be set forth by the Kings Majesty our said Sovereign Lord King Hen y the eight, be objected against the offender within one year next after such offence committed and done, or else the offender therein to suffer no punishment by authority of this Act.

XXI. And be it further enacted by authority aforesaid that in trial by witnesses of any of the matters or offences above specified in this Act, the person or persons, being detected, or complained on, shall be admitted to purge and try his or their innocency by other witnesses, as many or more in number, and of as good honesty and credence, as those be which deposed against them or any of them; in which case the said Judge or Judges, which shall have authority to examine, hear, and determine the offences aforesaid, by authority of this Act, shall advisedly and deliberately survey and consider the witness brought in by both parties, and their dispositions and circumstances thereof, and thereupon condemn or dismiss from punishment, and lose the person detected or complained upon, as to his own discretion shall seem best to agree with conscience and equity.

XXII. Provided always, that this Act be understood, that no person or persons shall incur any pain or penalty in this Act, for offending of any doctrine hereafter to be set forth by the Kings Majesty, as is aforesaid, till one month be past and expired next after such doctrine shall be put in print, within which time of a month, next after such doctrine imprinted, every person may have notice of the same.

XXIII. Provided also, that the Act concerning the six Articles, shall still remain and continue in the same force, strength and effect, as it was before the making of this Act, any thing in this Act to the contrary thereof notwithstanding.

XXIV. And be it further provided by authority aforesaid, that the Kings Majesty our Sovereign Lord that now is King Henry the eight, may at any time hereafter at his highness liberty and pleasure, change and alter this present Act and provisions of the same, or any clause or article therein contained, as to his highness most excellent wisdom shall seem convenient, any thing in this Act to the contrary thereof notwithstanding.

XXV. Provided always, and be it enacted, that for the more speedy execution of this Act, every Ordinary aforesaid, shall have full power and authority by virtue of this Act, to give notice to two Justices of Peace, being under the degree of Barons, and being resident and inhabitant within such shire where any such Ordinary shall sit for the execution of this Act, and require them to come to such place, and at such time as such Ordinary shall name and assign, to join with the said Ordinary in examination and determination of any offence or offences committed or done against the tenor of this Act. And in case any such Justices, being so required, as is aforesaid, having convenient and reasonable warning and knowledge in writing, from and at such time of the day and place appointed, do not come to such place and at such time, as shall be appointed, having no lawful and just impediment to the contrary, shall forfeit and lose to the Kings highness, for every such offence, forty shillings, to be extracted, as is aforesaid.

1 Edw. VI. Cap. 12.

A.D. 1547.

In an Act, Entituled; *An Act for the Repeal of certain Statutes concerning Treasons and Felonies, &c.*

— And also the Act of Parliament and Statute made in the Parliament begun at Westminster, the sixteenth day of January, in the three and thirtieth year of the reign of the said late King Henry the eighth, and after that Prologued unto the two and twentieth day of January, in the four and thirtieth year of the reign of the said late King Henry the eighth, touching, mentioning, or in any wise concerning Books of the old and new Testament in English, and the printing, uttering, selling, giving, or delivering of books, or writings, and retaining of English books or writings, and reading, preaching, teaching, or expounding of Scripture, or in any wise touching, or concerning any of the same matters, — shall from henceforth be repealed, and utterly void and of none effect.

35 Henr. VIII. Cap. 5.

A.D. 1543.

*An Act concerning the Qualification of the Statute of the Six Articles.*

Where by the good and godly Act and Statute, concerning the six Articles, made in the Parliament holden at Westminster the eight and twentieth day of April, in the one and thirtieth year of the Kings majesties most noble Reign, it was ordained, and established, amongst other things, that for certain kinds of heresies and other offences, expressed in the same statutes, the offenders therein being of them convicted, should suffer pains of death; or other such

Heresie & Hereticks, as defined & restrained in the time of K. Hen. VIII



Heresie & Hereticks, as defined & restrained in the time of K. Hen. VIII

such pains as for every of the offences in the same Statute expressed, is in the same specially and severally mentioned: And where also by force of the same Statute divers secret and untrue accusations and presentments may be maliciously conspired against the Kings Subjects, and kept secret unrevealed, that such as be accused should not have knowledge thereof to come to their declaration, until a time may be espied to have them thereof by malice convicted, to the great peril and danger of the Kings Majesties subjects, if the same Statute should not in some part thereof be tempered, qualified or reformed. And to the intent that all presentments and inditements of such offences as be contained in the said Statute, concerning the said six Articles, whereunto any person shall be put to answer, should be taken in open and manifest Courts by the oaths of twelve indifferent persons, according to good equity and conscience, and as other presentments have been used to be taken within this Realm in such weighty causes, according to the laudable custom and usage of the same. And that also the inquiries and trials of and upon the said presentments and inditements may justly and charitably proceed without corruption or malice accordingly. Be it therefore enacted by authority of this present Parliament, that no person or persons from henceforth shall be arraigned or put to his or their trial, or, for or upon any accusation, information, or presentment concerning any of the offences comprised within the said former Act, but only upon such presentments and inditements as he or they shall be found and made by the oaths of twelve men or more, afore such Commissioners as be or shall be especially authorized to inquire of the offences contained in the said former Statute by the Kings Majesties commission, or three of them at the least sitting in their Sessions, or before the justices of the Peace sitting in their Sessions, or three of them at the least, or before the Justices of Oyer & terminer, or three of them at the least: And that the presentments or inditements hereafter to be made, be taken within one year next after the said offences therein contained, be or shall be committed or done: And that all accusations concerning any of the offences aforesaid, made or to be made in any other form then as is aforesaid in this present Act, shall be void in the law to any other respect or purpose, but only as an evidence to be given and declared to the inquests of inquisite and deliberate before the said Justices, as is aforesaid. And that no person accused of, or upon any of the offences specified in the said former Act, shall be attached, arrested or committed to ward for the same, or any of them, before he be thereof indicted, as is aforesaid, unless it be by virtue and authority of one sufficient and lawful Warrant or Precept from one of the Kings Majesties honourable Council; or from two of the Justices or Commissioners aforesaid, whereof one of them to be a Lay person, any thing contained in the said former Statute notwithstanding.

II. And be it also enacted by authority of this present Parliament, that no person or persons shall be from henceforth accused, indicted, committed to prison, molested or put to answer, for, or upon any accusation, presentment or inditement hereafter to be made or found by virtue of the said former Statute, concerning the said six Articles, unless he or they be thereof accused or indicted within one year next after his or their said offence or offences supposed to be committed or done, any thing in the said former Act or in this Act to the contrary notwithstanding.

III. Provided always, and be it enacted by the authority aforesaid, that if any person or persons shall at any time hereafter hear any Preacher or Reader, being authorized to Preach or Read, speak or declare any word or words supposed to be contrary to any of the said Articles, contained in the said former Statute, in his or their Sermon or Reading at any place and time accustomed for Preaching or Reading, and doe not thereof accuse the said Preacher or Reader before one of the said Justices within forty days next after his said words so spoken, or else that the said Preacher or Reader be thereof indicted within the said time of forty days, after his or their said Preaching or reading: then the said Preachers or Readers and every of them shall be of every such accusation and offence clearly acquitted and discharged. Except the same accuser or accusers, do shew, alledge and prove by two sufficient witnesses before the said Justices or two of them, sufficient cause why he or they did not make the said accusations within the said time of forty days as is aforesaid limited.

IV. Provided also, that this Act or any thing therein contained shall not extend to any inditement or presentment heretofore made by the oaths of twelve men or more, of any of the said offences contained or expressed in the said former Act, concerning the said six Articles, but that the same inditements or presentments, so made, shall stand and abide in their full strength and effect, as if this Act had never been made, any thing in this Act to the contrary notwithstanding.

V. And to the intent that as well the inquiries of the presentments and inditements aforesaid, as the trials of and upon the same shall proceed justly and indifferently: Be it therefore enacted by the authority aforesaid, that the said Justices, before whom the said inquiries, presentments or inditements shall be taken, shall from henceforth have power and authority to alter and reform all panells of inquiry, returned before them by the Sheriff or other officers appointed for the same, in like manner as Justices of the Peace may doe in their Sessions upon any other inquiries. And that also the party accused, presented, or indicted, as is aforesaid, upon his arraignment or trial thereof, shall and may have as many challenges, (peremptory challenges only except) as other persons arraigned for felony shall or may have by the laws of this Realm, any clause or Article in the said former Act to the contrary notwithstanding. And that then the parties being condemned of any of the offences contained or mentioned in the said former Act of six Articles, shall suffer all such imprisonments, losses and pains of death, as they should or ought to have done before the making of this present Act.

VI. And be it also further enacted by the authority aforesaid, that the said former Act concerning the said six Articles, and every other Act touching the same, and all Articles, clauses and sentences in them or any of them mentioned, expressed or contained, now being in his or their force and effect, other then such as by this present Act be altered, qualified or reformed, shall stand and abide in all his or their full strength, effect and virtue, any thing in this present Act notwithstanding.

VII. Provided furthermore and be it enacted by the authority aforesaid, that if any person or persons, arraigned or put to his or their trial, upon any the offences contained in the said former Act concerning the six Articles, stand mute, or will not directly answer the same offences, whereof he or they be indicted as is aforesaid: that then every such person and persons, so standing mute, or refusing directly to answer to the same inditement, for his or their contumacy, shall have judgment to suffer like pains of death, losses, forfeitures and imprisonment as if the same person or persons so indicted, had been thereof found guilty by verdict of twelve men; any thing in the said former Act, or in this present Act to the contrary notwithstanding.

Abridgment.

— and the Articles thereof by Secret Acculations,

— with the convenience of taking all Indictments in open Court, to prevent corruption and malice.

Enacted, that, — all Indictments for Heresies shall be made by the Oaths of 12 Men,

— within one year after the offence,

— and none shall be committed, unless by one of the Council, or two Commissioners.

None shall be accused of Heresy but within the year.

— and no Accusation shall be good against Preachers, but within 40 days,

— unless good cause be shewn, why it was not made within the time.

Presentments already made, shall be good.

The Justices, and Offenders, may alter and challenge Jurors, as in other Cases.

The Act of six Articles, other than what is hereby altered, shall be good.

Persons Mute shall suffer, being Convicted.



Abridgment.

1 Edw, VI, Cap, 12,

In an Act, Entituled, *An Act for the Repeal of certain Statutes concerning Treasons and Felonies, &c,*

Repeal of the  
Statute of six  
Articles,

—§. III. And also one other Statute made in the Parliament holden at Westminster, in the five and thirtieth year of the Reign of the late King Henry the eight, concerning the qualification of the Statute of six Articles, and all and every other Act or Acts of Parliament, concerning Doctrine or matters of Religion, and all and every Branch, Article, Sentence, and matter, pains and forfeitures contained, mentioned, or in any wise declared in any of the same Acts of Parliament or Statutes, shall from henceforth be repealed, and utterly void and of none effect.

Heretic &  
Hereticks,  
as defined  
& restrained  
in the  
time of K.  
Hen. VIII  
A.D. 1547

## C A P. IV.

HERESIE, and HERETICKS, in the PROTESTANT  
Sense.

5, 6 Edw. VI.-----13, 14 Car. II.

*In the Form of Consecrating a Bishop.*

A.D. 1551.

One part of the  
Office of a Bishop,  
is to banish errone-  
ous Doctrines.

**A**RE you ready with all faithful Diligence to banish and drive away all erroneous and strange Doctrines, contrary to God's word; and both privately and openly to call upon and encourage others to the same?

*Answer.*

I am ready, the Lord being my Helper.

2 &amp; 5 Edw. VI.-----13, 14 Car. II.

*In the Form of Ordaining a Priest.*

A.D. 1548.

One part of the  
Office of a Priest,  
is to banish er-  
roneous Doctrines.

**W**ILL you be ready with all faithful diligence to banish and drive away all erroneous and strange Doctrines, contrary to God's word?

*Answer.*

I will, the Lord being my Helper.

1 Eliz. Cap. 1.

A.D. 1558.

In an Act, Entituled, *An Act to restore to the Crown the ancient Jurisdiction over the State Ecclesiastical, &c.*

The correction  
of Errors and  
Heresies confirmed  
to the Crown.

§. XVII. And that also it may likewise please your highness, that it may be established and enacted by the authority aforesaid, that such jurisdictions, privileges, superiorities, and preheminences Spiritual and Ecclesiastical, as by any Spiritual or Ecclesiastical power or authority, hath heretofore been, or may lawfully be exercised or used, for the visitation of the Ecclesiastical state and persons, and for reformation, order and correction of the same, and of all manner errors, heresies, schisms, abuses, offences, contempts, and enormities, shall for ever, by authority of this present Parliament, be united and annexed to the imperial Crown of this Realm.

1 Eliz.



Heresie & Hereticks, in the Protestant Sense. A.D. 1558.

1 Eliz. Cap. 1.

In an Act, Entituled, An Act to restore to the Crown the ancient Jurisdiction over the Estate Ecclesiastical, &c.

§. XXXV. Provided always, and be it enacted as is aforesaid, that no manner of Order, Act or Determination, for any matter of Religion, or cause Ecclesiastical, had or made by the Authority of this present Parliament, shall be accepted, deemed, interpreted or adjudged at any time hereafter, to be any Error, Heresy, Schism, or Schismatical opinion: Any Order, Decree, Sentence, Constitution or Law, whatsoever the same be, to the contrary notwithstanding.

§. XXXVI. Provided always, and be it enacted by the Authority aforesaid, that such person or persons to whom your Highness, your Heirs or Successors, shall hereafter by Letters Patents, under the great Seal of England, give Authority to have or execute any jurisdiction, power or authority Spiritual, or to visit, reform, order or correct any Errors, Heresies, Schisms, Abuses or Excommunications by vertue of this Act, shall not in any wise have authority or power to order, determine, or adjudge any matter or cause to be Heresy, but only such as heretofore have been determined, ordered or adjudged to be Heresy, by the authority of the Canonical Scriptures, or by the first four general Councils, or any of them, or by any other general Council, wherein the same was declared heresy, by the expresse and plain words of the said Canonical Scriptures, or such as hereafter shall be ordered, judged or determined to be Heresy, by the high Court of Parliament of this Realm, with the assent of the Clergy in their Convocation: Any thing in this Act to the contrary notwithstanding.

d By virtue of this Act.] Which Act, so far as concerneth the High Commission Court, being repealed by 16 Car. 1. it follows, that this Branch, which extended only to that Court, is also Repealed: But (saith my Lord Coke, while that Commission stood) Albeit this Provisoe extendeth only to the High Commissioners, yet seeing in the High Commission there be so many Bishops, and other Divines, and learned Men, it may serve for a good direction to others, especially to the Diocesan, being a sole Judge in so weighty a Cause.

In the Fifth year of K. James the First, Nicolas Fuller was convened before the High Commissioners for Heresie, Schism, and other erroneous Opinions, and for slandering the Authority of the High Commission. Whereupon, he moved for a Prohibition, and obtained it; and it stood quoad the Slander (which, they said, was punishable

by the Courts of Common Law) but quoad the Heresie, Schism, &c. Consultation was granted. After which, the said Commissioners proceeded, and convicted him of Schism, and erroneous Opinions, and imprisoned him, and fined him 200 l; but the same Term, he moved for a Habeas Corpus, and it was granted.

e But only such.] The ground of making this Limitation, was a retrospect to the times of Popery, in which every thing was adjudged Heresie, that the Church of Rome thought fit to call by that name, how far soever, in its own nature, from being Fundamental, and how contrary soever to the Gospel and the ancient Doctrin of the Catholick Church; such as, speaking against Pilgrimages, against the Worship of Images, against the Necessity of Auricular Confessions, and the like.

Abridgment.

No determination in Religion, made by Parliament 1. Eliz. shall be deemed Heresy.

High Commissioners shall not declare any thing Heresie,

—unless it be so by Scripture, —or the 1st 4 General Councils, —or by authority of Parliament, with assent of Convocation.

Vid. Stat. 25. H. 8.

\* 31 Eliz. Cap. 16.

In an Act, Entituled, An Act for the Queens Majesties most gracious, general and free Pardon.

Except, and always fore-prised out of this general and free Pardon, all and all manner of Heresies and erroneous Opinions.

[\* So also 35 Eliz. c. 14. 39 Eliz. c. 28. 43 Eliz. c. 19. 3 Jac. I. c. 27. 7 Jac. I. c. 24. 21 Jac. I. c. 34.

Heresie, excepted out of General Pardons.

E X P.

A.D. 1588.

3 Inst. 4.

12. Rep. p. 41.



## Abridgment.

13, 14 Car. II. Cap. 33.

## An Act for preventing Abuses in Printing Seditious, Treasonable and Unlicensed Books and Pamphlets, and for Regulating of Printing and Printing-Presses.

Here he &amp; Hereticks, in the Protestant Sense.

A.D. 1661.

The late Times produced many Heretical, Schismatical, and Blasphemous Books.

Enacted, that,

--- no Person shall Print any Books, against the Doctrine and Government of the Church of England,

--- nor import, or sell such.

Whereas the well-government and regulating of Printers and Printing-Presses, is matter of publick care, and of great concernment, especially considering, that by the general Licentiousness of the late Times, many evil-disposed persons have been encouraged to print and sell Heretical, Schismatical, Blasphemous, Seditious and Treasonable Books, Pamphlets and Papers, and still do continue such their unlawful and exorbitant practice, to the high dishonour of Almighty God, the endangering the Peace of these Kingdoms, and raising a disaffection to his most excellent Majesty and his Government: For prevention whereof, no surer means can be advised, than by reducing and limiting the number of Printing-Presses, and by ordering and settling the said Art or Mystery of Printing by Act of Parliament, in manner as hereafter is expressed:

I. The Kings most excellent Majesty, by and with the consent and advice of the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, doth therefore ordain and enact, and be it ordained and enacted by the authority aforesaid, That no person or persons whatsoever shall presume to print, or cause to be printed, either within this Realm of England, or any other his Majesties Dominions, or in the parts beyond the Seas, any Heretical, Seditious, Schismatical or offensive Books or Pamphlets, wherein any Doctrine or Opinion shall be asserted or maintained, which is contrary to the Christian Faith, or the Doctrine or Discipline of the Church of England, or which shall or may tend, or be to the scandal of Religion, or the Church, or the Government or Governours of the Church, State or Commonwealth. or of any Corporation or particular person or persons whatsoever; nor shall Import, Publish, Sell or Disperse any such Book or Books, or Pamphlets, nor shall cause or procure any such to be published or put to sale, or to be bound, stitched or sewed together,-----

E X P.

29 Car. II. Cap. 9,

## An Act for taking away the Writ De Hæretico comburendo.

A.D. 1676.

The Writ de Hæretico comburendo and all punishment by death, upon Ecclesiastical Censures, shall be taken away.

Proviso for the Ecclesiastical Courts, to punish Atheism, and other Damnable Doctrines, by Censures, as they might have done before.

Full. 62.

11ib. 64.

BE it enacted by the Kings most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the authority of the same, That the Writ, commonly called, Breve de Hæretico comburendo, with all Process and Proceedings thereupon, in order to the executing such Writ, or following, or depending thereupon, and all punishment by death, in pursuance of any Ecclesiastical Censures, be from henceforth utterly taken away and abolished; Any Law, Statute, Canon, Constitution, Custom or Usage to the contrary heretofore, or now in force, in any wise notwithstanding.

II. Provided always, that nothing in this Act shall extend, or be construed to take away or abridge the Jurisdiction of Protestant Archbishops or Bishops, or any other Judges of any Ecclesiastical Courts, in cases of Atheism, Blasphemy, Heresy or Schism, and other damnable Doctrines and Opinions, but that they may proceed to punish the same according to his Majesties Ecclesiastical Laws, by Excommunication, Deposition, Degradation, and other Ecclesiastical Censures,

[of Punishment by death.] In the 9 f. 1. Bartholomew Legate was burnt in Smithfield for Ariasism; having been condemned. as an obdurate, contumacious and incorrigible Heretick, by the Bishop of London, in his Consistory of St. Pauls, and the Writ de Hæretico comburendo obtained, pursuant to the Significavit of the Bishop in testimony of such Condemnation. And in the next Month, the like Execution was done upon one Whiteman, who was convicted before Richard Neile Bishop of Coventry and Lichfield, and burnt at Lichfield, for the Heresies of Ebion, Cerinthus, Valentinian, Arius, and of several others; all which he obstinately held and maintained.

The first of these cases is mentioned in the Books of Common-Law: Legate having been committed to Newgate by the High Commission Court, moved for an Habeas Corpus, and obtained it. Upon whose Condemnation, it was also considered by the Temporal Judges, whether the Writ de Hæretico comburendo did lie upon a Conviction before the Ordinary, and resolved by Fleming Chief Justice, Tanfield Chief Baron, and Williams and Croke, Justices, that it did lie; which Resolution was chiefly grounded upon certain Precedents that passed in the time of Queen Elizabeth; as Coke reports, who was of a contrary Opinion.

2 Brownl. 41.  
3. Inst. 40.  
12. Rep. 92.

ibid. 92.

not



Heresie & Hereticks, in the Protestant Sense.

not extending to death, in such sort, and no other, as they might have done before the making of this Act; any thing in this Law contained to the contrary in any wise notwithstanding.

Abridgment.

g Before the making, Upon the abrogating of all the ancient Statutes made against Hereticks, the cognisance of Heresie, and Punishment of Hereticks, returned into its ancient Channel and Bounds; and now belongs to the Archbishop, as Metropolitan of the Province, and to every Bishop within his own proper Diocese, who are to punish only by Ecclesiastical Censures. And so, saith my Lord Coke, it hath been put in ure in all Queen Elizabeth's Reign, and so it was resolved by the Chief-Justice, Chief-Baron, and two of the Justices, upon Consultation, 9 Jac. 1. in the case of Legate. But as no person can be Indicted or Impeached for

Heresie, before any Temporal Judge, or other that hath Temporal Jurisdiction; so if a Heretick be convicted of Heresie, and recant, he may not be punished by the Ecclesiastical Law, as was resolved 9 Jac. 1. in the case of Nicolas Fuller.

How far the Convocation of each Province, which had once an undoubted Right to convict and punish Hereticks in a Synodical manner, doth still retain or not retain that Authority, I shall not presume to say; till the learned Judges be clear and final in their Opinions, and that Point shall have received a judicial Determination.

3 Inst. 40. 3 Inst. 40. 12. Rep. 44.

9, 10 Will. III. Cap. 32.

An Act for the more effectual Suppressing of Blasphemy and Profaneness.

A.D. 1697.

Whereas many Persons have of late Years openly Avowed and Published many Blasphemous and Impious Opinions, contrary to the Doctrines and Principles of the Christian Religion, greatly tending to the Dishonour of Almighty God, and may prove Destructive to the Peace and Welfare of this Kingdom: Wherefore for the more Effectual Suppressing of the said Detestable Crimes, Be it Enacted by the Kings most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and the Commons in this present Parliament Assembled, and by the authority of the same, That if any Person or Persons, having been Educated in, or at any time having made Profession of the Christian Religion within this Realm, shall by Writing Printing, Teaching, or Advised Speaking, deny any one of the Persons in the Holy Trinity to be God, or shall assert or maintain there are more Gods than One, or shall deny the Christian Religion to be true, or the Holy Scriptures of the Old and New Testament to be of Divine Authority, and shall upon Indictment or Information in any of his Majesties Courts at Westminster, or at the Assizes, be thereof Lawfully Convicted, by the Oath of two or more Credible Witnesses; such Person or Persons for the first Offence shall be adjudged Incapable and Disabled in Law, to all intents and purposes whatsoever, to have or enjoy any Office or Offices, Employment or Employments, Ecclesiastical, Civil or Military, or any part in them, or any profit or advantage Appertaining to them, or any of them: And if any person or persons so Convicted, as aforesaid, shall at the time of his or their Conviction, enjoy or possess any Office, Place or Employment, such Office, Place or Employment shall be Void, and is hereby declared Void: And if such person or persons shall be a second time Lawfully Convicted, as aforesaid, of all or any the aforesaid crime or crimes, that then he or they shall from thenceforth be disabled to sue, prosecute, plead or use any action or information in any Court of Law or Equity, or to be Guardian of any Child, or Executor or Administrator of any Person, or Capable of any Legacy or Deed of Gift, or to bear any Office, Civil or Military, or Benefice Ecclesiastical, for ever, within this Realm, and shall also suffer Imprisonment for the space of Three Years, without Bail or Mainprize from the time of such Conviction.

II. Provided always, and be it Enacted by the Authority aforesaid, that no Person shall be Prosecuted by Virtue of this Act, for any Words spoken, unless the Information of such Words shall be given upon Oath before one or more Justice or Justices of the Peace, within Four Days after such Words spoken, and the Prosecution of such Offence be within three Months after such Information.

III. Provided

Many impious Opinions in Religion, having of late been openly avowed,

Enacted, that,

— any Christian who shall deny,

— any Person of the Trinity, --- or the Unity of the Godhead, -- or the Truth of Christianity, --- or the divine Authority of Scripture,

--shall, for the 1st Offence, be incapable of any Office, Ecclesiastical, Civil, or Military, ---and be deprived of whatever Office he enjoys: --- for the second offence, he shall be disabled to sue or be Guardian, &c.

--- and to bear Office for ever, ---and shall suffer 3 years Imprisonment.

Information shall be given, within 4 days, ---and Prosecution shall be within 3 months.



## Abridgment.

Publick acknowledgment and Renunciation, after the first Offence, shall take off all Penalties and Disabilities.

III. Provided also, and be it Enacted by the Authority aforesaid, That any person or persons, Condemned of all or any of the aforesaid Crime or Crimes, in manner aforesaid, shall for the first Offence (upon his, her or their Acknowledgment and Renunciation of such Offence or Erronious Opinions, in the same Court where such person or persons was or were Condemned, as aforesaid, within the space of four Months, after his, her or their Conviction) be Discharged from all Penalties and Disabilities incurred by such Conviction; any thing in this Act contained to the contrary thereof in any wise notwithstanding.

Heretic & Hereticks, in the Protestant Sense.

TIT.



T I T. XVII.

The SACRAMENTS of the Church, in general.

The CONTENTS.

- Cap. I. *The Number, and Nature, of the SACRAMENTS, according to the PAPISTS.*
- Cap. II. *The Number, and Nature, of the SACRAMENTS, according to the PROTESTANTS.*
- Cap. III. SACRAMENTS *may not be SOLD.*

C A P. I.

*The Number, and Nature, of the SACRAMENTS, according to the PAPISTS.*

O T H O.

In Const. De Septem Sacramentis, &c.

A.D. 1237.  
22 H. 3.  
Edit. Oxon.  
p. 3.

O B S.  
*Number, and Nature, of Sacraments, according to the Papists.*



SACRAMENTA quoque principalia, quæ sunt & quot, propter simpliciores duximus statuenda. Sunt autem tam Baptismus quam Confirmatio, Pœnitentia, Eucharistia, Extrema Unctio, Matrimonium, atque Ordo. De quorum quolibet in sacris canonibus diffusius est tractatum & plenius ordinatum. Sed quia non est leve Canonum gyrare volumina: & ignorare medico medicinale Officium um nimis grave: statuimus, ut in susceptione curæ animarum, & Ordinis Sacerdotii, examinentur de his præcipuè ordinandi. Archidiaconi verò in singulis a conventibus suorum Decanatum Sacerdotes in his maximè studeant erudire, docentes eos qualiter circa Baptismum, Pœnitentiam, & Matrimonium debeant se habere.

à Conventibus.] i. e. Congregationibus Sacerdotes Parochiales, conveniunt. Lyndw. Capitularibus, ubi simul Rectores, Vicarii, &c.

JOHANNES PECCHAM.

Septem gratiæ Sacramentorum, quinque ab omnibus Christianis rite suscipienda sunt: Baptismus, Confirmatio, Pœnitentia, Eucharistia suo tempore, & Extrema Unctio in mortis articulo ab iis qui adhuc sanæ sunt mentis, aut, dum sanæ mentis erant, desiderarunt. Sextum autem viz. Ordo à perfectis; septimum verò utpote Matrimonium à minus perfectis.

Ignorantia sacerdotum, & infra. Septem sunt Gratiæ Sacramenta, quorum Dispensatores sunt Prælati Ecclesiæ, quorum quinque ab omnibus debent recipi Christianis; utpote Baptismus, Confirmatio, Pœnitentia, Eucharistia suo tempore, & Extrema Unctio, quæ tantum illis dari debet, qui gravis infirmitatis indicia videntur mortis appropinquare periculo; quibus, si fieri potest, detur, dum sunt compotes mentis & rationis: & si contingat eos phrenesi, vel aliâ

Persons to be instituted, and ordained shall be examined concerning the 7 Sacraments,

--and Archdeacons shall instruct the Clergy therein.

Five Sacraments ought to be received by all Christians,

A.D. 1281.  
9 Edw. 1.

Edit. Oxon.  
p. 42.  
O B S.



## Abridgment.

---(of which extreme Unction may be ministr'd in frenzy,)

--- and two by particular Persons.

Sacraments shall be admistr'd devoutly.

Sacraments are not only badges of Profession, but signs of Grace.

There are only 2 Sacraments,

-- the 5 others, so called, having no visible sign ordained of God.

The Effects of worthy, and unworthy receiving.

The Word, and Sacraments, may

aliâ quacunque alienatione mentis laborare, si ante alienationem erant de salute sua solliciti, consulimus nihilominus hoc Sacramentum eis fiducialiter ministrari. Credimus enim, & experimentis didicimus, quantumcunque Phrenetico (si tamen sit Prædestinationis filius) ipsius susceptionem vel ad habendum dilucidum intervallum, vel saltem ad spirituale commodum, utpote ad augmentum gratiæ, profuturam. Sunt & alia duo Sacramenta, scil. Ordo, & Matrimonium, quorum primum perfectis convenit, secundum verò Novi Testamenti tempore solis convenit imperfectis; & tamen ipsum ex vi Sacramenti credimus largiri gratiam, si sincero animo contrahatur.

## STEPHANUS.

In Constit. Ad Excitandos, sub Tit. De Cel. Miss.

— Universa quoque Sacramenta Ecclesiastica, & præcipuè Baptismatis & Altaris, devotissimè, prout Deus inspiraverit, ministrantur.

## CAP. II.

The Number, and Nature, of the SACRAMENTS, according to the PROTESTANTS.

## 39. ARTICLES.

## b xxv. Of the Sacraments.

Sacraments ordained <sup>1</sup> of Christ be not only Badges or Tokens of Christian Mens Profession: but rather they be certain sure Witnesses, and effectual Signs of Grace, and God's good Will towards us, by the which he doth work invisibly in us, and doth not only quicken, but also strengthen and confirm our Faith in him.

<sup>2</sup> There are two Sacraments ordained of Christ our Lord in the Gospel, that is to say, Baptism and the Supper of the Lord.

<sup>3</sup> Those five commonly called Sacraments, that is to say, Confirmation, Penance, Orders, Matrimony, and extreme Unction, are not to be counted for Sacraments of the Gospel, being such as have grown, partly of the corrupt following of the Apostles, partly are states of life allowed by the Scriptures: But yet have not like nature of Sacraments with Baptism and the Lord's Supper, for that they have not any visible Sign or Ceremony ordained of God.

The Sacraments were not ordained of Christ to be gazed upon, or to be carried about, but that we should <sup>4</sup> duly use them. And in such only as worthily receive the same, they have a wholesom effect or operation †: But they that receive <sup>5</sup> them unworthily, purchase to themselves Damnation, as St. Paul saith.

<sup>1</sup> By the Word of God, 1552. \* Our Lord Jesus Christ hath knit together a Company of new People, with Sacraments most few in Number, most easie to be kept, most excellent in Signification, as is Baptism, and the Lord's Supper, 1552. <sup>2</sup> Not in 1552. <sup>3</sup> Rightly, 11 e, 1552. † And yet not that of the Work wrought, as some Men speak; which Word, as it is strange and unknown to Holy Scripture; see it engendreth noe goodly, but a very superstitious sense; but — 1552. <sup>4</sup> The Sacraments, 1552.

b xxv] This Article is different from that which was published by Edward VI. not only in words, but in Order also; the First, Second, and Fourth Clauses in this, making the Third, First, and Second in that, (for the Third in this, is wholly omitted in that.)

xxvi. <sup>1</sup> Of the Unworthiness of the Ministers, which hinders not the Effects of the Sacraments.

Although, in the visible Church, the Evil be ever mingled with the good, and sometime the Evil have chief Authority in the Ministrations of the

<sup>1</sup> The Wickedness of the Ministers doth not take away the effectual Operation of God's Ordinances, 1552.

Number, and Nature, of Sacraments, according to the Papists.

A.D. 1562.

Number, and Nature, of Sacraments, according to the Protestants.



Number, and Nature, of Sacraments, according to the Protestants.

Word and Sacraments; yet forasmuch as they do not the same in their own name, but in Christ's, and do minister by his Commission and Authority, we may use their Ministry, both in hearing the Word of God, and in receiving of the Sacraments. Neither is the Effect of Christ's Ordinance taken away by their Wickedness, nor the Grace of God's Gifts diminished from such, as by Faith and rightly do receive the Sacraments. ministred unto them, which be effectual, because of Christ's Institution and Promise, although they be ministred by evil Men. Nevertheless, it appertaineth to the Disciplin of the Church, that enquiry be made of evil Ministers, and that they be accused by those that have knowledge of their Offences; and finally, being found guilty, by just Judgment be deposed.

Abridgment. be received of evil men (as ministring in Christ's name;) - whose Wickedness doth not take away the Effect. The Church may censure, and depose, Evil Ministers.

I Jac. I.

C A N O N S 1603.

Ivii. The Sacraments not to be refused at the hands of unpreaching Ministers.

Whereas divers Persons seduced by false Teachers, do refuse to have their Children baptized by a Minister that is no Preacher, and to receive the Holy Communion at his hands in the same respect, as though the Vertue of those Sacraments did depend upon his Ability to Preach: Forasmuch as the Doctrine both of Baptism and of the Lord's Supper is so sufficiently set down in the Book of Common-Prayer to be used at the Administration of the said Sacraments, as nothing can be added unto it that is material or necessary: We do require and charge every such Person seduced as aforesaid, to reform that their Wilfulness, and to submit himself to the Order of the Church in that behalf, both the said Sacraments being equally effectual, whether they be ministred by a Minister that is no Preacher, or by one that is a Preacher. And if any hereafter shall offend herein, or leave their own Parish Churches in that respect, and communicate, or cause their Children to be Baptised in other Parishes abroad, and will not be moved thereby to reform that their Error and unlawful Course: Let them be presented to the Ordinary of the place by the Minister, Church-wardens, and Side-men or Quest-men of the Parishes where they dwell, and there receive such punishment by Ecclesiastical Censures, as such Obstinacy doth worthily deserve: That is, let them (persisting in their wilfulness) be suspended, and then after a months further Obstinacy, excommunicated. And likewise if any Parson, Vicar, or Curate, shall after the publishing hereof, either receive to the Communion any such persons which are not of his own Church and Parish, or shall Baptize any of their Children, thereby strengthening them in their said Errors: Let him be suspended, and not released thereof, until he do faithfully Promise that he will not afterwards offend therein.

Sacraments, may be administered by Preaching or Unpreaching Minister, --- and no Person shall make such distinction, since the Virtue is equal; --- upon pain of Suspension and Excommunication. Minister receiving to Communion, or baptizing such, shall be suspended.

C A P. III.

SACRAMENTS may not be SOLD.

S T E P H A N U S.

Ius Sepulturae & Sacramenta Ecclesiastica nulli denegentur ob defectum pecuniae, nec pro Chrismate quicquam petendum: petens autem Anathema sit.

A.D. 1222. 6 H. 3. Edit. Oxon. p. 27.

Sacraments may not be sold.

Firmiter Inhibemus, ne cuiquam pro aliqua pecunia denegetur, Sepultura, vel Baptismus, vel aliquod Sacramentum Ecclesiasticum, vel etiam Matrimonium contrahendum impediatur. Quoniam si quid pia devotione fidelium & consuetum fuerit erogari, super hoc postmodum Volumus d per Or-

Sacraments shall not be deny'd to any, for the sake of Money,

[c Consuetum.] scil. Ab antiquo & per tempus praescriptibile, licet ex voluntaria praestatione. Nam ex quo tanto tempore solverunt, praesumuntur prius se ad id voluntarie obligasse. Lyndw. d Per Ordinarium loci.] id est, per Episcopum: Et sic Sacerdos non erit Judex in re propria; sed Dioecesanus, si videat Consuetudinem laudabilem & probabilem, ad Coercionem procedet; alia abstinebit. Lyndw. Quibus dinarium

Lutwy. p. 1030.



## Abridgment.

---but the Ordinary shall afterwards decree the accustomed Fee.

Nothing shall be paid for holy Oyl, and Chrism.

Nothing shall be taken for Sacraments; nor for holy Oyl and Chrism.

It was decreed by Orbo, the Legate, that nothing should be taken for Sacraments, nor for holy Oyl and Chrism,

--- concerning which, Bishop and Archdeacons shall enquire, &c. ---upon pain of Suspension.

dinarium loci Ecclesiis iustitiam fieri, sicut e in Generali Concilio expressius est Statutum. Absolum etiam iudicamus, quod de cætero pro Chrismate & Oleo aliquid exigatur, vel erogetur, cum toties hoc prohibitum reperitur. Si quis verò contra hoc facere præsumperit, Anathemate sit innodatus.

Constitutione ac Regulâ non obstantibus; Anno 3 Guil. & Mar. Prohibitio per Curiam Temporalem directâ est Cancellario Archiepiscopi Eboracensis, ne procederet in Causâ Oblationis huiusmodi super Baptismo consuetæ; tanquam

debitæ de Consuetudine, adeoque in Foro tantum Seculari iudicandæ.

e In Generali Concilio.] Lateran. sub Innoc. 3. Extra. cod. c. ad Apostol. Lyndw.

Sacraments may not be sold.

## O T H O.

## Summarium.

Sacramenta Ecclesiæ sunt gratis & sine difficultate pure & devote exhibenda: [quamobrem quot & quæ sint, qui Ordinari volunt, præcipue interrogabuntur. Et jam ordinati, in conventibus decanatum sunt ab Archidiaconis suis diligentius erudiendi: ut quæ ab ipso administranda sunt, decentius administrant.]

Sacramenta Ecclesiastica, in quibus tanquam in vasis cœlestibus salutis remedia continentur: necnon Oleum Sanctificatum & Chrisma, à ministris Ecclesiæ f purè atque devotè, qualibet exclusa cupiditatis labe, statuimus & statuendo præcipimus exhiberi nulla difficultate in eis adhibita exhibendis, prætextu consuetudinis alicujus, qua dicatur ab eis, qui ea recipiunt, aliquibus aliqua persolvenda. —

f Purè.] i. e. Gratis, & libere, J. de Athon.

## O T H O B O N.

## Summarium.

Episcopi & Archidiaconi diligenter inquirant, & inventos ut Simoniacos puniant, qui contra Constitutionem Othonis pro Sacramentis Ecclesiasticis quicquam exigunt: negligentes autem Episcopi a Pontificalibus, & Archidiaconi ab Officio suo, usquequo rem congruè emendarint, suspendantur. [Audientes autem Confessiones discant hic præscriptam formam absolvendi, & confitentes inducant ad contritionem & humiliationem cum reverentia Sacerdotis. Nemo vero cuiquam, ne captivo quidem, confitendi gratiam demat: dementes autem, nisi satisfecerint in vita, careant Ecclesiastica Sepultura.]

Quoniam cæca cupiditas ita ruit in præceptis, ut operum terrenorum quæstus minime contenta, pro Sacramentis etiam Divinis, quæ æstimationem non capiunt, pretium prophanâ venalitate suscipiat; Præfatus Legatus contra hoc Statuit & Præcepit, Oleum Sanctificatum & Chrisma à Ministris Ecclesiæ pure atque devotè (qualibet exclusa cupiditatis labe) conferri, nulla difficultate in eis exhibendis adhibita prætextu alicujus consuetudinis, qua dicatur ab eis qui ea recipiunt aliqua quibuscumque persolvenda. Nos igitur Constitutioni huius dicti Legati adjiciendo, Statuimus, ut super his tam Episcopi quam Archidiaconi per loca suæ jurisdictionis, contra recipientes, inquisitionem faciant diligenter; & si quos tales invenerint, tanquam Simoniacos puniant secundum canonicas sanctiones: quod si hoc implere neglexerint, Episcopus à pontificalibus, Archidiaconus ab officio, quousque rem congruè emendaverint, sint suspensi: quæ omnia contra illos qui antequam ad pœnitentiam confitentes inducant quicquam ab eis exigunt vel extorquent, & qui alia quælibet sacramenta interventu pecuniæ conferunt, districtè præcipimus observari. —

A.D. 1237.  
22 H. 3.

Edit. Oxon.  
p. 11.

A.D. 1268.  
52 H. 3.

Edit. Oxon.  
p. 81.







Abridgment.

## T I T. XVIII.

## The SACRAMENT of BAPTISM.

## The CONTENTS.

CAP. I. *Of BAPTISM, and BAPTIZING, in general.*CAP. II. *The FONT, and the WATER therein.*CAP. III. *The TIMES of PUBLICK Baptism.*CAP. IV. *NOTICE of Children to be Baptized, and the PLACING of them.*CAP. V. *The CROSS in Baptism.*CAP. VI. *The GODFATHERS and GODMOTHERS.*CAP. VII. *The Popish Remains of LEADING into the Church, EXORCISING, CHRISM, and ANOINTING.*CAP. VIII. *PRIVATE Baptism, in the Church of ROME.*CAP. IX. *PRIVATE Baptism in the Church of ENGLAND.*CAP. X. *Baptism of those of RIPER years.*CAP. XI. *INFANT-BAPTISM.*CAP. XII. *The Preservation of CHILDREN, and CHURCHING of Women.*

## CAP. I.

*Of BAPTISM, and BAPTIZING, in general.*

TIT

39. ARTICLES.

A.D. 1562.

xxvii. *Of Baptism.*

Baptism is not only a sign of Profession, but of Regeneration.

Infant Baptism is most agreeable to the Institution of Christ.



BAPTISM is not only a Sign of Profession, and mark of Difference, whereby Christian Men are discerned from others that be not Christned: But it is also a Sign of Regeneration or New Birth, whereby, as by an instrument, they that receive Baptism rightly, are grafted into the Church; the promises of the forgiveness of Sin, and of our Adoption to be the Sons of God by the Holy Ghost, are visibly Signed and Sealed: Faith is confirmed, and Grace increased by virtue of Prayer unto God. † The Baptism of young Children is in any wise to be retained in the Church, as most agreeable with the Institution of Christ.

† [The Baptism.] In the Articles of Edward VI. this Clause stands thus: *The Custom of the Church to Christen young Children, is to be commended, and in any wise retained in the Church.*

*Of Baptism, and Baptizing, in general.*

CANONS.



Of Bap-  
tism, and  
Baptizing,  
in general.

1 Jac. I.

## CANONS 1603.

## Lxviii. Ministers not to refuse to Christen or Bury.

**N**O Minister shall refuse or delay to Christen any Child according to the Form of the Book of Common-Prayer, that is brought to the Church to him upon Sundays or Holydays to be Christened, or to Bury any Corps that is brought to the Church or Church-Yard (convenient Warning being given him thereof before) in such manner and Form as is prescribed in the said Book of Common Prayer. And if he shall refuse to Christen the one, or Bury the other, except the party deceased were denounced Excommunicated *Majori Excommunicatione*, for some grievous and notorious Crime, (and no man able to testify of his Repentance) he shall be suspended by the Bishop of the Diocese from his Ministry by the space of three Months.

Abridgment.

No Minister shall refuse to Christen, or Bury,

(unless an Excommunicate *Majori Excommunicatione*) --upon pain of Suspension for three months.

## CAP. II.

## The FONT, and the WATER therein.

## EDMUNDUS.

*Baptisterium ex competenti materia factum, & decenter coopertum, non alii usui mancipetur. Aqua post Baptismum non ultra septem dies in eo servetur, & in qua Laicus baptizavit, in ignem projiciatur, aut cum vase Ecclesie usui deputando, ad Ecclesiam deferatur. [Modus Baptismi à Laico factus diligenter inquiratur, levantes Infantem tantum tres sint, nec quisquam extra necessitatis casum Baptizet, aut pœnitentiam injungat.]*

**B**aptisterium habeatur in qualibet Ecclesia *a* Baptismali lapideum, *b* vel aliud *c* competens, quod decenter cooperiatur, & reverenter observetur, & in alios usus non convertatur. Aqua verò, in qua baptizatus fuerit puer, ultra septem dies in Baptisterio non servetur. Si verò puer à Laico domi propter necessitatem fuerit baptizatus, Aqua illa, propter reverentiam Baptismi, vel fundatur in igrem, vel ad Ecclesiam in Baptisterium fundenda deferatur, & Vas illud comburatur, vel ad usus Ecclesie deputetur.

There shall be a Font in every Church, and the water shall be often changed: --- after private Baptism, neither Water, nor Vessel, shall be apply'd to other use.

*a* Baptismali.] Sive Cathedrali, sive Parochiali; tali nempe quæ habet populum: nam in Ecclesia Collegiata vel Conventuali, quæ non habet populum, non debet esse Baptisterium. Dicitur etiam Ecclesia Baptismalis, respectu Capellarum subjeotarum, quarum plebis Infantes in eâ baptizantur, & non in ipsis Capellis; imò ad ipsas Ecclesias Baptismales, tanquam Matrices, pro Baptismo recurritur. Lyndw. *b* Vel aliud.] scil. De aliâ materia, congruâ & honestâ; tali, viz. quæ sit solida, durabilis, & fortis, ac aquæ infusæ retentiva. Lyndw. *c* Competens.] scil. Quod baptizandus possit in eo mergi. Lyndw.

## EDMUNDUS.

*Aqua Baptismatis & Chrisma diligenter clausa custodiantur, in qua re negligens tribus mensibus ab officio suspendatur. Et si per hoc nefas contigerit, gravius puniatur.*

**F**ontes Baptismales sub fera clausi teneantur propter Sortilegia; Chrisma similiter & Oleum sacrum sub Clavi custodiantur. Si verò is ad quem spectat custodia, incautè ea reliquerit, tribus mensibus ab Officio suspendatur. Et si per ejus incuriam aliquod *d* nefarium contigerit, graviori subiacet ultioni.

*d* Nefarium.] scil. Sortilegium, vel aliud hujusmodi. Lyndw.

The Font shall be kept lock'd and covered.

A.D. 1236.  
26 H. 3.

Edm. Oxon.  
p. 241.

The Font,  
and Water  
therein.

A.D. 1236.  
26 H. 3.

Edm. Oxon.  
p. 247.



## Abridgment.

Revival of a former Constitution, for Fonts of Stone.

Consecration of the Water in the Font.

## C A N O N S 1603.

## LXXXI. A Font of Stone for Baptism in every Church.

According to a *dd* former Constitution, too much neglected in many places, we appoint, That there shall be a Font of Stone in every Church, and Chapel where Baptism is to be ministred; the same to be set in the Ancient usual places. In which only Font the Minister shall baptize publickly.

*dd* Former Constitution.] viz. among the Canons of 1571. Curabunt [Æditui] ut in singulis Ecclesiis sit Sacer Fons, non Pelvis, in quo Baptismus ministratur, isque ut decenter & munde conservetur.

## 2 Edw. VI.

The Water in the Fonte shal be changed every Moneth once at the least, and afore any Child be Baptized in the Water so changed, the Priest shall saye at the Fonte these Prayers folowyng.

Most merciful God, our Saviour Jesu Christe, who hast ordeyned the Element of Water for the Regeneration of thy faithful people, upon whom beyng Baptized in the river of Jordan, the Holy Goste came downe in the likeness of a Doove: Send down, we beseeche thee, the same thy holy Spirite to assist us, and to be present at thys our Invocacion of thy holy Name: Sanctifie + this Fountain of Baptism, thou that art the Sanctifier of all thinges, that by the power of thy worde, all those that shall be baptized therein, may be spiritually Regenerated, and made the Children of everlasting adopcion. Amen.

[Then follow the Prayers, O merciful God, grant, &c. much of the same tenor with those which now stand in the Service for Publick Baptism; all which, as far as that which begins Almighty everliving God, &c. inclusive, were placed at the end of the whole Service in the Book, 2 E. 6. and applied only to the Consecration of the Font.]

## C A P. III.

## The TIMES of PUBLICK Baptism.

## O T H O.

## Summarium.

Ad Baptismum solenniter celebrandum, licet duo deputata sunt Sabbata, nihil tamen prohibet etiam illis, si opus fuerit, pueros Baptizare. Idque ut faciant, admonendi per prædicationem publicam sunt, qui per errorem secus senserint. [Ut vero periculo occurratur, & Baptizatio rite etiam, si necesse fuerit, à Laicis fiat, exponenda est illis à Sacerdotibus; Parochialibus Baptizandi forma, & verba, quæ an rite fuerint servata ab eisdem, sunt postmodum indaganda.]

Ad Baptismum solenniter celebrandum duo tempora Sabbatorum, scil. Sabbatum ante Resurrectionem Domini, & Sabbatum ante Pentecostem, sunt à Sacris Canonibus propter ministerium deputata: sed quidam in partibus istis,

[A factis Canonibus.] Duo tempora, id est, Pascha & Pentecoste, ad baptizandum à Romano Pontifice legitime sunt præfixa. Unde quia manifestissime patet, Baptizandis in Ecclesiâ electis hæc duo tempora, de quibus locuti sumus, esse legitima, dilectionem vestram movemus, ut nullos alios dies huic observantiæ misceatis.

Venerabilis Baptismi Sacramentum non nisi in Festivitate Pâschali, & Pentecostes, tradere præsumat Episcopus; exceptis iis, quibus urgente mortis periculo, talibus oportet, ne in æternum pereant, Remediis subveniri. f Istis.] scil. Anglicanis. J. de Athon.

g Diabolica,

The Font, and Water therein.

I Jac. I.

A.D. 1548.

O B S.

A.D. 1237  
22 H. 3.  
Edir. Oxon.  
P. 10.

The Tim  
of Publi  
Baptism.

De Conf.  
3. 6. 17

The Feasts of Easter and Whitsontide, being the two Solemn times of Baptizing,

De Consecr.  
di. 3. c. 12.



The Times  
of Publick  
Baptism.

g Diabolica, ut audivimus, fraude decepti, h periculum suspicantur, si præfatis diebus pueri Baptizarentur; quod arbitrari, vel utcunque metuere, sanæ fidei meritis penitus adversatur, & manifeste convincitur esse falsum, cum summus Pontifex illud ministerium in propria persona solennizet, & diebus baptizet solenniter memoratis, & in aliis mundi partibus servent Ecclesiæ illud idem. Quare præcipimus, ut à tanto errore prædicatione frequenti populus avertatur, & ad solennizandum præfatis diebus Baptisimum, & ad Baptizandum pueros suos studiosius inducantur.

g Diabolica.] Ut patet de hujusmodi sortilegiis, Auguriis, Auspiciis, Incantationibus Daemonum, & aliis multipliciter male credentibus. J. de Athon. b Periculum.] Forsan mortis citò venturæ puero, vel infortunii alterius. J. de Athon.

Abridgment.

— the People shall be exhorted to bring their Children to be baptized accordingly.

A.D. 1278.  
52 H. 3.

## O T H O B O N.

Constitutionem Othonis circa Baptisimum comprobans, addit, ut quod ille de Presbyteris Parochialibus expressit, ad perpetuos Ecclesiarum Vicarios extendatur: injungens Archidiaconis diligentem, an ita fiat, inquisitionem.

Ingredientibus hoc mare magnum, mundum videlicet naufragiis plenum, prima tabula nos ad portum salutis adducens, Baptisimus esse dignoscitur: quem omnium Sacramentorum januam Salvator noster instituit, ut eum sequentium Sanctorum Patrum testatur auctoritas.

Cum igitur circa ingressum januæ error maxime periculosus existat, prædictus Legatus quosdam ab Idololatria execrabili revocans, qui temporibus deputatis quoad Baptisimum solenniter celebrandum, Sabbato scilicet ante Resurrectionem Domini, & Sabbato ante Pentecosten, suspicabantur periculum, si diebus hujusmodi pueri baptizentur; Statuit, ut à tanto errore populus averteretur prædicatione frequenti, & induceretur ad solennizandum in præfatis diebus Baptisimum, & suos pueros baptizandos. Cum autem nemo prorsus debeat absque hujusmodi Sacramenti perceptione dimitti, potest à quocunque necessitatis casu occurrente conferri, & collatum in forma Ecclesiæ proficit ad salutem.

Baptism being the Gate and Entrance to all the other Sacraments,

— the foregoing Constitution was highly necessary;

— Exception being made to cases of necessity.

Edit. Oxon.  
p. 80.

## J O H A N N E S P E C C H A M.

Pueri octo diebus ante Pascha aut Pentecosten nati, si absque periculo reservari usque ad generale Baptisimum possunt, reserventur, receptis Exorcismo & Catechismo; reliquis temporibus nati, Baptizentur pro Consuetudine & Utilitate.

Quod in Constitutone Othoboni cavetur de Pueris Baptizandis, usque ad generale Baptisma Paschæ & Pentecostes videlicet reservandis, pro ipsius Statuti reverentia quod hactenus videtur esse neglectum, sic duximus Declarandum; Ut pueri hh per octo dies ante Pascha, & dies totidem ante Pentecosten nati de Maternis Uteris, si absque periculo servari valeant, usque ad tempora illa reserventur baptizandi; ita tamen quòd medio tempore inter nativitatem Puerorum hujusmodi & perfectum Baptisimum recipiant i Catechismum, solaque diebus Baptismi supersit immersio facienda. Alii autem, qui aliis Anni temporibus nati extiterint, tum propter mortis periculum, quod sæpe pueris imminet improvisum, tum propter simplicitatem Parentum, qui circa formam Baptismi sunt de facili erraturi absque ulla offensionis nota, juxta vetustam Consuetudinem, vel incontinenti cum nati fuerint, vel k postea, prout placuerit ipsis Parentibus, Baptizentur.

Children born 8 days before Easter or Whitsontide shall not be completely baptized till then,

— but being born at other times, they may be baptized presently.

hh Per octo dies.] Usque ad octavum diem, Regeneratio Sacra ab omni populo Christiano celebrabitur.

i Catechismum.] Supple, etiam cum Exorcismis, & aliis quæ solent præcedere Baptisimum. Lyndw.

k Postea.] Sic tamen, quòd ultra tempus Paschæ non differatur Baptisimus nati ante Pascha, nec ultra Pentecosten differatur Baptisimus Pueri nati inter Pascha & Pentecosten, Lyndw.

Conc. Tribur.  
Cap. 12.



Abridgment.

The Times of Publick Baptism.

A.D. 1548. &c.

2 & 5 Edw. VI.-----13, 14 Car. II.

The ministraton of Baptism, to be used in the Church.

Baptism was, anciently, administred, but twice a year, and then publickly,

—which Custom is now out of use,

—but yet Baptism may most conveniently be administer'd on Sundayes and Holy days,

— and in the English Tongue; —and in cases of necessity, on any other day.

IT appeareth by auncient Wryters, that the Sacramente of Baptisme in the olde time was not commonlye ministred, but at two times in the yeare *m* at *Easter*, and *Whyt fontyde*. At which times, it was openly ministred in the presence of all the Congregation. Whiche Custom (now being *n* growen out of use) althoughe it cannot for many consideracions be well restored againe, yet it is thoughte good to followe the same, as nere as conveniently may be †

Wherefore the people are to be admonished, that it is most conveniente, that Baptisme should not be administred but upon Sundayes and other Holydayes when the most number of People may come together; as well for that the Congregation there present may testifie the receiving of them that be newly Baptised, into the number of Christ's Church, as also because in the Baptisme of Infants, every Man present may be put in remembrance of his own profession made to God in his Baptism. For which cause also, it is expedient, that Baptism be minittred in the English tongue. Neverthelesse (if necessity so require) Children <sup>1</sup> may be Baptized upon any other day".

† *Hitherto*. is only in 2 & 5 E. 6; the rest is in all three. <sup>1</sup> Ought at all times to be baptized, either at the Church, or else at home, 2 E. 6. *May at all times be baptized at home*, 5 E. 6.

[It appeareth.] See the Testimonies cited at large, by Dr. Nichols, in his Annotations on this Office.

[At Easter.] Which Season was particularly chosen, as Baptism is a Figure of the Death and Resurrection of our Lord; as Pentecost also afterwards was, on account of its finishing the Resurrection (if we may so say) in the descent of the Holy Ghost.

[Grown out of use.] It had been growing out of use in England, for many Centuries before the Reformation; whereof the foregoing Constitution of Archbishop *Peccock* is a plain proof; with regard as well to the long Neglect of the Rule, supposed before that time; as the Latitude and Indulgence granted by it, for the future.

C A P. IV.

NOTICE of Children to be Baptized, and the PLACING of them.

2 Edw. VI.

A.D. 1548. &c.

Notice of Children to be baptized, shall be given over night, — and Baptism shall begin at the Church door.

WHEN there are Children to be Baptized upon the Sunday, or holydaye, the Parentes shall geve knowledge over Nyght, or in the Mornyng, afore the beginning of Mattyns, to the Curate. And then the Godfathers, Godmothers, and People, with the Children, muste be ready at the Church-doore, either immediately afore the last Canticle at Mattens, or els immediately afore the last Canticle at Even-song, as the Curate by his discrecion shal appoynte. And then standing there, the Pryeste shall aske, Whether the chyl-dren be Baptyfed, or no.

Notice of Children to be baptized, and the placing of them.

O B S.

2 Edw. VI.

A.D. 1548.

The number of Children being too great for the Church doer, they may stand within.

NOTE, That if the number of Children to bee Baptized, and multytude of People presente, bee so great that they cannot convenientlye stand at the Church doore; then let them stande within the Church in some conveniente place, nygh unto the Church-doore: and there all things be sayde and done, appointed to bee sayde and done at the Church-doore.

O B S.



Notice of Children to be baptized, and the placing of them.

A.D. 1548. &c.

5 & 6 Edw. VI.----- 13 14 Car. II.

WHEN there are Children to be Baptized, [upon the Sunday or Holiday, 5 E. 6.] the Parents shall give knowledge<sup>1</sup> thereof "over Night, or in the Morning before the beginning of Morning-Prayer to the Curate. And then the<sup>2</sup> Godfathers and Godmothers, and the People," with the Children, must be ready at the Font, either immediately after the last Lesson at Morning-Prayer, or else immediately after the last Lesson at Evening-Prayer, as the Curate by his discretion shall appoint. <sup>3</sup> And the Priest coming to the Font (which is then to be filled with pure Water) and standing there shall say, "-----"

<sup>1</sup> Not in 5 E. 6. <sup>2</sup> Godfathers, Godmothers, and People, 5 E. 6. <sup>3</sup> And then standing there, the Priest shall ask, Whether the Child be baptized or noe? If they answer, Noe; then shall the Priest say thus, 5 E. 6.

Abridgment.

Notice shall be given of Children to be baptized, over night,

— and Baptism shall begin at the Font.

C A P. V.

The GODFATHERS and GODMOTHERS.

EDMUNDUS.

In Const. *Baptisterium*, sub Tit. *De Baptismo*, &c.

— **A**D levandum verò Puerum de Fonte, tres ad plus recipiantur; videlicet in Baptismo Maris, duo mares & una fœmina; in Baptismo Fœminæ, duæ fœminæ, & unus masculus: quod enim amplius est, à malo est.

There shall be 3 Sponsors, and no more.

13, 14 Car. II.

And Note, That there shall be for every Male-child to be Baptized, two Godfathers and one Godmother: And for every Female, one Godfather and two Godmothers.

Godfathers, and Godmothers, to male, and female.

C A N O N S 1603.

xxix. *Fathers not to be Godfathers in Baptism, nor Children not Communicants.*

**N**O Parent shall be urged to be present, nor be admitted to answer as Godfather for his own Child: Nor any Godfather or Godmother shall be suffered to make any other Answer or Speech, than by the Book of Common-Prayer is prescribed in that behalf: Neither shall any Person be admitted Godfather or Godmother to any Child at Christening or Confirmation, before the said Person so undertaking hath received the holy Communion.

Parents shall not be Godfathers, &c, — nor shall answer be made by others, but according to the Form, — nor any be Godfather, before receiving the Communion.

2 Edw. VI.

Then shall the Priest demande of the Childe (which shall be firste Baptised) these Questions following: First namyng the Child, and saying.-----

Questions put to the Child, and not to Godfathers, &c.

[NB. All the questions are to the Childe, and not (as in 5 E. 6. and 1661.) to the Godfathers and Godmothers.]

A.D. 1236. 21 H. 3.

Godfathers and Godmothers.

A.D. 1661.

1 Jac. 1.

Can. 1571. p. 232

A.D. 1548.



Abridgment.

C A P. VI.

The NAMING and DIPPING, and CROSS in Baptism.

JOHANNES PECCHAM.

In Const. Circa Sacramentum, sub Tit. De Baptismo, &c.

Wanton Names shewen in Baptism shall be changed Confirmation.

Attendant etiam Sacerdotes, ne lasciva nomina, quæ scilicet mox prolata, sonent in lasciviam, imponi permittant parvulis baptizatis sexus præcipue fœminini: & si contrarium fiat, per Confirmantes Episcopos p corrigatur.

p Corrigatur.] scil. Mutando Nomen, & in Confirmatione mutatum, legale nomen rehonefius Nomen imponendo. Lyndw. Quod sic putabitur.

2 Edw. VI.

Child shall be dipped thrice.

Then the Prieste shall take the Childe in his Handes, and ask the Name: And naming the Chylde, shall dyppe it in the Water pp thryse: First, dipping the Right-side: Secondly, the Left-side: The Third time dyping the Face toward the Fonte.

pp Thryse.] The Practices of trina mersio, and simplex mersio, with the grounds of them, are well described by Pope Gregory, in the 4th. Council of Toledo, Can. 6. Nos autem (speaking of the usage of the Roman Church) quodd tertio mergimus, triduanæ Sepulturæ Sacramenta signemus, ut dum tertio Infans ab aquis educitur, Resurrectio triduanæ temporis exprimat. Quodd si quis fortè etiam pro summæ

Trinitatis Veneratione existimet fieri, neque ad hoc aliquid obstat baptizandum Semel in aquas mergere; quia dum in tribus subsistentiis una substantia est, reprehensibile esse nullatenus potest, infans in Baptismate in aquam vel ter vel semel mergere; quando & in tribus mersionibus Personarum Trinitas, & in unâ potest Divinitatis singularitas designari.

5, 6 Edw. VI.----- 13, 14 Car. II.

After naming, the Child shall be dip; or if weak, water shall be poured on it.

Then the Priest shall take the Child into his hands, and shall say to the Godfathers and Godmothers, Name this Child: And then, naming it after them, (if they shall certifie him that the Child may well endure it) he shall dip it in the Water, discretely and warily: But if they certifie that the Child is weak, it shall suffice to pour Water upon it.

And ask the Name, and naming the Child, shall dip it, 5 E. 6. See it be discretely and warily done, 5 E. 6. And if the Child be weak, 5 E. 6.

2 Edw. VI.

A Cross upon the Child's Fore-head, and Breast.

Here shall the Priest aske, What shall be the name of the Childe? and when the Godfathers and Godmothers have told the Name, then he shall make a Crosse upon the Childes Fore-head and Breaste, saying,

N. Receyve the signe of the holy Crosse, both in thy Fore-head, and in thy Breste, in token that thou shalt not bee ashamed to confesse thy Faith in Christ crucified, and manfully to fyght under his Banner against Sinne, the Worlde, and the Devill, and to continue his faythful Soldiour and Servant unto thy lyfes end. Amen.

[Note, This is by way of Rubrick, 5 E. 6. Then the Priest shall make a Crosse upon the Chylde's foreheade, Saying:-----]

5, 6 Edw. VI.----- 13, 14 Car. II.

A Cross upon the forehead only.

WE receive this Child into the Congregation of Christ's Flock, and do sign him with the sign of the Cross, in token that hereafter he shall not be ashamed to confesse the Faith of Christ crucified, and manfully to fight under his Banner, against Sin, the World, and the Devil, and to continue Christ's faithful Souldier and Servant unto his lives end. Amen.

A.D. 1281. 9 Edw. I.

The Naming and Dipping, and Cross in Baptism.

1 lib. p. 31

A.D. 1548

O B S.

A.D. 1551

A.D. 154

O B S. as to Cross on the Breast. i. e. After first Prayer, Almighty and Everlasting G. &c.

A.D. 155

Here shall Priest make Cross upon Child's Forehead.



The Na-  
ming, and  
Dipping,  
and Cross  
in Baptism.

I Jac. I.

## CANONS, 1603.

### xxx. The lawful Use of the Cross in Baptism explained.

WE are sorry that His Majesty's most Princely care and pains taken in the Conference at *Hampton-Court*, amongst many other Points, touching this one of the Cross in Baptism, hath taken no better effect with many, but that still the use of it in Baptism is so greatly stuck at and impugned. For the further declaration therefore of the true use of this Ceremony, and for the removing of all such scruple as might any ways trouble the Consciences of them who are indeed rightly Religious, following the royal Steps of our most worthy King, because he therein followeth the Rules of the Scriptures, and the Practice of the Primitive Church; we do commend to all the true Members of the Church of *England*, these our Directions and Observations ensuing.

*First*, It is to be Observed, That although the Jews and Ethnicks derided both the Apostles, and the rest of the Christians, for Preaching and believing in him who was crucified upon the Cross; yet all, both Apostles and Christians, were so far from being discouraged from their Profession by the Ignominy of the Cross, as they rather rejoiced and triumphed in it. Yea, the holy Ghost, by the mouths of the Apostles, did honour the Name of the Cross (being hateful among the Jews) so far, that under it he comprehended not only Christ crucified, but the force, effects and merits of his Death and Passion, with all the Comforts, Fruits and Promises which we receive or expect thereby.

*Secondly*, The honour and dignity of the Name of the Cross, begat a reverend Estimation, even in the Apostle's times (for ought that is known to the contrary) of the Sign of the Cross, which the Christians shortly after used in all their Actions, thereby making an outward shew and profession, even to the Astonishment of the Jews, That they were not ashamed to acknowledge him for their Lord and Saviour, who died for them upon the Cross. And this Sign they did not only use themselves with a kind of glory, when they met with any Jews, but Signed therewith their Children when they were Christened, to dedicate them by that badge to his Service, whose Benefits bestowed upon them in Baptism, the name of the Cross did represent. And this use of the Sign of the Cross in Baptism was held in the Primitive Church, as well by the *Greeks* as the *Latins*, with one consent and great applause. At what time, if any had opposed themselves against it, they would certainly have been censured as Enemies of the Name of the Cross, and consequently of Christ's Merits, the Sign whereof they could no better endure. This continual and general use of the Sign of the Cross, is evident by many Testimonies of the Ancient Fathers.

*Thirdly*, It must be confessed, that in process of Time the Sign of the Cross was greatly abused in the Church of *Rome*, especially after that corruption of Popery had once possessed it. But the Abuse of a thing doth not take away the lawful Use of it. Nay, so far was it from the purpose of the Church of *England* to forsake and reject the Churches of *Italy*, *France*, *Spain*, *Germany*, or any such like Churches, in all things which they held and practised, that, as the Apology of the Church of *England* confesseth, it doth with reverence retain those Ceremonies which do neither endamage the Church of God, nor offend the minds of sober Men: And only departed from them in those particular Points, wherein they were fallen both from themselves in their Ancient Integrity, and from the Apostolical Churches which were their first Founders. In which respect, amongst some other very Ancient Ceremonies, the Sign of the Cross in Baptism hath been retained in this Church, both by the Judgment and Practice of those reverend Fathers and great Divines in the Days of King *Edward VI.* of whom some constantly suffered for the Profession of the Truth; and others being exiled in the time of Queen *Mary*, did after their return, in the beginning of the Reign of our late Dread Sovereign, continually defend and use the same. This Resolution and Practice of our Church hath been allowed and approved by the censure upon the Communion Book, in King *Edward VI.* with his Days, and by the Harmony of Confessions of later Years: Because indeed the use of this Sign in Baptism was ever accompanied here with such sufficient Cautions and Exceptions against all Popish Superstition and Error, as in the like Cases are either fit or convenient.

Abridgment.

Scruples about the Cross, remain, notwithstanding the Conference at *Hampton Court*;

—which hath moved the Convocation to add the following Directions and Observations concerning it.

1. The first Christians gloried in the Cross,

—and the Scripture sets forth our Redemption, under the Name of the Cross.

2. The sign of the Cross was used among the first Christians, in all their Actions,

—and in the Baptism of their Children,

—which was unanimously done by the *Greek* and *Latin* Church.

3. The Abuse of the Cross by the Church of *Rome*, doth not take away the lawful use of this,

—any more than of other Ceremonies that we still retain;

—amongst which the sign of the Cross hath ever been approved by Reformed Divines,

—with fit Cautions against Superstition, in the use of it;



## Abridgment.

As, 1. that it is no part of the Substance of the Sacrament,

2. That the Infant is receiv'd into the Congregation of Christ's Flock, before,

—and the Cross is only a Ceremony or Badge.

3. That, being thus purged from Superstition, it ought to be Used, as it is a thing commanded by Publick Authority.

Reference in the to the Rubrick, foregoing Canon concerning the use of the Crosse.

The form of leading and admitting Children into the Church.

Exorcising of Infants in Baptism.

*First*, The Church of *England*, since the abolishing of Popery, hath ever held and taught, and so doth hold and teach still, That the Sign of the Cross used in Baptism, is no part of the Substance of that Sacrament: For when the Minister dipping the Infant in Water, or laying Water upon the face of it (as the manner also is) hath pronounced these Words, *I Baptize thee in the Name of the Father, and of the Son, and of the Holy Ghost*, the Infant is fully and perfectly Baptized. So as the Sign of the Cross being afterwards used, doth neither add any thing to the virtue and perfection of Baptism, nor being omitted doth detract any thing from the Effect and Substance of it.

*Secondly*, It is apparent in the Communion Book, that the Infant Baptized is by virtue of Baptism, before it be Signed with the Sign of the Cross, received into the Congregation of Christ's Flock, as a perfect Member thereof, and not by any power ascribed unto the Sign of the Cross. So that for the very remembrance of the Cross, which is very precious to all them that rightly believe in Jesu Christ, and in the other respects mentioned, the Church of *England* hath retained still the Sign of it in Baptism: Following therein the Primitive and Apostolical Churches, and accounting it a lawful outward Ceremony and honourable Badge, whereby the Infant is dedicated to the Service of him that died upon the Cross; as by the Words used in the Book of Common-Prayer, it may appear.

*Lastly*, The use of the Sign of the Cross in Baptism, being thus purged from all Popish Superstition and Error, and reduced in the Church of *England* to the primary Institution of it, upon those true Rules of Doctrine concerning things indifferent, which are consonant to the Word of God, and the Judgments of all the Ancient Fathers; we hold it the part of every private man, both Minister and other, reverently to retain the true Use of it prescribed by Publick Authority, considering that things of themselves indifferent, do in some sort alter their Natures, when they are either commanded or forbidden by a lawful Magistrate, and may not be omitted at every Man's pleasure contrary to the Law, when they be commanded; nor used when they are prohibited.

## 13, 14 Car. II.

A.D. 1661.

**T**O take away all Scruple, concerning the use of the Sign of the Cross in Baptism; the true Explication thereof, and the just Reasons for the retaining of it, may be seen in the 30 Canon, first published in the year, MDCIV.

## C A P. VII.

*The Popish Remains of LEADING into the Church,  
EXORCISING, CRISOM, and ANOINTING.*

## 2 Edw. VI.

A.D. 1548.

**T**HEN let the Priest take one of the Children by the right Hande, thother being brought after hym. And cumming into the Church towarde the Fonte, Saye,

*The Lorde vouchesafe to receive you into his holy housholde, and to kepe and governe you alway in the same, that you may have everlasting lyfe. Amen.*

## 2 Edw. VI.

A.D. 1548.

**T**HEN let the Prieste, lokyng upon the Children, saye,

**I** Commaunde thee, uncleane Spirite, in the Name of the Father, of the Sonne, and of the Holy Gost, that thou come oute, and departe from these Infantes, whom our Lorde Jesus Christe hath vouchesafed to call to his holye Baptisme, to be made Membres of his Bodye, and of his holye Congregation. Therefore, thou cursed Spirit, remembre thy Sentence, remembre thy Judgemente, remembre the daye to be at hand, wherein thou  
" shalt

O B S.  
Admission into the Church.

O B S.  
Exorcising.

*The Naming, and Dipping, and Cross in Baptism.*



Popish Remains of Lading into the Church, Exorcising, Crisom, and Anointing.

“ shalt burne in Fyre everlasting, prepared for thee and thy Aungels. And  
“ presume not hereafter to exercise anye tirannye towards these Infantes,  
“ whom Christe hathe bought with his precious Bloud, and by this his holy  
“ Baptisme calleth to be of his Flocke.

Abridgment.

CANONS 1603.

In Can. lxxii. Entit. Ministers not to---Exorcise, but by Authority.

— **N**Or without such Licence to attempt, upon any Pretence whatsoever, either of Possession or Obsession, by Fasting and Prayer to cast out any Devil or Devils, under pain of the Imputation of Imposture or Cozenage, and Deposition from the Ministry.

There shall be no Exorcising, without Licence.

A.D. 1548.

2 Edw. VI.

O B S. Crisom.

Then the Godfathers and Godmothers shall take and laye their handes upon the Childe, and the Minister shall put upon hym hys White Vesture commonly called the Crisome, and say,

The putting of the Crisome upon the Child,

Take thys Whyte Vesture for a token of Innocencye, whiche by God's Grace in this holy Sacramente of Baptisme, is geven unto thee, and for a sygne whereby thou arte admonished, so long as thou livest, to geve thy self to Innocencie of Living; that after this transitory Lyfe, thou mayest be partaker of the lyfe everlasting. Amen.

—and the Prayer.

A.D. 1548.

2 Edw. VI.

O B S.

**T**He Minister shall commaunde, that the Crisomes bee broughte to the Church, and delyvered to the Priestes, after the accustomed manner, at the Purificacyon of the Mother of every chylde.

Crisoms shall be brought to Church at Purification.

A.D. 1279. Edw. I.

JOHANNES PECCHAM.

*Sacrum Chrisma quotannis novum ab Episcopo suo ejusdem ministratores petentes rite ad ipsum ministrant.*

Feit. Oxon. p. 56. O B S. Anointing

**C**UM sacri Chrismatis consecutio de anno in annum per locorum Episcopos sit agenda, juxta sacrorum Canonum Sanctiones, & ipsum Chrisma per eosdem consecutum annuatim fidelibus sit tradendum, & vetus, seu quod superest de veteri Chrismate, sit in sacris Ecclesiis concremandum: Presbyteri quoque; qui praesunt Ecclesiis, aut per se, aut per Diaconos, aut Subdiaconos a locorum Episcopis annis singulis ante Paschae solennitatem, vel quanto citius fieri poterit, sacrum Chrisma singulis Ecclesiis petere teneantur; adeo ut si quis de alio Chrismate quam de isto novo, quod propria Episcopi largitione seu concessione accepit, Baptizare, vel Baptizatum in Vertice ungere (nisi praecipiente morte) tentaverit, ipse in se Damnationis manifestatur protulisse sententiam. Quidam tamen ignorantia crassa ducti, quae doleo dicitur esse vicina, vel spiritu contumaci, sacris in hac parte Canonibus reluctantes (quod a crimine idololatriae seu peccato ariolandi non multum oberrat,) veuts chrisma alicubi per biennium, alicubi per triennium, & eo amplius reservantes, eodem in Baptismate & aliis sacrificiis damnabiliter abutuntur, novum ab Episcopis locorum de anno in annum nec accipientes nec petentes. Quod ne fiat de caetero, diutius praecipimus sub poena suspensionis, quam ferimus in contumaces contrarium facientes. Quod id ipsum de sacro catechumenorum oleo, sano accipiendum credimus intellectu.

The holy Chrisma being to be made by the Bishops, and renewed by the Priests every year,

—shall not be kept longer, (as hath been done,)

—upon pain of Suspension.

The same decreed concerning the Oyl of the Catechumens.

[Catechumenorum.] i. e. De novo in- tamen Baptizatorum.—Cum hoc oleo ungitur baptizandus, bis, ante Baptismum. Lyndw.

2 Edw. VI.



Abridgment.

The Anointing of the Child.

2 Edw. VI.

Then the Priest shall anoynte the Infante upon the Head, saying,

Almighty God, the Father of our Lorde Jesus Christe, who hath regenerate thee by Water and the holye Gost, and hath geven unto thee remission of all thy sinnes: he vouchesave to annoynthe thee with the unccyon of hys holy Spirite, and bring thee to the Inheritance of everlastyng life. Amen.

2 Edw. VI.

The Ceremonies aforesaid, shall be used to every Child, separately.

When there are many to be Baptized, this ordre of Demaunding, Baptizing, puttyng on the Crisome, and Enoynting, shall be used severallye with every Chylde. Those that be first Baptized departyng from the Font, and remaynyng in some convenyente place within the Church, untill all be Baptized. At the laste ende, the Prieste calling the Godfathers and Godmothers together, shall say this short Exhortacion following.

Forasmuch as this Child

3 Jac. I. Cap. 5.

In an Act, Entituled, An Act to prevent and avoid Dangers, which may grow by Popish Recusants.

Papists shall cause their Children to be baptized by a lawful Minister,

XIV. And that every Popish Recusant, which shall hereafter have any Child born, shall within one month next after the birth thereof, cause the same Child to be baptized by a lawful Minister, according to the laws of this Realm, in the open Church of the same Parish where the Child shall be born, or in some other Church near adjoyning, or Chapel where Baptism is usually administrated. Or if by infirmity of the Child, it cannot be brought to such place, then the same shall, within the time aforesaid, be baptized by the lawful Minister of any of the said Parishes or Places aforesaid: Upon pain that the father of such Child, if he be living by the space of one month next after the birth of such Child, or if he be dead within the said month, then the Mother of the said Child, shall for every such Offence forfeit c. li. of lawful money of England; one third part whereof to be to the King's Majesty, his Heirs and Successors, one other third part to the Informer, or him that will sue for the same, and the other third part to the Poor of the said Parish; to be recovered by Action of Debt, Bill, Plaint, or Information, in any of the King's Majesties Courts of Record, wherein no Escoin, Protection, or Wager of Law, shall be admitted or allowed.

—on pain to forfeit 100l.

C A P. VIII.

PRIVATE Baptism, in the Church of ROME.

EDMUNDUS.

In Const. Baptisterium, sub Tit. De Baptismo, & ejus effectu.

Private Baptism appearing to be duly performed by a Lay-man, shall be so far good

Item interroget sacerdos laicum diligenter, cum in necessitate Baptizaverit puerum, quid dixerit, etiam quid fecerit. Et si diligente praecedente inquisitione, facta sibi fide plena, invenerit laicum distincte & in forma Ecclesiae Baptizasse, sive in latino, sive in gallico, sive in anglico, approbet factum; rursus autem, Baptizet puerum prout secundum formam Ecclesiae fuerit faciendum.

r Sin autem.] Supple, non sit sibi facta plena fides; imò probabiliter dubites, an sit puer rite baptizatus. Lyndw.

Popish Remains of Leading into the Church, Exorcising, Crisom, and Anointing.

A.D. 1548.

O B S.

A.D. 1605.

A. D. 1236 .26 H. 3.

Edit. Oxon. p. 242.

Ad



*Private Baptism in the Church of Rome.*

Ad levandum verò puerum de Fonte tres ad plus recipiantur, videlicet in Baptismo maris duo mares, & una sœmina; in Baptismo Fœminæ duæ sœminæ & unus masculus; quod enim amplius est à malo est. De Baptismate etiam, & Pœnitentia Præcipimus, quod rr Diaconi Pœnitentias dare, vel Baptizare non præsumant, nisi in his casibus cùm Sacerdos non potest, vel absens est, vel stultè vel indiscretè non vult, & mors imminet puero vel ægrotò. Si verò Baptizatus fuerit puer à Laico, s præcedentia & t subsequentia mersionem expleantur vel suppleantur à Sacerdote.

De Conf. Dist. 3. c. 19, 21.

rr Diaconi.] Constat Baptisma solis Sacerdotibus esse tractandum; ejusque mysterium nec ipsis Diaconis explere est licitum, absque Episcopo vel Presbytero: nisi, his procul absentibus, ultima languoris necessitas cogat. Quod & laicis fidelibus plerumque permittitur, ne quispiam sine Remedio salutari de sæculo evocetur.

s Præcedentia.] scil. Exorcismi, & Catechismi. Lyndw.

t Subsequentia.] scil. Signatio cum Christmate in vertice, cum Oratione secutâ.— Etiam, Candida vestis—& Cereus—& alia, prout in Manuali. Lyndw.

**Abridgment.**

There shall be but 3 Sponsors.

Deacon shall not Baptize, or enjoyn Penance, but in absence of the Priest,

Baptism by a Layman shall be supply'd by Priest.

A.D. 1236. 21 H. 3.

**EDMUNDUS.**

Sacerdotes admoneant prægnantes sibi subditas, habere instante partu aquam, si necesse fuerit, ad Baptismum paratam; & ut tempore confiteantur.

Edit. Oxon. p. 63.

Item commoneant Sacerdotes Mulieres prægnantes de Parochia sua, ut cum tempus partûs instare intellexerint, sibi prospiciant quod aquam promptam & paratam habeant pro partu, si immineat necessitas, baptizando; &, propter imminens periculum, confiteantur Sacerdoti, ne subito præoccupatæ non possint, cùm voluerint, copiam habere Sacerdotis.

Women with Child shall prepare Water for Baptism in case of need, ---and Confess beforehand.

A.D. 1237. 22 H. 3.

**OTH O.**

In Const. De Baptismo, & Forma Baptizandi.

Edit. Oxon. p. 10.

—Statuimus insuper, ut Parochiales Presbyteri formam Baptismi diligenter addiscentes, eam Parochianis suis frequenter diebus Dominicis exponant in vulgari; ut si articulus necessitatis emergat, quo ipsos aliquem Baptizare oporteat, eam sciant & valeant observare; quæ utrum servata fuerit, diligenter postea inquiratur.

For Cases of necessity, Lay-men shall be instructed in the Form of Baptism.

A.D. 1628. 52 H. 3.

**OTHOBON.**

In Const. De Baptismo.

Edit. Oxon. p. 80.

—Quia verò multorum simplicitas in Baptismi collatione deficeret, cum necessitatis articulus immineret, nisi à Ministris Christianæ Fidei docerentur; à prædicto Legato invenimus providè Constitutum, ut Parochiales Presbyteri formam Baptismi firmiter addiscentes, eam Parochianis suis frequenter exponant diebus Dominicis in vulgari, ut si articulus necessitatis emergat, in quo oporteat per ipsos aliquem baptizari, eam sciant & valeant observare.

The Constitution of Othobon, that Parochial Presbyters should teach the People the Form of Baptism,

Nos igitur, quod in hujusmodi Statuto de Presbyteris Parochialibus est expressum, ad perpetuos Ecclesiarum Vicarios extendimus, & ab his Præcipimus observari.

---shall be extended to perpetual Vicars,

Et quia certum est, quod præter salutis periculum hoc non potest negligi, nec omitti, adijciendo statuimus, & in virtute Sanctæ obedientiæ districtè Præcipimus, ut quilibet Archidiaconus per suum Archidiaconatum contra Presbyteros & Vicarios ipsos inquisitionem faciat diligentem, quos hoc salutare Statutum invenerit non observare, graviter (prout rei qualitas exegerit) puniendo.

---and enforced by Archdeacons, within their jurisdictions.

A.D. 1279. 7 Edw. I.

**JOHANNES PECCHAM.**

Baptismus etiam à Laicis rite ministratus, non est à sacerdote iterandus.

Quod in constitutione, & infra. Si forte contingat Pueros propter mortis periculum à laicis Baptizari, caveant sacerdotes ne Baptismum legitime factum audeant iterare.

Baptism by Laymen shall not be repeated.

Edit. Oxon. p. 41.



Abridgment.

## JOHANNES PECCHAM.

*Sacerdos à Laicis baptizatum non rebaptizet; sed Exorcismum & Catechismum super eum dicat. Verba enim Baptismi etiam vulgariter dici possunt. In dubiis autem Baptizet sub conditione.*

Ignorance of Priests, in baptizing again, after Women and Laymen:

Baptism shall be in the same words, and order, with the Institution,

---and where there is doubt, it shall be repeated conditionally.

People shall be admonished, not to defer the Baptism of Children,

---nor have it performed at home.

Private Baptism at home, in case of need.

Private Baptism in the Church of Rome.

A.D. 1281.  
9 Edw. I.

Edit. Oxon.  
p. 244.

**C**IRCA Sacramentum Baptismi quosdam comperimus deliquisse. Cùm enim periclitantibus Parvulis in necessitatis inevitabili articulo, quibuscunque Laicis vel mulieribus sit concessum, in casibus hujusmodi periclitantes taliter Baptizare, & hujusmodi Baptismum constet ad salutem sufficere, si forma debita teneatur, nec debere taliter Baptizatos iterum Baptizari: Quidam tamen stolidi Sacerdotes sic Baptizatos parvulos non sine Sacramenti injuria rebaptizant; quod, nè de cætero fiat, firmiter inhibemus: sed super sic Baptizatos dicantur Exorcismi, & Catechismi, propter reverentiam Ecclesiæ taliter statuentis. Forma autem Sacramenti in vulgari lingua, consistit non solum in signis, verum etiam in ordine eorundem verborum, quibus ipsum est divinitus Sacramentum institutum, quo Christus Dominus illis verbis & taliter ordinatis, ut sunt in lingua Latina, regenerativam contulit potestatem. Dicatur ergo à sic Baptizantibus, *I crystyn the in the name of the fader, and of the sone, and of the holy goste.* Vel alias in lingua Materna secundum Consuetudinem Patriæ: vel in Gallico sic, *Je te Baptize au nom du Pere, & du Filz, & du saint Esperit.* Quod si Sacerdos rationabiliter dubitet, an parvulus in forma debita Baptizatus sit, tenens modum Decretalis, cum Exorcismis & Catechismo dicat, *Si Baptizatus es, ego non rebaptizo te; Si nondum Baptizatus es, ego Baptizo te, In Nomine Patris, & Filii, & Spiritus Sancti.*

## C A P. IX.

## PRIVATE Baptism, in the Church of England.

2 &amp; 5 Edw. VI.

**T**HE Pastours and Curates shall oft admonishe the people that they deferre not the Baptisme of Infantes anye longer then the Sondaye, or other Holyedaye nexte after the Childe bee borne, unlesse upon a great and reasonable cause declared to the Curate, and by hym approved.

And also they shall warne them, that without great cause, and necessitie, <sup>1</sup> they Baptyse not Children<sup>2</sup> at home in their Houses. And when great nede shall compell them so to do, <sup>2</sup> that then they minister it "on this fashion.

<sup>1</sup> *First,* <sup>3</sup> *u* Let them that be present," call upon God for his Grace, and saye the Lorde's Prayer, yf the tyme wyll suffre. And then <sup>4</sup> one of them shall name the Chylde, and dippe him in the Water, or powre Water upon him," saying these Wordes,

<sup>1</sup> They procure not their Children, &c. Hampt. Court. <sup>2</sup> Then Baptism shall be administered, H. C. <sup>3</sup> Let the lawful Minister, and them that be present, H. C. <sup>4</sup> The Child being named by some one that is present, the said lawful Minister shall dip it in water, or pour Water upon it, H. C.

"Let them that be present.] In the Manuscript Copy of the Articles made in Convocation, Ann. 1575. the Twelfth is, Item, "Where some Ambiguity and Doubt hath risen among divers, by what Persons Private Baptism is to be Administred; Forasmuch as by the Book of Common-Prayer allowed by the Statute, the Bishop of the Diocese is authorized to expound and resolve all such Doubts as shall arise concerning the manner, how to understand, and to execute the things contained in the said Book; It is now, by the said Archbishop and Bishops, expounded and resolved, and every of

"them doth expound and resolve; That the said private Baptism, in Case of necessity, is only to be ministred by a lawful Minister or Deacon, called to be present for that purpose, and by none other. And that every Bishop in his Diocese, shall take order, that this Exposition of the said Doubt shall be published in Writing, before the first day of May next coming, in every Parish-Church of his Diocese in this Province: And thereby all other Persons shall be inhibited to intermeddle with the ministering of Baptism privately, being no part of their Vocation.

This

A.D. 1548.  
&c.



Private  
Baptism in  
the Church  
of Eng-  
land.

N. I Baptize thee in the Name of the Father, and of the Sonne, and of the holye Ghost. Amen.

Abridgment.

And let them not doubt, but that the Childe so Baptised, is lawfully and sufficiently Baptised, and ought not to be Baptised againe, <sup>1</sup> in the Church." But yet nevertheless, yf the Childe which is after this sorte Baptised, do afterward lyve, it is expedient that he be brought into the Church, <sup>2</sup> to the intent the Priest maye examine and trye whether the Child be lawfully Baptised or no. <sup>3</sup> And yf those that bringe any Child to the Church, do answere <sup>4</sup> that he is already Baptised, then shall the <sup>5</sup> Priest "examine them further. ———

Children privately baptized, are sufficiently baptized.

<sup>1</sup> Not in the Book, 1603 H. C. <sup>2</sup> To the intent, that if the Priest or Minister of the same Parish did himself baptize that Child, the Congregation may be certified of the true Form of Baptism by him privately before used; or if the Child were baptized by any other lawful Minister, that then the Minister of the Parish where the Child was Born, or Christened, shall try and examine, H. C. <sup>3</sup> In which Case, if, H. C. <sup>4</sup> That the same Child is, H. C. <sup>5</sup> Minister, H. C.

This Article was not published in the Printed Copy; but whether on the same account that the 15th Article was left out, (*viz.* because disapproved by the Crown) I cannot certainly tell. However, the Ambiguity remained, till the Conference at Hampton-Court, in which the King said, that if Baptism was termed *Private*, because any but a lawful Minister might Baptize, he utterly disliked it, and the point was there debated; which Debate ended in an

Order to the Bishops to explain it so, as to restrain it to a *lawful Minister*.

Accordingly, in the Book of Common-Prayer which was set forth the same Year, the Alterations were Printed, in the Rubricks, as I have noted them before; and other Expressions in other parts of the Service, which seemed before to admit of Lay-baptism, were so turned, as expressly to exclude it.

A.D. 1548.

2 Edw. VI.

O B S.

When the Minister shall put the white Vesture, commonly called the Crisome, upon the Child, saying,

The Crisom put upon Children privately baptized.

Take thys Whyte Vesture for a token of the Innocencye, whych by God's Grace in this holy Sacrament of Baptisme, is geven unto thee, and for a sygne whereby thou arte admonished, so long as thou livest, to geve thyself to Innocencie of Living; that after this transitory Lyfe, thou mayest be partaker of the lyfe everlasting. Amen.

A.D. 1561.

13, 14 Car. II.

The Curates of every Parish shall often admonish the people, that they defer not the Baptism of their Children longer than the first or second Sunday next after their Birth, or other Holiday falling between, unless upon a great and reasonable cause, to be approved by the Curate.

People shall be admonished, not to delay the Baptism of their Children, ---nor have it performed at home.

And also they shall warn them, that without like great cause and necessity they procure not their Children to be baptized at home in their Houses. But when need shall compel them so to do, then Baptism shall be administered on this Fashion.

First, let the Minister of the Parish (or in his absence, any other lawful Minister that can be procured) with them that are present, call upon God, and say the Lord's Prayer, and so many of the Collects appointed to be said before in the Form of Publick Baptism, as the time and present exigence will suffer. And then, the child being named by some one that is present, the Minister shall pour Water upon it, saying these Words;

Private Baptism at home, in case of need.

N. I baptize thee in the Name of the Father, and of the Son, and of the holy Ghost. Amen.

Then all kneeling down, the Minister shall give thanks unto God, and say,

WE yield thee hearty thanks, most merciful Father, that it hath pleased thee to regenerate this Infant with thy holy Spirit; to receive him for thine own child by adoption, and to incorporate him into thy holy Church. And we humbly beseech thee to grant, that as he is now made partaker of the death of thy Son, so he may be also of his Resurrection: And that finally with the residue of thy Saints he may inherit thine everlasting kingdom, through the same thy Son Jesus Christ our Lord. Amen.

A Prayer added to the Form of Private Baptism.

And



Abridgment.

Children privately baptized, are sufficiently baptized, ---but must be brought to Church, if they live, for the Satisfaction of the Congregation,

--and of the Minister.

Private Baptism shall be used, if they say, they were in great confusion,

--for if the Answers be uncertain.

Anabaptists excepted out of General Pardons.

Children baptized, and dying, are undoubtedly saved.

And let them not doubt, but that the Child so Baptized is lawfully and sufficiently Baptized, and ought not to be Baptized again. Yet nevertheless, if the Child which is after this sort Baptized, do afterward live, it is expedient that it be brought into the Church, to the intent that if the Minister of the same Parish did himself Baptize that Child, the Congregation may be certified of the true form of Baptism, by him privately before used: In which Case he shall say thus,

*I certife you, that according to the due and prescribed order of the Church, at such a time, and at such a place, before divers Witnesses I baptized this Child.*

But if the child were Baptized by any other lawful Minister; then the Minister of the Parish where the child was Born or Christned, shall examine and try whether the Child be lawfully Baptized, or no. In which case, if those that bring any Child to the Church, do answer, that the same Child is already Baptized, then shall the Minister examine them further.-----

2 & 5 Edw. VI.

But yf they which bring the Infantes to the Church, doe make an uncertain answer to the Priestes Questions, and saye that they cannot tel what they thought, did, or sayde in that greate fear, and trouble of mynde (as oftentimes it chaunceth,) then lette the Priest Baptize him in Forme above wrytten, concernynge publick Baptisme; savyng, that at the dyppinge the Childe in the Fonte, he shal use this form of Wordes.-----

13, 14 Car. II.

But if they which bring the Infant to the Church do make such uncertain answers to the Priests Questions, as that it cannot appear that the Child was Baptized with Water, in the Name of the Father, and of the Son, and of the Holy Ghost (which are essential parts of Baptism,) then let the Priest baptize it in the form before appointed for publick Baptism of Infants; savyng that at the Dipping of the Child in the Font, he shall use this form of Words.-----

C A P. X.

I N F A N T - B A P T I S M.

32 Henr. VIII. Cap. 49.----3, 4 Edw. VI. Cap. 24.

In an Act, Entituled, *An Act concerning the King's most gracious, general and free Pardon.*

And also except out of the said Pardons, these Heresies and errantous Opinions hereafter ensuing, that is to say, That Infants ought not to be Baptized; and if they be Baptized, that they ought to be re-baptized when they come to lawful Age----- That Sinners, after Baptism, cannot be restored by Repentance.-----

5, 6 Edw. VI.-----13, 14 Car. II.

*At the end † of Publick Baptism.*

† Of Confirmation, 5 E. 6.

IT is certain by God's word, that Children which are Baptized, dying before they commit actual sin, are saved undoubtedly.

\* Being baptized, have all things necessary to their Salvation, and be, &c. 5 E. 6.

Private Baptism in the Church of England.

A.D. 1548.

A.D. 1661.

A.D. 1551.

O B S.

A.D. 1661.



Infant-Baptism. A.D. 1562.

Abridgment

39. ARTICLES.

XXVII.—The Baptism of young Children is in any wise to be retained in the Church, as most agreeable with the Institution of Christ.

Baptism of young Children ought to be retained.

1 Jac. I.

CANONS 1603.

Ixix. Ministers not to defer Christening, if the Child be in Danger.

IF any Minister being duly, without any manner of Collusion, informed of the Weakness and Danger of Death of any Infant unbaptized in his Parish, and thereupon desired to go or come to the Place where the said Infant remaineth, to Baptize the same, shall either wilfully refuse so to do, or of Purpose, or of gross Negligence, shall so defer the time, as when he might conveniently have resorted to the Place, and have Baptized the said Infant, it dieth through such his Default unbaptized; the said Minister shall be suspended for three Months, and before his restitution shall acknowledge his Fault, and promise before his Ordinary, that he will not wittingly incur the like again. Provided, that where there is a Curate or a Substitute, this Constitution shall not extend to the Parson or Vicar himself, but to the Curate or Substitute present.

Minister neglecting to Christen any Infant when sick,

---in case the Infant die, ---shall be suspended for three Months, ---but if it be the Curat's neglect, he shall suffer the Suspension.

C A P. XI.

Baptism of those of R I P E R Years.

13, 14 Car. II.

In the Preface to the Common-Prayer.

—AND that it was thought convenient, that some Prayers and Thanksgivings, fitted to special occasions, should be added in their due places; particularly for those at Sea, together with an Office for the Baptism of such as are of riper Years; which, although not so necessary when the former Book was compiled, yet by the growth of Anabaptism, through the Licentiousness of the late times, crept in amongst us, is now become necessary, and may be always useful for the baptizing of x Natives in our Plantations, and others converted to the Faith.

Office of Baptism of those of Riper years, was necessary,

—for Anabaptists,

—and for Natives in the plantations.

w An Office.] Dominus Commissarius intromavit Prolocutori, de Precibus Specialibus & Particularibus pro Baptizatione nonnullorum Adulorum concipiendis & formandis; & pro conceptione earundem, dictus Reverendus Pater, cum consensu Confratrum suorum, tres Reverendos Patres hujusmodi, viz. Dom. Humfridum Sarum, Benjaminum Petriburgen', & Georgium Asaphen' respectivè Episcopos, elegit; & voluit Dominum Prolocutorem sex Cleros e Domo Inferiori eligere, ad procedendum cum dictis Episcopis, in dicto negotio.

x Natives in our Plantations.] It hath been a Point debated in the Court of King's-Bench, whether by Baptism, a Negroe-Slave acquires Manumission: In one Case (2 & 3 Jac. 2) the Indian turned Christian, and was Baptized, and detained from his Master; who brought a Homine Repleg'. In another Case, he was Baptized privately, turned away by his Master, and became the Servant of another Man; against whom an Action of Trespas was brought by the said Master, for taking a Negroe-Slave of the value of 100 l.

Mod. Rep. V. 3. p. 120.

Ib. Vol. 5. p. 186.

Introduc'ta per Episcopum Sarum Forma Precum publicarum pro Baptizatione Adulorum celebrandâ, & per me Willelmum Fisher, Notarium publicum, de mandatodict' Præsidentis publicè perlecta, & per dictos Reverendos Patres unanimiter approbata.

The Point of Manumission or no Manumission by Baptism, was not directly determined in either case; but, in the First, the Body was replevied, and the Person bailed: In the Second, Judgment was given upon

D. 1661.

Baptism of those of riper years.

sup. Dom. v. Sess. 13.

id. Sess. 31.



Abridgment.

a Form in Pleading; but it was said, That if Baptism should be accounted a Manumission, it would very much endanger the Trade of the Plantations; which cannot be carried on without the help and labour of these Slaves; for the Ministers are bound to Baptize them, as soon as they can give a reasonable account of the Christian Faith; and if that would make them free, then

few would be Slaves.

At the same time, it seemed to be taken for granted, that if he had been Baptized with the Master's consent, Manumission would have followed; which I gather from the manner of stating the Question, Whether Baptism, without the privacy of the Lord, will amount to a Manumission?

Baptism of those of riper years.

13, 14 Car. II.

A.D. 1661.

Notice shall be given to the Bishop, of Persons of riper years, to be baptized,

When any such Persons as are of riper Years are to be Baptized, timely Notice shall be given to the Bishop, or whom he shall appoint for that purpose, a week before at the least, by the Parents, or some other discreet Persons; that so due care may be taken for their examination, whether they be sufficiently instructed in the Principles of the Christian Religion; and that they may be exhorted to prepare themselves with Prayers and Fasting for the receiving of this holy Sacrament.

— who shall be exhorted to prepare themselves,

And if they shall be found fit, then the Godfathers and Godmothers (the People being assembled upon the Sunday or Holy-day appointed) shall be ready to present them at the Font immediately after the second Lesson, either at Morning or Evening Prayer, as the Curate in his discretion shall think fit.

— and they shall be presented at the Font by Godfathers and Godmothers.

And standing there, the Priest shall ask whether any of the Persons here presented, be Baptized, or No: If they shall answer, No: Then shall the Priest say thus,

Dearly beloved, forasmuch as all Men are conceived and born in Sin, (and that which is born of the flesh is flesh) and they that are in the flesh cannot please God, but live in sin, committing many actual transgressions; and that our Saviour Christ saith, None can enter into the Kingdom of God, except he be regenerate and born anew of Water and of the holy Ghost; I beseech you to call upon God the Father, through our Lord Jesus Christ, that of his bounteous mercy he will grant to these Persons that thing which by nature they cannot have, that they may be baptized with Water and the holy Ghost, and received into Christs holy Church, and be made lively Members of the same.

A.D. 1661.

13 14 Car. II.

Persons of Riper years, being Baptized, must also be Confirmed.

It is expedient that every Person thus Baptized, should be Confirmed by the Bishop so soon after his Baptism as conveniently may be; that so he may be admitted to the holy Communion.

Persons not come to years of discretion, shall be baptized, according to the ordinary Form.

If any y Persons not Baptized in their infancy, shall be brought to be Baptized before they come to years of Discretion to answer for themselves; it may suffice to use the Office for Publick Baptism of Infants, or (in case of extreme danger) the Office for private Baptism, only changing the word [Infant] for [Child or Person] as occasion requireth.

Reg. sup. Dom. Conv.

y Persons not Baptized.] Apr. 21. 1662 | in loco Persons [not Baptized] per Domum Debated in the Upper-houle of Convocation, De recipiendis directionibus a Domino Cancellario Anglia, quibus mediis verbum Children | Communitatis Parliamenti in Libro Publicarum Precum inseratur.

C A P. XII.

The Preservation of CHILDREN, and CHURCHING of Women.

EDMUNDUS.

A.D. 123; 21 H. 3.

Parente in Partu mortua, Partus exsecetur.

Woman dying in Child-bed shall be cut up, for the Child.

SI mulier mortua fuerit in partu, & hoc bene constiterit, scindatur, si Infans vivere credatur; procurato tamen, quodd os mulieris y apertum teneatur.

Edit. Ordo. p. 307.

a Apertum.] Cum baculo, clavi, vel intrare, ne ob defectum Respirationis suffocetur strumento alio, sic videlicet, quodd Aer possit intrare, ne ob defectum Respirationis suffocetur Partus Lyndw. ... EDMUNDUS



The Preservation  
of Children  
and Churching  
of Women.

A.D. 1236.  
21 H. 3.

## EDMUNDUS:

*Ne Fœminæ tenellos nocte opprimant, aliode periculo exponant.*

**F**Oeminae commoneantur, ut pueros cautè alant, & juxta se in nocte non collocent teneros, ne opprimantur. Solos juxta aquas sine Custode non relinquant, & hoc omni die Dominica eis dicatur.

A.D. 1548.

2 Edw. VI.

*The Title of the Purification.*

The Ordre of the Purificacion of Weomen.

A.D. 1551.

5 Edw. VI.-----13, 14 Car. II.

The *b* Thanksgiving of Women after Child-birth, commonly called, the Churching of Women.

*b* [Thanksgiving.] Exception had been made to the former Title, by reason of the word *Purification*, as favouring of the Jewish Law; for the removing of which, this Change in the Title was made.

A.D. 1548.

o B S.

The Woman shall come into the Church, and there shall knele down in some convenient place nigh unto <sup>1</sup> the place where the Table standeth, and the Priest standing by her, shall saye these wordes, or such like, as the case shall require.

<sup>1</sup> The Quier doore, 2 E. 6.

A.D. 1661.

13, 14 Car. II.

The Woman, at the usual time after her Delivery, shall come into the Church *c* decently apparelled, and there shall kneel down in some convenient place, as hath been accustomed, or as the Ordinary shall direct.

Palm, 296.

*c* [Decently Apparelled.] In the Reign of King *James I.* an Order was made by the Chancellor of *Norwich*, that every Woman, who came to be Churched, should come covered with a *White Vail*: A Woman, refusing to Conform, was excommunicated for Contempt, and pray'd a Prohibition; alledging, that such Order was not warranted by any Custom or Canon of the Church of *England*. The Judges desired the Opinion of the Archbishop of *Canterbury*, who convened divers Bishops to consult thereupon; and they certifying, that it was the ancient Usage of the Church of *England*, for Women who came to be Churched, to come *Veiled*, a Prohibition was denied.

A.D. 1548.

2 Edw. VI.

o B S.

The Woman that is purified, must offer her Crisome, and other accustomed offerynges. And if there be a Communion, it is convenient that she receive the holy Communion.

A.D. 1551.

5 Edw. VI.-----13, 14 Car. II.

The Woman that cometh to give her thanks, must offer accustomed Offerings; and if there be a Communion, it is convenient that she receive the holy Communion.

Abridgment.

Women shall be often admonished, not to endanger their Children.

Purification of Women.

Churching of Women.

The Woman shall be churched, at the Quier-door, or nigh the Table

The Woman shall be churched, where the Ordinary shall direct.

Crisom, and other Offerings, at Purification; with Communion.

Offerings shall be made at Churching, —and Communion received.

TIT.



Abridgment.

## TIT. XIX.

## Publick CATECHISING, and CONFIRMATION.

## The CONTENTS.

- CAP. I. *The TIMES of Catechising, and the Duty of SENDING Children.*  
 CAP. II. *The Duty of holding CONFIRMATIONS, and the necessary PREPARATIONS in order to it.*  
 CAP. III. *The Reasons why none ought to be Confirmed, but who can say the CATECHISM.*  
 CAP. IV. *Confirmation necessary before COMMUNION.*  
 CAP. V. *The CONFIRMATION.*  
 CAP. VI. *Confirmation may not be REPEATED.*

## CAP. I.

*The TIMES of Catechising, and Duty of SENDING Children.*

2, & 5 Edw. VI.-----13, 14 Car. II.

A.D. 1548.



CATECHISM, that is to say, an Instruction to be learned of every Person, before he be brought to be Confirmed by the Bishop.

*a* A Catechism.] This, in the two Books of *Edward VI.* was part of the Office of Confirmation; the Title of which, in those Books, is, *Confirmation, wherein is contained a Catechism for Children.*

This is the same that is commanded to be taught in the Injunctions of *Queen Elizabeth*: But, besides this, there was a Catechism set forth by *Edward VI.* that is often mentioned in our Accounts of the Re-

formation; which *King Edward*, by his Letters Patents, commanded to be taught in all Schools, and which was Examined, Reviewed and Corrected, in the Convocation of 1562. and published with those Improvements in 1570. to be a Guide to the younger Clergy in the study of Divinity, as containing the Sum and Substance of our Reformed Religion.

Sess. 11, & 12.  
 Str. Hist. Ref.  
 P. 314.

2 & 5 Edw. VI.

A.D. 1548.  
 &c.

Ministers shall Catechise on Sundays and Holydays before Even song,

**T**He Curate of every Parish, once in six Weeks at the least, upon warning by him given, shall upon some Sunday or Holyday, halfe an houre before Evensong, openly in the Church, instructe and examine so many Children of his Parishes sent unto him, as the tyme wil serve, and as he shall thinke conveniente, in some parte of this Catechisme.

and

Catechising, in order to Confirmation.

Art. 43.  
 Strype,  
 Cranm. p.  
 274.



Times of Catechising, and the Duty of sending Children.

And all Fathers, Mothers, Masters, and Dames, shall cause their Children, Servants and Prentices, (<sup>2</sup> which are not yet Confirmed) to come to the Church at the <sup>3</sup> day appointed, and obediently heare, and be ordered by the Curate, untill such time as they have learned all that is here appointed for them to learne. And there shall none be admitted to the Holy Communion, untill suche time as he <sup>4</sup> can say the Catechism, and<sup>r</sup> be Confirmed.

<sup>2</sup> Which have not learned their Catechism, 5 E. 6. <sup>3</sup> Time, 5 E. 6. <sup>4</sup> Not in 2 E. 6.

1 Jac. I.

CANONS 1603.

lix. Ministers to Catechise every Sunday.

Every Parson, Vicar, or Curate, upon *aa* every Sunday and Holy-day before Evening Prayer, shall for half an hour and more, *b* examine and instruct the Youth and ignorant Persons of his Parish, in the Ten Commandments, the Articles of the Belief, and in the Lord's Prayer: and shall diligently hear, instruct, and teach them the Catechism set forth in the Book of Common Prayer. And all Fathers, Mothers, Masters and Mistresses, shall cause their Children, Servants, and Apprentices, which have not learned the Catechism, to come to the Church at the time appointed, obediently to hear, and to be ordered by the Minister until they have learned the same. And if any Minister neglect his Duty herein, let him be sharply reprov'd upon the first Complaint, and true notice thereof given to the Bishop or Ordinary of the Place. If after submitting himself, he shall willingly offend therein again, let him be suspended. If so the third time, there being little hope that he will be therein reformed, then excommunicated, and so remain until he will be reformed. And likewise, if any of the said Fathers, Mothers, Masters or Mistresses, Children, Servants, or Apprentices, shall neglect their Duties, as the one sort *c* in not causing them to come, and the other in refusing to learn, as aforesaid: Let them be suspended by their Ordinaries (if they be not Children) and if they so persist by the space of a month, then let them be Excommunicated.

*aa* Every Sunday and Holyday.] By the Ijunctions of Queen Elizabeth, every Holyday, and every second Sunday in the Year.

*b* Examin and instruct.] In the Reformatio Legum, there is an excellent Rule, upon this Head; *Pomeridiani temporis horam primam Minister explicando Catechismo tribuat, vel aliquid eo amplius, si videbitur. — Catechismum pertractet vel ipse Parochus, vel ejus Vicarius, & magnam in eo diligentiam adhibeat; summam enim utilitatem & præstantem usum habet in Ecclesiâ Dei frequens inculcatio Catechismi; quem non solum à Pueris edisci, sed etiam ab Adolescentibus attendi volumus, ut in Summâ Religionis erudiantur, & Puerorum piam assiduitatem suâ præsentia corroborent*

*c* In not causing them.] In the Canons of 1571. a certain time was appointed, for returning the Names of such Parents and

Masters, as did not send their Children and Servants: *Quivis Rector Ecclesiæ, Vicarius, aut Parochus, quotannis ante vicesimum diem à Paschate, exhibebit Episcopo, ejusve Cancellario, aut Commissario, nomina & cognomina Parochianorum suorum, — qui, Parentes aut Domini, liberos aut famulos suos ad audiendum discendumque eundem illum Catechismum constitutis temporibus ad Ecclesiam mittere contempserint.* And, further to enforce this, it was one of the Articles which was exhibited in order to be admitted by Authority, That he, whose Child, at ten Years Old and upward, was not able to say the Catechism, should pay Ten shillings to the Poor's Box. The like Penalty to be inflicted upon Masters and Mistresses, who had Servants of Fourteen years and upwards, that could not say the Catechism by heart.

Abridgment.

—and Parents and Masters shall send Children and Servants.

Ministers shall Catechise every Sunday and Holy-day, before Evening Prayer,

—and the Children shall be duly sent,

—upon pain of Suspension, and Excommunication.

De Div. Off. c. 9.

Str. Hist. Ref. App. 2. p. 1.

A.D. 1661.

13, 14 Car. II.

The Curate of every Parish shall diligently upon Sundays and Holy-days, after the second Lesson at Evening Prayer, openly in the Church instruct and examine so many Children of his Parish sent unto him, as he shall think convenient, in some part of this Catechism.

And all Fathers, Mothers, Masters and Dames, shall cause their Children, Servants, and Prentices (which have not learned their Catechism) to come to the Church at the time appointed, and obediently to hear, and be ordered by the Curate, until such time as they have learned all that is here appointed for them to learn.

Ministers shall Catechise on Sundays & Holydays, after the second Lesson,

- and Children shall be duly sent.

[Note, That that part of the Church-Catechism which treats of the Sacraments, is not in 2 nor 5 Edw. VI. but was added in the beginning of King James I. upon the Conference at Hampton-Court.]



Abridgment.

## C A P. II.

The Duty of HOLDING Confirmations, and the necessary PREPARATIONS in order to it.

C A N O N S 1603.

## IX. Confirmation to be performed once in three Years.

I Jac. I.

Antiquity of Confirmation in the Church of God.

Bishops shall Confirm in their Visitations,

—or the next year after.

Ref. Leg. l. 50. c. 12.

FORASMUCH as it hath been a solemn, ancient, and laudable Custom in the Church of God, continued from the Apostles times, that all Bishops should lay their Hands upon Children baptized and instructed in the Catechism of Christian Religion, praying over them and blessing them, which we commonly call Confirmation; and that this holy Action hath been accustomed in the Church in former Ages, to be performed in the Bishops Visitation *d* every third Year: We will appoint, that every Bishop or his Suffragan, in his accustomed Visitation, do in his own Person carefully observe the said Custom. And if in that year, by reason of some Infirmary, he be not able personally to Visit, then he shall not omit the Execution of that Duty of Confirmation the next year after, as he may conveniently.

*d* Every third Year.] The Reformatio quoque sit cura, ut in Catechismo instructos certo Legum seems to direct Annual Confirmations: anni tempore Confirmet. Statu temporibus annuatim Synodos habeat: illi

Duty of holding Confirmations, and the necessary Preparations.

## W A L T E R U S.

A.D. 1322.  
16 Edw. 2.

Confirmationis Sacramentum cito decenterque administrandum est non intervenientibus parentibus, aut victrico, vel noverca.

Adults shall Confess before Confirmation, and come Fasting, ---and Parents shall be admonished to get their Children Confirmed betimes, --- which being done, the other Ceremonies at the Church, shall follow.

None shall be brought by nearest Relations, ---spiritual relation being contracted by this, as by Baptism.

Sacerdotis, & infra. *e* Adultus confirmandus per Sacerdotem loci, ut prius confiteatur admonendus est; & sic postea confirmerur: & ad confirmationem veniat jejunos ob reverentiam Sacramenti. Frequenter etiam moneantur Parentes per Sacerdotes, ut parvulos Baptizatos ad Confirmationem *f* ducant, nec diu expectent adventum Episcopi: sed pro confirmatione *g* pueros ad eum ducant, ubi eum propè adesse audierint, post Baptismum, quam citius poterint, secumque *h* fascias sive ligaturas deferant competentes. Parvuli quoque confirmati, tertiâ die post confirmationem, deportentur ad Ecclesiam, & frontes eorum per manus Sacerdotum in Baptisterio propter reverentiam Chrismatis abluantur, & ibidem ligaturæ eorum tunc in simul concrementur. Item ad Confirmationem nullus puer *i* teneatur à Patre vel Matre, Victrico vel Noverca. Et volumus quòd hæc prohibitio sæpè per Sacerdotes in Ecclesiis publicetur, ut sciant Parentes, ac alii, qui Pueros tenent ad confirmandum, quòd Spirituale vinculum in hoc Sacramento ita contrahitur, ut in Baptismo.

Edit. Oxon.  
p. 34.  
O B S.

*e* Adultus ] *Id est*, major 14 annis. Lyndw.  
*f* Ducant.] *Loquitur de non adultis, qui petendi Confirmationem discretionem non habent.* Lyndw.

*g* Pueros.] *Quos prius dixit Parvulos, hic dicit Pueros. Et propriè intelligitur Puer, qui est major septennio, sed minor 14 annis.* Lyndw.

*h* Fascias.] *Ligaturas de panno linteo, vel aliâ materiâ decenti & honestâ, quibus circumligari debeat & possit caput Confirmandi.* Lyndw.  
*Et nota, quòd ista ligatura ordinatur, ut per eam*

*locus Unctionis destitetur; & in quibusdam locis, talis Confirmatus servatur sub quadam disciplinâ, custodiendo Chrismâ, ne usque ad septem dies, per quos representantur septem dona Spiritûs sancti, caput lavetur. Ib.*

*i* Teneatur.] *Quare ab alio tenetur Confirmandus, ratio est, quia ante Confirmationem se robur standi Spiritualiter habere non debet præsumere; & idèo conveniens est, ut ab altero teneatur, ad significandum quòd per se stare non possit.* Lyndw.

2 Edw. VI.

A.D. 1548.  
&c.

Minister shall direct, that Children be Confirmed, as soon as they can say the Catechism.

THE Minister shall commaunde that the chyl dren be brought to the Bishop to be confirmed of him, so sone as they can saye in theyr vulgare Tongue, the Articles of the Fayth, the Lordes Prayer, and the Ten Commaundementes, and be further instructed in the Catechisme set forth-for that purpose, accordingly as it is there expressed.



Duty of holding Confirmations, and the necessary Preparations.

A.D. 1661.  
A.D. 1548.

13, 14 Car. II.

YE are to take care, that this Child be brought to the Bishop to be Confirmed by him, so soon as he can say the Creed, the Lord's Prayer, and the Ten Commandments in the vulgar Tongue, and be further instructed in the Church Catechism set forth for that purpose.

2 & 5 Edw. VI.

SO soon as the chylidren can say in their mother Tongue, the Artycles of the Fayth, the Lordes Prayer, the Ten Commaundements, and also can answer to such questions of this short Catechisme, as the Bishoppe (or such as he shal appoynt) shall by his discrecion oppose them in: then shal they be brought to the Bishoppe by one that shal be his Godfather, or Godmother, that every Child may have a witnesse of his Confirmation.

A.D. 1661.

13, 14 Car. II.

SO soon as Children are come to a competent Age, and can say in their Mother tongue the Creed, the Lord's Prayer, and the Ten Commandments; and also answer to the other questions of this short Catechism; they shall be brought to the Bishop. And every one shall have a Godfather, or a Godmother, as a witness of their Confirmation.

1 Jac. I.

C A N O N S 1603.

*In Can. xxxix. Entit. Fathers not to be Godfathers, nor Children not Communicants.*

Neither shall any Person be admitted Godfather, or Godmother, to any Child at Christening or Confirmation, before the said Person so undertaking, hath received the holy Communion.

1 Jac. I.

C A N O N S 1603.

*lxi. Ministers to prepare Children for Confirmation.*

EVERY Minister that has Cure and Charge of Souls, for the better accomplishing of the Orders prescribed in the Book of Common-Prayer concerning Confirmation, shall take especial care, that none shall be presented to the Bishop for him to lay his Hands upon, but such as can render an account of their Faith according to the Catechism in the said Book contained. And when the Bishop shall assign any time for the Performance of that part of his Duty, every such Minister shall use his best endeavour to prepare and make able, and likewise to procure as many as he can to be then brought, and by the Bishop to be confirmed.

Abridgment.

Minister shall direct the Godfathers and Godmothers to take care of the Child's Confirmation.

Catechism shall be used by Children in order to be Confirmed, ---each of whom shall have a Witness.

Saying of the Catechism, a qualification in order to be Confirmed; -- after which, each Child shall have a Witness.

None shall be Witness in Confirmation, but who hath received the Communion.

No Minister shall present any for Confirmation, but who can say the Catechism,

--in which the Minister shall prepare the Children.



Abridgment.

C A P. III.

The Reasons why none ought to be Confirmed, but who can say the CATECHISM.

2 & 5 Edw. VI.

A.D. 1548.

None shall be Confirmed, but who can say the Catechism.

Reasons why Children should not be Confirmed before,

—1. Because they are then able to take upon themselves their Baptismal Vow,

—2. That they may receive strength, against the Temptations they are coming into,

—3. Because it is agreeable to Antiquity.

Children being baptized, and dying without Confirmation, are saved.

TO the ende that Confirmation may be ministred, to the more edifying of such as shal receive it (according to St. Paules doctrine, who teacheth that al thinges should be done in the Church to the edification of the same) it is thought good that none hereafter shal be Confirmed, but such as can say in their mother Tongue the Articles of the Fayth, the Lordes Prayer, and the Ten Commaundements, and can also answere to suche Questions of this short Catechisme, as the Bishop (or suche as he shall appointe) shall by his discretion oppose them in. And this ordre is most conveniente to be observed for dyvers Considerations.

First, Because that when Children come to the yere of Discrecion, and have learned what their Godfathers and Godmothers promised for them in Baptisme, they may then themselves with their own mouth, and with their own consent, openly before the Church, ratifie and ' confirme' the same; and also promise that by the grace of God they wil evermore endeavour themselves faithfully to observe and kepe suche thynge, as they by their owne Mouth and Confession have assented unto.

Secondly, Forasmuche as Confirmation is ministred to them that be Baptised, that by imposition of Handes and Prayer, they maye receive strength and defence againste all temptations to sinne, and the assaults of the World, and the Devil; it is most mete to be ministred when Children come to that age, that partly by the frailtie of their own Flesh, partly by the assaults of the World and the Devil, they begyn to be k in daunger to fall into 2 fundry kindes of "sinne.

Thirdly, For that it is agreeable with the Usage of the Church in times past; whereby it was ordained that Confirmation should be ministred to them that were of perfect age, that they being instructed in Christes Religion, shoulde openly professe their owne Fayth, and promise to be obedyente unto the wyll of God.

And that no man shal thynke that any detriment shall come to Children by deferryng of their Confirmation, he shall knowe for truth, that it is certeyne by Godes Worde, that 3 children kk being baptized (yf they depart out of this Life in their Infancy) are and be undoubtedly saved."

1 Confess, 2 E. 6. 2 Not in 2 E. 6. 3 Children being baptized, if they depart out of this Life in their Infancy, are undoubtedly saved, 2 E. 6.

k In danger to fall.] Et quia in hoc mundo tota aetate victuris inter invisibiles hostes & pericula gradiendum est, in Baptismo regeneramur ad vitam, post baptismum confirmamur ad pugnam; in baptismo abluimur, post baptismum roboramur. Et quamvis continuo transituris sufficient Regenerationis Beneficia, victuris tamen necessaria sunt Confirmationis auxilia. Regeneratio per se salvat mox in pace beati saeculi recipiendos; Confirmatio autem armat & instruit ad agones mundi hujus & praelia reservandos.

kk Being Baptized.] The Church of Rome affirms, That without Confirmation they are not complete Christians, (Omnes fideles per manus impositionem Episcoporum, Spiritum Sanctum post Baptismum accipere debent, ut pleni Christiani inveniantur;) and to reconcile that notion, to the Salvation of Children who have been Baptised, and die before they commit actual sin, the following distinction was invented, Qui autem post Baptismum cum acquisita innocentia immaculatus pervenit ad mortem, Confirmatur morte: quia non potest peccare post mortem.

De Conf. Dist. 5. c. 2.

De Conf. Dist. 5. c. 1.

ibid. c. 2.

13, 14 Car. II.

A.D. 1661.

Upon the day appointed, all that are to be then confirmed, being placed, and standing in order before the Bishop; he (or some other Minister appointed by him) shall read this Preface following.

None shall be Confirm'd, but who can say the Catechism,

TO the end that Confirmation may be ministred to the more edifying of such as shall receive it, the Church hath thought good to order, That none



Reasons why none ought to be Confirmed, but who can say the Catechism.

none hereafter shall be Confirmed, but such as can say the Creed, the Lord's Prayer, and the Ten Commandments; and can also answer to such other questions, as in the short Catechism are contained: Which Order is very convenient to be observed, to the end, that Children being now come to the years of Discretion, and having learned what their Godfathers and Godmothers promised for them in Baptism, they may themselves with their own Mouth and Consent, openly before the Church, ratifie and confirm the same; and also promise that by the grace of God they will evermore endeavour themselves faithfully to observe such things as they by their own confession have assented unto.

Abridgment.

—and so are able to consent to what their Sureties did.

C A P. IV.

Confirmation necessary before COMMUNION.

JOHANNES PECCHAM.

Nullus, extra articulum mortis, ad Eucharistiam suscipiatur, nisi fuerit confirmatus, aut legitime, impeditus.

A.D. 1281. 9 Edw. I.

Edit. Oxon. p. 40.

Confirmation necessary before Communion.

A.D. 1548. &c.

A.D. 1661.

Confirmationis, & infra. Contra negligentes Confirmationis suscipere Sacramentum, statuimus, quod nullus ad Sacramentum Corporis & Sanguinis Domini admittatur, extra articulum, nisi fuerit Confirmatus, vel nisi a receptione Confirmationis rationabiliter fuerit impeditus.

None shall be admitted to the Communion, who have neglected to be Confirmed.

2 & 5 Edw. VI. --- 13, 14 Car. II.

And there shall none be admitted to the holy Communion, until such time as he be Confirmed, or be ready and desirous to be Confirmed.

<sup>1</sup> As he can say the Catechism, and be confirmed, 5 E. 6. <sup>2</sup> Not in 2 nor 5 E. 6.

Persons not Confirmed, may not be admitted to the Communion,

13, 14 Car. II.

Rubrick at the end of Baptism of those of Riper Years.

It is expedient that every Person thus Baptized should be confirmed by the Bishop so soon after his Baptism as conveniently may be; that so he may be admitted to the holy Communion.

Persons Baptized shall be Confirmed, --- in order to Communion.

C A P. V.

The CONFIRMATION.

2 & 5 Edw. VI.

Title to the Office of Confirmation.

Confirmation, wherein is contained a Catechisme for Children.

[Contained.] The Catechism, as hath Confirmation, as part of it, in the two been said, was included in the Office of Books of King Edward VI.

The Confirmation.

A.D. 1661.

13, 14 Car. II.

The Order of Confirmation, or laying on of Hands, upon those that are Baptized, and come to m years of Discretion.

[m Years of Discretion.] See the Constitution of Archbishop Walter in Cap. 2. of this Title, and Lyndwood's Gloss upon 6 A 2 & 5



Abridgment.

Minister shall give the Bishop the names of such as are fit to be Confirmed.

2, & 5 Edw. VI.-----13, 14 Car. II.

The Confirmation.

A.D. 1548. &c.

And whensoever the Bishop shall give knowledge for Children to be brought unto him for their Confirmation, the Curate of every Parish shall either bring, or send in Writing, with his Hand subscribed thereunto, the names of all such persons within his Parish, as he shall think fit to be presented to the Bishop to be confirmed. And if the Bishop approve of them, he shall confirm them

<sup>1</sup> Before him, 2 & 5 E. 6. <sup>2</sup> Then shall the, 2 & 5 E. 6. <sup>3</sup> Not in 2 nor 5 E. 6. <sup>4</sup> All those Children of his Parish; 2 & 5 E. 6. <sup>5</sup> Which can say the Articles of their Faith, the Lord's Prayer, and the ten Commandments; and also how many of them can answer to the other Questions contained in the Catechism.

2 Edw. VI.

A.D. 1548.

Signe them (O Lorde) and marke them to be thine for ever, by the virtue of thy holy Crosse, and Passion. Confirm and strength them with the inwarde uncion of thy holy Goste, mercifully unto everlasting lyfe. Amen.

O B S.

2 Edw. VI.

A.D. 1548.

Cross in Confirmation.

Then the Bishop shall crosse them in the Forehead, and laye his hand upon their Heade, Saying,

O B S.

Prayer before Confirmation.

N. I sign thee with the sign of the Crosse, and laye my hande upon thee. In the name of the Father, and of the Sonne, and of the holy Gost. Amen.

And thus shall he doe to every Childe one after another. And whan he hath layed hys hande upon every childe, then shall he say,  
The Peace of the Lorde abyde with you.

Answer.  
And with thy Spirite.

[NB. The Prayer, O Almighty Lord, &c. is not in 2 nor 5 Edward VI.]

5 Edw. VI.-----13, 14 Car. II.

A.D. 1551.

Laying on of hands in Confirmation.

Then all of them in order kneeling before the Bishop, he shall lay his hand upon the Head of every one severally, saying,

Defend, O Lord, this thy Child [or; this thy Servant] with thy heavenly Grace, that he may continue thine for ever, and daily increase in thy holy Spirit more and more, until he come unto thy everlasting Kingdom. Amen.

Then shall the Bishop say, The Lord be with you.

Answer.  
And with thy Spirit.

<sup>1</sup> Not in 5 E. 6. <sup>2</sup> The Bishop shall lay his hand upon every child severally, 5 E. 6. <sup>3</sup> Not in 5 E. 6. <sup>4</sup> Not in 5 E. 6.

CAP.



C A P. VI.

Confirmation may not be REPEATED.

W A L T E R U S.

Caveant Parentes, ne liberos iterum confirmari patiantur ; cum per hoc masculi Irregularitatem, & ipsi parentes grave incurrant damnum.

Sacerdotes, & infra. Caveant diligenter parentes, ne parvulos suos proferrant iteratò confirmandos : cum & ipsi parvuli per ipsum Sacramentum iteratum efficiantur Irregulares, si masculi fuerint, & ipsi parentes, ex tali negligentia, gravi secundum Canones subiaceant ultioni.

n Irregulares.] Scil. quoad promotionem ad Ordines vel Beneficia. Lyndw. vulos suos faciunt reconfirmari, in specie non inveni. Lyndw.—Videtur panam arbitrariam fore imponendam. Ibid.

o Secundum Canones.] Quam panam limitatam infligant Canones Parentibus qui par-

Children shall not be Confirmed twice.

A.D. 1322.  
16 Edw. 2.

Edit. Oxon.  
P. 40.

Confirmation may not be repeated.

TIT.



## TIT. XX.

The SACRAMENT of the LORD'S  
SUPPER.

## The CONTENTS.

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- CAP. VII. *The COMMUNION-TABLE, and the PLACING of the Communicant.*
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- CAP. IX. *The Elements of BREAD and WINE, with the PATEN, and CHALICE*
- CAP. X. *Of TRANSUBSTANTIATION, and ELEVATION.*
- CAP. XI. *KNEELING at the Holy Sacrament.*
- CAP. XII. *The Holy Sacrament in BOTH KINDS*
- CAP. XIII. *The Order and Manner of ADMINISTERING the Holy Sacrament.*
- CAP. XIV. *Communion in CATHEDRALS, and COLLEGIATE Churches, and in COLLEGES.*

## CAP. I.

*The SACRAMENT of the LORDS SUPPER in general.*

i Edw. VI. Cap. i.

*An Act against such as shall unreverently speak against the Sacrament of the Altar, and of the receiving thereof under both kinds.*

The King desires to govern by clemency and mercy,



WE Kings most excellent Majesty minding the Governace and Order of his most loving Subjects to be in most perfect unity and concord in all things, and in especial in the true Faith and Religion of God, and wishing the same to be brought to pass with all clemency and mercy on

*The Sacrament of the Lords Supper in general.*

his



The Sacra-  
ment of the  
Lords Sup-  
per in ge-  
neral.

his Highness part towards them, as his most Princely Serenity and Majesty hath already declared by evident proof; to the intent that his most loving Subjects provoked by the clemency and goodness of their Prince and King, shall study rather for love than for fear to do their duties, first to Almighty God, and then to his Highness, and to the Commonwealth, nourishing concord and love amongst themselves: yet considereth and perceiveth that in a multitude all be not on that sort, that reason and the knowledge of their duties, can move them from offence; but many had need have some byde of fear, and that the same be Men most contentions and arrogant for the most part, or else most blind and ignorant: by the means of which sort of Men, many things well and godly instituted, and to the edification of many, be perverted and abused, and turned to their own and others great loss and hinderance, and sometimes to extreme destruction: the which doth appear in nothing more, or sooner, then in matters of Religion, and in the great and high Mysteries thereof, as in the most comfortable Sacrament of the Body and Blood of our Saviour Jesus Christ, commonly called the Sacrament of the Altar, and in Scripture, the Supper and Table of the Lord, the Communion and partaking of the Body and Blood of Christ: which Sacrament was instituted of no less Authour then of our Saviour, both God and man, when at his last Supper amongst his Apostles, he did take the Bread in his holy hands, and did say, Take you and eat, this is my Body, which is given and broken for you. And taking up the Chalice or Cup, did give thanks and say, This is my Blood of the New Testament, which is shed for you, and for many, for the Remission of Sins, that whensoever we should do the same, we should do it in remembrance of him, and to declare and set forth his death and most glorious passion, until his coming. Of the which Bread whosoever eateth, or of the which Cup whosoever drinketh unworthily, eateth and drinketh condemnation and judgment to himself, making no difference of the Lords Body. The institution of which Sacrament being ordained by Christ, as is before said, and the said words spoken of it here before rehearsed, being of eternal, infallible and undoubted truth: yet the said Sacrament (all this notwithstanding) hath been of late marvellously abused by such manner of Men before rehearsed, who of wickedness, or else of ignorance and want of learning, for certain abuses heretofore committed of some, in misusing thereof, have condemned in their hearts and speech the whole thing, and contemptuously depraed, despised or reviled the same most holy and blessed Sacrament, and not only disputed and reasoned irreverently and ungodly of that most high Mystery, but also in their Sermons, Preachings, Readings, Lectures, Communications, Arguments, Talks, Rhimes, Songs, Plays, or Jestes, name, or call it by such vile and unseemly words, as Christian ears do abhor to hear rehearsed: for reformation whereof, Be it enacted by the Kings Highness, with the assent of the Lords Spiritual and Temporal, and of the Commons in this present Parliament assembled, and by the authority of the same, That whatsoever person or persons, from and after the first day of May next coming, shall depraed, despise, or contemn the said most blessed Sacrament, in contempt thereof, by any contemptuous words, or by any words of depraing, despising or reviling: or what person or persons shall advisedly in any otherwise contemn, despise or revile the said most blessed Sacrament, contrary to the effects and declaration abovesaid, that then he or they shall suffer imprisonment of his or their bodies, and make fine and ransom at the Kings will and pleasure. And for full and effectual execution of the premises before devised, ordained and enacted by this Act, Be it furthermore enacted by the authority of this present Parliament, That immediately after the first day of May next coming, the Justices of Peace, or three of them at the least, whereof one of them to be of the Quorum, in every Shire of this Realm, and Wales, and all other places within the Kings Dominions, shall have full power and authority, by vertue of this Act, as well to take information and accusation by the Oaths and Depositions of two able, honest and lawful persons at the least, and after such accusation, or information so had, to enquire by the Oaths of xij. Men, in every their four quarter Sessions yearly to be holden, of all and singular such accusations or informations to be had, or made of any of the offences abovesaid, to be committed or done, after the said first day of May, within the limits of their Commission: And that upon every such accusation and information, the offender and offenders shall be enquired of, and indicted before the said Justices of Peace, or three of them at the least, as is aforesaid, of the said contempts and offences, by the verdict of twelve honest and indifferent Men, if the matter of the said accusation and information shall seem to the said Jury good and true.

II. And it is also further enacted by the authority aforesaid, That the said Justices of Peace, or three of them at the least, as is aforesaid, before whom any such pre-

Abridgment.

---but some Rigour  
is necessary to re-  
strain the present  
Abuses,

---particularly con-  
cerning the Blessed  
Sacrament, insti-  
tuted by Christ.

— and yet con-  
demn'd, and re-  
viled by many, in  
their Preachings,  
and Discourse.

Enacted, that,  
— any Person de-  
praing or contem-  
ning the Blessed  
Sacrament, shall  
be imprisoned, and  
make fine, at the  
King's will,

— of which the  
Justices of Peace  
shall take informa-  
tion,

---and shall enquire  
by the Oaths of 12  
Men, at the Quar-  
ter-Sessions,  
--- and may bind  
all who have



## Abridgment.

knowledge of the Offences, to be present at the Trial,

--- and may also make process by Capias,

--- and determine the offences,

--- and let to bail at discretion:

Provided the said Justices award a Writ to the Bishop, to be present.

The Form of the Writ.

All Offences shall be presented within three months,

--- and the offenders shall be admitted to purge their Innocency.

The Receiving in both kinds being most agreeable to the Institution and primitive Practice,

--- the Sacrament shall be ministered, in both kinds,

--- and the People exhorted to prepare themselves,

sentiment, information and accusation shall be made or taken, as is aforesaid, shall examine the Accusers what other Witnesses were by and present at the time of the doing and committing of the offence, whereof the information, accusation and presentment shall be made, and how many others then the accusers have knowledge thereof, and shall have power and authority by their discretions, to bind by recognisance to be taken before them, as well the said accusers, as all such other persons whom the said accusers shall declare to have knowledge of the offences by them presented and informed, every of them in five pounds to the King, to appear before the said Justices of Peace before whom the offender or offenders shall be tried, at the day of trial and deliverance of such offenders.

III. And it is also further enacted by the authority aforesaid, that the said Justices of the Peace, or three of them at the least, as is abovesaid, by virtue of this Act, shall have full power and authority to make process against every person and persons so indicted, by two Capias, and an exigent, and by Capias ut legatum, as well within the limits of their commission, as into all other shires and places of this Realm, Wales, and other the Kings Dominions, as well within liberties as without, and the same process to be good and effectual in the law to all intents, constructions and purposes: and upon the appearance of any of the offenders, shall have full power and authority by virtue of this Act, and the commission of Peace, to determine the contempts and offences aforesaid, according to the laws of this Realm, and effects of this Act: and that the said Justices of Peace, or three of them at the least, as is abovesaid, shall have full power and authority to let any such person or persons so indicted, upon sufficient sureties, by their discretions, to bayl for their appearance, to be tried, according to the tenor, form and effect of this Act.

IV. Provided always, and be it enacted, that the said Justices of Peace, or three of them at the least, at their Quarter Sessions, where any offender or offenders shall be or stand indicted of any of the contempts or offences abovesaid, shall direct and award one Writ in the Kings name to the Bishop of the Diocese wherein the said offence or offences are supposed to be committed or done, willing and requiring the said Bishop to be in his own person, or by his Chancellor, or other his sufficient deputy, learned, at the Quarter Sessions in the said County to be holden, when and where the said offender shall be arraigned and tried; appointing to them in the said writ the day and place of the said arraignment, which writ shall be of this form: Rex, &c. Episcopo L salutem. Præcipimus tibi, quod tu, Cancellarius tuus, vel alius deputat' tuus sufficienter eruditus, sitis cum Justic' nostris ad pacem in com' nostro. B. conservand' assignat' apud D. tali die, ad sessionem nostram, ad tunc & ibm. tenend'. ad dand' consilium & advisament' eidem Justiciariis nostris ad pacem, super arraignment' & deliberationem offendent' contra form' statuti, concernen' sacrosanct' Sacramentum Altaris.

V. Provided always, and be it enacted by the authority abovesaid, that no person or persons shall be indicted of any of the contempts or offences abovesaid, but only of such contempts or offences as shall be informed or presented within thre months next after the said offences or offence so committed or done.

VI. And be it further enacted by the authority aforesaid, that in all trials, for any such offenders before the said Justices, as is aforesaid, the person or persons being complained on and arraigned, shall be admitted to purge or try his or their innocency, by as many, or more witnesses in number, and of as good honesty and credence, as the witnesses be which deposed against him or them, or any of them.

VII. And forasmuch as it is more agreeable, both to the first institution of the said Sacrament of the most precious body and blood of our Saviour Jesus Christ, and also more conformable to the common use and practice both of the Apostles, and of the Primitive Church, by the space of 500. years and more after Christs ascension, that the blessed Sacrament should be ministered to all Christian people under both the kinds of bread and wine, then under the form of bread only: and also it is more agreeable to the first institution of Christ, and to the usage of the Apostles, and the Primitive Church, that the people being present should receive the same with the Priest, then that the Priest should receive it alone: therefore be it enacted by our Sovereign Lord the King, with the consent of the Lords. Spiritual and Temporal, and the Commons in this present Parliament assembled, and by the authority of the same, that the said most blessed Sacrament be hereafter commonly delivered and ministered unto the people within this Church of England and Ireland, and other the Kings Dominions under both the kinds, that is to say, of bread and wine, except necessity otherwise require: and also that the Priest which shall minister the same, shall, at the least one day before, exhort all persons which shall be present, likewise to resort, and prepare themselves to receive the same. And when the day prefixed cometh, after a godly exhortation by the

The Sacrament of the Lord's Supper, in general.



The Sacrament of the Lord's Supper, in general.

by the Minister made (wherein shall be further expressed the benefit and comfort promised to them which worthily receive the holy Sacrament, and danger and indignation of God threatened to them which shall presume to receive the same unworthily, to the end that every man may try and examine his own conscience before he shall receive the same) the said Minister shall not without a lawful cause deny the same to any person that will devoutly and humbly desire it: any law, statute, ordinance or custom contrary therunto in any wise notwithstanding: not condemning hereby the usage of any Church out of the Kings Majestyes Dominions.

Abridgment.

--- and none shall be deny'd, without lawful Cause.

A.D. 1553.

1 Mar. (Sess. 2.) Cap. 2.

In an Act, Entituled, *An Act for the Repeal of certain Statutes made in the time of the Reign of K. Edw. VI.*

As much as by divers and several Acts hereafter mentioned, as well the divine service and good administration of the Sacraments, as divers other matters of Religion, (which we and our forefathers found in the Church of England, to us left by authority of the Catholick Church) be partly altered and in some part taken from us, and in place thereof new things imagined and set forth by the said Acts, such as a few of singularity have of themselves devised, whereof hath ensued amongst us in very short time numbers of divers and strange opinions and diversity of sects, and thereby grown great unquietness and much discord, to the great disturbance of the Common wealth of this Realm, and in very short time like to grow to extreme peril and utter confusion of the same, unless some remedy be in that behalf provided, which thing all true loving and obedient Subjects ought, and are bounden to foresee and prevent to the uttermost of their power.

Mischief of altering the Laws concerning the Sacrament, &c.

II. In consideration whereof, be it enacted and established by the Queens highness, the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, and by the authority of the same, that an Act made in the Parliament begun at Westminster the fourth day of November, in the first year of the Reign of the late King Edward the first, and from thence continued to the 24. day of December then next ensuing, that is to say, in the first Session of the same Parliament, Intituled, *An Act against such person as should unreverently speak against the Sacrament of the body and blood of Christ, commonly called the Sacrament of the Altar, and for the receiving thereof in both kinds*----- shall be from henceforth utterly repealed, void, and annihilate, and of none effect.

--- and Repeal of the foregoing Statute 1. E. 6.

A.D. 1558.

1 Eliz. Cap. 1.

In an Act, Entituled, *An Act to restore to the Crown the ancient Jurisdiction over the State Ecclesiastical, &c.*

XIV. And that it may also please your Highness, that it may be further enacted by the authority aforesaid, That one Act and Statute made in the first year of the reign of the late King Edward the sixth, your Majestyes most dear Brother, intituled, *An Act against such Persons as shall unreverently speak against the Sacrament of the Body and Blood of Christ, commonly called the Sacrament of the Altar, and for receiving thereof under both kinds, and all and every branches, clauses, and sentences therein contained, shall and may likewise from the last day of this Session of Parliament, be revived, and from thenceforth shall and may stand, remain, and be in full force, strength and effect, to all intents, constructions and purposes, in such like manner and form, as the same was at any time in the first year of the reign of the said late King Edward the sixth; any Law, Statute, or other matter to the contrary in any wise notwithstanding.*

Revival of the Stat. 1. Ed. 6. c. 1.

A.D. 1603.

1 Jac. I. Cap. 25.

In an Act, Entituled, *An Act for the Continuance of several former Statutes, and Repeal of others.*

XLVIII. And be it further Enacted, by the authority of this present Parliament, That an Act made in the first year of the Reign of Queen Mary, Entituled, *An Act for the Repeal of certain Statutes made in the time of the Reign of King Edward VI.* shall stand repealed and void.

Repeal of Stat. 1 Mar. (Sess. 2.) c. 2.



Abridgment.

JOHANNES PECCHAM.

*Eucharistia in Tabernaculo clauso, idque in Pyxide decenti, ne atteratur, custodiatur, & singulis Dominicis innovetur.*

The Sacrament of the Lord's Supper, in general.

A.D. 1281.

9 Edw. I.

Edit. Oxon.

p. 247.

O B S.

The Eucharist shall be shut up,

...and not put in bag or chest, but in a neat Pyx,

...and changed every Sunday.

**D**ignissimum Eucharistiæ Sacramentum, Præcipimus de cætero taliter custodiri, ut in qualibet Ecclesia Parochiali fiat Tabernaculum, cum clausura decens & honestum, secundum Curæ magnitudinem & Ecclesiæ facultates, in quo ipsum Dominicum corpus non in burfæ vel loculo propter comminationis periculum nullatenus collocetur, sed in a Pyxide pulcherrima lino candidissimo interius adornata; ita quod sine omni diminutionis periculo facile possit extrahi & imponi. Quod quidem venerabile Sacramentum omni die Dominica præcipimus innovari. Sacerdotes autem in custodia Eucharistiæ negligentes puniri Præcipimus, secundum regulam b Concilii generalis; & gravius, si in negligentia perseverent.

a Pyxide.] Sic ergo Tabernaculum & Pyxis non supponunt pro eodem, quia Pyxis poni debet in Tabernaculo. Lyndw.

Extra. de Cult. Euch. c. 1.

b Concilii Generalis.] Lateran' sub Innoc. 3. c. 20. — Si verò is, ad quem spectat Cu-

stodia, ea incaute reliquerit, tribus mensibus ab officio suspendatur; & si per ejus incuriam aliquid nefandum inde contigerit, graviori subiaceat ultioni.

39 ARTICLES.

A.D. 1532.

xxviii. Of the Lord's Supper.

The Lord's Supper is not only a Sign of Love, but a Sacrament of our Redemption.

**T**HE Supper of the Lord is not only a Sign of the Love that Christians ought to have among themselves one to another: But rather it is a Sacrament of our Redemption by Christ's Death: Insomuch that to such as rightly, worthily, and with Faith receive the same, the Bread which we break, is a partaking of the Body of Christ: And likewise the Cup of Blessing, is a partaking of the Blood of Christ.

xxix. Of the Wicked, which eat not the Body of Christ, in the use of the Lord's Supper.

The Wicked are not Partakers of Christ in the Sacrament.

**T**HE Wicked, and such as be void of a lively Faith, although they do carnally and visibly press with their Teeth (as St. Augustine saith) the Sacrament of the Body and Blood of Christ: Yet in no wise are they Partakers of Christ, but rather, to their Condemnation, do eat and drink the Sign or Sacrament of so great a thing.

c The Wicked.] This Article was not in the Book of Edward VI.

CAP.



Abridgment.

C A P. II.

WARNING before the Administration of the Holy Sacrament

A.D. 1547.

1 Edw. VI. Cap. 1.

In an Act, Entituled, *An Act against such as shall irreverently speak against the Holy Sacrament, &c.*

Warning before Administration of the Sacrament

§. VII.— **A**ND also that the Priest which shall minister the same, shall, at least one day before, exhort all persons which shall be present, likewise to resort and prepare themselves to receive the same. And when the day prefixed cometh, after a godly exhortation by the Minister made; wherein shall be further expressed the Benefit and Comfort promised to them which worthily receive the holy Sacrament, and danger and indignation of God threated to them which shall presume to receive the same unworthily; to the end that every man may try and examine his own Conscience, before he shall receive the same.—

Exhortation shall be given before, and at, the Communion.

1 Jac. I.

C A N O N S 1603.

xxii. Warning to be given beforehand for the Communion.

**W**HEREAS every Lay Person is bound to receive the holy Communion thrice every Year, and many notwithstanding do not receive that Sacrament once in a Year: We do require every Minister to give warning to his Parishioners publickly in the Church at Morning Prayer, the Sunday before every time of his administering that holy Sacrament, for their better preparation of themselves: Which said warning we enjoyn the said Parishioners to accept and obey, under the penalty and danger of the Law.

Lay-persons are bound to communicate thrice a year, —and the Minister shall give warning the Sunday before; which the Parishioners shall obey.

Can. 1571. p. 232.

*d To accept and obey.]* Quisvis Rector quam fœminarum; eorum, inquam, qui cum Ecclesiæ, Vicarius, aut Parochus, quotannis ante exegerint annum ætatis suæ decimum quartum, viceſimum diem à Paschate, exhibebit Episcopo, tamen ad Sacrosanctam Communionem (uti Statutis & Legibus Ecclesiasticis hujus Regni tenentur) non accesserint.

A.D. 1548.

2 & 5 Edw. VI.

So many as entende to be Partakers of the holy Communion, shall signifye their Names to the Curate over Nyghte, or else in the Morninge, afore the begynning of *1 Morning Prayer*, or immediately after.

Communicants shall signify their names, over night, or in the morning.

A.D. 1661.

13, 14 Car. II.

So many as intend to be Partakers of the holy Communion, shall signifye their names to the Curate at least sometime the day before.

Communicants shall signify their names, the day before.



Abridgment.

## C A P. III.

*Causes of NOT-ADMITTING to the Holy Sacrament.*

I Edw. VI. Cap. I.

A.D. 1547.

In an Act, Entituled, *An Act against those that shall unreverently speak against the Holy Sacrament, &c.*

The Sacrament shall not be denied without a lawful Cause.

§. VII. **T**H E said Minister shall not, without a lawful cause, deny the same to any person that will devoutly and humbly desire it: any Law, Statute, Ordinance or Custom contrary therunto in any wise notwithstanding.

*Causes of Not-Admitting to Sacrament*

Sider f.p. 14.

*e Deny.*] In the 13 Car. II. an Action upon the Case was brought against a Minister for refusing the Sacrament to another, and the Jury found for the Plaintiff, and gave damages. And it was moved, in arrest of Judgment, among other things, That the Party had not set forth in his Declaration, that he gave notice according to the Statute; nor that he was a Parishioner of that Parish; without which the Minister might not admit him, by the Laws of the Church. But these Points appear not to have come under consideration; because another exception was of it self adjudged to be Fatal, viz. that the Plaintiff declared for Non-administring two Sundays, and had not set forth that in the second instance he desired the Minister to do it; and yet entire Damages had been given for both.

## JOHANNES PECCHAM.

A.D. 1281.  
9 Edw. I.

In Const. De Celebratione Missarum, c. Altissimus.

Priests shall not give the Sacrament to any, but who have been Confessed.

— Parochiales insuper Sacerdotes caveant diligenter, ne alicui dent corpus Domini, nisi prius constet eis ipsum confessum fuisse Testimonio vel Judicio fide digno. Et hujusmodi Certificationis onus ipsius f susceptoris imponimus ff Sacramento, qui habet ea quæ salutis suæ sunt necessaria procurare.

Edit. Oxon.  
p. 232.  
O B S.

*f Susceptoris.*] *Id est, suscipere volentis corpus Christi.* | *ff Sacramento.*] *Id est, Juramento.*

## JOHANNES PECCHAM.

A.D. 1281.  
9 Edw. I.

*Nullus extra articulum mortis ad Eucharistiam suscipiatur, nisi fuerit Confirmatus aut legitime impeditus.*

The Sacrament shall not be given to Persons not Confirmed.

**C**ONfirmationis, & *infra*. Contra negligentes Confirmationis suscipere sacramentum statuimus, quod nullus ad sacramentum corporis & sanguinis Domini admittatur, extra articulum mortis, nisi fuerit confirmatus, vel nisi à receptione Confirmationis rationabiliter fuerit impeditus.

Edit. Oxon.  
p. 40.

## JOHANNES PECCHAM.

A.D. 1281.  
9 Edw. I.

Summarium de se patet.

No Priest shall give the Sacrament to one of another Parish, unless a Traveller, &c.

**A**Ltissimus de terrâ, & *infra*. Nullus Communionem præbeat Parochiano alterius Sacerdotis, sine ipsius licentiâ manifestâ. Quam Ordinationem non intendimus ad g peregrinantes extendere, nec necessitatis casui derogare.

Edit. Oxon.  
p. 184.  
V. *infra*. p. 438.  
Can. 25.

*g Peregrinantes.*] *Viatores namque cujuslibet Ecclesie Parochiani existunt.* Lyndw.

JOHANNES



*Causes of  
Not-Ad-  
mitting to  
Sacrament*

A.D. 1281.  
9 Edw. I.  
Edit. Oxon.  
p. 233.

## JOHANNES PECCHAM.

In Const. *Altissimus & infra.*

Nullus etiã sacram Communionem præbeat Parochiano alterius Sacerdotis, sine ipsius licentiã manifestã. Quam Ordinationem non intendimus ad peregrinantes extendere, vel gg periclitantes, nec necessitatis casui derogare.

gg Periclitantes.] i. e. In periculo mortis constitutos. Lyndw.

2 & 5 Edw. VI.-----13, 14 Car. II.

And there shall none be admitted to the holy Communion, until such time as he be confirmed<sup>1</sup>,<sup>2</sup> or be ready and desirous to be confirmed.

<sup>1</sup> As he can say the Catechism, and be Confirmed, 5 E. 6. <sup>2</sup> Not in 2 E. 6.

2 & 5 Edw. VI.-----13, 14 Car. II.

And if any of those be an open and evil notorious Liver, or have done any wrong to his neighbours by word or deed, so that the Congregation be thereby offended<sup>1</sup>; the Curate<sup>2</sup> having knowledge thereof shall call him and advertise him, that in any wise he presume not to come to the Lords Table, until he hath openly declared himself to have truly repented and amended his former naughty life, that the Congregation may thereby be satisfied, which before were offended; and that he hath recompensed the parties to whom he hath done wrong, or at least<sup>3</sup> declare himself to be in full<sup>4</sup> purpose so to do, as soon as he conveniently may.

The same order shall the Curate use with those betwixt whom he perceiveth malice and hatred to reign; not suffering them to be Partakers of the Lord's Table, until he know them to be reconciled. And if one of the Parties so at variance, be content to forgive from the bottom of his heart all that the other hath trespassed against him, and to make amends for that he himself hath offended; and the other Party will not be perswaded to a godly unity, but remain still in his frowardness and malice: the Minister in that case ought to admit the penitent Person to the holy Communion, and not him that is obstinate. Provided that every Minister so repelling any, as is specified in this, or the next precedent Paragraph of this Rubrick, shall be obliged to give an account of the same to the Ordinary within fourteen days after at farthest. And the Ordinary shall proceed against the offending Person according to the Canon.

<sup>1</sup> So that the Congregation by hym is offended, or have doen any wrong to his Neighbours, by worde or dede, 2 & 5 E. 6. <sup>2</sup> Not in 2 E. 6. <sup>3</sup> In any wise not to presume to the Lordes Table, 2 & 5 E. 6. <sup>4</sup> Be in full, 2 & 5 E. 6. <sup>5</sup> What follows is not in 2 nor 5 E. 6.

## EDMUNDUS.

*Prælati Ecclesiarum ad concordiam subditorum, ut in Christo unum sint, sum-  
mopere intendant.*

Magna nobis, & *infra.* Districtè præcipimus, quatenus rectores, & vicarii, ac alii Ecclesiarum curati, pacem (quantum in eis est) cum omnibus habentes, parochianos suos moneant, ut in unitate fidei & pacis vinculo unum corpus sint in Christo, inimicitias, si exortæ fuerint in suis parochiis, diligenter sedantes; amicitias copulantes; discordantes ad concordiam revocantes; quantum in eis est non permittentes quòd sol occidat super iracundiam parochianorum suorum.

5, 6 Edw. VI.-----13, 14 Car. II.

*In the Form of Ordaining Priests.*

WILL you maintain and set forwards, as much as lieth in you, Quietness, Peace and Love, among all Christian People, and especially among them that are or shall be committed to your charge?

Answer

Abridgment.

No Priest shall give the Sacrament to one of another Parish, unless in extreme danger, &c.

None shall receive the Communion, till he be Confirmed.

All Evil Livers shall be admonished by the Minister,

--- not to come to the Lord's Table, till they declare their Repentance, --- and make Reparation to the injured.

Persons in malice shall also be first reconciled, --- and one being willing, and the other not, the Penitent shall be admitted.

Minister refusing the Communion, shall certify the Ordinary in 14 days, --- who shall proceed against the Offender.

Parish Priests shall endeavour to preserve Peace among Neighbours,

--- and to compose differences.

Ministers at their Ordination, promise to promote Peace.

A.D. 1548.  
&c.  
v. supr. p. 466.

A.D. 1548.  
&c.

A.D. 1236.  
21 H. 3:

Edit. Oxon.  
p. 71.

A.D. 1551.  
&c.



Abridgment.

Answer.

I will so do, the Lord being my Helper.

## C A N O N S, 1603.

xxvi. *Notorious Offenders not to be admitted to the Communion.*

Communion shall be refused,

— to notorious Sinners,  
— to Persons in malice,  
— to Churchwardens who refuse to make Presentment according to their Oaths,

— when urged to it by their Neighbours, or the Minister.

**N**O Minister shall in any wise admit to the receiving of the holy Communion, any of his Cure or Flock which be openly known to live in Sin notorious without Repentance, nor any who have maliciously and openly contended with their Neighbours, until they are reconciled: Nor any Churchwardens or Side-men, who having taken their Oaths to present to their Ordinaries all such Publick Offences as they are particularly charged to enquire of in their several Parishes, shall (notwithstanding their said Oaths, and that their faithful discharging of them is the chief means whereby Publick Sins and Offences may be reformed and punished) wittingly and willingly, desperately and irreligiously, incur the horrible Crime of Perjury, either in neglecting or in refusing to present such of the said Enormities and Publick Offences, as they know, themselves, to be committed in their said Parishes, or are notoriously offensive to the Congregation there; although they be urged by some of their Neighbours, or by their Minister, or by their Ordinary himself, to discharge their Consciences by presenting of them, and not to incur so desperately the said horrible Sin of Perjury.

## C A N O N S 1603.

cix. *Notorious Crimes and Scandal to be certified into Ecclesiastical Courts by Presentment.*

Notorious Offenders, who shall not be admitted to Communion, until they be reformed.

**I**F any offend their Brethren, either by Adultery, Whoredom, Incest, or Drunkenness, or by Swearing, Ribaldry, Usury, or any other uncleanness and wickedness of Life—such notorious Offenders shall not be admitted to the Holy Communion, till they be reformed.

## C A N O N S 1603.

xxvii. *Schismatics not to be admitted to the Communion.*

Communion shall be denied, to all  
— who do not kneel,  
— who will not be present at Prayers,  
— who are depravers of Common Prayer,  
— or of the 39 Articles,  
— or of the Form of Consecration, and Ordination,  
— or of the Supremacy;  
— except the Party declare his Repentance.

Refusal shall be signified to the Ordinary.

**N**O Minister, when he celebrateth the Communion, shall wittingly administer the same to any but to such as kneel, under pain of Suspension; nor under the like pain to any that refuse to be present at Publick Prayers, according to the Orders of the Church of *England*; nor to any that are common and notorious Depravers of the Book of Common-Prayer, and Administration of the Sacraments, and of the Orders, Rites, and Ceremonies therein prescribed; or of any thing that is contained in any of the Articles agreed upon in the Convocation, One thousand five hundred sixty and two; or of any thing contained in the Book of ordering Priests and Bishops; or to any that have spoken against and depraved His Majesty's Sovereign Authority in Causes Ecclesiastical; Except every such Person shall first acknowledge to the Minister, before the Church-wardens, his repentance for the same, and promise by word (if he cannot write) that he will do so no more; and except (if he can write) he shall first do the same under his Hand-writing, to be delivered to the Minister, and by him sent to the Bishop of the Diocese, or Ordinary of the Place. Provided, That every Minister so repelling any (as is specified either in this or in the next precedent Constitution) shall upon complaint, or being required by the Ordinary, signify the cause thereof unto him, and therein obey his Order and Direction.

xxviii. *Strangers not to be admitted to the Communion.*

All Persons shall Communicate, as oft as the Law requires,

**T**HE Church-wardens or Quest-men, and their Assistants, shall mark as well as the Minister, whether all and every of the Parishioners come so often every Year to the holy Communion, as the Laws and our Constitutions do require:

Causes of Not-Admitting to Sacrament

I Jac. I.

I Jac. I.

I Jac. I.

Vid. *supr.* Cont. Peccham, p. 466. *Alif.*



Causes of Not-Admitting to Sacrament  
Can. 1571. p. 232.

quire: And whether any Strangers come often and commonly from other Parishes to their Church, and shall shew their Minister of them, lest perhaps they be admitted to the Lord's Table amongst others, which they shall forbid, and remit such home to their own Parish-Churches and Ministers, there to receive the Communion with the rest of their own Neighbours.

Abridgment.  
---and at their own Parish-Church.

C A P. IV.

At what TIMES, and how OFTEN, Parishioners ought to Communicate.

SIMON SUDBURY.

Confessiones, & Eucharistiae Sacramentum, ter in anno celebrentur: Et de poena illius, qui semel in anno non fuerit Confessus, nec ad Pascha Eucharistiam perceperit.

Confessiones ter in anno audiantur, ter Communicari moneantur, videlicet, in Paschâ, in Pentecoste, & Natali Domini: prius tamen præparent se per aliquam abstinentiam, de consilio Sacerdotis faciendam. Quicumque verò semel in anno ad minus proprio confessus non fuerit Sacerdoti, & ad minus ad Pascha Sacramentum Eucharistiae non perceperit, nisi de consilio Sacerdotis duxerit abstinentium, & vivens ab ingressu Ecclesiae arceatur, & mortuus Christianâ careat sepulturâ; & hoc frequenter in Ecclesiis publicetur.

Communion ought to be received 3 times a year, ---and they who receive not at Easter, shall be suspended ab ingr. Eccl. and not have Christian Burial.

A.D. 1378.  
2 Ric. 2.

At what Times, and how often, Parishioners ought to Communicate.

A.D. 1548.

2 Edw. VI.

Furthermore every Man and Woman to be bound to heare and be at the Divine Service in the Parishes Church where they be resident, and there with Devout Prayer, or Godlye Silence and Meditation, to occupy themselves. There to pay their Dueties, to communicate once in the Yeare at the least, and there to receive, and take all other Sacramentes and Rites, in this Booke appoynted.

Every Parishioner shall communicate once a year at the least.

A.D. 1548.  
&c.

2, & 5 Edw. VI. --- 13, 14 Car. II.

AND note, that every Parishioner shall communicate at the least \* three times in the Year, of which Easter to be one. †

Every Parishioner shall communicate thrice a year.

† And shal also receive the Sacramentes, and other Ryles, according to the Order in this Book appointed. And --- 5 E. 6.

\* Three times. Reverenter etiam præparatus quisque adeat Sacram Eucharistiam, quando ad arbitrium ei videbitur maxime necessarium; sibi ad salutem necessaria animo ac mente (ut quidem omnes velle debent) concipere voluerit, ter saltem quotannis in Eucharistia perceptionem animam preparato.

Conc. Enh. Spel. V. 2. p. 519. Leg. Can; Ibid. p. 548.

I Jac. I.

C A N O N S. 1603.

xxi. The Communion to be thrice a Year received.

IN every Parish-Church and Chapel where Sacraments are to be administered within this Realm, the holy Communion shall be ministred by the Parson, Vicar, or Minister, so often, and at such times as every Parishioner may Communicate, at the least thrice in the Year (whereof the Feast of Easter to be one) according as they are appointed by the Book of Common-Prayer.

Communion shall be so administered, that every Parishioner may receive thrice a year.



## Abridgment.

All Persons of the age of 16, not communicating, at *Easter*, shall be Presented.

In Cathedrals, &c. some shall always communicate with the Priest;

—and, in Parishes, every Parishioner shall receive with the Priest, in his course,

—for the due Solemnizing thereof.

No Communion shall be on a Week-day, by the Priest alone.

In Chapels &c. there shall be no Sacrament, by Priest alone.

Spel. v. 1.  
p. 589.

There shall be no Communion, without a convenient number.

There shall be no Communion, unless there be 3 at the least.

The Communion Service shall be said, tho' there is no Communion.

## CANONS 1603.

cxii. *Not-Communicants at Easter to be presented.*

THE Minister, Church-wardens, Quest-men and Assistants of every Parish-Church and Chapel, shall yearly within forty days after *Easter* exhibit to the Bishop or his Chancellor, the Names or Surnames of all the Parishioners, as well Men as Women, which being of the age of sixteen years, received not the Communion at *Easter* before.

## C A P. V.

*The NUMBER required to celebrate a Communion.*

2 Edw. VI.

Also, that the receiving of the Sacramente of the blessed Body and Bloud of Christ, may be moste agreeable to the institucion thereof, and to the usage of the primative Church: In all Cathedrall and Collegiate Churches; there shall alwayes some Communicate with the Priest that ministreth. And that the same may be also observed every where abroad in the Country; some one at the least of that house in every Parishes, to whom by course after the ordynance herein made, it apperteyneth to offer for the Charges of the Communion, or some other whom they shall provyde to offere for them, shall receive the holy Communion with the Priest: the which may be the better done, for that they knowe before, when theyr course commeth, and may therefore dispose themselves to the worthy receiving of the Sacramente. And with him or them who doeth so offere the charges of the Communion, all other, who be then Godly disposed therunto, shall lykewise receive the Communion. And by this meanes the Minister having alwayes some to communicate with him, may accordingly solempnise soe high and holy Misteries, with all the Suffrages and due ordre appointed for the same. And the Priest on the weke day, shall forbear to celebrate the Communion, except he have some that will communicate with him.

2 Edw. VI.

Lykewise in Chappelles annexed, and all other places, there shall be no celebration of the Lordes Supper, excepte there be †† some to Communicate with the Priest.

†† Some to Communicate.] *Sacerdos Missam solus nequaquam celebrat.*

5 Edw. VI.-----13, 14 Car. II.

AND there shall be no Celebration of the Lords Supper, except there be a 'convenient' number to Communicate with the Priest, according to his discretion.

\* Good, 5 E. 6.

5 Edw. VI.-----13 14 Car. II.

AND if there be not above twenty Persons in the Parish of discretion to receive the Communion; yet there shall be no Communion, except four (or three at the least) communicate with the Priest.

2 Edw. VI.

THoughe there be none to communicate with the Priest, yet these dayes (after the Letany ended) the Priest shall put upon him a plain Albe or Surplesse, with a Cope, and saie all things at the Altare (appointed to be sayde at the

At what Times, and how often, Parishioners ought to Communicate.

1 Jac. 1.

A.D. 1548.

Number required to celebrate a Communion.

A.D. 1548.

A.D. 1551.

A.D. 1551.

A.D. 1548.



Number required to celebrate a Communion.  
A.D. 1551.

at the celebration of the Lordes Supper) untill after the Offertory.— And the same Order shall be used all other daies, whensoever the People be customably assembled to praye in the Church, and none disposed to communicate with the Prieste.

Abridgment.

5 Edw. VI.-----13, 14 Car. II.

U Pon the 'Sundays and other' Holy-days (if there be no Communion) shall be said all that is appointed at the Communion, until the end <sup>2</sup> of the general Prayer [For the good estate of the Catholick Church of Christ] <sup>3</sup> together with one' or mo of these Collects, <sup>4</sup> last before rehearsed, <sup>5</sup> concluding with the Blessing".†

The Communion Service, on Sundays and Holy-days, shall be said, tho' there is no Communion.

<sup>1</sup> Not in 5 E. 6. <sup>2</sup> Of the Homelie, con lading with the general Prayer, For the whole estate of Christes Church militant here in earth, 5 E. 6. <sup>3</sup> And one, 5 E. 6. <sup>4</sup> Not in 5 E. 6. <sup>5</sup> Not in 5 E. 6. † As occasion shall serve, 5 E. 6.

C A P. VI.

HABIT, DUTY, and QUALIFICATIONS of the MINISTER who Celebrates.

S T E P H A N U S.

In Const. Ad Excitandos, sub Tit. De Celebr. Miss.

-----Sacramenta rite consecrentur & administrentur. Nec jejunium frangat iterum celebraturus. Iterum autem nemo celebrabit, nisi in Natali Dominico & Paschate, & in exequiis mortuorum, urgente diei defuncti officio.

U Niversa quoque Sacramenta Ecclesiastica, & præcipuè Baptismatis & Altaris, devotissimè, prout Deus inspiraverit, ministrentur. Verba quoque Canonis, præsertim in consecratione Corporis & Sanguinis Christi, plenè & integrè proferantur. Presbyter autem, postquam Dominicum corpus & sanguinem sumpserit in Altari, si in eodem die Missarum solennia ipsum celebrare oporteat, iteratò vinum Calici infusum, vel digitis superfusum, sumere non præsumat. Ad hæc duximus Statuendum, districtius inhibentes, nè Sacerdos quispiam Missarum solennia celebret bis in die, extra diem Natalis Domini, & Resurrectionis Dominicæ, vel in exequiis mortuorum, videlicet cum corpus alicujus eodem die fuerit tumulandum; & tunc prima Missa de die, posterior verò pro defuncto celebretur.

The Sacrament of Baptism and the Lord's Supper, to be devoutly performed.

No Priest shall, ordinarily, Celebrate Mass twice the same day.

W A L T E R U S.

In Const. Linteamina, &c.

Verba Canonis, in his præsertim quæ ad sanctum Sacramentum pertinent, plenè, integrè, & cum summa animi devotione proferantur. Non tamen sit ita *b* morosus sacerdos in præmissis, quòd fastidium ingerat auditoribus, & Officium suum privet Devotionis pinguedine; quia Muscæ morientes perdunt suavitatem unguenti, id est, pinguedinem Devotionis. Nullus insuper Sacerdos Parochialis præsumat Missam celebrare, antequam Matutinale persolverit Officium, & Primam, & Tertiam de die. Item nullus Clericus permittatur ministrare in Officio Altaris, nisi indutus sit superpellicio, & tempore quo Missarum Solennia peraguntur, accendantur duæ candelæ, vel ad minus una. Prohibemus quoque, nè ullus Sacerdos lapsus in peccatum mortale ad Altare præsumat accedere celebraturus, antequam confiteatur. Nec putet, ut quidam errantes credunt, quod mortalia deleantur per Confessionem generalem.

The Words of the Canon shall be fully and devoutly pronounced,

--- and the Priest shall come prepared, in all respects.

*b* Morosus.] Tardus in pronuntiatione verborum Canonis: Lyndw.

A.D. 1222.  
6 H. 3.

Edit. Oxon.  
p. 226.

Habit, Duty, and Qualifications of the Minister who celebrates.

O. B. S.

A.D. 1322.  
16 Edw. 2.

Edit. Oxon.  
p. 235.



## Abridgment.

The Habit of a Bishop, in administering the Communion.

The Habit of a Priest administering the Communion.

None but a Priest shall Consecrate and Administer the Sacrament.

The Communion-Linen shall be kept clean.

## 2 Edw. VI.

AND whensoever the Bishop shall celebrate the holy Communion in the Church, or execute any other publique Ministry, he shall have upon hym, besyde his Rochette, a Surples or Albe, and a Cope or Vestment, and also hys Pastoral Staffe in hys hand, or elles borne or holden by hys Chapeleyn.

## 2 Edw. VI.

UPON the day, and at the time appointed for the ministracion of the holy Communion, the Priest that shall execute the holy ministry, shall put upon hym the vesture appointed for that ministracion, that is to say, a white Albe plain, with a Vestement or Cope. And where there be many Priestes, or Deacons, there so many shal be ready to helpe the Priest, in the ministracion, as shall be requisite: and shall have upon them likewyse the Vestures appointed for their ministry, that is to say, Albes, with Tunacles.

## 13, 14 Car. II. Cap. 4.

In an Act, Entituled, *An Act for the Uniformity of publick Prayers.*

§. XIV. And be it further enacted by the authority aforesaid, That no person whatsoever shall thenceforth—presume to consecrate and administer the holy Sacrament of the Lord's Supper, before such time as he shall be ordained Priest—upon pain to forfeit for every offence the sum of 100l.—and to be disabled from taking or being admitted into the Order of Priest, by the space of one whole year then next following.

## C A P. VII.

*The COMMUNION-TABLE, and the PLACING of the Communicants.*

## STEPHANUS.

In Const. *Ad Exemplum, sub Tit. De Reliq.*

STATUIMUS, ut quælibet Ecclesia habeat—Sydonem mundam & candidam, & amplitudinis congruentis. Vetera quoque i Corporalia, quæ fuerant non idonea in Altaribus, quando consecrantur, loco Reliquiarum reponantur, vel in præsentia Archidiaconi comburantur.

i Corporalia.] *Corporale erit candidum atque mundum, quia significat Sindonem, in qua Corpus Christi fuit involutum.* Lyndw.

## WALTERUS.

*Sacerdos curet ut omnia Eucharistiæ deservientia sint integra & munda, [utque verba Consecrationis debite pronunciet; nec celebret antequam matutinas primam & tertiam perlegerit, nec sine Clerico Superpellicio induto, nec sine lumine, nec in peccato mortali.]*

Inteamina, Corporalia, l Pallæ, & alia indumenta Altaris integra sint, & mundissima, & sæpe abluantur per personas ad hoc in Canone deputatas, ob reverentiam & præsentiam Salvatoris nostri, & totius cœlestis Curia, quam Sacramento Altaris conficiendo & confecto non est dubium interesse.

l Inteamina.] i. e. *Velamina de lino facta, quibus Altare cooperitur.* Lyndw. & Corporalia; quæ, quia quadrangula sunt, idè dicuntur Pallæ, a quodam muliebri Pallio l Pallæ.] *Vestimenta Altaris, scil. Sindones, quadrangulato.* Lyndw.

CANONS

Habit, Duty, and Qualifications of the Minister who celebrates.

O B S.  
A.D. 1548.

O B S.

A.D. 1661.

A.D. 1222.  
6 H. 3.  
Edit. Oxon.  
p. 249.

Communion-Table and Placing the Communicants.

A.D. 1322.  
16 Edw. 2.

Edit. Oxon.  
p. 235.



Communi-  
on-Table,  
and the  
placing of  
Communi-  
cants.

I Jac. I.

CANONS 1603.

lxxxii. A decent Communion Table in every Church.

WHEREAS we have no doubt, but that in all Churches within the Realm of England, convenient and decent Tables are provided and placed for the celebration of the holy Communion, we appoint that the same Tables shall from time to time be kept and repaired in sufficient and seemly manner, and covered in time of Divine Service with a Carpet of Silk or other decent stuff thought meet by the Ordinary of the place, if any question be made of it, and with a fair Linen-cloth at the time of the ministrations, as becometh that Table, and so stand, saving when the said holy Communion is to be administered. At which time the same shall be placed in so good sort within the Church or Chancel, as thereby the Minister may be more conveniently heard of the Communicants in his Prayer and Ministration, and the Communicants also more conveniently and in more number may Communicate with the said Minister.

2 Edw. VI.

THEN so many as shall be Partakers of the holy Communion, shall tarye still in the Quire, or in some convenient place nigh the Quire, the Men on the one side, and the Women on the other syde. All other (that mynde not to receive the said holy Communion) shall depart out of the Quire, except the Ministers and Clerkes.

2 Edw. VI.

THE Priest standyng humbly afore the middes of the Alter, shall saye the Lordes Prayer—

[Note, In the 2. Edw. vi. the Commandments are not repeated; but in the place thereof is the Hymn, Glory be to God on high. Also, the Service (after the Nicene Creed) goes on in this Order (with some few Additions intermixed) viz. 1. The Exhortation at the time of the Communion, 2. The Exhortation, where the People are negligent, 3. The Sentences for the Offertory. 4. Lift up your hearts, and the Prefaces, 5. The Prayer for the whole state of Christ's Church. 6. The Prayer of Consecration. 7. The Hymn, O Lord, and heavenly Father, 8. The Lords Prayer. 9. You that do truly, &c, 10. The Confession, Absolution, and Texts of Scripture, beginning Hear what comfortable— 11. The Prayer, We do not presume— 12. The Administration. 13. The Post-Communion, being Sentences of Holy Scripture. 14. The Thanksgiving, Almighty and everlasting God— 15. The Blessing.]

5 Edw. VI. ---- 13, 14 Car. II.

THE Table at the Communion time having a fair white Linen cloth upon it, shall stand in the body of the Church, or in the Chancel, where Morning and Evening Prayer are appointed to be said. And the Priest standing at the north side of the Table shall say the Lord's Prayer, with this Collect following, <sup>2</sup> the People kneeling.—

<sup>1</sup> Having at the Communion time, 5 E. 6. <sup>2</sup> Not in 5 E. 6.

13, 14 Car. II.

AT the time of the Celebration of the Communion, the Communicants being conveniently placed for the receiving of the holy Sacrament, the Priest shall say this Exhortation.—

Abridgment.

Communion-  
Table shall be de-  
cently kept, and co-  
vered,

—and placed to the  
best Convenience.

Communicants  
shall stay in the  
Quire,  
--Men on one side,  
and Women on the  
other,  
—and the rest shall  
depart.

Priest at the mid-  
dle of the Altar.

Communion-  
Table shall stand  
in the Church or  
Chancel,  
—and the Priest on  
the north-side.

Communicants  
shall be placed to the  
best convenience.

A.D. 1548.

A.D. 1548.

A.D. 1551.  
&c.

A.D. 1661.



Abridgment.

C A P. VIII.

The OFFERTORY.

2 Edw. VI.

A.D. 1548.

Rubrick, in the Communion-Office.

Where there are Clerks, the Offertory shall be sung.

Where there be Clarkes, thei shall syng one, or many of the Sentences above-written, according to the length and shortness of the tyme, that the People be offering.

The Offertory.

Offering, to Poor-man's box, and to the Minister.

In the mean tyme, whyles the Clarkes do syng the Offertory, so many as are disposed, shall offer to the poore menes boxe, every one according to his habilitie and charitable mynde. And at the offering-daies appointed, every manne and woman shall paie to the Curate the due and accustomed offerynge.

5 Edw. VI.

A.D. 1551.

Churchwardens shall Collect the Offerings, to Poor man's Box.

Then shal the Churche-wardens, or some other by them appointed, gather the devotion of the people, and put the same into the pore mens boxe; and upon the offering daies appointed, every man and woman shall paye to the Curate the due and accustomed offeringes.

Offerings on certain days, shall be made to the Minister.

13, 14 Car. II.

A.D. 1661.

Rubrick, in the Communion Service.

Some fit Persons shall receive the Offerings,

Whilest these Sentences are in reading, the Deacons, Church-wardens, or other fit Persons appointed for that purpose, shall receive the alms for the Poor, and other devotions of the People, in a decent Basin, to be provided by the Parish for that purpose; and reverently bring it to the Priest, who shall humbly present and place it upon the holy Table.

— which shall be disposed of by the Minister and Church-wardens, — or by the Ordinary.

After the Divine Service ended, the Money given at the Offertory shall be disposed of to such pious and charitable uses, as the Minister and Church-wardens shall think fit. Wherein if they disagree, it shall be disposed of as the Ordinary shall appoint.

C A P. IX.

The Elements of BREAD and WINE; with the PATEN and CHALICE.

2 Edw. VI.

A.D. 1548.

Bread shall be unleavened, round, and without Print, and divided into two pieces,

FOR avoyding of all matters and occasion of discencion, it is mete that the Bread prepared for the Communion, be made, through all this Realme, after one sorte and fashion: that is to say, unleavened, and rounde, as it was afores, but without all manner of Printe, and something more Larger and Thicker then it was, so that it may be aptly devided in divers piéces: and every one shall be devided in two pieces, at the least, or more, by the discretion of the Minister, and so distributed. And Men must not think lesse to be received in parte, then in the whole; but in eche of them the whole Body of our Savoure Jesu Christe.

— in each of which is the whole Body.



The Elements of Bread and Wine, with the Paten and Chalice.

A.D. 1551. &c. A.D. 1548.

5, 6 Edw. VI.-----13, 14 Car. II.

AND to take away ' all occasion of dissension, and superstition, which any Person hath or might have <sup>2</sup> concerning the Bread and Wine, it shall suffice that the Bread be such as is usual to be eaten; but the best and purest Wheat-Bread that conveniently may be gotten.

<sup>1</sup> The Superstition, 5 E. 6. <sup>2</sup> In, 5 E. 6. <sup>3</sup> Eaten at the Table, 5 E. 6.

2 Edw. VI.

OBS.

AND forsomuche as the Pastours and Curates within this Realme, shall continually fynde at their costes and charges in their Cures, sufficient Bread and Wine for the holy Communion (as oft as their Parishioners shall be disposed for their Spirituall comforte to recieve the same;) it is therefore ordered, that in recompence of such costes and charges, the Parishioners of every Parisheshall offre every Sondag, at the tyme of the Offertory, the just valour and pryce of the holy Lofe, with all such Moneye (and other thyngs as were wont to be offered with the same) to the use of their Pastours and Curates, and that in such ordre and course, as they were wonte to fynde and pay the sayed holy Lofe.

A.D. 1551.

2 Edw. VI.

—And in suche Chappelles annexed where the People hath not been accustomed to pay any holy Bread, there they must either make some charitable Provisions for the beryng of the charges of the Communion, or els (for receyving of the same) resort to their Parish Church.

A.D. 1551. &c.

5 Edw. VI.-----13, 14 Car. II.

THE Bread and Wine for the Communion shall be provided by the Curate and the Church-wardens, at the charges of the Parish.

A.D. 1551.

5 Edw. VI.

—And the Parisheshal be discharged of such summes of Moneye, or other dueties, which hetherto they have payde for the same, by order of theyr Houses everye Sondag.

CANONS, 1603.

xx. Bread and Wine to be provided against every Communion.

THE Church-wardens of every Parish, against the time of every Communion, shall at the charge of the Parish, with the Advice and Direction of the Minister, provide a sufficient quantity of fine white Bread, and of good and wholesom Wine, for the Number of Communicants that shall from time to time receive there: which Wine, we require to be brought to the Communion-Table in a clean and sweet standing Pot, or Stoop of Pewter, if not <sup>m</sup> of purer Metal.

[ Of Pewter. ] Docemus, ut quisvis Calix, quo quis Eucharistiam consecraverit, fusilis sit, & in ligneo ne omnino consecrato. — Si Presbyter in ligneo calice Corpus Dominicum consecraverit, 12 orusemendato.

[ Of purer Metal. ] Præcipimus, ne Consecratur Eucharistia, nisi in Calice aureo vel argenteo, & ne stanneum Calicem aliquis Episcopus amodo benedicat, interdicimus.

Abridgment.

Bread shall be such as is usually eaten, —but the best and purest.

The Minister shall prepare Bread and Wine,

—and every Parishioner shall offer the price of the holy Loaf.

Chappels of Ease shall bear the charge of Bread and Wine.

Bread and Wine shall be at the charge of the Parish.

The Parish shall be discharged of duties for Bread and Wine.

Bread and wine shall be provided by the Church-wardens,

— which shall be brought in a clean Pot, or Stoop.

Conc. West; Ib. V. 2. p. 106.

an. Edg. Spel. 1. p. 453.

ib. p. 497.

2 Edw.



## Abridgment.

The Bread shall lye upon Corpora's or Paten,

—and the Wine be put into a Chalice or Cup,  
—mixt with pure water.

Bread and Wine placed upon the Table.

The Chalice shall be of Silver.

The Chalice shall be of Gold or Silver.

Bread and Wine unconsecrated shall be the Minister's, —but being Consecrated, it shall be eat and drunk in the Church.

2 Edw. VI.

*Rubrick, in the Communion Office.*

**T**hen shall the Minister take soe muche Breade and Wine, as shall suffice for the Persons appoynted to receive the holy Communion, laying the Breade upon the Corpora's, or els in the Paten, or in some other comely thyng, prepared for that purpose: And putting the Wine into the Chalice, or els in some faire or convenient Cup, prepared for that use (if the Chalice will not serve) puttyng thereto a little pure and cleane Water: And setting both the Bread and Wyne upon the Altare: Then shall the Prieste saye,  
*The Lord be with you—&c.*

13, 14 Car. II.

**A**ND when there is a Communion, the Priest shall then place upon the Table so much Bread and Wine, as he shall think sufficient. After which done the Priest shall say,  
*Let us pray for the whole state of Christ's Church, &c.*

## S T E P H A N U S.

*Calix sit argenteus cum aliis Vasis decentibus, [ & Sindone munda; quæ attrita, aut pro Reliquiis custodiatur, aut coram Archidiacono comburatur.]*

**A**D exemplum Salomonis, qui omnia Vasa Domus Domini ex Auro purissimo fabricata Divino cultui mancipavit, Statuimus, ut quælibet Ecclesia Calicem habeat Argenteum, cum Vasis aliis decentibus.

## R I C H A R D U S.

*Summarium patet.*

**P**Ræcipimus, nè consecretur Eucharistia nisi in Calice de Auro vel Argento; & nè Stanneum Calicem aliquis Episcopus amodò benedicat, Interdicimus.

5, 6 Edw. VI.-----13, 14 Car. II.

**A**ND if any of the Bread 'and' Wine remain<sup>1</sup> unconsecrated, the Curate shall have it to his own use: <sup>2</sup> but if any remain of that which was consecrated, it shall not be carried out of the Church, but the Priest and such other of the Communicants as he shall then call unto him, shall immediately after the Blessing, reverently eat and drink the same.

<sup>1</sup> Or, 5 E. 6.<sup>2</sup> Not in 5 E. 6.<sup>3</sup> Not in 5 E. 6.

The Elements of Bread and Wine, with the Paten and Chalice.

A.D. 1548.

O B S.

A.D. 1661.

A.D. 1222.  
6 H. 3.Edit. Oxon.  
p. 242.A.D. 1230.  
15 H. 3.Edit. Oxon.  
p. 234.A.D. 1551.  
&c.



Abridgment:

C A P. X.

Of TRANSUBSTANTIATION, and ELEVATION.

31 Henr. VIII. Cap. 14.

In an Act, Entituled, *An Act for abolishing of diversity of Opinions, in certain Articles, &c.*

Of Transubstantiation, and Elevation.

IV. First, that in the most blessed Sacrament of the Altar, by the strength and efficacy of Christs mighty word (it being spoken by the Priest) is present really under the form of bread and wine, the natural body and blood of our Saviour Jesu Christ, conceived of the Virgin Mary: and that after the consecration there remaineth no substance of Bread or Wine, nor any other substance, but the substance of Christ, God and man.

Transubstantiation asserted in the first of the six Articles.

32 Henr. VIII. Cap. 49

In an Act, Entituled, *An Act conceoning the qualification of the Statute of the six Articles.*

R E P. 1. Edw. 6. c. 12.

Excepted always and forepized out of this general and free Pardon, all and all manner of Heresies and erroneous Opinions touching and concerning plainly, directly and only, the most holy and blessed Sacrament of the Altar.

Opposers of Transubstantiation excepted out of general Pardon.

39 ARTICLES.

xxviii. *Of the Lord's Supper.*

A.D. 1562.

Transubstantiation (or the Change of the Substance of Bread and Wine) in the Supper of the Lord, cannot be proved by holy Writ: But it is repugnant to the plain words of Scripture, overthroweth the Nature of a Sacrament, and hath given occasion to many Superstitions.

Transubstantiation is repugnant to Scripture;

The Body of Christ is given, taken, and eaten in the Supper, only after an heavenly and spiritual manner. And the mean whereby the Body of Christ is received and eaten in the Supper, is Faith.

— Christ's Body being spiritually eaten,

The Sacrament of the Lord's Supper was not by Christ's Ordinance reserved, carried about, lifted up, or worshipped.

—and not to be reserved, lifted up, &c.

The Body of Christ.] Instead of this Clause, the Articles of King Edward VI. have this which follows: "Forasmuch as the Truth of Man's Nature, requireth that the Body of one and the self same Man cannot be at one time in divers places, but must needs be in some one certain place; therefore the Body of Christ cannot be present at one time, in many and divers places, but must needs

be in some one certain place: And because, as Holy Scripture doth teach, Christ was taken up into Heaven, and there shall continue unto the end of the World, a faithful Man ought not either to believe or openly to confess the real and bodily Presence, as they term it, of Christ's Flesh and Blood, in the Sacrament of the Lord's Supper.

39 ARTICLES.

xxx. *Of the one Oblation of Christ finished upon the Cross.*

The Offering of Christ once made, is that perfect Redemption, Propitiation, and Satisfaction, for all the Sins of the whole World, both Original and Actual; and there is none other Satisfaction for Sin, but that alone. Wherefore the Sacrifices of Masses, in the which it was commonly said, that the Priest did offer Christ for the quick and the dead, to have remission of pain or guilt, were blasphemous Fables, and dangerous Deceits.

The Offering of Christ is the perfect and only Satisfaction for Sin, and the Sacrifices of Masses are Fables and Deceits.

Blasphemous.] *Figmenta*; and in the English, *forged Fables.* Art. Edw. VI.

A.D. 1562.



Abridgment.

25 Car. II. Cap. 2.

Of Transubstantiation, and Elevation.

In an Act, Entituled, An Act for preventing Dangers which may happen from Popish Recusants.

Declaration against Transubstantiation, to be subscribed.

§. IX. I A. B. do declare, that I do believe that there is not any Transubstantiation in the Sacrament of the Lord's Supper, or in the Elements of Bread and Wine, at or after the Consecration thereof by any Person whatsoever.

JOHANNES PECCHAM.

In elevatione corporis Christi. pulsentur Campanæ, ut Officio interesse nequeunt, saltem Genua flectant. [Nec ministretur Corpus Domini, nisi eis quos constat confessos esse, & Parochianos ejus, in qua recipiant, Ecclesiæ; nisi per missionem habeant, aut peregrini sint, aut necessitas urgeat.]

A.D. 1281. 9 Edw. I.

Bells shall be rung at the Elevation of the Host,

Altissimus, & infra. In p elevatione corporis Christi ab una parte ad minus pulsentur Campanæ, ut populares, qui Celebrationi Missarum non valent quotidie interesse, ubicunque fuerint, sive in agris, sive in domibus, flectant genua, Indulgentias concessas a pluribus Episcopis habituri. Statuimus insuper, ut quilibet Sacerdos, quem Canonica necessitas non excusat, conficiat omni Hebdomada saltem semel.

Edit. Oxon. p. 231. O B S.

which every Priest shall make at least once a week.

p Elevatione.] Quæ fit, ut populus illud adoret. Lyndw.

2 Edw. VI.

A.D. 1548.

There shall be no Elevation.

These wordes before rehersed, are to be sayed, turning still to the Altar, without any Elevacion, or shewing the Sacrament to the People.

C A P. XI.

KNEELING at the Holy Sacrament.

5 Edw. VI.

A.D. 1551.

Offences cannot be avoided wholly,

but ought as much as may be

Kneeling at the Sacrament is a token of Humility and Gratitude,

and is not meant for Adoration;

the Elements remaining the same,

and our Saviour's body and blood, in heaven.

Although no ordre can be so perfectlye devysed, but it may be of some, eyther for their Ignorance and Infirmitie, or els of malice and obstinacie, misconstrued, depraved, and interpreted in a wrong part: and yet because brotherly Charitie willeth, that so much as conveniently may be, offences should be taken away: Therefore we willing to do the same, Whereas it is ordeyned in the Booke of Common-Prayer, in the Administracion of the Lordes Supper, that the Communicants kneelyng should receyve the holye Communion: which thyng beeynge weil mente, for a sygnificacion of the humble and gratefull acknowledgyng of the benefits of Chryste given unto the woorthye Receyver, and to avoyde the Prophanacion and disordre, which about the holy Communion myghte elles ensue: Leste yet the same kneelyng myghte be thought or taken otherwyse, we do declare that it is not ment thereby, that anye adoracion is doone or oughte to bee doone, eyther unto the Sacramentall Bread or Wyne there bodelye received, or unto anye reall and essenciall presence there beeyng of Chrystes naturall Fleishe and Bloude. For as concernyng the Sacramentall Bread and Wyne, they remayne styll in their verye naturall Substaunces, and therefore may not be adored, for that were Idolatry to be abhorred of all faythfull Chritlians. And as concernyng the naturall Bodye and Bloud of our Saviour Chryste, they are in Heaven and not here. For it is agaynst the trueth of Chrystes true natural Bodye, to be in moe places then in one, at one tyme.

Kneeling at the Sacrament.



*Kneeling at the Sacrament.*

A.D. 1661.

13, 14 Car. II.

Whereas it is ordained in this Office for the Administration of the Lord's Supper, that the Communicants should receive the same Kneeling; (which Order is well meant, for a signification of our humble and grateful Acknowledgment of the Benefits of Christ therein given to all worthy Receivers, and for avoiding of such profanation, and disorder in the holy Communion, as might otherwise ensue;) Yet, lest the same kneeling should by any Persons, either out of Ignorance, and Infirmity, or out of Malice and Obstinacy, be misconstrued and depraved; It is here declared, that thereby no Adoration is intended, or ought to be done, either unto the Sacramental Bread and Wine, there Bodily received, or unto any Corporal Presence of Christ's natural Flesh, and Blood. For the Sacramental Bread and Wine remain still in their very natural Substances, and therefore may not be adored, (for that were Idolatry, to be abhorred of all faithfull Christians) And the Natural Body and Blood of our Saviour Christ are in Heaven, and not here; it being against the Truth of Christ's Natural Body, to be at one time in more places than one.

*Abridgment.*

Kneeling at the Sacrament, is a token of Humility and Gratitude,

—and not intended for Adoration,

—the Elements remaining the same,

—and our Saviour's body and blood, in heaven!

C. A. P. XII.

The Holy Sacrament in BOTH KINDS.

JOHANNES PECCHAM.

*Corporis Domini administratores doceant quibus ministrant, sub speciebus panis esse verum Christum, ipsumque decenter sumendum: sub specie autem vini, quod non consecratum datur, esse solum vinum.*

A.D. 1281. 9 Edw. I.

Edit. Oxon. p. 8.

*The Sacrament in both kinds.*

OBS.

Altissimus, & infra. Attendant Sacerdotes, quod cum communionem Sacramenti porrigunt simplicibus Paschali tempore vel alio, sollicitè eos instruant sub panis specie eis simul dari corpus & sanguinem Domini, imò Christum integrum, vivum, & verum, qui totus est sub specie Sacramenti: doceant etiam eosdem, quod id quod eisdem temporibus in calice propinatur, non est Sacramentum, sed vinum purum, eis hauriendum traditum ut facilius Sacramentum glutiant quod ceperunt. Solis enim celebrantibus, sanguinem sub specie vini consecrati sumere in hujusmodi minoribus Ecclesiis est concessum. Instruant etiam eosdem, sumptum ore Sacramentum non nimis dentibus comminuerè, sed tritum modicè sorberè perfectè, ne particulam aliquam eveniat in dentium interstitiis, vel alibi remanere.

Priests shall teach the People, that the Body and Blood of Christ is entire, in the Bread,

--- and the Wine only given to wash it down;

--- and to take care that the Bread stick not in their Teeth.

A.D. 1539.

31 H. VIII. Cap. 14.

In an Act, Entituled, An Act for Abolishing diversity of Opinions in certain Articles concerning Christian Religion.

IV. Secondly, That the Communion in both kinds is not necessary Ad Salutem by the Law of God, to all Persons; and that it is to be believed and not doubted of, but that in the Flesh under the form of Bread, is the very Blood, and with the Blood under form of Wine is the very Flesh, as well apart, as though they were both together,

The Communion in both kinds to the People, is not necessary to Salvation.

R. E. P. 1 Edw. 6. c. 12.

A.D. 1547.

1 Edw. VI. Cap. 1.

In an Act, Entituled, An Act of the Receiving the Sacrament in both kinds.

VII. And forasmuch as it is more agreeable, both to the first institution of the said Sacrament of the most precious Body and Blood of our Saviour Jesus Christ, and also more conformable to the common use and practice both of the Apostles, and of the Primitive Church, by the space of 500 years and more after Christ's Ascension,

The receiving in both kinds, as well by People, as Priest, being the Practice of the first Ages,

—that



Abridgment.

---the Sacrament shall be accordingly administered under both kinds.

Journ. Conv.

The Laity may not be denied the Cup.

that the blessed Sacrament should be ministred to all Christian people under both the kinds of Bread and Wine, then under the foyn of Bread onely : And also it is moze agreeable to the first institution of Christ, and to the usage of the Apostles, and the Primitive Church, that the people being present should receive the same with the Priest, then that the Priest should receive it alone : Therefore be it enacted by our Sovereign Lord the King, with the consent of the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, and by the authority of the same, That the said most blessed Sacrament be hereafter commonly delivered and ministred unto the people within this Church of England and Ireland, and other the Kings Dominions † under both the kinds, that is to say, of Bread and Wine, except necessity otherwise require.

† Under both the kinds.] In the Journal of Convocation, 1 Edward 6. Item, determined (no Man speaking against it) that the Communion should be administered in both kinds.

The Sacrament in both kinds

39. ARTICLES.

xxx. Of both kinds.

THE Cup of the Lord is not to be denied to the Lay people : For both the parts of the Lords Sacrament, by Christs Ordinance and Commandment, ought to be ministred to all Christian men alike.

q xxx.] This is not in the Articles of Edward VI.

A.D. 1562.

C A P. XIII.

The Order and Manner of ADMINISTERING the Holy Sacrament.

EDMUNDUS.

Sacerdos Hostiam Sacram ante perceptionem ore suo non tangat, & si eam de Patina sumit, etiam Patinam perfundi aqua faciat, alioquin solum Calicem. Habeat praeterea Pannum, quo se mundet, aptum.

IN celebratione Missae r pacem daturus Sacerdos Hostiam Sacram ori suo non apponat, quia ante perceptionem ipsam ore suo tangere non debet. Si vero de Patina, sicut quidam faciunt, eam sumat, post celebrationem Missae, tam Patinam quam Calicem faciat aqua perfundi, vel solum Calicem, si eam non sumat de r Patina. Habeat quoque Sacerdos juxta Altare pannum mundissimum alio panno circumdatum undique & honeste ac decenter coopertum ; in quo, post susceptionem Sacramenti salutaris, digitos cum labiis u ablutos emundet.

r Pacem daturus.] i. e. Osculum Pacis— t Patina.] i. e. Operculo Calicis ; sic dicta, quia patens est, & ampla. Lyndw. Et nota, quod post Pacis Osculum sumit Presbyter Eucharistiam, quasi diceret, qui in unitate u Ablutos.] Per superfusionem Vini in Calicem. Lyndw. s Ore suo.] i. e. Osculando. Lyndw.

2 & 5 Edw. VI.

Then shal the 1 Minister first receive the Communion in both kyndes hymselfe, and nexte delyver it to other Ministers, if any be there present (that they 2 may helpe the chief Minister) and after to the People 3 in theyr hands kneeling.

1 Priest, 2 E. 6. 2 May be ready to help, 2 E. 6. 3 Not in 2 E. 6.

In celebrating the Mass, the Priest shall not put the Host to his mouth, till he receives, and having received, he shall wipe his Fingers and Lips.

Ministers shall receive first, and then the People.

A.D. 1236. 21 H. 3.

Edit. Oxon. p. 234.

O B S

Manner and Order of Administering the Sacrament.

A.D. 1548. &c.



Order and  
Manner of  
Admini-  
string the  
Sacrament  
A.D. 1661.

13, 14 Car. II.

**T**HEN shall the Minister first receive the Communion in both kinds himself, and then proceed to deliver the same to the Bishops, Priests, and Deacons in like manner (if any be present) and after that to the People also in order, into their hands, all meekly kneeling. —

CANONS 1603.

In Can. xxi. Entit. *The Communion to be thrice a Year received.*

— **P**ROvided, that every Minister, as oft as he administheth the Communion, shall first receive that Sacrament himself. Furthermore, no Bread or Wine newly brought, shall be used, but first the words of Institution shall be rehearsed, when the said Bread and Wine be present upon the Communion-Table. Likewise the Minister shall deliver both the Bread and the Wine to every Communicant severally.

2 Edw. VI.

**A**ND where there be many Priestes, or Deacons, there so many shall be ready to helpe the Priest, in the Ministracion, as shall be requisite: And shall have upon them lykewise the Vestures appointed for their Ministry, that is to say, Albes, with Tunacles.

2 Edw. VI.

**I**F there be a Deacon or other Priest; then shal he folow with the Chalice, and as the Priest ministrith the Sacrament of the Body, so shal he (for more expedition) minister the Sacrament of the Bloud.

5 Edw. VI. ——— 13, 14 Car. II.

*In the Ordering of Deacons.*

**I**T appertaineth to the Office of a Deacon in the Church where he shall be appointed to serve, to assist the Priest in Divine Service, and specially when he ministrith the Holy Communion, and to help him in the distribution thereof.

2 Edw. VI.

*And when he delivereth the Sacrament of the Body of Christ, he shall saye to every one these wordes:*

**T**HE Body of our Lord Jesus Christ, which was geven for thee, preserve thy Bodye and Soule unto everlastyng Life.

2 Edw. VI.

*And the Minister delivering the Sacrament of the Bloud, and geving every one to Drinke once and no more, shall saye,*

**T**HE Bloud of our Lord Jesus Christe, whiche was shed for thee, preserve thy Bodye and Soule unto everlastyng Life.

Abridgment.

Order in Receiving;  
1. The Minister.  
2. Bishops, Priests, and Deacons.  
3. The People in their hands

The Minister shall receive first. Bread and Wine newly brought, shall not be used till Consecrated, ---and they shall be severally delivered.

Priests and Deacons shall assist the Minister, ---in proper habits.

Deacons shall follow with the Chalice.

Deacons shall assist the Minister, at Communion.

First part of the present Form.

First part of the present Form.



Abridgment.

5 Edw. VI.

And when he delyvereth the Bread, he shall saye,

The first part omitted.

TAke and eate this in remembrance that Christe died for thee, and fede on him in thy Heart by Faith with Thankesgevyng.

and Manner of Admini- string the Sacrament A.D. 1551.

5 Edw. VI.

And the Minister that delyvereth the Cuppe, shall saye,

The first part omitted.

DRinke this in remembrance that Christes Bloud was shed for thee, and be thankful.

A.D. 1551.

13, 14 Car. II.

And when he delivereth the Bread to any one, he shall saye,

A.D. 1661.

Both Forms united.

THE Body of our Lord Jesus Christ, which was given for thee, preserve thy Body and Soul unto everlasting Life: take and eat this in remembrance that Christ died for thee, and feed on him in thine Heart by Faith with Thanksgiving.

13, 14 Car. II.

And the Minister that delivereth the Cup to any one shall say,

A.D. 1661.

Both Forms united.

THE Blood of our Lord Jesus Christ, which was shed for thee, preserve thy Body and Soul unto everlasting Life: drink this in remembrance that Christ's Blood was shed for thee, and be thankful.

C A P. XIV.

Communion in CATHEDRAL and COLLEGIATE Churches, and COLLEGES.

2 Edw. VI.

Rubrick, at the End of the Communion-Office,

A.D. 1548.

In Cathedrals, &c. some shall always communicate with the Priest.

IN all Cathedrall and Collegiate Churches, there shal alwayes some Commu- nicate with the Priest, that ministreth.

Communi- on in Ca- dral and Collegiate Churches, and Colle- ges.

5 Edw. VI. 13, 14 Car. II.

The Clergy in Cathedrals, &c. shall communicate every Sunday.

AND in Cathedral and Collegiate Churches<sup>1</sup> and Colleges<sup>2</sup>, where<sup>3</sup> there are many<sup>4</sup> Priests and Deacons, they shall all receive the Communion with the<sup>5</sup> Priest every Sunday at the least, except they have a reasonable cause to the contrary.

A.D. 1551.

<sup>1</sup> Not in 5 E. 6. <sup>2</sup> Be many, 5 E. 6. <sup>3</sup> Minister, 5 E. 6.



Communi-  
on in Ca-  
thedral &  
Collegiate  
Churches,  
& Colleges.

1 Jac. I.

Coll. Can. p.  
124.

CANONS 1603.

XXIV. *Copes to be worn in Cathedral Churches by those that Administer the Communion.*

**I**N all Cathedral and Collegiate Churches, the holy Communion shall be administred upon principal Feast-days, sometimes by the Bishop, if he be present, and sometimes by the Dean, and at some times by a Canon, or Prebendary, the principal Minister using a decent Cope, and being assisted with the Gospeller and Epistler agreeably, according to the Advertisements published *Ann. 7 Elizabethæ*: The said Communion to be Administred at such times, and with such limitation as is specified in the Book of Common-Prayer. Provided that no such limitation by any construction shall be allowed of, but that all Deans, Wardens, Masters, or Heads of Cathedral and Collegiate Churches, Prebendaries, Canons, Vicars, Petty Canons, Singing-men, and all others of the Foundation, shall receive the Communion four times yearly at the least.

1 Jac. I.

CANONS 1603.

XXIII. *Students in Colleges to receive the Communion four times a Year.*

**I**N all Colleges and Halls within both the Universities, the Masters and Fellows, such especially as have any Pupils, shall be careful that all their said Pupils, and the rest that remain among them, be well brought up, and thoroughly instructed in Points of Religion, and that they do diligently frequent Publick Service, and Sermons, and receive the holy Communion; which we ordain to be administred in all such Colleges and Halls, the first and second Sunday of every Month: requiring all the said Masters, Fellows, and Scholars, and all the rest of the Students, Officers, and all other the Servants there, so to be ordered, that every one of them shall communicate four times in the Year at the least, kneeling reverently and decently upon their Knees, according to the Order of the Communion Book prescribed in that behalf.

A.D. 1548.  
&c.

C A P. XV.

*The Communion of the Sick.*

2 & 5 Edw. VI. ----- 13, 14 Car. II.

*Before the Communion of the Sick.*

Communi-  
on of the  
Sick.

**F**Orasmuch as all mortal Men be subject to many sudden perils, diseases and sicknesses, and ever uncertain what time they shall depart out of this life; therefore, to the intent they may be always in a readiness to die whensoever it shall please Almighty God to call them, the Curates shall diligently from time to time (but especially <sup>1</sup> in the time of Pestilence, or other infectious Sickness) exhort their Parishioners to the <sup>2</sup> often receiving of the "holy Communion of the Body and Bloud of our Saviour Christ," <sup>3</sup> when it shall be Publickly administred in the Church; <sup>4</sup> that so doing, they may in case of sudden Visitation, have the less cause to be disquieted for lack of the same. But if the Sick Person be not able to come to the Church, and yet is desirous to receive the Communion in his House, then he must give <sup>5</sup> timely notice to the Curate, signifying also how many <sup>6</sup> "there are" to communicate with him (<sup>7</sup> which shall be three, or two at the least")

<sup>1</sup> In the Plague-time, 2 & 5 E. 6. <sup>2</sup> Oft receyving in the Church of the, 2 & 5 E. 6. <sup>3</sup> Not in 2 nor 5 E. 6. <sup>4</sup> Which if they doe, they shall have noe cause, in theyr sodaine Visitation, to be unquieted, 2 & 5 E. 6. <sup>5</sup> Knowledge over night, or else early in the morning, 2 & 5 E. 6. <sup>6</sup> Be appointed, 2 & 5 E. 6. <sup>7</sup> Not in 2 nor 5 E. 6.

Abridgment.

In Cathedrals, &c. there shall be a Communion, upon principal Feasts,

—and all Members shall receive 4 times a year, at the least.

In Colleges there shall be a Communion, the 1<sup>st</sup>, and 2<sup>d</sup>. Sunday of every month.

—and all Members shall receive 4 times a year, at the least.

The Uncertainty of Life, a proper motive to frequent Communion.

Sick Person being desirous to receive the Sacrament, shall give timely notice, —and prepare two at the least to receive with him.

and



Abridgment.

and having a convenient place in the Sick Mans House, with all things necessary so prepared, that the Curate may reverently minister, he shall there celebrate the holy Communion. —

What follows, is in another Rubrick, in 2 E. 6. — And having a convenient place in the sick Mennes house (where he may reverently celebrate) with all thynges necessary for the same, and not being otherwise letted with the Publike Service, or any other just Impedmente; he shall there celebrate the Holy Communion — And in 5 E. 6. thus: — And having a convenient place in the sick Mans house, where the Curate may reverently minister, and a good nombre to receive the Communion w<sup>th</sup> the sick Personne, w<sup>th</sup> all thynges necessary for the same, he shall there minister the Holy Communion.

## C A N O N S. 1603.

## LXXI. Ministers not to Preach or administer the Communion in Private Houses.

Communion may not be administered in private Houses, but in Sicknes &c.

— but, in private Chapel, where there is one, it may be administer'd.

Persons who have private Chapels, shall receive at the Parish Church once a year.

**N**O Minister shall Preach or Administer the holy Communion in any private House, except it be in times of necessity, when any being either so impotent as he cannot go to Church, or very dangerously sick, are desirous to be Partakers of the holy Sacrament, upon pain of Suspension for the first Offence, and Excommunication for the second. Provided, that Houses are here reputed for Private Houses, wherein are no Chapels dedicated and allowed by the Ecclesiastical Laws of this Realm. And provided also under the pains before expressed, that no Chaplains do Preach or Administer the Communion in any other places but in the Chapels of the said Houses; and that also they do the same very seldom upon Sundays and Holy-days: So that both the Lords and Masters of the said Houses, and their Families, shall at other times resort to their own Parish-Churches, and there receive the holy Communion at the least once every year.

## JOHANNES PECCHAM.

*Eucharastia ad Ægrotos decenter cum Luce & Campana à Sacerdote Superpellicio induto deferatur, & à populo se in via prosternente adoretur; negligentes autem rigide corrigantur.*

The Eucharist shall be carried to the Sick, with due reverence from Priest and People.

— of which the Archdeacon shall take care.

**D**ignissimum, & infra. Statuimus, ut Sacramentum Eucharistiæ circumferatur cum debita reverentia ad ægrotos, Sacerdote saltem induto Superpellicio, gerente y Orarium cum lumine prævio in lucerna cum campana, ut populus ad reverentiam debitam excitetur; qui ad prosternendum se, vel adorandum saltem humiliter, informetur Sacerdotali prudentia, ubicunque Regem Gloriæ sub panis latibulo evenerit deportari; & de hoc Archidiaconi in suorum remissionem peccaminum sint solliciti. Et quos circa hoc negligentes invenerint, disciplina rigida castigent.

y Orarium.] Id est, Stolum, quæ Sacerdos imponitur, ut significet se jugum Domini susce- in omni divino obsequio uti debet; & suo collo pisse. Lyndw.

2 Edw. VI.

*Rubrick, at the end of the Communion Office.*

Omissions of divers Offices, at private Communion.

**W**HEN the holy Communion is celebrate, on the worke daye, or in private houses; then may be omitted the *Gloria in Excelsis*, the *Credo*, the *Homely*, and the *Exhortacion*, beginning, *Dearely beloved*, &c.

2 Edw. VI.

Part of the Sacrament of the Body and Blood, shall be carry'd from the Church to Sick Persons.

**A**ND if the same day there be a celebration of the Holy Communion in the Church, then shall the Priest reserve (at the open Communion) so much of the Sacrament of the Body and Blood, as shall serve the Sicke Person, and so many as shall communicate with him (if there be any;) and so soon as he conveniently may, after the open Communion ended in the Church, shall goe and minister the same. —

The Communion of the Sick.

1 Jac. 1.

A.D. 1279.  
7 Edw. 1.

O B S.

Edit. Oxon.  
p. 249.

A.D. 1548.

O B S.

A.D. 1548.

O B S.

2 Edw.



Communion of the Sick.

A.D. 1548.

2 Edw. VI.

BUT if the day be not appoynted for the open Communion in the Church, then (upon convenient warning given) the Curate shall come and visite the Sicke Person afore Noone. And having a convenient place in the Sycke Mannes house (where he may reverentlye celebrate) with all thynges necessary for the same, and not being otherwyse letted with the Publike Service or any other just impedymment : he shall there celebrate the holy Communion.

Abridgment.

There being no Communion at Church, the Minister shall celebrate it with the Sick at home.

A.D. 1548.

2 Edw. VI.

O B S.

AND if there be moe Sicke Persones to be visited the same daye that the Curate dooeth celebrate in anye Sycke Mannes house: then shall the Curate (there) reserve so much of the Sacrament of the Body and Blood; as shall serve the other Sicke Persones, and such as be appoynted to communicate with them (if there bee anye.) And shall immediatly cary it and minister it unto them.

Sacrament consecrated in one Sick man's house, may be carry'd to another.

A.D. 1548.

2 Edw. VI.

AND the Sicke Person shall alwaies desire † some, eyther of his own house, or els of his Neighbours, to receive the holy Communion with him, for that shall be to him a syngular great comfort, and of theyr parte a great token of Charitie.

The Sick shall have some with him, to communicate.

† Which shall be three, or two at the least; ut supra, 13, 14 Car. 2.

A.D. 1551. &c.

5 Edw. VI. --- 13, 14 Car. II.

IN the time of Plague, Sweat, or such other like contagious times of Sicknes, or Diseases; when none of the Parish or Neighbours can be gotten to communicate with the Sick in their houses for fear of the Infection, upon special request of the Diseased, the Minister may "only" communicate with him.

The Sick, in time of Plague, may communicate with Minister only.

\* Alone, 5 E. 6.

A.D. 1548. &c.

2 & 5 Edw. VI. --- 13, 14 Car. II.

AT the time of the distribution of the holy Sacrament, the Priest shall first receive the Communion himself, and after minister unto them that be appointed to communicate with the Sick, † and last of all, to the Sick Person.

The Sick Person shall receive last.

\* If there be any, and then to the sick person, 2 E. 6. † Here it ends, 5 E. 6.

A.D. 1548.

2 Edw. VI.

O B S.

AND if the Sicke desyre to be annoynted, then shall the Prieste use the appoynted Prayer, without any Psalme.

Anointing of the Sick.

A.D. 1548. &c.

2 & 5 Edw. VI. --- 13, 14 Car. II.

BUT if "a Man" either by reason of extremity of Sicknes, or for "want" of "warning in due time" to the Curate, "or for lack of company to receive with him", or by any other just impediment, do not receive the Sacrament of Christ's Body and Blood: then the Curate shall instruct him, that if he do truly repent him of his Sins, and stedfastly believe that Jesus Christ hath suffered death upon the Crofs for him, and shed his blood for his redemption, earnestly remembring the Benefits he hath thereby, and giving him hearty thanks therefore, he doth "eat and drink the Body and Blood" of our Saviour Christ profitably to his Souls health, although he do not receive the Sacrament with his mouth.

Sick Person being hinder'd to receive the Sacrament,

--if he truly repent,

--- doth eat and drink to his Soul's health.

\* Any Man, 2 & 5 E. 6. † Lack, 2 & 5 E. 6. ‡ Warning given in due time, 2 E. 6. § Not in 2 E. 6. ¶ Eat and drink spiritually the Body and Blood, 2 E. 6.



Abridgment.

## TIT. XXI.

## The Two POPISH SACRAMENTS of PENANCE and EXTREME UNCTION.

## The CONTENTS.

CAP. I. CONFESSIONS, in order to PENANCE.

CAP. II. The Appointment of CONFESSORS, in certain Districts, and Places.

CAP. III. EXTREME UNCTION.

## CAP. I.

## CONFESSIONS, in order to PENANCE.

## EDMUNDUS.

*In peccatis audiendis servet Confessor decentiam, & formam hic prenotandam.*

**I**N Confessione habeat Sacerdos vultum humilem, & oculos ad terram demissos, nec faciem respiciat Confitentis, & maxime mulieris; & patienter audiat quicquid dixerit, & in spiritu lenitatis eam supportet, & ei pro posse suadeat & pluribus modis, quod a integrè confiteatur: aliter vero non est Confessio. Peccata inquirat usitata, inusitata autem non, nisi a longe & per circumstantias; ut *b* expertis detur modus confitendi, & inexpertis non detur *c* occasio delinquendi. Personarum nomina, cum quibus peccavit confitens, non inquirat Sacerdos, sed post Confessionem potest inquirere utrum fuerit Clericus vel Laicus, Monachus vel Sacerdos, vel Diaconus; & semper majora crimina, & præcipue notoria *d* majoribus reserventur. Sunt autem ista majora, Homicidia, Sacrilegia, peccata contra Naturam, Incestus, Stupra Virginum & Monialium, & Injectiones manuum in Parentes, necnon & in Clericos, Vota fracta, & hujusmodi. Sunt autem casus, in quibus nullus nisi solus Papa habet potestatem absolvendi, vel ejus *e* Legatus. Absolutio tamen talium in mortis articulo nulli est deneganda, sed saltè erit conditionalis, viz. si convalescant, Apostolico conspectui se præsentent: nihilominus tamen talium rei remittendi sunt ad Episcopum, vel ejus Penitentiarium. Semper autem qui mittuntur, deferant secum Literas, continentes genus peccati, & circumstantias sufficientes; vel ipse Sacerdos veniat personaliter cum eis, alioquin non recipiantur.

*a* Integrè.] Ut scilicet omnia Peccata dicat, non dividendo ea inter diversas Sacrosdotēs, sed uni totum dicat. Lyndw.

*b* Expertis.] i. e. Sciensibus quæ sunt Peccata gravia, & quales sunt eorum circumstantiæ. Lyndw.

*c* Occasio delinquendi.] Cautus debet esse

Confessor, ne nimis quam oporteat Modos peccandi aperiat; ne forte Confitentis Modum incognitum dicat, & sic Viam ad peccandum demonstret. Lyndw.

*d* Majoribus.] Scilicet Penitentiaris; utputa Episcopo, in Casibus sibi reseratis, &c. Lyndw. *e* Legatus.] Scilicet de Latere missus. Lyndw.

A.D. 1236.  
21 H. 3:  
OBS.

Edit. Oxon.  
p. 328.

Confessions  
in order to  
Penance.

Priest shall take  
Confessions with  
gravity and decency;

---and shall make  
proper Enquiries  
as to Sins, and Persons,

--- reserving the  
greater Sins to his  
Superiors,

---and only giving  
Conditional Absolution,  
in case of death.



Confessions in order to Penance.

A.D. 1236. 21 H. 3. Edit. Oxon. p. 330.

EDMUNDUS.

Quando Diaconus potest dare Pœnitentiã.

DE Pœnitentiã Præcipimus, quod f Diaconi Pœnitentiã dare non præsumant, nisi in his casibus, cum Sacerdos non potest, vel absens est, vel stultè vel indiscretè non vult, & mors imminet ægrotò.

f Diaconi.] Nam solis Sacerdotibus dedit Dominus potestatem ligandi & solvendi. Lyndw.

A.D. 1268. 52 H. 3.

OTHOBON.

In Const. Ne pro Sacramentis Ecclesiasticis aliquid exigatur.

Edit. Oxon. p. 81.

OMnes autem, qui Confessiones aliquorum audiunt, à peccatis expressè confitentes absolvant, verba subscripta specialiter exprimentes, Ego te à peccatis tuis, auctoritate quâ fungor, absolvo. Et quoniam confitens in ipso Confessionis actu signa debet contritionis & humilitatis ostendere, Præcipimus, ut omnes, qui Confessiones audiunt, confitentes inducant, ut cum reverentia Sacerdoti & humilitate confiteantur peccata. Ad hoc, quia major est cædes Animæ quàm corporis, cum illa perpetua sit, hæc autem brevis temporis angustatione depereat, nemo Confessionis remedium auferat gratiam postulanti; quod à custodibus carcerum aliquando circa captivos miserabiliter fieri audientes, Statuimus, ut si quis de cætero in hoc casu vel alio gratiam Confessionis inlibuerit carcerato, vel alii; in pœnam immanis sceleris, cum ipse ad mortem pervenerit, nisi ad mandatum Prælati sui in vita satisfecerit, careat Ecclesiasticâ Sepultura.

Deacons shall not give Penance, but in cases of necessity.

They who hear Confessions, shall also Absolve in a certain form,

--- and none shall be hindered of Confession, particularly Prisoners,

---on pain of wanting Christian Burial.

A.D. 1315.

9 Edw. II. Cap. 10.

In an Act, Entituled, They that abjure the Realm shall be in peace, &c.

And the King's pleasure is, that Thieves, or Appellors (whensoever they will), may confess their Offences unto Priests; but let the Confessors beware, that they do not erroneously inform such Appellors.

Thieves, desiring it, shall be admitted to Confession.

A.D. 1261. 45 H. 3.

BONIFACIUS.

Sacramentum & tempus Pœnitentiæ nulli, nè in carcerato quidem, si dari potest, denegetur, sub Excommunicationis pœna.

Edit. Oxon. p. 327.

CUM Sacramentum Confessionis & Pœnitentiæ, secunda post naufragium Tabula, ultimus humanæ Navigationis portus, ac finale refugium sit, unicuique peccatori per necessarium ad salutem; sub pœna Excommunicationis districtius Præcipimus, nè aliquis presumat impedire, quin hujusmodi Sacramentum Pœnitentiæ unicuique petenti liberè impendatur, & spatium liberum confitendi: quod potissime propter incarcerationatos suadet, quibus hujusmodi Sacramentum sæpè inhumaniter, nè dicamus infideliter, denegatur. Et si interdum confitendi spatium eis datur, hoc eis ita breve & inopportune conceditur, quod cedit potius miseris in desolationis ac desperationis periculum, quàm in consolationis gaudium Spirituales.

Confession and Penance being the last Refuge of Sinners,

---they shall be denied to none, particularly not to Prisoners,

--- who shall have convenient time for Confession.

JOHANNES PECCHAM.

Cavendum est, nè per multiplicatas Indulgentias Prælati fiat dedecus & vilipensio.

CUM salubriter † statutum sit, ut Prælati, in Indulgentiis conferendis, XL dierum numerum non excedant, nè claves Ecclesiæ contemnantur; quibus cum †† Thesaurus mysticus committitur dispensandus, caveant

Prelates shall not exceed xl days, in granting Indulgences,

† Sit statutum.] Extra. eod. c. Cum ex eo, †† Thesaurus.] Scil. Meritorum. Lyndw. in fine.

alii



## Abridgment.

— least by multiplying them, the power of the Church should be vilified.

Priest shall proportion Penances to the nature of the Crimes,

— and shall not hear Confessions in private,

— nor admit to Penance one of another Parish,

— nor any without Restitution.

The Priest shall consult the Bishop in difficult cases,

— and give no Absolution without Amendment,

— and not enquire after the names of Persons.

Priest having laps'd into a mortal Sin, shall not come to the Altar, before Confession, — nor shall any disclose Confessions.

alii quicumque, ne per \* multiplicatas Indulgentias Prælatorum sibi prequisitas dedecus faciant Prælatis Ecclesiæ, \*\* supra ipsos in suis Prædicationibus Indulgentias effundendo; ne qui clavibus habent subjici, eas faciant vilipendi.

\* Multiplicatas.] *Utpotâ, quia plures Episcopi sub unâ literâ apponentes sigilla sua, vel simul existentes (prout sæpius contingit) ad crucem sancti Pauli, concedunt, & quilibet eorum concedit, 40 dies Indulgentiæ: in quo casu, Indulgentia non excedit in toto numerum 40 dierum. Lyndw.*

\*\* Supra ipsos.] *Sc. Prælatos; hoc est, ultra, vel aliter, vel amplius, quàm ipsi Prælati concesserunt. Lyndw.*

## WALTERUS.

*Confessor pro conditionibus peccati diligenter notatis Pœnitentiam injungat. Audiatur autem, nisi necessitas evocaverit, in Ecclesia publicè, nec alios quàm suos. Nec uxori Pœnitentiam injungat, per quam marito pateat ejus peccatum: de male ablatis non absolvat sine restitutione, quatenus fieri potest. In reservatis aut dubiis consulat Episcopum, nec alterius quàm Confitentis studeat peccata nôsse.*

**S**acerdos in Pœnitentia injungenda diligenter attendat circumstantias criminis, qualitatem personæ, & genus delicti, tempus, & locum, causam, & moram in peccato factam, devotionem animi pœnitentis: & his consideratis, & diligenter pensatis ac discretè, majorem vel minorem pœnitenti injungat Pœnitentiam. Item Sacerdos ad audiendum Confessiones communem sibi locum eligat, ubi communiter ab omnibus videri poterit in Ecclesia, & in locis absconditis non recipiat Sacerdos alicujus, & maximè mulieris, Confessionem, nisi pro magna necessitate aut infirmitate pœnitentis. Item nullus Sacerdos alterius Parochianum admittat ad Pœnitentiam, nisi de licentia sui Presbyteri vel Episcopi. Item Sacerdos talem Pœnitentiam injungat uxori, ut viro suo non reddatur suspecta de aliquo crimine occulto & enormi. Idem de marito est observandum. Item de furto, rapina, & fraude, & maximè de Decimarum détentione, seu subtractione alicujus Juris Ecclesiastici, diligenter sibi caveant Sacerdotes, nè aliquibus injungant Pœnitentiam, nisi cum satisfactione & restitutione facienda injuriam vel damnum passis, cum non dimittatur peccatum, nisi restituatur ablatum. Item in majoribus criminibus & atrocioribus dubiis, Sacerdos consulat Episcopum, vel alium qui vices ejus gerit, aut providos & discretos, quorum consilio certificatus sciat quos & qualiter ligare possit & absolvere; & nè (quod absit) pœnitens in desperationem cadat, moneat ipsum diligenter, ut bonum quicquid interim possit, faciat, ut Deus cor suum illustret ad Pœnitentiam. Et hoc idem faciat de eo qui peccatum cor fitetur, & tamen ab eo non vult abstinere; quo casu munus Absolutionis eidem non poterit impendi, cum venia non legatur concessa nisi se corrigenti. Item caveant Sacerdotes, ne peccata à pœnitentibus inquirant, aut nomina personarum cum quibus peccaverunt, sed circumstantias tantùm, & qualitatem peccati; cum scriptum sit, *Deus, vitam meam nunciavi Tibi, & non alterius*; & propria debet esse Confessio, & non aliena.

## WALTERUS.

*Nullus in peccato mortali non confessus celebret, nec quovis pacto peccata detegat, quæ per Confessionem scit; aut degradetur.*

**P**rohibemus, quòd nullus Sacerdos lapsus in mortale peccatum, ad Altare præsumat accedere celebraturus, antequam confiteatur: nec putet, ut quidam errant credentes, quòd mortalia delentur per Confessionem generalem. Item nullus Sacerdos irâ, odio, metu etiam mortis, audeat detegere quovismodo alicujus Confessionem signo, nutu, vel verbo, generaliter vel specialiter. Et si super hoc convictus fuerit, sine spe reconciliationis, non immeritò debet degradari.

SIMON

Confessions  
in order to  
Penance.

A.D. 1322.  
16 Edw. 2.

Edit. Oxon.  
p. 331.

A.D. 1322.  
16 Edw. 2.

Edit. Oxon.  
p. 334.



Confessions  
in order to  
Penance.

A.D. 1378.  
2 Ric. 2.

Edit. Oxon.  
p. 342.

O B S.

SIMON SUDBURY.

Quomodo Confessiones Mulierum audiendæ? De Quadragesimalibus, & n.  
Missæ Celebratio pro pœna injungatur.

Confessiones mulierum extra velum audiantur, & in propatulo quantum ad  
visum, non quantum ad auditum. Moneantur etiam Laici statim in prin-  
cipio Quadragesimæ confiteri: & semper citò post lapsum, nè peccatum suo pon-  
dere ad aliud trahat. Item nullus Sacerdos nomine Pœnitentiæ totalis vel par-  
tialis g Missas præsumat injungere, consulere tamen potest.

g Missas.] Scil. ut faciat Missas celebrari: forsan alteri quem diligit, Pecuniam pro ipsarum  
ratio est, quia possit de facili Confitens suspicari, Missarum celebratione daret. Lyndw.  
quod hoc sibi Confessor injungeret, ut sibi, vel

A.D. 1378.  
2 Ric. 2.

SIMON SUDBURY.

Confessiones, & Eucharistia Sacramentum ter in anno celebrentur. Et de  
pœnâ illius qui semel in anno non fuerit confessus, nec ad Pascha Euchari-  
stiam perceperit.

Edit. Oxon.  
p. 343.

O B S.

Confessiones ter in anno audiantur, ter Communicari moneantur, videlicet,  
in Paschá, in Pentecoste, & Natali Domini: prius tamen præparent se per ali-  
quam abstinentiam, de consilio Sacerdotis faciendam. Quicumque verò semel in an-  
no ad minus proprio confessus non fuerit Sacerdoti, & ad minus ad Pascha Sacra-  
mentum Eucharistiæ non perceperit, nisi de consilio Sacerdotis duxerit abstinen-  
dum, & vivens ab ingressu Ecclesiæ arceatur, & mortuus Christianâ careat sepultura;  
& hoc frequenter in Ecclesiis publicetur.

A.D. 1539.

31 Henr. VIII. Cap. 14.

In an Act, Entituled, *An Act for abolishing Diversity of  
Opinions in certain Articles concerning Christian Religion.*

\* This Statute  
repealed 1 E. 6.  
c. 12.

IV. ....\* Sixthly, That Auricular Confession is expedient, and necessary to be retained  
and continued, used and frequented in the Church of God.

CANONS 1603.

1 Jac. 1.

In Can. cxiii. Entituled, *Ministers may present.*

— Provided always, that if any man Confess his secret and hidden Sins to  
the Minister, for the unburthening of his Conscience, and to receive Spiritual  
Consolation and Ease of Mind from him, We do not any way bind the said  
Minister by this our Constitution, but do straightly charge and admonish him,  
that he do not at any time reveal and make known to any person whatsoever  
any Crime or Offence, so committed to his trust and secrecy (except they be  
such Crimes as by the Laws of this Realm his own Life may be called into  
question, for concealing the same) under pain of Irregularity.

Vide Walt. supr.

Abridgment.

Confessions of  
Women shall be  
taken openly, &c  
Peop'e shall Con-  
fess speedily, and  
Priest shall not  
enjoyn Masses.

Confessions shall  
be heard, and Com-  
munion received,  
thrice a year,

---or at least, once,  
at Easter.

Expedience, and  
Necessity, of Auri-  
cular Confession.

Secret Con-  
fessions of Sins  
shall not be reveal-  
ed by Ministers.



Abridgment.

## C A P. II.

*The Appointment of CONFESSORS, in certain Districts and places.*

## S T E P H A N U S.

*In singulis Archidiaconatibus substituantur ab Episcopo viri prudentes; qui Decanorum Ruralium, Personarum, & Presbyterorum confessiones audiant. In Cathedralibus autem confiteantur Canonici Episcopo, Decano, vel Substituto.*

A.D. 1222.  
6 H. 3.Edit. Oxon.  
p. 326.

Confessors shall be appointed for Rural Deans and Parochial Presbyters;

--- and Canons Secular shall Confess to the Bishop or his Deputy.

**Q**UONIAM nonnunquam ob defectum Confessorum, & quia Decani rurales & Personæ erubescunt fortè confiteri suo *b* Prælato, imminet periculum Animarum: Volentes huic morbo mederi, Statuimus, ut certi Confessores prudentes & discreti per singulos Archidiaconatus ab Episcopo loci statuantur, qui Confessiones audiant Decanorum ruralium, Presbyterorum, & Personarum. In Cathedralibus autem Ecclesiis, ubi sunt Sæculares Canonici, confiteantur ipsi Canonici Episcopo vel Decano, vel certis personis ad hoc per Episcopum, vel Decanum & Capitulum constitutis.

*Appointment of Confessors, in certain Districts and places.*

O B S.

*b* Prælato.] Scil. Episcopo, cui immediate subsunt. Lyndw.

## O T H O.

A.D. 1237.  
22 H. 3.*De Confessionibus Personarum & Clericorum.*

## Summarium.

*Constituendi sunt per Episcopos viri prudentes, qui Personarum & minorum Clericorum, Decanis forte confiteri erubescantium, Confessiones audiant. In Ecclesiis verò Cathedralibus Pœnitentarii seu Auditores Confessionum generales.*

Bishop shall appoint Confessors for the lesser Clergy,

--- and in Cathedrals, general Confessors.

**Q**UOD in quodam Concilio statutum est approbantes, Statuimus, ut per quolibet Decanatus viri prudentes & fideles constituantur per Episcopum Confessores: quibus Personæ & minores Clerici valeant confiteri qui Decanis erubescunt confiteri forsân & verentur. In Ecclesiis verò Cathedralibus constitui Confessores Præcipimus *i* generales.

Edit. Oxon.  
p. 13.

O B S.

*i* Generale.] Sc. nedum ad audiendum Confessionem Personarum & Clericorum prædictorum, sed generaliter omnium sæcularium subditorum Diœcesis. Item, Generales dicit, propter generalem Potestatem absolvendi, in quibusdam Casibus de jure vel consuetudine Episcopis communi locutione reservatis. Lyndw.

## J O H A N N E S P E C C H A M.

A.D. 1281.  
9 Edw. I.

*Nemo sub pœna Excommunicationis absque Episcopi licentia expressa, vel probabiliter præsumpta, Confessiones audiat, nisi à Jurisdictione Ordinaria, & Diœcesana, & Metropolitana, tenore sui Privilegii sit exemptus.*

There being some, who, under pretence of General Exemptions, hear Confessions,

--- it is decreed, that none do it, without Licence of the Bishop, unless they be specially Exempt.

**S**ACRAMENTUM Pœnitentiæ, & *infra*. Sunt præterea nonnulli, qui prætextu quorundam Privilegiorum generalium à Sede Apostolica obtentorum contra intentionem Apostolicam, scilicet dantis Privilegium, spretâ auctoritate Pontificali, ipsorum Pontificum irrequisito beneplacito & assensu, ingerunt se Subditorum eorundem Confessionibus audiendis. Quorum præsumptiones Volentes reprimere, ut tenemur, Prohibemus sub pœna Excommunicationis, nè quis deceterò absque Episcopi licentia expressa vel probabiliter præsumpta Confessiones audiat suorum Subditorum, nisi in audiendis Confessionibus à Jurisdictione Ordinaria, & Diœcesana, & Metropolitana, expresso tenore sui Privilegii, sit exemptus.

Edit. Oxon.  
p. 311.

O B S.



Appoint-  
ment of  
Confessors,  
in certain  
Districts  
and places.

A.D. 1281.  
9 Edw. 1.

Edit. Oxon.  
p. 340.

O B S.

emptus. Et si qui contrarium facere præsumperint, procedatur contra eos sicut contra Privilegiorum temerarios abutores.

## JOHANNES PECCHAM.

In quolibet Decanatu sit unus Rector, vel Vicarius, gratiâ & doctrinâ illustratus, qui Rectorum & aliorum Sacerdotum audiat Confessionem; quam tamen & alii Pœnitentarii ubi sanior est intentio, facere possunt.

**L**icet à Sanctis Patribus jam pridem fuerit ordinatum, ut in quolibet Decanatu sit unus Rector, vel Vicarius literaturæ sufficientis, instructus & illustratus gratiâ, famæque laudabilis, assignatus ad Confessiones Rectorum, Vicariorum, & aliorum Sacerdotum ac Ministrorum Ecclesiæ audiendas, injungendasque Pœnitentias, ut sit *k* mare fusile in Templi introitu juxta *l* Templi Typici Sacramenta: Hoc tamen non fuit hæcenus Cleri moribus usitatum, non sine multis Dei injuriis, & Sacramentorum *m* ministracionibus, & Missarum Celebrationibus, quæ Execrationes potius dicerentur. Ordinationem ergo prædictam à desuetudine renovantes, Præcipimus, ut ipsa inviolabiliter de cætero observetur. Ex hoc tamen minimè inhibere intendimus, quin possint præacti, si voluerint, ad alios Communes Pœnitentarios, dum tamen id *n* constet, pro Sacramento Pœnitentiæ convolare.

*k* Mare fusile.] Tangit Historiam, que habetur 2 Reg. c. 7. ubi legitur, quod Salomon fecit fabricari mare fusile in templo Domini. — Et nota, quod istud mare dictum est *Va* quoddam aneum, quod repletum erat aquâ, in qua ingredientiæ Templum sordes abluant: — & bene significabat Sacramentum Pœnitentiæ, in quo abluuntur sordes Peccatorum. Lyndw.

*l* Templi typici.] Sc. Templi Hierusalem; quod Templum erat typus & figura Ecclesiæ Christi. Lyndw.

*m* Ministracionibus.] Ministrante existente in mortali Peccato. Lyndw.

*n* Conster.] Scil. quod sint communes Pœnitentarii. Lyndw.

## ROBERTUS WINCHELSEA.

Quod Presbyteri stipendiarii, nisi in certis casibus, non audiant Confessiones.

**P**resbyteri stipendiarii, & infra. Statuimus, ut Presbyteri prædicti non audiant Confessiones Parochianorum vel Capellanorum in Ecclesiis in quibus Divina ministraverint, nisi in casibus à Jure permissis; Quod si contrarium fecerint, crimen Sacrilegii incurrant, nisi de licentia *o* Præsidentis hoc fecerint petita & obtenta.

*o* Præsidentis.] Sive sit Rector, sive Vicarius perpetuus, sive temporalis. Lyndw.

## WALTERUS.

Rectores Ecclesiarum confiteantur prudentibus Sacerdotibus, ad hoc ritè ordinatis.

**C**UM sæpe contingat, quod Rectores Ecclesiarum, ac etiam nonnulli Sacerdotes, & in sacris Ordinibus existentes, eò quod nullis, ut eis videtur, quoad Forum Pœnitentiale, sunt subjecti, vel omnino non confitentur, vel ad quosdam accedunt, qui nullam ipsos ligandi vel absolvendi habeant potestatem; per Archidiaconatus singulos Statuimus, quod unus vel duo Presbyteri idonei præficiantur in singulis Decanatibus competentis Literaturæ & probatæ Opinionis ad Confessiones talium audiendas, & Pœnitentias eisdem injungendas, quibus per loci Diœcesanum, vel vicem ejus gerentem, auctoritatem Volumus impartiri; firmiter prohibentes, ne Religiosi, Monachi, vel Canonici, Anachoritæ, Heremitæve, subditum alicujus audeant ad Pœnitentiam admittere.

.TIP

Abri dgment.

It was ordained by the Holy Fathers, that one should be appointed in every Deanery, to hear the Confessions of the Clergy, --- which Ordination shall be revived, and is confirmed, --- but so, that they may go to other Penitentiaries.

Stipendiary Priests shall not hear Confessions, but in Cases allow'd.

To the end the Clergy may Confess duly,

--- there shall be one or two appointed in every Archdeaconry, --- and the Religious shall not intermeddle.

A.D. 1305.  
33 Edw. 1.

Edit. Oxon.  
p. 330.

O B S.

A.D. 1322.  
16 Edw. 2.

Edit. Oxon.  
p. 335.

O B S.



Abridgment.

C A P. III.  
E X T R E M E U N C T I O N .  
W A L T E R U S .

Ad Sacramentum Extremæ Unctionis decenter suo tempore suscipiendum, cohortandi sunt Christiani 14. annorum, aut proveciores.

A.D. 1322.  
16 Edw. 2.

Edit. Oxon.  
P. 35.

Extreme Unction shall be performed with great Reverence and Devotion,

--the Effects of which are declared by St. James.

CUM magna reverentia deferatur p Oleum infirmorum ad infirmos; & ipsos inungant sacerdotes cum magna Devotione, & Orationum celebritate, quæ ad hoc sunt ordinatæ: moneant sæpè populum Sacerdotes, eos saltem qui sunt ætatis q 14. annorum & suprâ, ad r extremæ Unctionis Sacramentum recipiendum: Et quod post Sacramentum susceptum licitè possit reverti ad opus conjugale. Effectus enim istius Sacramenti patet ex verbis Apostoli Jacobi dicentis, Si infirmatur quis ex vobis, inducat Presbyteros Ecclesiæ, & orent super illum, ungentes eum Oleo sancto in nomine Domini, & oratio fidei salvabit infirmum, & alleviabit eum Dominus: & si in peccatis sit, dimittentur ei.

Extreme Unction.

O B S.

p Oleum infirmorum.] Hoc est, Oleum ab Episcopo benedictum.—Et licet ex eis quæ leguntur in d. S. ad exhibendum, videatur innui, quodd Oleum Catechumenorum, & Oleum Infirmorum, idem sint; veritas tamen est, quodd diversa sunt, & diversam habent Benedictionem, sicut in Pontificali plenius continetur. Lyndw: q xiv. Annorum.] In hac ætate dicuntur

Adulti. Lyndw. r Extremæ Unctionis.] Dicitur Unctio Extrema, quia non debet fieri, nisi laborantibus in extremis, & in periculo mortis constitutis; quando scilicet deficit Auxilium humanum, & non potest succurrere nisi Virtus divina. Sanis autem non datur hoc Sacramentum, quia habent aliud Remedium, scil. Pœnitentiam. Lyndw.

W A L T E R U S .

A.D. 1322.  
16 Edw. 2.

Edit. Oxon.  
P. 41.

O B S.

Extrema Unctio non nisi elapso anno, & evidenti periculo, iterum conferatur.

Extreme Unction may be renewed, after a year.

SACRAMENTUM Extremæ Unctionis anno elapso potest licitè iterari, ut viz. quolibet anno semel conferatur in gravi infirmitate, de qua metus mortis imminet ægroto.

2 Edw. VI.

A.D. 1548.

O B S.

Anointing of the Sick, and the Prayer.

I F the sicke person desyre to be annoynted, then shal the Prieste annoynt him upon the Forehead or Breast onely, making the sign of the Cross, saying thus,—

As with this Visible Oyle thy Body outwardly is annoynted, Almighty God grant that thy Soul inwardly may be annoynted with the holy Ghost—†

† The rest of the Prayer hath no relation to Anointing.



# T I T. XXII.

## MATRIMONY: how it is duely SOLEMNIZED and DISSOLVED.

### The CONTENTS.

- C A P. I. *Certain DEGREES, within which Marriage is PROHIBITED.*
- C A P. II. *PRECONTRACTS, as disannulling or not disannulling Marriage.*
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- C A P. V. *Of BIGAMY.*
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- C A P. VII. *Rules of granting LICENCES.*
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- C A P. IX. *IMPEDIMENTS, as DECLARED, or ALLEDGED.*
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- C A P. XI. *TAXES, relating to Marriages.*
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- C A P. XIV. *Lawful Marriage of PRIESTS in our REFORMED Church.*
- C A P. XV. *Marriage of SIX CLERKS, and DOCTORS of LAW.*
- C A P. XVI. *CAUSES MATRIMONIAL to be Prudently and Cautiously managed.*
- C A P. XVII. *Of DIVORCE.*



Abridgment.

C A P. I.

Certain DEGREES, within which Marriage is PROHIBITED.

JOHANNES STRATFORD.

Quicumque Matrimonia prohibita non rite solemnizant, de facto excommunicentur, [ & quater singulis annis publicentur. Non-rite autem solemnizant etiam hi, quicumque extra locum legitimum id faciunt.]

A.D. 1342. 16 Edw. 3.

Edit. Oxon. p. 275.

Persons married, knowing Impediments, shall incur Excommunication ipso facto.



Umana concupiscentia & infra. Præsentis auctoritate Concilii Statuimus, quod exnunc Matrimonia contrahentes, & ea inter se solemnizari facientes, quæcunque impedimenta Canonica in ea parte scientes, aut præsumptionem verisimilem eorundem habentes; majoris Excommunicationis Sententiam incurrant ipso facto.

Certain Degrees, within which Marriage is prohibited.

A.D. 1533.

25 Henr. VIII. Cap. 22.

In an Act, Entituled, An Act concerning the King's Succession.

Marriages prohibited, within certain degrees, by the Laws of God,

—may not be dispensed with, by humane Power.

Enacted, that, —none shall marry within the said degrees, —and all Separations of Marriages within such degrees shall be good, —and the Children Illegitimate.

All such Marriages, not yet separated, shall be separated by Ecclesiastical Authority, —whose Sentence shall be final. —and no Appeal to Rome.

III. And furthermore, since many & inconveniencies have fallen, as well within this Realm, as in others, by reason of marrying within the degrees of Marriage prohibited by God's laws, that is to say The son to marry the mother, or the step-mother, The brother the sister, The father his sons daughter, or his daughters daughter or the son to marry the daughter of his father, procreate and born by his step-mother, or the son to marry his aunt, being his fathers or mothers sister, or to marry his uncles wife, or the father to marry his sons wife, or the brother to marry his brothers wife, or any man to marry his wifes daughter, or his wifes sons daughter, or his wifes daughters daughter, or his wifes sister. Which marriages albeit they be plainly prohibited and detested by the Laws of God, yet nevertheless at sometimes they have proceeded under colours of dispensations by mans power, which is but usurped, and of right ought not to be granted, admitted nor allowed. For no man, of what estate, degree or condition soever he be, hath power to dispense with Gods Laws: as all the Clergy of this Realm in the said Convocations, and the most part of all the famous Universities of Christendom, and we also do affirm and think.

IV. Be it therefore enacted by authority aforesaid, That no person or persons, subjects or residents of this Realm or in any your dominions, of what estate, degree or dignity soever they be, shall from henceforth marry within the said degrees afove rehearsed, what pretence soever shall be made to the contrary thereof. And in case any person or persons, of what estate, dignity, degree or condition soever he be, hath been heretofore married within this Realm, or in any the Kings dominions, within any the degrees abave expressed; and by any the Archbishops, Bishops or Ministers of the Church of England, be separate from the bonds of such unlawful Marriage, That then every such separation shall be good, lawful, firm and permanent for ever, and not by any power, authority or means to be revoked or undone hereafter: and that the children proceeding or procreate under such unlawful marriage, shall not be lawful ne legitimate: Any foreign laws, licences, dispensations, or other thing or things to the contrary thereof notwithstanding.

V. And in case there be any person or persons within this Realm, or in any the Kings dominions, already married within any the said degrees abave specified, and not yet separate from the bonds of such unlawful marriage, That then every such person so unlawfully married, shall be separate by the definitive sentence and judgments of Archbishops, Bishops and other Ministers of the Church of England, and in other your dominions, within the limits of their jurisdictions and authorities, and by none other power or authority. And that all sentences and judgments, given and to be given by any Archbishop, Bishop, or other Minister of the Church of England, or in other the Kings Dominions, within the limits of their jurisdictions and authorities, shall be definitive, firm, good and effectual to all intents, and be observed and obeyed, without suing any provocations, appeals, prohibitions, or other process from the Court of Rome, to the derogation thereof, or contrary to the Act made since the beginning of this present Parliament, for restraint of such provocations, appeals, prohibitions and other processes.

XV. Provided always, that the Article in this Act contained concerning Prohibitions of Marriages within the degrees afove mentioned in this Act, shall always be taken, interpreted and expounded of such Marriages, where Marriages were solemnized, and carnal knowledge was had.

[Inconveniencies.] One reason and end of those Restraints, is thus laid down by the Canon-Law: Habita est ratio rectissima Charitatis, ut homines, quibus esset utilis atque honestissima Concordia, diversarum Neces-

situdinam vinculis neclerentur, nec unus in unam multas haberet, sed singula spargerentur in singulas; ac sic ad socialem vitam diligentius colligandam plurimæ plurimos obtinerent.

35. q. 2. c. 1.



Certain  
Degrees,  
within  
which Mar-  
riage is  
prohibited.

A.D. 1536.

28 Henr. VIII. Cap. 7.

In an Act, Entituled, *An Act for the establishment of the Imperial Crown of this Realm.*

§. III.—Enacted by the authority of this present Parliament, that the said two Acts, and every of them—shall be repealed, annulled, and made frustrate, and of none effect.

A.D. 1553.

1 Mar. (Sess. 2.) Cap. 1.

In an Act, Entituled, *An Act declaring the Queen's Highghness to have been born in a most just and lawful Matrimony, &c.*

§. III. And be it also enacted by the authority aforesaid, that the said Act of Parliament, Entituled An Act declaring the Establishment of the Succession, &c. made in the 25th year of the reign of the King your father, be repealed, and be void, and of none effect—

A.D. 1536.

28 Henr. VIII. Cap. 7.

In an Act, Entituled, *An Act for the Establishment of the Imperial Crown of this Realm.*

IX And furthermore since many inconveniencies have fallen, as well within this Realm as in others, by reason of the marrying within the degrees of marriage prohibited by Gods laws, that is to say, the son to marry the mother, or the step-mother carnally known by his father: the brother the sister: the father his sons daughter, or his daughters daughter: or the son to marry the daughter of his father procreate and born by his step-mother: or the son to marry his aunt, being his fathers or mothers sister: or to marry his uncles wife carnally known by his uncle: or the father to marry his sons wife carnally known by his son: or the brother to marry his brothers wife carnally known by his brother: or any man married, and carnally knowing his wife, to marry his wifes daughter, or his wifes sons daughter, or his wifes daughters daughter, or his wifes sister.

X. And further to dilate and declare the meaning of these prohibitions, it is to be understood, that if it chance any man to know carnally any woman, that then all and singular persons, being in any degree of consanguinity or affinity, as is above-written, to any of the parties so carnally offending, shall be deemed and adjudged to be within the cases and limits of the said prohibitions of marriage. All which marriages albeit they be plainly prohibited and detested by the Laws of God, yet nevertheless at sometimes they have proceeded under colours of dispensations by mans power, which is but usurped, and of right ought not to be granted, admitted, nor allowed. For no man of what estate, degree, or condition soever he be, hath power to dispence with Gods Laws, as all the Clergy of this Realm in the said Convocations, and the most part of all the Universities of Christendom, and we also do affirm and think.

XI. Be it therefore enacted by authority aforesaid, according as it is declared and contained in the said Act, made in the last Parliament for the establishment of your succession, that no person or persons, subjects, or retainers of this Realm, or in any your dominions, of what estate, degree or dignity soever they be, shall from henceforth marry within the degrees above rehearsed, what pretence soever shall be made to the contrary thereof. And in case any person or persons, of what estate, dignity, degree or condition soever they be, that he heretofore married within this Realm, or in any other the Kings dominions, within any the degrees above rehearsed, and by any the Archbishops or Ministers of the Church of England be separate from the bonds of such unlawful marriages: that then every such separation shall be good, lawful, firm and permanent for ever, and not by any power, authority or means to be revoked or undone hereafter. And that the children proceeding or procreate under such unlawful marriage, shall not be lawful nor legitimate: Any foreign laws, licences, dispensations, or other thing or things to the contrary thereof notwithstanding.

XII. And that in case there be any person or persons within this Realm, or in any the Kings dominions, already married within any of the said degrees above specified, and not yet separate from the bonds of such unlawful marriage, that then every such person so unlawfully married, shall be separate by the definitive sentence and judgments of the Archbishops, Bishops, and other ministers of the Church of England, and in other your dominions, within the limits of their jurisdictions and authorities, and by none other power or authority. And that all sentences and judgments given and to be given by any Archbishop, Bishop, or other minister of the Church of England, or in any other the Kings dominions, within the limits of their jurisdictions and authority, shall be definitive, firm, good, and effectual to all intents, and be observed and obeyed, without suing any provocations, appeals, prohibitions, or other process from or to the Court of Rome, to the derogation thereof, contrary to the Act made since the beginning of the last Parliament for restraint of such provocations, appeals, prohibitions and other processes.

Abridgment.

The foregoing Statute (as well as 26 H. 8. c. 2.) shall be repealed.

The foregoing Statute shall be repealed.

A further Explanation of the Degrees Prohibited, as to carnal knowledge.

A Woman being carnally known, the Prohibition shall extend to all allied in any degree, to both parties,

—with which none can dispense.

Recital and Confirmation of the foregoing Act, 25. H. 8.

—making all Separations good,

—and the issue illegitimate,

—and commanding all such marriages to be separated,

—without Appeal to Rome.



Abridgment.

## 1, 2 Phil. &amp; Mar. Cap. 8.

In an Act, Entituled, *An Act repealing all Articles and Provisions made against the See Apostolick, &c.*

Repeal of the foregoing Act, 28 H. 8.

p. 327.

§. XVIII. And also all *b* that part of the Act made in the said eight and twentieth year of the said King, entituled, *An Act for the Establishment of the Succession of the Imperial Crown of this Realm, that concerneth a prohibition to marry within the degrees expressed in the said Act*—shall henceforth be *c* repealed, made frustrate, and of none effect.

*b* [That part.] It is observed by *Vaughan*, that the part here repealed is *Sect. 11.* (and not *Sect. 9.* nor *10.*) “For (*saieth he*) there was no reason to repeal the Clause declaratory of Marriages prohibited by God’s Law, which the Church of *Rome* always acknowledged.—But (as the time then was) there was reason to repeal a Clause enacting that all Separations of such Marriages, with which the Pope had dispensed, should remain good against his Authority—But, against this distinction, it may be observed, that that Enumeration of Degrees not dispensable by the Pope, which was begun and carried on 25 & 28 *H. VIII.*, was in order to dilannul the King’s Marriage with this Queen’s Mother, and, in effect, to bastardize the Queen; whose Parliament therefore cannot well be presumed to have spared these two Clauses (9 & 10) when they repealed the 11th; especially, since the words of the Repeal are much more naturally interpreted of the whole: And it is certain, that the Church of *Rome* thought

at least one of the Cases specified in those two Acts as expressly against the Law of God (*viz.* the marrying of the Brother’s Wife) to be a dispensable Case.

*c* [Repealed.] In the Stat. 1 *Eliz.* c. 10. where many of the Statutes repealed by 1 & 2 *Mar.* are revived, it is specially provided, that all others, repealed by the Act of Queen *Mary*, and not revived by that of Queen *Elizabeth*, shall stand repealed; which seems therefore to be the case of the present Statute. But it is observed by the Lord Chief Justice *Vaughan*, that, the Act 28 *H. 8.* c. 16. being revived by 1 *Eliz.* and there being in the second Section of the said Act (28 *H. 8.* §. 2.) a special reference to the Act 28 *H. 8.* c. 7. as the rule of judging and determining what Marriages are or are not against God’s Law; this Act, therefore, is virtually revived by the Reviver of 28 *H. 8.* c. 16. Upon which foundation, this Statute is alledged, as in force, in the forementioned Case of *Harison* and *Burwell*, and so reported and taken for granted, both by himself, and by *Ventris*.

Certain Degrees, within which Marriage is prohibited.

A. D. 1281.

Vaugh. 215. 2. Ventr. 11.

A. D. 1536.

## 28 Henr. VIII. Cap. 16.

In Act, Entituled, *A Provision for Dispensations and Licences heretofore obtained from the See of Rome.*

In the voiding of Bulls, Dispensations, &c. from *Rome*.

— a Proviso, at the request of Lords and Commons,

— that Marriages, not divorced, nor prohibited by Gods Laws as limited in 28. *H. 8.* c. 7. nor by Scripture; shall be good.

§. II. Wherefore be it enacted by authority of this present Parliament, That all bulls, bryves, faculties and dispensations, of what names, natures, or qualities soever they be of, heretofore had or obtained of the Bishop of *Rome*, or of any his predecessors, or by the authority of the See of *Rome*, by or to any subjects, residents, or bodies politick or corporate, of or in this Realm, or of or in any other the King’s Dominions, shall from henceforth be clearly void, and of no value, force, strength, nor virtue, and shall never hereafter be used, admitted, allowed, pleaded or alledged in any places or Courts of this Realm, or of any other the Kings Dominions, upon the pains contained in the Statute of provision and premunire, made in the sixteenth year of the Reign of King *Richard* the second. Yet notwithstanding, at the most humble petition and intercession of the Lords spiritual and temporal, and the Commons in this present Parliament assembled, it may please the Kings Majesty of his most gracious benignity, goodness, and blessed disposition, that it may be enacted by authority of this present Parliament, That all Marriages had and solemnized within this Realm, or in any other the Kings Dominions, before the third day of November, in the six and twentieth year of the Kings most gracious Reign, whereof there is no divorce or Separation had by the Ecclesiastical laws of this Realm, and which marriages be not prohibited by Gods laws, limited and declared in the Act made in this present Parliament for the establishment of the Kings succession, or otherwise by holy scripture; shall be by authority of this present Parliament, good, lawful, and effectual, and shall be from the beginning of such marriages reputed, esteemed, taken, adjudged, received, approved, and allowed by the authority of this present Parliament, to all and singular purposes, effects and intents, as good, as sufficient, and as available, as though no

impediment



Certain Degrees, within which Marriage is prohibited

A.D. 1541. See the Act entire in Cap. 2.

impediment of matrimony had ever been between them that have contracted and solemnized such marriages: And that all children procreated and to be procreated in and under such marriages, shall be lawful to all intents and purposes. †

† Rep. 1, 2 Phil. 2y Mar. c. 8. § 17. Rev. 1 Eliz. c. 1. § 10. as in the Chapter of Dispensations.

\* 32 Henr. VIII. Cap. 38.

In an Act, Entituled, For Marriages to stand, notwithstanding Pre-contracts.

§ II.—Further also, by reason of other prohibitions then Gods law admitteth, for their lucre by that Court invented, the dispensations whereof they always reserved to themselves, as in kindred or affinity between Cousin-germans, and so to fourth and d fourth degree, carnal knowledge of any of the same kin or affinity before in such outward degrees, which else were lawful, and be not prohibited by Gods Law.

By this Act, we declare all Persons to be lawful, that be not prohibited by Gods Law.

§ II.—And that no Reservation or Prohibition, e Gods Law except, shall trouble or impeach any Marriage without f the Levitical degrees. And that no person, of what estate, degree, or condition soever he or she be, shall after the said first day of the month of July aforesaid, be admitted to any of the g Spiritual Courts within this the Kings Realm, or any his Graces other Lands and Dominions, to any process, plea, or allegation, contrary to this aforesaid Act.

d Fourth.] The more ancient Prohibition of the Canon-Law, was to the seventh Generation: De affinitate Consanguinitatis per gradus cognationis, placuit usque ad septimam generationem observari. And the same was the Law of the Church of England: as in the Council of London, Quoad usque Parentela ex alterutra parte ad septimum gradum perveniat; and, in the Council of Westminster, Inter consanguineos, seu affinitate propinquos, usque ad septimam generationem matrimonia contrahi prohibemus. But in the 4th. Council of Lateran, which was held in the year of our Lord, 1215. the Prohibition was reduced to the fourth degree; Prohibitio Copula Conjugalis quartum Consanguinitatis & Affinitatis gradum de cetero non excedat; quoniam in ulterioribus gradibus jam non potest absque gravi dispendio hujusmodi Prohibitio generaliter observari. Which Limitation was also the Rule of the Church of England; as appears, not only by this Statute, but also by the frequent

Dispensations for the fourth Degree (and no further) which we meet within our Ecclesiastical Records; as granted here by special Authority from the See of Rome.

e Gods Law except.] For there are other Laws of God, prohibiting Marriages, besides the Law of God in the Levitical Degrees; as, Persons precontracted to one another, are prohibited by the Law of God to marry against such Precontract; and so, Persons of natural Impotency may not marry at all, since if Marriage answer not the ends, of avoiding Fornication, &c. it is as null: which Marriages may be impeached, as contrary to the Laws of God, tho' out of the Levitical Degrees.

f The Levitical Degrees.] Particularly set forth in the 18 Chapter of Leviticus, and specified in the foregoing Statutes 25 & 28 H. 8. But they may be more clearly and readily understood, by the following Table.

Of the M A N's part.

Degrees of Kindred and Consanguinity prohibited. A Man may not Marry his

- 1 Mother.
2 Fathers Sister.
3 Mothers Sister.
4 Sister.
5 Daughter.
6 Sons Daughter or Daughters Daughter.

Degrees of Affinity and Alliance prohibited. A Man may not Marry his

- 1 Fathers Wife.
2 Uncles Wife.
3 Fathers Wifes Daughter.
4 Brothers Wife.
5 Wifes Sister.
6 Sons Wife or Wifes Daughter.
7 Daughter of his Wifes Son or Daughter.

Of the W O M A N's part.

Degrees of Kindred and Consanguinity prohibited. A Woman may not Marry her

- 1 Father.
2 Fathers Brother.
3 Mothers Brother.
4 Brother.
5 Son.
6 Son of her Son or Daughter.

Degrees of Affinity and Alliance prohibited. A Woman may not Marry her

- 1 Mothers Husband.
2 Aunts Husband.
3 Sisters Husband.
4 Husbands Brother.
5 Daughters Husband.
6 Son of her Son or Daughter.

Abridgment.

No Prohibition shall hinder Marriage,

-- but that of Gods Law,

-- as expressed in the Levitical Degrees.

Vaughan, p. 220.

35. q. 2, 3. c. 21.

Spei. v. 2. p. 8.

Cap. 5.

2. Inf. p. 683.



## Abridgment.

Ventris, P. 2.  
P. 19.  
Vaughan, p.  
242, &c.

De Jur. &c.  
l. 2. c. 5.

Fol 23. a.

2. Inst. p.  
683.  
Ventris, P.  
2. p. 12.

For the better understanding of which Prohibitions, together with the grounds and limitations of them; it may not be improper to mention some special Rules, which have been laid down for that end, both by *Lawyers* and *Divines*. As,

First, *That Marriages in the ascending and descending line, i. e. of Children, with their Father, Grandfather, Mother, Grandmother, and so upwards, are prohibited, without limit; because they are the cause (immediate, or mediate) of their Being; and it is directly repugnant to the order of Nature, which hath assigned several Duties and Offices, essential to each, that would thereby be inverted and overthrown. A Parent cannot obey a Child; and therefore it is unnatural, that a Parent should be Wife to a Child: A Parent, as a Parent, has a natural right to command and correct a Child; and that a Child, as Husband, should command and correct the same Parent, is unnatural. And therefore Grotius, speaking of such Marriages, says, Quæ quo minus licita sunt rati (nifallor) satis apparet; nam nec maritus, qui superior est lege Matrimonii, eam reverentiam potest præstare matri, quam Natura exigit, nec Patri filia; quia, quanquam inferior est in Matrimonio, ipsum tamen Matrimonium talem inducit Societatem, quæ illius necessitudinis Reverentiam excludit.* To which we may add, the inconsistency, absurdity, and monstrousness of the Relations to be begotten, if such Prohibition were not absolute and unlimited, &c. The Son or Daughter (for instance) born of the Mother, and begot by the Son, considered as born of the Mother, would be a Brother or Sister to the Father, but as begot by him, would be a Son or Daughter. So, the Issue procreate upon the Grandmother, as born of the Grandmother, will be Uncles or Aunts to the Father, but as begot by the Son, they will be Sons or Daughters to him, and this in the first degrees of Kindred:

Secondly, *There are several Degrees, which, altho' not expressly named in the Levitical Law, are yet prohibited by that, and by this Act, paritate Rationis. Which is well expressed and illustrated in the Reformatio Legum; Hoc tamen in illis Levitici Capitibus diligenter animadvertendum est, minime ibi omnes non legitimas personas nominatim explicari. Nam Spiritus Sanctus illas ibi personas evidenter & expresse posuit, ex quibus similia spatia reliquorum Graduum, & differentia inter se, facile possunt conjectari & inveniri. Quemadmodum, exempli causâ, cum filio non datur uxor mater, consequens est, ut ne filia quidem Patri conjux dari potest: Et, si Patruï non licet uxorem in matrimonio habere, nec cum Avunculi profectò conjuge nobis nuptiæ concedi possunt.*—To which the same Book adds two particular Rules, for our direction in this matter, 1. *Ut qui loci Viris attribuuntur, eosdem sciamus feminis assignari, paribus semper Proportionum & Proximitatum Gradibus.* 2. *Ut Vir & Uxor unam & eandem inter se Carnem habere existimentur; & ita quo quisque gradu Consanguinitatis quemque contingit, eodem ejus uxorem continget affinitatis gradu; quod etiam in contrariam partem, eadem ratione, valet.*

Upon the foregoing Rule, from *Parity of Reason* (which we also find to be acknow-

ledged, and laid down, by the Books of *Common-Law*) rests the Prohibition against marrying a *Wife's Sister*; which I cannot better explain, than in the words of Bishop *Jewel*, in his printed Letter upon that point: "Albeit, I be not forbidden, by plain words, to marry my Wife's Sister, yet am I forbidden so to do by other words, which by Exposition are plain enough. For when God commands me, I shall not marry my Brother's Wife, it follows directly by the same, that he forbids me to marry my Wife's Sister. For between one Man and two Sisters, and one Woman and two Brothers, is like Analogy or Proportion. Accordingly, in the Canons of 1571. where the Dissolution of all Marriages within the Levitical Degrees is directed, this Case is specially enforced; *Maximè vero, si quis priore uxore demortuâ, ejus sororem uxorem duxerit; hic enim gradus communi doctorum virorum consensu & judicio putatur in Levitico prohiberi.* And when this point of Marrying the Wife's Sister, came under consideration in the King's-Bench (25 Car. 2. *Michaëlas-term, Hill. v. Good*) tho' it was alledged, that the Precept, *primâ facie*, seemed to be only against having two Sisters at the same time, and Prohibition to the Spiritual Court was granted; yet in *Trinity-term, 26 Car. 2.* after hearing Civilians, they granted a Consultation, as in a matter within this Statute 32 H. 8; though the former Statute (28 H. 8.) had never been revived, after the Repeal of Queen *Mary*, which yet it *virtually* was; and there, as in 25 H. 8. the Wife's Sister is expressly prohibited.

Upon the like *Parity of Reason*, in the Case of *Wortly and Watkinson*, a Consultation was granted, where one had married the Daughter of the Sister of his former Wife; which (as Sir *John King* laid the Argument) is in the same degree of Proximity, as the Nephew's marrying his Father's Brother's Wife; and this being expressly prohibited, the other, *paritate rationis*, is so too; as it had been declared (16 Jac. 1.) in *Rennington's Case* before the High Commissioners. Which point was again argued 1 *Annæ*, in the Case of *Snowling and Nursey*, and Consultation granted as before; notwithstanding the Case of *Richard Parsons*, mentioned by my Lord *Coke*, in which it was first determined, not to be within the Levitical Degrees, and Prohibition granted; but a Consultation being awarded on Debate two years after, that Case is said to have been expunged out of the first Institute, by Order of King and Council. I will only add, that this was the very Point, in which (presently after the making of the Act) *Cromwell* desired a Dispensation for one *Massey*, who was contracted to his Sister's Daughter of his late Wife; but the Archbishop denied it, as contrary to the Law of God, and gave for reason, That, as several persons are prohibited, which are not expressed, but understood, by like Prohibition, in equal degree; so, in this case, it being expressed, that the Nephew shall not marry his Uncle's Wife, it is implied, that the Niece shall not be married to the Aunt's Husband.

Much

Certain Degrees, within which Marriage is prohibited.

Str. Park. App. p. 33.

Vaughan, 302.  
3. Keble, 166.

2. Lev. 254.

Hob. 181.  
Lutw. 1075.

1. Inst. f. 235.

Vaughan, 322.  
3. Keble, 660.

Str. Crann. p. 46.



Certain Degrees, within which Marriage is prohibited.

Raym. 454. Mod. Rep. P. 5. P. 170.

Much less can it be doubted, whether the like Rule, *de paritate Rationis*, doth not forbid the Uncle to marry his Niece, which, tho' not expressly forbidden, is *virtually* prohibited in the Precept, that forbids the Nephew to marry the Aunt; nor is it of moment to alledge, that the first is a more favourable Case, as the *natural Superiority* is preserved; since the *Parity of Degree* (which is the proper rule of judging) is the very same.

But where the case in the Spiritual Court was, that one had married the Wife of his great Uncle, this was declared, not to be within the Levitical Degrees; and accordingly (after the Opinion of all the Judges, taken by the King's special Command) a Prohibition was granted. This was the Case of *Harrison and Burwell* (20 Car. 2.) very particularly reported by *Vaughan* and *Ventris*; in which Reports (together with that of *Hill and Good*, which is likewise set forth at large by *Vaughan*) may be found a Variety of Learning and Argument, upon this point of *Levitical Degrees*; the *Results* of which are here set down.

Thirdly, There are two Rules in the *Reformatio Legum*, which conduce much to the true understanding of the Levitical Degrees: 1. *Non solum in legitimis Matrimoniiis talem habent dispositionem, qualem jam posuimus, potest uxorem sumere, eodem nec Patris Conlocum habent; filius enim quo jure matrem non sed eundem in corporum illegitima conjunctione binam habere potest; & Pater quomodo filii non debet uxorem contractare, sic ab illa se remove debet, quâ filius est abusus; quâ ratione mater nec cum filia marito jungi debet, nec etiam cum illo ingredi quæ filiam oppresserit.* 2. *Non solum istas, maritis adhuc superstitionibus, disjungi personas quas diximus, sed etiam illis mortuus idem perpetuo valere. Quemadmodum enim horribile flagitium est in vita Patris, Fratris, Patru, aut Avunculi, audere illorum uxores violare; sic post mortem illorum matrimonium cum illis contrahere parem turpitudinem habet.*

To the first of these Rules may be referred the Case of *Haynes and Jephcot*, in which a Prohibition was pray'd to the Spiritual Court on a Suit there against a man for marrying his Sitter's Bastard-daughter, as not within the Levitical Law. But it was urged against the Prohibition, that in

this Case, *legitimacy* or *illegitimacy* made no difference, and that if a *Bastard* be not within the Rule, *Ad proximum sanguinis non accedat*, then a Mother may marry her Bastard Son. The Court inclined, not to grant a Prohibition; but the Cause was adjourned, and it appears not what became of it.

[g *Spiritual Courts.*] In the forementioned Case of *Harrison and Burwell*, it was observed, that no Prohibition was to be found in the Register or elsewhere, concerning the questioning of any Marriage in the Spiritual Court, in all the time before the Acts of Parliament, and long after some of them; and it was also confessed, that neither the Act 25 nor 28 H. 8. gave any Jurisdiction to the Temporal Courts, concerning Marriages, more than they had before; being Acts directory only to the Ecclesiastical Proceeding in matters of Marriage. But it was declared, that by this Act, the Temporal Courts are become the proper Judges, what Marriages are *within* or *without* the Levitical Degrees, and are to prohibit the Spiritual Courts if they impeach any Persons for Marriages *without* those Degrees. But *Vaughan* declared in this Case (and repeated that Declaration in the Case of *Hill and Good*) that if granting Prohibitions to the Spiritual Courts in cases of Matrimony, were *res integra* now, he saw no reason, why they should be granted in any Case; but that there having been so many Precedents of Prohibitions, and no Complaint, or at least Redress, in Parliament, they could not take upon them to alter the course of the Law, so long practised.

The second of these two Cases, was *Ann. 25 Car. 2*; and in the 34th of the same reign, a Prohibition was prayed to the Spiritual Court at *York*, to hinder a Prosecution there for marrying the Sister's Daughter; but it was denied by the whole Court, upon this general reason, "Because it is a Cause of Ecclesiastical Cognisance, and Divines better know how to expound the Law of Marriages, than the Common Lawyers; and though sometimes Prohibitions have been granted in Causes Matrimonial; yet if it were now *res integra*, they would not be granted."

Abridgment.

Vaughan, 213.

Ibid. 216.

Ibid. 209. 2 Ventris, 14.

Vaughan, 220, 304.

Raym. 454.

Vaughan, 206. 2 Ventris, 9.

Vaughan, 302.

Fol. 23. b.

Mod. Rep. P. 5. P. 168.

I Jac. I.

CANONS 1603.

xcix. None to marry within the Degrees prohibited,

NO persons shall Marry *h* within the Degrees prohibited *i* by the Laws of God, and expressed in a *k* Table set forth by Authority in the year of our Lord God 1563. and all Marriages so made and contracted shall be adjudged incestuous and unlawful, and consequently shall be dissolved as void from the beginning, and the Parties so married shall by course of Law be separated. And the aforesaid Table shall be in every Church publickly set up and fixed at the charge of the Parish.

*h* [Within the Degrees.] This is a Prohibition, not only of the Marriages mentioned within *Leviticus* 18. but also of Marriages within the Degrees there mentioned; which, tho' not forbidden *in terms*, are forbidden by *Parity of Degree*, and the plain reason of the Precept. And this dif-

ference, as to the interpretation of the Levitical Prohibition in point of *extent*, was remarkable among the Jewish Doctors; some of whom (*viz.* the *Talmudists*) confined it to the Letter of the Law; others (*viz.* the *Karaites*) extended it to all Marriages of the same Degrees, with those that are

Marriages within the degrees prohibited, are Incestuous, and unlawful;

A Table of Degrees shall be in every Church,



Abridgment.

Can. 18.

are prohibited by name. Which latter Opinion, as most agreeable to Scripture and Reason, was followed by the primitive Christians; as appears from the Apostolical Canons, which forbid the marrying of two Sisters, and of a Brother or Sister's Daughter; *Ὁ δὲ ἀδελφῆς ἀγαθόμενος, ἢ ἀδελφίδου, ἢ δούλου εἶναι κληρικὸς, i. e. Qui duas Sorores duxit vel Consobrinam, non potest esse Clericus.* The first of which is also forbidden by another ancient Canon made a-

bout the year 305, in the Council of Eliberis: *Si quis post obitum Uxoris suæ, sororem ejus duxerit, & ipsa fuerit fidelis, quinquennium à Communionem placuit abstinere; nisi forte dari Pacem velocius necessitas cogerit infirmitatis.* Now, neither of these Cases are forbidden literally by the Levitical Law, but only by the rule of Parity in degree; the same Rule that is also followed in the Table of Direction, refer'd to in this Canon; which Table is as follows.

Certain Degrees, within which Marriage is prohibited.

An Admonition to all such as shall intend hereafter to enter the state of Matrimony; godly, and agreeable to Laws.

First, That they contract not with such persons as be hereafter expressed, nor with any of like degree, against the Law of God, and the Laws of the Realm.

Secondly, That they make no secret Contracts, without consent and counsel of their Parents or Elders, under whose authority they be, contrary to God's Laws, and mans Ordinances.

Thirdly, That they contract not anew with any other, upon divorce and separation made by the Judge for a time, the Laws yet standing to the contrary.

Marriage is honourable among all men, and the bed undefiled: but whoremongers and adulterers God will judge, Heb. 13. 4.

To avoid fornication, let every man have his wife, and let every woman have her husband. He that cannot contain, let him marry: for better it is to marry, than to burn. 1 Cor. 7.

Unto the married I command, not I, but the Lord, Let not the wife depart from her husband: but if she depart, let her remain unmarried, or be reconciled unto her husband: and let not the husband put away his Wife, 1 Cor. 1.

None shall come near to any of the kindred of his flesh, to uncover her shame: I am the Lord. Leviticus 18. 6.

A Man may not marry his

A Woman may not marry with her

| Secundus gradus in linea recta ascendente,                   |                             | Secundus gradus in linea recta ascendente,                   |                                                  |
|--------------------------------------------------------------|-----------------------------|--------------------------------------------------------------|--------------------------------------------------|
| Conf. Avia                                                   | 1 Grandmother               | 1 Grandfather                                                | Conf. Avus                                       |
| Affin. Avi relicta                                           | 2 Grandfathers Wife         | 2 Grandmothers Husband                                       | Affin. Avia relicta                              |
| Affin. Profocrus, vel socrus magna                           | 3 Wifes Grandmother         | 3 Husbands Grandfather                                       | Affin. Profocer, vel socer magnus.               |
| Secundus gradus inæqualis in linea transversali ascendente,  |                             | Secundus gradus inæqualis in linea transversali ascendente,  |                                                  |
| Conf. Amiza                                                  | 4 Fathers Sister            | 4 Fathers Brother                                            | Conf. Parruus                                    |
| Conf. Matertera                                              | 5 Mothers Sister            | 5 Mothers Brother                                            | Conf. Avunculus                                  |
| Affin. Patruï relicta                                        | 6 Fathers Brothers Wife     | 6 Fathers Sisters Husband                                    | Affin. Amiza relicta                             |
| Affin. Avunculi relicta                                      | 7 Mothers Brothers Wife     | 7 Mothers Sisters Husband                                    | Affin. Matertera relicta                         |
| Affin. Amiza uxoris                                          | 8 Wifes Fathers Sister      | 8 Husbands Fathers Brother                                   | Affin. Parruus mariti                            |
| Affin. Matertera uxoris.                                     | 9 Wifes Mothers Sister      | 9 Husbands Mothers Brother                                   | Affin. Avunculus mariti                          |
| Primus gradus in linea recta ascendente,                     |                             | Primus gradus in linea recta ascendente,                     |                                                  |
| Conf. Mater                                                  | 10 Mother                   | 10 Father                                                    | Conf. Pater                                      |
| Affin. Noverca                                               | 11 Stepmother               | 11 Stepfather                                                | Affin. Virricus                                  |
| Affin. Socrus.                                               | 12 Wifes Mother             | 12 Husbands Father                                           | Affin. Socer.                                    |
| Primus gradus in linea recta descendente,                    |                             | Primus gradus in linea recta descendente,                    |                                                  |
| Conf. Filia                                                  | 13 Daughter                 | 13 Son                                                       | Conf. Filius                                     |
| Affin. Privigna                                              | 14 Wifes Daughter           | 14 Husbands Son                                              | Affin. Privignus                                 |
| Affin. Nurus.                                                | 15 Sons Wife                | 15 Daughters Husband                                         | Affin. Gener.                                    |
| Primus gradus æqualis in linea transversali,                 |                             | Primus gradus æqualis in linea transversali,                 |                                                  |
| Conf. Soror                                                  | 16 Sister                   | 16 Brother                                                   | Conf. Frater                                     |
| Affin. Soror uxoris                                          | 17 Wifes Sister             | 17 Husbands Brother                                          | Affin. Levir                                     |
| Affin. Fratris relicta.                                      | 18 Brothers Wife            | 18 Sisters Husband                                           | Affin. Sororis relicta.                          |
| Secundus gradus in linea recta descendente,                  |                             | Secundus gradus in linea recta descendente,                  |                                                  |
| Conf. Neptis ex filio                                        | 19 Sons Daughter            | 19 Sons Son                                                  | Conf. Nepos ex filio                             |
| Conf. Neptis ex filia                                        | 20 Daughters Daughter       | 20 Daughters Son                                             | Conf. Nepos ex filia                             |
| Affin. Pronurus, i. relicta nepotis ex filio                 | 21 Sons Sons Wife           | 21 Sons Daughters Husband                                    | Affin. Progener, i. relicta nepotis ex filio     |
| Affin. Pronurus, i. relicta nepotis ex filia                 | 22 Daughters Sons Wife      | 22 Daughters Daughters Husband                               | Affin. Progener, i. relicta nepotis ex filia     |
| Affin. Privigni filia                                        | 23 Wifes Sons Daughter      | 23 Husbands Sons Son                                         | Affin. Privigni filius                           |
| Affin. Privigna filia.                                       | 24 Wifes Daughters Daughter | 24 Husbands Daughters Son                                    | Affin. Privigna filius.                          |
| Secundus gradus inæqualis in linea transversali descendente, |                             | Secundus gradus inæqualis in linea transversali descendente, |                                                  |
| Conf. Neptis ex fratre                                       | 25 Brothers Daughter        | 25 Brothers Son                                              | Conf. Nepos ex fratre                            |
| Conf. Neptis ex sorore                                       | 26 Sisters Daughter         | 26 Sisters Son                                               | Conf. Nepos ex sorore                            |
| Affin. Neptis ex fratre relicta                              | 27 Brothers Sons Wife       | 27 Brothers Daughters Husband                                | Affin. Neptis ex fratre relicta                  |
| Affin. Neptis ex sorore relicta                              | 28 Sisters Sons Wife        | 28 Sisters Daughters Husband                                 | Affin. Neptis ex sorore relicta                  |
| Affin. Neptis uxoris ex fratre                               | 29 Wifes Brothers Daughter  | 29 Husbands Brothers Son                                     | Affin. Leviri filius, i. nepos mariti ex fratre  |
| Affin. Neptis uxoris ex sorore.                              | 30 Wifes Sisters Daughter   | 30 Husbands Sisters Son.                                     | Affin. Gloris filius, i. nepos mariti ex sorore. |

It is to be noted, That those persons which be in the direct Line ascend and descendent, cannot marry together, although they be never so far asunder in degree.

2 It is to be noted. That Consanguinity and Affinity (letting and dissolving Matrimony) is contracted as well in them and by them which be of kindred by the one side, as in and by them which be of kindred by both sides.

3 Item, That by the Laws, Consanguinity and Affinity (letting and dissolving Matrimony) is contracted as well by unlawful company of man and woman, as by lawful Marriage.

4 Item. In contracting betwixt persons doubtful, which be not expressed in this Table, it is most sure first to consult with men learned in the Laws, to understand what is lawful, what is honest and expedient, before the finishing of their contracts.

5 Item, That no Parson, Vicar or Curate, shall solemnize Matrimony out of his or their Cure or Parish-Church or Chappel, and shall not solemnize the same in private houses, nor lawless or exempt Churches, under the pains of the Law forbidding the same. And that the Curate have their Certificate, when the parties dwell in divers Parishes.

6 Item. The Banns of Matrimony ought to be openly denounced in

the Church by the Minister three several Sundays or Festival days, to the intent that who will and can alledge any impediment, may be heard, and that stay may be made till further tryal, if any exception be made there against it, upon sufficient caution.

7 Item, Who shall maliciously object a frivolous impediment against a lawful Matrimony, to disturb the same, is subject to the pains of the Law.

8 Item, Who shall presume to contract in the degrees prohibited (though he do it ignorantly) besides that the fruit of such copulation may be judged unlawful, is also punishable at the Ordinaries discretion.

9 Item, If any Minister shall conjoin any such, or shall be present at such contracts making, he ought to be suspended from his Ministry for three years, and otherwise to be punished according to the Laws.

10 Item, It is further ordained, That no Parson, Vicar or Curate do preach, treat or expound, of his own voluntary invention, any matter of controversie in the Scriptures, if he be under the degree of a Master of Arts, except he be licensed by his Ordinary thereunto; but only for the instruction of the people, read the Homilies already set forth, and such other form of Doctrine as shall be hereafter by authority published; and shall not innovate or alter any thing in the Church, or use any old Rite or Ceremony, which be not set forth by publick Authority.



C A P. II.

PRECONTRACTS, as disannulling Marriages.

EDMUNDUS.

*Ante tempus legitimum non contrabatur Matrimonium, sine Dispensatione pro bono pacis.*

**U**BI non est Consensus utriusque, non est Conjugium. Igitur qui *m* pueris dant puellas in cunabulis *n* nihil faciunt, nisi uterque puerorum postquam venerit ad *o* tempus discretionis *p* consentiat. Hujus ergo Decreti Autoritate Inhibemus; ne de cætero aliqui, quorum uterque vel alter ad *q* ætatem Legibus constitutam & Canonibus determinatam *r* non pervenerit, conjungantur: nisi *s* urgente necessitate pro bono pacis talis conjunctio toleretur.

None shall be joyned in Matrimony, but who are arrived to a legal Age.

A.D. 1236.  
21 H. 3.

Edit. Oxon.  
p. 272.

Precontracts, as disannulling Marriages.

Spel. V. 2. p. 106.

*l* Ubi non est.] Desumitur hæc Constitutio è libro Decretorum (caus. 30. q. 2.) unde translata est in Corpus Legum Anglicanarum, Ann. 1175. in Concilio Westmonasteriensi.

*o* Tempus discretionis.] Hoc intellige, quoad vinculum Matrimonii: sed quoad Sponsalia sufficeret, si, post septimum annum completum, uterque eorum permaneat in eadem voluntate. Lyndw.

*m* Pueris.] Intellige propriè de majoribus Septennio, minoribus tamen 14 annis: Hic tamen sumitur Puer pro minore Septem annis, ut patet ex hoc, quod subditur, In Incunabulis, &c. Lyndw. — Admonebunt etiam Parochianos suos, magnis & gravibus de causis constitutum esse in Synodo à Reverendissimo Patre Domino Matthæo Archiepiscopo Cantuariensi & aliis Episcopis, ne liberi contrahant Matrimonium sine consensu Parentum, neve Juvenis contrahendi Potestatem habeat, ante annum ætatis suæ decimum sextum, neve Puella ante decimum quartum.

*p* Consentiat.] Sic babes, quod actus nullus à principio, tractu temporis convalescit, quando supervenit causa habilis ad actum de novo creandum; sicut est consensus tacitus, vel expressus. Lyndw.

*n* Nihil faciunt.] Supple, quoad vinculum Matrimonii; nec etiam quoad Sponsalia, nisi post Septennium verbo vel facto appareat eos perdurare in eadem voluntate: nam tunc, ex tali voluntate, sive consensu, incipiunt inter eos esse Sponsalia. Lyndw.

*q* Ætatem.] Hæc ætas, quoad Sponsalia, est septem annorum, ubi finitur Infantia tam in Viro quam in Fœminâ; quoad Matrimonium, in fœmina est 12 annorum, in masculo 14 annorum. Lyndw.

*r* Non pervenerit.] Requiritur enim, in contrahere volentibus, ætas completa. Lyndw.

*s* Urgente necessitate.] Sed quis cognoscet, utrum subsit ista necessitas, sive non? — Diocesanus, sine cujus licentiâ non debent contrahere; — similiter, contracta non debent sine ejus auctoritate dissolvi. Lyndw.

Can. 1571. p. 234.

W A L T E R U S.

In Const. Matrimonium, sub Tit. De Sponsal

**P**rohibeant etiam Presbyteri frequenter Matrimonium contrahere volentibus, sub pœna Excommunicationis, ne dent sibi fidemmutuò de Matrimonio contrahendo, nisi in loco celebri, coram *t* publicis & pluribus personis ad hoc convocatis.

All Contracts of Matrimony shall be publick.

*t* Publicis.] Utpotâ Tabellionibus: Vel dic, Publicis, id est, palam & in publico presentibus. Lyndw. De qua re, ita statutum est à Thoma Bourchier Archiep. Cant. Ann. Dom. 1455. "Injungatis insuper utriusque Sexus Viris ac Mulieribus, ne mutuò fidem dent de Matri-

monio contrahendo, aut Matrimonium quoquo modo contrahant, nisi in præsentia duorum aut trium Testium idoneorum, per quos Matrimonium hujusmodi, si quando, inimico homine procurante, id per aliquem contrahentium denegari contingat, luculenter probari possit.

Spel. V. 2. p. 694.

A.D. 1541.

32 Henr. VIII. Cap. 38.

For Marriages to stand, notwithstanding Precontracts.

**W**hereas heretofore the usurped power of the Bishop of Rome hath always intangled and troubled the meer jurisdiction and Regal power of this Realm of England, and also unquieted much the subjects of the same, by his usurped power in them, as by making that unlawful which by Gods word is lawful, both in marriages and other things, as hereafter shall appear more at length, and till now of late in our Sovereign Lords time, which is otherwise by learning taught then his predecessors in times past long times have been, hath so continued the same; whereof yet some sparks be left, which hereafter might kindle a greater fire, and so remaining, his power not to seem utterly extinct:

Mischiefs of making that unlawful, which God hath made lawful, ---and the necessity of extirpating the Remains of Papal Power;



## Abridgment.

...particularly, in the dissolving of Marriages, that have been long made, upon pretence of Precontract,

—and prohibiting Marriages, not prohibited by God's Law,

—to the great vexation and mischief of the Parties,

—and the uncertainty, and easy dissolving of Marriages.

Enacted, that,

—all Marriages not prohibited by God's Law,

—being solemnized and consummate,

—shall be good, notwithstanding Precontracts.

God's Law is the rule of Marriages.

No Person shall be admitted to plea, contrary to this Act.

Recital of 32. H. 8. c. 38.

II. Therefore it is thought most convenient to the Kings Highness, his Lords Spiritual and Temporal, with the Commons of this Realm assembled in this present Parliament, That two things specially for this time be with diligence provided for, whereby many inconveniences have ensued, and many more else mought ensue and follow: as where heretofore divers and many persons after long continuance together in matrimony, without any allegation of either of the parties, or any other at their marriage, why the same matrimony should not be good, just and lawful, and after the same matrimony solemnized, and consummate by carnal knowledge, and also sometime fruit of children ensued of the same marriage, have nevertheless by an unjust Law of the Bishop of Rome, which is, That upon pretence of a former contract made, and not consummate by carnal copulation, (for proof whereof two witnesses by that Law were only required) been divorced and separate, contrary to Gods Law, and so the true matrimony, both solemnized in the face of the Church, and consummate with bodily knowledge, and confirmed also with the fruit of children had between them, clearly frustrate and dissolved: Further also by reason of other Prohibitions then Gods Law admitteth, for their lucre by that Court invented, the dispensations whereof they always referred to themselves, as in kindred, or affinity between Cousins-germanes, and so to fourth and fourth degree, carnal knowledge of any of the same kin or affinity before in such outward degrees, which else were lawful, and be not prohibited by Gods Law, and all because they would get money by it, and keep a reputation to their usurped jurisdiction; whereby not onely much discord between lawful married persons hath (contrary to Gods ordinance, aisen, much debate and suit at the Law, with wrongful vexation and great damage of the innocent party hath been procured, and many just marriages brought in doubt, and danger of undoing, and also many times undone, and lawful heirs disinherited, whereof there had never else, but for his vain-glorious usurpation, been moved any such question, since freedom in them was given by Gods Law, which ought to be most sure and certain. But that notwithstanding, marriages have been brought into such an uncertainty thereby, that no marriage could be surely knit and bounden, but it should lie in either of the parties power and arbitrar, casting away the fear of God, by means and compasses to prove a precontract, a kindred and alliance, or a carnal knowledge, to defeat the same, and so under the pretence of these Allegations afoze rehearsed, to live all the days of their life in detestable adultery, to the utter destruction of their own souls, and the provocation of the terrible wrath of God upon the places where such abominations were used and suffered: Be it therefore enacted by the King our Sovereign Lord, the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, and by authority of the same, That from the first day of the month of July next coming, in the year of our Lord God 1540, all and every such marriages as within this Church of England shall be contracted between lawfull persons, (as by this Act we declare all persons to be lawfull, that be not prohibited by Gods Law to marry) such marriages being contract and solemnized in the face of the Church, and consummate with bodily knowledge, or fruit of children, or child being had therein between the parties so married, shall be by authority of this present Parliament afozesaid, deemed, judged, and taken to be lawful, good, just, and indissoluble, notwithstanding any precontract or precontracts of matrimony not consummate with bodily knowledge, which either of the parties so married, or both shall have made with any other person or persons before the time of contracting that marriage which is solemnized and consummate, or whereof such fruits is ensued or may ensue as afoze, and notwithstanding any dispensation, prescription, law, or other thing granted or confirmed by Act or otherwise. And that no reservation or prohibition, Gods law except, shall trouble or impeach any marriage without the Levitical degrees. And that no person, of what estate, degree, or condition soever he or she be, shall after the said first day of the month of July afozesaid, be admitted in any of the Spiritual Courts within this the Kings Realm, or any his Graces other Lands and Dominions, to any process, plea, or allegation, contrary to this foresaid Act.

Precontracts, as defannulling Marriages.

2 Edw. VI. c. 23

A.D. 1548.

*The Repeal of an Act made in the 32 year of King Henry the Eighth, which was made, That Marriage contracted in the face of the Church, and consummate with bodily knowledge, to be deemed lawful, any former contract notwithstanding.*

Whereas in the two and thirtieth year of the Reign of the late King of famous memory, King Henry the Eighth, because that many inconveniences had chanced in this Realm, by breaking and dissolving of good and lawful marriages, yea, whereupon also sometime issue and children had followed, under the colour and pretence of a former contract made with another, the which contract divers times was but barely slenderly proved, and often but surmised by the malice of the party who desired to be dissolved from the marriage which they liked not, and to be coupled with another, there was an Act made, That all and every such marriages as within the Church of England should be contracted and solemnized in the face of the Church, and consummate with bodily knowledge, or fruit of children or child being had between the parties so married, should be by authority of the said Parliament deemed, judged and taken to be lawful, good just and indissoluble, notwithstanding

ing



Pre-con-  
tracts, as  
disannul-  
ling Mar-  
riages.

ing any pre-contract or pre-contracts of matrimony, not consummated with bodily knowledge, which either of the persons so married, or both, had made with any other person or persons, before the time of contracting that marriage which is solemnized or consummated, or whereof such fruit is ensued or may ensue, as by the same Act more plainly may appear: Sithence the time of which Act, although the same was godly meant, the unruliness of men hath ungodly abused the same, and disturbers inconveniences (intolerable in manner to Christian ears and eyes) followed thereupon, women and men breaking their own promises and faiths made by the one unto the other, so set upon sensuality and pleasure, that if after the contract of matrimony, they might have whom they more favoured and desired, they could be content by lightness of their nature to overturn all that they had done afore, and not afraid in manner, eben from the very Church doore and marriage-feast, the man to take another spouse, and the spouse to take another husband, more for bodily lust and carnal knowledge, then for surety of faith and truth, or having God in their good remembrance, contemning many times also the commandment of the Ecclesiastical Judge forbidding the parties having made the contract to attempt or do any thing in prejudice of the same:

II. Be it therefore enacted by the Kings Highness, the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, That as concerning pre-contracts, the said former Statute shall from the first day of May next coming, cease, be repealed, and of no force or effect, and be reduced to the state and order of the Kings Ecclesiastical Laws of this Realm, which immediately before the making of the said Statute in this case were used in this Realm: so that from the said first day of May, when any cause or contract of marriage is pretended to have been made, it shall be lawfull to the Kings Ecclesiastical Judge of that place, to hear and examine the said cause: and (having the said contract sufficiently and lawfully probed before him) to give sentence for matrimony, commanding solemnization, cohabitation, consummation and tractation, as it becometh man and wife to have, with inflicting all such pains upon the disobedients and disturbers thereof, as in times past before the said Statute the Kings Ecclesiastical Judge by the Kings Ecclesiastical Laws ought and might have done, if the said Statute had never been made; any clause, article or sentence in the said Statute to the contrary in any wise notwithstanding.

III. Provided always, and be it enacted, That this Act do not extend to disannul, dissolve, or break any marriage that hath or shall be so solemnized and consummated before the said first day of May next ensuing, by title or colour of any pre-contract, but that they be, and be deemed of like force and effect, to all intents, constructions and purposes, as if this Act had never been had ne made; any thing in this present Act notwithstanding.

IV. Provided also, That this Act do not extend to make good any of the other causes, to the dissolution or disannulling of matrimony, which be in the said Act spoken of and disannulled, but that in all other causes and other things there mentioned, the said former Act of the two and thirtieth year of the late King of famous memory, do stand and remain in his full strength and power, any thing in this Act notwithstanding.

A.D. 1554.

1, 2 Phil. & Mar. Cap. 8.

In an Act, Entituled, *An Act repealing all Articles and Provisions made against the See Apostolick, &c.*

§. XIX. And one other Act made in the Session of the same Parliament, begun in the said xxxi. year holden upon prorogation the xxxii. year of the reign of the said King Henry the eight, entituled, An Act concerning Pre-contracts of Marriages, and touching degrees of consanguinity. — Shall henceforth be repealed, made frustrate, and of none effect.

Abridgment.

--- and the great mischief thereof, in encouraging Persons to neglect and break Contracts.

Stat. 32. H. 8. c. 38. as to pre contracts, shall be repealed,

---and the Ecclesiastical Judge shall give Sentence in cases of Pre-contracts, as before the making of it.

---after May 1<sup>st</sup>, and not before.

The foregoing Act, 32 H. 8. c. 38, shall stand as to all other causes of dissolution.

Repeal of 32 H. 8. c. 38.



Abridgment.

1 Eliz. Cap. 1.

In an Act. Entituled, *An Act to restore to the Crown the ancient Jurisdiction over the state Ecclesiastical, &c.*

Reviver of 32  
H. 8. c. 38.

§. XIII. And that it may also please your Highness, that it may be Enacted by the authority of this present Parliament, That so much of one Act or Statute made in the two and thirtieth year of the Reign of your said dear Father, King Henry the eighth, entituled, An Act concerning Precontracts of Marriages, and touching degrees of consanguinity, as in the time of the late King Edward the sixth, your Highness most dear brother, by one other Act or Statute, was † not repealed. — may from henceforth stand, and be revived, and remain in full force and strength. —

Precon-  
tracts, as  
disannul-  
ling Mar-  
riages.

A.D. 1558.

† See what was  
not repealed, in  
Cap. 1. p. 497.

## C A P. III.

*The Necessity of the CONSENT of PERSONS and PARENTS.*

3 Henr. VII. Cap. 2.

A.D. 1487.

*The Penalty for carrying a Woman away against her Will, that hath Lands or Goods.*

The taking a-  
way a Woman a-  
gainst her Will,  
and marrying her,

Item, Where women, as well maidens, as widows and wives, having substances, some in goods moveable, and some in lands and tenements, and some being heirs apparent unto their ancestors, for the lucre of such substances been oftentimes taken by misdoers, contrary to their will, and after married to such misdoers, or to other by their assent, or defoiled, to the great displeasure of God, and contrary to the Kings Lawes, and disparagements of the said women, and utter heaviness and discomfort of their friends, and to the evil ensample of all other: It is therefore ordained, established, and enacted by our Sovereign Lord the King, by the advice of the Lords Spiritual and Temporal, and the Commons in the said Parliament assembled, and by authority of the same, That what person or persons from henceforth that taketh any woman \* so against her will unlawfully, that is to say, maid, widow, or wife, that such taking, procuring and abetting to the same, and also receiving wittingly the same woman so taken against her will, and knowing the same, \* be felony. And that such misdoers, takers, and procurators to the same, and \* receitours, knowing the said offence in form aforesaid, be henceforth reputed and judged as principal felons. Provided alway, that this Act extend not to any person taking any woman, only claiming her as his ward or bond-woman.

The Ne-  
cessity of  
the Consent  
of Persons,  
and Par-  
ents.

---shall be Felony.

3 Inst. p.  
61.  
12 Rep. 99.

Savil, p. 59.

\* So against her Will.] That is, so taken as to have Goods moveable, or Lands and Tenements; and so taken, as to be married to the Misdoer, or deflored by him; and if any one of these circumstances be out of the case (i. e. if the Woman has nothing, and was neither married, nor deflored) it is not within the Statute; which would not have been so exact in describing the person, for no end. This was so resolved and determined, 10 Jac. 1. by Coke Chief Justice, Yelverton and others, upon consideration of this Statute; as it had also been specially resolved before, in the reign of Queen Elizabeth (with regard to taking, without marriage or deflouring)

that the bare taking was not Felony. But tho' the marrying afterwards was with her consent, yet if the taking was against her will, it shall be Felony.

\* Be felony.] For the proof of which, the Woman may be admitted an Evidence against the Misdoer, tho' married to him; because such marriage was founded in force and terror; and because, as such Cases are generally contrived, so heinous a Crime would go unpunished, unless the testimony of the Woman should be received.

\* Receitours.] The Receivers of the Woman, are Principals; but the Receivers of them who took the Woman, are but Accessories.

Cro. Car. 483.  
1 Venris. 243.  
3 Keble. 193.  
4 Mod. Rep. p. 8.

11. Rep. 59.

18, 23 Eliz.



The Necessity of the Consent of Persons and Parents.

A.D. 1571. &c.

18, 23 Eliz. &c, ----to 5, 6 Will. & Mar.

In all the Acts of General Pardon.

-----And also excepted all Rabbishments and wilful taking away, or HARRYING of any Maid, Widow or Damsel against her will, or without the assent or agreement of her Parents, or such as then had her in custody; and also all offences of aiding, comforting or procuring and abetting of any such Rabbishment, wilful taking or HARRYING, had, committed or done. †

† Or being any ways accessory to any of the Crimes before excepted. 7. Ann.

A.D. 1597.

39 Eliz. Cap. 9.

He that taketh a Woman against her will, that hath Lands or Goods, or is Heir apparent to her Ancestor, shall lose his Clergy.

Whereas of late times divers Women, as well Maidens as Widows, and Maids having substance, some in goods moveable, and some in lands and tenements, and some being heirs apparent to their ancestors, for the lucre of such substance, been oftentimes taken by misdoers, contrary to their will, and after married to such misdoers, or to others by their assent, or defiled, to the great displeasure of God, and contrary to your Highness Laws, and disparagement of the said women, and great heaviness and discomfort of their friends, and ill example of others; which offences, albeit the same be made felony by a certain Act of Parliament made in the third year of King Henry the seventh: Yet forasmuch as Clergy hath been heretofore allowed to such offenders, divers persons have attempted and committed the said offences in hope of life by the benefit of the Clergy: Be it therefore enacted by the Queens most excellent Majesty, the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, and by the authority of the same, That all and every such person and persons, as at any time after the end of this present Session of Parliament, shall be convicted or attainted, of or for any offence to be committed after the end of this present Session of Parliament, made felony by the said Act of the third year of the Reign of King Henry the seventh, or which shall be indicted and arraigned of or for any such offence, and stand mute, or make no direct answer, or shall challenge peremptorily above the number of twenty, shall in every such case lose his and their benefit of Clergy, and shall suffer 7 pains of death without any benefit of Clergy: Any former Law to the contrary notwithstanding.

Provided always, that this Act, nor any thing therein contained, shall not extend to take away the benefit of Clergy, but only from such person and persons as hereafter shall be principals, or procurers or accessories before such offence committed.

7 Pains of Death.] Divers persons have also been actually executed, upon this Statute, in Fact, condemned to die, and have tute.

Cro. Car. 493. 1 Vent. 243, &c.

A.D. 1556.

4, 5 Phil. & Mar. Cap. 8.

Punishment of such as take away Maidens, &c, within sixteen years of age, &c.

Where Maidens and Women, children of Noblemen, Gentlemen, and others, as well such as be Heirs apparent to their Ancestors, as others, having left unto them by their Father, or other Ancestor and friends, Lands, Tenements, and Hereditaments, or other great substances in goods and chattels moveable, for and to the intent to advance them in marriage, somewhat like according to their degrees, and as might be most for their surety and comfort, as well for themselves as of all other their friends or kinsfolks, be oftentimes, unawares to their said friends and kinsfolks by flattery, trifling gifts, and fair promises, of many unthriftly and light personages, and thereto by the intreaty of persons of lewd demeanour, and others that for rewards buy and sell the said maidens and children secretly allured and won to contract Matrimony with the said unthriftly and light personages, and thereupon either with sleight or force, oftentimes be taken and conveyed away from their said

Abridgment.

Marrying of a Maid, &c, without consent, excepted out of General Pardon.

The practice, mentioned in the foregoing Act, continuing, albeit it be made Felony;

Enacted, That it be Felony, without benefit of Clergy,

— in case the Persons be Principals, &c. before such offence.

Women, possessed of great Fortunes, being oftentimes allured or forced away by light persons,

— and sometimes bought and Sold:



## Abridgment.

Enacted,  
That no Person  
shall take away any  
Maid under 16,  
without consent of  
Father, or Guar-  
dian.

--- and whoever  
shall take away as  
afore said,

-- shall suffer two  
years Imprison-  
ment, or be fined  
in the Star-Cham-  
ber;

---and if he also  
deflower her, or by  
secret Arts contract  
Matrimony, with-  
out the like con-  
sent,

parents, friends or kinsfolks, to the high displeasure of Almighty God, disparage-  
ment of the said Children, and extreme continual heaviness of all their friends:  
which ungodly dealing, for lack of wholesome Laws to the redress thereof, remain-  
eth a great, familiar, and common mischief in this our Common-wealth:

II. For remedy whereof, & Be it enacted by the King and Queens Majesties, the  
Lords Spiritual and Temporal, and the Commons in this present Parliament as-  
sembled, and by the authority of the same, That it shall not be lawful to any per-  
son or persons, to take or convey away, or cause to be taken or conveyed away, any  
maid or woman child unmarried, being within the age of sixteen years, out of, or  
from the possession, custody or governance, and against the will of the Father of  
such maid or woman child, or of such person or persons to whom the Father of such  
maid or woman child, by his last Will and Testament, or by any other Act in his  
life time, hath, or shall appoint, assign, bequeath, give or grant the order, keep-  
ing, education or governance of such maid or woman child, except such taking and  
conveying away as shall be had, made or done, by or for such person or persons, as  
without fraud or covin, be or then shall be the master or mistress of such maid or  
woman child, or the Guardian in socage, or Guardian in Chivalry, or to such  
maid or woman child.

III. And be it further enacted by the authority aforesaid, that if any person or per-  
sons above the age of fourteen years, shall from and after the first day of April  
next coming, unlawfully take or convey, or cause to be taken or conveyed, any maid  
or woman child unmarried, being within the age of sixteen years, or out of or from  
the possession, and against the will of the Father or Mother of such child,  
or out of, or from the possession, and against the will of such person or persons as  
then shall happen to have, by any lawful ways or means, the order, keeping, educa-  
tion or governance of any such maiden or woman child; that then every such person  
and persons, (so offending) being thereof lawfully attainted and convicted by the  
order and due course of the Laws of this Realm, (other then such of whom such  
person taken away shall hold any Lands or Tenements by Knights service) shall  
have and suffer imprisonment of his and their bodies by the space of two whole years,  
without bail or mainprise, or else shall pay such fine for his or their said offence, as  
shall be assessed by the Council of the Queens Highness, her Heirs and Successors,  
in the Star-Chamber at Westminster.

IV. And be it further enacted by the authority aforesaid, That if any person or  
persons after the said day, shall so take away, or cause to be taken away as is afoze-  
said, and deflower any such maid or woman child, as is afozesaid, or shall against the  
will, or unknowing of or to the Father of any such maid or woman child, if the Fa-  
ther be in life, or against the will, or unknowing of or to the mother of any such maid  
or woman child (having the custody or governance of such child if the Father be  
dead) by secret Letters, Messages, or otherwise, contract Matrimony with any  
such maiden or woman child, except such contracts of Matrimony as shall be made by  
the consent of such person or persons as by the title of Wardship shall then have or be  
intituled to have the marriage of such maid or womanchild; that then every such

Siderf. 387.  
2 Mod. Rep.  
123.

2. Keble,  
432.

2. Mod Rep.  
p. 129.

& Be it Enacted.] This Clause is but a  
Declaration of the Common-Law, by which  
any person might be fined and imprisoned  
for the offence therein specified and con-  
tained; and the Statute is only an *aggrava-  
tion* of Punishment, and doth not create an  
offence.

*a* Against the Will.] In the case of  
*Twisleton*, it was alledged, that the Girl  
consented to go; but the Court took no no-  
tice of that; and, it being plainly against  
the will of the Parents, the Jury was di-  
rected to find the Parties guilty.

*b* Star Chamber.] It is declared, in  
the Case of *Moor*, That, inasmuch as there  
are no *negative* words in this new convey-  
ance of Power to the Star-Chamber, and  
the Court of King's Bench had a right to  
hear and determin, before the Statute;  
the same power which they had by the  
Common-Law, still remains to them, not-  
withstanding the Statute, and that so it  
would have been, tho' the Court of Star-  
Chamber had still continued. And it ap-

pears that one *Story* was fined 100 l. by the  
Court of King's Bench, for taking away  
a Young Woman under Sixteen, out of  
her Mocher's Custody; and two Women  
who were Assistants, 50 l. each; and all  
with good behaviour; the first for Five  
Years, the two others for One Year.

*c* Secret Letters.] The Mother of one  
*Tibborth*, fearing that her only Daughter  
might be Stolen, entreated the Lady *Gore* to  
take her into her Family, who married her  
(being under the Age of Sixteen) to her  
Son, without consent of the Mother who  
was also her Guardian; but the Estate be-  
ing sued for by *Hicks* according to the tenor  
of this Statute, and it appearing to the  
Court, that the Marriage was Solemnized  
by a lawful Minister, in the Church, at a  
Canonical Hour, before several People,  
and while the Church-doors were open,  
the Case was found not to be within the  
design and intention of this Statute; nor  
could the Plaintiff prove any thing to make  
a forfeiture; and so he was Non-sued.

The Ne-  
cessity of  
the Consent  
of Persons  
and Pa-  
rents.

3. Keble, 101.

per son



The Necessity of the Consent of Persons and Parents.

person or persons so offending, being thereof lawfully convicted, as is aforesaid, shall suffer imprisonment of his or their bodies by the space of five years, without bail or mainprise, or else shall pay such fine for his or their said offence, as shall be assessed by the said Council in the said Star-chamber; the one moiety of all which fines shall be to the King and Queens Majesties, her heirs and successors, the other moiety to the parties grieved.

V. And be it further enacted by the said authority, That the King and Queens Highnesses honourable Council of the Star-chamber, by bill of complaint or information, and Justices of Assize by inquisition or indictment, shall have authority by vertue of this Act, to hear and determine the said offences; upon every which indictment and inquisition, such process shall be awarded and lie, as upon an indictment of trespass at the Common Law.

VI. And further be it enacted by the authority aforesaid, That if any woman child, or maiden, being above the age of twelve years, and under the age of sixteen years, do at any time consent or agree to such person that so shall make any contract of Matrimony, contrary to the form and effect of this Statute, that then the next of the kin of the same woman child or maid, to whom the inheritance should descend, return, or come after the decease of the same womanchild and maid, shall from the time of such assent and agreement, have, hold, and enjoy all such lands, tenements and hereditaments as the same womanchild and maiden had in possession, reversion or remainder, at the time of such assent and agreement, during the life of such person that shall so contract Matrimony; and after the decease of such person so contracting Matrimony, that then the said lands, tenements and hereditaments, shall descend, revert, remain, and come to such person or persons, as they should have done, in case this Act had never been had ne made, other then to him only that so shall contract Matrimony.

VII. Provided always and be it enacted, That this Act, nor any thing therein contained, shall extend to take away or diminish any Liberty, Custom or authority touching or concerning any Orphan or Orphans, which now be, or hereafter shall be within the City of London, or any other City, Borough or Town where Orphans are commonly used to be provided for, either by Grant, or by Custom, but that the Lord Mayor of the said City of London, and the Aldermen of the same for the time being, and all and every other Head-Officers of any other City, Borough or Town, where such Orphans be provided for, shall and may have and take like rule, order, keeping and charge of such Orphan and Orphans, and of all their lands, tenements, goods and chattels, as heretofore they or any of them lawfully had or used, or lawfully might have had and used, if this Act had not been made.

Abridgment.

---he shall suffer 5 years Imprisonment, or be fined in the Star-chamber;

---which Court is hereby empower'd to hear and determine.

If any Woman agree to such Contract,

---the next of kin to her shall enjoy all her Lands, &c. during life,

-- and then they shall remain to the right Heir.

Proviso, for the ordering of Orphans, in Cities and Towns.

CANONS 1603.

c. None to Marry under xxi years, without the Parents consent.

NO Children, under the age of one and twenty years compleat, shall contract themselves, or marry, without the consent of their Parents, or of their Guardians and Governours, if their Parents be deceased.

Children under 21, shall not contract, nor marry, without Parents, or Guardians.

[Without the Consent.] To this Prohibition, the Reformatio Legum adds, *Quod si fecerint, tales Nuptias omnino non valere sancimus, & ad nihilum recidere.* And I have observed, that a Remedy of this Mischief hath more than once been attempted in Parliament; particular Bills to that effect having been brought in, Ann. 32 H. 8. and lately, in the Year 1689. And, inasmuch as Parents and Guardians may sometimes

deal hardly by Children in this particular, the Reformatio Legum goes on thus: *Quod si Parentes vel Tutores in providendis Nuptiarum conditionibus nimium cessaverint, aut in illis proponendis nimium duri & acerbi extiterint, ad Magistratum Ecclesiasticum confugiatur, a quo partes eorum in hujusmodi difficultatibus agi volumus, & ejus equitate totam causam transigi.*

Fol. 20. a.

Journ. Proc.

Fol. 20. a.



Abridgment.

CANONS 1603.

In Can. lxii. Entituled, Ministers not to marry any persons without Banns or Licence.

Nor when Banns are thrice asked, and no Licence in that respect necessary, [shall any Minister join any persons] before the Parents or Governours of the Parties to be married, being under the age of twenty and one years, shall either personally, or by sufficient testimony, signify to him their Consents given to the said marriage.

The Necessity of the Consent of Persons and Parents.

1 Jac. 1.

CAP. IV.

Marriage when FORMER Wife or Husband is ALIVE.

10 Jac. I. Cap.

A.D. 1603.

An Act to restrain all Persons from Marriage until their former Wives and former Husbands be Dead.

The Mischiefs of marrying two Wives or Husbands,

... which shall therefore be Felony.

Proviso, for absence of 7 years

3. Inst. p. 88

ibid.

Raym. p. 1.

Forasmuch as divers evil disposed persons being married, run out of one County into another, or into places where they are not known, and there become to be married, having another husband or wife living, to the great dishonour of God, and utter undoing of divers honest mens children and others; Be it therefore enacted by the Kings Majesty, with the consent of the Lords Spiritual and Temporal, and of the Commons in this present Parliament assembled, That if any person or persons within his Majesties Dominions of England and Wales, e being married, or which hereafter f shall marry, do at any time after the end of the Session of this present Parliament, marry any person or persons, the former husband or wife g being alive, that then every such offence shall be felony, and the person and persons so offending shall suffer death as in cases of felony; and the party and parties so offending, shall receive such and the like proceeding, trial and execution in such County, where such person or persons shall be apprehended, as if the offence had been committed in such County where such person or persons shall be taken or apprehended:

II. Prohibited always, That this Act nor any thing therein contained, shall extend to any person or persons whose husband or wife shall be continually remaining beyond the Seas by the space of seven years together, or whose husband or wife shall absent him or her self the one from the other by the space of seven years together, in any part within his Majesties Dominions, the one of them not knowing the other to be living within that time.

e Being Married.] This extendeth to a Marriage de facto, tho' voidable by reason of a Precontract, or Consanguinity, or Affinity, or the like: For it is Marriage, in judgment of Law, until it be avoided, and therefore within this Statute.

f Shall Marry.] Tho' this second Marriage is meerly void, and no Marriage; yet it maketh the Offender a Felon.

g Being alive.] But the first Husband or Wife may not be produced at the trial, as a Witness, to prove the first Marriage; as was determined in the case of Mary Grigg (12 Car. 2.) where the Court absolutely refused it, and said, That a Wife could not be admitted to give Evidence against her

Husband, nor the Husband against his Wife, in any Case, excepting Treason.

h Suffer Death.] In the Reformatio Legum, where the Persons incapable to make Wills, are enumerated, one sort is, qui duas uxores eodem tempore comprehenderit, vel feminae duos maritos sumentes, nisi legitimam in priore persona divortium antegressum, posterioris jus conditionis firmum effecerit. And again, among those who shall be incapable to be Heirs, or to receive any benefit by the Will of another, they are ranked, qui duas Conjuges uno tempore contra omne jus & fas conservant, & feminae quarum in crimine pari par est culpa.

Marriage when former Wife or Husband is alive.

Fol. 65. a.

ibid. fol. 68. a.

III. Prohibited



Marriage when former Wife or Husband is alive.

III. Provided also, and be it enacted by the Authority aforesaid, That this Act nor any thing herein contained, shall extend to any person or persons that are or shall be at the time of such Marriage divorced by any sentence had or hereafter to be had in the Ecclesiastical Court, or to any person or persons where the former Marriage hath been or hereafter shall be by sentence in the Ecclesiastical Court, & declared to be void and of no effect; Nor to any person or persons for or by reason of any Marriage had or made, or hereafter to be had or made within Age of consent.

IV. Provided also that no Attainder for this offence made Felony by this Act, shall make or work any corruption of blood; loss of dower, or disinherison of heir or heirs:

Abridgment. --and for persons lawfully divorced, -- and for marriages within age of consent.

This Felony shall work no corruption of Blood, &c.

Ibid. 3. Cro. 461.

[Divorced.] Whether à vinculo Matrimonii, or only à mensâ & thoro; as Coke affirms, and as it was adjudged in the case of Porter (as it seems) and afterwards 14 Car. 2. in the case of Middleton; in the first of which a Divorce causâ sevitia, and in the second, a Divorce causâ Adulterii, were allowed to be good discharges from the Felony; and indeed the provision made for Separations à vinculo, in the very next clause, seems to imply, that this is meant solely of Separations à thoro & mensâ.

[Declared to be void.] Tho', after such Declaration, the adverse Party appeal, which is a continuance of the former Marriage, and does thereby suspend the Sentence; yet, after such Sentence, the Party

Marrying is no Felon within this Statute; although the Marriage it self be not lawful. [Within age of Consent.] From which the Parties may afterwards disagree, at the age of Consent, the Man at Fourteen, the Woman at Twelve; and tho' the Man be above Fourteen, and the Wife under Twelve; or the Wife above Twelve, and the Man under Fourteen, yet may the Husband or Wife so above the age of Consent, disagree to the Espousals, as well as the Party that is under the age of Consent; for the advantage of disagreement must be reciprocal. So as if either Party be within age of Consent, it is no former Marriage within this Act.

A.D. 1605. &c.

3 Jac. I. Cap. 27. --- 7 Jac. I. Cap. 24. --- 21 Jac. I. Cap. 34. --- 12 Car. II. Cap. 11.

In the several Acts of General Pardon.

---And also excepted all offences made Felony by a certain Act made and ordained, entitled, An Act to restrain all persons from Marriage until their former Wives and former Husbands be dead.

Offenders against the foregoing Act, excepted out of General Pardons.

E X P.

C A P. V.

Of BIGAMY.

A.D. 1276.

4 Edw. I. Cap. 5.

Bigamus shall not be allowed his Clergy.

Of Bigamy

Concerning men twice married, called m Bigami, whom the Bishop of Rome by a n Constitution made at the Council of Lions, hath excluded from all Clerks privilege, whereupon certain Prelates (when such persons have been attainted for felons) have prayed, for to have them delivered as Clerks, which were made Bigami before the same constitution: It is agreed and declared before the King and his Council, that the same constitution shall be understood in this wise, that whether they were Bigami before the same constitution or after, they shall not from henceforth be delivered to the Prelates, but Justice shall be executed upon them as upon other lay-people.

Bigami, being excluded from Clerk's Privilege, by a Constitution, shall not be delivered to the Prelates, tho' made so before.

m Bigami.] They who have married two Wives, or more, successively; or one Widow.

n Constitution.] Bonifac. 8. in Concil. Lugd. Bigamos omni Privilegio Clericali declaramus esse nudatos, & coërcioni fori secularis addictos, consuetudine contrariâ non obstante.



## Abridgment.

18 Edw. III. Cap. 2.

Of Bigamy

A. D. 1344.

*Bigamy shall be try'd by the Ordinary, and not by Inquest.*

Bigamy cognizable only in the Spiritual Court.

Item, if any Clerk be arraigned before our Justices, at our suit, or at the suit of the party, and the Clerk holdeth him to his Clergy, alleading that he ought not before them thereupon answer; and if any man for us, or for the same party, will suggest, that he hath married two wives, or one widow, that upon the same the Justices shall not have the cognizance or power to try the Bigamy by Inquest, or in other manner: but it shall be sent to the Spiritual Court, as hath been done in times past, in case of bastardy; and till the certificate be made by the Ordinary, the party in whom the Bigamy is alleaded, by the words aforesaid, or in other manner shall abide in prison if he be not mainpernable,

O B S.

1 Edw. VI. Cap. 12.

A. D. 1550.

*In an Act, Entituled, An Act for the Repeal of certain Statutes concerning Treasons and Felonies, &c.*

Bigamy restored to their Clergy.

§. XVI. And be it further enacted by the authority aforesaid, that if any person or persons, that by this Statute, or by any other Statutes or Laws of this Realm ought to have, or be admitted to the benefit of his or their Clergy: that the same person and persons shall be from henceforth admitted and allowed to his or their Clergy, although they or any of them have been divers and sundry times married, to any single woman, or single women, or to any widow, or widowes, or to two wives, or more: any Law, Statute, or usage to the contrary thereof in any wise notwithstanding.

Dallif. p. 21.

[Admitted.] In the 3 and 4 of Philip and Mary, it was considered by all the Judges, whether this Statute sufficiently entituled a Bigamus to the benefit of Clergy. It appears not, on what the Doubt was grounded; but it was resolved in the affirmative, by all, except Brook and Stamford, with whom Dyer agreed. And when the same point came under consideration, 3 Eliz. the same opinion was unanimously given.

Dyer, 201. b.

## C A P. VI.

*The Necessity of BANNES, or LICENCE.*

W A L T E R U S.

In Const. Matrimonium; sub Tit. De Spons. &amp; Matr.

A. D. 1322.  
16 Edw. 2.

Persons to be married, shall be thrice published before.

IN Matrimonio quoque Contrahendo semper tribus diebus Dominicis vel Festivis p̄ se distantibus, quasi tribus Edictis, perquirant Sacerdotes à Populo de Immunitate Sponsi & Sponsæ. Si quis autem Sacerdos hujusmodi Edicta non servaverit, pœnam nuper q̄ in Concilio super hoc r̄ statutam non evadat.

Edit. Oxon.  
p. 271.Reg. Staff.  
f. 6. a.

p̄ A se distantibus.] Ad minus (ut videtur) uno die intermedio; sed puto, quod si tres dies Festivi successivi concurrant, sicut contingit in hebdomadâ Paschæ & Pentecostes, sufficit quòd singulis trium dierum hujusmodi Banna edantur. Lyndw.— N. B. In Registro Stafford Archiep. Cant. reperitur Licentia ad solemnizandum Matrimonium, non obstante editione Bannorum per duos dies immediate sequentes: Et in Constitutionibus, editis Ann. 1597. ita scriptum legitur,—Nisi trinâ Bannorum denunciatione (per legitima Intervalla) interveniente. q̄ In Concilio.] Lateran. sub Innoc. 3. c. 51.—“ Statuimus ut cum Matrimonia fuerint contrahenda, in Ecclesiis per Presbyteros publicè proponantur, competenti termino præfinito; ut infra illius, qui voluerit & valuerit, legitimum Impedimentum opponat, & ipsi Presbyteri nihilominus investigent, utrum aliquod Impedimentum obsistat. r̄ Statutam.] Hac pœna est, suspensionis per triennium ab Officio. Lyndw.

Extra. l. 4. t. 4.  
c. 3.

JOHANNES



The Necessity of Bans or Licence.

A.D. 1328. 3 Edw. 3.

Edit. Oxon. p. 266. la. 273.

S I M O N M E P H A M

*Denunciatur frequenter in frequenti populo à Suffraganeis, omnes Sacerdos Matrimonii, non præhabitis tribus Edictis seu Bannis, interesse aut præesse præsumentes, triennio ab Officio suspendendos. Item extra Ecclesiam Parochialem sine Diocesani venia solemnizantes, anno ab Officio suspendendos.*

**Q**uia ex Contractibus Matrimonialibus absque Bannorum editione præhabita initis, nonnulla & pericula evenerunt, & manifestum est indes provenire, Omnibus & singulis Suffraganeis nostris Præcipimus Statuendo, quòd & Decretalem *Cum inhibitio*, (Qua prohibetur, ne qui Matrimonium contrahant, Bannis non præmissis in singulis Ecclesiis Parochialibus suæ Diocesis pluribus diebus solennibus, cum major populi affuerit multitudo) exponi faciant in vulgari, & eam firmiter observari, quibusvis Sacerdotibus etiam non Parochialibus, qui Contractibus Matrimonialibus ante & solennem editionem Bannorum initis præsumperint interesse, pœnam Suspensionis ab Officio per triennium infligendo, & hujusmodi contrahentis, etiam si nullum subsit impedimentum pœna debita percellendo.

*s Pericula.] Scil. Animarum, quæ insurgunt ex diversis Impedimentis, propter quæ Matrimonium non potest inter tales contrahi. Lyndw. & Decretalem.] Lib. 4. Tit. 4. c. 3.*

*u Solennem.] Potest dici Solennis, quando fit tribus diebus solennibus separatim à se distantibus. Lyndw.*

A D. 1548. &c.

2 & 5 Edw. VI.-----13, 14 Car. II.

*Rubrick, before the Office of Matrimony.*

**F**irst the Bans<sup>1</sup> of all that are to be married together, must be<sup>2</sup> published in the Church three several Sundays or Holy-days, <sup>3</sup>in the time of Divine Service, immediately before the sentences for the Offertory; the Curate saying, after the accustomed manner."

And if the persons that<sup>4</sup> are to be married, dwell in divers Parishes, the Bans must be asked in both Parishes; and the Curate of the one Parish shall not solemnize Matrimony betwixt them, without a Certificate of the Bans being thrice asked, from the Curate of the other Parish,

<sup>1</sup> Not in 2 nor 5 E. 6. <sup>2</sup> Asked three several Sundays 2 & 5 E. 6. <sup>3</sup> In the Service-time, the People being present, after the accustomed manner, 2 & 5 E. 6. <sup>4</sup> Would be, 2 & 5 E. 6.

1 Jac. 1.

C A N O N S 1603.

**lxii. Ministers not to marry any Persons without Bans or Licence.**

**N**O Minister, upon pain of w Suspension *per triennium ipso facto*, shall celebrate Matrimony between any Persons without a x Faculty or Licence granted

Spel Vol. 2. p. 106.

*w Suspension.] Si quis Sacerdos aliquos occultè conjunxisse inventus fuerit, triennio ab Officio suspendatur. Concil. West. 1175.---* In our Ecclesiastical Records, we frequently meet with *Absolutions* of Clergymen, who had celebrated Marriages *Clandestinely*; and, so late as Archbishop *Sancroft's* time, we find the entire Process of such an *Absolution*; but, in the more ancient Registers, towards the beginning of the Reformation, one and the same Dispensation is found, for the Minister and the two Parties; which sort (as well as *separate Dispensations*;) are very common in our Books.

*x Faculty.]* Such Faculties have been very various, in point of Extent; in many instances requiring a Publication, sometimes once, and dispensing with two; in

other cases, twice, and dispensing but with one; and again in other cases, expressly requiring all the three Publications, and dispensing only with Time, or Place; instances of all which (especially before the Reformation) are very common in our Records; as they are also supposed in the Language of our Constitutions --- Ann. 1584, and 1597. *Facultate Sibi de Bannis Matrimonialibus, aut non omnino, aut semel iterumve denunciandis, indultâ.*

Among the heads of matter, to be moved by the Clergy, in the Parliament and Convocation of 1562, one was, *That no Dispensation be granted to Marry, without the Bans first asked thrice, upon thrice several Sundays or Holydays.*

Abridgment.

The Decretal. requiring the Publication of Bans, shall be often explained to the People, and observed,

--and Priests being present at Marriage without Bans, shall be Suspended.

The Bans shall be published before the Sentences for the Offertory, --in both Parishes, if the Parties dwell in two, --with a Certificate from the Parish, where they are not married.

No Minister upon pain of Suspension, shall marry without Bans or Licence,

Strv. Ref. p. 283.

by some



## Abridgment.

—nor at any time  
but between 8 and  
12,

--nor in private  
Place,

--nor (being under  
21) without  
consent of Pa-  
rents.

Ministers mar-  
rying without  
Banns or Licence,  
under colour of  
Exemption,  
—shall be suspen-  
ded *per triennium*,  
by the Ordinary,  
--or removing in-  
to another's Di-  
ocese, be suspended  
by that other Bi-  
shop.

No Person shall  
be Married in Place  
Exempt, without  
Licence, or Banns,  
--upon pain of one  
100*l.* forfeiture, by  
Minister,  
--and, for the 2 of-  
fence, suspension  
for three years.

Recital of 5, &  
6 *Will. & Mar.*  
concerning Duties  
upon Vellum, &c.  
--and of 6, 7, *Will.*  
concerning Duties  
upon Marriages,  
--and that there  
shall be no Mar-  
riage in Exem t  
Place, without Li-  
cence or Banns,  
-- upon pain of  
100*l.* to be pay'd  
y the Minister :

by some of the Persons in these our Constitutions expressed, except the Banns of Matrimony have been first published three several Sundays or Holy-days in the time of Divine Service in the Parish-Churches and Chapels where the said Parties dwell, according to the Book of Common Prayer. Neither shall any Minister, upon the like pain, under any Pretence whatsoever, joyn any Persons so Licensed in Marriage at any unseasonable times, but only between the hours of Eight and Twelve in the Forenoon, nor in any private Place, but either in the said Churches or Chapels where one of them dwelleth, and likewise in the time of Divine Service: nor when Banns are thrice asked (and no Licence in that respect necessary) before the Parents or Governours of the Parties to be married, being under the age of twenty and one years, shall either personally, or by sufficient Testimony, signifie to him their Consents given to the said Marriage.

## C A N O N S, 1603.

Ixiiii. *Ministers of Exempt Churches, not to Marry without Banns or Licene.*

EVERY Minister who shall hereafter celebrate Marriage between any Persons contrary to our said Constitutions, or any part of them, under colour of any peculiar Liberty or Privilege claimed to appertain to certain Churches and Chapels, shall be suspended *per triennium*, by the Ordinary of the Place where the offence shall be committed. And if any such Minister shall afterwards remove from the Place where he hath committed that Fault, before he be suspended, as is aforesaid, then shall the Bishop of the Diocese, or Ordinary of the Place where he remaineth, upon Certificate under the hand and Seal of the other Ordinary from whose Jurisdiction he removed, execute that Censure upon him.

## 6, 7 Will. III. Cap. 6.

In an Act, Entituled, *An Act for granting to his Majesty certain Rates-----upon Marriages, &c.*

§. LII. And be it further enacted by the authority aforesaid, that no person shall be married at any place pretending to be exempt from the Visitation of the Bishop of the Diocese, without a Licence first had and obtained, except the Banns shall be published and certified according to Law; And that every Parson, Vicar, and Curate, who shall marry any persons contrary to the true intent and meaning hereof, shall forfeit the sum of one hundred pounds, to be recovered by Action of debt, Bill, plaint or information in any of his Majesty's Courts of Record, one moiety whereof to the King, his heirs and successors, and the other moiety to the informer who shall sue for the same; and shall for the second offence be suspended ab officio & beneficio, for the space of three years.

## 7, 8. Will. III. Cap. 35.

*An Act for enforcing the Laws which Restrain Marriages without Licence or Banns, and for the better Registering Marriages, Births and Burials.*

WHEREAS by an Act of Parliament made in the Fifth and Sixth Years of the Reign of His Majesty King William, and the late Queen Mary of Blessed Memory, Intituled, An Act for Granting to Their Majesties several Duties upon Vellum, Parchment and Paper, for Four Years, towards Carrying on the War against France It is amongst other things Enacted, That a Duty or imposition of Five Shillings, shall be Rated, Levied, Collected and Paid, for every Piece of Paper or Parchment, upon which any Licence or Certificate of Marriage should be Written or Ingrossed: And whereas by a Clause in another Act of Parliament, made in the Sixth and Seventh years of His Majesties Reign Intituled, An Act for Granting to His Majesty certain Rates and Duties upon Marriages, Births and Burials, and upon Patchellors and Widowers, for the Term of Five Years, for Carrying on the War against France, with Vigour, It is amongst other things Enacted and Provided, That no Person shall be Married at any Place pretended to be Exempted from the Visitation of the Bishop of the Diocese, without a Licence first had and obtained, except the Banns shall be Published and Certified according to Law; and that every Parson, Vicar and Curate, who shall Marry any Persons contrary to the true intent

*The Necessity of Bans or Licence.*

I Jac. I.

A.D. 1694.

E X P.

A.D. 1695.

E X P.



The Necessity of Bans or Licence.

intent and meaning thereof, shall forfeit the sum of one hundred pounds : which clause was it enacted and provided for the better ascertaining, levying and collecting the aforesaid duty of five shillings upon every Licence or Certificate of marriage, but by experience is found ineffectual for the same, in regard the said penalty of one hundred pounds is not extended to every offence of the same Parson, Vicar or Curate so offending, as aforesaid. And whereas the force and intent of the said clause is otherwise eluded and made of none effect, by several Parsons, Vicars and Curates, who to avoid the said penalty of one hundred pounds, do substitute and employ, and knowingly and wittingly suffer and permit divers other Ministers, to Marry great numbers of Persons in their respective Churches and Chapels without publication of Banns, or Licences of Marriage first had and obtained ; Many of which Ministers so substituted, employed, permitted and suffered to Marry, as aforesaid, have no benefices or settled habitations, and are poor and indigent, and cannot easily be discovered and convicted of the offences aforesaid. And whereas divers Ministers, being in Prison for debt and otherwise, do Marry in the said Prisons, many persons resorting thither for the purposes aforesaid, and in other places for lucre and gain to themselves ; by all which means, the duties and impositions upon Licences of Marriage, as aforesaid, are greatly diminished and subtracted, and many other great inconveniences do arise.

II. For the remedying and preventing whereof, Be it enacted by the Kings most excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in Parliament assembled, and by the Authority of the same, That from and after the four and twentieth day of June, in the year of our Lord, one thousand six hundred ninety and six, every Parson Vicar or Curate, who shall marry any persons in any Church or Chappel, exempt or not exempt, or in any other place whatever, without publication of the Banns of Matrimony between the respective persons according to Law, or without Licences for the said Marriages first had and obtained, shall for every such Offence forfeit the sum of one hundred pounds.

III And for the more effectual preventing the abuses aforesaid, Be it further enacted by the authority aforesaid, That every Parson, Vicar or Curate, who shall substitute or employ, or knowingly and wittingly shall suffer and permit any other Minister to Marry any persons in any Church or Chapel to such Parson, Vicar, or Curate belonging or appertaining, without publication of Banns or Licences of Marriage first had and obtained, shall for every such offence forfeit the sum of one hundred pounds ; the aforesaid respective forfeitures to be recovered by Action of debt, bill, plaint or information, in any of his Majesties Courts of Record, wherein no essoin, wager or protection of Law, or any more than one Imparllance shall be allowed ; one moiety thereof to his Majesty, his heirs and successors, and the other moiety to him or them who shall inform or sue for the same.

IV. And for the better ascertaining, levying and collecting the said Duties on Marriages and Licences as aforesaid, Be it further enacted by the Authority aforesaid, That from and after the four and twentieth day of June, in the year of our Lord, one thousand six hundred ninety and six, every Man so married without Licence or Publication of Banns as aforesaid, shall forfeit the sum of ten pounds, to be recovered, together with costs of suit, in manner as aforesaid, by any person who shall inform or sue for the same ; And likewise that every Sexton or Parish-Clerk, or other person acting as Sexton or Parish-Clerk, who shall knowingly and wittingly aid, promote and assist at such Marriages so celebrated without Banns or Licences as aforesaid, shall forfeit the sum of five pounds, to be recovered, with costs of suit, in manner as aforesaid, by any person who shall inform or sue for the same.

V. And to the end the Duties granted by the said Act, may hereafter be more certainly paid into his Majesties Exchequer, the said Commissioners, or any two of them, shall and may, in their respective Counties, Cities and places, require and command the Deans, Parsons, Deacons, Vicars, Curates, and their or any of their Substitutes, of their respective parishes, precincts and places twice in every year, or oftner if they shall think fit, to produce and shew forth to the said Commissioners, or any two of them, and also to the assessors, the Licences of all persons Married, or Certificates of the Banns published, and the Registers of all persons Buried, Born or Christened, within the respective parishes, precincts and places aforesaid, on pain to forfeit for every neglect or refusal so to do, the sum of five pounds, to be recovered by such person or persons, and in such manner, as the forfeitures in the said Act mentioned are appointed to be recovered.

Abridgment.

--which Act is found ineffectual, --as not extending to every offence of the same Minister, --and as not forbidding Substitutes, to marry, -- who have no Benefices, nor Habitations ; -- and many Ministers in Prison for Debt, do Marry there.

Enacted, that, -- Every Minister Marrying, without Banns or Licence, shall for every offence, forfeit 100 l.

--and suffering a Substitute to do the same, shall also forfeit 100 l.

Every man, so Married without Banns or Licence, shall forfeit 10 l.

--and Sexton, or Parish-Clerk assisting, 5 l.

\* Commissioners shall have power to oblige Ministers to produce Licences, and Certificates of Banns.

Enforcement of the forefald Act, 7, 8 W. 3.

A.D. 1697.

9, 10 Will III. Cap. 35.

In an Act, Entituled, An Act for preventing Frauds-----in paying the Duties upon Marriages, &c.

E X P.

§. I. That all and every the directions, powers, clauses, matters and things in the aforesaid Acts, and in one other Act made in the seventh year of his Majesty's Reign, intituled, An Act for the Enforcing the Laws which restrain Marriages, without Licence or Banns, and for the better Registering of Marriages, Births and Burials, and in every or any of them contained or specified, for or in relation to the said Duties upon Marriages, Births, Burials, Batchelors and Widowers (other than such as are hereby altered, enlarged or explained) shall be duly and effectually observed and put in execution, under the penalties in the said Acts respectively contained and expressed.



## Abridgment.

10 Annæ, Cap. 19.

The Necessity of Bans or Licence.  
A.D. 1711.In an Act, Entituled, *An Act for laying several Duties, &c.*

To prevent the Inconveniencies of Clandestine Marriages;

— every Parson who shall marry others without Bans or Licence,

--- shall forfeit 100*l.*

--- and if he be a Prisoner in any private Gaol,

--- he shall be removed to the Court, Gaol, and remain Charged in Execution with the said Penalty, &amp;c.

If any Gaoler permit such Marriages, he shall also forfeit 100*l.*

Saving of Rights to Ecclesiastical Judges.

This Provision shall not extend to Scotland.

§ CCXLVII. And whereas great Loss hath happened of the Duties already laid upon Stampd Uellom, Parchment and Paper, and other Inconveniencies daily grow from Clandestine Marriages; for remedy thereof for the future, Be it Enacted by the Authority aforesaid, That every Parson, Vicar or Curate, or other Person in Holy Orders, Beneficed or not Beneficed, who shall, after the four and twentieth day of June, One thousand seven hundred and twelve, Marry any Person in any Church or Chapel, Exempt or not Exempt, or in any other Place whatsoever, without Publication of the Bans of Matrimony between the respective Parties according to Law, or without Licence first had and obtained from the proper Ordinary for the said Marriage, shall for every such Offence forfeit the Sum of One hundred Pounds, to be recovered with full Costs of Suit, by Action of Debt, Bill, Plaint, or Information, in any of Her Majesties Courts of Record at Westminster, wherein no Essoign, Protection, or Wager of Law, or more than one Impar lance shall be allowed; One Moiety thereof to the Queen, her Heirs and Successors, and the other Moiety to him or them who shall sue for the same; and if such Offender shall be a Prisoner in any Prison or Gaol, (other than a County Gaol) at the time of such Offence committed, and shall be duly Convicted of such Offence, by Action or Information, as aforesaid, then upon Oath made of such Imprisonment, before any Judge of her Majesties Courts of Record at Westminster, and upon producing a Copy of the Record of such Conviction, to be likewise proved upon Oath before the said Judge (which Oaths the said Judge is hereby impowered to administer) the said Judge is hereby required to grant his Warrant to the Keeper of the Gaol or Prison where such Offender is a Prisoner (which Warrant such Keeper is hereby required to Obey) to remove such Offender to the Gaol of that County where such Offender is a Prisoner, there to remain Charged in Execution with the Penalty inflicted by this Act, and with all and every the Causes of his former Imprisonment; and if any Gaoler or Keeper of any Prison shall be Privy to, or knowingly Permit any Marriage to be Solemnized in his said Prison, before Publication of Bans, or Licence obtained, as aforesaid, he shall for every such Offence forfeit the Sum of One hundred Pounds, to be Recovered and Distributed, as aforesaid.

§. CCXLVIII. Saving nevertheless to all Archbishops, Bishops, Archdeacons and other Ordinaries, their Vicars-General, Commissaries, and Officials, the free Exercise of all Ecclesiastical Jurisdiction, and full Power and Authority of Inflicting all such Pains and Censures for this or any other Crime or Crimes, as they might have done if this Act had not been made.

§. CCXLIX. Provided always, That the said Provision for Marriages do not Extend to that part of Great Britain called Scotland.



C A P. VII.

Rules of Granting LICENCES.

CANONS 1603.

1 Jac. 1.

ci. *By whom Licences to Marry without Banns shall be granted, and to what sort of Persons.*

Rules of Granting Licences.

NO Faculty or Licence shall be henceforth granted for Solemnization of Matrimony betwixt any Parties without thrice open publication of the Banns, according to the Book of Common Prayer, by any person exercising any Ecclesiastical Jurisdiction, or claiming any Privileges in the right of their Churches; but the same shall be granted only by such as have Episcopal Authority, or the Commissary for Faculties, Vicars-general of the Archbishops and Bishops *sede plena* or *sede vacante*, the Guardian of the Spiritualities, or Ordinaries exercising of right Episcopal Jurisdiction in their several Jurisdictions, y respectively, and unto such persons only as be of good state and quality, and that upon good Caution and Security taken.

Licences shall be granted only by Persons having Episcopal Authority, &c.

and unto Persons of good state and quality.

y Respectively.] To which was added in the Constitutions of 1597, *Ea verò duntaxat non per Deputatos aut Surrogatos suos, nec aliis quam suæ Jurisdictioni subditis, concedatur. at per se, ac sub manuum suarum Subscriptione,*

cii. *Security to be taken at the granting of such Licences, and under what Conditions.*

THE Security mentioned shall contain these Conditions: ~ First, that at the time of the granting every such Licence, there is not any Impediment of pre-contract, consanguinity, affinity, or other lawful cause to hinder the said Marriage. Secondly, that there is not any controversie or suit depending in any Court before any Ecclesiastical Judge touching any Contract or Marriage of either of the said Parties with any other. Thirdly, that they have obtained thereunto the exprefs Consent of their Parents (if they be living) or otherwise of their Guardians or Governours. Lastly, that they shall celebrate the said Matrimony publickly in the Parish Church or Chapel where one of them dwelleth, and in no other place, and that between the hours of eight and twelve in the forenoon.

Security shall be taken, in granting Licences,

1. That there is no Impediment.
2. No Suit depending.
3. For Consent of Parents,
4. For Solemnization, in Publick.

Stry Grind. App. p. 95.

z First, that.] The laying these Conditions or Restraints upon Licences (the last excepted) was moved for Ann. 1580. in the Articles delivered to the Bishops from the Lower-house of Convocation; and those three (with the addition of the fourth somewhat varying from the present Canon,) were framed into an Article or Constitution, and passed in the Convocation of 1584.

ciii. *Oaths to be taken for the Conditions.*

FOR the avoiding of all fraud and collusion in the obtaining of such Licences and Dispensations: We further constitute and appoint, that before any Licence for the celebration of Matrimony without publication of Banns, be had or granted; it shall appear to the Judge a by the Oaths of two sufficient Witnesses, one of them to be known either to the Judge himself, or to some other person of good reputation then present, and known likewise to the said Judge, that the exprefs consent of the Parents or Parent, if one be dead, or Guardians, or Guardian of the Parties, is thereunto had and obtained. And

Two Witnesses shall swear, that the Consent of Parents is obtained;

a By the Oaths.] By the Constitutions of 1597, the Assurance to be given to the Judge, in this particular, was, — “ *Parentum vel Gubernatorum significatione personaliter factâ, vel Chirographis ipsorum; quibus fidem habendam esse non putamus, nisi per nuncios honestæ conditionis, & famæ illasæ, mittantur; qui fidem faciant, se de Parentum aut Gubernatorum manu Chirographa hujusmodi recepisse, veris nominibus ac cognominibus per hujusmodi nuncios designatorum: Cujus Chirographi Exhibitionis, ac Juramenti per nuncium præstiti, actum conscribi volumus.*”

furthermore,



**Abridgment.**

--- and one of the Parties, that he believes there is no Impediment, nor Suit.

Between Persons in Widowhood, no Oath of Consent is needful, - but the Places of Dwelling and Marriage shall be expressed.

Officer granting Licence, contrary to Canon, shall be suspended for six months. - the Licence void, and the Marriage Clandestine.

Tax upon Licences temp. Car. 2.

Tax upon Licences, by the Stamp-Act.

There shall be no Additional Tax upon Licences.

furthermore, that one of the Parties personally swear, that he believeth there is no lett or impediment of pre-contract, or kindred, or alliance, or of any other lawful cause whatsoever, nor any suit commenced in any Ecclesiastical Court, to bar or hinder the Proceeding of the said Matrimony, according to the tenor of the foresaid Licence.

civ. *An Exception for those that are in Widowhood.*

**I**F both the Parties which are to Marry being in Widowhood, do seek a Faculty for the forbearing of Banns, then the Clauses before mentioned requiring the Parents Consents, may be omitted; but the Parishes where they dwell both shall be expressed in the Licence, as also the Parish named where the Marriage shall be celebrated. And if any Commissary for Faculties, Vicars-general, or other the said Ordinaries shall offend in the Premises, or any part thereof, he shall for every time so offending, be suspended from the execution of his Office for the space of six months; and every such Licence or Dispensation shall be held void to all effects and purposes, as if there had never been any such granted, and the Parties marrying by vertue thereof shall be subject to the b punishments which are appointed for clandestine Marriages.

b Punishment. ] In our Ecclesiastical Records, since the Reformation, we frequently meet with formal Absolutions of Persons who had married Clandestinely; with Dispensation to remain in the State of Matrimony, notwithstanding.

22, 23 Car. II. Cap. 9.

In an Act, Entituled, *An Act for laying Impositions on Proceedings at Law.*

§. LII. For every Licence whatsoever, that shall pass the Seal of any Ecclesiastical Court (except Licences for the dispensing the eating of flesh in Lent,) oneshillling.

5, 6 Will. & Mar. Cap. 21.

In an Act, Entituled, *An Act for granting to their Majesties severall Duties upon Vellum, &c.*

§. III. — For every Skin or piece of Vellum or Parchment, or Sheet or piece of Paper, upon which any Licence for or Certificate of Marriage — shall be Ingrossed or Written, the Sum of five Shillings.

9, 10 Will. III. Cap. 25.

In an Act, Entituled, *An Act for granting to his Majesty ----- further Duties upon Stamp Vellum, &c.*

§. LIII. Every Skin or piece of Vellum, Parchment, or Sheet or piece of Paper, upon which any Licence for, or Certificate of Marriage, shall be Ingrossed or Written, which are to be liable only to a Duty of five Shillings by the said former Acts — shall be Marked and Stamped only with a single Mark or Stamp, according to the said former Act.

Rules of Granting Licences.

A.D.1670.

E X P.

A.D.1692.

A.D.1697.



## C A P. VIII.

*Marriage to be Solemnized in PARISH-CHURCH, and at due TIMES.*

## SIMON MEFHAM.

In Const. *Quia ex Contractibus*, Sub Tit. *De Claud. Desp.*

Quivis etiam Sacerdos, sive Secularis sive Regularis extiterit, qui solemnizationem Matrimonii extra Ecclesiam Parochialem, absque rEpiscopi Diocesani s speciali licentiâ, celebrare præsumpserit, aut eidem interesse, per annum integrum ab Officio sit suspensus.

r Episcopi Diocesani.] Et sic, Archidiaconi, & alii Ordinarii Inferiores, hanc Licentiam dare non possunt: Nam quod de uno conceditur, per consequens de altero denegatur. Lyndw.

s Speciali Licentiâ.] i. e. Nominatim, & in specie, facta; viz. ut in hac specialiter specificentur tam Persona solemnizationem hujusmodi celebraturâ, quam Personæ inter quas fieri debet solemnizatio. Lyndw.

Priest Marrying out of Parith-Church, without Licence; or being present; shall be suspended for one year.

## JOHANNES STRATFORD.

In Const. *Humana Concupiscentia*. Sub Tit. *De Claud. Desp.*

Sanè quia Constitutio bonæ memoriæ *Simonis Mepham*, quondam Cantuariensis Archiepiscopi, Prædecessoris nostri proximi, quæ incipit, *Item quia ex Contractibus*, juxta verborum suorum corticem, opinione multorum, in sui fine videtur dubia seu obscura; ipsam Constitutionem reddere pro futuro cupientes indubiam, eam sic intelligendam fore, hoc approbante Concilio, Declaramus, Quod quivis Sacerdos, Sæcularis vel Regularis, qui solemnizationi Matrimonii extra Parochialem Ecclesiam vel Capellam habentem Jura Parochialia sibi competentia t ab antiquo, interesse præsumpserit, pœnam in eâ latam subeat ipso facto.

s Ab antiquo.] Sc. per spatium 40 annorum ad minus, cum Ordinatione Episcopi à principio. Lyndw.

In eadem Constitutione.

Sacerdotes quoque, qui solemnizationes Matrimoniorum prohibitorum hujusmodi, seu etiam licitorum, inter alios quàm u suos Parochianos in posterum scienter fecerint, w Diocesanos vel Curatorum ipsorum contrahentium super hoc x licentiâ non obtentâ: Clandestina etiam Matrimonia in Ecclesiis, Oratoriis, vel Capellis solemnizari vi vel metu in posterum facientes, ac Matrimoniorum prædictorum hujusmodi solemnizationi interessentes, conscii præmissorum, majoris Excommunicationis sententiam incurrant ipso facto: Et quod quater annis singulis in genere Excommunicati publicè nuncientur, pœnifque aliis contra celebrantes Matrimonia, Bannis non editis, vel aliâs clandestinè statutis, à Jure nihilominus arceantur.

u Suos Parochianos.] Quando, viz. neuter contrahentium subest ipsi solemnizaturæ Matrimonium Jure Parochiali. Lyndw.

w Diocesanos.] Qui cum habeant Curam in solidum per totam Diocesim, possunt Licentiam, de quâ sequitur, concedere ubique per totam Diocesim.

x Licentiâ.] De quâ scil. constare poterit per Epistolam, vel per Testes. Lyndw.

The foregoing Constitution shall be extended,

---to Parochial Chapels.

Priests Marrying any other than Parishioners, ---and all Persons concerned in Clandestine Marriages,

---shall incur Excommunication, ipso facto, ---and be otherwise punished, as the Law directs.

## C A N O N S 1603.

In Can. lxii. Entituled, *Ministers not to marry any persons without Banns or Licence.*

Neither shall any Minister upon the like pain [of Suspension per triennium ipso facto] under any pretence whatsoever, join any person, so licensed, in

Matrimony shall not be solemnized at unreasonable times.

A.D. 1328.  
3 Edw. 3.

Edit. Oxon.  
p. 274.

Marriage to be solemnized in Parish-Church, and at due Times.

A.D. 1342.  
16 Edw. 3.

Edit. Oxon.  
p. 277.



Abridgment.

fed, in Marriage, at any unreasonable times, but only between the hours of eight and twelve in the forenoon, nor in any private place, but either in the said Churches or Chapels, where one of them dwelleth; and likewise in time of divine Service.

*z Unseasonable Times.*] That is, of the Day, not of the Year; Concerning which latter head, I find no Prohibitions expressed, or plainly supposed, in our Constitutions or Canons. But there is a Place in Lyndwood's Gloss, which not only implies a Prohibition of Times in general, but expressly mentions the Times prohibited: *Solemnizatio non potest fieri à primâ Dominicâ Adventûs usque ad Octavas Epiphaniæ exclusivè; & à Dominicâ LXX. usque ad primam Dominicam post Pascha inclusivè; & à prima die Rogationis usque ad septimum diem Pentecostes inclusivè; licet quoad vinculum bis diebus contrahi possit:* Which is again repeated, in the Gloss upon Meppham's Constitution, *Quia Quidam*, on the words, *Nubentium Solemnis.*

It is also certain that a distinction of Times hath been observed, as the Law of our Reformed Church; not only from the Clause which we may observe in several Licences in our Books, *Quocunque anni tempore*, but also from a remarkable Dispute which happen'd in Archbishop Parker's time, between the Master of the Faculties and the Vicar General, Whether the first

only, or the second in conjunction with him, had a Right to grant Licences on that particular head.

Which point is further confirmed, by the Attempts that have been made, in Parliament and Convocation, to take away that distinction of Times: In Parliament, 17 Eliz. a Bill was depending, Entituled, *An Act declaring Marriages lawful at all times;* and in Convocation, Anno. 1575. the last of the Articles presented to the Queen for Confirmations (but by her rejected) was, *That the Bishops shall take Order, that it be published and declared in every Parish Church within their Diocese, before the first day of May next coming, that Marriage may be solemnized at all Times of the Year.* — Which goes further, than what had been projected upon that head, in the Year 1562, when the Scheme intended to be offered to the Parliament, or Convocation, or both, was, *that it shall be lawful to Marry at any time of the Year, without Dispensation; except it be upon Christmalls-day, Easter-day, and six days going before, and upon Pentecost Sunday.*

De Cland.  
Def. c.  
Quia ex, v.  
Solen.

Reg. Park.  
225. b.

Marriage  
to be solemn-  
ized in  
Parish-  
Church,  
and at due  
Times.

Journ. Proc.

Stry. Ref. p. 283.

## WALTERUS.

*Matrimonium cum reverentiâ contrabatur; [antè habitis tribus edictis, rite denanciatis; neque contracturi in secreto fidem dent.]*

**M**atrimonium, sicut alia Sacramenta, cum honore & reverentia, de die, & in a facie Ecclesiæ, non cum risu, ac joco, ac contemptu, celebretur. *a Facie Ecclesiæ.] Id est, Conspectu Ecclesiæ; populi scilicet congregati in Ecclesiâ. Lyndw.*

A.D. 1322.  
16 Edw. 2.

Edit. Oxon.  
p. 271.

Matrimony shall  
be reverently, &c.  
solemnized.

## C A P. IX.

*Impediments of Marriage, as DECLARED or ALLEDGED.*

## O T H O B O N.

*Ne quis impediat Matrimonium celebrari in facie Ecclesiæ.*

### Summarium.

*Nemo Matrimonia legitimè contracta, in facie Ecclesiæ celebrari impediat: Episcopi verò impediendem condignè puniant.*

**C**onjugale fœdus ab ipso Domino institutum sicut potestati humanæ non subjacet, ita nullius ternario patere debet occursum, quo minùs in conspectu hominum solennitatem accipiat; per quam, prout expedit, omnibus innotescat. Quapropter districtius inhihemus, ne quis Matrimonia contracta legitimè, quo minùs in facie Ecclesiæ solennizentur, impedire præsumat.

Episcopi verò quorum interest Sacra tueri, condignè studeant hujusmodi punire præsumptores.

A.D. 1268.  
= 52 H. 3.

Edit. Oxon.  
p. 106.

Impedi-  
ments of  
Marriage,  
as declared  
or alledged.

None shall hinder  
the Solemniza-  
tion of Matrimony  
lawfully contract-  
ed.

— upon pain of be-  
ing punished by  
the Bishop.



Impedi-  
ments of  
Marriage,  
as declared  
or alleged.

A.D. 1548.  
&c.

2 & 5 Edw. VI.-----13, 14 Car. II.

I Require and charge you <sup>1</sup> both (as ye will answer at the dreadful day of Judgment, when the secrets of all hearts shall be disclosed) that if either of you know any impediment, why ye may not be lawfully joynd together in matrimony, ye do now confes it. For be ye well assured, that so many as are coupled together otherwise than God's Word doth allow, <sup>2</sup> are not joynd together by God" neither is their matrimony lawful.

<sup>1</sup> Not in 2 nor 5 E. 6.    <sup>2</sup> Are not joined of God, 2 E. 6.

A.D. 1548.  
&c.

2 & 5 Edw. VI.-----13, 14 Car. II.

AT which day of marriage, if any man do alledge <sup>1</sup> and declare" any impediment why they may not be coupled together in matrimony, <sup>2</sup> by God's Law, or the Laws of this Realm, and will be bound, and <sup>3</sup> sufficient' surerries with him, to the parties, or else put in a caution (to the full value of such charges as the persons to be married do <sup>4</sup> thereby " iustain) to prove his allegation; Then the solemnization must be deferred, until such time as the truth be tried.

<sup>1</sup> Not in 2 E. 6.    <sup>2</sup> Not in 2 E. 6.    <sup>3</sup> Not in 2 E. 6.    <sup>4</sup> Not in 2 nor 5 E. 6.

Ref. Leg. f.  
20. b.

*20 To probe his Allegation.]* Intra mensem proxime consecuturum, se probaturum esse spondeat; & nisi ita faciat, satisfacturum se plene pro omni apparatu qui fuerat in celebratione Nuptiarum futurus; & ad id non solum se, sed etiam pro se fidejussores locupletes obligaverit; tum demum audiat, & matrimonium totum mensem differatur. Hec tamen dilatio quoniam aliquandò dolum malum habere potest, & fraudem, ut interim novis nuptiis locus esse possit; ad tollendam astutiam omnem, hoc istà lege præcavetur, ut, pendente Controversiâ prioris Matrimonii, totum mensem exitum illius expectent, nec ad ulla interim novas nuptias divertant. Quam Constitutionem nostram si levitate sua violaverit, nomen omne hujusmodi Matrimonii damnamus & tollimus, & persona quæ rea fuerat hujus defectionis, Excommunicationis panam sustinebit, donec personæ satisfecerit, à quâ deservit.

Abridgment.

The Parties are bound to declare any Impediment, —as making Marriage unlawful.

Impediment being alleged, —with caution to prove the Allegation, —the Solemnization shall be deferred.

## C A P. X.

### RING, COMMUNION and SERMON, at Marriage.

2 Edw. VI.

THEN shall they againe loose their handes, and the Man shall geve unto the Woman a Ring, and other tokens of Spoufage, as gold or silver, laying the same upon the Booke——And the Manne taughte by the Priest, shall saye,

*With this Ring I thee wed: This Gold and Silver I thee geve: With my Body——*

5 Edw. VI.-----13, 14 Car. II.

THEN shall they again loose their hands, and the Man shall give unto the Woman a Ring, laying the same upon the Book, with the accustomed duty to the Priest and Clerk——And the Man <sup>1</sup> holding the Ring there, and" taught by the Priest, shall say,

*With this Ring I thee wed: With my Body——*

<sup>1</sup> Not in 5 E. 6.

2 & 5 Edw. VI.

THE newe married persons, the same daye of their mariage, muste receive the holy Communion.

The Man shall give a Ring, and other tokens of Spoufage.

The Man shall give a Ring, and the accustomed Duties.

New Married persons shall receive Communion, the same day.



Abridgment.

--they should then, or the first opportunity after.

Communion and Sermon, at Marriage.

No Sermon at Marriage

Tax upon Births of Dignitaries Children, 20s

--upon Marriages of Archbishop, 50 l. Bishop, 20 l. Dean, 10 l.

Archdeacon, 2l. 10s

Prebendary, 2l. 10s

Doctor, 5 l.

--Son of any of these, 20 s.

--† Bachelours and Widowers, Archbishop, 12l. 10s. Bishop, 5 l. Dean, 2 l. 10 s. Archdeacon, 12s. 6d. Prebendary, 12s. 6d. Doctor, 1 l. 5s. --Sons of these 5s.

13, 14 Car. II.

IT is convenient that the new married Person should receive the holy Communion at the time of their Marriage, or at the first opportunity after their marriage.

2 & 5 Edw. VI.

THEN shal begyn the Communion, and after the Gospell shal be sayd a Sermon " wherein ordinarily (so oft as there is any Mariage) the office of a Man and Wyfe shal be declared, accordyng to holy Scripture: or yf there be no Sermon, the Minister shal reade this that foloweth:

All ye which be married—

\* Then shall be said, after the Gospel, a Sermon, 2 E. 6.

13, 14 Car. II.

AFTER which, if there be no Sermon declaring the Duties of Man and Wife, the Minister shall read as followeth:

All ye that are—

C A P. XI.

T A X E S, relating to Marriages.

6, 7 Will. III. Cap. 6.

In an Act, Entituled, An Act for granting to his Majesty certain Rates and Duties upon Marriages, &c.

§. VI. A PD for and upon the Birth of every Son or Daughter of an Archbishop, Bishop, Dean, Archdeacon, Canon, Prebendary, Doctor of Divinity, Law, or Physick, the sum of twenty shillings, over and above the said two shillings.

§. IX. And for and upon the Marriage of every person of the degree of an Archbishop, the sum of fifty pounds, over and above the said two shillings and six pence: And for, and upon the marriage of every person of the degree of a Bishop, the sum of twenty pounds, over and above the said two shillings and six pence; And for and upon the marriage of every person of the degree of a Dean of any Cathedral or Collegiate Church, the sum of ten pounds, over and above the said two shillings and six pence. And for and upon the marriage of every person of the degree of an Archdeacon, the sum of two pounds and ten shillings, over and above the said two shillings and six pence; And for, and upon the marriage of every person of the degree of a Canon or Prebendary of any Cathedral or Collegiate Church, the sum of two pounds and ten shillings, over and above the said two shillings and six pence; And for, and upon the marriage of every person of the degree of a Doctor of Divinity, Law or Physick, the sum of five pounds, over and above the said two shillings and six pence; And for and upon the marriage of every Son of an Archbishop, Bishop, Dean, Archdeacon, Canon, Prebendary, Doctor of Divinity, Law or Physick, the sum of twenty shillings, over and above the said two shillings and six pence.

§. XIII. † Every person of the degree of an Archbishop, the yearly sum of twelve pounds and ten shillings; Every person of the degree of a Bishop the yearly sum of five pounds; Every person of the degree of a Dean of any Cathedral or Collegiate Church, the yearly sum of two pounds and ten shillings; Every person of the degree of an Archdeacon, the yearly sum of twelve shillings and six pence; Every Canon or Prebendary of any Cathedral or Collegiate Church the yearly sum of twelve shillings and six pence; Every person of the degree of a Doctor of Divinity, Law, or Physick, the yearly sum of one pound and five shillings; Every son of an Archbishop, Bishop, Dean, Archdeacon, Canon, Prebendary, Doctor of Divinity, Law or Physick, the yearly sum of five shillings.

Ring, Communion, and Sermon at Marriages. A.D. 1661.

A.D. 1548.

A.D. 1661.

A.D. 1694.

Taxes relating to Marriages. E X P.



Taxes, relating to Marriages.

A.D. 1694.

6, 7 Will. III. Cap. 6.

In an Act, Entituled, *An Act for granting to his Majesty certain Rates and Duties upon Marriages, &c.*

E X P.

LXIII. Provided always, and be it further enacted by the authority aforesaid, That all persons commonly called Quakers, or reputed such, and all Papists or reputed Papists, whether they are Popish recusants convict, or not, and all Jews, or any other persons, who shall cohabit and live together as Man and Wife, shall and are hereby made lyable to pay the several and respective duties and sums of money payable upon Marriages, according to their respective degrees, titles, orders and qualifications, as they ought to have paid by virtue of this Act, if they had been married according to the Law of England; which duties and sums of money shall be collected, lewyed and paid in such manner, and subject to such rules and directions, and under such Penalties and Forfeitures, as are in this Act specified and contained, for and concerning payment of the several and respective duties payable upon Marriages, any thing herein contained to the contrary notwithstanding: and upon every pretended Marriage which shall be made by any such person, within the said term of five years, according to the method and forms used amongst them, the Man so entering into such pretended state of Matrimony, shall within five days after, give notice thereof to the Collectors, or one of them, of the Parish or Place where he lives; and in default of giving such notice, he shall forfeit the sum of five pounds, one Moiety thereof to the Kings Majesty, the other Moiety to the Informer.

LXIV. Provided always, That nothing herein contained shall be construed to make good or effectual in Law any such Marriage or pretended Marriage, but that they shall be of the same force and virtue, and no other, as they would have been if this Act had never been made.

Abridgment.

Quakers, Papists and Jews, shall be liable to the Duty upon Marriages,

--and, upon such pretended Marriages, shall notify in 5 days, --but nothing in this Act, shall make such Marriages good in Law.

C A P. XII.

*Confirmation of the Marriages in the ILL TIMES.*

A.D. 1660.

12 Car. II. Cap. 33.

*An Act for Confirmation of Marriages.*

Confirmation of the Marriages in the ill Times.

Whereas by vertue or colour of certain Ordinances, or certain pretended Acts, or Ordinances, divers Marriages since the beginning of the late Troubles have been had and solemnized in some other manner than hath been formerly used and accustomed: Now for the preventing and avoiding of all Doubts and Questions touching the same, It is enacted by the Kings most excellent Majesty, with the Advice and Assent of the Lords and Commons in Parliament assembled, and by the authority of the same, That all Marriages had or solemnized in any of his Majesties dominions, since the first day of May, in the year of our Lord One thousand six hundred forty and two, before any Justice of Peace, or reputed Justice of Peace of England, or Wales, or other his Majesties dominions, and by such Justice or reputed Justice, so pronounced or declared; And all Marriages within any of his Majesties dominions, since the same first day of May, in the year of our Lord, One thousand six hundred forty two, had or solemnized according to the direction or true intent of any Act or Ordinance, or reputed Act or Ordinance of one or both Houses of Parliament, or of any Convention sitting at Westminster, under the Name, Stile or Title of a Parliament, or assuming that Name, Stile or Title; shall be, and shall be adjudged, esteemed and taken to be, and to have been of the same, and no other force and effect, as if such Marriages had been had and solemnized according to the Rites and Ceremonies established, or used in the Church or Kingdom of England; Any Law, Custom or Usage to the contrary thereof notwithstanding.

II. And be it further enacted, That where in any suit commenced, or to be commenced in any of the Courts of the Common Law, any issue hath been joyned, and not already tried or determined, or shall be joyned upon the point of Bastardy, or unlawfulness of Marriage, for or concerning the Marriages had and solemnized, as aforesaid, the same issues shall be tried by Jury of Twelve men, according to the course of Trial of other issues triable by Jury at the Common Law, and not otherwise; Any Law, Statute or Usage to the contrary thereof in any wise notwithstanding.

Marriages solemnized, during the Rebellion,

--before Justice of Peace,

---or according to any Ordinance, ---shall be as good, as if solemnized according to the Rites of the Church;

--and the Issues concerning Bastardy, therein, shall be tried by 12 men.

A.D. 1661.

13 Car. II. Cap. 11.

In an Act, Entituled, *An Act for Confirming of three Acts therein mentioned.*

E X P.

§. I. And one other Act entituled, An Act for the Confirmation of Marriages----- shall be and is hereby ratified and confirmed, and enacted and declared to have the full force and strength of an Act of Parliament according to the tenor and purport hereof, and so shall be adjudged, deemed, and taken to all intents and purposes whatsoever, as if the same had been made, declared, and enacted, by authority of this present Parliament.

Confirmation of the foregoing Act.



Abridgment.

## C A P. XIII.

WIVES, and CONCUBINES, of PRIESTS, in the  
POPISH Times.

## S T E P H A N U S.

*Clerici, in Sacris, ac Beneficiati, domi Concubinas nec habeant, nec ad Prostitutas cum scandalo accedant : aut si admoniti non desistant, interdicatur eis Sacramentis Ecclesiasticis. A quibus si non abstinerint, excommunicentur, & Beneficii subtractione puniantur.*

Persons benefited, or in Orders, shall not keep Concubines, — upon pain, that the Concubines not departing, shall be Excommunicate, — and the Clergy deprived of Office and Benefice.

**U**T Clericalis ordinis, & *infra*. Clerici beneficiati, aut in sacris ordinibus constituti, in hospitiiis suis publicè tenere concubinas non audeant, nec etiam alibi cum scandalo accessum publicum habeant ad eas. Et si fortè eorum concubinæ cum monitione publicè præmissa ab eis non recesserint, *b* ab Ecclesia Dei quam sic infamare præsumunt expellantur, nec admittantur ad Ecclesiastica Sacramenta. Et si nec sic duxerint abstinentium, Excommunicationis mucrone percillantur ; & tunc demum contra eas invocetur brachium sæculare. Ipsos autem Clericos per subtractionem officii & beneficii canonicâ monitione præmissâ volumus † exerceri.

*b* Ab Ecclesiâ Dei.] *Id est, Ecclesia ingressu.* Lyndw.

## S T E P H A N U S.

*Clericus nihil Concubinis Testamento relinquat : relictum autem, arbitrio Episcopi, convertatur in usum Ecclesiæ, quam rexit defunctus.*

If Clergymen leave ought to Concubines,

— it shall go to the Church.

**U**T Clericalis, & *infra*. Licet legitima Testamenta Clericorum Beneficiatorum decedentium velimus observari ; Nolumus tamen quod Concubinis suis aliquid in Testamento suo relinquat : quod si de cætero factum fuerit, totum illud, arbitrio Episcopi, convertatur in usum Ecclesiæ, quam rexit defunctus.

## R I C H A R D U S.

*Ante Subdiaconatum licita sunt Clericis relictis beneficiis Matrimonia : qui post contraxerint, invitas relinquunt.*

Clergy under Subdeacon, may keep their Wives,

— but Subdeacons, or above, may not.

**S**I qui Clerici *infra* Subdiaconatum constituti Matrimonium contraxerint, ab Uxoribus suis (nisi de communi consensu ad Religionem transire voluerint, & ibi in Dei servitio permanere) nullatenus separentur ; sed cum Uxoribus viventes, Ecclesiastica Beneficia nullo modo percipiant. Qui autem in Subdiaconatu vel supra, ad Matrimonium convolaverint, mulieres renitentes & invitas relinquunt.

## O T H O.

*De Uxoratis à Beneficiis amovendis.*

## Summarium.

*Quicumque aut clam aut palam Matrimoniam contraxerunt, ab Ecclesia & Ecclesiastico Beneficio sunt omnino removendi, & bona quæ sic acquisiverunt Ecclesiæ re-applicanda, nec eorum Filii sine Summi Pontificis dispensatione ad Beneficium aut Sacerdotium admittendi.*

Persons having contracted Matri-

**I**nnotuit Nobis, pluribus referentibus fide dignis, quodd multi propriæ salutis immemores Matrimoniis contractis clandestinè retinere cum Uxoribus Ecclesi-

A. D. 1222.  
6 H. 3.

Edit. Oxon.  
P. 125.

*Wives,  
and Concu-  
bines, of  
Priests, in  
the Popish  
Times.*

† Al. Co exerceri

A. D. 1222.  
6 H. 3.

Edit. Oxon.  
P. 166.

A. D. 1230.  
15 H. 3.

Edit. Oxon.  
P. 128.

O B S.

A. D. 1237.  
22 H. 3.

Edit. Oxon.  
P. 38.



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lias, & Ecclesiastica Beneficia adipisci de novo, & promoveri ad Sacros Ordines contra Statuta sacrorum Canonum non formidant : demùm processu temporis cum prole suscepta de tali copula, *c* expedire videatur, *d* ipsis viventibus vel defunctis, per Testes vel Instrumenta *e* probare contracta fuisse Matrimonia inter eos.

Verùm quia per Clericos Matrimonio seu Contubernio intendentes, procurari Animarum perditio, negligi salus earum, & Ecclesiastica diripi substantia consuevit ; & ut Animarum saluti, & Ecclesiarum commodo consulatur ; huic morbo, qui multum invaluisse asseritur, sic duximus occurrendum, quod si reperi- tum fuerit aliquos taliter contraxisse, ab Ecclesiis & Ecclesiasticis Beneficiis (qui- bus tam eos quam quoslibet alios Uxoratos fore Decernimus ipso Jure privatos) removeantur omnino.

Et si quæ bona post hujusmodi Matrimonium qualitercunque acquisita fu- erint, per ipsos vel per submissas personas de bonis eorum ; ea nequaquam Filiis vel Uxoribus hujusmodi, sed Ecclesiis, quas tenuerunt, vel fin quibus habuerunt Beneficia, protinus applicentur. Ipsi quoque Filii ad Ecclesias, & Ecclesiastica Beneficia, & ad Ecclesiasticos Ordines velut inhabiles nullatenus admittantur, nisi fuerit cum eis, exigentibus eorum meritis, Canonicè dispensatum per Ro- manum Pontificem.

*c* Expedire.] Scil. Proli susceptæ. J. de Athon.

*d* Iphis.] Scil. Patribus Clericis, & eorum uxoribus. J. de Athon.

*e* Probare.] Forte ad effectum Legitimationis suæ, cum tali proli objiceretur Bastardia per viam Actionis seu Exceptionis, ut secundum Jura regi- ni ab hæreditate paternâ repellerentur.

*Vel forte, ad effectum illum, ut bona acquisita per Patrem, quodocunque, alias ubicunque, ex Pro- ventibus Ecclesiæ, vel aliunde, sibi tanquam legitimo proximiori, vel uxoribus Clericorum, appli- carentur. J. de Athon.*

*f* In quibus.] Scil. In Ecclesiis Cathedralibus vel Collegiatis. J. de Athon.

Abridgment.

mony privately, & afterwards obtain Benefices and Orders ;

--- which being a great Abuse,

---it is decreed, that such be deprived,

---and the Goods they obtained, given to the Church,

--- and the Children incapable of Orders, unless dispensed with by the Pope.

A.D. 1237. 22 H. 3.

O T H O.

*De Concubinis Clericorum removendis.*

Summarium.

*Clerici, præcipuè in Sacris Ordinibus Constituti, sicubi Concubinas publicè detinent, eas intra mensem à se removeant penitus, eas aut alias non recepturi, aut ab Officio & Beneficio usque ad satisfactionem condignam suspendantur : de qua Archiepiscopi & Episcopi diligenter inquirent.*

**L**icet ad profugandum à laribus Ecclesiæ putridum illud turpitudinis libidinosæ contagium, de quo decor Ecclesiæ graviter maculatur, \* statuerunt super hoc Ecclesiastici Rectores ipsum remove, † cum tantæ improbitatis existit, ut semper se ingerat impudenter.

Nolentes igitur tantam Ecclesiæ ignominiam conniventibus oculis præterire incorrectam, Statuta Romanorum Pontificum, & maximè Decretalem g Alexandri Papæ super hoc editam exequentes, Statuimus, & statuendo Præcipimus, ut ubi Clerici, & maximè in Sacris Ordinibus Constituti, qui in domibus suis vel alienis detinent publicè concubinas, eas prorsus à se removeant infra mensem, ipsas vel alias de cætero nullatenus detenturi. Ordinamus, si contra hoc præsumperint venire, ut ab Officio & Beneficio sint suspensi, ita quod usquequo super hoc dignè satisfecerint, de Beneficiis Ecclesiasticis se nullatenus intromittant : alioquin ipso Jure ipsis ipsos Decernimus fore privatos.

Volumus quoque, & districtè Præcipimus, ut Archiepiscopi & Episcopi diligenter faciant super hoc per omnes Decanatus fieri inquisitionem, & quod Statuimus observari.

*g Alexandri.] Si quis amodò Episcopus, Presbyter, aut Diaconus, feminam acceperit, vel in choro psallentium maneat, nec aliquam portionem de rebus Ecclesiasticis habeat.*

Incontinence being a great blemish to the Church,

---the Decretal of Pope Alexander, for putting away the Concubines of Clergy-men,

---shall be observed upon pain of Suspension ab Officio & Beneficio ;

---of which Archbishops and Bishops shall take care.

Edit. Oxon. p. 41. MS. Studerunt. † Al. Tantæ tamen causa, &c.

81. Dist. c. 16.



Abridgment.

## O T H O B O N .

## De Concubinariis.

## Summarium.

*Statutum contra Clericos Concubinarios ab Othone Constitutum approbans, adjicit, ut Archidiaconi locorum singulis annis diligentem inquisitionem de illis faciant, inventosque juxta Statutum puniant, & nihilominus Episcopis indicent, in eosdem pro Officio animadversuris. Quam rem Archidiaconus indicare negligens, ab ingressu Ecclesiæ, & Episcopus admonitus non exequens, à Dalmaticæ & Sandaliorum usu, usque ad emendationem suspendatur. Qui verò Concubinariis auxiliores fuerint, aut ipsis vel Concubinis eorum domos locaverint, si Clerici sunt, consimili plectantur pœna, sin Laici, ad arbitrium Episcopi. Concubinæ verò notoriæ ab ingressu Ecclesiæ, dum Divina fiunt, arceantur, nec ad corpus Dominicum admittantur. Deprehensi autem in Adulterio, aut alio peccato notorio, si ob impunitatem ad alia loca profugerint, à Diœcesanis illorum locorum in Excommunicatione teneantur, usque ad salutarem Pœnitentiam.*

Indecency of handling Sacred things, with polluted Lips and hands,

—and a Recital of the foregoing Constitution ;

...in the Execution whereof, Archdeacons, and Bishops, shall be diligent,  
...upon pain of Suspension.

None shall entertain, or let houses to Clergymen keeping Concubines ;

...and the Concubines shall be Suspended from Service and Sacrament.

Adulterers, and other notorious Sinners being Convict, and flying,

...shall be excommunicated by the Bishop of the Diocese, to which they flee.

**Q**UAM indecorum sit, & puritati Christianæ contrarium, pollutis labiis & manibus Sacra tangere, vel laudem offerre munditiæ, aut seipsum scdantum luxuriæ maculis in Templo Domini præsentare; non solum Divinæ aut Canonici Leges, verum etiam Sæcularium Principum monita Sanctæ considerationis judicio prospexerunt, omnibus Christi & Ecclesiæ Sanctæ Matris Ministris pudicitiam tam consultè quàm salubriter indicentes.

Quos prædictus Legatus sequens, laudabili studio Statuit & Præcepit, ut nisi Clerici, & maximè in Sacris Ordinibus Constituti, qui in domibus suis vel alienis detinent publicè Concubinas, eas à se amoveant infra mensem, ipsas vel alias de cætero nullatenus detenturi, ab Officio & Beneficio sint suspensi : & usquequò super hoc digne satisfecerint, de Beneficiis Ecclesiasticis se nullatenus intromittant, alioquin ipsos Decernit eisdem Beneficiis fore ipso Jure privatos.

Nos autem Pudicitiam veluti gemmam virtutum optantes in Clero fulgere, quibus potest non solum persuaderi, sed ex assumptæ professionis vinculo imperari, Statutum prædicti Legati contra Clericos, qui publicè detinent Concubinas, editum, curâ quâ possumus prosequentes, adjiciendo Statuimus, ut Archidiaconi locorum, qui post Episcopos curam gerunt, contra Concubinarios hujusmodi annis singulis inquisitionem faciant diligentem, & circa eos prædicti Legati Statutum exquisitè faciant observari. Et quos invenerint, Episcopis teneantur nihilominus nunciare, ut ipsi Episcopi super his pastoralis Officii debitum exequantur : & si in exequendis his quæ præmissa sunt quisquam Archidiaconus vel Episcopus, postquam sibi denunciatum fuerit ab Archidiacono, negligens fuerit, Archidiaconus quidem ab ingressu Ecclesiæ sit suspensus, quousque denunciaverit, Episcopus verò à Dalmaticæ Tunicæ, & Sandaliorum usu sit suspensus, donec à se negligentiam excutiens, quæ statuta sunt, duxerit exequenda.

Ad hæc, cum ad peccatum accedens consensus & auxilium alterius utrumque in peccato parificet, & pari pœnâ condemnet, Statuimus, ut hi qui Clericos in domibus suis ad peccandum † percipiunt, vel scienter peccare permittunt, sive Concubinis eorum domos scienter locant vel commodant, si Clerici fuerint, pœna consimili, si verò Laici, ad arbitrium Episcopi puniantur.

Prædictæ verò Concubinæ, de quibus constiterit per facti evidentiam, vel alio justo modo, ab ingressu Ecclesiæ dum celebrantur Divina, penitus arceantur ; nec eis Paschali tempore viaticum tribuatur, cum Judicium sibi manducent & bibant, qui illud indignè assumunt.

Cæterum quia plerumque evenire didicimus, quòd convictus super crimine Adulterii, aut peccato notorio, seu confessione, ad partes fugiat alienas, ut pœnam effugiat, & licentius in crimine perseveret, Statuimus, ut si quis taliter de Provincia in Provinciam aliam nostræ Legationis aufugerit, Episcopus, in cujus Diœcesin pervenerit, seu ejus Officialis, etiam ad mandatum Prælati, in cujus Diœcesi vel Jurisdictione fugiens ipse deliquerat, sententiam Excommunicationis in ipsum latam efficaciter exequatur, donec ad pœnitentiam redeat salutarem.

Wives, and Concubines, of Priests, in the Popish Times.

A.D. 1268.  
52 H. 3.

Edit. Oxon.  
P. 92.

† MS. Præcipiunt.



Wives, and Concubines, of Priests, in the Popish Times.

A.D. 1279.

7 Edw. I. Edit. 1010. p. 10.

JOHANNES PECCHAM.

Constitutionem contra Concubinarios latam inviolabiliter observari, & quatuor principalibus ruralibus Capitulis per Officiales publicari, sub pœna Excommunicationis indicit.

Quia incontinentiæ vitium, & infra. Constitutionem Domini Othoboni contra Concubinarios editam Præcipimus inviolabiliter observari. Omnibusque & singulis Co-episcopis Suffraganeis nostris in virtute obedientiæ, & sub pœna suspensionis ab Officio & Beneficio, quam in ipsos ferimus, si sponte circa hoc fuerint negligentes, firmiter injungendo mandamus, quatenus constitutionem prædictam faciant in quatuor anni principalibus Capitulis ruralibus, per se vel eorum Officiales, vel saltem per Decanos rurales, vel gerentes eorum vices distinctè & apertè coram toto Capitulo, exclusis Laicis, recitari; quam recitationem pro monitione haberi volumus, ut liberè contra omnes vitiosos hujusmodi procedi valeat, ne causari possint, cum ad executionem privationis in eos latæ sententialiter in constitutione prædictâ processum fuerit, se monitos non fuisse. Siqui autem prædictæ constitutionis recitationem malitiôsè impederint, Excommunicationi subjaceant ipso facto. Siquis vero neglexerit eam recitare, vel Decanus, vel gerens vicem ejus omni sextâ feriâ in pane & aquâ jejunare teneatur, nisi infirmitas impederit, donec in sequenti Capitulo ipsam recitaverit, seu fecerit recitari.

A.D. 1485.

1 Henr. VII. Cap. 4.

An Act to punish Priests, for Incontinency, by their Ordinaries.

Item, For the more sure and likely reformation of Priests, Clerks, and Religious men, culpable, or by their demerits openly reported of incontinent living in their bodies, contrary to their Order: It is enacted, ordained, and established by the advice and assent of the Lords Spiritual and Temporal, and the Commons in the said Parliament assembled, and by authority of the same, that it be lawful to all Archbishops and Bishops, and other Ordinaries, having Episcopal Jurisdiction, to punish and chastise Priests, Clerks, and Religious men, being within the bounds of their jurisdiction, as shall be convicted afore them, by examination, and other lawful proof, requisite by the Law of the Church, of Adultery, Fornication, Incest, or any other fleshly incontinency, by committing them to ward and prison there to abide for such time as shall be thought to their discretions convenient for the quality and quantity of their trespass: and that none of the said Archbishops, Bishops, or other Ordinaries aforesaid, be thereof chargeable, of, to, or upon any action of false or wrongful imprisonment, but that they be utterly thereof discharged in any of the cases aforesaid, by virtue of this Act.

A.D. 1539.

31 Henr. VIII. Cap. 14.

In an Act, Entituled, An Act for Abolishing of Diversity of Opinions in certain Articles, &c.

IX. And further it is enacted by the authority aforesaid, that if any man, which is or hath been Priest as is aforesaid, at any time from or after the said twelfth day of July, next coming, do carnally keep or use any woman to whom he is or hath been married, or with whom he hath contracted matrimony, or openly be conversant, keep company or familiarity with any such woman, to the evil example of other persons, every such carnal use, copulation, open conversation, keeping of company and familiarity, be and shall be deemed and adjudged felony, as well against the man as the woman, and that every such person so offending, shall be enquired of, tried, punished, suffer, lose and forfeit all and every thing and things as other felons made and declared by this Act, and as in case of felony as is aforesaid.

X. We it also further enacted by the authority aforesaid (not giving advantage or detriment to any article afore rehearsed) that if any man which is or hath been Priest, or hereafter shall be, at any time after the said twelfth day of July, do carnally use and accustom any woman, or keep her as his concubine, as by paying for her board, maintaining her with money, array, or any other gifts or means, to the evil example of other persons; that then every such offender being thereof duly convicted or attainted by the Laws mentioned in this Act, shall forfeit and lose all his Goods and Chattels, Benefices, Prebends, and other Spiritual promotions and dignities, and also shall have and suffer imprisonment of his body at the Kings will and pleasure. And that every of the said Benefices, Prebends and other promotions and dignities, shall

Abridgment.

The foregoing Constitution shall be diligently observed, and enforced by Archbishops and Bishops, ---who shall cause it to be read four times a year to the Clergy, as a Monition,

-- and none shall hinder or neglect the reading.

Priests and Religious Men being Incontinent,

---the Ordinaries may commit them to prison,

---without charge of false Imprisonment.

A Priest keeping company with a Wife, shall suffer as a Felon.

A Priest keeping Concubine, shall forfeit Goods, Chattels, and Promotions, and suffer Imprisonment at the King's will,



## Abridgment.

---and the second Offence shall be Felony.

The Women shall be punished as the Priests.

Recital of Stat. 31. H. 8

---that it shall be Felony, for a Priest to have a Wife,

---and that, keeping Concubine, he shall forfeit Goods and Promotions,

---and for the second offence be a Felon,

---and the Women to be punished, as the Priests.

The Rigour and Severity of that Law;

-- which from henceforth shall be void;

---and any person offending in the premises, shall forfeit goods and chattels,

---and the revenue of one Promotion, if he have 2;

---over and above, for the 2<sup>d</sup>. offence, issues of Lands and Promotions;

---over and above, for the 3<sup>d</sup>. offence, perpetual imprisonment.

shall be to all intents and purposes utterly void, as if the said offender had resigned or permuted. And if any such offender or offenders at any time after the said conviction or attainder, either commit, doe, or perpetrate the said offences or any of them next afore rehearsed, and be thereof duly convicted or attainted by the Laws aforesaid, that then all and every such offence and offences shall be deemed and adjudged felony, and the offender and offenders therein shall suffer paines of death, and lose and forfeit all his and their goods, lands, and tenements, as in cases of felony, without having any benefit of Clergy or Sanctuary.

XI. And be it further enacted by the authority aforesaid, that those women, with whom all and singular the aforesaid Priests shall in any of the foresaid ways have to do with, or carnally know as is aforesaid, shall have like punishment as the Priests.

## 32 Henr. VIII. Cap. 10.

*An Act for the Moderation of the Punishment of Incontinency of Priests, and Women offending with them.*

Where in the first session of this present Parliament, begun and holden at Westminster the eighteenth day of April in the one and thirtieth year of the Kings most noble King, and there continued unto the eight and twentieth day of June then next following, in certain ordinances there made for abolishing of diversity of opinions in divers articles concerning Christian Religion, amongst other things it was and is enacted, That if any man, which then was or had been a Priest, at any time from or after the twelfth day of July then next ensuing, did carnally keep or use any woman, to whom he then was or had been married, or with whom he had contracted matrimony, or openly be conversant, keep company and familiarity with any such woman, to the evil example of other persons; every such carnal use, copulation, open conversation, keeping of company and familiarity, be and should be deemed and adjudged felony, as well against the man as the woman, and that every such person so offending, should be enquired of, tried, punished, suffer, lose and forfeit all and every thing and things, as other felons made and declared by the said Act, and as in case of felony. And where in the said Act it is also further enacted by the authority aforesaid, that if any man which then was or had been Priest, or after that should be, at any time after the said xii. day of July, did carnally use or use any woman, or keep her as his concubine, as by paying for her board, maintaining her with money, array, or any other gifts or means, to the evil example of other persons, that then every such offender being thereof duly convicted or attainted by the Laws mentioned in the said Act, should forfeit and lose all his goods and chattels, benefices, and prebends, and other spiritual promotions and dignities, and also should have and suffer imprisonment of his body at the Kings will and pleasure. And that every of the said benefices, prebends, and other spiritual promotions and dignities should be to all intents and purposes utterly void, as if the said offender had resigned and permuted. And if any such offender or offenders at any time after the said conviction or attainder, either commit, doe, or perpetrate the said offences, or any of them next before rehearsed, and be thereof duly convicted or attainted by the laws mentioned in the said Act, that then all and every such offence and offences shall be deemed and adjudged felony, and the offender or offenders therein should suffer paines of death, and lose and forfeit all his and their goods, lands, and tenements, as in cases of felony, without having any benefit of Clergy or Sanctuary: and that those women, with whom all and singular the foresaid Priests should in any of the foresaid ways have to do with or carnally know, as is aforesaid, should have like punishment as the Priests, as by the said Act amongst other things it manifestly appeareth. Our said Sovereign Lord the King graciously considering that albeit that the incontinent living of Priests, from whom all good example of vertue and good living most specially should proceed, to the good instruction and edifying of other Christian people, is highly to the displeasure of almighty God, and great occasion of increase of like sinful living to all other the Kings subjects, yet the said punishment therefore provided by paines of death is very fore and too much extreme: Wherefore the Kings Majesty is contented and pleased, that with the assent of the Lords Spiritual and Temporal, and of the Commons in this present Parliament assembled, it be ordained and enacted by authority of the same, that the said clause and clauses above written in the Act before rehearsed, contained, concerning Felony and paines of death, and other penalties and forfeitures, for and upon the first and second conviction or attainder of any Priest or woman for any of the said offences in the same clauses of the said Act mentioned, shall be from henceforth void and of none effect. And also that it be ordained and enacted by authority of this present Parliament, that if any such offender as is above written, hereafter shall happen to be duly convicted or attainted by the laws mentioned in the foresaid Act, of or upon any of the crimes and offences as afore written, that then every such offender so being convicted or attainted, shall from henceforth upon his first conviction or attainder, only forfeit and lose to our said Sovereign Lord the King, all his goods, chattels and debts. And if the same offender at the time of that his first conviction, or attainder, have any more benefices or Ecclesiastical dignities or promotions then one: then the same offender so convicted or attainted, shall forfeit and lose for term of his life, all issues, revenues and profits of his said benefices or other Ecclesiastical dignities or promotions (except one of the same benefices or other Ecclesiastical dignities or promotions.) And if it shall fortune any such offender or offenders at any time after the said first conviction or attainder, to commit, doe, or perpetrate any of the said offences before rehearsed, and be thereof either duly convicted or attainted by the Laws aforesaid, that then every such offender shall only lose and forfeit to our said Sovereign Lord the King, all his goods, chattels and debts, and also during his life, all the issues and profits of his lands, Ecclesiastical dignities, benefices, offices, and promotions, to be had, levied, perceived and taken to the Kings Use. And if it shall fortune any such offender or offenders, at any time after the second conviction or attainder, to commit, doe, or perpetrate any of the offences before written, and be also thereof duly convicted or attainted by the Laws aforesaid, that then every such offender shall only forfeit and lose to our said Sovereign Lord the King, all his goods, chattels and debts, and also during his life all the issues and profits of all his lands and tenements, and of all his Ecclesiastical dignities, benefices, offices and promotions, to be had, levied, perceived and taken to the Kings use, and also shall further have and suffer continual imprisonment of his body during

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A.D. 1540.



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ring his life. And every woman being sole and unmarried, with whom any Priest shall so offend in any of the offences abovesaid, shall forfeit for her first conviction or attainder, of or upon any of the crimes or offences abovesaid, all her goods, chattels and debts. And for her second conviction or attainder, of or upon any of the crimes or offences abovesaid, all her goods, chattels and debts, and also the one half of all the issues, revenues, and profits of all her lands, tenements, and hereditaments, by all the term of her life. And for her third conviction or attainder, of or upon any of the crimes or offences abovesaid, she shall forfeit all her goods, chattels and debts, and also during her life, all the issues and profits of all her lands and tenements, and also shall further suffer imprisonment of her body by all the term of her life. And if the woman with whom any Priest shall so offend in any of the offences abovesaid be married, that then for every her conviction or attainder of or upon any of the crimes or offences abovesaid, she shall have and suffer imprisonment of her body by all the term of her life, at the Kings will and pleasure: any thing contained in this said former Act to the contrary of the said penalties in this Act mentioned in any wise notwithstanding.

II. Saving to all and singular person and persons, bodies politick and corporate, their heirs, successors and assigns, and to the heirs, successors and assigns of every of them (either then such person and persons that shall hereafter fortune to offend, contrary to the tenor of this Act) all such right, title, interest, possession, entry, action, condition, rents, remainders, reversions, annuities, fees, commons, leases, liberties, and commodities, which they or any of them, have, shall, or ought to have, at the time of any such offences committed or done by any of the said offenders, contrary to the tenor of this Act, in as ample and large manner and form, to all intents, constructions and purposes, as if this Act had never been had nor made, any thing in this Act contained to the contrary notwithstanding. †

† This Act is repealed by 2 Edw. 6. c. 21. §. 2. in Cap. 14. as to Wives.

Abridgment.

Woman unmarried, if she offend, shall lose goods and chattels, ---over and above, for the 2d, one half of issues of Land, ---over and above, for the 3d, all issues, and perpetual Imprisonment &c.

Woman married, if she offend, shall suffer Imprisonment during life.

Saving of the rights of others.

C A P. XIV.

*Lawful Marriage of PRIESTS, in our REFORMED Church.*

A.D. 1548.

2 Edw. VI. Cap. 21.

*An Act to take away all Positive Laws made against Marriage of Priests.*

*Lawful Marriage of Priests, in our Reformed Church.*

ALTHOUGH it were not only better for the estimation of Priests, and other Ministers in the Church of God, to live chaste, sole and separate from the company of women, and the bond of marriage, but also thereby they might the better intend to the administration of the Gospel, and be less intricated and troubled with the charge of household, being free and unburdened from the care and cost of finding wife and children, and that it were most to be wished, that they would willingly and of their selves endeavour themselves to a perpetual chastity and abstinence from the use of women: yet forasmuch as the contrary hath rather been seen, and such uncleanness of living, and other great inconveniences, not meet to be rehearsed, have followed or compelled chastity, and of such Laws as have prohibited those (such persons) the godly use of marriage; it were better and rather to be suffered in the Commonwealth, that those which could not contain, should after the counsel of Scripture live in holy marriage, then feignedly abuse with worse enormity outward chastity or single life.

II. Be it therefore enacted by our Sovereign Lord the King, with the assent of the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, and by the authority of the same, That all and every Law and Law positive, Canons, Constitutions and Ordinances heretofore made by authority of man only, which do prohibit or forbid marriage to any Ecclesiastical or Spiritual person or persons, of what estate, condition or degree they be, or by what name or names soever they be called, which by Gods Law may lawfully marry, in all and every Article, Branch and Sentence, concerning only the prohibition for the marriage of the persons abovesaid, shall be utterly void and of none effect: And that all manner of Forfeitures, Pains and Penalties, Crimes or Actions which were in the said Laws contained, and of the same did follow, concerning the prohibition for the marriage of the persons abovesaid, be clearly and utterly void, frustrate and of none effect, to all intents, constructions and purposes, as well concerning marriage heretofore made

The Advantages of a single Life, in the Clergy,

---but Mischiefs of being compelled to it,

Enacted, that, All Laws and Canons, forbidding the Marriage of Priests, shall be void,

---and also all Forfeitures,

*b* Uncleanness.] Not to mention the Abominations detected by the Commissioners for Visiting of Religious Houses, temp. H. 8. I will produce one more impartial Evidence, viz. the Acts of the Metropolitan

Visitation of Archbishop Warham; in which we find, that in the two Dioceses of Bangor and St. David's, above eighty Priests were actually Presented for Incontinence.

Warham Reg. f. 222, 227, 25c.



## Abridgment.

--for Marriages already made, or to be made.

This Act shall not make good any Marriage, contrary to Common-Prayer,

--nor make void any Decree heretofore made.

by any of the Ecclesiastical or Spiritual persons aforesaid, as also such which hereafter shall be duly and lawfully had, celebrate and made betwixt the persons, which by the Laws of God may lawfully marry.

III. Provided always, and be it enacted by the authority aforesaid, That this Act, or any thing therein contained, shall not extend to give any liberty to any person to marry without Asking in the Church, or without any Ceremony being appointed by the Order prescribed and set forth in the Book intituled, The Book of Common Prayer, and Administration of the Sacraments, &c. any thing above mentioned to the contrary in any wise notwithstanding.

IV. Provided also, and be it enacted by the authority aforesaid, That this Act, or any thing therein contained, shall not extend to alter, change, revoke, repeal, or otherwise to disannul any decree, judgment, sentence or divorce heretofore had or made, but that all and every such decree, judgment, sentence and divorce, shall remain and be of such like force, effect, strength and degree, to all intents, constructions and purposes, as they were in before the making of this Act, and as though this Act had never been had ne made; This Act, or any thing therein contained to the contrary in any wise notwithstanding,

## 1 Mar. (Sess. 2.) Cap. 2.

In an Act, Entituled, *An Act for the Repeal of certain Statutes made in the time of the Reign of K. Edw. VI.*

Repeal of the foregoing Act.

And also one other Act made in the Session last before mentioned, which is intituled, An Act to take away all positive Laws made against the Marriage of Priests.-----shall be from henceforth utterly repealed, void, and adnihilat, and of none effect.

## 1 Jac. I. Cap. 25.

In an Act, Entituled, *An Act for the Continuing and Reviving of divers Statutes, &c.*

Reviver of the said foregoing Act.

XLIX. And that an Act made in the Session of Parliament holden upon prorogation at Westminster, the iv. day of November, in the ix. year of the Reign of the late King Edward the Sixth, and there continued and kept to the xiv. day of March, in the iij. year of the said late King's Reign, intituled, An Act to take away all positive Laws made against the Marriage of Priests. — shall stand revived, and be in force for ever, the † said Act of Repeal notwithstanding.

† 1 Mar. c. 2.

## 5, 6 Edw. VI. Cap. 12.

*An Act touching the Declaration of a Statute made for the Marriage of Priests, and for the Legitimation of their Children.*

Recital of the foregoing Statute, 2 E. 6. c 21.

Albeit that at the Session of this Parliament holden by Prorogation at Westminster the fourth day of November, in the second year of the Reign of the Kings Majesty that now is, it was ordained and enacted by Authority of the same Parliament, That all and every Law and Laws positive, Canons, Constitutions and Ordinances before that, made by the authority of Man only, which then did prohibit and forbid Marriage to any Ecclesiastical and Spiritual person or persons, of what estate, condition or degree they then were, or by what name or names soever they then were called, which by Gods law might lawfully marry, and all and every Article, Branch and Sentence, concerning only the prohibition for the marriage of the persons aforesaid, should be utterly void and of none effect; And that all manner of Forfeitures, Pains, Penalties, Crimes or Actions which were in the said Laws contained, or of the same did follow concerning the prohibition for the marriage of the persons aforesaid, should be clearly and utterly void, frustrate and of none effect, to all intents, constructions and purposes, as well concerning marriage afore that time made by any of the Ecclesiastical or Spiritual persons aforesaid, as also such which hereafter should be duly and lawfully had, celebrated and made betwixt the persons which by the Laws of God might lawfully marry: Yet since the making of the said Act, divers evil disposed persons perversly taking occasion of certain Words and Sentences in the same Act comprised, have and do untruely and very slanderously report of Priests Matrimony

---and Misconstructions of the said Statute, as if only a permission of a thing unlawful,

Lawful Marriages of Priests, in our Reformed Church.

A.D. 1553.

A.D. 1603.

A.D. 1551.



Lawful  
Marriage  
of Priests,  
in our Re-  
formed  
Church.

Matrimony, saying that the same Statute is but a permission of Priests Matrimony, as Usury and other unlawful things be now permitted for the eschewing of greater inconvenience and evils, so that thereby the lawful Matrimony of Priests in the opinion of many, and the Children procreate and born in such lawful Matrimony, rather be of a greater number of the Kings Subjects accounted as Bastards, then lawfully born, to the great slander, peril, and disherison of such Children: Which untrue, slanderous report of holy Matrimony, doth not onely redound to the high dishonour of Almighty God, but also to the Kings Majesties dishonour, and his high Court of Parliament, and the learned Clergy of this Realm, who have determined the same to be most lawful by the Law of God in their Convocation, as well by the common assent, as by the Subscription of their Hands: And that most of all is to be lamented, through such uncomely railings of Matrimony, and slanderous reproaches of the Clergy, the Word of GOD is not heard with reverence, followed with diligence, the godly proceedings of the Kings Majesty not received with due obedience, and thereby the wealthy men of this Realm discouraged to nourish and bring up their Children in Learning; so as it is to be feared, lest in place of good Learning and Knowledge, shall creep in Ignorance, and for learned men unlearned ambitious men and flatterers, to the great displeasure of Almighty God, and to the peril of the whole state of Gods true Religion within this Realm, if speedy remedy be not provided herein:

II. Therefore it is enacted by the King our Sovereign Lord, with the assent of the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, and by the Authority of the same Parliament, That the Matrimony of all and every Priest, and other Ecclesiastical and Spiritual person and persons heretofore had, celebrated and made, and the Matrimony of every Priest, and other Ecclesiastical and Spiritual person, which shall hereafter duly be had, celebrated and made, shall be adjudged, deemed and taken for true, just and lawful Matrimony, to all intents, constructions and purposes: And that all and every children and child born in any such Matrimony, shall be deemed, judged, reputed and taken, to all intents, constructions and purposes, to be born in lawful Matrimony, and to be legitimate, and inheritable to lands, tenements and other hereditaments, from and by any of their fathers, mothers and other ancestors, in like manner and form, to all intents, constructions and purposes, as any other children born in lawful Matrimony betwixt any of the Kings lay Subjects be inheritable: And that by the authority aforesaid, as well all and every Priest, and other Ecclesiastical and Spiritual person and persons, be and shall be enabled to be Tenants by the courtesie, after the death of their Wives, of such lands, tenements and other hereditaments as their Wives shall happen to be seised of, of estate in fee-simple, or estate in fee-tail general, during the spousals; and also every Wife of every such Priest and other Ecclesiastical person shall be enabled to claim, demand, have and enjoy dower of the lands, tenements and other hereditaments whereof her Husband during the spousals between them was seised, of estate in fee-simple, or fee tail general in his own right, in like manner and form, to all intents, constructions and purposes, as any other Husband or Wife may or might claim, demand, have or enjoy; Any law, statute, ordinance, canon, constitution, prescription or custom, had, made, exercised or used in this Realm, to the contrary, in any wise notwithstanding.

III. Provided alway, That this Act nor any thing therein contained, shall extend to give liberty to any persons to marry without Asking in the Church, or without the Ceremonies according to the Book of Common Prayer and Administration of the Sacraments, nor shall make any such Matrimony already made, or hereafter to be made, good, which are prohibited by the law of God for any other cause.

IV. Provided also, That this Act, nor any thing therein contained, shall extend to alter, change, revoke, repeal, or otherwise to disannul any decree, judgment or sentence of divorce heretofore had or made, or to change or alter the possession of inheritance of any lands or tenements already descended: but that they and every of them shall remain, continue and be of such like force, effect, strength and degree, to all intents, constructions and purposes, as they were before the making of this Act: This Act, or any thing therein contained, to the contrary in any wise notwithstanding.

1 Mar. (Sess. 2.) Cap. 2.

In an Act, Entituled, *An Act for the Repeal of certain Statutes made in the time of the Reign of K. Edw. VI.*

II. --- One other Act made in the Session last recited, intituled, An Act made for the declaration of a Statute made for the Marriages of Priests, and for the legitimization of their children, and every clause, sentence, byanch, Article and Articles, mentioned, expressed, or contained in the said

Abridgment.

---and the Children Bastards,

--- to the dishonour of Parliament, and Convocation,

--- the slander of the Clergy, and Discouragement of Learning.

The Matrimony of Priests, &c. shall be adjudged Lawful,

--- and the Children legitimate;

--- Husband also shall be Tenant by courtesy,

--- and Wife enjoy Dower.

This Act shall not make good unlawful Marriages,

--- nor annul any Divorce heretofore made.

Repeal of the foregoing Act.



Abridgment.

said Statutes, and in every of them, shall be from henceforth utterly repealed, void, and annulled, and of none effect, to all purposes, constructions and intents, any thing or things contained or specified in the said Statutes, or any of them to the contrary in any wise notwithstanding.

1 Jac. I. Cap. 25.

In an Act, Entituled, *An Act for Continuing and Reviving of divers Statutes, &c.*

Reviver of the laid foregoing Act, 5, 6 Edw. 6. c. 12.

L. And an Act made in the Session of Parliament holden upon Prorogation at Westminster the xxij. day of January, in the v. year of the Reign of the said King Edward the Sixth, and there continued and kept until the xv. day of April, in the sixth year of his Reign, entituled, An Act made for Declaration of a Statute made for the Marriage of Priests, and for Legitimation of their Children, shall stand revived, and be in force for ever, the said Act of Repeal notwithstanding: And the Children of Ecclesiastical persons, in the said Act mentioned, shall be and continue legitimate and inheritable, to all intents and purposes, in such sort as Children of Lay persons do enjoy and may inherit: Any Canon or Constitution to the contrary notwithstanding.

## 39 ARTICLES.

xxxii. *Of the Marriage of Priests.*

The Laws of God do not forbid the Clergy to marry.

Bishops, Priests, and Deacons, *i* are not commanded by Gods Law, either to vow the Estate of single Life, or to abstain from Marriage: *k* Therefore it is lawful for them, as for all other Christian Men, to marry at their own discretion, *a* they shall judge the same to serve better to Godliness.

*i* are not commanded.] In the Articles of Edw. 6--Are not commanded to Vow the state of single Life without Marriage, neither *k* Therefore.] The remaining part, is not in the Articles of Edw. 6.

1 Will. &amp; Mar, Sess. 2.---4 Will. &amp; Mar.---to 10 Annæ.

*In the Land-Taxes.*

Corporation of the Sons of the Clergy exempted from Taxes.

—Provided also that nothing in this Act contained, shall be extended to charge the Corporation of the Governours of the Charity for Relief of poor Widows and Children of Clergymen — † Or to charge any of the Houses or Lands belonging to the said Corporation of the Governours of the Charity for Relief of poor Widows and Children of Clergymen.

† This was first brought-in  
+ W. & M.

## C A P. XVI.

*The Marriage of the SIX-CLERKS, and DOCTORS of LAW.*

15 Henr. VIII. Cap. 8.

*The Marriage of the Six-Clerks allowed, &c.*

Mischief of hindring the Clerks in Chancery to marry,

I most humble wise beseecheth your most true and faithful subjects, and daily servants, the Six Clerks of your high Court of Chancery, that whereas of old time accustomed hath been used in the said Court, that all manner of Clerks and Ministers of the same Court, writing to the Great Seal, should be unmarried (except onely the Clerk of the Crown) so that as well the Coursetours and other Clerks, as the Six Clerks of the said Chancery, were by the same Custome restrained from Marriage, whereby all those that contrary to the same did marry, were no longer suffered to write in the said Chancery, not onely in their great hindrance, losing thereby the benefit of their long study, and tedious labours and pains in youth, taken in the said Court, but also to the great decay of the true Course of the said Court.

*Marriage of the Six-Clerks and Doctors of Law.*

*Lawful Marriage of Priests, in our Reformed Church.*  
A.D. 1603.

A.D. 1562.

A.D. 1689.

A.D. 1523.

II. And



*Marriage  
of the Six-  
Clerks and  
Doctors of  
Law.*

II. And forasmuch as the said Custome taketh no place nor usage, but only in the office of the said Six Clerks, but that it is permitted and suffered for maintenance of the said course, that as well the said Courtiers as the other Clerks aforesaid, may and do take Wives, and marry at their liberty, after the Lawes of holy Church, and of long time have so done, without interruption or lett of any person: It may therefore please your Highness, of your most abundant grace, with the assent of the Lords spiritual and temporal, and the Commons in this present Parliament assembled, and by authority of the same, in consideration of the Premises, and also for that the said custome is not grounded upon any Law, to ordain, enact and establish, That John Trevelth, Richard Wells, Oliver Leader, John Croke, William Jeffon, and John Lemsey, now being in the Office of the Six Clerks of the Chancery, and every of them, and all other which in time to come shall be in the same Office, and every of them, may and do take Wives and marry at their liberty, after the lawes of holy Church. And that they and every of them so married, may have, hold and enjoy their said Office of Six Clerks in as ample, large and like manner, as they did or should doe before the said espousals, or as if they had never been married, the said custome, or any other custome or ordinance heretofore had or made to the contrary notwithstanding.

III. Provided always, That by any thing in this Act contained, the Master of the Rolls (for the time being) be not prejudiced either in the giving and disposition of the said Offices from time to time, as hath been heretofore accustomed, the forfeiture of that Office by reason of marriage onely except. And that the said Officers which now be and hereafter shall be, do give such attendance unto the said Master of the Rolls for the time being, as heretofore in the said Offices hath been accustomed.

A.D. 1545.

37 Henr. VIII. Cap. 17.

*A Bill that Doctors of Civil Law, being married, may exercise Ecclesiastical Jurisdiction.*

**I**n most humble wise shew and declare unto your Highness your most faithful, humble and obedient Subjects, the Lords Spiritual and Temporal, and the Commons of this present Parliament assembled, That where your most Royal Majesty is, and hath always justly been, by the Word of God, Supreme Head in Earth of the Church of England, and hath full power and authority to correct, punish and repress all manner of Heresies, Errors, Vices, Sins, Abuses, Idolatries, Hypocrisies and Superstitions, spring and grown within the same, and to exercise all other manner of Jurisdictions, commonly called Ecclesiastical Jurisdictions: Nevertheless the Bishop of Rome and his Adherents, minding utterly as much as in him lay to abolish, obscure and delete such Power given by God to the Princes of the Earth, whereby they might gather and get to themselves the government and rule of the World, have in their Councils and Synods Provincial, made, ordained, established and decreed divers Ordinances and Constitutions, that no Lay or married man should or might exercise or occupy any Jurisdiction Ecclesiastical, nor should be any Judge or Register in any Court, commonly called Ecclesiastical Court, lest their false and usurped Power, which they pretended and went about to have in Christ's Church, should decay, wax vile, and be of no reputation, as by the said Councils and Constitutions Provincial appeareth: which standing and remaining in their effect, not abolished by your Grace's Laws, did sound to appear to make greatly for the said usurped Power of the said Bishop of Rome, and to be directly repugnant to your Majesty as Supreme Head of the Church, and Prerogative Royal, your Grace being a Lay-man.

II. And albeit the said Decrees, Ordinances and Constitutions by a Statute made in the five and twentieth year of your most noble Reign, be utterly abolished, frustrate, and of none effect: yet because the contrary thereunto is not used, nor put in practice by the Archbishops, Bishops, Archdeacons, and other Ecclesiastical persons, who have no manner of Jurisdiction Ecclesiastical, but by, under and from your Royal Majesty, it addeth, or at the least may give occasion to some evil disposed persons, to think, and little to regard the proceedings and censures Ecclesiastical, made by your Highness and your Vicegerents, Officials, Commissaries, Judges and Visitators, being also Lay and married men, to be of little or none effect or force, whereby the people gathereth heart and presumption to do evils

Abridgment.

-- which no others are now hindered from, but the Six Clerks.

The Six Clerks may marry,

---and enjoy their Offices.

The Master of the Rolls shall dispose of them, as usual,  
---and the Offices shall be duly attended.

The King, as Supreme Head of the Church, may exercise all manner of Jurisdiction Ecclesiastical.

---but the Pope, forbidding Lay or Married men, to exercise Ecclesiastical Jurisdiction,

---did thereby confirm his own Usurpations,

---and Bishops and their Officers, being unmarried, give occasion to think that married Men may not exercise Ecclesiastical Jurisdiction.

and



## Abridgment.

To confirm the Supremacy, and correct the said opinion,

Enacted, That Doctors of Civil-Law, being Lay, or Married, may exercise all manner of Ecclesiastical Jurisdiction,

and Censures.

Repeal of the foregoing Act.

Reviver of the foregoing Act, 37 H. 8. c. 17.

and not to have such reverence to your most godly injunctions and proceedings as becometh them.

III. But forasmuch as your Majesty is the onely and undoubted Supreme Head of the Church of England, and also of Ireland, to whom by holy Scripture all authority and power is wholly given to hear and determine all manner causes Ecclesiastical and to correct vice and sin whatsoever, and to all such persons as your Majesty shall appoint thereunto : That in consideration thereof, as well for the instruction of ignorant persons, as also to avoid the occasion of the opinion aforesaid, and the setting forth of your Prerogative Royal and Supremacy :

IV. It may therefore please your Highness, that it may be ordained and enacted by authority of this present Parliament, That all and singular persons, as well Lay as those that be now married, or hereafter shall be married, being Doctors of Civil Law, lawfully create and made in any University, which shall be made, ordained, constituted and deputed to be any Chancellor, Vicar-General, Commissary, Official, Scribe or Register by your Majesty, or any of your Heirs or Successors, or by any Archbishop, Bishop, Archdeacon, or other person whatsoever having authority under your Majesty, your Heirs and Successors, to make any Chancellor Vicar-General, Commissary, Official or Register, may lawfully execute and exercise all manner of Jurisdiction, commonly called Ecclesiastical Jurisdiction, and all Censures, and Coercions appertaining, or in any wise belonging unto the same, albeit such person or persons be lay, married or unmarried, so that they be Doctors of the Civil Law, as is aforesaid ; any Law, Constitution or Ordinance to the contrary notwithstanding.

1, 2 Phil. & Mar. Cap. 8.

In an Act, Entituled, *An Act repealing all Articles and Provisions made against the See Apostolick, &c.*

§. XXXII.----- And where also one other Act was made in the seven and thirtieth year of the reign of the said late King Henry the eight, intituled, An Act that Doctors of the civil law being married might exercise Ecclesiastical jurisdiction : Be it enacted by the authority of this present Parliament, that the said Act last before mentioned, and all and every branch, article, sentence, and matter contained in the same, shall from henceforth be repealed, and utterly made void and of none effect.

1 Eliz. Cap. 1.

In an Act, Entituled, *An Act to restore to the Crown the ancient Jurisdiction over the Estate Ecclesiastical, &c.*

§. XII. And also one Act made in the seven and thirtieth year of the Reign of the said late King Henry the eight, intituled, An Act that Doctors of the Civil Law, being married, may exercise Ecclesiastical Jurisdiction, and all and every branches and Articles in the said Act last mentioned, and not repealed in the time of the said late King Edward the sixth, may from henceforth likewise stand and be revived, and remain in their full force and strength, to all intents and purposes : any thing contained in the said Act of repeal before mentioned, or any other matter or cause to the contrary notwithstanding.

Marriage of Six Clerks and Doctors of Law.

A.D. 1554.

A.D. 1558.



## C A P. XVI.

CAUSES MATRIMONIAL to be Prudently and Cautiously managed.

## S T E P H A N U S.

*Causæ Matrimonialis Examinatio, non ad Decanos rurales, sed ad discretos viros spectabit.*

**I**N causis, & *infra*. Statuimus, ut Decani rurales *in* nullam causam Matrimoniam de cætero audire præsumant; sed earum examinatio non nisi discretis viris committatur: quibus *x* assidentibus, si commodè fieri poterit, postmodum sententia \* pronuncietur.

*in* Nullam Causam.] *Scilicet* Nec ad Matrimonium conjungendum, nec ad Matrimonium disjungendum, quia utrobique agitur de fœdere Matrimonii, & ejus viribus. Lyndw. *x* Assidentibus.] *Scilicet* committenti. Lyndw. \* Pronuncietur.] *Scilicet* per eos, qui causas hujusmodi commiserunt. Lyndw.

Deans Rural shall not hear Matrimonial Causes.

## S T E P H A N U S.

*Advocatus Matrimonium sine excusatione Judicis impediens, per annum privetur advocandi officio.*

**Q**Uoniam per Advocatos multoties Matrimonia *y* perturbantur; Statuimus, ut sententiâ lata pro Matrimonio, Advocatus, qui contra illam steterit, hoc ipso per annum Advocatione privatus existat: nisi Judex eum in ipsa sententia propter justum errorem vel probabilem ignorantiam expressè habeat excusatum.

Advocate shall not disturb Marriages, after they are declared good.

*y* Perturbantur.] *Viz.* Per *Querelas injustas, & appellationes frivolas, & alia Remedia* exquisita, quæ per *Consilia* hujusmodi Advocatorum perverforum inveniuntur. Lyndw.

## O T H O.

*Judex imperitus nequaquam est deputandus, præsertim in causis Matrimonialibus. Prælati verò quorum interest tales cognoscere, diligenter eas ordinare procurent, nec ipsi aut Delegati per eos ad definitivam sententiam procedant absque Diœcesani consilio, nisi forte sint speciali privilegio exempti.*

**C**UM non solum potestas, sed etiam discretio & scientia in definiendis negotiis potissimum requiratur, solenniter ab omnibus est præcavendum, ne talis Judex vel cognitor deputeretur, propter simplicitatem cujus, aut imperitiam, vel ruditatem, inutilis feratur sententia, vel injusta, absolvatur nocens, vel innocens condemnetur.

Discretion and Knowledge are mainly required in a Judge,

Propterea Duximus Statuendum, quòd Matrimoniales causæ, quæ inter cæteras cum maturitate magnâ & diligentiam sunt tractandæ, viris providis, & fide dignis, & habentibus Juris peritiam, vel saltem competens exercitium causarum, † admittantur.

— and therefore Causes Matrimonial shall be refer'd to persons, so qualified,

Si qui verò *z* Decani, Archidiaconi, vel Abbates, habent ex Privilegio vel Consuetudine approbata, quòd de Matrimonialibus causis cognoscant, diligenter eas ordinare procurent.

Præcipimus, & præsentis Statuto Firmamus, ita quòd tam ipsi quàm Delegati ipsorum ad definitivam sententiam non procedant, nisi prius habitâ deliberatione de causæ meritis cum Diœcesano Episcopo diligenti, ipsiusque requisito consilio & obtento, ad quod tamen exemptos teneri Volumus, † nisi sint speciali Privilegio communiti.

— who also before Sentence, shall confer with the Bishop.

*z* Decani.] *Scilicet* majoris Ecclesiæ. J. de Athon.

A.D. 1222.

6 H. 3.

Edit. Oxon.  
P. 79.

*Causæ Matrimonial to be prudently and cautiously managed.*

A.D. 1222.

6 H. 3.

Edit. Oxon.  
P. 74.

A.D. 1237.

22 H. 3.

Edit. Oxon.  
P. 58.Committantur.  
MS.

Vel, MS.



Abridgment.

C A P. XVII. Of DIVORCE.

25 Henr. VIII. Cap. 22.

In an Act, Entituled, An Act concerning the King's Succession.

A.D. 1533.

Of Divorce.

All Separations, for Marrying within the Degrees prohibited, shall be good,

— and the Children Illegitimate.

Separations of such Marriages, not already made, shall be made by Ecclesiastical Authority,

— and there shall be Appeal to Rome Marriages shall be interpreted such, as were duly Solemnized, and with carnal knowledge.

Causes Matrimonial being of great Importance,

— Divorces and Nullities shall be made upon good proofs, — and not upon the Confession of the Parties ;

Extra. 4. t. 13. c. 5.

IV. Be it therefore enacted by authority aforesaid, That no person or persons, subjects or residents of this Realm, or in any your dominions, of what estate, degree or dignity soever they be, shall from henceforth marry within the said degrees aforesaid rehearsed, what pretence soever shall be made to the contrary thereof. And in case any person or persons, of what estate, dignity, degree or condition soever he be, hath been heretofore married within this Realm, or in any the King's Dominions, within any the degrees above expressed. and by any the Archbishops, Bishops or Ministers of the Church of England be separate from the bonds of such unlawful marriage, That then every such separation shall be good, lawful, firm and permanent for ever, and not by any power, authority or means to be revoked or undone hereafter : and that the children proceeding or procreate under such unlawful marriage shall not be lawful ne legitimate : Any foreign laws, licences, dispensations, or other thing or things to the contrary thereof notwithstanding.

V. And in case there be any person or persons within this Realm, or in any the King's dominions, already married within any the said degrees above specified, and not yet separate from the bonds of such unlawful marriage, That then every such person so unlawfully married shall be separate by the definitive sentence and judgments of Archbishops, Bishops and other Ministers of the Church of England, and in other your dominions within the limits of their jurisdictions and authorities, and by none other power and authority. And that all sentences and judgments given or to be given by any Archbishop, Bishop, or other Minister of the Church of England, or in other the King's dominions within the limits of their jurisdictions and authorities, shall be definitive, firm, good and effectual to all intents, and be observed and obeyed, without suing any provocations, appeals, prohibitions, or other process from the Court of Rome, to the derogation thereof, or contrary to the Act made since the beginning of this present Parliament, for restraint of such provocations, appeals prohibitions and other processes.

XVI. Provided always, That the Article in this Act contained, concerning Prohibitions of Marriages within the Degrees aforesaid mentioned in this Act, shall always be taken, interpreted, and expounded of such Marriages, where Marriages were solemnized, and carnal knowledge was had. †

† Rep. 1. Mar. c. 1.

C A N O N S, 1603.

I Jac. I.

cv. No Sentence for Divorce to be given upon the sole Confession of the Parties.

FORasmuch as Matrimonial Causes have been always reckoned and reputed amongst the weightiest, and therefore require the greater Caution when they come to be handled and debated in Judgment, especially in Causes wherein Matrimony, having been in the Church duly solemnized, is required upon any suggestion or pretext whatsoever to be dissolved or annulled : We do straitly charge and enjoyn, that in all proceedings to Divorce and Nullities of Matrimony, good Circumspection and Advice be used, and that the Truth may (as far as possible) be sifted out by the deposition of Witnesses, and other lawful proofs and evictions, and that credit be not given to the sole Confession of the Parties themselves, howsoever taken upon Oath, either within or without the Court.

[A Sole Confession.] The Rule of the Canon Law upon this head, is in a Decretal Epistle of Pope Celestine the third, as follows ; Tuæ fraternitati respondemus, quod propter eorum Confessionem tantum, vel rû morem Vicinæ, separari non debent: cum & quandoque nonnulli inter se contra Matrimonium velint colludere, & ad confessionem Incestus facile profitentur, si suo Judicia crederent per Judicium Ecclesiæ concurrendum. Rumor autem Vicinæ non adeo est judicandus validus, quod nisi rationabiles & fide dignæ Probationes accedant, possit bene contractum matrimonium imitari.

renew'd in the Canons of 1597. — Nec Partium Confessione (quæ in his causis sæpe fallax est) temere confidatur. And how great need there was of such a Prohibition, will appear to any one, who shall consult the ancient Acts of Courts before those Times; and see there, how common it was to pronounce Separations upon the Sole Confession of the Parties, and how numerous the Separations were, so long as that continued to be the Rule.

In the Modern Reports, there is a remarkable Instance of this kind ; wherein a Prohibition was pray'd in behalf of the Children who were in dangerto be Bastardized

Mod. Rep. P. 2. p. 315.

by such



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by such a Fraud. Collet marty'd Mary, and had Children by her: against whom it was libelled in the Spiritual Court, that he had before married Anne the Sister of Mary: He and Anne appear, and confess the matter, upon which (as the Report sets forth) a Sen-

tence of Divorce was to pass: Whereas in truth, Collet was never married to Anne, but it was a Contrivance between him and his wife, to get themselves divorced, after they had lived together 16 Years.

Abridgment.

### cvi. No Sentence for Divorce to be given but in open Court.

NO Sentence shall be given either for Separation *b à thoro & mensa*, or for annulling of pretended Matrimony, but in open Court, and in the

— and the Sentence shall be pronounc'd in open Court,

*b A thoro & mensa.*] *Cum usus Matrimonii, puta Conjugum cobabitatio, vel mutua Conversatio, ad tempus, aut nullà temporis habità ratione, interdicatur.* This is, in cases of Adultery, Cruelty, &c. in which, the Marriage having been originally good, is not dissolved, nor affected, as to the *Vinculum* or Bond. And this is so by Common, as well as Canon Law; insomuch that the Wife so divorced, having sued for a Legacy left to her, and the Husband having given a Release, such Release hath been adjudged good, notwithstanding the Divorce. Nor doth this kind, either bar the Wife of Dower, or bastardize the Children; but entitles her to *Alimony*, which the Ecclesiastical Court assigns, in proportion to the Circumstances and Condition of her Husband; and no Prohibition will lie. But as to the having again the Goods she brought, or so much as is not spent; that, in the Law books, is meant only of Divorce *à vinculo*, or, when there was a Nullity of Marriage, *ab initio*, so as to be really no Marriage.

Anr. 1554. one of the Petitions of the Clergy in Convocation, to the Upperhouse, was, "That in Divorces, which are made from *Bed and Board*, Provision may be made, that the Innocent Woman may enjoy such Lands and Goods as were her's before the Marriage, or that happen'd to come to her use, at any time during the Marriage; and that it may not be lawful for the Husband, being for his Offence divorced from the said Woman, to intermeddle himself with the said Lands or Goods, unless his Wife be to him reconciled.

This sort of Divorce was to have been wholly taken away by the *Reformatio Legum*, in these words: *Mensæ Societas & Thori solebat in certis Criminibus adimi Conjugibus; Salvo tamen inter illos reliquo Matrimonii jure. Quæ Constitutio cum à Sacris Literis aliena sit, & maximam perversitatem habeat, & malorum sentinam in Matrimonium comportaverit, illud auctoritate nostrâ totum aboleri placet.*

*c Annulling of pretended Matrimony.*] Or, Separation *à vinculo*, in Cases of *Precontract*, or *Consanguinity* or *Affinity* within the Degrees prohibited; also, of *Impuberty*, or *Frigidity*: Where the Marriage of it self was meerly void *ab initio*, and the Sentence of Divorce only *declaratory* of it's being so. Insomuch, that in Debt upon an Obligation, tho' the Defendant pleaded, that, at the time of making the Bond, she was Wife to a Person there named; yet the Plaintiff shewing that a former Wife was alive at the time of his Marrying the Defendant,

and that thereupon her Marriage with him had been adjudged null and void in the Spiritual Court; Judgment was given against her, because the Marriage being meerly void, she was always sole; and it was further said, that in such Case the Divorce was only *Declaratory*, and there needed not any such Sentence.

The effects of that *Original Voidance* and *Nullity*, are, That the Wife is barred of *Dower*, and the Issue are *Illegitimate*; and that the Persons, so Divorced, may Marry any others. Further; in Case of Divorce for *Precontract*, the Party before-contracted not only may, but by the Decree of the Spiritual Court, is bound to Marry the Person with whom the first Contract was made; nor is it necessary, in order to the Validity of the Divorce, or the Obligation to adhere to the first Contract, nor the Legitimacy of the Children thereby, that the Husband *de facto* should be party to the Suit; inasmuch as the Sentence is only *declaratory* of an original Nullity.

Concerning another Cause of *Divorce à vinculo*, viz. *Impuberty* (or the Male or Female's Marrying *infra nobiles annos*, i.e. the first under 14, or the second, under 12;) the Books of Common-Law do also confirm and ratify this Nullity; not only by declaring, that, in case of such Divorce, the Woman may have an *Affize* for the Land given in Frank marriage; but also in affirming further, that tho' the Man hath issue by such Marriage, and is divorced, and marries again, and hath issue, and dies, the issue of the second Wife shall be his lawful heir; nor will any Averment of consenting and living together *post nobiles annos*, be received or admitted in the Temporal Court, after a Divorce in the Spiritual, made upon the original Nullity, and unrepealed.

In like manner, do the Books of Common-Law resolve, in Case of Divorce *à vinculo* for *Impotency*; after 3 Years Trial, and Examination, and Sentence in the Spiritual Court, *propter perpetuam Impotentiam Generationis*. As it was in *Bury's Case*, who was so Divorced, but afterwards Married another Wife, and had Children by her; upon which it was urged, that the Church being evidently deceived as to his perpetual *Impotency*, the Divorce thereupon was null; and if so, that the second Marriage was unlawful, and the Issue illegitimate. But the Court resolved, that, since there had been a Divorce *causâ Frigiditatis* or *Impotentia*, it was clear that each of them might lawfully Marry again; and tho' it should be allowed, that, the Church appearing to

Seat

1. Cro. 908.  
Mo. 655.Noy, 108.  
7. Rep. 44 a  
2. Cro. 365.Dyer, f. 13. a.  
1. Cro. 308.Burn. Vol. 2  
App. P. 271.Ref. Leg. 28.  
b.

Cro. Eliz. 857.

7. Rep. 44.  
a.4. Rep. 29.  
1.7. Rep. 44.  
a.7. Rep. 42.  
b.

Ibid.

5. Rep. 98.  
Mo. 225.  
Dyer, 179.



## Abridgment.

---with knowledge  
of the Archbishop,  
Bishop, &c.

Seat of Justice, and that with the knowledg and consent either of the Archbishop within his Province, or of the Bishop within his Diocess, or of the Dean of the Arches, the Judge of the Audience of *Canterbury*, or of the Vicars-general, or other principal Officials, or *sede vacante* of the Guardians of the Spiritualities, or other Ordinaries, to whom of right it appertaineth, in their severall Jurisdctions and Courts, concerning them only that are then dwelling under their Jurisdctions.

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vorce.

have been deceived in the foundation of their Sentence, the second Marriage was *voidable*; yet till it should be dissolved, it remained a Marriage, and the Issue during the Coverture, lawful.

7. Rep. 47.  
b.

But tho' a Sentence of Divorce given in the Spiritual Court may be *repealed* after the death of the Parties; yet, if any of the Parties

be dead, *before* such Sentence given, Suit cannot be in the Spiritual Court to declare the Marriage void, and Bastardize the Issue; the Marriage being already dissolved by Death, and the Trial, whether legitimate or not, in order to *Inheritance*, originally belonging to the King's Court.

cvii. *In all Sentences for Divorce, Bond to be taken for not marrying during each others life*

In Sentences of Divorce, there shall be a Caution, not to marry again,

**I**N all Sentences pronounced only for Divorce and Separation *à thoro & mensa*, there shall be a caution and restraint inserted in the Act of the said Sentence, That the Parties so separated, shall live chastly and continently; neither shall they, during each others Life, *d contract* Matrimony with other person. And for the better observation of this last clause, the said Sentence of Divorce shall not be pronounced, until the Party or Parties requiring the same, have given good and sufficient caution and security into the Court, that they will not any way break or transgress the said restraint or prohibition.

---for which, good  
Security shall be  
given.

Mo. 683.

*d Contract Matrimony.*] This Doctrine hath been confirmed by the Temporal Judges in the Case of *Fuliambe*; who having been Divorced from his Wife, for Incontinency on her part, Married again during her Life; and the second Marriage was declared to be void, because it was only a Divorce *à thoro & mensa*; and because Archbishop *Whitgift* affirmed, that several grave Divines and Civilians, whom he had assembled at *Lambeth* to consider that point, did all agree that such Marriage was void.

32. 9. 7.  
e. 4, 5.

The same is the Doctrine of the Canon-Law. — *Nec illi nubere conceditur, viro viro, à quo recessit, neque huic alteram ducere, vir à uxore, quam dimisit. — Placuit, ut, secundum Evangelicam & Apostolicam disciplinam, neque dimissus ab uxore, neque dimissa à marito, alteri jungantur: sed ita maneat, aut sibi met reconcilientur. Quod si contempserint, ad penitentiam redigantur.*

Spel. V. 1.  
p. 153. c. 10.

Of the same tenor, are the Ancient Constitutions of the *English Church*: In the Council of *Hertford*, *Si quisquam propriam expulerit conjugem, legitimo sibi matrimonio conjunctam, si Christianus esse rectè voluerit, nulli alteri copuletur, sed ita permaneat, aut propriae reconcilietur conjugii*: And in the Canons of Archbishop *Egbert*, *Secundum Evangelicam disciplinam, nec uxor à viro dimissa, alium accipiat virum, vivente viro suo; nec vir aliam accipiat uxorem, vivente uxore priore; sed ita maneat, aut sibi met reconcilientur.*

Ibid p. 70.  
e. 120.

Which Determinations are grounded up-

on two remarkable Texts of Scripture; Mark 10, 11. *Whoever shall put away his Wife, and marry another, committeth Adultery*; and, 1 Cor. 7. 11. *But if she depart, let her remain unmarried, or be reconciled to her Husband.*

But because our Saviour, in another Place, Prohibiting Divorces, and new Marriages thereupon, specially excepts the Case of *Fornication*; (*Whoever shall put away his Wife, except it be for Fornication, and shall marry another, committeth Adultery*;) therefore the *Reformatio Legum* expressly allows the injured Party the Liberty of Marrying again: *Cum alter conjux adulterii damnatus est, alteri licebit innocenti novum ad Matrimonium (si volet) progredi. Nec enim usque adeo debet integra persona crimine alieno premi caelibatus, ut invito possit obrudi: quapropter integra persona non habebitur adultera, si novo se matrimonio devinverit, quoniam ipse causam Adulterii Christus excipit.*

Upon which Principle, several Acts of Parliament, for the Divorce of particular Persons in the Case of Adultery, have expressly Allowed a liberty to the innocent Persons, of Marrying again. But the same *Reformatio Legum* makes a special Exception to that Liberty, where both Parties are guilty: *Si persona quæ fuerit Adulterii convicta, crimen in altero conjuge possit idem ostendere, & ostenderit, priusquam Conjux ad novas Nuptias diverterit; utriusque Conjugis culpa par in pares incidet pœnas, & prius inter illos firmum manebit Matrimonium.*

Mat. 19, 9.

Ref. Leg. l. 25.

5 Edw. 6. 10  
W. 3. 13 W. 3.



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vorce.

*cviii. The Penalty for Judges offending in the Premises.*

Abridgment.

AND if any Judge, giving Sentence of Divorce or Separation, shall not fully keep and observe the premisses, he shall be by the Archbishop of the Province, or by the Bishop of the Diocess, suspended from the exercise of his Office for the space of a whole year; and the Sentence of Separation so given, contrary to the form aforesaid, shall be held void to all intents and purposes of the Law, as if it had not at all been given or pronounced.

Judge offending in the Premises, shall be suspended for one year, ... and the Separation shall be void.

6 X

TIT.



Abridgment.

## TIT. XXIII.

VISITATION of the SICK, and  
BURIAL of the DEAD.

## The CONTENTS.

- CAP. I. *Duty of VISITING the SICK.*  
 CAP. II. *BURIAL of the DEAD.*  
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 BURIAL.*  
 CAP. V. *Rules for POPISH MASSES for the Dead.*

## CAP. I.

*Duty of VISITING the SICK.*

## STEPHANUS.

*Sacerdotes sint diligentes suorum in verbis divinis instructores, ne muti censeantur canes: sintque parati suorum egrotorum Visitatores.*



*Resbyterorum, & infra. Præsentis Concilii definitione districtè duximus injungendum, ut Rectores & Vicarii plebes sibi commissas pabulo verbi Dei, secundum quod fuerit eis inspiratum, informare procurent, ne canes muti meritò judicentur, cum latratu salubri à caulis dominicis luporum spiritualium morsus non expellunt.*

*Illud etiam Evangelii memoriter retinentes, quòd in novissimo examine Visitatores infirmorum præmio remunerabuntur aeterno; quoties fuerint accersiti, celeriter accedant & hilariter ad ægrotos.*

## CANONS 1603.

Ixxvii. *Ministers to visit the Sick.*

**W**hen any Person is dangerously sick in any Parish, the Minister or Curate (having knowledge thereof) shall resort unto him or her (if the Disease be not known or probably suspected to be infectious) to instruct and comfort them in their Distress, according to the Order of the Communion-Book, if he be no Preacher; or, if he be a Preacher, then as he shall think most needful and convenient. *a* And when any is passing out of this Life, a Bell shall be tolled, and the Minister shall not then slack to do his last Duty. And after the Parties Death (if it so fall out) there shall be rung no more but one short Peal, and one other before the Burial, and one other after the Burial.

*a* And when any.] It is one of the Regulations agreed on in the Year 1560, and enacted in 1564, That when any Christian Body was in Passing, the Bell should be tolled, and the Curate be specially called-for, to comfort the Sick Person, &c.

Pastors shall be diligent in feeding their Flocks,

---and upon notice shall readily go to the Sick.

Minister shall instruct and comfort the Sick,

according to Common Prayer, or, as he thinks convenient, especially at the Passing Bell.

Stry. Ref.  
P. 199  
Art. 1564.

A.D. 1222.  
6 H. 3.

Edit. Oxon.  
p. 63.

*Duty of  
Visiting  
the Sick.*

I Jac. I.



Duty of Visiting the Sick.

A.D. 1661.

13, 14 Car. II.  
**W**HEN any Person is Sick, notice shall be given thereof to the Minister of the Parish; who coming into the Sick Persons House shall say, —  
*Peace be to —*

A.D. 1548.

2 & 5 Edw. VI.

**T**HEN shall the Minister examine, whether he be in charitie with al the world: Exhorting him to forgeve from the botome of his heart, al Persons that have offended hym, and yf he have offended other, to aske them forgeveness: And where he hath done injurie or wrong to any man, that he make amendes, <sup>1</sup> to the uttermost of his power. And yf he have not afore disposed hys Goodes, let hym then make his Wyl. But Men must he ofte admonished, that they sette an ordre for their temporal Goodes and Landes, whan they be in health. And also declare his debtes, what he oweth, and what is owing unto him, for discharging of his Conscience and quietness of hys Executours.

The Minister may not forgeat, nor omitte, to move the Sicke Person (and that most earnestly) to lyberalitie towarde the poor. Here shal the Sick Person make a special Confession, yf he feele his Conscience troubled with any weyghtie matter. After which Confession the Priest shal absolve hym <sup>2</sup> after thys fort'.

<sup>1</sup> To his uttermost power, 2 E. 6.

<sup>2</sup> After this Forme; and the same Forme of Absolucion shall be used in all private Confessions, 2 E. 6.

A.D. 1661.

13, 14 Car. II.

**T**HEN shall the Minister examine whether he repent him truly of his Sins, and be in Charity with all the World; exhorting him to forgive from the bottom of his Heart all Persons that have offended him, and if he hath offended any other, to ask them forgiveness; and where he hath done injury or wrong to any Man, that he make amends to the uttermost of his Power. And if he hath not before disposed of his Goods, let him then be admonished to make his Will; and to declare his Debts, what he oweth, and what is owing unto him, for the better discharging of his Conscience, and the quietness of his Executors. But Men should often be put in remembrance to take order for the settling of their Temporal Estates, whilest they are in Health.

The Minister should not omit earnestly to move such Sick Persons, as are of ability, to be liberal to the Poor.

Here shall the Sick Person be moved to make a special Confession of his Sins, if he feel his Conscience troubled with any weighty matter. After which Confession the Priest shall absolve him (if he humbly and heartily desire it) —

† Our Lord Jesus Christ, &c. —

2 Edw. VI.

**I**F the sicke Person desyre to be annoynted, then shal the Prieste annoynte him upon the Forehead or Breast onely, making the sign of the Cross, saying thus, —

“As with thys visible oyle thy Body outwardelye is annoynted: So our heavenly Father Almighty God, graunte of his infinite goodnes, that thy Soule inwardly may be annoynted with the holy ghost, who is the Spirit of al strength, coumfort, reliefe, and gladness. And vouchsafe for hys great mercie (if it be his blessed wyl) to restore unto thee thy bodely health, and Strength to serve him: and send thee release of all thy paynes, troubles and diseases, both in body and mynde. And howsoever his goodnes (by his divine and unsearcheable Providence) shal dispose of thee; we his unworthy Ministers and Servauntes, humbly beseeche the eternall Majestie, to doe with thee, according to the multitude of his innumerable mercies, and to pardone thee all thy synnes and offences, committed by all thy bodely senses, passions, and carnall affections: who also vouchesafe mercifullye to graunt unto thee gostly strength, by his holy Spirite, to withstand and overcome al temptations and assaultes of thyne adversary, that in no wise he prevayle against thee, but that thou maist have perfect victory and triumph against the devil, sinne, and deth, through Christ our Lord: who by his deth, hath overcome the prince of death, and with the Father, and the holy gost evermore liveth and reigneth, God, world without end. Amen.

Abridgment.

Notice shall be given of Sick Persons to the Minister.

Sick Person shall be exhorted to be in Charity,

— and to settle his worldly Concerns,

— and to be liberal to the Poor,

— and, after Confession, he shall be Absolved.

Sick Person shall be exhorted to Repentance, Charity, and Justice,

— and to settle his worldly Concerns

— and to be liberal to the Poor;

— and after Confession, he shall be Absolved.

Outward Oyle an Emblem of the Unction of the Holy Ghost.

Prayer for health, Mercy and Pardon,

— and for ghostly strength.

† The same, word for word, in all the three Books.

A.D. 1548.



Abridgment.

## C A P. II.

## BURIAL of the DEAD.

## C A N O N S 1603.

In Can. Ixvii. Entit. *Ministers to Visit the Sick.*

Passing-Bell shall toll,  
---and there shall be a Peal, before, and after, Burial.

--- A Fter the Parties Death (if it so fall out) there shall be rung no more but one short Peal, and one other before the Burial, and one other after the Burial.

*Burial of the Dead.*

## JOHANNES STRATFORD.

*Nullus Ecclesiasticus pernoctetur apud defunctum, nisi sit consanguineus psalterium dicturus, sub majoris Excommunicationis pœna.*

No Person of Holy Church shall watch with the dead,

Q Uia sæpe, & *infra*. Statuimus in nostra provincia, quod peractis à viris Ecclesiasticis mortuorum memoriis nulli in *b* privatis domibus, in quibus mortuorum corpora usque ad sepulturam frequenter requiescunt, de cætero receptentur ad consuetas nocturnas vigilias peragendas, defunctorum amicis propinquis, & his qui *c* psalteria forsan pro defunctis dicere voluerint, duntaxat exceptis, sub pœnâ majoris Excommunicationis: Quam contra præmissa vigilias facientes hujusmodi, & receptatores taliter vigilantium, non immeritò poterunt formidare.

A.D. 1342.  
16 Edw. 3.

Edit. Oxon.  
p. 183.  
O B S.

---unless he be a Relation, &c.

*b* Privatis Domibus.] *Scil. extra Ecclesias:* *justmodi.* Lyndw.  
*Et idem intelligo in Ecclesiis; nam eadem, imò c* Psalteria.] *Specialiter dixit de Psalteriis, fortior est ratio Prohibitionis, scil. evitandi eo quòd cum Psalmis ad sepulturam corpora demalas conventiculas, & perpetrandi alia facinorosa; utputà Fornicationem, Adulterium, & hu-* *functorum deducuntur.* Lyndw.

## C A N O N S 1603.

Ixviii. *Ministers not to refuse to Christen or Bury.*

Minister shall not refuse or delay to Christen or Bury,

N O Minister shall refuse or delay to Christen any Child according to the Form of the Book of Common Prayer, that is brought to the Church to him upon Sundays or Holydays to be Christened, or to Bury any Corps that is brought to the Church or Church-Yard (convenient Warning being given him thereof before,) in such manner and Form as is prescribed in the said Book of Common Prayer. And if he shall refuse to Christen the one, or Bury the other, except the Party deceased were denounced Excommunicated *Majori Excommunicatione*, for some grievous and notorious Crime (*d* and no man able to testify of his Repentance,) he shall be suspended by the Bishop of the Diocess from his Ministry by the space of three months.

I Jac. I.

---unless the Party was excommunicated,  
---upon pain of Suspension for 3 Months.

Adam, f. 88. a.  
Keyn. 149. 6.  
Strat. Wint. 77. b.

*d* And no Man able.] In an ancient Register of the Bishops of *Winchester*, is a Mandate, *Ne Cadaver Excommunicati sepeliatur, donec de Contritione censet Episcopus*; and on the same supposition it must be, that *since*, as well as before, the Reformation, Commissions were granted, not only to bury Persons who dy'd Excommunicate, but, in some Cases, to *Absolve* them, in order to Christian Burial.

Whitg. 129. b.  
Laud, 156. a.

## 13, 14 Car. II.

Who shall not have the benefit of the Office for the Dead.

H ERE it is to be noted, that the Office ensuing is not to be used for any that die *e* unbaptized, or *f* excommunicate, or have laid *g* violent hands upon themselves. †

A.D. 1661.

I Bracar. Can. 35.

*e* Unbaptized.] *Item placuit, ut Catechumenis sine redemptione Baptismi defunctis, neque Oblationis commemoratio, neque psallendi impendatur Officium.*

Extra l. 3 r. 28. c. 12.

*f* Excommunicate.] *Sacris est Canonibus institutum, ut quibus non communicavimus vivis, non communicemus defunctis, & ut careant Ecclesiasticâ sepulturâ, qui prius erant ab Ecclesiasticâ Unitate præcisi, nec in articulo mortis Ecclesiæ reconciliati fuerint. Unde, si contingat interdum,*



Burial of the Dead.

Winch. 295. b.

23. q. 5. c. 12. c. Conc. Brac. 1.

Vid. Ind. in verb. Burial.

A.D. 1222. 6 H. 3.

Edit. Oxon. p. 279.

A.D. 1548.

A.D. 1661.

terdum, quod vel Excommunicatorum corpora, per violentiam aliquorum, vel alio casu, in Cemeterio tumultentur, si ab aliorum corporibus discerni poterunt, exhumari debent, & procul ab Ecclesiastica Sepultura jactari.

Pursuant to the second part of this Law, there is, in Archbishop Winchelsey's Register, an express Order to dig up an Excommunicate, who had been Buried in the Church-yard.

[Violent Hands.] Placuit, ut qui sibi ipsis voluntarie, aut per ferrum, aut per venenum, aut per precipitium, aut per suspendium, vel quolibet modo violentam inserunt mortem; nulla prorsus pro illis in oblatione Commemoratio fiat, neque cum Psalmis ad sepulturam eorum Cadavera deducantur.

† Besides the three foregoing Cases, there were several others in which Christian Bu-

rial was denied: Particularly, 1. To Hereticks, against whom it is specially pronounced, Si in hoc peccato decesserint, — inter Christianos non accipiunt Sepulturam. Of which we have a remarkable instance, a little before the Reformation, in the Case of one Tracy, who was Publickly accused, in Convocation, of having expressed heretical Tenets in his Will; and being found guilty, a Commission was issued to dig up the Body; which was accordingly executed.

2. Persons not receiving the holy Sacrament, at least at Easter; which was established in the fourth Lateran Council, Anno 1215. and afterwards became part of the Laws of our English Church.

3. Persons killed in Duels, Tilts, or Tourneys, are denied the benefit of Christian Burial, by several ancient Canons.

Abridgment.

Extra. l. 5. c. 7. c. 8.

Reg. Conv. 1529.

Ibid. Od. 16. 1531. May 13. 1532.

Concl. Sud. Constituc. 1231.

Later. 1139. Rem. 1142. 1231. Tolet 1473.

STEPHANUS.

Jus Sepulture, & Sacramenta Ecclesiastica, nulli denegentur, ob defectum Pecunie, nec pro Chrismate quicquam petendum; petens autem Anathema sit.

Firmiter inhihemus, ne cuiquam pro aliqua pecuniâ denegetur Sepultura, vel Baptismus, vel aliquod Sacramentum Ecclesiasticum, vel etiam Matrimonium contrahendum impediatur: Quoniam si quid piâ devotione Fidelium consuetum fuerit erogari, super hoc postmodum volumus per Ordinarium loci Ecclesiis justitiam fieri, sicut in Generali Concilio expressius est statutum.

[b Aliqua pecunia.] Scilicet Solita solvi vel recipi, in ministracione alicujus Sacramenti. Lyndw.

[c Sepultura.] Licet Clerici exigere non possint aliquid pro Sepultura hujusmodi; cogi tamen possunt Laici pias & laudabiles consuetudines observare. — Si petat pro Terrâ, vel Officio, succumbet, nec proderit sibi allegare Consuetudinem; si autem dicat, quod pro quolibet mortuo consuevit tantum donari Presbytero vel Ecclesiâ, obtinebit. Lyndw.

[d Consuetum.] Scilicet ab antiquo, & per tempus præscriptibile, licet ex voluntariâ præstatione. Nam ex quo tanto tempore solverunt, præ-

sumuntur prius se ad id voluntarie obligasse.

[e Erogari.] Scilicet tempore ministracionis hujusmodi Sacramentorum. Lyndw.

[f Per Ordinarium.] Diæcesanus, si videat Consuetudinem laudabilem & probabilem, ad Cærcionem procedat, aliâs abstinebit. Lynd.

[g Generali Concilio.] Concil. Lateran. sub Innocentio III.

Extra. de Simonia. c. Ad Apostolicam — Pravas Exactiones fieri prohibemus, & pias consuetudines præcipimus observari: — Per Episcopum loci, veritate cognita, compescantur, qui malitiosè nituntur laudabilem Consuetudinem immutare.

Burial shall not be denied, upon non-payment of Fees; — which shall be recovered afterwards before the Ordinary.

2 & 5 Edw. VI.

THE Prieste meting the Corps at the Church-style, shal say: Or els the Priestes and Clerkes shal singe, and so go eyther unto the Church, or towards the Grave —

Priest, or Priest and Clerks, meet the Corps at the Church-style.

13, 14 Car. II.

THE Priest and Clerks meeting the Corps at the entrance of the Church-yard, and going before it, either into the Church or towards the Grave, shall say, or sing, —

Priest and Clerks meet the Corps at the Entrance into the Church-yard.

I am —

[m Church-yard.] In the Injunctions of Edw. 6. — And forasmuch as Priests be publick Ministers of the Church. and upon the Holydays ought to apply themselves to the common Administration of the whole Parish, they shall not be bound to go — to fetch any Coarse, before it be

brought to the Church-yard. And, in the Visitation Articles of Queen Elizabeth, where Enquiry is made, Whether Ministers have denied to bury the dead? it is with this Addition, being brought to the Church.

[N. B. The Psalms, and Suffrages are directed, by 2. Edw. vi. to be said, either before or after the Burial of the Corps.]



## Abridgment.

## 2 Edw. VI.

Burial of  
the Dead.A Communion,  
at Burials.

The Celebration of the holy Communion, when there is a Burial of the Dead.

A.D. 1548.  
O B S.

Ibid. 202.

Sry. Ref.  
p. 216.Coll. Can.  
204.

[Communion.] In the Year 1560, when an Edition was made of the Common Prayer in Latin, a Latin-office for Communion at Burials was added to it, under this Title, *Celebratio Cœnæ Dominicæ in Funebribus, si Amici & Vicini defuncti communi-* care velint; which the Queen, in her Letters Patents for the allowance of both, expressly says that she published (how legally I shall not say) *Statuto illo prædicto de Ritu Publicarum Precum, anno primo regni nostri promulgato, in contrarium non obstante.*

[N. B. The Service consists, 1. of the 42d. Psalm. 2. A Collect, O merciful God the Father of our Lord Jesu Christ, who is the resurrection and the life, &c. 3. The Epistle, 1 Theff. c. 4. v. 13. to the end. 4. The Gospel, St. John. c. 6. v. 37. to v. 40. &c.]

## 13, 14 Car. II.

A.D. 1661.

## At the Burial of the Dead, ° at Sea.

Alteration, in  
the Form of bury-  
ing the dead, if at  
Sea.

THE Office in the Common Prayer-book may be used; Only instead of these words [*We therefore commit his Body to the ground, Earth to Earth, &c.*] say,

We therefore commit his Body to the Deep, to be turned into corruption, looking for the Resurrection of the Body, (when the Sea shall give up her dead,) and the Life of the world to come, through our Lord Jesus Christ, who at his coming shall change our vile Body, that it may be like his glorious Body, according to the mighty working, whereby he is able to subdue all things to himself.

Reg. Conv.  
Dec. 9.  
1661.

[o At Sea.] *Nonnullæ Emendationes concernentes Funera & Funeralia Personarum super* *alto mari deceden' & sepul', fuerunt introductæ & perlectæ.*

Rules of Canon and Common Law, concerning Fees,  
Burial-Places, Monuments, &c.Extra. 3 Tit.  
28. c. 1.

Ibid. c. 5.

Spel. v. 1.  
p. 517.Ibid. p. 545.  
c. 20.

I. A Fee for Burial, belongs to the Minister of the Parish, in which the Party deceased heard Divine Service, and received Sacraments; whosoever the Corps be buried. The Rule of the Canon Law, was, *Unumquemque in majorum suorum Sepulchris jacere, ut Patriarcharum exitus docet: Nulli tamen negamus propriam eligere sepulturam, & etiam alienam:— Sed quia dignus est Operarius mercede sua, tertiam partem sui Judicii, illi Ecclesiæ dari censemus, in quâ celesti pabulo refici consuevit.* And it appears, under the same Title, that all Privileges of burying elsewhere, had this special Clause in them, *Salvâ Justitiâ illarum Ecclesiarum, à quibus mortuorum corpora assumuntur;* which is no more, than what was decreed in our own Council of *Enham*, held about the Year of our Lord, 1009. *Si corpus aliquod extra suam Parochiam quis posuerit, solvat nihilominus Pecuniam (quod Symbolum Animæ dicitur,) illi Ecclesiæ, cui Corpus famulabatur vivens: And in the Laws of King Canutus, Porro autem æquum est, ut effosso tumulo, ipsa protinus numeretur Pecunia sepulchralis: atque si quis extra Parochiæ suæ fines mortuum humarit aliquem, ipsa nibilo secius pecunia sepulchralis, Ecclesiæ ad quam jure pertineat, redditor.*

For the understanding of these and the like Canons, it is to be noted, that anciently all Persons, in their Wills, made a special Oblation, or Bequest, to the Church at which they were to be interred; and the People in those days depending much upon the Prayers of the Living for the good of their Souls after death, those of better condition coveted oft-times to be buried in Religious Houses, with a view to greater Assurances which they hoped to receive from the Solemn and constant Devotions there: also, where the Oblations were like to be plentiful, the Religious were led by that prospect, to desire and promote it. By which means, Parochial Ministers would have been deprived of what belonged, *de jure communi*, to them and to no other; if the Laws which indulged the superstitious Conceit of being Buried in Religious Houses, had not at the same time provided for the ancient Parochial Rights; which sometimes was the third, sometimes the fourth part (according to the Customs of different places) of what was given to the Religious Houses; the Laws, probably, presuming that the Oblations to those Houses would be much larger than



Burial of the Dead.

Sext. Dec. re al T. 3. l. 12. c. 2.

Confl. 4.

Com. Can. 16. ann. 1250.

Reg. Islip, 60. b.

Reg. Whitig. V. 3. l. 102. a.

Ibid. 102. a.

Nov. 175.

Stenb. Firmiter. v. Sepultura.

than what was usually given to the Parochial Ministers.

This was called *Canonica portio*; and the Oblation growing by custom into a fixt Right of the Parish Minister, the Synod of London, Ann. 1102. represents it as such, in all cases; where it provides, in general, *Ne corpora defunctorum extra Parochiam suam sepelienda portentur, ut Presbyteri Parochiæ perdant, quod inde illis debeatur*; plainly intimating, that none could lawfully be carried away, and buried in any other Church, till they had paid the Oblation, or lawful Fee, to the Parochial Minister. For the Security of which Payment, we find two Cautions in one of the foreign Constitutions, That the Corps should not be carried to another Church, till it had been brought to its own; nor received by another, *nisi per Capellanum proprium fuerit presentat*. i. e. without Signification of the Consent and Satisfaction of the Parish-Priest. And (not to mention many other Constitutions of foreign Councils, expressly providing for his ancient and customary Rights in this particular) we find in our own Records, a Decree for taking up a Corps buried at a Chapel, to the prejudice of the Mother Church; and when Archbishop *Whitgift* granted a Dispensation to one, to bury in a Chapel of Ease, which was not a burying place, it was with this special Proviso, *Quod Ecclesiæ tuæ Parochiali, ejusdemque Rectori sive Vicario, nullum ex hoc in suis Juribus & Emolumentis Ecclesiasticis præjudicium generetur, sed ejus Fura & Emolumenta Ecclesiastica, in omnibus & per omnia, integra & illæsa conserventur*. The like special Provision was also made by the same Archbishop, in granting another Dispensation, not only to repair to, but also to bury at, a neighbouring Parish Church. And this Right was not denied, but seemingly acknowledged, by the Temporal Court, in the case of *Topsal* and *Ferrers*, where the Suit, by the Rector and Church-wardens of *S. Butolph's Aldgate*, was, for the customary Fee of burying in the Chancel there, because the Person died in their Parish, and was buried in the Chancel elsewhere. For tho' Prohibition was granted, because the Custom was *Unreasonable*, yet that *Unreasonableness* was grounded upon the Person's being only a *Stranger*, and happening to die in the Parish. For so the Report it self expresses the ground of the Prohibition; *This Custom is against Reason, that he that is no Parishioner, but may pass through the Parish, or lie in an Inn for a night, should be forced to be buried there, or pay as if he were*. Which is, in effect, a Recognition of the Right, in case the Party deceased hath dwelling in the Parish, and is a Parishioner.

II. The Proportion of Fees due for the Burial of Persons, whether to the Incumbent or Church-wardens, whether for burying in or out of the Parish, depends upon the particular Usage and Custom of each Parish respectively. For, as to the Incumbent for burying, the Foundation of the Fee was voluntary, and the Obligation or Necessity of paying arises from Custom; which is the ground of what we have already observed out of *Lyndwood*: *Si petat pro terrâ vel officio, succumbet, si autem dicat, quod pro quolibet mortuo consuevit tantum donari Presbytero vel Ecclesiæ,*

*obtinebit*. But altho' the Rule of the Canon Law is, that in case of denial of the Customary Fee, Justice is to be done by the Ordinary, and tho' the Books of Common Law allow this to be, in its nature, a matter properly of Spiritual Cognizance; yet it is a very great abatement from that Allowance, that the Temporal Courts reserve to themselves the Right of determining, 1<sup>st</sup>. Whether there is such a Custom? in case that is denied; 2. Whether it is a reasonable Custom, in case the custom it self is acknowledged? Upon the first of these heads, a Prohibition was granted, in the case of *Andrews* and *Symson*, in which, two grounds were laid down, of granting Prohibitions, *pro defectu Jurisdictionis*, and *pro defectu Traditionis*; and the Prohibition granted on this occasion was rank'd under the second head, and compared to the Case of a *Modus decimandi*, which may be demanded in the Spiritual Court, but if the Custom be denied, a Prohibition will lie; because the Rule of Prescription is different in the Spiritual Court, from that in the Temporal. And on the like denials, we find other Prohibitions also granted, as, where the Church of *Westminster* demanded 50 l. and the Cathedral of *York*, 5 l. over and above the common Fees. Upon the second of the two heads, *viz.* the *unreasonableness* of the Custom, a Prohibition was granted in the fore-mentioned Case of *Topsal* and *Ferrers*, where the same Fees were claimed by the Rector and Church-wardens of the Parish, out of which the Corps was carried, that was usually paid there for the Place in which the Corps should be buried elsewhere. But tho' such Demand was reckoned a hardship upon a Stranger or Traveller, who should happen to die there, no fault was found with the rule or proportion of the Fee, in case the Party deceased had been a fixt Parishioner.

But here, it is to be observed, that in the foregoing Case of *Andrews* and *Symson*, the Demand was, a Fee of four Nobles for a Parishioner, and of four Marks for a Stranger; which proportion, and difference, were not excepted against by the Court, as *unreasonable*; but (as hath been said) the Prohibition went only because the Custom was denied.

III. No Person may be buried in the Church, or in any part of it, without consent of the Incumbent. In some of the foreign Canons, it is said, without Consent of Bishop and Incumbent; in others, without Consent of Bishop or Incumbent. But our Common Law hath given this privilege to the Parson only, exclusive of the Bishop, in a Resolution 12, Jac. 1. *That neither the Ordinary himself, nor the Church-wardens, can grant Licence of burying to any within the Church, but the Parson only; because the Soil and Freehold of the Church is only in the Parson, and in none other*. Which Right of giving leave will appear to belong to the Parson, not as having the Freehold (at least not in that respect alone,) but in his general Capacity of Incumbent, and as the person whom the Ecclesiastical Laws appointed the Judge of the fitness or unfitness of this or that Person, to have the favour of being buried in the Church. For anciently, the burying, not only in Temples and Churches, but even in Cities,

Abridgment.

1b. 13 Confl.

3. Keble, 523.

2. Kib'e, 778.

Nugar. ann. 1303. c. 8. Marciac. ann. 1326. c. 22. Meld. c. 72.

3. Cor p. 67. Noy, 104.



## Abridgment.

Cod. l. 1. t.  
2. c. 2.Caus. 13. q.  
2. c. 17.Spel. v. 1.  
451. c. 29.

Ib. 591.

in Cities, was expressly Prohibited. Such was the Law of the 12 Tables, *Hominem mortuum intra urbem ne sepelito*; and, that of the Christian Emperors, *Nemo, Apostolorum vel Martyrum sedem* [i. e. Ecclesiam, Gloss.] *humanis corporibus existimet esse concessam*. And the same Practice is said to have continued in the Christian Church till the time of Gregory the Great; and in England, yet longer, till the time of Cutbert, Archbishop of Canterbury; by the first of which the following Reason was given why it was more profitable to be buried within the Precincts of the Church, than at a distance, *quod eorum proximi quoties ad eadem sacra loca veniunt, suorum, quorum Sepulchra aspiciunt, recordantur, & pro eis Domino preces fundunt*. Which Reason was afterwards transferred into the Body of the Canon-Law; and this Superstition, of praying for the dead, seems to have been the true original of Church-yards, as encompassing, or adjoining to, the Church; Which being laid out, and enclosed, for the common Burial Places of the respective Parishes, every Parishioner hath, and always had, a right to be buried in them. But as to the Church, the Canon Law adds, in the very next Chapter, *Nullus mortuus intra Ecclesiam sepeliatur, nisi Episcopi, aut Abbatis, aut digni Presbyteri, vel fideles Laici*: and what we are to understand by *Fideles*, the Laws of our own Church will best inform us: *Docemus etiam, ut nemo quempiam in Ecclesia sepeliat, quem non constat ex vita probitate Deo placuisse, & ex eo judicetur hujusmodi sepultura dignus*: And, *Nemo in Ecclesia sepeliatur, nisi forte talis sit persona Sacerdotis, aut cujuslibet justi hominis, qui, per vitæ meritum, talem vivendo suo corpori defuncto locum adquisivit*. Of which Merit (and by consequence, of the Reasonableness of granting or denying that Indulgence,) the Incumbent was, in reason, the most proper Judge, and was accordingly so constituted by the Laws of the Church; without any regard to the Common-Law-notion, of the *Freehold's* being in him, which, if it prove any thing in the present case, proves too much, that neither without the like leave may they bury in the Church-yard, because the Free-

hold of that is also declared to be in him.

Upon the like foundation of *Freehold*, the Common Law hath one exception to this necessity of the leave of the Parson, viz. where a Burying place within the Church is prescribed-for, as belonging to a Mannor-house, the Freehold of which, they say, is in the Owner of that house, and that by consequence he has a good Action at Law, if he is hindred to bury there.

IV. *Monuments, Coat-Armour, and other Emblems of Honour, set up in memory of the Deceased, may not be removed at the pleasure of the Ordinary, or Incumbent*. On the contrary, if either they, or any other Person, shall take away or deface them, the Person who set them up, shall have an Action against them during his life, and after his death, the Heir of the deceased shall have the same, who (as they say,) is inheritable to Arms, &c. as to Heir-Looms; and it avails not, that they are annexed to the Freehold, tho' that is in the Parson. But this, as I conceive, is to be understood with one Limitation, If they were first set up with consent of the Ordinary; for tho' (as my Lord Coke says) *Tombs, Sepulchres, or Monuments may be erected for the deceased, in Church, Chancel, &c. in convenient manner*; the Ordinary must be allowed the proper Judge of that convenience; inasmuch as such erecting (for so he adds) ought not to be to the hindrance of the Celebration of Divine Service: and if they are erected without Consent, and (upon Enquiry and Inspection) be found to the hindrance of Divine Service, it will not (I hope) be denied, that in such case the Ordinary hath sufficient Authority to decree a Removal, without any danger of an Action at Law.

V. *A Corps, once buried, cannot be taken up, or removed, without Licence from the Ordinary*. Of which kind of Licences, I have seen three recorded in the Registers of the Bishop of Winchester, before the Reformation; and two others, in the Records of Canterbury, since the Reformation, namely, for the Removal of Walter Bishop of Litchfield and Coventry, and of the Earl of Northampton.

## Burial of the Dead.

2. Cro. 606.

Co. Lit. f. 18. b.  
3. Inst. 202.  
3. Cro. 367.  
Noy, 104.  
Mo. 873.

3. Inst. 202.

Adam, 71. a.  
117. b.  
Elynd. 46. a.Grind. 245. a.  
Tenif. 107. a.

A.D. 1666.

Burying in Woollen.

## C A P. III.

## Burying in WOOLLEN.

18 Car. II. Cap. 4.

## An Act for Burying in Woollen onely.

No Person shall be buried in Sheer, or Ceffin, other than what is made of, and lined with, Wooll only.

FOR the Encouragement of the Woollen Manufactures of this Kingdom, and prevention of the Exportation of the Wools thereof, for the Burying and Importing of Linen; Be it enacted by the Kings most excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the Authority thereof, That from and after the five and twentieth day of March, in the year of our Lord, One thousand six hundred sixty seven, No person or persons whatsoever shall be buried in any Shirt, Shift or Sheet, made of, or mingled with flax, Hemp, Silk,



Burying in  
Woollen.

Silk, Hair, Gold or Silber, or other then what shall be made of Wool only, or be put into any Coffin lined or faced with any thing made of, or mingled with flax, Hemp, Silk or Hair: upon pain of the forfeiture of the sum of five pounds, to be employed to the use of the Poor of the Parish where such persons shall be buried, for and towards the providing a Stock or Work-house for the setting them at work, to be levied by the Church-wardens and Overseers of the Poor of such Parish, or one of them, by Warrant from any Justice of the Peace, or Mayor, Alderman or Head-Officer of such City, Town or place Corporate, respectively within their several Limits, by Distress or Sale of the Goods of the Party Interred contrary to this Act, rendering the overplus; or in default thereof, by distress and sale of the Goods of any that had a hand in the putting such person into such Shift, Shirt, Sheet or Coffin, contrary to this Act, or did order or dispose the doing thereof, to be levied and employed as abovesaid.

II. Provided that no penalty appointed by this Act, shall be incurred for or by the reason of any person that shall die of the Plague, though such person be buried in Linen.

This Act was  
repealed, 30 Car.  
2. c. 3. § 39.

A.D. 1678.

30 Car. II. Cap. 3.

An Act for Burying in Woollen.

Whereas an Act made in the eighteenth year of his Majesty's Reign that now is, Entituled, An Act for burying in Woollen only, was intended for the lessening the Importation of Linen from beyond the Seas, and the encouragement of the Woollen and Paper Manufactures of this Kingdom, had the same been observed; but in respect there was not a sufficient Remedy thereby given for the discovery and prosecution of Offences against the said Law, the same hath hitherto not had the same effect thereby intended:

II. For remedy whereof, Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the authority of the same, That the said Act, and all the Clauses and Provisoes therein, shall be, and are hereby annulled and repealed, to all intents, constructions and purposes whatsoever.

III. And it is hereby enacted by the authority aforesaid, That from and after the first day of August, one thousand six hundred and seventy eight, no Corps of any person or persons shall be buried in any Shift, Shirt, Sheet, or Shroud, or any thing whatsoever made or mingled with flax, Hemp, Silk, Hair, Gold or Silber, or in any Stuff or thing, other than what is made of Sheeps Wool only; or be put into any Coffin lined or faced with any sort of Cloth or Stuff, or any other thing whatsoever, that is made of any material but Sheeps Wool only, upon pain of the forfeiture of five pounds of lawful money of England, to be recovered and divided as is hereafter in this Act expressed and directed.

IV. And it is enacted by the authority aforesaid, That all persons in Holy Orders, Deans, Parsons, Deacons, Vicars, Curates, and their or any of their Substitutes, do within their respective Parishes, Precincts and Places, take an exact Account, and keep a Register of all and every person and persons Buried in his or their respective Parishes, or Precincts, or in such common Burial places as their respective Parishioners are usually Buried; and that some one or more of the Relations of the party deceased, or other credible person, shall within eight days next after such Interment, bring an Affidavit in Writing under the Hands and Seals of two or more credible Witnesses (and under the Hand of the Magistrate or Officer before whom the same was sworn, for which nothing shall be paid) to the Minister or Parson, That the said person was not put in, wrapt or wound up, or buried in any Shift, Shirt, Sheet, or Shroud, made or mingled with flax, Hemp, Silk, Hair, Gold or Silber, or other than what is made of Sheeps Wool only, or in any Coffin lined or faced with any Cloth, Stuff, or any other thing whatsoever, made or mingled with flax, Hemp, Silk, Hair, Gold, or

Abridgment.

--- upon pain of  
forfeiting 5l.

Provisoe, for Pre-  
sons dying of the  
Plague

The Defects of  
the foresaid Act,  
18. Car. 2. c. 4.

---and the repeal of  
it.

Enacted, that  
No Person shall  
be buried in Sheet  
or Coffin, other  
than what is made  
of, and lined with  
Wool only,

--- upon pain of  
forfeiting 5l.

Ministers shall  
keep a Register of  
persons buried,

--- and the Rela-  
tions, &c. shall  
within eight days  
bring Affidavit, that  
the deceased was  
buried, as above-  
said,



Abridgment.

—and if none be brought, the goods of the deceased shall be liable to the Forfeiture,

—or the Goods of others concerned,

—of a Master,

—of a Parent.

The Affidavit shall be made before a Justice of Peace, or other Officer,

—and, not being brought to the Minister, he shall give notice to the Church-wardens, &c.

—who shall obtain a Warrant, and levy the forfeiture.

Minister, Church-wardens, or Justices, offending therein,

—shall forfeit 5l.

Silber, or any other Material but Shēeps Wool only; And if no Relation of the party buried, or other person, shall bring an Affidavit as aforesaid, to the Parson or Minister, within the time aforesaid, That then the Goods and Chattels of the party deceased, shall be, and are hereby made liable to the aforesaid Forfeiture of five pounds, to be Levied by way of Distress, and Sale thereof, by Warrant of the chief Magistrate in any Town-corporate, or any Justice of the Peace, or in default thereof, by the like Distress and Sale of the Goods of the person in whose House the said party died, or of any that had a hand in putting such person into any Shirt, Shift, Sheet, Shroud, or Coffin, contrary to this Act, or did order or dispose the doing thereof; and in case such person were a Servant, and that he or she died in the family of his or her Master or Mistress, That the same be Levied on the Goods or Chattels of his or her Master or Mistress; and if such person died in the family of his or her father or Mother, That then the same be Levied upon the Goods and Chattels of his or her father or Mother, in manner, and by Warrant as aforesaid; which said Forfeiture or Forfeitures shall be levied, paid, and allowed out of the Estate of the said deceased person, before any Statute, Judgment, Debt, Legacy, or any other Duty whatsoever, due, owing, or payable from the said deceased.

V. And it is hereby further enacted, That the said Affidavit shall be made or taken before some one Justice of the Peace, or Master of the Chancery, Ordinary or Extraordinary, Mayor, Bayliff, or other chief Officer of the City, County, Burrough, Corporation, or Market-Town in the County where the said party was buried, who are hereby authorized and required to administer the said Oath, and to attest the same under their Hands upon such Affidavit gratis: And in case no such Affidavit shall be brought to the Parson or Minister where the said person was buried as aforesaid, within the said Eight days, That such Parson or Minister shall forthwith give, or cause notice thereof to be given in Writing under his Hand, to the Church-warden or Overseers of the Poor of such Parish, who shall within Eight days after such notice, repair to the chief Magistrate in any Town-Corporate, if such party was buried in such City or Town-Corporate, or else to any Justice of the Peace, who upon the Certificate thereof from the said Parson, Minister or Curate, Officiating in the said Parish, shall forthwith grant a Warrant for the Levying of the said Forfeiture on the Goods and Chattels of the parties before-mentioned, rendering the Overplus to the parties whose Goods were so Distrained upon, all reasonable Charges being deducted; one moiety of which Forfeitures shall be to the use and benefit of the Poor of the Parish where such party shall be buried contrary to the Directions of this Act, and the other moiety thereof to the use of the person that shall inform and sue for the same, to be recovered by Warrant of the chief Magistrate, or any Justice of the Peace, in the City, Town-corporate, or County where such party was buried.

VI. And in case any Parson or Minister shall neglect to give notice to the Church-wardens or Overseers of the Poor, as aforesaid; or not give unto them a Note or Certificate under his hand, testifying that such an Affidavit and Certificate was not brought to him within the time limited by this Act, concerning the parties being interred according to the Directions thereof; or that the Church-wardens or Overseers of the Poor shall not within eight days after the receipt of such Certificate, repair to such chief Magistrate, or to some other Justice of the Peace, with such Certificate, and shew the same to him, and demand his Warrant thereupon, for levying the Forfeiture by this Act before appointed; and in case such chief Magistrate or Justice of the Peace shall neglect his Duty, in not issuing his Warrant for the levying the said Forfeiture, he or they so neglecting or offending, shall forfeit for every such Offence the sum of five pounds of lawful Money of England, to be recovered by such person as shall sue for the same, by Action of Debt, Bill, Plaint or Information, wherein no Essoign, Wager of Law, or Protection shall be allowed, and wherein also the Prosecutor shall recover his full Costs, so as the Suit be commenced within six months after the Offence shall be committed: One fourth part of which said Forfeitures shall be to the use of his Majesty, his Heirs, and Successors; Two other fourth parts thereof shall be to the use of the Poor of the Parish where the person so offending

Burying in Woollen.



Burying in  
Woollen.

offending or neglecting his Duty shall dwell, and One other fourth part to the person that shall inform and sue for the same.

VII. And it is hereby further enacted, That the Parson or Minister of every Parish shall keep a Register in a Book to be provided at the charge of the Parish, and make a true Entry of all Burials within his Parish, and of all Affidavits brought to him as aforesaid, within the time limited as aforesaid; and where no such Affidavit shall be brought to him within such time, that he enter a Memorial thereof in the said Registry, against the Name of the party interred, and of the Time when he notified the same to the Church-wardens or Overseers of the Poor.

VIII. And it is hereby further Enacted by the Authority aforesaid; That in the first Account to be given in by any Overseers of the Poor, after the first day of August, One thousand six hundred seventy eight, they do, and shall give an Account, as by this Act is hereafter directed, of all Burials within their Parishes from the said first day of August, One thousand six hundred seventy eight, to the time of the giving in the said Account; and that for the future, when, and as often as the Overseers of the Poor do give up their Accounts to the Justices of the Peace at the Quarter Sessions, or Petty Sessions, or any two Justices of the Peace in their monthly Meetings, that they do and shall give an account of the Name and Quality of every person interred within the Parish, from the time of their former Account, and of such Certificates as came to their hands from the Parson or Minister of the said Parish, that the persons therein mentioned were interred contrary to the directions and true intent of this Act, and of their Levying the Penalty on the Offenders according to this Act, and also a true account of the Disposal of the same, under the Penalty of five pounds, to be levied by Distress and Sale of the Goods of such Church-wardens or Overseers, by Warrant from the said Justices of the Peace, or any two of them; And that no Account of any Overseers of the Poor shall be allowed after the first day of August, One thousand six hundred seventy eight, until they shall therein account for the Burials within the respective Parishes, as is before directed.

IX. Provided, That no Penalty appointed by this Act, shall be incurred for or by reason of any person that shall die of the Plague, although such persons shall not be Buried as by this Act is directed.

X. And it is further enacted by the Authority aforesaid, That from and after the said first day of August, the said Judges at their respective Assizes, and the Justices of the Peace at their respective Quarter Sessions, shall give this Act in charge; and moreover that this Act shall be publicly Read upon the first Sunday after the Feast of St. Bartholomew every year for seven years next following, presently after Divine Service.

XI. And be it further enacted by the Authority aforesaid; That if any Action, Bill, Plaint, Suit, or Information, shall be commenced or prosecuted against any person or persons, for what he or they shall do in pursuance or execution of this Act, such person or persons so Sued, shall and may plead the General Issue, Not-guilty; and upon Issue joined, may give this Act in Evidence: And if the Plaintiff or Prosecutor shall become Non-suit, or suffer Discontinuance, or if a Verdict pass against him, or if upon a Demurrer Judgment pass against him, the Defendant shall recover his treble Costs, for such Molestation.

Abridgment.

Ministers shall  
Register Burials,  
and Affidavits,-- with a Memorial,  
when none is  
brought.The Overseers,  
in their Accounts  
shall specify Burials,---with the Names  
and Qualities,--- and the several  
Certificates, and  
moneys Levied,  
--- upon pain of 5*l*.  
and the disallowing  
their Accounts.Proviso for Per-  
sons dying of the  
Plague.This Act shall  
be given in charge  
at the Assizes and  
Sessions.--- and read in  
Churches.In any Action  
commenced, the  
person sued may  
plead the general  
Issue.Recital of the  
foregoing Act, as  
to the Affidavits to  
be made before a  
Justice, &c.

A.D. 1680.

32. Car. II. Cap. 1.

*An Additional Act for Burying in Woollen.*

Whereas in one Act of Parliament passed in the thirtieth year of his Majesty's Reign that now is, Entituled, An Act for Burying in Woollen, it was among other things enacted and ordained, That the Affidavits, which were to be made of any persons being interred in Woollen, according to the Directions in the said Act, should be made or taken before some one Justice of the Peace, or Master of Chancery, Ordinary or Extraordinary, Mayor, Bayliff, or other Chief Officer



Abridgment.

...who, in several parts, is at a great distance.

Enacted, that, ...where no Justice is in the Parish, the the Affidavits may be made before the Minister of any other Parish, in the County.

Officer, of the City, County, Burrough, Corporation or Market-Town in the County where the said Party was buried, who are hereby authorized and required to administer the said Oath, and to attest the same under their hands upon such Affidavit gratis:

II. And whereas, by reason of the distance of the Habitations of the Persons before whom such Affidavit is to be made, and other accidents, divers Persons, who have had occasion to make such Affidavits, have been necessitated to travel many miles for the making thereof, to their great loss of time, and hinderance of their other Affairs:

III. Be it therefore enacted, and it is hereby enacted by the King's most excellent Majesty, at and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the Authority of the same, That from and after the second day of February, in the year of our Lord One thousand six hundred and eighty, (where no Justice of the Peace shall reside, or be to be found in any Parish where any Party shall be interred) the said Oaths or Affidavits may be administered, not only by any Justice of the Peace, or Master of Chancery, ordinary or extraordinary, Mayor, Bailiff, or other Chief Officer of the City, County, Burrough, Corporation or Market-Town in the County where any Party was buried; but also that the Parsons, Vicars and Curates, in every Parish or Chapel of Ease, within the County where any Party shall be interred, except only the Parson, Vicar and Curate of the Parish or Chapel of Ease where the party is interred, concerning whose Interment in Woollen such Affidavit is to be made) be, and are hereby authorized and required to administer the said Oaths or Affidavits, and to attest the same under their hands gratis: And that every such Affidavit taken before them, shall be of like force and effect, as if the same had been taken and administered by the persons authorized to administer the same by the Act aforesaid.

Burying in Woollen.

C A P. IV.

TAXES upon Ecclesiastical Persons, for BURIAL.

6, 7 Will. & Mar. Cap. 6.

A.D. 1693.

In an Act, Entituled, An Act for granting to their Majesties certain Duties upon-----Burials, &c.

- Taxes upon Burials.
- Archbishop 50l.
- Archbishops Wife, 10l.
- Bishop 20l.
- Bishops Wife 5l.
- Dean 10l.
- Deans Wife 2l.
- 10s.
- Archdeacon 2l.
- 10s.
- Archdeacons Wife 1l.
- Prebendary 2l.
- 10s.
- Prebendarys Wife 1l.
- Doctor 5l.
- Doctors Wife 1l.
- Son or daughter of any of these 1l.
- A real Estate of 50l. per an. 1l.
- Wife or Child 10s.

§. III.-----And for, and upon the Burial of every person of the order and degree of an Archbishop, the Sum of fifty pounds, over and above the said four shillings; And for, and upon the Burial of every Archbishops Wife or Widow, the Sum of Ten pounds, over and above the said four shillings; And for, and upon the Burial of every person of the degree and order of a Bishop, the Sum of Twenty pounds, over and above the said four shillings; And for, and upon the Burial of every Wife or Widow of every Bishop, the Sum of five pounds, over and above the said four shillings; And for, and upon the Burial of every person of the degree of a Dean, of any Cathedral or Collegiate Church, the Sum of Ten pounds, over and above the said four shillings; And for, and upon the Burial of every Wife or Widow of every Dean, the sum of Two pounds ten shillings, over and above the said four shillings; And for, and upon the Burial of every person of the degree of an Archdeacon, the sum of Two pounds ten shillings, over and above the said four shillings; And for, and upon the Burial of the Wife or Widow of every Archdeacon, the sum of Twenty shillings, over and above the said four shillings; And for, and upon the Burial of every person of the degree of a Canon or Prebendary of any Cathedral or Collegiate Church, the sum of Two pounds ten shillings, over and above the said four shillings; And for, and upon the Burial of the Wife or Widow of every Canon or Prebendary, the sum of Twenty shillings, over and above the said four shillings; And for, and upon the Burial of every person of the degree of a Doctor of Divinity, Law, or Physick, the sum of five pounds, over and above the said four shillings; And for, and upon the Burial of the Wife or Widow of every such Doctor of Divinity, Law, or Physick, the sum of Twenty shillings, over and above the said four shillings; And for, and upon the Burial of every Son or Daughter of an Archbishop, Dean, Archdeacon, Canon, Prebendary, Doctor of Divinity, Law or Physick, the sum of Twenty shillings, over and above the said four shillings; And for, and upon the Burial of every person having a real Estate of the value of fifty pounds per Annum or upwards, or a personal estate of the value of five hundred pounds or upwards, and not otherwise hereby Charged under any of the Ranks, Orders, Qualifications or Degrees herein before mentioned, the sum of Twenty shillings, over and above the said four shillings; And for, and upon the Burial of the Wife or Widow, Child or Children of every such person having such real or personal Estate, as aforesaid, the sum of Ten shillings, over and above the said four shillings.

Taxes upon Ecclesiastical Persons for Burial.

The four Shillings to be paid by all Persons whatsoever.



Taxes upon Ecclesiastical Persons, for Burial.

A.D. 1694.

E X P.

7, 8 Will. III. Cap. 35.

In an Act, Entituled, *An Act for the better Registering of Marriages, Births, and Burials.*

VI. And whereas divers Persons are Buried in other Parishes than where they Lived or Resided, by reason whereof the Duties payable upon the Burial of such Person or Persons are not answered to His Majesty: Be it further Enacted by the Authority aforesaid, That from and after the Four and twentieth Day of June, One thousand six hundred ninety and six, the said Deans, Parsons, Deacons, Vicars and Curates, and their respective Substitutes, shall and are hereby Required, within Ten days after any Person or Persons shall be by them Buried in the respective Parishes, Precincts and Places, who are Inhabitants or Resided in any other Parish or Place, to give notice in Writing of the Day, and Place, and Name of such person or persons so by him or them Buried, as aforesaid, to the Collectors, or one of them, of the parish, precinct or place where such person or persons last lived or inhabited; on pain to forfeit for every neglect herein, the sum of five pounds, to be recovered by such person and in such manner, as aforesaid.

Abridgment.

Incumbents shall give notice of the Burial of Strangers,

—upon pain to forfeit 5*l.*

C A P. V.

*Rules for POPISH MASSES for the Dead.*

E D M U N D U S.

*Ne Missæ venales habeantur, non constituatur pro eis in Testamento pecunia; nec pactio fiat; nec plura Annalia, aut Tricennalia quis, ut alteri vendat aut tradat, suscipiat, sub pœna Suspensionis.*

Præterea venalitatem Missarum districtè inhibentes, Præcipimus, nè pro p Annalibus vel q Tricennalibus Missarum faciendis Laici vel alii quicquam dare vel legare in Testamento præsumant. Et ne super hoc aliqua pactio r vera, vel sub aliqua speciè palliata, à Sacerdotibus vel aliis mediatoribus fiat, Prohibemus. Et ne superflua multitudine talium Annalium quandoque se onerent Sacerdotes, ad quæ explenda honestè sufficere non possunt, & propter quæ oportet ipsos sub certo pretio conductitios habere Sacerdotes, vel ea vendere aliis faciendâ, ut se exonèrent; id de cætero fieri, sub pœnâ Suspensionis, Prohibemus.

[b Annalibus.] id est, Missis per annum celebrandis. Lyndw. Aliàs est in Textu, Triennialibus, id est, per triennium celebrandis. Lyndw.

[q Tricennalibus.] id est, triginta Missis r Vera.] id est, Aperta. Lyndw.

J O H A N N E S P E C C H A M.

*Obnoxius Canonico Officio non assumat aliud. Nec quisquam Annalia suscipiat, nisi quotidie pro defuncto celebret: nec plura suscipiat quam socios celebraturos habeat; nec pro una Celebratione duplex recipiat pretium, aut unam tantum prodesse Defunctis, quantum multas, putet.*

Sacerdotes caveant universi, nè Missarum s peculiarium, seu t familiarium se Celebrationi obligent, quo minus valeant u Canonico Officio commissam sibi officiare Ecclesiam, ut tenentur. Nec præsumant w aliqui Annalia celebranda suscipere, nisi x pro defuncto celebrent quotidie, vel procurent y speci-

s Peculiarium.] viz. de Trinitate, de S. Michaelè, de S. Spiritu, & aliis hujusmodi, extra tempora Festorum eorundem. Lyndw.

t Familiarium.] id est, pro familiâ alicujus certæ personæ, vel aliquarum personarum, ante horam congruam Missas coram eis celebrari volentium. Lyndw.

u Canonico Officio.] id est, Missâ de die. Lyndw.

w Annalia.] i. e. Missas celebrandas per anni spatium, vel aliàs temporaliter, sic quod non sint ad Officia talia dicenda intitulati, nec perpetui, sed temporales, & elapso tempore remotivi. Lyndw.

x Pro defuncto.] Loquitur in casu quo Sacerdos sit conductus per annum, ut specialiter celebret pro animâ alicujus defuncti. Lyndw.

y Specialiter.] Sic, ut hic videtur, non sufficit, talis Defuncti memoriam fieri sub Suffragiis Generalibus, sed debet fieri cum specificatione aliquâ, forsan nomine ipsius defuncti. Lyndw.

None shall leave ought in their Wills for yearly Masses, &c.

---nor shall Priests charge themselves, with greater numbers than themselves can perform.

Priests shall not take upon them private Masses for the dead, to the neglect of their Cures,

Taxes upon Ecclesiastical Persons, for Burial.

A.D. 1694.

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---nor shall Priests charge themselves, with greater numbers than themselves can perform.

Priests shall not take upon them private Masses for the dead, to the neglect of their Cures,

A.D. 1236.  
21 H. 3.

Edit. Oxon.  
p. 279.

Rules for Popish Masses for the Dead.

O B S.

A.D. 1281.  
9 Edw. 1.

Edit. Oxon.  
p. 228.

O B S.



Abridgment.

--nor believe, that one Mals for many together, is as effectual, as many distinct Masses,

-- and those who have neglected the number, for which they have recieved their stipends, shall make Satisfaction.

aliter celebrari. Nullus insuper & plura recipiat Annalia celebranda, quam habet socios Sacerdotes ; illo casu excepto, quo procurans suffragia fieri pro defuncto, consentit expresse memoriam defuncti in Missa alii vel aliis copulari. Nec credat Sacerdos celebrans se dicendo Missam unam posse satisfacere pro duobus, pro quorum utroque specialiter & in solidum promiserit celebrare : licet a Canon dicat, quod nihil minus accipitur, cum Missa pro defunctis pluribus una dicitur, quam si pro uno quolibet ipsorum diceretur. Loquitur enim de his Missis quæ anxiatò corde dicuntur. Absit enim nè à quoquam Catholico credatur, tantum b intensivè proficere Missam unam devotè celebratam mille hominibus, pro quibus forsitan dicitur, quantum si pro eis mille devotione consimili canerentur. Licet enim ipsum Sacrificium, quod est Christus, infinitæ sit virtutis, non tamen in Sacramento vel Sacrificio suæ immensitatis summam plenitudinem operatur. Alioquin pro uno mortuo nunquam oporteret Missam dicere nisi unam. Operatur enim in hujusmodi Mysteriis, distributione certâ suæ plenitudinis, quam ipse eisdem Lege ineffabili alligavit. Illos autem, qui pro Annalibus, vel Anniversariis celebrandis stipendia receperunt, nec ex certa malitia vel accidia satisfaciunt, ut tenentur, Monemus, ut omissa suppleant, & ad plenum satisfaciant in futurum. Et quodocunque id non fecerint, fructus taliter receptos pro Animabus illorum, qui eis talia contulerunt, erogent pauperibus. Aut si utrumque istorum sponte neglexerint, sicut fraudatores fidelium ab Ordinariis suis asperè corrigantur.

a Plura Annalia.] Id est, pro pluribus Animabus Suffragia in anno impendenda. Lyndw.

a Canon.] De Consecr. Dist. 5. Non mediocriter. Lyndw.

b Intensivè.] Id est, effectualiter. Lyndw.

JOHANNES PECCHAM.

A.D. 1281. 9 Edw. 1.

Cognito Cantuariensis Episcopi obitu, singuli Confratres Co-episcopi superstites solenne faciant Officium defunctorum, & privatè & communiter. Cognito autem obitu Diocesani, singuli Sacerdotes singulas Missas pro eo celebrent ; non exempti ex mandato, exempti verò de gratia & liberalitate sua.

Upon the death of a Bishop, every Comprovincial shall say a Mass, in Chapel, and Synod, --and to shall every Priest upon the death of the Bishop, --and Exempts are desired to do the same.

S ANCTUM & salubre & infra. Statuimus ut pro singulis Episcopis Cantuariensis Provinciae decedentibus, residui Confratres superstites c solenne faciant Officium defunctorum, non solum in Capellis suis singulis, sed etiam cum post decessum alicujus vel aliquorum Episcoporum hujusmodi, recenter in d Concilio, vel alias pro utilitate Ecclesiae, pariter congregantur. Praecipientes insuper, & in virtute Obedientiae firmiter injungentes, ut singuli Sacerdotes, tam Saeculares quam Religiosi, dicant Missas singulas, cum de Diocesani obitu eis fuerit veritas intimata, pro ipsius Anima à peccati maculis expianda. Rogamus insuper Sacerdotes exemptos Religiosos, & si qui sint etiam Saeculares, ut Ordinationem istam, salvis in aliis Exemptionis suae privilegiis, e gratis suscipiant, vel eam saltem auctoritate propria sibi constituent observandam. Scituri quod grati erimus f gratiae, & dolebimus, si quos invenerimus de ingratis.

c Solenne.] i. e. cum Cantu. Lyndw.

non possunt. Lyndw.

d Concilio.] Scil. Provinciali. Lyndw.

f Gratiae.] i. e. Gratæ Voluntati, vel gratæ

e Gratis.] Hoc dicit, quia ad hoc archari operationi. Lyndw.

Edit. Oxon.

p. 230<sup>i</sup>

O B S.



## T I T. XXIV.

## PROBATE of WILLS, and ADMINISTRATION of INTESTATE-ESTATES.

## The CONTENTS.

- CAP. I. *The MAKING of Wills.*  
 CAP. II. NUNCUPATIVE WILLS.  
 CAP. III. PROBATE and INVENTORY.  
 CAP. IV. PREROGATIVE of the Archbishops.  
 CAP. V. FRAUDULENT Devises.  
 CAP. VI. *Wills in the Province of YORK.*  
 CAP. VII. *Wills in WALES.*  
 CAP. VIII. INTESTATES and ADMINISTRATION.  
 CAP. IX. FEES for Probate and Administration.  
 CAP. X. FEES to be paid by SEAMEN and SOLDIERS.

## CAP. I.

*The MAKING of Wills.*

A.D. 1548.

2 &amp; 5 Edw. VI.

*Rubrick, in the Visitation of the Sick.**The Making of Wills.*

AND yf he have not afore disposed his goodes, lette hym then make his wyll. (But Menne must be ofte admonished that they sette an Ordre for theyr temporal goodes and lands, when they be in health.) And also 'to' declare his debtes, what he oweth, and what is owing to hym, for discharging of his conscience, and quietnesse of his Executours.

\* Not in 5 E. 6.

A.D. 1661.

13, 14 Car. II.

*Rubrick, in the Visitation of the Sick.*

— And if he hath not before disposed of his goods, let him then be admonished to make his will, and to declare his debts, what he oweth, and what is owing unto him, for the better discharging of his Conscience, and the quietness of his Executors. But Men should often be put in remembrance to take order for the settling of their temporal Estates, whilst they are in health.

Wills to be made while Men are in health.

The same, as before, with a little Variation.



## C A N O N S 1603.

The Making of Wills.

1 Jac. 1.

In Can. lxxxiv. Entit. *A Chest for Alms in every Church.*

Ministers shall move Men to Charity, when they make their Wills.

-- AND the Parson, Vicar, or Curate, shall diligently from time to time, and especially when Men make their Testaments, call upon, exhort, and move their Neighbours, to conferr and give, as they may well spare, to the said Chest.

Rules of Civil, Canon and Common Law, concerning the Making and Publishing of Last Wills and Testaments.

1. Last Wills and Testaments may not be made equally by all Persons, nor being made in due form, will be equally Valid in all cases.

Inst. l. 2. t. 12.

The Disabilities are reckoned-up in the Institutes, and Digests of the Roman Law, in the following order:

1. They who are under the Power of another, *Hi qui alieno juri subjecti sunt, testamenti faciendi jus non habent, adeo quidem, ut quamvis Parentes eis permiserint, nihilo magis jure testari possunt.*

l. 28. tit. 1. c. 5.

2. Mod Rep. p. 315. Fones (T.) p. 210.

2. Children under age; *Præterea Testamentum facere non possunt Impuberes, quia nullum eorum animi judicium est,* which is further explained in the Digests, *In masculis quidem quartum decimum annum spectandum, in feminis verò duodecimum completum.* And when Prohibitions have been pray'd, on Suggestion, that the Testator was not in one case 17, in another 18 years of age, which, it was said, were the lowest Ages assigned by Common-Law; they were denied in both Cases, for the same reason; namely, That it belongs to the Ecclesiastical Court to judge when a Person is of age to make a Will; and if an Inferior Court had given Sentence against their own Law, there was no Remedy but by Appeal.

Swinb. part. 2. § 4, 5.

Under the foregoing Rule, of wanting *Animi Judicium*, are also contained, by fair inference, 1. Those who are Idiots, or Natural Fools; or who, being grown to maturity, cannot number to twenty, nor can tell what age they are of, who are their Father or Mother, nor are able to answer to any such easie question. 2. Aged men, who are become Children, in point of Understanding, or have so far lost their Memories, as to forget their own Name, and the like. 3. Persons in drink, that is, so far as to be utterly deprived of the use of Reason and Understanding.

l. 28. tit. 1. c. 17.

3. Madmen, in the time of their Madness; *Item Furiosi, quia mente carent. Nec ad rem pertinet, si Impubes postea Pubes, & Furiosus postea compos mentis factus fuerit, & decesserit. Furiosi autem, si per id tempus fecerint Testamentum, quo furor eorum intermissus est, jure testati esse videntur: certè eo quod ante furorem fecerint Testamento valente---* And the Digests, in the particular case of being Delirious, *In adversa Corporis valetudine mente captus, eo tempore Testamentum facere non potest.*

4. One who is declared a Prodigal: *Item Prodigus, cui Bonorum suorum Administratio interdicta est, Testamentum facere non potest.*

5. One who is wholly Deaf and Dumb, and was so born; *Surdus & mutus non semper Testamentum facere possunt;* but if either only Deaf or Dumb; or both partially; or both by accident only; they may be capable, as the Gloss there explains it; and also, as it is held, even such as are Deaf and Dumb by nature, if it appear that they can be clearly understood by certain signs.

Swinb. part. 2. § 10.

6. One who is Blind: *Cæcus autem non potest facere Testamentum, nisi per observationem quam Lex Divi Justiniani Patris nostri introduxit.* "Sci- licet (as the Gloss explains it) ut coram "Septem testibus & Tabellione, vel alio, loco "ejus, si non inveniatur Tabellio, dilucidius "voluntatem suam declaret, & in Hæredita- "tibus & in Legatis, & omnia in scriptis re- "ferantur. But, in England, it is enough if the Proof, required by the Laws of the Land, be taken in this case; only, the Will must be read before the Witnesses, and then acknowledged by the Testator for his last Will.

Swinb. part. 2. § 11.

7. A Captive, or Hostage: *Ejus qui apud hostes est [Scil. ut captus, vel obses. Gloss.] Testamentum quod ibi fecit non valet, quamvis redierit.* To these the Digests add,

8. A Banished Person: *Si cui aqua & igni interdictum sit [in cujus locum successit hodiè deportatio, Gloss.] ejus nec illud Testamentum valet, quod ante fecit, nec id quod postea fecerit-----In Insulam deportati in eadem causa sunt.* And,

9. A Condemned Person: *Hi verum qui ad ferrum, aut ad bestias, aut in metallum damnantur, libertatem perdunt, bonaque eorum publicantur: unde apparet, amittere eos Testamenti factionem.*

That these Incapacities, in the main, were also accounted such, by the Law and Practice of England in particular, appears by the following account which Lyndwood gives, after having laid down this general rule,

*Qualibet persona qua non est specialiter in jure prohibita, potest testari.*-----Then he goes on, "Quandoque enim quis prohibetur testari "propter defectum sue Potestatis, ut filius, "servus [Slave,] monachus, & obses. Quan- "doque propter defectum mentis, ut impu- "bes, furiosus, mente captus, & prodigus. "Quandoque propter defectum Sensualitatis, "ut cæcus, surdus & mutus. Quandoque "ratione Penalitatis, ut damnatus ad mor- "tem, deportatus, condemnatus de crimine, quo efficitur Intestabilis, vel de quo "post mortem inchoari potest Accusatio.

De Test. c. Stat. v. Propr. ux.

[Under this head, are reckoned, Traitors, Felons,

Swinb. part. 2. § 12, &c.



The Making of Wills.

Rot. Parl. 18 E. 3.

Glanv. l. 7. c. 51. b.

Braff. l. 2. c. 26. Fleta, l. 2. c. 57.

2. Mod. Rep. p. 172.

1. Mod. Rep. p. 214.

Felons, Hereticks, Apostates, Usurers, Incestuous Persons, Sodomites, Libellers, Self-murderers, Out-laws.]

But upon the foregoing account of Lyndwood, it is to be observed, that there is one Incapacity, which falls under the first general head, that he hath not inserted, viz. Feme-covert: On the contrary, in this very Commentary, he contends for the Capacity of such to make a Will, pursuant to the Constitution of Archbishop Stratford; for the support of which Constitution, against the contrary maxim of the Common-Law, this Commentary was written by him. For, two years after the making of the said Constitution, we find a Petition of the Commons in Parliament, in these words, Item prie, &c. "Item, The Commons pray, that whereas a Constitution is made by the Prelates --- That Bondwomen and Wives may make a Will, which is against reason; that it will please the King, by himself and his good Council, to Ordain Remedy, and that his People remain in the same state, as they have been accustomed to be in the times of all his Progenitors. To which the Answer is, To the ninth Article, touching --- Testaments of Bondwomen, and Married women, the King will, that Law and Reason be done. And what the Law was in this particular, appears by those words of Glanvil, Mulier etiam sui juris Testamentum facere potest: si vero fuerit in potestate Viri constituta, nihil sine Viri sui autoritate facere potest, etiam in ultimâ voluntate, de rebus viri sui: And Braffon and Fleta, to the same purpose, Si autem fuerit sub potestate viri constituta, Testamenti factionem non habet, absque viri sui voluntate.

But it is declared in the Books of Common-Law, That there may be an Agreement before Marriage, that the Wife may make a Will, or the Husband may consent that his Wife shall make a Will; That unless the Husband disagrees, this is a good Will, and his Consent shall be implied, till the contrary appears; That if after her death, he doth consent, he can never afterwards dissent; That if, immediately upon the death of the Wife, he discourses and deals with the Executor she has appointed, as Executor (as, in recommending to him a Painter for Escocheons, or a Goldsmith for Rings, or the like,) this is a good Assent, and makes it a good Will; That, tho' after such Assent given, he do, upon sight of the Will, dislike it, and oppose the Probate, and enter a Caveat, such Disagreement shall not hurt the Will; That when there is an express Agreement or Consent that a Woman may make a Will, a little Proof will be sufficient to make out the continuance of that Consent, after her death, but that it is necessary to prove a Disagreement made, in a solemn and formal manner; in express words, and not only by Implication.

But when such a Will was brought to the Prerogative Court to be proved, and a Prohibition was prayed for the Husband upon this Suggestion, That the Testatrix was Fæmina viro co-operta, and so, disabled by the Law to make a Will, it was granted; because tho the Husband may by covenant depart with his Right, and suffer his Wife to make a Will, yet whether he hath done so or not, shall be determined by the Common-Law.

Note, That what hath been said hitherto from the Books of Civil and Canon Law, concerning the Making of Wills, refers only to the Disposal of Goods and Chattels in that way; such Wills only being under the Cognifance and Direction of the Ecclesiastical Laws. But as to Lands, Tenements, and Hereditaments (Gavelkind, and Burgage-Lands excepted) they were not devisable by Testament, according to the Common Law, but were first made so by a particular Statute in the Reign of King Henry the Eighth, explained further in the 34th year of the same Reign; and therefore (as Swinburn speaks) This matter of the Devise of Lands, Tenements, and Hereditaments, within this Realm of England, with all questions incident thereunto, is to be determined according to the Laws Temporal of this Realm, and is not subject to the Rules and Decisions of the Laws Civil or Ecclesiastical.

For this Reason, it will be improper to treat of such Wills, in a Body of Ecclesiastical Laws; further than to transcribe the Clause concerning Personal Incapacities; to show how the two sorts of Wills agree or disagree in that particular:

§. XIV. "And it is further declared, and enacted, by the authority aforesaid, That Wills, or Testaments, made of any Honours, Lands, Tenements, or other Hereditaments, by any Woman Covert, person within the age of one and twenty years, idiot, or by any person de non sane memory, shall not be taken to be good or effectual in the Law.

Upon which my Lord Coke says, That by their Law, it is not sufficient, that the Testator be of memory, but he ought to have a disposing memory, so that he is able to make a disposition of his Lands, with understanding and reason; and that is such a memory as the Law calleth sane and perfect memory; And Moore to the same purpose (3 Jac. 1.) where the Judges held, in Combes's case, That sane memory for the making of a Will, is not barely when the Party can say Yea or No, or has life in him, nor yet when he can answer to some things pertinently; but he ought to have a discerning judgment, and to be of perfect memory; otherwise the Will is void.

II. A Will being made by a person capable of making, and committed to writing by himself, or by any other, is to be duly published in the presence of two sufficient Witnesses, at least. The Civil Law required seven Witnesses; and that absolutely: Si unus de septem Testibus defuerit, vel coram Testatore omnes eodem loco testes suo vel alieno annulo non signaverint; jure deficit Testamentum: On account of which Solemnities, in these and several other circumstances, such Testaments have obtained the name of Solemn Testaments, by way of distinction from others, which being not subject to the Ceremonies of the Civil Law, are therefore termed Unsolemn; as our's in England may be and are termed; where (in the words of Swinburn) this only is needful, that the Testator do appoint his Executor, and declare his Will before two or three Witnesses; whose Testimony, partly by the Laws Ecclesiastical, and especially by the general custom of this Realm, is sufficient for the probation and approbation of the same Will, concerning the appointing of an Executor, and the disposing of Goods and Chattels.

Abridgment.

32 H. 8. c. 1.

34 H. 8. c. 5. Part. 3 § 2.

34 H. 8. c. 5. § 14.

6. Rep. f. 23. a.

Mo. p. 760.

Cod. l. 6 t. 23. c. 12.

Part. 4. § 24.



## Abridgment.

Extra. de  
Test. c. 10.

This reduction of the number of Witnesses from seven to two or three, was made by the Canon-Law, upon the foundation of Scripture; which is clearly set forth in a Decretal Epistle of *Alexander* the third; "Cum esses in nostra presentia constitutus, proposuisti talem in tuo Episcopatu Consuetudinem obtinere, quod Testamenta, quæ sunt in ultimâ Voluntate, penitus rescinduntur, nisi cum subscriptione septem vel quinque Testium fiant, secundum quod Leges humanæ decernunt. Quia verò à Divinâ Lege & Sanctorum Patrum Instituti, & à generali Ecclesiæ consuetudine, id esse noscitur alienum, cum scriptum sit, *In ore duorum vel trium testium, stet omne verbum*; præscriptam Consuetudinem improbamus; & Testamenta, quæ Parochiani coram Presbytero suo, & tribus vel duobus aliis personis idoneis, in extremâ fecerint voluntate, firma decernimus permanere.

Glarv. 1. 7.  
c. 6.Bract. 1. 2.  
c. 25.  
Fleta, 1. 2.  
c. 57.

Accordingly this is the Language of our own Municipal Law: *Debet autem Testamentum fieri coram duobus vel pluribus viris legitimis, Clericis vel Laicis, & talibus qui testes inde fieri possint idonei*; and *Bracton* and *Fleta* to the same purpose, *Fieri autem Testamentum liberi hominis adminis coram duobus vel pluribus legalibus Viris & honestis Clericis, ad hoc specialiter convocatis, ad probandum Testamentum, si opus fuerit*. And whereas, by very many ancient Canons of foreign Churches, and also by the Canon-Law it self, the Minister of the Parish was of necessity to be present as one Witness; *Lyndwood* declares that this doth not hold in *England*, otherwise than upon the foot of Custom, *Nec requiritur Presbyterum Parochialem adesse, nisi in loco, quo fit Testamentum, sit talis consuecudo. Sufficit namque quoad æquitatem Canonicam, ut per duos testes integros, omni exceptione majores, falsitati non consentientes, constet de voluntate defuncti, ad effectum ut demandetur Executioni*.

Swinb. part.  
4. § 21.

As to the abovesaid Qualifications of Witnesses in this case, viz. their being *integri, & omni exceptione majores*; the forementioned Learned Writer, upon this Subject, having laid down the general Rule of the Civil Law, That whatsoever Person is not by Law forbidden to be a Witness, the same Person is to be admitted, goes on to reduce the Exceptions to these three general heads, 1. *Dishonesty in Manners*; as Perjury, and such other Crimes, by which a Person becomes infamous. 2. *Want of Judgment or Understanding*, which is the case of Children, Idiots, Lunatics, and the like. 3. *Affection*, which is the case of Kindred, Tenants, Servants, and all those who are to reap benefit by the Will.

And whereas Doubts had been raised, whether, in strictness of Law, a *Woman* or a *Legatary*, might be a Witness; he answers the first, absolutely, that she may, and that a Testament proved by two Women alone, is without exception on that account; and the other also, in the affirmative, but with this limitation, that it is good for the rest of the Will, but not for his own Legacy.

29 Car. 2.  
c. 3. § 5.

There is one thing more, which, tho' not of Ecclesiastical Cognisance, may be usefully mentioned in this place; namely, That in an Act made in the 29th year of King *Charles* the second, it is specially provided, That

§. V. All Devises and Bequests of any Lands, or Tenements----shall be in writing, and signed by the Party so devising the same, or by some other person, in his presence, and by his express directions, and shall be attested and subscribed, in the presence of the said Devisee, by three or four credible Witnesses; or else they shall be utterly void and of none effect.

Four years after the making of this Statute, the Validity of a Will, as to Lands, came in question, because, being written with the Testator's own hand, it was not signed by him; only his name was at the beginning, *In the name of God, Amen: I John Stanley, &c.* and, the whole being written with his own hand, this was adjudged a sufficient signing within this Statute. Which Determination was agreeable to the Rule of the Civil Law: *Si quis suâ manu totum Testamentum vel Codicillum conscripserit, & hoc specialiter in scripturâ reposuerit, quod hac suâ manu confecit, sufficiat ei totius Testamenti scriptura, & non alia subscriptio requiratur, neque ab eo, neque pro eo ab alio*.

III. A Will being made, and published in due form, may not only be revoked, or cancelled, by the Testator; but it becomes void of course by the making of a new Will. *Sin autem, in medio tempore, contraria Testatoris voluntas ostenditur, si quidem perfectissima est secundi Testamenti confectio, ipso jure prius tollitur Testamentum*. And so (as *Swinburn* saith) a Man may, as oft as he will, make a new Testament, even until the last breath; neither is there any cautelle under the Sun, to prevent this Liberty: But no Man can die with two Testaments, and therefore the last and newest is of force; so that if there were a Thousand Testaments, the last of all is the best of all, and maketh void the former. And this, tho' the first is written, and the second only nuncupative; and tho' the Testator hath sworn not to revoke the former; nay, tho' he do, in that former, expressly renounce the Power of making any other Testament: such Renunciation, or Clause derogatory of the Power of making a Will as long as life endures, being utterly void in Law.

Heretofore, Wills concerning Goods and Chattels, i. e. such Wills as the Civil and Canon Law take notice of, might be revoked before Witnesses, by a bare and naked Revocation, in these or the like words, *I revoke my former Testament, or, I will that my former Testament be of no force*; especially if he added, *Because I will die Intestate*: And in like manner, might all other Wills have been revoked.

But now, as in case of personal Estate, no Alterations can be made in a former Will, but by Writing; according to the direction of the Stat. 29 Car. 2. so neither are Devises of Lands revocable in other manner, than according to the Tenor of the following Clause in the same Act:

§. VI. And moreover, No Devise in writing, of Lands, Tenements or Hereditaments, or any Clause thereof, shall at any time after the said Four and twentieth day of June, be revocable, otherwise than by some other Will or Codicil in writing, or other Writing declaring the same, or by burning, cancelling, tearing or obliterating the same by the Testator himself, or in his presence, and by his directions and consent; But all Devises and Bequests of Lands and Tenements shall remain and continue in force until the same be burnt, cancelled, torn, or obliterated

The Making of Wills.

3. Lev. p. 1.

Cot. 1. 6. r. 23  
c. 28.

ibid.

Part. 7. § 14.

1b. § 15.

2. Cro. 497.

† Cap. 3. § 22.  
as in pag. 555.

1b. § 5.



The Making of Wills.

literated by the Testator, or his directions, in manner aforesaid, or unless the same be altered by some other Will or Codicil in writing, or other writing of the Testator, signed in the presence of three or four Witnesses, declaring the same; any former Law or Usage to the contrary notwithstanding.

IV. As a Will, when duly made, may be revoked, or cancelled, by the Testator; so may he add to it, or detract from it, by a Codicil, or Codicils. And these (as Swinburn saith) are reputed for part or parcel of the Testament, and are to be performed, as well as the Testament, unless contrary to something

Part. 1. § 5.

which is contained in the Testament. And these Codicils may be as numerous as the Testator pleases, without any superseding of the former by the latter, as it is in the case of Wills: *Codicillos autem etiam plures quis facere potest; & nullam solemnitatem Ordinationes desiderant*; i. e. not all the Ceremonies which a Solemn Testament required by the Civil Law, but only those of an Unsolemn Testament; according to the ancient Practice of this Nation, in the matter of Wills.

Abridgment.

Infl. l. 2. r. 25.

C A P. II.

NUNCUPATIVE WILLS.

29 Car. II. Cap. 3.

In an Act, Entituled, *An Act for prevention of Frauds and Perjuries.*

A.D. 1676.

Nuncupative Wills.

XIX. **A**ND for prevention of fraudulent Practices, in setting up Nuncupative Wills, which have been the occasion of much Perjury, Be it enacted by the authority aforesaid, That from and after the aforesaid fourth and twentieth day of June, no Nuncupative Will shall be good, where the Estate thereby bequeathed shall exceed the value of Thirty pounds, that is not proved by the Oaths of Three Witnesses (at the least) that were present at the making thereof, nor unless it be proved that the Testator, at the time of pronouncing the same, did bid the persons present, or some of them, bear witness, that such was his Will, or to that effect; nor unless such Nuncupative Will were made in the time of the last sickness of the deceased, and in the house of his or their habitation or dwelling, or where he or she hath been resident for the space of Ten days, or more, next before the making of such Will, except where such person were surpris'd or taken sick, being from his own home, and died before he returned to the place of his or her dwelling.

XX. And be it further enacted, That after six months passed after the speaking of the pretended Testamentary words, no Testimony shall be received to prove any Will Nuncupative, except the said Testimony, or the substance thereof, were committed to writing within six days after the making of the said Will.

XXI. And be it further enacted, That no Letters Testamentary, or Probate of any Nuncupative Will, shall pass the Seal of any Court, till fourteen days at the least after the decease of the Testator be fully expired: Nor shall any Nuncupative Will be at any time received to be proved, unless Process have first issued to call in the Widow, or next of kindred to the deceased, to the end they may contest the same, if they please.

XXII. And be it further enacted, That no Will in writing concerning any Goods or Chattels, or Personal Estate, shall be repealed, nor shall any Clause, Devise, or Bequest therein, be altered or changed by any Words, or Will by word of mouth only, except the same be in the life of

No Nuncupative Will, of 30l. or upwards shall be good,

— unless proved by 3 Witnesses,

— unless the Testator bid them bear Witness;

— unless made in the last Sickness,

— and unless committed to writing, within 6 days.

Nuncupative Wills shall not pass any Seal, till 14 days after,

— and till the next of kin be called in.

Words (unless written and read to the Testator, and approved before three Witnesses) shall not alter a former Will, concerning Personal Estate.

Part. 1. § 12.

a Shall be good.] A Nuncupative Will, as it stood in general, before the making of this Law, is thus defined by Swinburn: A Nuncupative Testament is, when the Testator, without any writing, doth declare his Will, before a sufficient number of Witnesses. — And elsewhere, speaking of the same thing, he saith, In the making of a Nuncupa-

tive Will or Testament, this is chiefly to be observed, That the Testator do name his Executor, and declare his Mind by words of Mouth, without writing, before Witnesses. As for any precise form of Words, none is required; neither is it material, whether the Testator do speak properly or improperly, so that his meaning do appear.

Part 4. § 6.

the



Abridgment.

the Testator committed to writing, and after the writing thereof read unto the Testator, and allowed by him, and proved to be so done by three Witnesses at the least.

Nuncupative Wills.

4, 5 Annæ, Cap. 16.

A.D. 1703.

In an Act, Entituled, *An Act for the Amendment of the Law, &c.*

Witnesses, in the foregoing Act, shall be such as are allowed upon Trials at Law.

And whereas by an Act of Parliament made in the Twenty ninth Year of King Charles the Second, Intituled, An Act for Prevention of Frauds and Perjuries, It is Enacted, That no Nuncupative Will shall be good, where the Estate thereby bequeathed shall exceed the value of Thirty Pounds, that is not proved by the Oaths of Three Witnesses at the least, that were present at the making thereof; It is hereby declared, That all such Witnesses as are and ought to be allowed to be good Witnesses upon Trials at Law, by the Laws and Customs of this Realm, shall be deemed good Witnesses to prove any Nuncupative Will, or any thing relating thereunto.

C A P. III.

PROBATE and INVENTORY.

O T H O B O N.

Summarium.

A.D. 1268.  
52 H. 3.

*Executor Testamenti cujuslibet nullatenus admittatur ad Executionem, neque Testamentum coram Ordinario ritè presentetur nec approbetur, nisi prius quoad hunc actum sui Fori privilegio coram eo expressè renunciet Executor. Et priusquam Executores administrationem bonorum attingant, Inventarium bonorum defuncti coram dignis & peritis factum, Prælato ostendant, alioquin ad Episcopi sui arbitrium puniantur. Vult enim approbationem Episcopi, in cujus Diœcesi Testator, qui in diversis Beneficia obtinuit, decessit, adhiberi.*

Edit. Oxon.  
P. 107.

For the effectual Execution of Wills,

— it is decreed, that none be admitted thereto, till they renounce the privilege of their own Court, ... and bring in an Inventory.

**L**ibertatem extremi Judicii sicut multâ favoris prærogativâ muniunt legitimæ Sanctiones, ita ipsius Executionem convenit adjuvare, nè quis impedire valeat arbitrium Testatoris.

Probate & Inventory.

Propterea super Testamentorum executione Duximus statuendum, ut executor Testamenti cujuslibet ad executionem nullatenus admittatur, neque Testamentum coram Ordinario secundum approbatam Consuetudinem presentetur, nec per ipsum aliquatenus approbetur, nisi prius quoad hunc actum sui Fori privilegio coram eo *aa* expressè renunciet Executor.

Præcipimus etiam statuendo quod, hujusmodi testamentorum Executores, priusquam administrationem bonorum attingant, Inventarium in præsentia aliquorum fide dignorum, qui verisimiliter bonorum defuncti noverint qualitatem, omnino conficiant & illud suo superiori prælato ostendant. Si quis autem Inventario non confecto administrare præsumperit, ad Episcopi arbitrium puniatur.

Wills of Plurality in two Dioceses, shall be proved in the Diocess they dye in.

Super approbatione siquidem testamenti ejus qui in diversis Diœcesibus Beneficia dum viveret obtinebat, approbationi illius Episcopi in cujus Diœcesi testator decessit, fidem volumus adhiberi.

*aa* Expressè.] Ad effectum Probationis & Insinuationis — Inventarii — Committendæ Administrationis — Lyndw.

JOHANNES



Probate  
and Inventary.

A. D. 1342.  
16 Edw. 3.

## JOHANNES STRATFORD.

Abridgment.

Qui impediunt, aut impediri procurant, cujusvis etiam servilis conditionis Testamentorum executionem, Excommunicentur. Probato autem coram Ordinariis Testamento, nihil amplius exigant Laici, nisi ratione Laicalis Feodi. Nec quisquam distribuatur, ante Inventarium factum, & Ordinariis examinandum datum; à quibus non nisi fidis, & qui solvendo sint, mandetur executio. Executores autem nihil sibi pro executione vendicent ultra Testantis Voluntatem, & Ordinariorum Censuram, aut ab ingressu Ecclesie suspendantur.

**S**Tatutum bonæ memoriæ Bonifacii, quondam Cantuariensis Archiepiscopi, Prædecessoris nostri, circa bona Intestatorum & c Ascriptitiorum, d aliorumque servilis conditionis hominum ultimas voluntates, quod incipit, † *Ceterum contingit interdum, &c.* à multis in dubium revocatum, noviter recensentes, quibusdam ad id additis, & aliis ab eo subtractis, sub verbis infra scriptis, Decernimus sic in posterum firmiter observandum. Ceterum contingit interdum, quod Laicis aut Clericis divino judicio decedentibus intestatis, Domini Feudorum non permittunt debita defunctorum solvi de bonis mobilibus eorundem, nec in usus Uxorū suarum, Liberorum suorum, vel Parentum, vel aliter per dispositionem Ordinariorum, bona prædicta pro ea portione, quæ secundum consuetudinem Patriæ e Defunctos contingit, permittunt distribui pro eisdem. Alii liquidem ascriptitiorum & aliorum ee servilis conditionis hominum, necnon solutarum & conjugatarum mulierum, & suarum propriarum uxorum, vel etiam aliorum impediunt, vel impediri procurant factionem liberam Testamenti, & ipsius executionem, & dictorum Testantium voluntatem ultimam, tam contra Jura quàm f Consuetudines Ecclesie hætenus approbatas, in Divinæ Majestatis offensam, & læsionem Juris Ecclesiastici evidentem. Unde Nos præsentis auctoritate Concilii, omnes & singulos in his, vel in eorum aliquo de cætero delinquentes, majoris Excommunicationis sententiã fore Decernimus innodatos. Testamentis insuper coram Ordinariis locorum, ad quos pertinet, probatis & approbatis, hujusmodi Testamentorum probatio & approbatio, nisi ratione g Laicalis Feudi, si id in Testamento aliquo gg legari contingat, nullatenus à h Laicis requiratur. Nec impediunt Clerici vel Laici cujusvis conditionis homines, seu impedire procurent, quo minus Testamenta & Voluntates ultimæ defunctorum procedant, & consequantur hh effectum, in his quæ legari possunt de Consuetudine vel de Jure. Si verò sint qui contra hæc venire præsumperint, in futurum sciant se, præsentis auctoritate Concilii, majoris Excommunicationis sententiã esse involutos: ac contra eos & alios in præmissis nequiter excedentes, tanquam contra violatores & perturbatores Ecclesiasticarum libertatum i gladium Spiritualem decernimus exercendum.

c Ascriptitiorum.] Hi sunt Coloni, qui per 30 annos fuerunt in solo; & sunt duobus modis; quia aut Præscripti, aut duplici confessione per Scripturam bis factam. Lyndw.

d Aliorum.] Ex hoc quod dicit, Aliorum Servilis conditionis, videtur innuere, quod hæc dictio Aliorum referatur ad præcedentia; innuendo, quod Ascriptitii forent Servi: Sed tu dic, quod tales Ascriptitii non sunt servi, sed liberi. Lyndw.

e Servilis conditionis.] Non dicit Servi (nam verè Servi non possunt testari,) sed Servilis conditionis, ut ostendat aliquos esse servilis conditionis, non tamen Servos — Originarii, hi scilicet qui ex ascriptitiis nati sunt — Omnes Coloni perpetui — Coloni conditionales — Inquilini conditionibus servilibus ascripti — Liberi qui stant in agris Dominorum, operi rustico & servili insistentes — Lyndw.

e Defunctos.] Utputa, medietas Bonorum, ubi superest Uxor, & nulli Liberi: alioquin, si etiam supersint Liberi, quod tunc Defuncti portio sit tertia pars, aliis duabus Uxori & Liberis re-

mansuris. Lyndw.

f Consuetudines.] Quæ volunt, quod nendum Executio hujusmodi Testamentorum & ultimarum Voluntatum, sed etiam Insinuatio eorundem, pertineat ad Judicem Ecclesiasticum. Lyndw.

g Laicalis Feudi.] Talis, nempe, quod non tenetur ab Ecclesia, sed est de Feudo merè temporali. Lyndw.

gg Legari contingat.] Prout sæpe fit in multis Civitatibus Angliæ, quarum Cives & Burgenses per suas Libertates possunt in suis Testamentis non solum mobilia, sed etiam immobilia, disponere & legare. Lyndw.

h Laicis.] id est, Judicibus Sæcularibus. Lyndw.

hh Effectum.] Effectus ultimæ voluntatis est, ut secundum eam pronuncietur, & ei omninò stetur, si justa sit: Item, quod Executorum deputatio, Legatorum solutio & præstatio, &c. in Testamento vel in ultimâ voluntate justè disposita locum habeant. Lyndw.

i Gladium Spiritualem.] Id est, Excommunicationem. Lyndw.

The Constitution of Boniface, concerning Intestates and Wills, shall be altered, as follows;

It happening sometimes, that the Lords of the Fee hinder the Administration of Intestate's Goods,

---and the making and proving of Wills,

—it is, decreed, that all such incur the greater Excommunication,

---and that upon the like pain, the Probate of Wills shall not be claimed, nor the execution hindered.



## Abridgment.

Administration shall not be committed to an Executor, till an Inventory is made,

--- nor without caution to give account when called to it.

Religious shall not be Executors. Parish Church shall have its due portion.

Executors shall take nothing to themselves, but what is bequeathed, or assigned for Charge, --- upon pain of Suspension ab ingressu Ecclesie.

All these things shall be published, twice a year, in every Church.

Inhibemus etiam, ne cuiquam Executori testamenti cujuscunque administrare permittatur de bonis alicujus testatoris, nisi *k* prius fiat Inventarium fidele de dictis bonis; sumptibus funerariis, & circa confectiōem Inventarii hujusmodi apponendis, duntaxat exceptis. Inventarium verò hujusmodi locorum Ordinariis tradi volumus, eorum arbitrio moderandum. Et postquam coram Ordinariis juxtà morem probatum fuerit Testamentum; non committatur aliquibus in bonis hujusmodi executio seu administratio, nisi talibus qui debitam administrationis suæ possint, & si oporteat sufficienter caveant, ac fideliter *m* promittant, reddere rationem, cum super hoc per locorum Ordinarios congruè fuerint requisiti.

Item Statuimus, præsentis auctoritate Concilii, ne aliqui religiosi cujuscunque professionis existant, sint Executores testamentorum, nisi hoc de Ordinariorum voluntate & licentiâ concedatur: Et quod de portione contingente *n* defunctum, etiam parochialis Ecclesia jus percipiat consuetum.

Statuimus præterea, quod nullus Executor aliquid sibi applicet sive appropriet de bonis defuncti, cujus testamentum exequitur, titulo emptionis vel aliter, nisi quod fuerit sibi à Testatore donatum inter vivos, vel in suo testamento, sive in ultima voluntate relictum, aut quod pro ipsius Executoris labore, Ordinarii arbitrio, fuerit ordinatum, vel si quid fuerit sibi debitum à defuncto, aut pro *o* moderatis expensis suæ administrationis; sub pœnâ suspensionis ab ingressu Ecclesiæ, quam contrafacientes incurrere volumus ipso facto; cujus absolutionem non obtineant, donec applicata vel appropriata sibi sic indebitè restituerint, & Ecclesiæ Cathedralis fabricæ, cujus defunctus erat subditus, duplum sic appropriatorum vel applicatorum sibi, ipsis solverint de propriis suis bonis. Omnia verò & singula supradicta mandamus per Ecclesias singulas nostræ Cantuariensis Provinciæ, bina vice annuatim solenniter publicari.

*k* Prius.] Saltem pro securitate suâ, ut scilicet non teneatur ultra vires Bonorum repertorum. Si tamen tali Inventario prius non confecto se immisceat Administrationi Bonorum Defuncti (certis casibus exceptis, viz. pro Expensis Funerum, pro Testamenti Insinuatione, pro Inventarii confectiōe, pro necessariâ Bonorum conservatione,) tenebitur singulis Creditoribus respondere. Lyndw.

*l* Dictis Bonis.] Hæc Bona intelligi debent de Corporalibus & Incorporalibus, de quibus apparet; Obligationes vel aliqua Instrumenta. Debita tamen, quæ debuit defunctus aliis, non oportet poni in Inventario; ratio est, quia non sunt bona Defuncti, sed aliena. --- Item, debita ipsi defuncto, de quibus non reperitur Instrumentum vel Obligatio, non oportet in Inventario inserere, antequam recipiantur; ratio est, quia prius ipsa debita

non reperiuntur, sic saltem ut manibus tractari possint, & apprehendi. Sed postea, quando talia debita recepta sunt, poni debent in Inventario, sicut res de novo obvenientes. Lyndw.

*m* Promittant.] Etiam cum Juramento; quod potest præcedere Administrationem. Lyndw.

*n* Defunctum.] De hac portione, haberi debet Recursus ad Consuetudinem Loci; ut, scilicet aliquando sit tota substantia, quando, viz. non supersunt Uxor nec Liberi; aliquando media pars, viz. quando superest Uxor, sed non Liberi; aliquando tertia pars, viz. quando supersunt Uxor & Liberi. Lyndw.

*o* Moderatis.] Hæc moderatio sic fieri debet, ut nec commodum, nec damnum, sentiat. Lyndw.

## JOHANNES STRATFORD.

Testamenta Clericorum de his, de quibus testari possunt, non impediuntur per Ecclesiasticos Prælatos à commissis exequi. Ab intestato verò decedentium bona in pios convertant usus, nihil sibi præter laboris Mercedem vendicantes.

**I**T A quorundam, & infra. Statuimus, quòd Episcopi, & alii Inferiores Ecclesiastici Judices nostræ Cantuariensis Provinciæ, de bonis Clericorum Beneficiatorum, quos testari posse constat de Consuetudine Regni Angliæ, seu aliorum testantium quorumcunque, præterquam in casibus expressè permittis, quovis quæsito colore, nullatenus se intromittant, sed Executores Testamentorum ipsorum liberè permittant disponere de eisdem. Necnon ab Intestato decedentium, solutis debitis eorundem, bona quæ supererunt, in pias causas, & personis decedentium consanguineis, servitoribus, & propinquis, seu aliis pro Defunctorum animarum salute, distribuunt & convertant; nihil inde sibi retento, nisi forsitan aliquid rationabile pro ipsorum Ordinariorum labore fuerit retinendum, sub pœna Suspensionis ab ingressu Ecclesiæ, quam *p* Ecclesiasticos Judices in con-

*p* Ecclesiasticos Judices.] Intellige de inferioribus Episcopo: nam Episcopi hæc pœnâ non ligantur, eò quòd de eis non fit mentio specialis. Lyndw.

trarium

Probate &amp; Inventory.

A.D. 1342.  
16 Edw. 3.Edit. Oxon.  
P. 179.



Probate &  
Inventory.

trarium facientes incurrere volumus ipso facto, donec de præmissis satisfecerint competenter.

Abridgment.

Spel. v. 2.  
p. 670.

† Nota, Quod Provinciale Gulielmi Lyndw. definit in Ann. 1415, tempore Reverendissimi Henrici Chichlei Archiepiscopi Cantuariensis. Anno autem sequenti (viz. 1416.) Idem Archiepiscopus publicavit Constitutionem novam, in Convocatione latam, super Approbatione Testamentorum, in hæc verba:

“ Unusquisque, ad quem in quibuscunque locis nostræ Cantuariensis Provinciæ Jurisdictio in hac parte dignoscitur pertinere, statim post mortem cujuscunque defuncti, quàm citò commodè poterit, bona ejusdem faciat sequestrari, & sub fideli custodia fideliter conservari, moderatis expensis funeralibus duntaxat exceptis, donec Testamentum, si quod fuerit, exhibeatur, vel per testes idoneos, aut aliis legitimis documentis sufficienter probetur: ita quòd non statim committatur Administratio, sed injungatur Executoribus in eodem Testamento nominatis, super quo primitus ad Sacra Dei Evangelia corporale præstant Juramentum, quatenus infra brevem terminum, Ordinariorum seu Jurisdictionem hujusmodi obtinentium arbitrio juxta facti qualitatem moderandum, de omnibus bonis defuncti, de quibus testari potuit, fidele & clarum fiat Inventarium; quo exhibitò, & per diligens examen reperto idoneo, tunc & non ante committatur eisdem Executoribus Administratio omnium bonorum; injunctò eisdem sub pœnâ Excommunicationis majoris, nè de aliis quàm in ipso Inventario contentis se administrando quomodolibet intromittant, quousque de illis noviter repertis Inventarium fecerint, exhibuerint, & Administrationem receperint de eisdem; quodque iidem Executores onerentur, ac ad

“ Sacrosancta Dei Evangelia jurent, & si opus fuerit, sufficienter caveant, quòd quàm cito commodè poterunt, & præsertim infra annum, si possibile fuerit, omnia bona, quorum Administratio eisdem commissa est, in fideles & pios usus secundùm voluntatem defuncti plenariè administrabunt, ac de Administratione hujusmodi, incontinenti post ipsam Administrationem completam, seu saltem cum ad hoc moniti fuerint, distinctè, particulariter, & apertè, ipsis ad quos pertinet, fidelem & plenam reddant rationem; nihil de bonis antedictis, tacitè vel apertè, præter id quod eisdem per ipsos Ordinarios fuerit allocatum seu in Testamento ritè & rectè relictum, titulo emptionis, aut aliter, sibi quomodolibet retinendo: quòdque Ordinarii & Jurisdictionem hujusmodi exercentes, in redditione hujusmodi computi, & circa illud, sic se & ministros suos diligenter habere curent, ut absque dolo & fraude, bona defunctorum fideliter & plenariè, prout eorundem saluti Animarum magis conveniens fuerit, sine dilatione qualibet, quatenus possibile fuerit, disponant; pro Insinuatione insuper Testamentorum hujusmodi, necnon calculi sive ratiocinii auditione, sive dimissione finali Executorum eorundem, ultra quinque solidos nullatenus exigentes, aut quomodolibet recipientes, usque ad unum annum, à data præsentium continuè numerandum: Bona quoque Intestatorum in suo casu pro Animabus ipsorum defunctorum cum celeritate possibili disponi faciant, prout per Jura communia, Constitutionesque Provinciales in ea parte, est plenius ordinatum.

A.D. 1341.

15 Edw. III. Cap. 6.

### In an Act, Entituled, *An Act touching Money to be taken by Priests.*

Item, It is accorded, that the Ministers of holy Church-----for probe and account of Testaments, or for travaile taken about the same, shall not be impeached, nor arrested, nor driven to answer before the Kings Justices, nor other Ministers: and thereupon the Ministers of holy Church shall have writs in the Chancery to the Justices and other Ministers at all times when they the same will demand-----

† This Law (with five others made at the same time) was voided and annulled the same year; but yet with the following Declaration; *Willing nevertheless that the Articles contained in the said pretended Statute, which by others of our Statutes, or our Progenitors, Kings of England, have been approved,*

*shall, according to the form of the said Statute, in every point, as convenient is, be observed: And accordingly, three years after, the Statute that follows (of like tenor and effect with this, as to the point before us,) was assented to.*

Ministers shall nor answer before the Justices, for Probate of Wills.

18 Edw.



## Abridgment.

## 18 Edw. III. Cap. 6.

Probate  
and Inven-  
tary.

A.D. 1344.

Temporal Justices shall not enquire of Process awarded by  
Spiritual Judges.

Commissions of Enquiry upon Judges Ecclesiastical in the matter of Wills, shall be repealed.

**I**tem, Whereas Commissions be newly made to divers Justices, that they shall make inquiries upon Judges of holy Church, whether they made just Process or excessive, in causes testamentary and other, which notoriously pertaineth to the Cognizance of holy Church, the said Justices have enquired, and caused to be indicted, Judges of holy Church, in blemishing of the Franchise of holy Church: That such Commissions be repealed, and from henceforth defended: Saving the Article in Eyre, such as ought to be.

Glanv. l. 7. c. 6.

Bract. l. 2. c. 26.  
Fleta, l. 2. c. 57.

9. Rep. 37. b.  
Brownl. p. 45,  
&c.

De Testam. c.  
Statut.

Ibid.

2. Cro. 346.  
3. Cro. 115, 391,  
395, 396.  
1. Rolle, 358.  
1. Bullstr. 159.  
2. Bullstr. 210.  
2. Siderf. 141.

*b Cognizance of holy Church.]* So saith Glanvil, *Placitum de Testamentis coram Judice Ecclesiastico fieri debet, & per illorum qui testamento interfuerint testimonia, secundum Juris ordinem, terminari.* And to the same purpose, *Bracton and Fleta, Si de Testamento oriatur contentio, in foro Ecclesiastico debet Placitum terminari; quia de causa Testamentaria, sicut nec de causa Matrimoniali, Curia Regis se non intromittit.*

The Books of Common-Law observe, that the foundation of this Right which the Church hath, was by special Concession from the Secular Power: which is so far from being denied, that it is no other Doctrine, than what *Lyndwood* himself hath laid down: *Sed hic posset quæri, unde provenit hæc Libertas quoad casum nostrum: videtur namque quoad primum, quod Ecclesia non haberet se intromittere de tali approbatione Testamentorum, sed potius pertineret ad Judices Laicos. Dic, quod hæc Libertas, quoad approbationem hujusmodi, fundatur super consensu Regis & suorum Procerum, in talibus ab antiquo concessis.* And again, *De consuetudine tamen hæc approbatio in Anglia pertinet ad Judices Ecclesiasticos, Episcopos videlicet & eorum Officiales.*

With regard to this established Right of the Ecclesiastical Judge, the Temporal Courts have on many occasions declared, That in case of a Will of Goods and Lands jointly, a Prohibition ought, at most, to go only quoad the Lands; and even that was denied in *Combes's* case, because as *Hale* said, the Spiritual Court could not prove the Will in part, for the Will was the whole Will and not a part.

In like manner, when the Probate was produc'd in Evidence in the Temporal Court, and the Defendant said, It was not the true Will, but a forged one; the Court declared that no such Evidence could be given, because it would be a falsifying of the Proceedings of the Ordinary, in cases where he is the proper Judge; and therefore, that

if any thing was to be offered on that head, it must be, not that the Will, but that the Seal, was forged, or the like.

But yet it is held, that if Probate of Wills, and granting Administrations, be traversed or denied in the King's Courts, and issue joined, That the Ordinary did not commit Administration to such an one, or, That the Testament is not proved before the Ordinary, or, That he whose Will is proved before the Ordinary, died Intestate, or, That he of whose Goods Administration is granted, as of one Intestate, made a Will, &c. In these and the like cases, it is held, that Certificate shall not be made by the Ordinary, but that it shall be tried by Jury: and the reason given for it is, that Probate of Wills, and granting Administrations, originally, did not belong to the Ecclesiastical Cognizance, but were given to them of later times; and that therefore nothing but the Probate, and Granting Administration, which were given to them, doth appertain to their Jurisdiction: But the Trial thereof is not given to them, but is left to the trial of the Common Law.

But before this time (*viz.* 31 Eliz.) in case of Refusal or no Refusal, how it should be tried; this Distinction was laid down: Where the Issue is, Whether the Executor did refuse before such a day, or after, there the Trial shall be by Jury; Contrary, where the Issue is upon Refusal, generally, because the Refusal is before the Ordinary, as a Judge. And the case then before the Court, being this, (That the Bishop certified quod non recusavit, whereas in truth he had refused before the Commissary,) the Court held, that they could not write to the Commissary, since the Bishop, and not He, was the Officer unto the Court to that purpose; and that the Party could not aver against the Certificate of the Bishop, any more than against the Return of the Sheriffs.

## 21 Henr. VIII. Cap. 5.

A.D. 1529.

In an Act, Entituled, What Fees ought to be taken for  
Probate of Testaments.

Executors, and Administrators, taking to them persons proper,

§. IV. And that the Executor or Executors named by the Testator, or person so deceased, or such other person or persons, to whom such Administration shall be committed, where any person dieth intestate, or by way of intestate; calling or taking unto him or them such person or persons, two at the least, to whom the said person so dying



Probate & Inventory.

dying was indebted, or made any Legacy, and upon their refusal or absence, two other honest persons being next of kin to the person so dying, and in their default or absence two other honest persons, and in their presence, and by their discretions, shall make or cause to be made a true and perfect inventory of all the Goods, Chattels, Wares, Merchandises, as well moveable as not moveable, whatsoever, that were of the said person so deceased, and the same shall cause to be indented, whereof the one part shall be by the said Executor or Executors, Administrator or Administrators, upon his or their oath, or oaths to be taken before the said Bishops, Ordinaries, their Officials, or Commissaries, or other persons having power to take Probate of Testaments, upon the holy Evangelists, to be good and true, and the same one part indented & shall present, and deliver into the keeping of the said Bishop, Ordinary, or Ordinaries, or other person having power to take probate of Testaments, and the other part thereof to remain with the said Executor or Executors, Administrator, or Administrators; and that no Bishop, Ordinary, or other, whatsoever person, having authority to take probate of Testament or Testaments, as is above said, upon the pain in this Statute hereafter contained, refuse to take any such inventory or inventaries, to him or them presented, or tendered to be delivered as is aforesaid.

V. Provided always, that if the person so deceased, will by his Testament or last Will, any lands, tenements, or hereditaments, to be sold, that the money thereof coming, nor the profits of the said lands, for any time to be taken, shall not be accounted as any of the goods or chattels of the said person so deceased, and that the same Bishop, Ordinary, or other person or persons, having authority to take probate of Testament or Testaments, as is aforesaid, upon the delivery of the seal and sign of the Testator, do cause the same seal to be defaced, and thereupon incontinent deliver the same seal unto the said executor or executors, without claim or challenge thereunto to be made. And in case any person or persons at any time hereafter require a copy or copies of the said Testament so proved, or of the said Inventaries so made, that then the said Ordinary or Ordinaries, and the other persons having authority to take probate of Testaments, or their ministers, shall from time to time with convenient speed, without any frustratory delay, deliver or cause to be delivered a true copy or copies of the same, to the said person or persons so demanding them, or any of them.

Abridgment.

— shall make a perfect Inventory, to be delivered upon Oath,

— and not refused by the Ordinary;

— of which, Lands will'd to be Sold, and the Rents thereof, shall not be part.

Seal of Testator shall be defaced;

— and Copies of the Probate delivered to Persons demanding it.

g Shall present,] If any Executor (saith Swinburn) refuse to make an Inventory, and nevertheless presume to administer the goods of the Deceased, he may be punished at the discretion of the Bishop or Ordinary. The reason is, lest the Executor being disposed to deal unfaithfully, should defraud the Creditors, or Legataries, by concealing the Goods of the Deceased.

But as the time for exhibiting such Inventory is left to the discretion of the Ordinary; so may he release the Executor from that Obligation, and decree that it is not necessary, in particular Cases and Circumstances; as was done 34 Car. 2. in the Case of one Boone, who dying possessed of a large personal Estate, made his

eldest Son Sole Executor, and among other Bequests, gave his second Son 2000 l. to be pay'd at three several Payments. The said second Son took out Process against the eldest Brother, and caused him to be cited before the Judge of the Prerogative Court, (where the Will was proved,) in order to compel him to bring in an Inventory: but it appearing to the Judge, that the two first Payments were made, and the third offered to be made, he gave Sentence, that there was no need of an Inventory at the instance of the Plaintiff; which was confirmed by the Delegates, first upon Appeal; and afterwards, upon a Commission of Review.

Swinb. f. 217. b.

Raym. 470.

A.D. 1529.

21 Hemr. VIII. Cap. 5.

In an Act, Entituled, *What Fees ought to be taken for Probate of Testaments.*

VIII. Provided alway, that this present Act be not prejudicial to any Ordinary, or other person, which now have, or hereafter shall have authority for probate of Testaments, but that every of them shall and may convene before them all and every person or persons made and named executor or executors of any Testament,

Stat. 21. H. 8. c. 5. shall not be prejudicial to the Ordinary's Right of Probate.

r Convene.] And in Case, either the Executor will not appear, or appearing, refuse to prove the Testament; the Ordinary or other Judge may commit the Administration of the Goods of the Deceased,

as if he had died Intestate— But if the Executor will afterwards undertake the Executorship, the Ordinary may revoke the Administration, before by him committed.

Swinb. f. 208. a.



Abridgment.

to the intent to prove, or refuse the Testament or Testaments of their Testator or Testators, and to bring in Inventories, and to do every other thing concerning the same, as they might do before the making of this Act.

Probate &amp; Inventory.

Swinb. f.  
208. b.

Or refuse.] But if he hath medled with the Goods of the Testator, as Executor, he may not only be compelled to perform the Office of Executor; but also if he should refuse, and the Ordinary commit Administration unto him, this Refusal is void, and he shall be charged as Executor. Further, tho' he hath not medled with the Goods of the Testator, and is therefore not compellable; yet if a Legacy be left him, he may be compelled to stand to the Executorship, or else to lose the Legacy.

tem. Querelam T. & M. uxoris ejus accepimus continentem, quod cum secundum consuetudinem in villa predicta usitatam hactenus & approbatam testamenta Burgensium ville predictae ibidem decedentium, super tenementis & possessionibus, si sint ibidem legata, primo coram ordinariis, & secundarie coram vobis in curia ville predictae probari debeant, & consueverint temporibus retroactis, ac executores testamenti N. cum praefatis T. & M. postquam testamentum praedicti N. coram ordinariis ville praedictae, prout moris est, probatum fuit, frequenter illud coram vobis iterato probandum detulerint juxta consuetudinem praedictam, occasione quorundam tenementorum in suburbio ejusdem ville, quae praedictus N. in ultima voluntate sua eidem M. legaverit, sicut in testamento praedicto plenius continetur: vos tamen probationem illam hactenus recipere recusastis, & adhuc recusatis minus juste, per quod nec praedicti executores, neque praefati T. & M. super tenementis praedictis, aut aliis tenementis per praedictum N. legatis administrationem consequi possunt, retardationem executionis testamenti praedicti, contra voluntatem praedicti N. necnon damnum ipsorum T. & M. & praedictorum executorum non modicum & gravamen Nos igitur eisdem executoribus, & T. & M. injuriam nolentes in hac parte, vobis praecipimus sicut alias praecipimus, quod si ita est, tunc praefatis executoribus & T. & M. plenam & celerem justitiam in hac parte fieri faciatis, prout de jure & secundum consuetudinem praedictam, in casu consimili fuerit facien', ita quod querela ad nos inde non perveniat iterata, vel causam nobis significetis quare mandatis, &c. T. &c.

Co. Lit. 292.  
b.  
2. Cro. 316.  
3. Cro. 160.  
Hut. 31.  
Hej. p. 77.  
Raym. 35.

On the other hand (inasmuch as the Executor, tho' he may be sued, and pay Debts, and release an Action, cannot have an Action, before Probate) the Ordinary is bound to prove the Will; and if the Executor accept, and desire Probate, and it is refused by the Ordinary, a Writ will go from the Temporal Courts, to compel him to proceed to Probate, where the Will is not controverted; and that notwithstanding an Appeal to the Delegates, &c. as it was in the Case of *Dunkin and Mun* (26 Car 2.) in which such a Writ was granted to the Prerogative-Court; chiefly upon the Authority of an ancient Writ directed to the Mayor and Bailiffs of Oxford for that end (as having by Custom the Probate of Wills there;) and *Fitzherbert's* extending it to like Cases depending before the Ordinary, *Il semble raisonnable, que home avera brief direct al Ordinary, luy command' de prover le Testament de ascun home, &c.*

Nat. Brev.  
l. 200. b.

The Form of the Writ, is as follows: .:

Rex, Majori &amp; Ballivis suis ville Oxon' salu-

Fegilt. f.  
245 b.

## 5 Eliz. Cap. 14.

A.D. 1562.

In an Act, Entituled, *An Act against Forgers of false Deeds and Writings.*

The putting a Seal to a forged Will, shall not be Forgery in the Judge.

IX. Provided also, and be it further enacted by the authority aforesaid, That this Act, or any thing therein contained, shall not extend to charge any Ordinary, or any their Commissaries, Officials, Registers, or any other their Officers or Ministers, with any the offences aforesaid, for putting their Seal of Office to any Will, to be exhibited unto them, not knowing the same to be false or forged, or for writing of the said Will or Probate of the same: this Act or any thing therein contained to the contrary notwithstanding.

## 29 Car. II. Cap. 3.

A.D. 1676.

In an Act, Entituled, *An Act for Prevention of Frauds and Perjuries.*

Proviso for the Right of the Spiritual Courts, to the Probate of Wills.

XXIV. And it is hereby declared, that nothing in this Act shall extend to alter or change the Jurisdiction or Right of Probate of Wills concerning Personal Estates, but that the Prerogative Court of the Archbishop of Canterbury, and other Ecclesiastical Courts, and other Courts having Right to the Probate of such Wills, shall retain the same Right and Power as they had before, in every respect: Subject nevertheless to the Rules and Directions of this Act.

CANONS



Probate &  
Inventory.

1 Jac. 1.

## C A N O N S 1603.

cxxxii. *Proctors prohibited the Oath, In Animam Domini sui.*

FORASMUCH as in the Probate of Testament and Suits for Administration of the Goods of Persons dying Intestate, the Oath usually taken by Proctors of Courts, *In animam constituentis*, is found to be inconvenient: We do therefore decree and ordain, that every Executor or Suiter for Administration, shall personally repair to the Judge in that behalf, or his Surrogate, and in his own person (and not by Proctor) take the Oath accustomed in these cases. But if by reason of sickness or age, or any other just lett or impediment, he be not able to make his personal appearance before the Judge, it shall be lawful for the Judge (there being faith first made by a credible person, of the truth of his said hinderance or impediment) to grant a Commission to some grave Ecclesiastical Person abiding near the party aforesaid, whereby he shall give Power and Authority to the said Ecclesiastical Person, in his stead, to minister the accustomed Oath above mentioned, to the Executor or Suiter for such Administration; requiring his said Substitute, that by a faithful and trusty Messenger he certify the said Judge truly and faithfully what he hath done therein. Lastly, we ordain and appoint, that no Judge or Register, shall in any wise receive for the Writing, Drawing or Sealing of any such Commission, above the sum of six shillings and eight pence; whereof one moyety to be for the Judge, and the other for the Register of the said Court.

1 Jac. 1.

## C A N O N S 1603.

cxxvi. *Peculiar and inferiour Courts to exhibit the original Copies of Wills into the Bishops Registry.*

WHEREAS Deans, Archdeacons, Prebendaries, Parsons, Vicars, and others exercising Ecclesiastical Jurisdiction, claim liberty to prove the last Wills and Testaments of Persons Deceased within their several Jurisdictions, having no known nor certain Registers, nor publick place to keep their Records in, by reason whereof many Wills, Rights and Legacies, upon the Death or Change of such Persons and their private Notaries, miscarry, and cannot be found, to the great prejudice of his Majesties Subjects: We therefore order and enjoyn that all such Possessors and Exercisers of peculiar Jurisdiction, shall once in every Year exhibit into the publick Registry of the Bishop of the Diocess, or of the Dean and Chapter, under whose Jurisdiction the said Peculiars are, every original Testament of every person in that time Deceased, and by them proved in their several peculiar Jurisdictions, or a true Copy of every such Testament, examined, subscribed, and sealed by the peculiar Judge and his Notary. Otherwise if any of them fail so to do, the Bishop of the Diocess, or Dean and Chapter, unto whom the said Jurisdictions do respectively belong, shall suspend the said Parties, and every of them from the exercise of all such peculiar Jurisdiction, until they have performed this our Constitution.

A.D. 1705.

## 4 Annæ, Cap. 16.

In an Act, Entituled, *An Act for the Amendment of the Law, &c.*

§. I. — No Advantage or Exception shall be taken — of or for the default of alledging of the bringing into Court Letters Testamentary or Letters of Administration.

Abridgment.

The Oath in *Animam Domini*, being inconvenient, — every Executor &c. shall take the Oath in his own person, before the Judge, — or before a Commissioner appointed by the Judge;

— the Fees of which Commission shall not exceed 6s. 8d.

Wills proved in Peculiars, &c. being often lost, for want of a Registry,

— all Peculiars, &c. shall transmit the Wills they prove, to the Registry of the Bishop, or Dean and Chapter,

— upon pain of Suspension.

No advantage shall be taken, in case of Letters Testamentary and of Administration.

CAP.



Abridgment.

Prerogative of the Archbishops.

C A P. IV.

PREROGATIVE of the Archbishops.

23 Henr. VIII. Cap. 9.

A.D. 1531.

In an Act, Entituled, *The Bill of Citations.*

The Prerogative of Canterbury may cite out of other Dioceses for Probate of Wills.

V. Provided also that this Act may not extend in any wise to the prerogative of the most reverend Father in God the Archbishop of Canterbury, or of any his Successors, of or for calling any person or persons out of the Diocese where he or they be inhabiting, dwelling or resident, for probate of any testament or testaments, any thing in this Act contained to the contrary notwithstanding.

C A N O N S, 1603.

1 Jac. 1.

xcii. *None to be cited into divers Courts for Probate of the same Will.*

The citing of Persons both into the Prerogative, and the Inferiour Courts, for the same Will, being vexatious, --- all Judges Ecclesiastical shall enquire upon Oath, whether the Party had *Bona notabilia*,

Forasmuch as many heretofore have been by Apparitors, both of the inferiour Courts, and of the Courts of the Archbishops Prerogatives, much distracted, and diversly called and summoned for Probate of Wills, or to take Administrations of the Goods of Persons dying Intestate, and are thereby vexed and grieved with many causeless and unnecessary troubles, molestations and expences: We constitute and appoint; That all Chancellors, Commissaries or Officials, or any other exercising Ecclesiastical Jurisdiction whatsoever, shall at the first, charge with an Oath all persons called, or voluntarily appearing before them for the Probate of any Will, or the Administration of any Goods, whether they know, or (moved by any special inducement) do firmly believe, that the Party deceased (whose Testament or Goods depend now in question) had, at the time of his or her death, any Goods or good Debts in any other Diocese or Diocesses, or peculiar Jurisdiction within that Province, than in that wherein the said Party died, amounting to the value of five pounds. And if the said person cited, or voluntarily appearing before him, shall upon his Oath affirm, that he knoweth or (as aforesaid) firmly believeth, that the said Party deceased had Goods or good Debts in any other Diocese or Diocesses, or peculiar Jurisdiction within the said Province, to the value aforesaid, and particularly specifie and declare the same, then shall he presently dismiss him, not presuming to intermeddle with the Probate of the said Will, or to grant Administration of the Goods of the Party so dying Intestate. Neither shall he require or exact any other Charges of the said Parties, more than such only as are due for the Citation, and other Process had and used against the said Parties, upon their further Contumacy; but shall openly and plainly declare and profess, that the said Cause belongeth to the Prerogative of the Archbishop of that Province; willing and admonishing the Party to prove the said Will, or require Administration of the said Goods, in the Court of the said Prerogative, and to exhibit before him the said Judge the Probate or Administration under the Seal of the Prerogative, within forty days next following. And if any Chancellor, Commissary, Official or other exercising Ecclesiastical Jurisdiction whatsoever, or any their Register, shall offend herein, let him be *ipso facto* suspended from the execution of his Office, not to be absolved or released until he have restored to the Party all Expences by him laid out contrary to the tenor of the Premises: and every such Probate of any Testament, or Administration of Goods so granted, shall be held void and frustrate to all effects of the Law whatsoever.

--- and if he had, the Inferiour Court shall presently dismiss him,

and admonish him to prove the Will in the Prerogative Court.

Ecclesiastical Judges, &c. offending herein, shall be suspended.

Inferiour Registers shall certify

Furthermore, we charge and enjoyn, That the Register of every inferiour Judge do, without all difficulty or delay, certify and inform the Apparitor of the

[ Inferiour Courts.] A like Mischiefe for which no legal Remedy is provided, may be reckoned, the Citation of Executors, where there is a concurrent Jurisdiction: wherein, for the ease of the Subject, the Canons of 1640. ordained, That in such

places, no Executor should be cited into any Court or Office for the space of ten days after the death of the Testator; but that it should be lawful for any Executor to prove such Wills, within the ten days.

Cap. 15.

Can. 51.

Prerogative



Prerogative of the Archbishops.

Prerogative Court, repairing unto him once a Month, and no oftner, what Executors or Administrators have been by his said Judge for the Incompetency of his own Jurisdiction, dismissed to the said Prerogative Court within the Month next before; under pain of a Month's Suspension from the exercise of his Office for every default therein. Provided, that this Canon or any thing therein contained, be not prejudicial to any Composition between the Archbishop and any Bishop, or other Ordinary, nor to any inferiour Judge that shall grant any Probate of Testament or Administration of Goods to any Party that shall voluntarily desire it, both out of the said inferiour Court, and also out of the Prerogative. Provided likewise, that if any Man die in itinere, the Goods that he hath about him at that present, shall not cause his Testament or Administration to be liable unto the Prerogative Court.

xciii. The rate of Bona notabilia liable to the Prerogative Court.

Furthermore, we decree and ordain, That no Judge of the Archbishops Prerogative shall henceforward Cite, or cause to be Cited ex Officio any Person whatsoever to any of the aforesaid Intents, unless he have knowledge that the Party deceased was at the time of his death possessed of Goods and Chattels in some other Diocess or Diocesses, or peculiar Jurisdiction within that Province, than in that wherein he died, amounting to the value of u five Pounds at the least: Decreeing and declaring, that whoso hath not Goods w in divers Diocesses to the said sum or value, shall not be accounted to have bona notabilia. Always provided, that this Clause here, and in the former Constitution mentioned, shall not prejudice those Diocesses where by Composition or Custom bona notabilia are rated at a x greater sum. And if any Judge of the Prerogative Court, or any his Surrogate, or his Register or Apparitor, shall cite, or cause any Person to be cited into his Court contrary to the tenor of the premisses, he shall restore to the party so cited all his Costs and Charges, and the Acts and Proceedings in that behalf shall be y held void and frustrate. Which Expences, if

Abridgment. the Prerogative, who have been dismissed. This Canon shall not be prejudicial to Compositions between the Archbishop and any other Bishop, nor to Probates in both Courts at the request of the Party. Goods found about a Person may be Bona notabilia.

Prerogative Court shall not cite, ex Officio, any who had not 5l. in another Diocese,

--- and nothing under, shall be accounted bonanotabilia;

---wherein if any Judge do offend he shall restore all Costs, and the Acts shall be void.

u [Five Pounds.] The reason of this is laid down by Lyndwood, as follows: Non solum secundum rationem, sed secundum Jura, & Sanctorum Patrum Constitutiones, in hac parte editas, Bona illa non possunt dici Notabilia, quibus habitis nihilominus remanet Homo, Pauper: sed habens in bonis minus centum Solidis sterlingorum dicitur Pauper: Ergo, habens in bonis minus centum Solidis sterlingorum non dicitur habere Bona Notabilia. Accordingly, by 25 H.8.c.5. nothing is to be taken for Administration, unless the Goods of the Person deceased, amount to above the value or sum of 100 Shillings.

w [Divers Diocesses.] There are several other Cases, wherein no written Law hath made Provision; in which therefore we must attend to the Declarations of the Common-Law; As,

1 Where one dies possessed of Goods in London and Dublin: in that case, the Resolution seems to have been, that the Archbishop of Canterbury, by his Prerogative, was to grant Administration for the Goods in London; and the Archbishop of Dublin, for those in Dublin.

2. Where one dies possessed of Goods in both the Provinces of Canterbury and York: Concerning which it was said by Anderson, in the Case of Byron and Byron, That if one dies who hath Goods in divers Dioceses in both Provinces, there Canterbury shall have the Prerogative; otherwise, there would be two Administrations committed, which is res inaudita. But yet the later Judgments have been (in conformity to the forementioned Case of England and Ireland,) that clearly, there are, in that Case to be two Administrations; and that Administrations granted in one Province, is void as to Goods in another, because

there are distinct Supreme Jurisdictions.

3. Where one dies possessed of Goods in the Diocess of an Archbishop, and in a Peculiar of the same Diocess; as it was in the Case of Price and Simpson: here also the Court declared, that there were to be two several Administrations; and that the Archbishop could have no Prerogative, because the Peculiar was first derived out of his Jurisdiction.

4. Where one dies possessed of Goods in several Peculiars within the same Diocess: in that case, Administration shall not be granted by the Bishop of the Diocess, but by the Metropolitan, inasmuch as they are exempt from Ordinary Jurisdiction.

x [Greater Sums.] One of the Sums mentioned by Lyndwood, under which nothing should be reputed Bona notabilia, is 23l. 3s. 0d 1/4 q. And Plowden fixes the Sum at 10l; of which Swinburn saith, That it seemed to him to be the Opinion most commonly received.

y [Held Void.] In the Case of Smith and Bingham, it was declared, that Administration committed by the Archbishop, ratione Prærogativæ, to one who did not die possessed of Goods in divers Dioceses, was merely void; which Declaration was repeated Temp. Car. 2. in the Case of Turner and Vausdal: But the more current Doctrine is, that such Administrations are not void (like those granted by a Bishop, where are Bona Notabilia,) but only voidable by Sentence, because the Metropolitan hath Jurisdiction over all the Diocesses in his Province; whereas a Bishop can, by no means, have Jurisdiction in another Diocess.

1 Cor. 719.

1. Lev. p. 78.

Lynd. Test. c. Stat.

Fol. 281.

Fol. 222.

3. Keble, 262  
1. Cro. 457.  
5. Rep. 30.  
2. Keble, 726

De Tell. c. Stat.

Dallif. 76.  
4. Elix.

Cro. 472.

1. Lev. p. 86.  
Hardres, 216.



Abridgment.

the said Judge or Register, or Apparitor, shall refuse accordingly to pay, he shall be suspended from the Exercise of his Office, until he yield to the performance thereof.

Prerogative of the Archbishops. A.D. 1705.

4, 5 Annæ, Cap. 16.

In an Act, Entituled, *An Act for the Amendment of the Law.*

Administration of Workmen in Yards and Docks, dying Intestate, shall be granted, in the Diocese they die in,

And whereas great Trouble and Expence is frequently occasioned to the Widows and Orphans of Persons dying Intestate to Wives or Wages due for Work done in her Majesties Yards and Docks, by Disputes happening about the Authority of granting Probate of the Wills, and Letters of Administration of the Goods and Chattels of such Persons: and for preventing such unnecessary Trouble and Expence: Be it therefore Enacted by the Authority aforesaid, That the Power of granting Probats of the Wills, and Letters of Administration of the Goods and Chattels of such Person and Persons respectively, is, and is hereby Declared to be in the Ordinary of the Diocese, or such other Persons, to whom the Ordinary Power of Probate of Wills, or granting Letters of Administration do belong, where such Person and Persons shall respectively Dye; And that the Salary, Wages or Pay due to such Person or Persons from the Queens Majesty, Her Heirs or Successors, for Work done in any of the Yards or Docks, shall not be taken or deemed to be Bona notabilia, whereby to found the Jurisdiction of the Prerogative Court.

— and Wages for work done, shall not be accounted Bona notabilia.

C A P. V.

FRAUDULENT DEVICES.

JOHANNES STRATFORD.

A.D. 1342. 16 Edw. 3.

*Donationes in fraudem Ecclesiæ, Regis, Creditorum, aut Heredum factæ, adimant ipsis sua Jura; sed ad eas cohortantes, consulentes, aut opem dantes, majori Excommunicatione feriuntur ipso facto. Donantes verò Ecclesiasticâ careant sepulturâ, nec exigatur fraudis omnimoda probatio, cum satis sit verisimilis præsumptio.*

Edit. Oxon. p. 161.

All who shall give away or alienate their Goods upon their Deathbeds, to defeat the Creditors, &c.

**C**ordis dolore concutimur, & infra. Præsentis deliberatione Concilii, omnes & singulos in nostra Provincia, qui mortis vicinæ conjecturam verisimilem obrinentes, ex malitia sive fraude universa bona seu quantitatem eorum tam notabilem etiam inter vivos Donare, seu aliter Alienare præsumperint, sic quod & Ecclesia, a Rex, (sive alii Creditores, quibus sic donantes sive alienantes efficaciter tenebantur) suis Juribus, Uxoribusve seu liberi eorundem suis portionibus de consuetudine vel de jure ipsis debitis, b irrecuperabiliter defraudantur: assistentes insuper languentibus in extremis, & aliis hujusmodi donationes seu alienationes fieri consulentes, & temerè procurantes, ipsosque languentes, & alios, consiliis aut suasionibus perversis à voluntate testandi nequiter avertententes, ex quibus liberam Testamenti factionem impediri, Ecclesias, & alios supradictos, suo jure non ambigitur malitiosè privari; dictæque fraudis sive malitiæ conscios, ac sic Donata sive Alienata recipientes, & ad hoc consilium dantes, auxilium vel favorem, majoris Excommunicationis sententiam incurrere volumus ipso facto. Donantes insuper bona sua hujusmodi in ipsa Provincia,

Fraudulent Devices.

— or their Wives and Children, — and all who shall counsel, assist, or receive,

— shall incur the greater Excommunication; and

a Ecclesia.] Quia per tales Donationes subtrahitur onus Reparationis Cancellorum, Mansorum, &c. Lyndw.

a Rex.] In Collectis, Tributis, Censibus, &c. Lyndw.

b Irrecuperabiliter.] Quia, scil. Donatio

perfecta est & consummata, & sic secundum Jura vel Consuetudines Regni non dantur super talibus Donationibus vel Alienationibus Actiones revocatoria; cum tamen de Jure Civili contrarium observetur. Lyndw.

37. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100.

aut



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aut ea taliter Alienantes, propter sui gravitatem excessus non obstante quacunque Absolutione impensa à prædicta sententia, Ecclesiasticâ careant sepulturâ. Cæterum, nè probationis fraudis & malitiæ in hac parte difficultas hanc provisionem reddat inutilem; Statuimus, quod quotiescunque aliqui dictæ Provinciæ bona sua omnia, sicut præfertur, donaverint, aut alias quovis titulo alienaverint, seu in quantitate tam notabili quod appareat de residuo Ecclesiis vel Creditoribus aliis de suis debitis, uxoribus & liberis de suis portionibus prædictis, non posse satisfieri sicut decet, Donatio seu Alienatio hujusmodi per malitiam sive fraudem eo ipso fieri censeatur, malitiæ sive fraudis probatione ulteriori minimè requisita.

A.D. 1691.

3, 4 Will. & Mar. Cap. 14.

*An Act to relieve Creditors against Fraudulent Devises.*

I. **W**hereas it is not reasonable or just, that by the practice or contrivance of any Debtors, their Creditors should be defrauded of their just Debts: And nevertheless it hath often so happened that where several persons having by Bonds or other Specialties bound themselves and their Heirs, and have afterwards died seized in fee-simple of and in Mannors, Messuages, Lands, Tenements and Hereditaments, or had power or authority to dispose of or charge the same by their Wills or Testaments, have (to the defrauding of such their Creditors by their last Wills or Testaments) devised the same, or disposed thereof in such manner, as such Creditors have lost their said Debts.

II. For remedying of which, and for the maintenance of just and upright Dealing, Be it Enacted and Declared by the King and Queens most excellent Majesties, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the Authority of the same, That all Wills and Testaments, Limitations, Dispositions or Appointments, of or concerning any Mannors, Messuages, Lands, Tenements or Hereditaments, or of any Rent, Profit, Term or Charge out of the same, whereof any person or persons, at the time of his, her or their decease, shall be seized in fee-simple in Possession, Reversion or Remainder, or have power to dispose of the same by his her or their last Wills or Testaments, to be made after the five and twentieth day of March, in the year of our Lord God, One thousand six hundred ninety and two, shall be deemed and taken (only as against such Creditor or Creditors, as aforesaid, his, her and their Heirs, Successors, Executors, Administrators and Assigns, and every of them) to be fraudulent, and clearly, absolutely and utterly void, frustrate and of none effect; (any pretence, colour, feigned or presumed Consideration, or any other matter or thing to the contrary notwithstanding.)

III. And for the means that such Creditors may be enabled to recover their said Debts, be it further Enacted by the Authority aforesaid, That in the Cases before-mentioned, every such Creditor shall and may have and maintain his, her and their Action and Actions of Debt, upon his, her and their said Bonds and Specialties, against the Heir and Heirs at Law of such Obligor or Obligors, and such Debitor and Debtors jointly by virtue of this Act; And such Debitor or Debtors shall be liable and chargeable for a false Plea by him or them pleaded, in the same manner, as any Heir should have been for any false Plea by him pleaded, or for not confessing the Lands or Tenements to him descended.

IV. Provided always, and be it enacted by the Authority aforesaid That where there hath been or shall be any Limitation or Appointment Devise or Disposition, of or concerning any Mannors, Messuages, Lands, Tenements or Hereditaments, for the raising or payment of any real and just Debt or Debts, or any Portion or Portions, Sum or Sums of Money for any Child or Children of any person, other than the Heir at Law, according to, or in pursuance of any Marriage-Contract or Agreement in Writing bona fide, made before such Marriage; the same and every of them shall be in full force; And the same Mannors, Messuages, Lands, Tenements and Hereditaments, shall and may be holden and enjoyed by every such person or persons, his, her and their Heirs, Executors, Administrators and Assigns, for whom the said Limitation, Appointment, Devise,

Abrdgment.

the Giver shall not have Christian Burial.

No other Proof shall be required, that the Gift or Alienation was malicious or fraudulent, but that enough doth not remain, for the purposes aforesaid.

It being unjust, Creditors should be defeated by fraudulent Devises,

Enacted, that, all such fraudulent Wills shall be void, as against the Creditors,

who shall maintain their Action against the Devisee.

Proviso for Settlements of Lands by Marriage-Contracts, to stand,



Abridgment.

The Heir at Law, altho' he sell the Lands, shall be liable to the Debts, of his Ancestor;

--as if they were his own proper Debts;

-- but upon an Action of Debt he may plead *Riens per descent*,

-- and the Plaintiff reply, that he had Lands, &c. before the Writ brought,

--- and if he had, judgment shall be given accordingly.

Every Devisee, by this Act, shall be chargeable as Heir at Law, notwithstanding Alienation.

This Act shall continue 3 years.

The foregoing Act shall be perpetual.

Devise, or Disposition was made, and by his, her or their Trustee or Trustees, his, her and their Heirs, Executors, Administrators and Assigns, for such Estate or Interest as shall be so limited or appointed, devised or disposed, until such Debt or Debts, Portion or Portions, shall be raised, paid and satisfied; any thing in this Act contained to the contrary notwithstanding.

V. And whereas several persons being Heirs at Law, to avoid the payment of such just Debts, as in regard of the Lands, Tenements and Hereditaments descending to them, they have by Law been liable to pay, have sold, aliened or made over such Lands, Tenements or Hereditaments, before any Process was or could be issued out against them: Be it further Enacted by the Authority aforesaid, That in all cases where any Heir at Law shall be liable to pay the Debt of his Ancestor in regard of any Lands, Tenements or Hereditaments, descending unto him, and shall sell, alien or make over the same, before any Action brought, or Process sued out against him, that such Heir at Law shall be answerable for such Debt or Debts, in an Action or Actions of Debt, to the value of the said Land so by him sold, aliened or made over; in which Cases all Creditors shall be preferred, as in Actions against Executors and Administrators, and such Execution shall be taken out upon any judgment or judgments so obtained against such Heir, to the value of the said Lands, as if the same were his own proper Debt or Debts; saving that the Lands, Tenements, and Hereditaments (bona fide) aliened before the Action brought, shall not be liable to such Execution.

VI. Provided always, and be it further Enacted by the Authority aforesaid, That where any Action of Debt upon any Specialty is brought against any Heir, he may plead *Riens per descent* at the time of the original Writ brought, or the Bill filed against him: Any thing herein contained to the contrary notwithstanding; and the Plaintiff in such Action may reply, that he had Lands, Tenements, or Hereditaments from his Ancestor before the original Writ brought or Bill filed, and if upon issue joyned thereupon, it be found for the Plaintiff, the Jury shall enquire of the value of the Lands, Tenements, or Hereditaments so descended, and thereupon Judgment shall be given, and Execution shall be awarded, as aforesaid; but if judgment be given against such Heir, by confession of the Action, without confessing the Assets descended, or upon Demurrer, or *Nihil dicit*, it shall be for the Debt and Damages, without any Writ to enquire of the Lands, Tenements, or Hereditaments so descended.

VII. Provided also, and be it further Enacted, That all and every Devisee and Devisees, made liable by this Act, shall be liable and chargeable in the same manner as the Heir at Law by force of this Act, notwithstanding the Lands, Tenements, and Hereditaments to him or them devised, shall be aliened before the Action brought.

Provided always, That this Act shall be in force for three years, and to the end of the next Session of Parliament, after the expiration of the said three years, and no longer.

6, 7 Will. III. Cap. 14.

A.D. 1694.

In an Act, Entituled, *An Act for continuing several Laws therein mentioned.*

II. And be it further enacted by the Authority aforesaid, That an Act made in the Third and Fourth Years of the Reign of the said King and Queen, Intituled, *An Act for Relief of Creditors against Fraudulent Devises*, which was to Continue and be in force for Three Years, and to the end of the next Session of Parliament, after the Expiration of the said Three Years, and no longer, shall be, and is hereby Continued, and shall be in force, and be made Perpetual.

CAP.

Fraudulent Devises.



C A P. VI.

Wills in the Province of YORK.

4, 5 Will. & Mar. Cap. 6.

An Act, That the Inhabitants of the Province of York may dispose of their Personal Estates by their Wills, notwithstanding the Custom of that Province.

Whereas by Custom within the Province of York, or other Usage, the Widows and younger Children of persons dying Inhabitants of that Province, are Intituled to a part of the Goods and Chattels of their late Husbands and Fathers, (called her and their reasonable part) notwithstanding any disposition of the same by their Husbands and Fathers last Wills and Testaments, and notwithstanding any Jointures made for the Libelihood of the said Widows by their Husbands in their Life time, which are Competent, and according to Agreement, whereby many persons are disabled from making sufficient Provision for their younger Children.

II. For Remedy whereof, Be it Enacted by the King and Queens most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the Authority of the same, That from and after the Six and twentieth day of March, One thousand six hundred ninety three, It shall and may be lawful for any person or persons, inhabiting or residing, or who shall have any Goods or Chattels within the Province of York, by their last Wills and Testaments, to give, bequeath and dispose of all and singular their Goods, Chattels, Debts, and other Personal Estate to their Executor or Executors, or to such other person or persons as the said Testator or Testators shall think fit, in as large and ample manner as by the Laws and Statutes of this Realm any person or persons may give and dispose of the same within the Province of Canterbury, or elsewhere: And that from and after the said Six and twentieth day of March, One thousand six hundred ninety and three, the Widows, Children, and other the kindred of such Testator or Testators shall be barred to claim or demand any part of the Goods, Chattels, or other Personal Estate of such Testator or Testators, in any other manner than as by the said last Wills and Testaments is limited and appointed: Any Law, Statute or Usage to the contrary in any wise notwithstanding.

III. Provided always, That nothing in this Act contained shall extend, or be construed to extend to the Citizens of the Cities of York and Chester, who are or shall be freemen of the said respective Cities, inhabiting therein, or within the Suburbs thereof, at the time of their Death, but that every such Citizen's Widow and Children shall and may have and enjoy such reasonable part and proportion of the Testator's Personal Estate, as she or they might or ought to have had by the Custom of the Province of York, before the making of this Act.

Reasonable part.] Which is thus described by *Bracton* and *Fleta*: " Post debita deducta, & post deductionem Expensarum quæ necessariæ erunt, id totum quod tunc superfuerit, dividatur in tres partes; quarum una pars relinquatur Pueris, si Pueros habuerit defunctus; secunda Uxori, si superstes fuerit; & de tertiâ parte habeat Testator liberam disponendi facultatem. Si autem liberos non habeat, tunc medietas defuncto, & alia medietas uxori reservetur: Si autem sine uxore decesserit, liberis existen-

tibus, tunc medietas defuncto, & alia medietas liberis tribuatur. In pursuance of this customary Right, two ancient Writs were provided in the Register; one for the Wife, and the other for the Children; to which a bare reference may be sufficient, since the said Right is so far abolished. And it is now little more than matter of Speculation, what we find in *Magna Charta* it self; That if nothing be owing unto the King, then all the Chattels shall go to the use of the dead, saving to his Wife and Children their reasonable Parts.

The Claim of Widows, &c. (notwithstanding a Will to the contrary, and other Provision) being inconvenient.

Enacted that, Persons in the Province of York, may dispose of all their Goods and Chattels by Will, as in the Province of Canterbury,

-and no Widow, &c shall demand any part thereof, but as limited by the Will.

This Act shall not extend to the Cities of York and Chester.

Reg'lr. f. 34<sup>o</sup>. b.

Cap. 18.

A.D. 1692.

Wills in the Province of York.

Bract. l. 2. c. 26. Fleta, l. 2. c. 57.



Abridgment.

2, 3 Annæ. Cap. 5.

*An Act to Repeal a Proviso in an Act of the Fourth Year of the Reign of King William and Queen Mary, which prevents the Citizens of the City of York from Disposing of their Personal Estates by their Wills, as others Inhabiting within the Province of York, by that Act may do.*

*Wills in  
the Pro-  
vince of  
York.*  
A.D. 1702

Recital of the foregoing Proviso for the City of York,

...who have petitioned, that the said Proviso be repealed,

-- it shall be, and is, accordingly repealed,

--and all Persons, in the City of York, may dispose of all their Goods and Chattels by Will;

--and no Widow shall demand any part thereof but as Limited by the Will.

This Act shall be a Publick Act.

Whereas by an Act Made and Passed in the Fourth Year of the Reign of their late Majesties King William and Queen Mary, Intituled, An Act that the Inhabitants of the Province of York may Dispose of their Personal Estates by their Wills, notwithstanding the Custom of that Province: In which Act there is a Proviso, That nothing in the said Act contained should extend or be construed to extend to the Citizens of the Cities of York and Chester, who were, or should be freemen of the said respective Cities inhabiting therein, or within the Suburbs thereof, at the time of their Death: But that every such Citizen's Widow and Children should, and might have and enjoy such reasonable Part and Proportion of the Testator's Personal Estate as she, or they might or ought to have had by the Custom of the Province of York, before the making of the said Act: And whereas notwithstanding, the Mayor and Commonalty on behalf of the Inhabitants of the said City of York, have humbly desired, That the said Proviso may be Repealed, so that the freemen of the said City may have the Benefit of the said Act of Parliament, as well as all other Persons inhabiting within the said Province; Be it therefore Enacted by the Queens most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament Assembled, and by the Authority of the same, That from and after the Six and twentieth Day of March, in the Year of our Lord, One thousand seven hundred and four, the said Proviso, so far as the same concerns the Citizens of the City of York, shall be Repealed and is hereby Repealed, and made Null and Void; so that from henceforth it shall and may be lawful for all and every the Citizens of the said City of York, who are or shall be freemen of the said City inhabiting therein, or within the Suburbs thereof, at the time of their Death, by their last Wills and Testaments, to give, bequeath, and dispose of their Goods, Chattels, Debts and other Personal Estates, to their Executor or Executors, or to such other Person or Persons as the said Testator or Testators shall think fit, as any other Person or Persons inhabiting or residing within the said Province of York, may lawfully do by Virtue of the said Act: And that from and after the said Six and twentieth Day of March, the Widows, Children, and other Kindred of such Testator or Testators, shall be barred to claim or demand any Part of the Goods, Chattels, or other Personal Estate of the Testator or Testators, in any other manner than as by the said last Wills and Testaments is limited and appointed; Any thing in the said Act, or any other Law, Statute or Usage to the contrary in any wise notwithstanding.

II. Provided, and be it Enacted, That this Act shall be Taken and Allowed in all Courts within this Kingdom as a Publick Act; and all Judges and Justices are required as such to take Notice thereof, without special Pleading the same.

C A P.



C A P. VII.

Wills in WALES

7, 8 Will. III. Cap. 38.

An Act to take away the Custom of Wales, which hinders Persons from disposing their Personal Estates by their Wills.

A.D. 1696.

Wills in Wales.

Whereas in several Counties and places within the Principality of Wales, and Marches thereof, the Widows and younger Children of persons dying Inhabitants therein, have often claimed, and pretended to be intituled to a part of the Goods and Chattels of their late Husbands or Fathers, called her and their reasonable part, by virtue or colour of a Custom or other Usage within the said Principality and Marches thereof, notwithstanding any disposition of the same by their Husbands and Fathers last Wills and Testaments, or by Died in their lites time, and notwithstanding a competent Joynture, according to the Agreement made for the liveryhood of the said Widows by their Husbands, which have often occasioned great Troubles, Disputes and Expences about and concerning such Custom and Usage, whereby many persons have ben and are disabled from making sufficient Provision for their Families, younger Children and Relations, and great Disputes, Troubles and Expences have often happened concerning the same, to the great Damage or Ruin of many: For Remedy whereof, and for preventing all Questions, Doubts and Difficulties for the future, touching the said Custom and Usage, Be it Enacted by the Kings most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament Assembled, and by the Authority of the same, That from and after the Twenty fourth day of June, One thousand six hundred ninety six, it shall and may be lawful for any person or persons, inhabiting or residing, or who shall have any Goods, or Chattels within the Principality of Wales or Marches thereof, by their last Wills and Testaments to give, bequeath and dispose of all and singular their Goods, Chattels, Debts, and other Personal Estate, to their Executor or Executors, or to such other person or persons as the said Testator or Testators shall think fit, in as large and ample manner as by the Laws and Statutes of this Realm any person or persons may give and dispose of the same, within any other part of the Province of Canterbury or elsewhere; And that from and after the said Twenty fourth day of June, One thousand six hundred ninety and six, the Widows, Children and other the Kindred of such Testator or Testators, shall be barred to claim or demand any part of the Goods, Chattels or other Personal Estate of such Testator or Testators, in any other manner than as by the said last Wills and Testaments is limited and appointed; any Law, Statute, Custom or Usage to the contrary in any wise notwithstanding.

II. Provided always, That nothing in this Act contained shall extend to take away any Right or Title, which any Woman now married, or younger Children now born, may have to the reasonable part of their Husbands or Fathers Estate, by virtue or colour of the said Custom or Usage.

The Custom of Widows Right, &c. in Wales,

---being the occasion of great Disputes and Expences,

Enacted that, ---all Persons in Wales may dispose of all their Goods and Chattels by Will;

---and no Widows, &c. shall demand any part thereof, but as limited by the Will.

Proviso, for Women now married, and Children now born.



Abridgment.

C A P. VIII.
INTESTATES and ADMINISTRATION.

O T H O B O N.

De Bonis Intestatorum.

Summarium.

Intestatorum Bona, per provisionem à Prælati Angliæ cum Regis & Baronum approbatione ordinatam, in pios usus convertenda, Prælati contra dictam provisionem recipere vel occupare nequaquam præsumant.

A.D. 1268. 52 H. 3.

Edit. Oxon. p. 121.

Intestates and Administration

The Defect of last Wills, by reason of sudden Death, -- is supply'd by the Piety of Survivors, -- who shall act, in the case of Intestates, according to the Provision solemnly made.

CUM mortis incerta præoccupatio sæpe sic anticipet ultimi arbitrii Voluntatem, ut conficiendi Testamenti vel extremæ dispositionis adimat vitæ decifio facultatem; agit humana pietas misericorditer in defunctum, cum res Temporales, quæ illius fuerant, per distributionem in pios usus ipsum juvando sequuntur, & coram cœlesti Judice pro ipso propitiabiliter intercedunt.

Proinde super Bonis decedentium à ab intestato, † provisionem, quæ olim Prælati Regni Angliæ cum approbatione Regis & Baronum † dicitur emanasse, firmiter approbantes, districtè Inhibemus, nè Prælati vel alii quicunque Bona intestatorum hujusmodi quocunque modo recipiant, vel occupent contra provisionem prædictam.

† 13 Edw. 1. J. de Athon: male. † Quere. an unquam reverè emanarit.

Ab Intestato.] Intestatus decedit, nedum qui Testamentum non fecit, sed ex cujus Testamento hæreditas adita non est, nec alius Testamentarius qui ultimam defuncti voluntatem exequatur ex ipsius judicio. J. de Athon.

Intestatus dicitur, qui cum potuit, nullum fecit Testamentum, Item, qui fecit Testamentum, sed ejus hæreditas adita non est, vel

aliis ipsum Testamentum postea est irritum, sive ruptum. — Et nota, quod etiam Pupilus, & alii qui non possunt condere Testamenta, juxta communem usum loquendi dicuntur Intestati, si tales moriantur. Unde ubi Statutum concedit Ordinario Administrationem Bonorum ab Intestato decedentium, habebit Ordinarius Administrationem Bonorum taliter decedentium.

Ibid. v. Ab Intest.

Lyndw. de Test. c. Stat. v. Intest.

13 Edw. I. Cap. 19.

A.D. 1285.

The Ordinary chargeable to pay Debts as Executors.

The Ordinary shall pay the debts of the Intestates, as

Whereas after the Death of a person dying intestate, which is he bounden to some other for Debt, the Goods of come to the Ordinary to be disposed. The Ordinary from henceforth shall be

2. Inst. 397.

Ibid.

Bounden.] This is not only intended of an Obligation or Deed in writing; but howsoever he was charged in Law, as for Rent upon a Lease, or upon an Assumpsit, or the like.

Of Come to the Ordinary.] Unless some of the Goods or Chattels came to the hands and possession of the Ordinary, he was not to be charged by the Common Law; but if they came to his hands, and he would neither administer and pay the Debt and Duties himself, nor commit them over to the kin and Friends of the Intestate that would, the Common Law doth charge him, and so doth this Act which is made in affirmance of it.

Ordinary.] That is, not only the Bishop, but every one that is in loco Episcopi, in this matter of taking care and cognifance of the Goods of Intestates; as, Archdeacon, Chancellor, Commissary, Official, and those who have Peculiar Jurisdiction. Some of whom having, from time to time, accidentally omitted their Title or Stile of

Jurisdiction in the Letters of Administration by them granted, have occasioned various Contests in the Courts of Common Law, concerning the validity of Administrations executed in Virtue of such Letters; as the Judgments upon the Validity or Invalidity of them have been also various. The Enumeration of which, is not material; since there is one safe, short, and plain Rule (viz. the inserting in all such Letters, the Stile of Jurisdiction, as well as the Name of the Ordinary,) which being observed, is a Security for ever against all such Contests.

But Letters of Administration are not of necessity to be granted within the limits of the Jurisdiction; the granting thereof being not a Judicial, but a Ministerial (and therefore not a Local) Act; wherein the Bishop acts, as a Person designed and appointed by the Law.

From henceforth.] It is observed in Shower's Reports, that these words imply the Introduction of a new Law in this particular, according to my Lord Coke's Observation, that the words de catero, in Statutes, bound

Noy, 110. Godb. 342. Lutw. 535.

Show. p. 409.



Intestates and Administration.

bound to answer the Debts as far forth as the Goods of the Dead will extend, in such sort as the Executors of the same party should have been bounden, if he had made a Testament.

Abridgment. far as the Goods will extend.

2. Inst. 398. 5. Rep. f. 83. r.

do imply so much : But yet my Lord Coke himself, both in his Institutes, and Reports, declares it to be only in affirmance of the Common Law.

till several years after the Constitutions of Othobon had been published ; and yet I cannot find, what was the Provision there meant.

It is strange, how *F. de Athon*, in his Gloss upon the foregoing Constitution of *Othobon*, could make this, the Provision refer'd to ; Since this Statute was not made

;*We bound.*] Not in an Obligation ; but he shall be charged, or subject to an Action.

2. Inst. 397.

A.D. 1357.

31 Edw. III. Cap. 11.

To whom the Ordinary may commit the Administration of the Goods of him that dieth Intestate, &c.

Item, It is accorded and assented, That in case where a Man dieth Intestate, the Ordinaries *ii* shall depute the *k* next and most lawful friends of the Dead Person Intestate to administer his Goods ; which Deputies shall have an Action to demand and recover, / as Executors, the Debts due to the said person Intestate, in the King's Court, for to administer and dispend for the Soul of the Dead, and shall answer also in the King's Court to other to whom the said dead person was holden and bound, in the same manner as Executors shall answer. And they shall be accountable to the Ordinaries, as Executors be in case of Testament, as well of the time past as of the time to come.

The Person next a-kin to Intestate shall be Administrator,

---and shall recover and answer in the King's Court, ---and shall be accountable to the Ordinaries.

9. Rep. 652. b.

*ii* Shall depute.] Before this Statute, the Ordinary was not compellable to grant Administration to another, but might Administer of himself. But now, if Administration is denied to the Person who is entitled to it, a *Mandamus* will go from the Temporal Courts to grant it ; except a Controversy is depending, whether there is a Will, or not ; for then, as *Holt* said, suppose the Will should prove good, what will the granting of Administration signify ?

are not attainted of Treason, nor Felony, nor have other Disability, but are lawful friends ; and that, tho' they be Aliens-born, and not made Denizens ; as was adjudged in the 1st of *Charles* the first.

3. Cro. p. 8.

5. Mod. Rep. 375.

*k* Next and most Lawful.] Before this, the Ordinary might grant Administration to whom he pleased, but hereby he is tyed to grant it to the next of kin, who

As Executors.] At the Common Law, Administrators had no property in the Goods and Chattels, as Executors had ; nor could they recover Debts, as Executors could do ; but, by this Statute, they are enabled in both those respects : and further, whereas, by Common Law, they were charged by the Name of Executors ; now they shall be charged by the Name of Administrators.

A.D. 1529.

21 Henr. VIII. Cap. 5.

In an Act, Entituled, An Act concerning Probate of Testaments.

III. And in case any person die Intestate, or that the Executors named in any such Testaments, refuse to prove the said Testament, then the said Ordinary or other person or persons, having Authority to take Probate of Testaments, as is abovesaid, shall grant the Administration of the Goods *m* of the Testator or person deceased, *n* to the Widow

Person dying Intestate, or Executor refusing to prove, the Ordinary shall grant Administration to the next a-kin,

1. Vent. 217.

*m* Of the Testator.] *i. e.* When Executor refuses, or accepting, dies Intestate : In which case, there is one exception to the rule in this Statute, concerning the Wife or next of Kin ; namely, the *Residuary Legatee* ; who being entituled to what remains, after Debts and Legacies paid, hath the first and best Title to be Administrator of the Estate ; as was agreed in the Case of *Thomas* and *Butler*, 24 *Car.* 2.

*n* To the Widow.] The eldest Son having a Wife, died Intestate, and Administration was granted to the Father ; the Wife libel'd in the Spiritual Court, that it might be granted to her : the Father moved for a Prohibition, and the Court granted it ; because the Father is next of Blood to the Son, and it is in the Election of the Ordinary, by this Statute, to grant Administration to the Wife, or to the next of

1. Siderf. 179. Rayn. 93. 2 Show. Rep. 351.



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--and, where there are more in equality, to which he pleases.

the same person deceased, or to the next of his kin, or to both, as by the discretion of the same Ordinary shall be thought good, taking Surety of him or them, to whom he shall make such Commission, for true Administration of the Goods, Chattels and Debts, which he or they shall be so authorized to administer. And in case where divers persons claim the Administration as next of kin, which be equal in degree of kindred to the Testator or person deceased, and where any person only desireth the Administration as next of kin, where indeed divers persons be in equality of kindred, as is aforesaid, then in every such case the Ordinary to be at his election and liberty to accept any one or more, making request, where divers do require the Administration.

IV. Or where but one or more of them, and not all being in equality of degree, do make request, then the Ordinary to admit the Widow and him or them only making request, or any one of them at his pleasure; taking nothing for the same, unless the Goods of the person so deceased; amount above the value or sum of five pounds.

of Blood; and having made choice, and granted, he could not revoke it.

May, 24.

Upon this last head, of revoking Administration when granted, the Books of Common-Law do differ much. In *Took's Case temp. Jac.* 1. where the point was, Distribution of the Goods by the Ordinary; *Hubbard* said indeed, that this Statute 21 H. 8. took away the Power of the Ordinary to dispose the Goods; but own'd that he had Power left to revoke the Administration. Of the same opinion did *Coke*, Chief Justice, declare himself, (in opposition to *Foster* Justice,) That tho' the Ordinary have granted Administration to one which is next of Blood, he may repeal it; and before these, 31 & 32 Eliz. it was held by *Anderson* and *Walmsly* (*Windbam* and *Periam* doubting,) That Administration committed might be revoked, and that so it had often been.

2. Brownl. 119.

3. Cro 63.

Raym. 93. 1. Siderf. 372.

1. Lev. 158.

1. Siderf. 373.

On the other hand, it was said by *Hutton* (2 Car. 1.) That Administration being duly committed by the Ordinary, cannot now be repealed, and if there be Suit to have it repealed, a Prohibition lies; and he said, that divers Prohibitions in such cases had been granted. The same thing hath been declared more than once by the Court of King's Bench; as 15, 16 Car. 2. in the Case of *Sands*, and 20 Car. 2. in the Case of *Offly* and *Best*.

But between these two, (*viz.* 16, 17 Car. 2. in the Case of *Price* and *Parker*;) it was explained to be an Inability of Revocation, unless there was just cause, of which the Temporal Courts were to judge; as, if the Administrators should become Lunatick, and the like; which Declaration was repeated in the forementioned Case of *Offly* and *Best*; with this additional Declaration, That if the next of kin, at the time of the death of the Intestate, happen to be incapable of Administring, by reason of Attaint, or Excommunication, and the Ordinary com-

mits it to another; if he afterwards becomes capable, he may repeal the first, and commit it to the next of kin.

The same thing is much more to be said, where the Administration was undue *ab initio*; whether as granted to other than the next of kin; or granted by an incompetent Authority; or in an irregular manner, as *partibus jure vocandis minimè vocatis*, &c. Whether Administration granted, after *Caveat* enter'd, is revocable for that cause; was debated in the Court of King's Bench, 18 Car. 2; where two of the Justices held that it was good cause of Revocation, comparing it to a *Supersedeas* in the Common Law, after which, if Judgment be given, it is erroneous. But the other two held, that it was of no force to hinder the granting of Administration; not being a judicial Act of Court, but only the Entry of a Memorandum, by the Clerk in Court.

1. Lev. p. 305. Hest. 48.

1. Lev. 186.

Together with the Power of Revoking and Repealing Administrations; may be mentioned Administrations, which die, and expire of themselves; As,

1. *Durante minore etate Executoris*; who cannot sell Goods, but for Payment of Debts, or *bona peritura*; whose Power ceases, as soon as the Executor is 17 years of age; and which may be revoked before.

5. Rep. 29. a, b. 1. Cro. 622. 3. Cro. 516. Brownl. 31.

2. Administration, *durante Absentia extra regnum*; which, whether it was a warrantable Administration, was debated in the Court of King's Bench, 2. Will. & Mar. and adjudged that it was, and that no Exception lay against it, but what would hold equally against Administration *durante minore etate*, which is unexceptionable.

4. Mod. Rep. p. 14.

3. Administration *pendente lite*, or if there be no Controversy, till the Executor comes in; which, as well as the two former heads, are out of this Statute, and, like those, fall of course, as soon as the Consideration ceases, upon which they were first granted.

22, 23 Car. II. Cap. 10.

A.D. 1670.

An Act for the better Settling of Intestates Estates.

Upon granting of Administration, the Ordinary shall take a Bond,

BE it Enacted by the King's most excellent Majesty, with the Advice and Consent of the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, and by the Authority of the same, That all Ordinaries, as well the Judges of the Prerogative



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nistration.*

Prerogative Courts of Canterbury and York for the time being, as all other Ordinaries, and Ecclesiastical Judges, and every of them, having power to commit Administration of the Goods of persons dying Intestate, shall and may upon their respective granting and committing of Administrations of the Goods of persons dying Intestate, after the first day of June, One thousand six hundred seventy and one, of the respective person or persons to whom any Administration is to be committed, take sufficient Bonds with two or more able Sureties, respect being had to the value of the Estate, in the same of the Ordinary, with the Condition in form and manner following, mutatis mutandis, viz.

II. THE Condition of this Obligation is such, That if the within bounden *A. B.* Administrator of all and singular the Goods, Chattels and Credits of *C. D.* deceased, do make, or cause to be made, a true and perfect Inventory of all and singular the Goods, Chattels and Credits of the said Deceased, which have or shall come to the Hands, Possession or Knowledge of him the said *A. B.* or into the Hands and Possession of any other person or persons for him, and the same so made, do exhibit, or cause to be exhibited into the Registry of \_\_\_\_\_ Court, at or before the \_\_\_\_\_ day of \_\_\_\_\_ next ensuing; And the same Goods, Chattels and Credits, and all other the Goods, Chattels and Credits of the said Deceased at the time of his Death, which at any time after shall come to the Hands or Possession of the said *A. B.* or into the Hands and Possession of any other person or persons for him, do well and truly administer according to Law; And farther do make or cause to be made, a true and just account of his said Administration, at or before the \_\_\_\_\_ day of \_\_\_\_\_. And all the rest and residue of the said Goods, Chattels, and Credits which shall be found remaining upon the said Administrators Account, the same being first examined and allowed of by the Judge or Judges for the time being, of the said Court, shall deliver and pay unto such person or persons respectively, as the said Judge or Judges, by his or their Decree or Sentence, pursuant to the true intent and meaning of this Act, shall limit and appoint.

And if it shall hereafter appear, That any last Will and Testament was made by the said Deceased, and the Executor or Executors therein named do exhibit the same into the said Court, making request to have it allowed and approved accordingly, if the said *A. B.* within bounden being thereunto required, do render and deliver the said Letters of Administration (Approbation of such Testament being first had and made) in the said Court; Then this Obligation to be void and of none effect, or else to remain in full Force and Virtue.

III. Which Bonds are hereby declared and enacted to be good to all intents and purposes, and pleadable in any Courts of Justice; And also that the said Ordinaries, and Judges respectively, shall and may, and are enabled to proceed and call such Administrators to account, for and touching the Goods of any person dying Intestate, and upon hearing and due Consideration thereof, to order and make just and equal Distribution of what remaineth clear (after all Debts, Funerals and just Expences of every sort first allowed and deducted) amongst the Wife and Children, or Childrens Children, if any such be, or otherwise to the next of Kindred to the dead person in equal degree, or legally representing their Stocks pro suo cuique jure, according to the

[Distribution.] Pursuant to the Stat. 21 H. 8. in the Article of taking Surety for true Administration, one usual condition of the Bond, was, that the Administrator should dispose the Surplusage of the Goods, after Debts and Legacies paid, according to the direction of the Court; which was practised, without Prohibition, till the 12 of Jac. 1; when the point came under Consideration, in *Slawney's Case*; and it was adjudged, that since the Law speaks only of a Bond for true Administration, the Ordinary could not insert the disposition of the Surplusage, as a Condition, nor go further in any respect,

than the words of the Statute would warrant the Bond; and a reason is suggested, 15 Jac. 1. in the Case of *Tocker and Loane*, that the Stat. 21 H. 8. intends a benefit to the Administrator, and not an unprofitable Burthen, and therefore gives a preference to the Wife and next of kin, &c.

By the present Statute, the Right of Distribution is restored to the Ordinary; but, under such restrictions, that the Statute may rather be said to make the Will of the Intestate; as the Ordinary may be said, by it, to Decree Distribution, rather than to Distribute.

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--with the following Conditions,

--that the Administrator make a true Inventory,

--and Administer according to Law,

--and do make a just Account,

--and pay according to the appointment of the Judge,

--and deliver the Administration, if a Will be found.

Ordinaries shall proceed accordingly to call them to account,

--and to divide the Estate.

Hob. 191.

Hob. 83.  
Vid. Winch. 11.  
3. Cro. 68.  
Heil. 68, 84.



## Abridgment.

Proviso, for the Customs of London and York.

Wife shall have one third, and two thirds shall be divided among the Children, except the Heir.

Any Child having some Portion assigned before, shall be made equal with the rest,

and the Heir at Law shall have his full Portion,

If there be no Children, one moiety shall be to the Wife, the other to the Relations.

There shall be no Representation among Collaterals after Brother's and Sister's Children.

Mo1. Rep 209  
2. Mod. Rep 20:  
1 Ventr. 207.  
Jones (S r Tbo.) 93.  
2 Lev. 173.

2. Ventr. 317  
Sower's Cases p 108  
Shower's Rep. 1.

Laws in such cases, and the Rules and Limitation hereafter set down, and the same distributions to decrea and settle, and to compel such Administrators to observe and pay the same by the due course of his Majesty's Ecclesiastical Laws: Saving to every one, supposing him or themselves aggrieved, their Right of Appeal as was always in such cases used.

IV. Provided, That this Act, or any thing herein contained, shall not any ways prejudice or hinder the Customs observed within the City of London, or within the Province of York, or other places, having known and received Customs peculiar to them, but that the same Customs may be observed as formerly; any thing therein contained to the contrary notwithstanding.

V. Provided always, and be it enacted by the authority aforesaid, That all Ordinaries, and every other person who by this Act is enabled to make distribution of the Surplusage of the Estate of any person dying Intestate, shall distribute the whole Surplusage of such Estate or Estates in manner and form following: That is to say, One third part of the said Surplusage to the Wife of the Intestate, and all the residue by equal portions, to and amongst the Children of such persons dying Intestate, and such persons as legally represent such Children, in case any of the said Children be then dead, other than such Child or Children (not being Heir at Law) who shall have any Estate by the Settlement of the Intestate, or shall be advanced by the Intestate in his Life-time, by portion or portions equal to the share which shall by such distribution be allotted to the other Children to whom such distribution is to be made; And in case any Child, other than the Heir at Law, who shall have any Estate by Settlement from the said Intestate, or shall be advanced by the said Intestate in his Life-time by portion not equal to the share which will be due to the other Children by such distribution as aforesaid, then so much of the Surplusage of the Estate of such Intestate, to be distributed to such Child or Children as shall have any Land by Settlement from the Intestate, or were advanced in the Life-time of the Intestate, as shall make the Estate of all the said Children to be equal as near as can be estimated; But the Heir at Law, notwithstanding any Land that he shall have by descent or otherwise from the Intestate, is to have an equal part in the distribution with the rest of the Children, without any consideration of the value of the Land which he hath by descent, or otherwise from the Intestate.

VI. And in case there be no Children, nor any legal Representatives of them, then one Moiety of the said Estate to be allotted to the Wife of the Intestate, the residue of the said Estate to be distributed equally to every of the next of Kindred of the Intestate, who are in equal degree, and those who legally represent them.

VII. Provided, That there be no Representations admitted among Collaterals after *q* Brothers and Sisters Children: And in case there

*p* Next of kindred.] About 5 years after the making of this Act, there was a long and noted Case, (*viz.* of *Smith and Tracy*) which most of the Reporters of that time take notice of. *Elizabeth Smith* died Intestate, leaving two Brothers, one of the whole Blood, and the other of the half Blood: and in the Ecclesiastical Court they would admit the half Blood to come in for distribution with the whole Blood, upon this Act. Whereupon a Prohibition was granted, to which there was a Demurrer; and after several Hearings and Arguments, as in a Case wholly new; the Opinion of the whole Court of King's Bench was, *That the half Blood should come in for distribution.* Which Judgment was also affirmed afterwards by the House of Lords; as was the Decree in Chancery to the same purpose, in the Case of *Watts and Crooke*. And in the 1<sup>st</sup> of *William and Mary*, in the Case of

*Brown and Brown*, the like Judgment was given, for a *Sister* of the half Blood to have distribution.

*q* Brothers and Sisters Children.] In the latter end of *Charles* the second's Reign, this point was debated, in the Case of *Carter and Crawley*: An Intestate having neither Wife, nor Child, nor Father, nor Mother, but his next of kin being two Aunts, one whereof was dead in his life-time, and the other had Administration; Whether the Children of the Deceased Aunt shall be admitted, *Jure Representationis*, to a share; as their Mother should have been, if Living? It appears not how Judgment was given in it; but in the Argument there (which is wholly on one side, *viz.* against the Children of the Deceased Aunt,) we find cited, *Sir Leolin Jenkins* Judge of the Prerogative, and *Sir Robert Wiseman* Dean of the Arches, as affirming, "That it be

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34, 35 Car. 2.  
Rayn. 497.



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be no Wife, then all the said Estate to be distributed equally to and amongst the Children: And in case there be no Child, then to the next of Kindred in equal degree of or unto the Intestate, and their legal Representative, as aforesaid, and in no other manner whatsoever.

VIII. Provided also, and be it likewise enacted by the Authority aforesaid, To the end that a due regard be had to Creditors, that no such distribution of the Goods of any person dying Intestate, be made till after one year be fully expired after the Intestate's death, and that such and every one to whom any distribution and share shall be allotted, shall give Bond with sufficient Sureties in the said Courts, that if any Debt or Debts truly owing by the Intestate, shall be afterwards sued for and recovered, or otherwise duly made to appear; That then and in every such case he or she shall respectively refund and pay back to the Administrator his or her rateable part of that Debt or Debts, and of the Costs of Suit and Charges of the Administrator by reason of such Debt, out of the part and share so as aforesaid allotted to him or her, thereby to enable the said Administrator to pay and satisfy the said Debt or Debts so discovered after the distribution made as aforesaid.

IX. Provided always and be it enacted by the Authority aforesaid, That in all cases where the Ordinary hath used heretofore to grant Administration cum Testamento annexo, he shall continue so to do, and the Will of the Deceased in such Testament expressed, shall be performed and observed in such manner as it should have been if this Act had never been made.

X. Provided also, That this Act shall continue in force for seven years, and from thence to the end of the next Session of Parliament, and no longer.

“ was the Constant and Clear Practice of their Courts, to reject all Representations of Collaterals, except Children of the Intestates Brothers and Sisters. Which was also confirmed, at the desire of the Person concerned, under the hands of Sir Robert Wiseman, and four other Civilians, in an Opinion by them given in form, and Printed at the end of the said Report.

After one year.] If A and B are next of kin to the Intestate; tho' A dies within the year, and before distribution, yet his Part shall go to his Executors; inasmuch as the Act doth vest an Interest in the Party upon the Death of the Intestate; and the Proviso for a year, is only to save the Administrator

from a Devastavit, by not dividing till he sees the Estate.

Refund.] Five years before the making of this Act, (viz. 17 Car. 2.) Prohibition was prayed in the Court of King's Bench to the Spiritual Court, because they would not admit the Plea of Plene administravit; and it was agreed, that if the Spiritual Court admit the Plea, then they ought to proceed and Examine whether it is true; but, in case of Refusal of the Plea, the Court seem'd to be of Opinion, that the proper Remedy was not by Prohibition, but by Appeal.

Cum Testamento annexo.] As, where Executors appointed by the Will, refuse, or die Intestate.

Abridgment

If no Wife, the whole among Children; if no Children, the whole among Kindred. No Distribution shall be made till after one year.

Every Person, who hath a share in the distribution, shall give Bond to refund, if Debts appear afterwards.

The Ordinary shall continue to grant Administration, cum Testamento annexo, in the usual way.

This Act shall continue 7 years

1. Siderf. 274.

A.D. 1676.

29 Car. II. Cap. 3.

In an Act, Entituled, An Act for Prevention of Frauds and Perjuries.

XXV. And for the explaining one Act of this present Parliament, intituled, An Act for the better Settling of Intestates Estates, Be it declared by the Authority aforesaid, That neither the said Act, or any thing therein contained, shall be construed to extend to the Estates of Feme-Coberts that shall die Intestate, but that their Husbands may demand and have Administration of their Rights, Credits, and other Personal Estates, and recover and enjoy the same, as they might have done before the making of the said Act.

The foregoing Act shall not extend to Feme-Coberts dying Intestate.

As they might have done.] So it had been often declared before, That Administration ought to be committed to the Husband, de mero jure.

3. Cro. 105. Siderf. 409. Shomer, 351, &c.



Abridgmene.

Intestates and Administration.

A.D. 1678.

30 Car. II. Cap. 6.

An Act for Reviving a former Act, Entituled, An Act for avoiding unnecessary Suits and Delays, and for Continuance of one other Act, Entituled, An Act for the better Settling of Intestates Estates.

Continuation of the foregoing Act, for 7 years.

Whereas one Act of this present Parliament entituled, An Act for avoiding unnecessary Suits and Delays, and also one other Act entituled, An Act for the better Settling of Intestates Estates, have been found to be very beneficial, Be it enacted by the King's most excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the Authority of the same, That the said Acts of Parliament shall be in force from the first day of this present Session of Parliament, and so to continue for Seven years, and from thence to the end of the next Session of Parliament, and no longer.

1 Jac. II. Cap. 17.

A.D. 1685.

In an Act, Entituled, An Act for Reviving and Continuing of several Acts of Parliament, &c.

The foregoing Act 22, 23 Car. 2. c. 10. shall be perpetual,

V.—And also one other Act made in the two and twentieth and three and twentieth years of his late Majesty's Reign, Entituled An Act for the better Settling Intestates Estates, (which said latter Act is explained by a Clause in one other Act made in the nine and twentieth year of his said late Majesty's Reign, Entituled, An Act for prevention of Frauds and Perjuries, both which said Acts with the said Clause, are continued by one other Act made in the thirtieth year of his said late Majesty's Reign, Entituled, An Act for Reviving both the said former Acts. All which said Acts and Clauses shall be in force, and are hereby made perpetual.

... with a Proviso, that the Administrator shall not be cited to render an account, otherwise than by Inventory, unless by a Minor, or Creditor;

VI. Provided always, and it is hereby further enacted, That no Administrator shall from the four and twentieth day of July next be cited to any of the Courts in the said last Act mentioned, to render an account of the Personal Estate of his Intestate (otherwise than by an Inventory or Inventories thereof) unless it be at the instance or prosecution of some person or persons in behalf of a Minor, or having a Demand out of such Personal Estate as a Creditor or next of kin; nor be compellable to account before any the Ordinaries or Judges by the said last Act impowred and appointed to take the same, otherwise than as is aforesaid; any thing in the said last Act contained to the contrary notwithstanding.

---and that a Child dying after the Father, without Will, the Mother and Children shall have equal shares.

VII. Provided, also, and it is further enacted by the Authority aforesaid, That if after the death of a Father, any of his Children shall die Intestate, without Wife or Children, in the Life-time of the Mother; every Brother and Sister, and the Representatives of them, shall have an equal share with her; any thing in the last mentioned Acts to the contrary notwithstanding.

Clause of 22, 23 Car. 2. c. 10. excepting London and York, shall not exempt any part of Estate from Distribution.

VIII. Provided and it is hereby, for the determining some Doubts arising upon the Acts aforesaid for the better settling Intestates Estates, enacted and declared, That the Clause therein by which it is provided, That that Act, or any thing therein contained should not any ways prejudice or hinder the Customs observed within the City of London and Province of York, was never intended, nor shall be taken or construed to extend to such part of any Intestates Estate, as any Administrator, by virtue only of being Administrator, by pretence or reason of any Custom, may claim to have, to exempt the same from Distribution, but that such part in the hands of such Administrator, shall be subject to Distribution as in other cases within the said Act.



## C A P. IX.

## F E E S for Probate and Administration.

## S I M O N M E P H A M.

A.D. 1328.

Edit. Oxon.  
p. 170.Fees for  
Probate &  
Admini-  
stration.

*Pro publicatione Testamenti Pauperis, citra centum Solidos Sterlingorum possidentis, nihil penitus exigatur.*

**I**tem quia locorum Ordinarii circa insinuationem Testamentorum & Commissionem Administrationis bonorum per cautelas exquisitas contra hujusmodi Executores Testamentorum, ut ab eis eò citius pecuniam extorqueant, se (ut dicitur) hætenus reddiderunt onerosos; Statuimus, quod pro insinuatione Testamenti Pauperis, cujus Inventarium bonorum centum Solidos Sterlingorum non excefferit, nihil penitus exigatur.

That Ordinaries may not be burthened, in the matter of Wills, &c.

---nothing shall be taken, where the Inventory is not above 5*l*.

A.D. 1342.  
17 Edw. 3.

## J O H A N N E S S T R A T F O R D.

*Pro Approbatione & Insinuatione Testamenti nihil usurpet Superior; pro labore autem Scriba justam duntaxat Mercedem: Quæ si supra viginti & citra centum Solidorum sit bonorum summa, non excedat XII Denarios, sed pro ratione istic assignata computetur. Similiter ultra centum Librarum summam erit hic assignata Mercedis ratio; quam excedens, ad dupli restitutionem cogatur.*

Edit. Oxon.  
p. 181.

**A**d eò quorundam, & infra. Statuimus, ut pro *w* Probatione vel *x* Approbatione, seu *y* Insinuatione Testamentorum quorumcunque, nihil per Episcopos, seu alios Ordinarios capiatur omnino: per Clericos tamen scribentes Insinuationes hujusmodi *z* sex Denarios duntaxat recipi permittimus pro labore. Quod si aliquod Inventarium bonorum cujuscunque defuncti in computo triginta Solidorum summam reperiatur excedere, quod tamen ad centum Solidos minimè extendatur, pro computo, & agendis omnibus circa ipsum, acquittantiarumque Literis, seu aliis quibuscunque, Episcopi aut Ordinarii, seu deputati ab eis, & audientes computum, vel Ministri alii computis hujusmodi intendentes, ultra duodecim Denarios recipere non præsumant. Si verò centum Solidorum summam aut ultra, minus tamen viginti libris dicta contineant Inventaria, computis intendentes, & alii prædicti, pro ipsorum labore, acquittantiarum Literis & aliis superscriptis, trium Solidorum perceptione penitus sint contenti. Sed si viginti Libras aut ultra, minus tamen sexaginta librarum summam habeant, ultra quinque Solidos pro labore, Literis, & scripturis aliis, non admittant. Si verò *†* quadraginta Librarum aut amplius, minus tamen centum librarum summam attingant hujusmodi Inventaria, decem Solidos pro præmissis recipiant, & non ultra. Si verò summam centum Librarum vel amplius, dicta contineant Inventaria, minus tamen centum quinquaginta Libris summam contineant, ultra viginti Solidos pro prædictis recipere non præsumant. Sicque ad ulteriora ascendendo, sive procedendo, pro singulis quinquaginta Libris excrementibus præterea & ultra dictos viginti Solidos, alios decem Solidos recipiant, & non amplius. Clericis tamen pro singulis Acquittantiarum Literis, quas scribunt in hac parte, ultra præmissas, sex Denarios accipere permittimus pro labore. Si verò quenquam in aliquo casuum prædictorum ultra summam prætaxatam, quavis cautela in pecunia numerata, seu rebus aliis contingat accipere, duplum ejus quod receperit ultra, Fabricæ Cathedralis Ecclesiæ loci infra Men-

Ordinaries shall take nothing for Probate of Wills, nor Clerks above 6*d*.

For doing all things relating to a Will, --of 30*s*. and under 5*l*.--1*s*.

--of 5*l*. and under 20*l*.--3*s*.

--of 20*l*. and under 60*l*. 5*s*.

--of 40*l*. and under 100*l*. --10*s*.

--of 100*l*. and under 500*l*.--20*s*.

--- and for every 50*l*. above 500*l*.--10*s*.

The Clerk shall have 6*d*. for an Acquittance.

They who take more than as above, shall pay

*w* Probatione.] i. e. Probationum receptione. Lyndw.

*x* Approbatione.] i. e. Decreti super valore Testamenti probatione. Lyndw.

*y* Insinuatione.] i. e. apud Acta Judicis Publicatione vel Transumptione. Lyndw.

*z* Sex denarios.] Numquid ergò si contingat Testes in Probatione Testamenti examinari, & oporteat eorum Depositiones scribi, contentabitur Clericus scribens tantum sex denariis? Puto

quòd non: imò secundum quantitatem laboris fiet Remuneratio: Et idem intelligo, si Testamentum prolixum sit in Scripturâ, & ipsum oporteat registrari, ut viz. etiam tunc Registrarius pro suo labore congruam Remunerationem accipiat. Sed quero cujus sumptibus satisfiet Clericis hujusmodi scribentibus? Dic, quòd sumptibus eorum qui procurant hujusmodi Insinuationes fieri, saltem de bonis Defuncti. Lyndw.



Abridgment  
double to the Ca-  
thedral Church,

Acquittance shall  
not be given to  
the Executors, till  
the Account is ful-  
ly made.

Ordinaries shall  
not take excessive  
Fees, for the Probate  
of Wills,

—and the Justices  
shall enquire and  
determine if they  
do.

Upon complaint  
of excessive Fees ta-  
ken for Probate of  
Wills,

—it is ordained,  
that no more Fees  
shall be taken, than  
in the time of *Edw.*  
3.

—upon pain of for-  
feiting treble.

Recital of the  
 foregoing Act, 31  
 *Edw.* 3. c. 4.

—end of 3. *Henr.*  
5. c. 8.

sem reddere teneatur. Alioquin extunc Episcopi duplum ipsum ultra pra-  
dictum tempus restituere differentes, sciant ingressum Ecclesiae eis esse inter-  
dictum. Inferiores vero ab Officio & Beneficio noverint se suspensos, quo-  
usque de duplo hujusmodi dictis Cathedralibus Ecclesiis plenariam satisfactionem  
impendant. In ipsa vero Probatione, Approbatione, vel Insinuatione Testa-  
mentorum quorumcunque, vel postea, ante Administrationis Computorum  
redditiones fideliter factas, acquittantiarum Literarum Testamentorum Execu-  
toribus nullatenus concedantur, sub poena Suspensionis ab ingressu Ecclesiae per  
sex menses, quam contrafacientes incurrere Volumus *ipso facto*.

31 *Edw.* III. Cap. 4.

*Redressing of Extortion in Bishops Officers in proving of Wills.*

Item, Whereas the Ministers of Bishops and other Ordinaries of  
Holy Church, take of the People grievous and outrageous fines  
for the Probate of Testaments, and for the making of Acquittances  
thereof, the King hath charged the Archbishop of Canterbury and the  
other Bishops, that they cause the same to be amended; and if they  
do not, it is accorded, That the King shall cause to be inquired by his  
Justices, of such Oppressions and Extortions, to hear them, and deter-  
mine them, as well at the King's Suit as at the Suit of the party,  
as in old times hath been used.

3 *Henr.* V. Cap. 8.

*An Act touching Fees for Probate of Testaments.*

Item, whereas the Commons of the Realm have oftentimes in divers Parliaments complain-  
ed of that, that divers Ordinaries do take for the Probate of a Testament, and other things  
pertaining to the Offices in this behalf, sometimes forty shilling, or fifty shilling, and some-  
times more, against right and law, and otherwise than was wont to be paid for them, in the  
time of King Edward the third, that is to say, two shillings six pence, or five shillings at the  
most; whereby the Testament of the Testator may not be executed, according to the last Will  
of the same Testator, to the great damage and hinderance of the Commonwealth: The King  
willing, for the wealth and ease of his people to avoid such oppression, and to provide remedy  
in the case, hath ordained, that none Ordinary shall take from henceforth, for the Probate of  
any Testament with the Inventory, and for the other things appertaining to the same, no more  
then was accustomed and used in this part in the time of the said King Edward the third, upon  
pain to yield to him that seeketh him grieved the treble so received, if he will sue by the course  
of the Law, so that all manner of Executors shall yield their accounts to the Ordinaries, wholly  
of the Testators goods. And that this Ordinance stand in his force till the end of the year next  
coming, and moreover till the Parliament the same year next ensuing.

21 *Henr.* VIII. Cap. 5.

*What Fees ought to be taken for Probate of Testaments.*

Where in the Parliament holden at Westminster, in the xxxj year of  
the Reign of the noble King of famous memory, Edward the  
Third, upon complaint of his people for the outrageous and grievous  
fines and Sums of money taken by the Ministers of Bishops, and of  
other Ordinaries of holy Church, for the Probate of Testaments, and  
for the Acquittances by the said Ordinaries to be made concerning the  
same, the said noble King in the same Parliament openly charged and  
commanded the Archbishop of Canterbury, and the other Bishops for  
that time being, that amendment thereof should be had. And if none  
amendment were thereof had, it was by the authority of the same  
Parliament accorded, that the King should thereof make enquiry by  
his Justices of such Oppression and Extortions: And that the same  
Justices should hear and determine them as well at the suit of the  
King as of the party, as of old time hath been used, as by the same  
Statute plainly appeareth. And where at the Parliament holden at  
Westminster, in the third year of the Reign of King Henry the fifth, it  
was recited, That the Commons of the Realm had oftentimes com-  
plained them in divers Parliaments, for that divers Ordinaries do  
take for the Probation of Testaments, and other things thereunto be-  
longing,

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A.D. 1357.

A.D. 1415.

E X P.

A.D. 1529.



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stration.

belonging, sometimes xl. s. sometimes lx. s. and sometimes more, against Right and Justice, where in the time of King Edward the Third, Men were wont to pay for such Causes but ij. s. vj. d. or v. s. at most; by which unlawful Exactions, the Testaments of the Testators might not be executed according to their last Wills: It was then enacted, for the avoiding of such Oppressions, that no Ordinary from thenceforth should take for the Probation of any Testament and Inventory, or for any other thing to the same belonging, any more than was accustomed and used in the time of the said noble King Edward the Third, upon pain to yield to the party so grieved, three times as much as the said Ordinaries did so receive; which Act did endure but to the Parliament following, by reason that the Ordinaries did then promise to reform and amend the said Oppressions and Exactions: And for that the said unlawful Exactions of the said Ordinaries and their Ministers be nothing reformed nor amended, but greatly augmented and increased, against Right and Justice, and to the great impoverishing of the King's Subjects,

II. The King our Sovereign Lord, by the assent of the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, and by Authority of the same, hath ordained, established and enacted, That from the first day of April in the year of our Lord, M. D. XXX. that nothing shall be demanded, received nor taken by any Bishop, Ordinary, Archdeacon, Chancellor, Commissary, Official, or any other manner of person or persons, whatsoever they be, which now have, or which at any time hereafter shall have authority or power to take or receive probate, insinuation or approbation of Testament or Testaments, by himself or themselves, nor by his or their Registers, Scribes, Praisers, Summoners, Apparators, or by any other of their Ministers, for the probate, insinuation, and approbation of any Testament or Testaments, or for writing, sealing, praising, registering fines, making of Inventories, and giving of Acquittances, or for any other manner of cause concerning the same, where the goods of the Testator of the said Testament, or person so dying, do not amount clearly over and above the value of C. s. sterling, except only to the Scribe to have for writing of the probate of the Testament of him deceased, whose goods shall not be above the same clear value of C. s. vj. d. and for the Commission of Administration of the goods of any Man deceasing Intestate, not being above like value of C. s. vj. d. clear. And that nevertheless, the Bishop, Ordinary, or other person or persons having power or authority to take or receive the probate or approbation of Testaments, refuse not to approve any such Testament, being lawfully tendered or offered to them to be proved or approved, whereof the goods of the Testator, or person so dying, amount not above the value of C. s. sterling, so that the said Testament be exhibited to him or them in writing, with wax thereunto affixed ready to be sealed, and that the same Testament be lawfully proved before the same Ordinary (before the sealing) to be true, whole and the last Testament of the Testator, in such form, as hath been commonly accustomed in that behalf.

Abridgment.

—notwithstanding which, the Exactions of Ordinaries are not amended.

Enacted, that, —Goods being not above the clear value of 5*l.* nothing shall be paid for Probate, or Administration.

--- except to the Scribe, 6*d.*

3. Inll. 150.  
4. Inll. 335.

*a* Of any Testament.] That is, whether the Probate be written upon the Testament it self, or upon a Transcript engrossed; and, in the latter Case, if a greater Fee be taken by the Judge on account of *ingrossing*, this is within the Prohibition of the Statute, as was adjudged, in the Case of *Rowse and Neal*, where the Fee taken did amount to Four shillings and ten pence; and it was said, That if the Executor requireth any to *ingross* the Testament, he may agree with him, whom he requireth to do it, as he can; but the Judge ought not to exact any Fee, on that account due to him.

*b* Above the Value.] One was indicted, because he took 10*s.* for Letters of Administration, *contra formam Statuti*, &c. but because the Statute makes no provision, in case the Goods are above 40*l.* (which was *casus omissus*;) and the Indictment did not set forth, that they were *under* 40*l.* and by consequence, that the taking more than 2*s.* 6*d.* was *Extortion* within the Statute; therefore it was adjudged to be ill, inasmuch as, without that, it could not appear to the Court, whether he was punishable or not.

2 Rolle, 223.  
Palm. 318.



Fees for Probate & Administration.

Abridgment.

Goods being above 5*l.* and not above 40*l.* the whole Fee shall be but 3*s.* 6*d.*

viz.

--to the Ordinary Ec. 2*s.* 6*d.*

-- to the Scribe, 1*s.* Goods being above 40*l.* the whole Fee shall be but 5*s.*

viz.

-- to the Ordinary, Ec. 2*s.* 6*d.*

-- to the Scribe, 2*s.* 6*d.* or ten lines a penny.

The Will shall be registred, and delivered under Seal to the Executor, for the said Sums.

If a Person dye Intestate, or Executors refuse to prove; Administration shall be granted to one or more, who are next a-kin,

-- and at the discretion of the Ordinary, if more claim in equal degree.

Goods of Intestates not being above 5*l.* nothing shall be taken.

III. And when the Goods of the Testator do amount over and above the clear value of C. s. and do not exceed the sum of xl. li. sterling: that then no Bishop, Ordinary nor other manner of person or persons, whatsoever he or they be, now having, or which hereafter shall have, authority to take probation, or approbation of any Testament or Testaments, as is aforesaid, by themselves, nor any of their said Registers, Scribes, Praisers, Summoners, Apparators, nor any other their Ministers, for the probation, insinuation and approbation of any Testament or Testaments, or for the registering, sealing, writing, praising, making of Inventories, giving of Acquittances, fines, or any other thing concerning the same, shall take or cause to be taken of any person or persons, but only ij. s. vj. d. and not above, whereof to be to the said Bishop or Ordinary, or to other person or persons having power and authority to take the probation or approbation of any Testament or Testaments, for him and his Ministers, ij. s. vj. d. and not above, and xij. d. residue of the said ij. s. vj. d. to be to the Scribe for the Registering of the same. And where the goods of the Testator, or person or persons so dying, do amount over and above the clear value of xl. li. sterling, that then the Bishop nor Ordinary, nor other person or persons, now having, or which hereafter shall have authority or power to take Probate of Testaments as is aforesaid, by him or themselves, nor any of his or their said Registers, Scribes, Praisers, Summoners, Apparators, or any other their Ministers, for the probation, insinuation and approbation of any Testament or Testaments, or for the Registering, Sealing, Writing, Praying, making of Inventories, fines, giving of Acquittances, or any thing concerning the same Probate of a Testament, shall from the first day of April, take or cause to be taken of any person or persons, but only v. s. and not above, whereof to be to the said Bishop, Ordinary, or other person having power to take the Probation of such Testament or Testaments, for him and his Ministers, ij. s. vj. d. and not above, and ij. s. vj. d. residue of the said v. s. to be to the Scribe for registering the same, or else the same Scribe to be at his liberty to refuse those ij. s. vj. d. and to demand and have for writing of every ten lines of the same Testament, whereof every Line to contain in length ten inches, j. d. And that every such Bishop or Ordinary, and other person or persons so having, or which hereafter shall have Authority or Power to take or receive the Probation or Approbation of any Testament or Testaments, as is abovesaid, their Registers, Scribes and Ministers, shall approve, insinuate, seal and register from time to time, the said Testament, and deliver the same sealed with the Seal of their Office, to the Executor or Executors named in any such Testaments, for the said sum or sums abovesaid, and in manner and form as is above rehearsed, with convenient Speed, without any frustratory delay. And in case any person die Intestate, or that the Executors named in any such Testament refuse to prove the said Testament: then the said Ordinary, or other person or persons having authority to take Probate of Testaments, as is abovesaid, shall grant the Administration of the goods of the Testator or person deceased to the Widow of the same person so deceased, or to the next of his kin, or to both, as by the discretion of the same Ordinary shall be thought good, taking Surety of him or them to whom shall be made such Commission, for the true Administration of the Goods, Chattels and Debts, which he or they shall be so authorized to minister. And in case where divers persons claim the Administration as next of kin, which be equal in degree of kindred to the Testator or person deceased, and where any person only desireth the Administration as next of kin, where indeed divers persons be in equality of kindred, as is aforesaid, That in every such case the Ordinary to be at his election and liberty, to accept any one or moe making request, where divers do require the Administration;

IV. Or where but one or more of them, and not all being in equality of degree, do make request, then the Ordinary to admit the Widow, and him or them only making request; or any one of them at his pleasure, taking nothing for the same, unless the goods of the persons so deceased amount to above the value or sum of C. s. And in case



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stration.

case the goods of the person so deceased amount above the value of £. s. and not above the value or sum of xl. li. then the said Bishop, Ordinary, or other person or persons so having authority to take Probate of Testaments, as is aforesaid, their Ministers and Officers, shall take only ij. s. vi. d. sterling, and not above. And that the Executor and Executors named by the Testator, or person so deceased, or such other person or persons to whom such Administration shall be committed, where any person dieth Intestate or by way of Intestate, calling or taking to him or them such person or persons, two at the least, to whom the said person so dying was indebted, or made any Legacy, and upon their refusal or absence, two other honest Persons being next of kin to the person so dying, and in their default or absence, two other honest persons, and in their presence, and by their discretions, shall make or cause to be made a true and perfect Inventory of all the goods, chattels, wares, merchandises, as well moveable as not moveable whatsoever, that were of the said persons so deceased, and the same shall cause to be indented, whereof one part shall be by the said Executor or Executors, Administrator or Administrators, upon his or their Oath or Oaths to be taken before the said Bishops, Ordinaries, their Officials or Commissaries, or other persons having power to take Probate of Testaments, upon the holy Evangelists, to be good and true, and the same one part indented shall present and deliver into the keeping of the said Bishop, Ordinary or Ordinaries, or other person having power to take Probate of Testaments, and the other part thereof to remain with the said Executor or Executors, Administrator or Administrators; and that no Bishop, Ordinary, or other whatsoever person, having authority to take Probate of Testament or Testaments, as is above-said, upon the pain in this Statute hereafter contained, refuse to take any such Inventory or Inventories to him or them presented or tendered to be delivered as is aforesaid.

V. Provided always, that if the person so deceased will by his Testament or last Will any lands, tenements or hereditaments, to be sold, that the money thereof coming, nor the profits of the said lands, for any time to be taken, shall not be accounted as any of the goods or chattels of the said persons so deceased, and that the same Bishop, Ordinary, or other person or persons having authority to take Probate of Testament or Testaments, as is aforesaid, upon the delivery of the seal and sign of the Testator, do cause the same seal to be defaced, and thereupon incontinent deliver the same seal unto the said Executor or Executors, without claim or challenge thereunto to be made. And in case any person or persons at any time hereafter require a copy or copies of the said Testament so proved, or of the said Inventories so made, that then the said Ordinary or Ordinaries, and the other persons having authority to take Probate of Testaments, or their Ministers, shall from time to time with convenient speed, without any frustratory delay, deliver or cause to be delivered a true copy or copies of the same, to the said person or persons so demanding them, or any of them, taking for the search or for the making of the Copy of either of the said Testament or Inventory, but only such fee as is before rehearsed for the registering of the said Testament; or else the Scribe or Register to be at his election and liberty to demand, have and take for every ten lines thereof, being of the proportion before rehearsed, j. d.

VI. Provided always, that where any person or persons having power or authority to take Probate of Testaments, have used to take less sums of money than is above-said for the Probate of Testaments, or Commissions of Administrations, or other cause concerning the same, they shall take and receive such sum or sums of money for the Probate of Testaments and Commissions of Administrations, and other causes concerning the same, as they before the making of this Act were used to take, and not above.

VII. And it is enacted, that every Bishop, Ordinary, Archdeacon, Chancellor, Commissary, Official, and other person or persons, having, or which hereafter shall have authority to take Probate of Testaments, their Registers, Scribes, Praisers, Summoners, Appraisors, and all other their Ministers, whatsoever they be, that shall do,

Abridgment.

---and not above  
40 l. only 2s 6d.

Executors and Administrators shall make true Inventories,

---which being Indented, and declared upon Oath to be true,

---one part shall be deliver'd to the Ordinary, and the other remain with Executor, or Administrator.

Money for Lands ordered to be Sold, shall not be accounted Goods or Chattels.

The Ordinary shall deface the Seal of the Testator,

--- and shall upon demand, deliver a Copy of the Testament, and Inventory,

---the Fee for which shall be the same with the Fee of Registering, or id for ten lines.

Where Fees have been customarily less, more than usual shall not be taken.

The Ordinary, or Officers, taking more than is allowed by this Act, shall forfeit the Money so taken,



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— and over that, 10l.

This Act shall not be prejudicial to the Authority of Ordinaries, for Probate of Testaments.

Duties upon Inventory, --being 40l. and under 100 --1s. --being 100l. and under 500 --6s. --being 500l. and under 1000 --12s. -- being 1000l. or above --1l. 2s.

Duty upon Copies of Wills, registred, 1d. a Sheet, --upon the Copy of an Inventory exhibited, 2d. per Pref.

Stamp of a Probate or Administration above 20l. --5s.

--of the Copy of a Will engrossed, 1d.

or attempt, or cause to be done or attempted + against this Act or Ordinance in any thing, shall forfeit and lose for every time so offending to the party grieved in that behalf, so much money as any such person abovesaid shall take contrary to this present Act; and over that shall lose and forfeit x. li. sterling, whereof the one moiety shall be to the King our Sovereign Lord, and the other moiety to the party grieved in that behalf, that will sue by action of debt, bill, information or otherwise, in any of the Kings Courts, for the recovery of the same; in which action no esoin, protection nor wager of Law shall be admitted or allowed. And that every of the same Bishops, and other persons, which shall hereafter incur or fall into the danger of such penalty or forfeiture, shall be charged only for himself; and none of them to be chargeable to that penalty for others offence.

VIII. Provided alway, That this present Act be not prejudicial to any Ordinary or other person, which now have, or hereafter shall have Authority for Probate of Testaments, but that every of them shall and may consent before them all and every person or persons made and named Executor or Executors of any Testament, to the intent to prove or refuse the Testaments or Testament of their Testator or Testators, and to bring in Inventories, and to do every other thing concerning the same, as they might do before the making of this Act; so that always any such Ordinary, or other person or persons having such Authority, by themselves, their Commissioners, Scribes, Registers, or other Ministers abovesaid, shall not in any wise take for the same above the fees limited by this Act, ne in any wise attempt any thing contrary to any part of the same Act.

22, 23 Car. II. (Stat. 2.) Cap. 5.

In an Act, Entituled, *An Act for laying Impositions on Proceedings at Law.*

XLVII. For every Inventory that shall be Exhibited into any Ecclesiastical Court whatsoever, which shall amount to Forty pounds, or above, and not to one hundred pounds; One shilling.

XLVIII. For every Inventory that shall be Exhibited into any Ecclesiastical Court whatsoever which shall amount to one hundred pounds or above, and not to Five hundred pounds; Six shillings.

XLIX. For every Inventory that shall be Exhibited into any Ecclesiastical Court whatsoever, which shall amount to five hundred pounds, or above, and not to one thousand pounds; Twelve shillings.

L. For every Inventory which shall be Exhibited into any Ecclesiastical Court whatsoever, which shall amount to One thousand pounds, or above; One pound two shillings.

22, 23 Car. II. (Stat. 2.) Cap. 5.

In an Act, Entituled, *An Act for laying Impositions on Proceedings at Law.*

LIII. For the Copy of every Will Registred in any Ecclesiastical Court whatsoever, for every Sheet containing as many words in every Line, and as many Lines in every Sheet, as are now, or heretofore hath been usually written in such Copies; One penny.

LIV. For the Copy of every Inventory which shall be exhibited in any Ecclesiastical Court, there shall be paid per Pref; Two pence.

5, 6 Will. & Mar. Cap. 21.

In an Act, Entituled, *An Act for the granting to their Majesties several Duties upon Vellum, &c.*

XXIII. For every Skin or Piece of Vellum or Parchment, or Piece of Paper, upon which any Probate of a Will, or Letters of Administration for any Estate, above the Value of twenty Pounds, shall be ingrossed or written, the Sum of five Shillings.

XLV. For every Skin or Piece of Vellum or Parchment, or Sheet of Paper, upon which a Copy of any Will shall be ingrossed or written, the Sum of one Penny.

Fees for Probate & Administration.

+ It is agreed on all hands, that the Fees given by this Act are become much too small, by the great Alteration of the Value of Money, and the Prices of Things, and therefore, now the Rule is, the known and established custom of every place, being reasonable: which, as I am inform'd, hath been adjudged a good Rule.

A.D. 1670.

E X P.

A.D. 1670.

E X P.

A.D. 1693.



Fees for Probate & Administration.

A.D. 1696.

XL. For every Skin or piece ofvellum or Parchment, or Sheet of Paper, upon which is ingrossed or written — any Inventory exhibited in any Ecclesiastical Court — the Sum of Six pence.

9, 10 Will. III. Cap. 25.

In an Act, Entituled, *An Act for granting to his Majesty, &c. further Duties, &c.*

§. XVIII. — Be it enacted, That there shall be raised, collected and paid unto his Majesty, his Heirs and Successors \* for ever (over and above the Rates and Duties and Sums of Money, now due and payable to his Majesty) — for every Skin — †

\* For four years, 5, 6. Will. & Mar.  
† The rest is, word for word, the same as before, 5, 6 Will & Mar, in all the three Articles.

Abridgment.

of an Inventory exhibited, 6d.

The Stamps mentioned in the three foregoing Articles, doubled: In all, for the first, 10s; for the second, 2d; for the third, 1s.

C A P. X.

F E E S to be paid by SEAMEN and SOLDIERS:

19 Car. II. Cap. 7.

In an Act, Entituled, *An Act to prevent Disturbances of Seamen and others, &c.*

Fees to be paid by Seamen & Soldiers.

E X P.

V. A ND for the better encouraging of such Mariners and Soldiers as now do, or shall serve his Majesty in his Fleet or Ships during this War, Be it further enacted by the authority aforesaid, That no Ordinary, Register or other Officer belonging to any Ecclesiastical Court, or Court of Orphans, or any Jurisdiction whatsoever within the Kingdom of England and Dominion of Wales, or Town of Berwick, shall take or receive of the Executor or Administrator, Executors or Administrators of any Mariner or Soldier dying in the Pay of his Majesties Navy during this present War, above the sum of Twelve pence for the Probate of any Will, Registering the same, granting Letters of Administration, exhibiting any Inventory, or for any other matter or thing relating thereunto; and for every default herein, by wilful delay in the doing, granting, or executing the Premises, the person or persons so offending, shall forfeit to the party grieved the sum of Ten, pounds to be recovered by action of debt, bill, plaint or information in any of his Majesties Courts of Record at Westminster, or elsewhere, wherein no essoin, privilege, protection or wager of Law shall be allowed; Any Law or Statute, or Usage to the contrary notwithstanding.

VII. This Act to continue for two years, from the first day of February. One thousand six hundred sixty and six; and from thence to the end of the next Session of Parliament.

22, 23 Car. II. Cap. 23.

In an Act, Entituled. *An Act to revive an Act, Entituled, An Act to prevent the Disturbances of Seamen, &c.*

II. And whereas the said Act is by Experience found to be of necessary use, and fit to be revived and continued, in all the matters therein contained, except as is hereafter excepted, Be it therefore enacted by the King's most excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and of the Commons in Parliament Assembled, and by the Authority of the same, That the said Act of Parliament, and all and every Clauses, Sentences and Articles therein contained (excepting one Clause in the said Act contained, whereby it is enacted, That no Ordinary, Register or other Officer, belonging to any Ecclesiastical Court, or Court of Orphans, or any Jurisdiction whatsoever, within the Kingdom of England, Dominion of Wales, or Town of Berwick upon Tweed, shall take or receive of the Executor or Administrator, Executors, or Administrators of any Mariner or Soldier dying in the Pay of his Majesties Navy during this present War, above the Sum of Twelve pence for the Probate of any Will, Registering the same, granting Letters of Administration, exhibiting any Inventory, or for any other matter or thing relating thereunto; Together with such forfeitures and Penalties as is therein

For the Probate of Wills of Seamen &c. no more shall be demanded than 1s.

-- upon pain to forfeit 10l.

This Act shall continue 2 years.

The foregoing Clause shall not be revived with the rest of that Act.



Abridgment.

therein expressed, for the Defaults and Transgressions therein mentioned) shall by virtue of this Act be revived and continued, and have the full force and vertue of a Law, during the continuance of this Act.

Fees to be paid by Seamen & Soldiers.

For the Probate of Wills of Seamen &c. no more shall be demanded than 5s.

--- (except the Estate was 20l. or more,)

--- upon pain to forfeit 10l.

X. And be it further enacted by the Authority aforesaid, That no Ordinary, Register or other Officer or Officers belonging to any Ecclesiastical Court, or Court of Orphans, or any Jurisdiction whatsoever, within the Kingdom of England, Ireland, or Dominion of Wales, or Town of Berwick upon Tweed, shall take or receive of the Executor or Administrators, Executors or Administrators, (being the Wife or Child, or Children, or next of Kindred) of any Mariner, Souldier, Seaman, or before-named Artificer or Workman (except where the deceased shall leave an Estate of Twenty pounds or more) dying in the Pay of his Majesties Navy, above the Sum of five Shillings, for the whole Charges of the Probate of any Will, and Registering the same, and granting Letters of Administration, and Exhibiting an Inventory, or in doing any other matter or thing relating thereunto; Every Officer performing his Duty in the said Probate, to have his Proportion of the said Sum, according as the Judge of the said Court shall direct; And if any such Officer or Officers shall presume to take more than the said Sum of five Shillings for the whole Probate of the said Will, or shall willfully delay the doing, granting or executing the Premises, the person or persons so offending, shall forfeit to the Party grieved, the Sum of Ten pounds, to be recovered by Action of Debt, Bill, Plaint or Information, in any of his Majesties Courts of Record, or elsewhere, wherein no Escoin, Privilege, Protection or Waiver of Law shall be allowed; Any Law, Statute or Usage to the contrary notwithstanding.

1 Jac. II. Cap. 17.

A.D. 1676.

In an Act, Entituled, *An Act for Reviving and Continuance of several Acts of Parliament, &c.*

Continuation of 22, 23. Car. 2. c. 23. for 7 years.

XII. And be it further enacted by the Authority aforesaid, That one other Act of the two and twentieth and thirte and 20th of King Charles the Second, Entituled An Act to Revive an Act, Entituled, An Act to prevent the Disturbance of Seamen and others, and to preserve the Stores belonging to his Majesty's Navy-Royal, with some Alterations and Additions, shall be in force from the first day of this present Session of Parliament, and so to continue for seven years, and from thence to the end of the first Session of the next Parliament.

5, 6 Will. & Mar. Cap. 24.

A.D. 1689.

In an Act, Entituled, *An Act for Reviving, Continuing, and Explaining several Laws therein mentioned, &c.*

The same Statute Continued for 7 years more.

§. XI. And whereas an Act made at the Session of Parliament holden in the said Two and twentieth and Thirte and twentieth years of the Reign of the late King Charles the Second, Entituled, An Act to Revive an Act, Entituled, An Act to Prevent Disturbances of Seamen and others, and to Preserve the Stores belonging to His Majesties Navy Royal, with some Alterations and Additions, was by an Act made in the first year of the late King James the Second, Enacted to be in force from the first day of the then present Session of Parliament, for Seven years, and from thence to the End of the first Session of the next Parliament,

XII. Be it Enacted, That the said last mentioned Act be continued, and shall be in force for the space of Seven Years, from the Thirteenth day of February, One thousand six hundred ninety two, and from thence to the end of the next Session of Parliament.



Fees to be  
paid by  
Seamen &  
Soldiers.  
A.D. 1699.

## 11 Will. III. Cap. 13.

Abridgment.

In an Act, Entituled, *An Act for Continuing several Laws, therein mentioned.*

IV. And wheres by an Act made at the Session of Parliament holden in the Two and twentieth and Thre and twentieth Years of the Reign of the late King Charles the Second, Intituled, An Act to Revive an Act, Intituled, An Act to Prevent the Disturbances of Seamen and others, and to Preserve the Stores belonging to his Majesties Navy Royal, with some Alterations and Additions, was by an Act made in the first Year of the Reign of the late King, James the Second, Enacted to be in force from the first Day of the then present Session of Parliament for Seven Years, and from thence to the end of the first Session of the next Parliament; Which last mentioned Act was by an Act made in the fourth and fifth Years of the Reign of His present Majesty and the late Queen, Continued for the space of Seven Years from the Thirtieth Day of February, One thousand six hundred ninety two, and from thence to the end of the next Session of Parliament: Be it Enacted, That the same be Continued and be in force for and during the space of Seven Years, from the Nine and twentieth Day of September, One thousand seven hundred, and from thence to the end of the next Session of Parliament. †

The same Statute Continued for 7 years more.

† Some of the Acts continued together with this, are Continued further, 5 Ann. c. 34. but this is not continued there, nor (as far as I have observed) elsewhere. Yet I find, it is understood to be still in force, by those who are more immediately concern'd to know it.

A.D. 1693. 5, 6 Will. & Mar. Cap. 21.----9, 10 Will. III. Cap. 25.

*In the Acts for granting several Duties upon Vellum, &c.*

Provided, that nothing in this Act contained, shall extend to charge with the said Duties, or any of them, the Probate of any Will, or Letters of Administration, of any Common Seaman or Soldier, who shall be slain, or die in the Service of his Majesty, his Heirs or Successors; a Certificate being produced from the Captain of the Ship or Vessel, or Captain of the Troop or Company, under whom such Seaman or Soldier served at the time of his Death, and Oath made of the truth thereof, before the proper Judge or Officer, by whom such Probate or Administration ought to be granted; which Oath such Judge or Officer is hereby authorized and required to Administer, and for which no Fee or Reward shall be taken.

Probate and Administration of Seamen and Soldiers, shall be exempted from the Stamp-duty.

A.D. 1685.

## 29 Car. II. Cap. 3.

In an Act, Entituled, *An Act for Prevention of Frauds and Perjuries.*

XXIII. Provided always, That notwithstanding this Act, any Soldier being in actual Military Service, any Mariner or Seaman being at Sea, may dispose of his Moveables, Wages and Personal Estate, as he or they might have done before the making of this Act.

Soldiers and Seamen may dispose of their Personal Estates.



Abridgment.

# TIT. XXV. PROTESTANT DISSENTERS, and CONVENTICLES.

## The CONTENTS.

- C A P. I. TEMPORAL *Laws against* SEPARATION, and CONVENTICLES.
- C A P. II. ECCLESIASTICAL *Laws against* SEPARATION and CONVENTICLES.
- C A P. III. *Dissenters may not* GOVERN, nor TEACH, in CORPORATIONS.
- C A P. IV. QUAKERS, *in particular.*
- C A P. V. ANABAPTISTS, *in particular.*
- C A P. VI. TOLERATION of *Dissenters.*

### C A P. I.

#### TEMPORAL *Laws against* SEPARATION, and CONVENTICLES.

31 Eliz. cap. 16.-----39 Eliz. cap. 28.-----43 Eliz. cap. 19.-----3 Jac. I. cap. 27.-----7 Jac. I. cap. 24. A.D. 1588. &c.

*In the General Acts of Pardon of the Years aforesaid.* E X P.

Offences against the Ecclesiastical Government, and Schism, excepted out of General Pardons.



Provided also, and be it enacted by the authority aforesaid, that neither this Act, nor any thing therein contained shall extend to pardon or discharge-----any offence committed or done by any against the Ecclesiastical estate or government established in this realm, any heresie or schisme in Religion whatsoever.

*Temporal Laws against Separation, and Conventicles.*

21 Jac. I. Cap. 34.

In an Act, Entituled, *An Act for the King's---general and free Pardon.*

A.D. 1563.

And also excepted out of this Pardon, all offences of Heresie, Schism.-----

E X P.

35 Eliz. Cap. 1.

A.D. 1592.

*An Act to retain the Queens Majesties Subjects in their due Obedience.*

Any Person above 16, who shall

**F**OR the preventing and avoiding of such great inconvenience and perils as might happen and grow by the wicked and dangerous practices of seditious Sectaries and disloyal persons: Be it enacted by the Queens most excellent Majesty, and by the Lords Spiritual and Temporal



Temporal  
Laws a-  
gainst Se-  
paration  
and Con-  
venticles.

poral, and the Commons in this present Parliament assembled, and by the Authority of the same, That if any person or persons above the age of sixteen years, which shall obstinately refuse to repair to some Church, Chapel, or usual place of Common Prayer, to hear Divine Service, established by her Majesties Laws and Statutes in that behalf made, and shall forbear to do the same by the space of a month next after, without any lawful cause; or shall at any time after xl. days next after the end of this Session of Parliament, by printing, writing, or express words or speeches, advisedly or purposely practise, or go about to move or persuade any of her Majesties Subjects, or any other within her Highnesses Realms or Dominions, to deny, withstand and impugn her Majesties power and authority in cases Ecclesiastical, united and annexed to the Imperial Crown of this Realm; or to that end or purpose shall advisedly and maliciously move or persuade any other person whatsoever to forbear or abstain from coming to Church to hear Divine Service, or to receive the Communion according to her Majesties Laws and Statutes aforesaid, or to come to, or to be present at any unlawful Assemblies, Conventicles, or Meetings, under colour or pretence of any exercise of Religion, contrary to her Majesties said Laws and Statutes: Or if any person or persons which shall obstinately refuse to repair to some Church, Chapel, or usual place of Common Prayer, and shall forbear by the space of a month to hear Divine Service, as is aforesaid, shall after the said forty days, either of him, or themselves, or by the motion, persuasion, inticement or allurements of any other, willingly joyn in, or be present at any such Assemblies, Conventicles or Meetings, under colour or pretence of any such exercise of Religion, contrary to the Laws and Statutes of this Realm, as is aforesaid: That their every such person so offending, as aforesaid, and being thereof lawfully convicted, shall be committed to prison, there to remain without bail or mainprize, until they shall conform and yield themselves to come to some Church, Chapel, or usual place of Common Prayer, and hear Divine Service, according to her Majesties Laws and Statutes aforesaid, and to make such open submission and declaration of their said Conformity, as hereafter in this Act is declared and appointed.

II. Provided always, and be it further enacted by the authority aforesaid, That if any such person or persons which shall offend against this Act, as aforesaid, shall not within three months next after they shall be convicted for their said offence, conform themselves to the obedience of the Laws and Statutes of this Realm, in coming to the Church to hear Divine Service, and in making such publick confession and submission, as hereafter in this Act is appointed and expressed, being thereunto required by the Bishop of the Diocess, or any Justice of the Peace of the County where the same person shall happen to be, or by the Minister or Curate of the Parish: that in every such case, every such Offender, being thereunto warned or required by any Justice of the Peace of the same County where such Offenders shall then be, shall upon his or their corporal Oath before the Justices of the Peace in the open Quarter-Sessions of the same County, or at the Assizes and Gaol-delivery of the same County, before the Justices of the same Assizes and Gaol-delivery, abjure this Realm of England, and all other the Queens Dominions for ever, unless her Majesty shall licence the party to return: And thereupon shall depart out of this Realm at such Haven or Port, and within such time as shall in that behalf be assigned and appointed by the said Justices, before whom such abjuration shall be made, unless the same Offender be letted or stayed by such lawful and reasonable means or causes, as by the Common Laws of this Realm are permitted and allowed in cases of abjuration for felony. And in such cases of lett or stay, then within such reasonable and convenient time after as the Common Law requireth in case of abjuration for felony, as is aforesaid. And that the Justices of Peace before whom any such abjuration shall happen to be made, as is aforesaid, shall cause the same presently to be entered of Record before them, and shall certify the same to the Justices of Assizes and Gaol-delivery of the County, at the next Assizes or Gaol-delivery to be holden in the same County.

Abridgment.

be absent from Church for a month,

--- or shall persuade others to deny the Supremacy,

--- or shall persuade others, to absent from Church, and repair to Conventicles,

--- or shall joyn in any Conventicle:

--- all such Persons shall be committed to Prison, till they Conform, and make Submission,

--- which if they refuse for 3 months being required to do it,

--- they shall abjure the Realm.

--- and the Abjuration shall be entered of Record, and certified to the Justices of Assize.



## Abridgment.

To refuse Abjuration,

— or not to depart,

— or, to return without Licence,

--- shall be Felony.

Any Person, before warning given to Abjure, coming to Church, and making Submission, shall be discharged.

The Form of Submission,  
-- That he hath offended God, and is sorry,

--- That the Queen is Supreme,

--- That he will come to Church and maintain the publick Service.

Submissions shall be certified by the Minister to the Bishop.

Any Person relapsing, shall lose the benefit of his Submission.

Any Person keeping any in their House, who refuses to come to Church, &c.

--- shall forfeit 10*l.* per month.

III. And if any such Offender which by the tenor and intent of this Act is to be abjured, as is aforesaid, shall refuse to make Abjuration, as is aforesaid, or after such Abjuration made, shall not go to such Haven, and within such time as is before appointed, and from thence depart out of this Realm, according to this present Act, or after such his departure, shall return or come again into any her Majesties Realms or Dominions, without her Majesties special Licence in that behalf first had and obtained; That then in every such case the person so offending, shall be adjudged a felon, and shall suffer as in case of felony, without Benefit of Clergy.

IV. And furthermore be it enacted by the Authority of this present Parliament, That if any Person or persons that shall at any time hereafter offend against this Act, shall, before he or they be so warned or required to make Abjuration according to the tenour of this Act, repair to some Parish-Church on some Sunday, or other festival-day, and then and there hear Divine Service, and at Service-time, before the Sermon, or reading of the Gospel, make publick and open Submission and Declaration of his and their Conformity to her Majesties Laws and Statutes, as hereafter in this Act is declared and appointed; That then the same Offender shall thereupon be clearly discharged of and from all and every the Penalties and Punishments inflicted or imposed by this Act, for any of the Offences aforesaid. The same Submission to be as hereafter followeth; That is to say,

V. **I** A B do humbly confess and acknowledge that I have grievously offended God, in contemning her Majesties godly and lawful Government and Authority, by absenting my self from Church, and from hearing Divine Service, contrary to the godly Laws and Statutes of this Realm, and in using and frequenting disordered and unlawful Conventicles and Assemblies, under Pretence and Colour of exercise of Religion: And I am heartily sorry for the same, and do acknowledge and testify in my conscience, that no other Person hath, or ought to have any power or authority over her Majesty: And I do promise and protest, without any dissimulation, or any colour or means of any dispensation, that from henceforth I will from time to time obey and perform her Majesties Laws and Statutes, in repairing to the Church, and hearing Divine Service, and do my uttermost endeavour to maintain and defend the same.

VI. And that every Minister or Curate of every Parish where such Submission and Declaration of Conformity shall hereafter be so made by any such Offender as aforesaid, shall presently enter the same into a Book to be kept in every Parish for that purpose, and within ten days next following shall certify the same in writing to the Bishop of the same Diocess.

VII. Provided nevertheless, That if any such Offender, after such Submission made as is aforesaid, shall afterwards fall into relapse, or obstinately refuse to repair to some Church, Chapel, or usual place of Common Prayer, to hear Divine Service, and shall forbear the same as aforesaid, or shall come or be present at any such Assemblies, Conventicles or Meetings, under colour or pretence of any Exercise of Religion, contrary to her Majesties Laws and Statutes; That then every such Offender shall lose all such Benefit as he or she might otherwise by virtue of this Act have or enjoy by reason of their said Submission; and shall thereupon stand and remain in such plight, condition and degree, to all intents, as though such Submission had never been made.

VIII. And for that every person having house and family, is in duty bound to have special regard to the good government and ordering of the same, Be it enacted by the authority aforesaid, That if any person or persons shall at any time hereafter relieve, maintain, retain, or keep in his or their house, or otherwise any person that shall obstinately refuse to come to some Church, Chapel, or usual place of Common Prayer, to hear Divine Service, and shall forbear the same by the space of a month together, contrary to the Laws and Statutes of this Realm; that then every person which shall so relieve, maintain, retain, or keep any such person offending as aforesaid, after notice thereof to him or them given by the Ordinary of the Diocess, any Justice of Assizes of the Circuit, or any Justice of Peace of the County, or the Minister, Curate, or Church-wardens of the Parish where such person shall then be, or by any of them, shall forfeit to the Queens Majesty for every person so relieved, maintained, retained or kept, after such notice as aforesaid, *£*. li. for every month that he or they shall so relieve, maintain, retain or keep any such person so offending.

Temporal Laws against Separation and Conventicles.

Rep. 3. Sec. 1. c. 4.



Temporal  
Laws a-  
gainst Se-  
paration  
and Con-  
venticles.

IX. Prohibited nevertheless, That this Act shall not in any wise extend to punish or impeach any person or persons for relieving, maintaining, or keeping his or their wife, father, mother, child or children, wards, brother or sister, or his wives father or mother, not having any certain place of habitation of their own, or the husbands or wives of any of them, or for relieving, maintaining, or keeping any such person as shall be committed by authority to the custody of any by whom they shall be so relieved, maintained or kept; any thing in this Act contained to the contrary notwithstanding.

X. And for the more speedy levying and recovering for and by the Queens Majesty, of all and singular the Pains, Duties, Forfeitures and Payments which at any time hereafter shall Accrue, Grow, or be Payable by vertue of this Act, or of the Statute made in the Thirte and twentieth Year of her Majesties Reign concerning Recusants: Be it enacted by the Authority aforesaid, That all and every the said Pains, Duties, forfeitures and Payments, shall and may be recovered and levied to her Majesties use by Action of Debt, Bill, Plaint, Information, or otherwise, in any of the Courts commonly called the Kings Bench, Common Pleas, or Exchequer, in such sort and in all respects as by the ordinary course of the Common Laws of this Realm, any other Debt due by any such person in any other case, should or may be recovered or levied, wherein no Escoin, Protection, or Waiver of Law shall be admitted or allowed.

XI. Prohibited always, That the third part of the penalties to be had or received by virtue of this Act, shall be employed and bestowed, to such Good and Charitable uses, and in such manner and form as is limited and appointed in the Statute made in the twenty ninth Year of her Majesties Reign touching Recusants.

XII. Prohibited also, That no Popish Recusant, or Feme Covert, shall be compelled or bound to abjure by vertue of this Act.

XIII. Prohibited also, that every person that shall abjure by force of this Act, or refuse to abjure, being thereunto required as aforesaid, shall forfeit and lose to her Majesty all his Goods and Chattels for ever: and shall further lose all his Lands, Tenements, and Hereditaments for and during the life only of such Offender, and no longer: And that the Wife of any Offender by force of this Act, shall not lose her Dower: Nor that any corruption of Blood shall grow or be by reason of any Offence mentioned in this Act: but that the Heir of such Offender by force of this Act, shall and may after the death of every Offender, have and enjoy the Lands, Tenements, and Hereditaments of such Offender, as if this Act had not been made. And this Act to continue no longer than to the end of the next Session of Parliament.

Abridgment.  
- except, for the keeping of Wife, Father, Mother, &c.  
--and Persons committed to Custody.

Forfeitures by this Act, shall be levied as other Debts,

-- and the 3d. part employ'd to Charitable uses.

Proviso, for Popish Recusants, & Feme Coverts.  
Any Person Abjuring, or refusing to Abjure, shall forfeit Goods and Chattels,

--and Lands during Life;

† Cap. 6. Sect. 7. as in Tit. xxvi.

A.D. 1605.

3 Jac. I. Cap. 4.

In an Act, Entituled, *An Act for the better discovering and repressing of Popish Recusants.*

XXX. And because in one Act of Parliament begun and holden at Westminster in the five and thirtieth year of the late Queen Elizabeth, intituled, An Act to Retain the Queen's Majesties Subjects in their due Obedience. There are two Branches contained, the first beginning thus:

(And for that every person having House and Family, is in Duty bounden to have special regard of the good government and ordering of the same) and so forth, to the next Clause, beginning thus:

(Provided nevertheless, that this Act shall not extend to Punish or Impeach any persons for relieving, &c. ending with these words, Any thing in this Act contained to the contrary notwithstanding) which said two Branches or Clauses are found defective.

XXXI. Be it therefore enacted, That the said two Branches or Clauses of the said Act, and no more, shall be by Authority of this present Parliament, utterly repealed and made void.

XXXII. And in lieu thereof, be it enacted, That every person and persons, which after one month next after the end of this present Session of Parliament, shall willingly Maintain, Retain, Relieve, Keep, or Harbour in his or their House, any Servant, Sojourner, or Stranger, who shall not go to, or repair to some Church or Chapel, or usual Place of Common Prayer, to hear Divine Service, but shall forbear the

Two Clauses in Stat. 35 Eliz. c. 1. shall be repealed,

--and instead thereof, enacted, that any Person keeping others in his house who repair not to Church,



Abridgment.

---shall forfeit 10*l*.---and for those in  
sec or livery,---he shall also for-  
feit 10*l*.---but any Person  
may keep Parents,  
or Ward, notwith-  
standing this Act.The foregoing  
Act continued, till  
the 1<sup>st</sup>. Session of  
next Parliament.The foregoing  
Act revived, and  
further continued,---till the end of  
the 1<sup>st</sup>. Session of  
the next Parlia-  
ment,

Hist. 51.

Ibid.

the same by the space of one month together, not having a reasonable excuse, contrary to the Laws and Statutes of this Realm, shall forfeit Ten pounds for every month that he, she, or they shall so Relieve, Maintain, Retain, Keep, or Harbour any such Servant, Sojourner, Estranger in his or their House, so forbearing as aforesaid.

XXXIII. And that every person which shall within the time aforesaid Retain or Keep in his, her, or their Service, Free, or Liberty, any person or persons, which shall not go to, or repair to some Church Chapel, or usual Place of Common Prayer, to hear Divine Service, but shall forbear the same by the space of one month together, shall for every month he, she, or they shall so Retain, Keep, or Continue in his, her, or their Service, Free, or Liberty, any such person or persons so forbearing as aforesaid, knowing the same, Ten pounds, the same Penalties to be recovered and employed in manner and form hereafter following.

XXXIV. Provided nevertheless, That this Act shall not in any wise extend to Punish or Impeach any person or persons, for Maintaining, Retaining, Relieving, Keeping, or Harbouring his, her, or their Father or Mother, wanting without fraud or covin, other habitation, or sufficient maintenance, or the Ward of any such person, or any person that shall be committed by Authority to the Custody of any, by whom they shall be so Relieved, Maintained and Kept; any thing in this Act contained to the contrary notwithstanding.

39 Eliz. cap. 18.-----43 Eliz. c. 9.-----1 Jac. I. cap. 35.

*In the Continuing Acts of the foresaid Years.*

-----XVIII. One entituled, An Act to Retain the Queen's Majesties Subjects in their due Obedience, -----shall be continued, and remain in force, until the end of the first Session of the next Parliament.

21 Jac. I. Cap. 28.

*In an Act, Entituled, An Act for Continuing, &c.*

§. I.—And so much of one Act made in the said five and thirtieth year of the Reign of the said late Queen Elizabeth, intituled, An Act to Retain the Queen's Majesties Subjects in their due Obedience, as hath not been since repealed by any other Statute: —shall by virtue of this Act be adjudged ever since the Session of Parliament <sup>a</sup> in the Seventh year of his Majesties Reign of England, to have been of such force and effect, as the same were the last day of that Session, and from thenceforth until the end of the first Session of the next Parliament. —

<sup>a</sup> In the seventh Year.] The year before this retrospect was made, viz. 20 Jac. I. there appears to have been a design on foot to put the Stat. 35 Eliz. c. 1. in execution; but the last Continuation of it having been to the end of the first Session of the next Parliament (which first Session was in 18 Jac. I. and was then ended, without a further Continuation of this and other Statutes;) Jones, Chamberlain, Hutton, Denham, Haughton, Doderidge, Winch, and Bromley, declared their Opinions, that this Statute was discontinued.

The reason why this was made a question, was because in the Parliament 18 Jac. I. nothing had passed the Royal Assent, but the Subsidy-Bills, and the King had declared in the Commission to dissolve it, that it

should not be a Session; for which a Precedent was alledged, where the same Clause in the Commission was, *Pro eo quod nullus Regalis Assensus, nec Responsio per nos præst fuit; nullum Parliamentum, nec aliqua Sessio Parliamenti lata aut tenta fuit.* But the signing of the Subsidy Bills made it a Session in this case; and so the general Opinion of the Judges clearly was: but all of them not being at the last Conference, the Resolution was deferred; and in the mean time the Secretary and the Attorney General were to inform the King, that *the Statute was obscure, and had not been put in ure, and that they could not agree.* But the next year, as we see, the difficulty was solved by Act of Parliament.

3 Car. I.

Temporal  
Laws a-  
gainst Se-  
paration  
and Con-  
venticles.

† Sect. 27. in  
Tit. XXVI.

A.D. 1597.

A.D. 1623.



Temporal  
Laws a-  
gainst Se-  
paration,  
and Con-  
venticles.

A.D. 1627.

3 Car. I. Cap. 4.

In an Act, Entituled, *An Act for the Repeal and Continuance of divers Statutes.*

XXI. And so much of one Act made in the five and thirtieth year of the Reign of the said late Queen Elizabeth, Entituled, Act to Retain the Queen's Majesties Subjects in their due Obedience, as hath not been since repealed by any other Statute — shall continue in force, until the end of the first Session of the next Parliament.

Abridgment.

The like Continuation, again.

A.D. 1663.

16 Car. II. Cap. 4.

In an Act, Entituled, *An Act to prevent and suppress Seditious Conventicles.*

Whereas an Act made in the five and thirtieth year of the Reign of our late Sovereign Lady Queen Elizabeth, entituled, An Act to Retain the Queen's Majesties Subjects in their due Obedience, hath not been put in due Execution, by reason of some doubt of late made, Whether the said Act be still in force; although it be very clear and evident, and it is hereby Declared, that the said Act is still in force, and ought to be put in due execution: —

The foregoing Act, declared to be in full force.

A.D. 1688.

1 Will. & Mar. Cap. 18.

In an Act, Entituled, *An Act for Exempting their Majesties Protestant Subjects, dissenting, &c.*

—§. II. [Dissenters] shall not be liable to any Pains, Penalties, or Forfeitures, mentioned in an Act made in the five and thirtieth Year of the Reign of the Late Queen Elizabeth, Entituled, An Act to Retain the Queen's Majesties Subjects in their due Obedience.

Protestant Dissenters shall be exempted from the Penalties of 35 El. c. 1.

A.D. 1623.

21 Jac. I. Cap. 4.

In an Act, Entituled, *An Act for the ease of the Subjects, in case of Informations upon Penal Statutes, &c.*

V. Provided always, that this Act, or any Clause contained therein, shall not extend to any Information, Suit or Action, grounded upon any Law or Statute made against — those that shall not frequent the Church, and hear Divine Service, — but that such Offence may be laid or alledged to be in any County, at the pleasure of any Informer: Any thing in this Act contained to the contrary notwithstanding.

Actions against those that do not frequent the Church, may be laid in any County.

A.D. 1663.

16 Car. II. Cap. 4.

*An Act to prevent and suppress Seditious Conventicles.*

Whereas an Act made in the five and thirtieth year of the Reign of our late Sovereign Lady Queen Elizabeth, entituled, An Act to Retain the Queen's Majesties Subjects in their due Obedience, hath not been put in due execution by reason of some doubt of late made, Whether the said Act is still in force; although it be very clear and evident, And it is hereby declared, That the said Act is still in force, and ought to be put in due execution:

Stat. 35 El. c. 1. declared do be in force.

II. For providing therefore of further and more speedy remedies against the growing and dangerous practices of seditious Sectaries, and other disloyal persons, who under pretence of tender Consciences, do at their Meetings contrive Insurrections, as late experience hath shewed;

Sectaries, under pretence of tender Consciences, meeting to contrive Insurrections;

III. Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled and by the authority of the same, that if any person of the age of Sixteen years or upwards,

Enacted, that,



## Abridgment.

-- if any Person above 16, shall be present at a Conventicle, where 5 or more are assembled,

--two Justices, upon proof, shall make record thereof,

-- which Record shall be a full Conviction,

-- and the Party may be imprisoned, 3 months,

--or fined 5*l*.

--to the use of the Poor.

-- For the second offence,

-- Imprisonment of 6 months,

--or fine of 10*l*.

--For the 3<sup>d</sup> offence,

-- Imprisonment till next Quarter-Sessions, or Assizes, &c,

--and Transportation for 7 years.

The Sheriff being commanded, and neglecting to Transport, shall forfeit 40*l*.

--and the Charges of transporting shall be answered out of the Estate of the Offender.

The Offender, not defraying the Charges,

*Keling p.*  
38.

being a Subject of this Realm, at any time after the first day of July, which shall be in the year of our Lord, One thousand six hundred sixty and four, shall be present at any Assembly, Conventicle or Meeting, under colour or pretence of any exercise of Religion, in either manner than is allowed by the Liturgy or practice of the Church of England, in any place within the Kingdom of England, Dominion of Wales, and Town of Berwick upon Tweed; At which Conventicle, Meeting, or Assembly, there shall be five persons or more assembled together, over and above those of the same Household; then it shall and may be lawful to, and for any two Justices of the Peace of the County, Limit, Division or Liberty wherein the offence aforesaid shall be committed, or for the chief Magistrate of the place where such offence aforesaid shall be committed, (if it be within a Corporation where there are not two Justices of the Peace) and they are hereby required and enjoined, upon proof to them or him respectively made of such offence, either by confession of the party, or Oath of Witness, or notorious evidence of the Fact, (which Oath the said Justices of the Peace, and chief Magistrate respectively, are hereby empowered and required to administer) to make a Record of every such offence and offences under their hands and seals respectively; which Record so made as aforesaid, shall to all intents and purposes be in Law taken and adjudged to be a full and perfect Conviction of every such Offender for such offence: And thereupon the said Justices and chief Magistrate respectively, shall commit every such Offender so convicted as aforesaid, to the Gaol or house of Correction, there to remain without Bail or Mainprize, for any time not exceeding the space of three months, unless such Offender shall pay down to the said Justices or chief Magistrate, such sum of money not exceeding five pounds, as the said Justices or chief Magistrate (who are hereby thereunto authorized and required) shall fine the said Offender at, for his or her said offence; which money shall be paid to the Church-wardens for the relief of the poor of the Parish where such Offender did last inhabit.

IV. And be it further enacted by the authority aforesaid, That if such Offender so convicted as aforesaid, shall at any time again commit the like offence contrary to this Act, and be thereof in manner aforesaid convicted, Then such Offender so convicted of such second offence, shall incur the penalty of Imprisonment in the Gaol or house of Correction, for any time not exceeding six months, without Bail or Mainprize, unless such Offender shall pay down to the said Justices or chief Magistrate such sum of money, not exceeding Ten pounds, as the said Justices or chief Magistrate (who are thereunto authorized and required as aforesaid) shall fine the said Offender at, for his or her said second offence, the said fine to be disposed in manner aforesaid.

V. And be it further enacted by the authority aforesaid that if any such Offender so convicted of a second offence contrary to this Act in manner aforesaid, shall at any time again commit the like offence contrary to this Act. Then any two Justices of the Peace, and chief Magistrate as aforesaid respectively, shall commit every such Offender to the Gaol, or house of Correction, there to remain without Bail or Mainprize until the next General Quarter-Sessions, Assizes, Gaol delivery, Great Sessions, or sitting of any Commission of Oyer and Terminer, in the respective County, Limit, Division or Liberty which shall first happen; when and where every such Offender shall be proceeded against by Indictment for such offence, and shall forthwith be arraigned upon such Indictment, and shall then plead the General Issue of Not-guilty, and give any special matter in Evidence, or confess the Indictment: And if such Offender proceeded against, shall be lawfully convicted of such offence, either by Confession or Verdict, or if such Offender shall refuse to plead the General Issue, or to confess the Indictment, then the respective Justices of the Peace at their General Quarter-Sessions, Judges of Assize and Gaol-delivery at the Assizes and Gaol-delivery, Justices of the great Sessions at the great Sessions, and Commissioners of Oyer and Terminer, at their sitting, are hereby enabled and required to cause Judgment to be entered against such offender, That such Offender shall be Transported beyond the Seas to any of his Majesties Foreign Plantations (Virginia and New-England only excepted) there to remain seven years; And shall forthwith under their Hands and Seals make out Warrants to the Sheriff or Sheriffs of the same County where such conviction or refusal to plead or to confess as aforesaid shall be, safely to convey such Offender to some Port or Haven nearest or most commodious to be appointed by them respectively; and from thence to Embarque such Offender to be safely Transported to any of his Majesties Plantations beyond the Seas, as shall be also by them respectively appointed (Virginia and New-England only excepted:) Whereupon the said Sheriff shall safely convey and embark, or cause to be conveyed or embarked such offender, to be Transported as aforesaid, under pain of forfeiting for the default of so Transporting every such Offender, the sum of Forty pounds of lawful money, the one moiety thereof to the King, and the other moiety to him or them that shall sue for the same in any of the Kings Courts of Record, by bill, plaint, action of debt, or information; In any of which, no wager of Law, essoin or protection shall be admitted: And the said respective Court shall then also make out Warrants to the several Constables, Headboroughs or Tythingmen of the respective places where the Estate real or personal of such Offender so to be Transported shall happen to be, commanding them thereby to Sequester into their hands the profits of the Lands, and to distrain and sell the Goods of the Offender so to be Transported, for the re-imbursing of the said Sheriff all such reasonable charges as he shall be at, and shall be allowed him by the respective Court for such conveying and embarking of such Offender so to be Transported rendering to the party, or his or their assign, the overplus of the same, if any be, unless such Offender, or some other on the behalf of such Offender so to be Transported, shall give the Sheriff such Security as he shall approve of, for the paying all the said charges unto him.

VI. And be it further enacted by the authority aforesaid, that in default of defraying such charges by the parties to be Transported, or some other in their behalf; or in default of Security given to the Sheriff as aforesaid; it shall and may be lawful for every such Sheriff to

*c* A Subject.] Ann. 1664. at the trial of several Quakers upon this Statute; one of them pleaded, that he was an Alien, born in France, and so not within the penalty of the Act, which extended only to Subjects. But it was agreed by the Court, that if an Alien come into this Kingdom,

and live under the King's Protection; as long as he liveth here, he is a Subject of this Realm, and punishable for transgressing the Laws thereof: but if the Statute had said, a natural born Subject, that then it had not extended to him.

Temporal Laws against Separation, and Conventicles.



Temporal  
Laws a-  
gainst Se-  
paration  
and Con-  
venticles.

contract with any Master of Ship, Merchant or other person, for the Transporting of such Offender at the best rate he can: And that in every such case it shall and may be lawful for such persons so contracting with any Sheriff for Transporting such Offender as aforesaid, to detain and employ every such Offender so by them Transported, as a Labourer to them or their Assigns, for the space of five years, to all intents and purposes, as if he or she were bound by Indentures to such person for that purpose: And that the respective Sheriffs shall be allowed or paid from the King, upon their respective Accounts in the Exchequer, all such charges by them expended, for Conveying, Embarking and Transporting of such persons, which shall be allowed by the said respective Courts from whence they received their respective Warrants, and which shall not have been by any of the ways aforesaid mentioned paid, secured, or reimbursed unto them as aforesaid.

VII. Provided always, and be it further enacted, That in case the Offender so Indicted and Convicted for the said Third Offence, shall pay into the hands of the Register or Clerk of the Court or Sessions where he shall be Convicted (before the said Court or Sessions shall be ended) the sum of one hundred pounds, That then the said Offender shall be discharged from Imprisonment and Transportation, and the judgment of the same.

VIII. And be it further enacted That the like Imprisonment, Judgment, Arraignment and Proceedings, shall be against every such Offender, as often as he shall again Default after such Third Offence; nevertheless is dischargeable and discharged by the payment of the like sum as was paid by such Offender for his or her said Offence next before committed, together with the additional and increased sum of One hundred pounds more upon every new Offence committed; the said respective sums to be paid as aforesaid, and to be disposed of as followeth, (viz.) The one moiety for the Repair of the Parish Church or Churches, Chappel or Chappels of such Parish within which such Conventicle, Assembly or Meeting shall be held; and the other moiety to the Repair of the High ways of the said Parish or Parishes (if need require) or otherwise for the Amendment of such High ways as the Justices of the Peace at their respective Quarter Sessions shall direct and appoint. And if any Constable, Headborough or Tythingman shall neglect to execute any the said Warrants made unto them for Sequestering, Distraining and Selling any of the Goods and Chattels of any Offender against his Act, for the Levying such sums of Money as shall be imposed for the first or second Offence, he shall forfeit for every such neglect the sum of five pounds of lawful Money of England, the one moiety thereof to the King, and the other moiety to him that will sue for the same in any of the Kings Courts of Record, as is aforesaid. And if any person be at any time Sued for putting in Execution any of the powers contained in this Act, such person shall and may plead the General Issue, and give the special matter in Evidence and if the Plaintiff be Pursuit, or a Verdict pass for the Defendant thereupon, or if the Plaintiff discontinue his Action, or if upon Demurrer, Judgment be given for the Defendant, every such Defendant shall have his or their treble Costs.

IX. And be it further enacted, That if any person against whom Judgment of Transportation shall be given in manner aforesaid, shall make escape before Transportation, or being Transported as aforesaid, shall return unto this Realm of England, Dominion of Wales, and Town of Berwick upon Tweed, without the special Licence of his Majesty his Heirs and Successors, in that behalf first had and obtained, That the party so escaping or returning shall be adjudged a Felon, and shall suffer death as in case of Felony, without benefit of Clergy, and shall forfeit and lose to his Majesty all his or her Goods and Chattels for ever; and shall further lose to his Majesty all his or her Lands, Tenements and Hereditaments for and during the life only of such Offender, and no longer: and that the Wife of any such Offender by force of this Act shall not lose her Dower, nor shall any Corruption of Blood grow or be by reason of any such offence mentioned in this Act; but that the Heir of every such Offender by force of this Act, shall and may after the death of such Offender, have and enjoy the Lands, Tenements and Hereditaments of such Offender, as if this Act had not been made.

X. And for the better preventing of the mischiefs which may grow by such Seditious and Tumultuous Meetings, under pretence of Religious Worship, Be it further enacted by the authority aforesaid, That the Lieutenants or Deputy Lieutenants, or any Commissioned Officers of the Militia, or any other her Majesties Forces, with such Troops or Companies of Horse and Foot; and also the Sheriffs, Justices of Peace and other Magistrates and Ministers of Justice, or any of them jointly and severally within any the Counties or places within this Kingdom of England, Dominion of Wales and Town of Berwick upon Tweed, with such or other assistance as they shall think meet, or can get in readines with the swiftest, on Certificate made to them respectively under the Hand and Seal of any one Justice of Peace, or chief Magistrate, as aforesaid, of his particular Information or knowledge of such unlawful Meetings or Conventicles held or to be held in their respective Counties or places, and that he (with such assistance as he can get together) is not able to suppress or dissolve the same; shall and may, and are hereby required and enjoined to repair unto the place where they are so held, or to be held, and by the best means they can to dissolve and dissipate, or prevent all such unlawful Meetings, and take into their custody such of those persons so unlawfully assembled as they shall judge to be the Leaders and Seducers of the rest, and such others as they shall think fit to be proceeded against according to Law for such their Offences.

XI. And be it enacted by the authority aforesaid, That every person who shall wittingly and willingly suffer any such Conventicle, unlawful Assembly or Meeting aforesaid, to be held in his or her House, Out-house, Barn or Room, Yard or Back-side, Woods or Grounds, shall incur the same penalties and forfeitures as any other Offender against this Act ought to incur, and be proceeded against in all points, in such manner as any other Offender against this Act ought to be proceeded against.

XII. Provided also, and be it enacted by the authority aforesaid. That if any keeper of any Gaol or House of Correction, shall suffer any person committed to his custody for any Offence against this Act, to go at large, contrary to the Warrant of his Commitment according to this Act or shall permit any person who is at large, to joyn with any person committed to his custody by vertue of this Act, in the Exercise of Religion, differing from the Rites of the Church of England; then every such keeper of a Gaol or House of Correction shall for every such Offence forfeit the sum of Ten pounds, to be Levied, Raised and Disposed by such persons, and in such manner as the Penalties for the first and second Offences against this Act are to be Levied, Raised and Disposed.

XIII. Provided always, That no person shall be punished for any Offence against this Act unless such Offender be prosecuted for the same within three months after the Offence committed:

## Abridgment.

---shall be Servant to the Master of the Ship, &c. for 5 years.  
---and the Sheriff shall be allowed his Charges in the Exchequer.

The Offender, paying 100*l.* shall be discharged of Imprisonment and Transportation,

---and so for any new offence, after the 3*d.* time;

---and one moiety of the forfeitures, shall be for the repair of the Parish Church.

Constable, &c. neglecting to sequester the Estate, shall forfeit 5*l.*

---and he or any other, being sued for the Execution of this Act, shall have treble Costs.

To escape before, or return after, Transportation, shall be Felony,

---and forfeiture of Goods and Chattels, and also of Lands during Life; without prejudice to the Widow, or Heir.

Lieutenants, Magistrates, &c. having notice of an unlawful Assembly,

--- shall dissipate them, and seize the Leaders.

Persons suffering Conventicles in their Houses, shall forfeit as any other Offender, ---and Gaoler suffering an Offender to bear arms, or others to joyn in worship with him,

--- shall forfeit 10*l.*

All prosecutions shall be within 3 months,



## Abridgment.

and none punished, shall be punishable by other Law.

Feme-Covert shall not be Transported alone, but shall suffer Imprisonment, or Fine.

Magistrates may enter forcibly into any House,

--except the Dwelling-House of a Peer, which shall not be enter'd, but by higher Authority.

No Person shall be sent to the House of Correction that hath 5l. a year:

Any Person Convicted in an Inferiour Court, shall be Imprisoned till next Assizes,

--and then, upon refusal of the Oath, have Judgment of Transportation.

Peers; for the 1st Offence, shall pay--10l.  
--for the 2d.--20l.  
--for the 3rd shall be tried by his Peers.

This Act shall continue for 3 years.

Danger from Sectaries, to the Government;

--and, Enacted, that,

--any Person of 16 or upwards, being present at a Conventicle,

--where 5 are assembled, in House, or Field,

ted: And that no person who shall be punished for any Offence by virtue of this Act, shall be punished for the same Offence by virtue of any other Act or Law whatsoever.

XIV. Provided also, and be it enacted, That Judgment of Transportation shall not be given against any Feme-Covert, unless her Husband be at the same time under the like Judgment, and not discharged by the payment of Money as aforesaid; but that instead thereof she shall by the respective Court be committed to Gaol or House of Correction, there to remain without Bail or Mainprize, for any time not exceeding twelve months, unless her Husband shall pay down such sum, not exceeding Forty pounds, to redeem her from Imprisonment, as shall be imposed by the said Court; the said sum to be disposed by such persons, and in such manner as the Penalties for the first and second Offence against this Act are to be disposed.

XV. Provided also, and be it enacted by the authority aforesaid That the Justices of the Peace, and chief Magistrate respectively impowred as aforesaid to put this Act in execution, shall and may, with what aid, force and assistance they shall think fit, for the better execution of this Act, after refusal and denial, enter into any House, or other place where they shall be informed any such Conventicle as aforesaid, is or shall be held.

XVI. Provided, That no dwelling-house of any Peer of this Realm, whilst he or his Wife shall be there resident, shall be searched by virtue of this Act, but by immediate Warrant from his Majesty under his Sign Manual, or in the presence of the Lieutenant, or one of the Deputy-Lieutenants, or two Justices of the Peace, whereof one to be of the Quorum of the same County or Riding: Nor shall any other dwelling-house of any Peer or other person whatsoever, be entered into with force by virtue of this Act, but in the presence of one Justice of the Peace, or chief Magistrate respectively, except within the City of London, where it shall be lawful for any such other dwelling house to be entered into as aforesaid, in the presence of one Justice of the Peace, Alderman, Deputy Alderman, or any one Commissioner for the Lieutenancy for the City of London.

XVII. Provided also, and be it enacted by the authority aforesaid, That no person shall by virtue of this Act be committed to the House of Correction, that shall satisfy the said Justices of the Peace, or chief Magistrate respectively, That he or she (and in case of a Feme-Covert. that her Husband) hath an Estate of Freehold, or Copyhold, to the value of five pounds per annum, or personal Estate to the value of fifty pounds; any thing in this Act to the contrary notwithstanding. †

XXI. Provided always, That every person convicted as aforesaid in any Courts aforesaid (other than his Majesties Court of King's Bench, or before the Justices of Assize, or General Gaol-delivery) shall by Warrant containing a Certificate of such conviction under the Hand and Seal of the respective Judge or Judges before whom such conviction shall be had, be sent to some one of his Majesties Gaols in the same County where such conviction was had, there to remain without Bail or Mainprize until the next Assizes or general Gaol-delivery, where, if such person so convicted shall refuse to take the Oath aforesaid, being tendered unto him by the Justice or Justices of Assize or Gaol-delivery; then such Justice or Justices shall cause Judgment of Transportation to be executed in such manner, as Judgment of Transportation by this Act is to be executed: But in case such person shall take the said Oath, then he shall thereupon be discharged.

XXII. Provided always and be it enacted by the authority aforesaid, That if any Peer of this Realm shall Offend against this Act, he shall pay Ten pounds for the first Offence, and Twenty pounds for the second Offence, to be levied upon his goods and chattels by Warrant from any two Justices of the Peace, or chief Magistrate of the place or division where such Peer shall dwell; and that every Peer for the third, and every further Offence against the tenour of this Act, shall be tried by his Peers and not otherwise.

XXIII. Provided also, and be it further enacted by the authority aforesaid, That this Act shall continue in force for Three years after the end of this present Session of Parliament; and from thenceforward, to the end of the next Session of Parliament after the said Three years, and no longer.

## 22 Car. II. Cap. 1.

A.D. 1670.

*An Act to prevent and suppress Seditious Conventicles.*

**F**OR providing further and more speedy Remedies against the growing and dangerous Practices of Seditious Sectaries, and other Disloyal Persons, who under pretence of tender Consciences, have or may at their Meetings contrive Insurrections (as late Experience hath shewn;) Be it enacted by the King's most excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the Authority of the same, That if any person of the age of Sixteen years and upwards, being a Subject of this Realm, at any time after the Tenth day of May next, shall be present at any Assembly, Conventicle or Meeting, under colour or pretence of any Exercise of Religion, in other manner than according to the Liturgy and Practice of the Church of England, in any place within the Kingdom of England, Dominion of Wales, or Town of Berwick upon Tweed, at which Conventicle, Meeting or Assembly, there shall be five persons or more assembled together, over and besides those of the same Household, if it be in a House where there is a family inhabiting; or if it be in a House, Field or place where there is no family inhabiting, then where any five persons or more, are so assembled as aforesaid; it shall and may be lawful

Temporal  
Laws a-  
gainst Se-  
paration  
and Con-  
venticles.

† S. 18, 19,  
20, of Quakers,  
as in Cap. 4.



Temporal  
Laws a-  
gainst Se-  
paration,  
and Con-  
venticles.

lawful to and for any one or more Justices of the Peace of the County, Limit, Division, Corporation or Liberty wherein the Offence aforesaid shall be committed, or for the chief Magistrate of the place where the Offence aforesaid shall be committed; And he and they are hereby required and enjoined upon proof to him or them respectively made of such Offence, either by Confession of the Party, or Oath of two Witnesses (which Oath the said Justice and Justices of the Peace, and chief Magistrate respectively, are hereby impowred and required to Administer) or by notorious Evidence and Circumstance of the Fact, to make a Record of every such Offence under his or their Hands and Seals respectively: which Record so made as aforesaid, shall to all intents and purposes be in Law taken and adjudged to be a full and perfect Conviction of every such Offender for such Offence; and thereupon the said Justice, Justices and chief Magistrate respectively, shall impose on every such Offender so Convicted as aforesaid, a fine of five Shillings for such first Offence; which Record and Conviction shall be certified by the said Justice, Justices, or chief Magistrate, at the next Quarter-Sessions of the Peace, for the County or Place where the Offence was committed.

II. And be it further enacted by the Authority aforesaid, That if such Offender, so convicted as aforesaid, shall at any time again commit the like Offence or Offences, contrary to this Act, and be thereof in manner aforesaid convicted, Then such Offender so Convicted of such like Offence or Offences, shall for every such Offence incur the Penalty of Ten Shillings: which fine and fines, for the first, and every other Offence shall be levied by Distress and Sale of the Offenders Goods and Chattels: or in case of the Poverty of such Offender, upon the Goods and Chattels of any other Person or Persons who shall be then convicted in manner aforesaid of the like Offence, at the same Conventicle, at the Discretion of the said Justice, Justices or chief Magistrate respectively, so as the Sum to be levied on any one Person in case of the Poverty of other Offenders, amount not in the whole to above the Sum of Ten pounds, upon occasion of any one Meeting, as aforesaid: And every Constable, Headborough, Tything-man, Churchwardens and Overseers of the Poor respectively, are hereby authorized and required to levy the same accordingly, having first received a Warrant under the Hands and Seals of the said Justice, Justices or chief Magistrate respectively, so to do; and the said Moneys so to be levied, to be forthwith delivered to the same Justice, Justices or chief Magistrate, and by him or them to be distributed, the one third part thereof to the use of the King's Majesty, his Heirs and Successors, to be paid to the High-Sheriff of the County for the time being, in manner following; that is to say, the Justice or Justices of Peace shall pay the same into the Court of the respective Quarter-Sessions, which said Court shall deliver the same to the Sheriff, and make a Memorial on Record of the Payment and Delivery thereof, which said Memorial shall be a sufficient and final Discharge to the said Justices, and a Charge to the Sheriff, which said Discharge and Charge shall be certified into the Exchequer together, and not one without the other: and no Justice shall or may be questioned or accountable for the same in the Exchequer, or elsewhere, than in Quarter-Sessions; Another third part thereof to and for the use of the Poor of the Parish where such Offence shall be committed; And the other third part thereof to the Informer and Informers, and to such Person and Persons as the said Justice, Justices or chief Magistrate respectively, shall appoint, having regard to their Diligence and Industry in the discovery, dispersing and punishing of the said Conventicles.

*c* To Levy.] At a meeting of the Judges at Serjeants-Inn, 35 Car. 2. it was resolved, That the Constable or other Officer having a Warrant to levy upon this Act, may upon Refusal break open the house to execute his Warrant; by reason, that the King is entituled to part of the forfeiture.

*d* Of the King's Majesty.] On ac-

count of this Allotment of a third part to the King, the Issue was adjudged to be mis-joyned, because it was only between the Informer and Defendant.

*e* To the Informer.] It was resolved by the Judges at Serjeants-Inn, That, notwithstanding part of the Penalty is allotted to the Informer, he is a good Witness against the Offender.

Abridgment.

---Record shall be made thereof,

--- and the Party fined 5s.

---and for the second offence, 10s-

The said Fines, where there is no distress, shall be levied upon any other Offender in the same Conventicle.

--- by Constable, &c.

---and divided between the King, the Poor; and the Informer.



## Abridgment.

Every Preacher in a Conventicle, shall forfeit 20<sup>l</sup>.

-- (and, if he be unable, it shall be levied upon the Persons present.)

-- and for the second offence, 40<sup>l</sup>.

Any Person suffering a Conventicle in his House, shall forfeit 20<sup>l</sup>.

-- to be levied, in case of Poverty, upon the Persons present.

No Person shall pay above 10<sup>l</sup>. for others.

Penalty being above 10<sup>l</sup>. the Offender may appeal to the Quarter Sessions,

-- but if Judgment pass against him, he shall pay treble Costs.

No Appeal shall be good, without Recognizance to prosecute,

-- and the Appeal shall be left with the Person Convicting.

III. And be it further enacted by the Authority aforesaid, That every Person who shall take upon him to Preach or Teach in any such Meeting, Assembly or Conventicle, and shall thereof be convicted as aforesaid, shall forfeit for every such first Offence the Sum of Twenty pounds, to be levied in manner aforesaid upon his Goods and Chattels; And if the said Preacher or Teacher so convicted, be a Stranger, and his Name and Habitation not known, or is fled, and cannot be found, or in the judgment of the Justice, Justices or chief Magistrate before whom he shall be Convicted, shall be thought unable to pay the same, the said Justice, Justices or chief Magistrate respectively, are hereby impowered and required to levy the same by Warrant as aforesaid, upon the Goods and Chattels of any such person who shall be present at the same Conventicle; Any thing in this or any other Act, Law or Statute to the contrary notwithstanding; And the Money so levied, to be disposed of in manner aforesaid: And if such Offender so Convicted as aforesaid, shall at any time again commit the like Offence or Offences contrary to this Act, and be thereof Convicted in manner aforesaid, then such Offender so Convicted of such like Offence or Offences, shall for every such Offence, incur the Penalty of Forty pounds, to be levied and disposed as aforesaid.

IV. And be it further enacted by the authority aforesaid, That every person who shall wittingly and willingly suffer any such Conventicle, Meeting or unlawful Assembly aforesaid, to be held in his or her House, Out-house, Barn, Yard or Backside, and be Convicted thereof in manner aforesaid, shall forfeit the Sum of Twenty pounds, to be levied in manner aforesaid, upon his or her Goods and Chattels; or in case of his or her Poverty or Inability as aforesaid, upon the Goods and Chattels of such persons who shall be Convicted in manner aforesaid, of being present at the same Conventicle; and the Money so levied, to be disposed of in manner aforesaid.

V. Provided always, and be it enacted by the Authority aforesaid, That no person shall by any Clause of this Act be liable to pay above Ten pounds for any one Meeting, in regard of the Poverty of any other person or persons.

VI. Provided also, and be it further enacted, That in all Cases of this Act, where the Penalty or Sum charged upon any Offender exceeds the Sum of Ten shillings, and such Offender shall find himself aggrieved, it shall and may be Lawful for him within one Week after the said Penalty or Money Charged, shall be Paid or Levied, to Appeal in Writing from the person or persons Convicting, to the judgment of the Justices of the Peace in their next Quarter Sessions; to whom the Justice or Justices of Peace, chief Magistrate or Alderman, that first Convicted such Offender, shall return the Money Levied upon the Appellant, and shall certify under his and their Hands and Seals, the Evidence upon which the Conviction pass, with the whole Record thereof, and the said Appeal: Whereupon such Offender may plead and make defence, and have his Trial by a Jury thereupon: And in case such Appellant shall not prosecute with effect, or if upon such Trial he shall not be acquitted, or Judgment pass not for him upon his said Appeal, the said Justices at their Sessions, shall give treble Costs against such Offender for his unjust Appeal: And no other Court whatsoever shall intermeddle with any Cause or Causes of Appeal upon this Act, but they shall be finally determined in the Quarter Sessions only.

VII. Provided always, and be it further enacted, That upon the delivery of such Appeal as aforesaid, the person or persons Appellant shall enter before the person or persons Convicting, into a Recognizance, to prosecute the said Appeal with effect: Which said Recognizance the person or persons Convicting is hereby impowered to take, and required to certify the same to the next Quarter Sessions: And in case no such Recognizance be entered into, the said Appeal to be Null and Void.

VIII. Provided always, That every such Appeal shall be left with the person or persons so Convicting as aforesaid, at the time of the making thereof.

Temporal Laws against Separation, and Conventicles.



Temporal  
Laws a-  
gainst Se-  
paration,  
and Con-  
venticles.

IX. And be it further enacted by the Authority aforesaid, That the Justice, Justices of the Peace and chief Magistrate respectively, or the respective Constables, Headboroughs and Tything-men, by Warrant from the said Justice, Justices or chief Magistrate respectively, shall and may with what aid, force and assistance they shall think fit, for the better execution of this Act, after refusal or denial to enter, break open, and enter into any House or other Place, where they shall be informed any such Conventicle as aforesaid, is or shall be held, as well within Liberties as without, and take into their custody the persons there unlawfully Assembled to the intent that they may be proceeded against according to this Act: And that the Lieutenants or Deputy Lieutenants, or any Commissioned Officer of the Militia, or other of his Majesties force, with such Troops or Companies of Horse and foot; and also the Sheriffs, and other Magistrates and Ministers of Justice, or any of them, jointly or severally, within any the Counties or Places within the Kingdom of England, Dominion of Wales, or Town of Berwick upon Tweed, with such other Assistance as they shall think meet, or can get in readiness with the soonest, on Certificate made to them respectively under the Hand and Seal of any one Justice of the Peace or chief Magistrate, of his particular Information or Knowledge of such unlawful Meeting or Conventicle held, or to be held in their respective Counties or Places, and that he with such Assistance as he can get together, is not able to Suppress and Dissolve the same: shall and may, and are hereby required and enjoined to repair unto the place where they are so held, or to be held, and by the best means they can to Dissolve, Dissipate or Prevent all such unlawful Meetings, and take into their Custody such and so many of the said persons so unlawfully Assembled as they shall think fit, to the intent they may be proceeded against according to this Act.

X. Provided always, That no Dwelling-house of any Peer of this Realm, where he or his Wife shall be then resident, shall be searched by vertue of this Act, but by immediate Warrant from his Majesty, under his Sign Manual, or in the presence of the Lieutenant, or one Deputy-Lieutenant, or two Justices of the Peace, whereof one to be of the Quorum of the same County or Riding.

XI. And be it further enacted by the Authority aforesaid, That if any Constable, Headborough, Tything-man, Church-warden or Overseer of the Poor, who shall know, or be credibly informed of any such Meetings or Conventicles held within his Precincts, Parishes or Limits, and shall not give information thereof to some Justice of the Peace, or the chief Magistrate, and endeavour the Conviction of the Parties according to his Duty; but such Constable, Headborough, Tything-man, Churchwardens, Overseers of the Poor, or any person lawfully called in aid of the Constable, Headborough or Tything-man, shall wilfully and wittingly omit the performance of his Duty, in the execution of this Act, and be thereof Convicted in manner aforesaid; he shall forfeit for every such offence, the sum of five pounds, to be levied upon his Goods and Chattels, and disposed in manner aforesaid; And that if any Justice of the Peace, or chief Magistrate, shall wilfully and wittingly omit the performance of his duty in the execution of this Act, he shall forfeit the sum of One hundred pounds, & the one moiety to the use of the Informer, to be recovered by Action, Suit, Bill or Plaint, in any of his Majesties Courts at Westminster, wherein no Escoin, Protection or Wager of Law shall lie.

XII. And be it further enacted by the authority aforesaid, That if any person be at any time Sued for putting in execution any of the powers contained in this Act, otherwise than upon Appeal allowed by this Act, such person shall and may plead the general Issue, and give the special matter in Evidence; and if the Plaintiff be Non-suit, or a Verdict pass for the Defendant, or if the Plaintiff discontinue his

Abridgment.  
Magistrates may break open any House, where a Conventicle is,

-- and take the Persons into Custody.  
Lieutenants, &c. being informed of a Conventicle, shall repair thither,

--and dissipate, and take the Persons into Custody.

Houses of Peers shall not be searched, but by immediate Warrant from the King, &c.

Constable, &c. knowing of a Conventicle, and not informing,

--and any Person denying to assist,

--shall forfeit 5l.

--and Chief Magistrate neglecting, 100l.

Persons sued for the execution of this Act, shall have treble Costs.

Jones (Tho) 234.

f [In the Execution.] It was resolved 35 Charles the 2d. that the Constable incurs the forfeiture of 5l. for omitting his Duty, not only in such things as are mentioned in this Clause, but also in levying the Penalty by Warrant from the Justice.

g [The one moiety.] The Judges, as aforesaid, Resolved, That altho' the other moiety is not expressly limited, yet it belongs wholly to the King, and no part of it to the Poor of the Parish.

ibid.

Action



## Abridgment.

This Act shall be construed most largely against Conventicles.

...and no Record reversed, for default of Form,

...and an Offender flying into another County, the Justices thereof shall levy the Penalty.

All Prosecutions shall be within 3 months, --and none punished twice, by virtue of any other Act.

Every Alderman in London, shall have the Authority of a Justice, for the purposes of this Act.

Feme-Covert being Convicted, the Fine shall be levied on the Husband.

No Peer shall be attached upon this Act.

Proviso for the Royal Supremacy in Ecclesiastical affairs.

Dissenters shall be exempted from the Penalties of the foregoing Act.

Action, or if upon Demurrer Judgment be given for the Defendant, every such Defendant shall have his full treble Costs.

XIII. And be it further enacted by the authority aforesaid, That this Act, and all Clauses therein contained, shall be construed most largely and beneficially for the suppressing of Conventicles, and for the justification and encouragement of all persons to be employed in the execution thereof: And that no Record, Warrant or Mittimus to be made by virtue of this Act, or any proceedings thereupon, shall be reversed, avoided or any way impeached, by reason of any default in form. And in case any person offending against this Act, shall be an Inhabitant in any other County or Corporation, or flee into any other County or Corporation after the offence committed, the Justice of Peace or chief Magistrate before whom he shall be convicted as aforesaid, shall certify the same under his Hand and Seal, to any Justice of Peace, or chief Magistrate of such other County or Corporation wherein the said person or persons are Inhabitants, or are fled into; which said Justice or chief Magistrate respectively, is hereby authorized and required to levy the penalty or penalties in this Act mentioned, upon the Goods and Chattels of such person or persons, as fully as the said other Justice of Peace might have done in case he or they had been Inhabitants in the place where the offence was committed.

XIV. Provided also, That no person shall be punished for any offence against this Act, unless such Offender be prosecuted for the same within three months after the Offence committed. And that no person who shall be punished for any offence by virtue of this Act, shall be punished for the same offence by virtue of any other Act or Law whatsoever.

XV. Provided, and be it further enacted by the authority aforesaid, That every Alderman of London, for the time being, within the City of London and the Liberties thereof, shall have (and they and every of them are hereby empowered and required to execute) the same power and authority within London, and the Liberties thereof, for the examining convicting and punishing of all offences within this Act committed within London and the Liberties thereof, which any Justice of the Peace hath by this Act in any County of England and shall be subject to the same penalties and punishments, for not doing that which by this Act is directed to be done by any Justice of Peace in any County of England.

XVI. Provided, and be it enacted by the authority aforesaid, That if the person offending, and convicted as aforesaid, be a feme-covert, cohabiting with her Husband, the penalties of five shillings, and ten shillings, so as aforesaid incurred, shall be levied by Warrant, as aforesaid, upon the Goods and Chattels of the Husband of each feme-covert.

XVII. Provided also, That no Peer of this Realm, shall be attached or imprisoned by virtue or force of this Act; Any thing, matter or clause therein to the contrary notwithstanding.

XVIII. Provided also, That neither this Act, nor any thing therein contained, shall extend to invalidate or void his Majesties Supremacy in Ecclesiastical Affairs; But that his Majesty, and his Heirs and Successors may from time to time, and at all times hereafter, exercise and enjoy all powers and authority in Ecclesiastical Affairs, as fully and as amply, as himself or any of his Predecessors have or might have done the same; Any thing in this Act notwithstanding.

1 Will. & Mar. Cap. 18.

A.D. 1688.

In an Act, Entituled, *An Act for exempting their Majesties Protestant Subjects, Dissenting, &c.*

§. IV. — No [shall Dissenters be liable to the Penalties] in an Act made in the Two and twentieth Year of the Reign of the late King Charles the Second, Intituled, *An Act to Prevent and Suppress Seditious Conventicles.*

VIII.

Temporal  
Laws a-  
gainst Se-  
paration,  
and Con-  
venticles.



Temporal  
Laws a-  
gainst Se-  
paration,  
&c.

§. VIII. — Nor [shall Dissenting Teachers be liable to] the Penalties mentioned in the aforesaid Act made in the Two and twentieth Year of his said late Majesties Reign, for or by reason of such persons Preaching at any Meeting for the Exercise of Religion.

Abridgment.

## C A P. II.

## ECCLESIASTICAL Laws against SEPARATION and CONVENTICLES.

I Jac. I.

## C A N O N S 1603.

ix. *Authors of Schism in the Church of England, censured.*

Ecclesiasti-  
cal Laws a-  
gainst Se-  
paration,  
and Con-  
venticles.

Whoever shall hereafter separate themselves from the Communion of Saints, as is approved by the Apostles Rules in the Church of *England*, and combine themselves together in a new Brother-hood, accounting the Christians who are conformable to the Doctrine, Government, Rites and Ceremonies of the Church of *England*, to be profane and unmeet for them to joyn with in Christian Profession: Let them be Excommunicated *ipso facto*; and not restored, but by the Archbishop, after the Repentance and Publick Revocation of such their wicked Errors.

Any Person separating from the Church,

---as a profane Assembly,  
---shall be Excommunicated *ipso facto*.

x. *Maintainers of Schismatics in the Church of England, censured.*

Whoever shall hereafter affirm, That such Ministers as refuse to subscribe to the Form and Manner of God's Worship in the Church of *England*, prescribed in the Communion Book, and their Adherents, may truly take unto them the Name of another Church not established by Law, and dare presume to publish it, That this there pretended Church hath a long time groaned under the Burthen of certain Grievances imposed upon it, and upon the Members thereof before mentioned, by the Church of *England*, and the Orders and Constitutions therein by Law established: Let them be Excommunicated, and not restored until they repent, and publickly revoke such their wicked Errors.

To affirm, that Ministers refusing to Conform, are another Church, under persecution,

---shall be Excommunication.

xi. *Maintainers of Conventicles, censured.*

Whoever shall hereafter affirm or maintain, That there are within this Realm other Meetings, Assemblies or Congregations, of the King's born Subjects, than such as by the Laws of this Land are held and allowed, which may rightly challenge to themselves the Name of True and Lawful Churches: Let him be Excommunicated, and not restored, but by the Archbishop, after his Repentance, and Publick Revocation of such his wicked Errors.

To affirm, that separate Meetings are lawful Churches,

---shall be Excommunication.

xii. *Maintainers of Constitutions made in Conventicles, censured.*

Whoever shall hereafter affirm, That it is is Lawful for any sort of Ministers and Lay-persons, or of either of them, to joyn together, and make Rules, Orders, or Constitutions in Cases Ecclesiastical, without the King's Authority, and shall submit themselves to be ruled and governed by them: Let them be Excommunicated *ipso facto*, and not be restored until they repent, and Publickly revoke those their Wicked and Anabaptistical Errors.

To affirm that any private Persons may make Ecclesiastical Orders without Royal Authority,  
---shall be Excommunicated *ipso facto*.



Abridgment.

## C A N O N S 1603.

Ecclesiastical Laws against Separation, and Conventicles.

1 Jac. 1.

lxxi. *Ministers not to preach or administer the Communion in Private Houses.*

None who can go to Church, shall have private Preaching or Communion, ---except in Houses where are Chapels; ---and there, in no other part, ---and but seldom; ---the Family communicating at Church, once a year.

**N**O Minister shall Preach or Administer the holy Communion in any private House, except it be in time of necessity, when any, being either so impotent as he cannot go to the Church, or very dangerously sick, are desirous to be Partakers of the holy Sacrament; upon pain of Suspension for the first Offence, and Excommunication for the second. Provided, that Houses are reputed for Private Houses, wherein are no Chapels dedicated and allowed by the Ecclesiastical Laws of this Realm. And provided also under the pains before expressed, that no Chaplains do Preach or Administer the Communion in any other places, but in the Chapels of the said Houses; and that also they do the same very seldom upon Sundays and Holy-days: So that both the Lords and Masters of the said Houses and their Families shall at other times resort to their own Parish Churches, and there receive the holy Communion at the least once every year.

lxxii. *Ministers not to appoint publick or private Fasts, or Prophesies, or to Exercise, but by Authority.*

No Minister, without consent of the Bishop, shall appoint Fasts, upon pain of,  
1. Suspension,  
2. Excommunication,  
3. Deposition: ---nor hold Exercises, ---nor attempt to cast out Devils.

**N**O Minister nor Ministers shall, without the Licence and Direction of the Bishop and Diocess first obtained and had under his Hand and Seal, appoint or keep any solemn Fasts, either publickly or in any private Houses, other than such as by Law are, or by publick Authority shall be appointed, nor shall be wittingly present at any of them, under pain of Suspension for the first Fault, of Excommunication for the second, and of Deposition from the Ministry for the third. Neither shall any Minister not Licenced, as is aforesaid, presume to appoint or hold any Meetings for Sermons, commonly termed by some † Prophesies or Exercises, in Market-Towns or other places, under the said Pains: Nor without such Licence to attempt upon any Pretence whatsoever, either of Possession or Obsession, by Fasting and Prayer, to cast out any Devil or Devils, under pain of the Imputation of Imposture or Cozenage, and Deposition from the Ministry.

† See before, Tit. X. c. Fasts.

lxxiii. *Ministers not to hold private Conventicles.*

Ministers, &c. meeting to consult against the Doctrine or Worship of the Church,

---shall be *ipso facto* excommunicated.

**F**Orasmuch as all Conventicles and secret Meetings of Priests and Ministers have been ever justly accounted very hurtful to the State of the Church wherein they live: We do now ordain and constitute, that no Priests or Ministers of the word of God, nor any other Persons shall meet together in any private House or elsewhere, to consult upon any matter or course to be taken by them, or upon their motion or direction by any other, which may any way tend to the Impeaching or Depraving of the Doctrine of the Church of England, or of the Book of Common Prayer, or any part of the Government and Discipline now established in the Church of England, under pain of Excommunication *ipso facto*.

C A P



C A P. III.

*Dissenters may not GOVERN, nor TEACH, in CORPORATIONS.*

A.D. 1661.

13 Car. II. (Stat. 2.) Cap. 1.

*An Act for the well Governing and Regulating of Corporations.*

*Dissenters may not Govern, nor Teach, in Corporations.*

Whereas questions are likely to arise concerning the validity of Elections of Magistrates, and other Officers and Members in Corporations, as well in respect of removing some, as placing others, during the late Troubles, contrary to the true intent and meaning of their Charters and Liberties; And to the end that the Succession in such Corporations may be most probably perpetuated in the hands of persons well affected to his Majesty, and the established Government, it being too well known, that notwithstanding all his Majesties endeavours, and unparalleled Indulgence in Pardoning all that is past, nevertheless many evil spirits are still working.

For the due ordering of Magistrates, and other Officers, in Corporations, &c.

II. Wherefore, for prevention of the like mischief for the time to come, and for preservation of the publick Peace both in Church and State, Be it enacted by the Kings most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons assembled in Parliament, and by the authority of the same, That Commissions shall, before the twentieth day of February next, be issued forth under the Great Seal of England, unto such persons as his Majesty shall appoint for the executing of the Powers and Authorities herein after expressed: And that all and every the persons to be named Commissioners in the said Commissions respectively, shall by vertue of this Act be Commissioners respectively, for and within the severall Cities, Corporations and Burroughs, and Cinque-ports, and their Members, and other Port-towns within the Kingdom of England, Dominion of Wales, and Town of Berwick upon Tweed, for which they shall be respectively nominated and appointed.

Enacted, that, Commissioners be appointed for the execution of this Act,

III. And be it further enacted by the authority aforesaid, That no Charter of any Corporation, Cities, Towns, Burroughs, Cinque-ports, and their Members, and other Port-towns in England or Wales, or Town of Berwick upon Tweed, shall at any time hereafter be avoided, for or by reason of any act or thing done, or omitted to be done, before the first day of this present Parliament.

--- and no Charter avoided for any thing done before this Parliament.

IV. And be it further enacted by the authority aforesaid, That all persons who upon the four and twentieth day of December, One thousand six hundred sixty and one, shall be Mayors, Aldermen, Recorders, Bailiffs, Town-clerks, Common-councilmen, and other persons then bearing any Office or Offices of Magistracy, or Places, or Trusts, or other Employment relating to, or concerning the Government of the said respective Cities, Corporations and Burroughs, Cinque-ports, and their Members, and other Port-towns, shall at any time before the five and twentieth day of March, One thousand six hundred sixty and three, when they shall be thereunto required by the said respective Commissioners, or any three or more of them, take the Oaths of Allegiance and Supremacy, and this Oath following:

All Officers in Corporations, together with the Oaths of Supremacy and Allegiance, shall declare,

I *A. B.* do declare and believe, That it is not lawful, upon any pretence whatsoever, to take Arms against the King; and that I do abhor that Traiterous Position of taking Arms by his Authority against his Person, or against those that are Commissioned by him: So help me God.

--- that it is not lawful to take Arms against the King,

VI. And also at the same time shall publickly Subscribe before the said Commissioners, or any three of them, this following Declaration:

I *A. B.* do declare, That I hold there lies no obligation upon me, or any other person, from the Oath commonly called, *The Solemn League and Covenant*; and that the same was in it self an unlawful Oath, and imposed upon the Subjects of this Realm against the known Laws and Liberties of this Kingdom.

---and, that the Solemn League, &c, was an unlawful Oath,

VII. And that all such of the said Mayors, and other the persons aforesaid, by whom the said Oaths are to be taken, and Declaration subscribed, as aforesaid, who shall refuse to take and subscribe the same within the time, and in manner aforesaid

---upon pain to be *ipso facto* displaced;



## Abridgment.

— as any others may also be, by the aforesaid Commissioners,

— who shall also have power to restore Persons who have been removed, and to fill up void Places.

The said Oaths and Declaration shall be administered at the Admission of Officers,

— by the Person Admitting, or by two Justices;

— and shall also be Registered.

None shall be elected into the

4 Mod. Rep. p. 274.

aforesaid, shall, from and immediately after such refusal, be by authority of this Act (ipso facto) removed and displaced of and from the said Offices and Places respectively; And the said Offices and Places, from and immediately after such refusal, shall be, and are hereby declared and adjudged to be void to all intents and purposes, as if the said respective persons so refusing were naturally dead.

VIII. And nevertheless be it further enacted by the authority aforesaid, That the said Commissioners, or any five or more of them, shall have full power by virtue of this Act, by Order and Warrant under their Hands and Seals, to displace or remove any of the persons aforesaid from the said respective Offices and Places, or Trusts aforesaid, if the said Commissioners, or the major part of them then present, shall deem it expedient for the publick safety, although such persons shall have taken and subscribed, or be willing to take and subscribe the said Oaths and Declaration.

IX. And be it enacted, That the said respective Commissioners, or any five or more of them, as aforesaid, shall have power to restore such person or persons as have been illegally or unduly removed, into the places out of which he or they were removed, and also to put and place into the Offices and Places which by any of the ways aforesaid shall be void respectively, some other person or persons then being, or which have been, Members or Inhabitants of the said respective Cities, Corporations and Burroughs, and Cinque-ports, and their Members, and other Port-towns, who shall before the said respective Commissioners, or any three or more of them, take the said Oaths of Obedience and Supremacy, and the said other Oath, and subscribe the Declaration herein before particularly mentioned, and that the said person from and after the taking of the said Oaths, and subscribing the said Declaration, shall hold and enjoy, and be vested in the said Places and Offices, as if they had been duly elected and chosen according to the Charters and former Usages of the said respective Cities, Corporations and Burroughs, Cinque-ports, and their Members, and other Port-towns.

X. And be it further enacted by the authority aforesaid, That the said respective Commissioners, or any three or more of them respectively, shall have power, during the continuance of their respective Commissions, to administer the Oaths aforesaid, and tender the said Declaration to the said persons hereby required to take and subscribe the same: and from and after the expiration of the said respective Commissions, the said three Oaths and Declaration shall be from time to time administered and tendered to such person and persons who by the true meaning of this Act, or any clause therein contained, are to take the same, by such person or persons respectively, who by the Charters or Usages of the said respective Cities, Corporations and Burroughs, and Cinque-ports and their Members, and other Port-towns, ought to administer the Oath, for due executing the said Places or Offices respectively, and in default of such, by two Justices of the Peace of the said Cities, Corporations and Burroughs, and Cinque-ports, and their Members, and other Port-towns, for the time being, if any such there be, or otherwise by two Justices of the Peace for the time being, of the respective Counties where the said Cities, Corporations or Burroughs, or Cinque-ports, or their Members, or other Port-towns are.

XI. And be it likewise enacted by the authority aforesaid, That the said Commissioners, Justices of the Peace, and other persons hereby authorized to administer the said Oaths, and tender the said Declaration respectively, shall cause Memorandums or Entries to be made of all Oaths taken before them, and Subscriptions made as aforesaid, and deliver the same once in a year to the respective Town-clerk, or other Register or Clerk of the said respective Cities, Corporations, and Burroughs, and Cinque-ports, and their Members, and other Port-towns, who shall cause the same to be fairly Entered into the Books or Registers belonging to the said respective Cities, Corporations or Burroughs, or Cinque-ports, and their Members, or other Port-towns.

XII. Provided also, and be it enacted by the authority aforesaid, That from and after the expiration of the said Commissions, no person or persons shall for ever hereafter be placed, elected or chosen, in or to any of the Offices or Places aforesaid,

[Elected or Chosen.] It is said by the Court, in the Case of *Larwood*, 6. Will. & Mar. that ever since the making of this Law, when a Freeman, who was a Dissenter, was chosen an *Alderman* of a Corporation, he never insisted upon the Act as an Excuse, but submitted to a Fine. And it is also de-

clared, in the same Case (which was, Whether a Dissenter being chosen Sheriff of *Norwich*, and not having received the Sacrament as the Act directs, the Election was void, in favour of the Elected, who declined the Office;) That the Corporation-Act never designed to exempt Dissenters

*Dissenters may not Govern, nor Teach, in Corporations.*

Ibid p. 273.

said



Dissenters  
may not  
Teach, nor  
Govern, in  
Corporati-  
ons.

said, that shall not have, within one year next before such Election or Choice, taken the Sacrament of the Lord's Supper, according to the Rites of the Church of England; and that every such person and persons so placed, elected or chosen, shall likewise take the aforesaid three Oaths, and Subscribe the said Declaration at the same time when the Oath for the due execution of the said Places and Offices respectively shall be administered; And in default hereof, every such placing, election and choice is hereby enacted and declared to be void.

XIII. Provided always and be it enacted, That every person who shall be placed in any Corporation by virtue of this Act, shall upon his admission, take the Oath or Oaths usually taken by the Members of such Corporation.

XIV. Provided also, and be it hereby enacted, That the powers granted to the Commissioners by virtue of this Act, shall continue and be in force until the five and twentieth day of March, One thousand six hundred sixty and three, and no longer.

XV. Provided, That if any Action, Bill, Plaint or Suit shall at any time hereafter happen to be brought or commenced against any person or persons nominated a Commissioner, as aforesaid, for any matter or thing by them or any of them done, by virtue, or in pursuance of this Act, That then it shall be lawful to and for every such person and persons against whom such Action, Bill, Plaint or Suit shall be brought or commenced; to plead the General Issue, and to give this Act, or any other special matter in Evidence; And if the Verdict shall pass with the Defendant or Defendants in any such Action, or the Plaintiff or Plaintiffs become Non-suit, or suffer any discontinuance thereof, That in every such case the Judge or Judges before whom the said matter shall be tried, or be depending, shall by force and virtue of this Act, allow unto the Defendant or Defendants his or their treble Costs, which he or they shall have sustained by reason of their wrongful veration in defence of the said Action or Suit, for which the said Defendant or Defendants shall have like remedy as in other cases, where Costs by the Laws of this Realm are given to Defendants.

XVI. Provided always, and it is hereby declared, That this Act, or any thing therein contained, shall not extend or be to the prejudice of any person or persons whatsoever, that hath any Reversion or Reversions of any the Offices or Places belonging to the City of London, by force or virtue of any Order, Grant, Designation or Nomination of the Lord Mayor and Court of Aldermen of the said City, heretofore respectively made or granted to him or them before the times of the late Wars, for or in respect of such Grant, Designation, or Nomination only; Any thing in this Act to the contrary notwithstanding.

from bearing Offices in the Government, but to establish a Succession of Persons who were well affected to it; for otherwise, it would be an Encouragement to some Men to persist in their Non-Conformity, on purpose to avoid Offices of Burthen and Charge instead of bringing them to Conform, which was chiefly intended by that Statute. And therefore they declared, that he must submit to a Fine, as others had done: but because one of the Judges (and as was said at the Bar, the Lord Keeper also) was of a contrary Opinion (viz. that the Defendant was sufficiently punished by the Corporation-Act, in being disabled to hold any Office or Employment of Profit, and now

to punish him by an Information, would be a double Punishment for one Offence, which the Law will not allow;) therefore, there being a *Capias* against the Defendant *pro fine*, and he now appearing in Court, he was fined 5 Marks, and no more.

But, four years before, viz. 2 Will. & Mar. this was admitted as a good Plea, in the Case of *Guilford-Town* against *Clark*, viz. that he being a Dissenter, and unqualified by this Act, the Election was void; and that the By-Law for forfeiting 20*l.* upon refusal after Election, did not take place, because the Person being absolutely incapacitated by the Statute, there was really no Election; and so he could not refuse after Election.

Abridgment.

laid Offices, who hath not received the Sacrament within one year, — nor continued, who shall not take the said Oaths, &c.

— and the Oaths of the Corporation.

The said Commissioners continue, until the 25. 1663.

— and being wrongfully prosecuted, shall have treble Costs.

Proviso, for Grantees of Offices in London, before the Wars.

2 Vent. 247.

A.D. 1712.

10 Annæ, Cap. 2.

An Act for Preserving the Protestant Religion, by better Securing the Church of England, as by Law Established; and for Confirming the Toleration Granted to Protestant Dissenters by an Act, Entituled, An Act for Exempting Their Majesties Protestant Subjects, Dissenting from

[ 7 P ]

the



Abridgment.

the Church of England, from the Penalties of certain Laws, and for Supplying the Defects thereof; and for the further Securing the Protestant Succession, by Requiring the Practicers of the Law in North Britain to take the Oaths, and Subscribe the Declaration therein mentioned.

*Dissenters  
may not  
Govern,  
nor Teach,  
in Corpora-  
tions.*

Stat. 13 Car. 2.  
c. 1. and 25 Car.  
2. c. 2. were made  
for the Safety of  
the Church of  
England;

... and now it is  
Enacted; by way  
of further Pro-  
vision,

That if any Per-  
son in Office Civil  
or Military, &c.

... or in Office in  
Corporation,

... who by the said  
Acts are obliged to  
receive the Sacra-  
ment,

... shall during such  
Office, resort to a  
Conventicle, of 10  
or more, besides  
the Family,

... or of 10, where  
is no Family;

... or to such Mee-  
ting, where the  
Queen and Prin-  
cess Sophia are not  
prayed for;

... he shall forfeit  
the Sum of 40*l*.

Whereas an Act was made in the Thirteenth Year of the Reign of the late King Charles the Second, Intituled, An Act for the well Governing and Regulating of Corporations; and another Act was made in the fife and twentieth Year of the Reign of the said late King Charles the Second, Intituled, An Act for the Preventing Dangers which may happen from Popish Recusants; both which Acts were made for the Security of the Church of England, as by Law Established: Now for the better Securing the said Church, and Quieting the Minds of her Majesties Protestant Subjects Dissenting from the Church of England, and Rendering them Secure in the Exercise of their Religious Worship, as also for the further Strengthening the Provision already made for the Security of the Succession to the Crown in the House of Hannover, Be it Enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in Parliament Assembled, and by the Authority of the same, That if any Person or Persons, after the fife and twentieth Day of March, which shall be in the Year of our Lord One thousand seven hundred and twelve, either Peers or Commoners, who have or shall have any Office or Offices, Civil or Military, or Receive any Pay, Salary, Fee, or Wages, by Reason of any Patent or Grant from or under her Majesty, or any of her Majesties Predecessors, or of her Heirs or Successors, or shall have any Command or Place of Trust from or under her Majesty, her Heirs, or Successors, or from any of her Majesties Predecessors, or by her or Their Authority, or by Authority derived from her or Them, within that part of Great Brittain called England, the Dominion of Wales, or Town of Berwick upon Tweed, or in the Navy, or in the several Islands of Jersey or Guernsey, or shall be admitted into any Service or Employment in the Household or Family of her Majesty, her Heirs or Successors, or if any Mayor, Alderman, Recorder, Bayliff, Town-Clerk, Common-Council-Man, or other person bearing any Office of Magistracy, or place of trust, or other employment relating to or concerning the Government of any the respective Cities, Corporations, Boroughs, Cinque-ports, and their members, or other Port-Towns within that part of Great Brittain called England, the Dominion of Wales, Town of Berwick, or either of the Isles aforesaid, who by the said recited Acts, or either of them, were or are obliged to receive the Sacrament of the Lord's Supper, according to the Rites and Usage of the Church of England, as aforesaid, shall at any time after their Admission into their respective Offices or Employments, or after having such patent or grant, command or place of trust, as aforesaid, during his or their continuance in such Office or Offices, Employment or Employments, or having such patent or grant, command or place of trust, or any profit or advantage from the same, knowingly or willingly resort to, or be present at any Conventicle, Assembly or Meeting, within England, Wales, Berwick upon Tweed, or the Isles aforesaid, for the Exercise of Religion in any other manner than according to the Liturgy and Practice of the Church of England, in any place within that part of Great Brittain called England, Dominion of Wales, and Town of Berwick upon Tweed, or the Isles aforesaid, at which Conventicle, Assembly or Meeting there shall be Ten persons or more Assembled together, over and besides those of the same Household, if it be in any House where there is a Family Inhabiting, or if it be in an house or place where there is no Family Inhabiting, then where any such Ten persons are so Assembled, as aforesaid; or shall knowingly and willingly be present at any such Meeting in such house or place, as aforesaid, although the Liturgy be there used, where her Majesty (whom God long preserve) and the Princess Sophia, or such others as shall from time to time be Lawfully appointed to be prayed for, shall not there be prayed for in exprels words according to the Liturgy of the Church of England, except where such particular Offices of the Liturgy are used, wherein there are no exprels directions to pray for her Majesty and the Royal Family, shall forfeit Forty pounds, to be recovered by him or them that shall sue for the same, by any Action of Debt, Bill, Plaint, or Information in any of her Majesties Courts at Westminster, wherein no Essoign, Protection, or Wager of Law shall be allowed, or any more than one Imparlanece.

II. And



*Dissenters  
may not  
Teach, nor  
Govern, in  
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ons.*

II. And be it further enacted, That every person Convicted in any Action to be brought, as aforesaid, or upon any Information, Presentment, or Indictment in any of Her Majesties Courts at Westminster, or at the Assizes, shall be disabled from thenceforth to hold such Office or Offices, Employment or Employments, or to receive any Profit or Advantage by reason of them, or of any Grant, as aforesaid, and shall be adjudged incapable to bear any Office or Employment whatsoever within that part of Great Britain called England, the Dominion of Wales, or Town of Berwick upon Tweed, or the Isles of Jersey or Guernsey.

III. Provided always, and be it further enacted by the Authority aforesaid, That if any person or persons, who shall have been convicted, as aforesaid, and thereby made incapable to hold any Office or Employment, or to receive any profit or advantage by reason of them, or of any grant, as aforesaid, shall, after such Conviction, conform to the Church of England, for the space of one Year, without having been present at any Conventicle, Assembly, or Meeting, as aforesaid, and receive the Sacrament of the Lord's Supper, according to the Rites and Usage of the Church of England, at least Three times in the Year, every such person or persons shall be capable of the grant of any the Offices or Employments aforesaid.

IV. Provided also, and be it further enacted, That every such person so convicted, and afterwards conforming, in manner, as aforesaid, shall at the next Term after his Admission into any such Office or Employment, make Oath in Writing in some one of Her Majesties Courts at Westminster, in publick and open Court, or at the next Quarter Sessions for that County or Place where he shall Reside, between the Hours of Nine and Twelve in the Forenoon, That he hath Conformed to the Church of England for the space of one Year before such his Admission, without having been present at any Conventicle, Assembly or Meeting, as aforesaid, and that he hath received the Sacrament of the Lord's Supper, at least three times in the Year; which Oath shall be there Enrolled and kept upon Record.

V. Provided, That no person shall suffer any punishment for any Offence committed against this Act, unless Oath be made of such Offence, before some Judge or Justice of the Peace (who is hereby impowered and required to take the said Oath) within Ten Days after the said Offence committed, and unless the said Offender be prosecuted for the same within Three Months after the said Offence committed; nor shall any person be convicted for any such Offence, unless upon the Oaths of two Credible Witnesses at the least.

VI. Provided always, That this Act, or any thing therein contained, or any Offence against the same, shall not extend or be Judged to take away or make void any Office of Inheritance; nevertheless, so as such person having or enjoying any such Office of Inheritance, do or shall substitute and appoint his sufficient Deputy (which such Officer is hereby impowered from time to time, to make or change, any former Law or Usage to the contrary notwithstanding) to Exercise the said Office, until such time as the person having such Office, shall conform, as aforesaid.

27 Car. II. Cap. 2.

*An Act for Restraining Non-Conformists from Inhabiting in Corporations.*

Whereas Divers Parsons, Vicars, Curates, Lecturers, and other persons in Holy Orders, have not declared their unfeigned Assent and Consent to the use of all things contained and prescribed in the Book of Common Prayer, and Administration of the Sacraments, and other Rites and Ceremonies of the Church, according to the use of the Church of England, or have not subscribed the Declaration or Acknowledgment contained in a certain Act of Parliament made in the Fourteenth year of his Majesties Reign, and entitled, An Act for Uniformity of Publick Prayers and Administration of Sacraments, and other Rites and Ceremonies, and for the Establishing the Form of Making, Ordaining and Consecrating of Bishops, Priests, and Deacons in the Church of England, according to the said Act, or any other subsequent Act, and whereas they or some of them, and divers other person and persons not Ordained according to the Form of the Church of England, and as have since the Act of Oblivion taken upon them to Preach in unlawful Assemblies, Conventicles or Meetings, under colour or pretence of Exercise of Religion, contrary to the Laws and Statutes of this Kingdom, have settled themselves in divers Corporations in England, sometimes Three or more of them in a place, thereby taking an oppor-  
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Abridgment.

— and shall be incapable of that, and all other Offices,

— until he hath Conformed for the space of one year,

— and made Oath of such Conformity in some of the Courts at Westminster, or at the Quarter Sessions.

No Punishment, upon this Act, unless Oath is made within 10 days, and Prosecution within 3 months, and there be 2 Witnesses;

— nor shall it void Offices of Inheritance; which shall be supply'd by Substitute.

Divers Ministers who have not declared Assent and Consent, nor signed the Declaration,

— have with others not ordained, settled in Corporations, and there preach Schism and Rebellion,

A.D. 1665.



Abridgment.

Enacted, that, ... Such Ministers who have not declared and subscribed, as aforesaid,

... and shall not take and subscribe the Oath against taking Arms against the King.

... and shall Preach in any Conventicle

... shall not come within five miles of any Corporation, or Borough, or any place where they have preached,

... till they have taken and subscribed the said Oath,

... upon pain to forfeit 40*l*.

opportunity to distil the popsonous Principles of Schism and Rebellion into the hearts of his Majesties Subjects, to the great danger of the Church and Kingdom.

II. Be it therefore Enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, and by the Authority of the same, That the said Parsons, Vicars, Curates, Lecturers, and other persons in Holy Orders, or pretended Holy Orders, or pretending to Holy Orders, and all Stipendiaries, and other persons who have been possessed of any Ecclesiastical or Spiritual Promotion, and every of them, who have not declared their unfeigned assent and consent as aforesaid, and subscribed the Declaration aforesaid, and shall not take and subscribe the Oath following;

I A. B. Do Swear, That it is not lawful, upon any pretence whatsoever, to take Arms against the King; and that I do abhor that Traiterous Position of taking Arms by his Authority against his Person, or against those that are Commissioned by him, in pursuance of such Commissions; And that I will not at any time endeavour any Alteration of Government, either in Church or State.

III. And all such person and persons as shall take upon them to Preach in any unlawful Assembly, Conventicle or Meeting, under colour or pretence of any Exercise of Religion, contrary to the Laws and Statutes of this Kingdom; shall not at any time from and after the Four and twentieth day of March, which shall be in this present year of our Lord God, One thousand six hundred sixty and five, unless only in passing upon the Road, come or be within five miles of any City or Town Corporate, or Borough that sends Burgesses to Parliament, within his Majesties Kingdom of England, Principality of Wales, or of the Town of Berwick upon Tweed, or within five miles of any Parish, Town or Place, wherein he or they have since the Act of Oblivion been Parson, Vicar, Curate, Stipendiary or Lecturer, or taken upon them to Preach in any unlawful Assembly, Conventicle or Meeting, under colour or pretence of any Exercise of Religion, contrary to the Laws and Statutes of this Kingdom, before he or they have taken and subscribed the Oath aforesaid, before the Justices of the Peace at their Quarter-Sessions to be holden for the County, Riding, or Division next unto the said Corporation, City, or Borough, Parish, Place or Town, in open Court, (which said Oath the said Justices are hereby Impowered there to administer) upon forfeiture for every such Offence of the sum of *£* Forty pounds of lawful English money; the one Third part thereof to his Majesty and his Successors; the other Third part to the use of the Poor of the Parish where the Offence shall be committed; and the other Third part thereof to such person or persons as shall or will sue for the same by Action of Debt, Plaint, Bill, or *m* Information in any Court of Record at Westminster, or before any Justices of Assize, Oyer and Terminer, or Gaol-delivery, or before any Justices of the Counties Palatine of Chester, Lancaster or Durham, or the Justices of the Great Sessions

Ventr. 134.

[Take upon them to Preach.] Only Persons in Orders or pretended Orders, are obliged to take the foregoing Oath; but this Clause takes in all Persons who shall actually Preach, in such Places, whether Ordained, or not.

[*£* Forty Pounds.] After Verdict for the Plaintiff, it was moved, that, besides the 40*l*. he might have his Costs tax'd him; but the Court held, that they ought not to be given in *Actions Popular*, whether the Forfeiture be certain, or not; but where a certain Penalty is given to the Party grieved, there he shall recover his Costs and Damages.

[Of the Parish.] By reason of this assignment of the third part of the Forfeiture to the Parish, a Declaration was adjudged ill, which set forth, that the Person came to the City of Bristol, without saying in what Parish of that City the Offence was committed.

[*m* Information.] In the Case of *Crofton*, where the motion was for a *Certiorari* to

remove the *Indictment* upon this Statute; it was pleaded, that no *Indictment* will lie, since the Act expressly says, that the Penalty shall be recovered by *Bill, Plaint, or Information*. But the Court held, that whenever a thing is prohibited by a Statute, if it be a publick Concern, an *Indictment* lies upon it; and that the giving *other Remedies* (unless with the negative words, *And not otherwise*,) shall not take away the general Course of Proceeding, which the Law appoints for all Offences. And tho' it was urged, that upon an *Indictment*, the Poor of the Parish would lose their part of the Penalty, *Twisden* said he knew it to be adjudged otherwise at Serjeants-Inn; and that where a Statute appoints the Penalty to be divided into three parts, one to the Informer, another to the King, and the third to the Poor; in such Case, where there is no Informer, as upon an *Indictment*, the King shall have two parts, and the Poor a third.

Dissenters shall not Govern, nor Teach, in Corporations.

Ventr. 63. Siderf. 439.

Jones (Tho.) 226.

1. Mod. Rep. p. 34.

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Dissenters may not Teach, nor Govern, in Corporations.

sions in Wales, or before any Justices of Peace in their Quarter Sessions, where in no Essoin, Protection, or Wager of Law shall be allowed.

IV. Provided always, and be it further enacted by the authority aforesaid, That it shall not be lawful for any person or persons, restrained from coming to any City, Town Corporate, Borough, Parish, Town or Place, as aforesaid, or for any other person or persons as shall not first take and subscribe the said Oath, and as shall not frequent Divine Service established by the Laws of this Kingdom, and carry him or her self reverently, decently and orderly, there, to Teach any publick or private School, or take any Boarders or Takers, that are taught or instructed by him or her self, or any other, upon pain for every such offence to forfeit the sum of forty pounds, to be recovered and distributed as aforesaid.

V. Provided also, and be it further enacted by the authority aforesaid, That it shall be lawful for any two Justices of the Peace of the respective County, upon Oath to them of any offence against this Act, which Oath they are hereby Impowered to administer, to commit the Offender for Six months without Bail or Mainprize, unless upon or before such Commitment, he shall before the said Justices of the Peace, swear and subscribe the aforesaid Oath and Declaration.

VI. Provided always, That if any person, intended to be Restrained by virtue of this Act, shall without fraud or covin be served with any Writ, Subpœna, Warrant, or other Process, whereby his personal appearance is required, his obedience to such Writ, Subpœna or Process, shall not be construed an offence against this Act.

[ To commit.] In an Action of Debt for recovering of the Penalty of this Statute, it was alledged by the Defendant, that for the same Offence he had already been committed to Gaol, and remained there

for the space of six months: But the Court resolved, That the Commitment did not excuse the Forfeiture of 40l; because both Penalties are inflicted by the Statute.

Jones (Tho.) 225.

A.D. 1688.

1 Will. & Mar. Cap. 18.

In an Act, Entituled, An Act for exempting their Majesties Protestant Subjects, dissenting, &c.

§. VIII. [No Dissenting Teacher]— shall be liable to any of the pains or penalties mentioned in an Act made in the Seventeenth Year of the Reign of King Charles the Second, Intituled, An Act for Restraining Non-Conformists from Inhabiting in Corporations.

Dissenters shall be exempted from the Penalties of the foregoing Act.

C A P. IV.

QUAKERS, in particular.

T H O M A S A R U N D E L.

In Const. Nullus quoque. Sub Tit. De Hæreticus.

A B omnibus deinceps doceatur, communiter, atque prædicetur,—Juramenta, tactis Sacrosanctis Dei Evangeliiis, & super ipsis, in casibus in jure expressis, in & utroque foro usitatis, ab omnibus, quorum interest, legitimè fore præstanda.

It shall be Taught and Preached, that an Oath may be lawfully taken.

39 A R T I C L E S.

xxxix. Of a Christian Man's Oath.

A S we confess that vain and rash Swearing is forbidden Christian Men by our Lord Jesus Christ, and James his Apostle: So we judge that Christian Religion doth not prohibit, o but that a Man may Swear when the Magistrate requireth, in a cause of Faith and Charity, so it be done according to the Prophets teaching, in Justice, Judgment and Truth.

Vain Swearing is unlawful;

--- but Men may Swear before the Magistrate.

[ But that a Man.] The unlawfulness of taking an Oath, tho' before a Judge, was one of the Errors of the old Anabaptists; against whom, therefore, first the foregoing Constitution, and, after that, the present Article, were made, long before the Quakers had either Name or Being. But because they who at present go under the name of Anabaptists, have quitted the Doctrine, and the People called Quakers have taken it up, it was judged most proper, to insert them in this Chapter; especially, with regard to the several Acts of Parliament, that follow upon that head. See the next Chapter, Of the Anabaptists.

Quakers, in particular.

A.D. 1562.

v. cap. 5.

Abridgment.



Abridgment.

13, 14 Car. II. Cap. 1.

Quakers  
in particu-  
lar.

A.D. 1661.

*An Act for preventing Mischiefs and Dangers that may arise by certain Persons called Quakers, and others, refusing to take lawful Oaths.*

Quakers, &c. by refusing an Oath, obstruct Justice,

---and by a close Correspondence among themselves, endanger the Publick.

Any Person maintaining an Oath to be unlawful,

---and refusing to take any Oath, when lawfully tendered,

---or perswading others to refuse it, or defending it

---or such Persons, holding Conventicles,

--- may be fined, for the 1<sup>st</sup>. Offence, 5<sup>l</sup>.

---for the 2<sup>d</sup>. 10<sup>l</sup>.

--- (or, if there be no distress; for the 1<sup>st</sup>. 3 months, and for the 2<sup>d</sup>. 6 months, Imprisonment.)

---for the 3<sup>d</sup>. Offence, they shall abjure the Realm,

Whereas of late times certain persons under the name of Quakers, and other Names of Separation, have taken up, and maintained sundry dangerous Opinions and Tenents, and (amongst other) that the taking of an Oath in any case whatsoever, although before a lawful Magistrate, is altogether unlawful and contrary to the Word of God; And the said persons do daily refuse to take an Oath, though lawfully tendered, whereby it often happens that the Truth is wholly suppressed, and the Administration of Justice much obstructed: And where the said persons under a pretence of Religious Worship, do often assemble themselves in great numbers in several parts of this Realm, to the great endangering of the publick peace and safety, and to the terror of the people, by maintaining a secret and a strict correspondence amongst themselves, and in the mean time separating and dividing themselves from the rest of his Majesties good and loyal Subjects, and from the publick Congregations and usual places of Divine Worship:

II. For the redressing therefore, and better preventing the many mischiefs and dangers that do and may arise by such dangerous Tenents, and such unlawful Assemblies, Be it enacted by the Kings most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons assembled in Parliament, and by the authority of the same, That if any person or persons who maintain that the taking of an Oath in any cause whatsoever (although before a lawful Magistrate) is altogether unlawful, and contrary to the Word of God, from and after the four and twentieth day of March, in this present year of our Lord, One thousand six hundred sixty and one, shall willfully and obstinately refuse to take an Oath, where by the Laws of the Realm he or she is or shall be bound to take the same, being lawfully and duly tendered; or shall endeavour to perswade any other person to whom any such Oath shall in like manner be duly and lawfully tendered, to refuse and forbear the taking of the same; or shall by printing, writing, or otherwise, go about to maintain and defend that the taking of an Oath in any case whatsoever, is altogether unlawful; and if the said persons commonly called Quakers, shall at any time after the said four and twentieth day of March, depart from the places of their several habitations, and assemble themselves to the number of five, or more, of the age of sixteen years, or upwards, at any one time, in any place, under pretence of joyning in a Religious Worship, not authorized by the Laws of this Realm: That then in all and every such cases, the party so offending being thereof lawfully convicted by verdict of twelve men, or by his own confession, or by the notorious evidence of the fact, shall lose and forfeit to the Kings Majesty, his heirs and Successors, for the first offence, such sum as shall be imposed upon him or her, not exceeding five pounds; And if any person or persons, being once convicted of any such offence, he shall again offend therein, and shall in form aforesaid be thereof lawfully convicted, shall for the second offence forfeit to the King our Sovereign Lord, his heirs and Successors, such sum as shall be imposed upon him or her, not exceeding ten pounds:

The said respective penalties to be levied by distress and sale of the parties goods so convicted, by warrant of the parties before whom they shall be so convicted, rendering the overplus to the Owners, if any be: and for want of such distress, or non-payment of the said penalty within one week after such conviction, that then the said parties so convicted, shall for the first offence be committed to the common Gaol, or house of Correction, for the space of three months; And for the second offence, during six months, without Bail or Main-prize, there to be kept at hard labour: Which said moneys, so to be levied, shall be paid to such person or persons as shall be appointed by those before whom they shall be convicted, to be employed for the increase of the Stock of the house of Correction to which they shall be committed, and providing materials to set them on work: And if any person after he, in form aforesaid, hath been twice convicted of any the said offences, shall offend the third time, and be thereof in form aforesaid lawfully convicted, that then every person so offending and convicted, shall for his or her third offence abjure the Realm; or otherwise



Quakers  
in particu-  
lar.

therwise it shall and may be lawful to and for his Majesty, his Heirs and Successors, to give order, and to cause him, her or them, to be transported into any Ship or Ships, to any his Majesties Plantations beyond the Seas.

III. And it is ordained and enacted by the authority aforesaid, That all and every Justice of Oyer and Terminer, Justice of Assize and Gaol-delivery, and the Justices of the Peace, shall have full power and authority in every of their open and general Sessions, to enquire, hear, and determine all and every the said offences within the limits of their Commission to them directed, and to make Process for the execution of the same, as they may do against any person being Indicted before them of Treasons, or lawfully convicted thereof.

IV. And be it also enacted, That it shall and may be lawful to and for any Justice of Peace, Mayor, or other chief Officer of any Corporation, within their several Jurisdictions, to commit to the common Gaol, or bind over with sufficient Sureties, to the quarter Sessions, any person or persons offending in the premises, in order to his or their conviction aforesaid.

V. Provided always, and be it hereby further enacted, That if any of the said persons shall after such conviction as aforesaid, take such Oath or Oaths, for which he or she stands committed, and also give security, that he or she shall for the time to come, forbear to meet in any such unlawful Assembly as aforesaid, that then and from thenceforth, such person and persons shall be discharged from all the penalties aforesaid; Any thing in this Act to the contrary notwithstanding.

VI. Provided always, and be it ordained and enacted by the authority aforesaid, That all and singular Lords of the Parliament, for every third offence committed against the tenor of this Act, shall be tried by their Peers, and not otherwise.

16 Car. II. Cap. 4.

A.D. 1663.

In an Act, Entituled, *An Act to prevent and suppress Seditious Conventicles.*

XVIII. And in regard a certain Sect called Quakers, and other Sectaries, are found not only to offend in the matters provided against by this Act, but also obstruct the proceeding of Justice, by their obstinate refusal to take the Oaths lawfully tendered unto them in the ordinary course of Law; Therefore be it further Enacted by the Authority aforesaid, That if any person or persons being duly and legally served with Process, or other Summons to appear in any Court of Record, except Court-Leets, as a Witness, or returned, to serve on any Jury, or ordered to be examined upon Interrogatories, or being present in Court, shall refuse to take any Judicial Oath legally tendered to him by the Judge or Judges of the same Court, having no legal Plea to justify or excuse the refusal of the same Oath; or if any person or persons being duly served with Process, to answer any Bill exhibited against him or them in any Court of Equity, or any Suit in any Court Ecclesiastical, shall refuse to answer such Bill or Suit upon his or their Corporal Oath, in cases where the Law requires such Answer to be put in upon Oath; or being summoned to be a Witness in any such Court, or ordered to be examined upon Interrogatories, shall for any cause or reason, not allowed by Law, refuse to take such Oath, as in such cases is required by Law; That then, and in such case, the several and respective Courts wherein such refusal shall be made, shall be, and are hereby enabled to Record, Enter, or Register such refusal, which Record or Entry shall be, and is hereby made a Conviction of such Offence; And all and every person and persons so as aforesaid Offending, shall for every such Offence incur the Judgment and Punishment of Transportation, in such manner as is appointed by this Act for other Offences.

XIX. Provided always, That if any the person or persons aforesaid shall come into such Court and take his or their Oath in these words;

I Do swear, that I do not hold the taking of an Oath to be unlawful, nor refuse to take an Oath on that account;

Abridgment.

-- or be transported.

Justices shall have power to Enquire and Determine, at the Sessions,

--and any Justice or Mayor may commit or bind over Offenders.

Any Person, after Conviction, taking such Oath, &c. shall be discharged.

Peers shall be tried by Peers, for the third Offence.

Quakers refusing to take a Judicial Oath legally tendered,

--in a Court of Record,

--or in a Court of Equity, or Court Ecclesiastical;

--shall incur the judgment of Transportation,

--unless they swear that they do not hold an Oath unlawful,



Abridgment.

XX. Which Oath the respective Court or Courts aforesaid are hereby authorized and required forthwith to tender, administer, and register before the Entry of the Conviction aforesaid, or shall take such Oath before some Justice of the Peace, who is hereby authorized and required to administer the same, to be returned into such Court, such Oath so made shall acquit him or them from such punishment; Any thing herein to the contrary notwithstanding.

Quakers,  
in particu-  
lar.

1 Will. &amp; Mar. Cap. 18.

A.D. 1688.

In an Act, Entituled, *An Act for Exempting their Majesties Protestant Subjects, dissenting, &c.*

Quakers, instead of Swearing, shall Subscribe and Declare.

XIII. And whereas there are certain other persons, Dissenters from the Church of England, who scruple the taking of any Oath; Be it enacted by the authority aforesaid, that every such person shall make and subscribe the aforesaid Declaration, and also this Declaration of Fidelity following, viz. — and shall subscribe a profession of the Christian Belief in these words —

[See the Declaration and Profession, 1. W. & M. c. 18. §. 12, &c.]

1 Will &amp; Mar.

A.D. 1689.

*In the Land-Tax.*

Quakers, taking the Oath of Fidelity, shall not be doubly rated:

XLIX. Provided nevertheless, That whereas certain Persons Dissenters from the Church of England, commonly called Quakers, and now known to be such, do scruple the taking of any Oath; It shall be sufficient for every such person to make and subscribe the Declaration of Fidelity, contained in an Act made in the last Session of this present Parliament, Intituled, [An Act for Exempting their Majesties Protestant Subjects, Dissenting from the Church of England, from the Penalties of certain Laws;] which Declaration any two or more of the Commissioners appointed for the Execution of this Act, are hereby Impowered and Required to administer, and every such person so doing, shall not be liable to, or chargeable with, any of the double Rates aforesaid.

[NB. This Clause is intermitted, in the Land-taxes, till 4 Will. & Mar. but then resumed, and inserted in every Land-tax, since.]

7, 8 Will. III. Cap. 27.

A.D. 1695.

In an Act, Entituled, *An Act for the better Security of his Majesty's Royal Person, &c.*

Quakers, refusing the Declaration, of Fidelity, shall not vote for Knights of the Shire.

§. XIX. And be it further enacted, by the authority aforesaid, that no person who shall refuse to take the Oaths — or being Quakers, shall refuse to subscribe the Declaration of Fidelity made in the said first year of the Reign of his present Majesty and the late Queen — shall be admitted to give any Vote for the Election of any Knight of the Shire, Citizen, Burgess, or Baron of the Cinque-ports, to serve in Parliament.

7, 8 Will. III. Cap. 34.

A.D. 1695.

*An Act that the Solemn Affirmation and Declaration of the People called Quakers, shall be accepted instead of an Oath, in the usual Form.*

That Quakers refusing an Oath, may not be punished for Contempt,

Whereas divers Dissenters, commonly called Quakers, refusing to take an Oath in Courts of Justice, and other places, are frequently imprisoned, and their Estates sequestred, by Process of Contempt issuing out of such Courts, to



Quakers,  
in particu-  
lar.

to the Ruin of themselves and Families : For Remedy thereof, be it enacted by the Kings most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the authority of the same, That from and after the fourth day of May, which shall be in the year of our Lord, One thousand six hundred ninety six, every Quaker within this Kingdom of England, Dominion of Wales, or Town of Berwick upon Tweed, who shall be required upon any lawful Occasion to take an Oath in any case, where by Law an Oath is required, shall, instead of the usual form, be permitted to make his or her Solemn Affirmation or Declaration, in these words following, viz.

I A. B. do declare in the Presence of Almighty God, the Witness of the Truth of what I say.

II. Which said Solemn Affirmation or Declaration, shall be adjudged and taken, and is hereby enacted and declared, to be of the same force and Effect, to all intents and purposes, in all Courts of Justice, and other places, where by Law an Oath is required, within this Kingdom of England, Dominion of Wales, or Town of Berwick upon Tweed, as if such Quaker had taken an Oath in the usual form.

III. And be it further enacted by the Authority aforesaid, That if any Quaker, making such Solemn Affirmation or Declaration, shall be lawfully Convicted, wilfully, falsely, and corruptly to have affirmed or declared any matter or thing, which, if the same had been in the usual form, would have amounted to wilful and corrupt Perjury; every such Quaker so offending shall incur the same Penalties and Forfeitures, as by the Laws and Statutes of this Realm are enacted against persons convicted of wilful and corrupt Perjury.

IV. And whereas by reason of a pretended scruple of Conscience, Quakers do refuse to pay Tythes and Church-Rates, Be it enacted by the Authority aforesaid, That where any Quaker shall refuse to pay, or compound for his great or small Tythes, or to pay any Church-Rates, it shall and may be lawful, to and for the two next Justices of the Peace of the same County (other than such Justice of the Peace as is Patron of the Church or Chapel, whence the said Tythes do or shall arise, or any ways Interested in the said Tythes) upon the Complaint of any Parson, Vicar, Farmer or Proprietor of Tythes, Churchwarden or Churchwardens, who ought to have, receive or collect the same, by Warrant under their Hands and Seals, to convene before them such Quaker or Quakers neglecting or refusing to pay or compound for the same, and to examine upon Oath, which Oath the said Justices are hereby impowered to Administer, or in such manner as by this Act is provided, the Truth and Justice of the said Complaint, and to ascertain and state what is due and payable by such Quaker or Quakers to the party or parties complaining, and by Order under their Hands and Seals to direct and appoint the payment thereof, so as the sum ordered, as aforesaid, do not exceed ten pounds; And upon refusal by such Quaker or Quakers to pay according to such order, it shall and may be lawful to and for any one of the said Justices, by Warrant under his hand and Seal, to Levy the Money thereby ordered to be paid, by Distress and Sale of Goods of such Offender, his Executors or Administrators, rendering only the Overplus to him, her or them; necessary Charges of Distraining being thereout first deducted and allowed by the said Justice; And any person finding him, her or themselves aggrieved by any Judgment given by such two Justices of the Peace, shall and may appeal to the next General Quarter Sessions to be held for the County, Riding, City, Liberty or Town Corporate; And the Justices of the Peace there present, or the major part of them, shall proceed finally to hear and determine the matter, and to reverse the said Judgment, if they shall see cause; And if the Justices then present, or the major part of them, shall find cause to continue the Judgment given by the first two Justices of the Peace, they shall then decree the same by Order of Sessions, and shall also proceed to give such Costs against the Appellant, to be Levied by Distress and Sale of the Goods and Chattels of the said Appellant, as to them shall seem just and reasonable; And no Proceedings or Judgment had or to be had by virtue of this Act shall be removed or superseded by any Writ of Certiorari, or other Writ out of his Majesties Courts at Westminster, or any other Court whatsoever, unless the Title of such Tythes shall be in question.

V. Provided always, that in case any such Appeal be made as aforesaid, no Warrant of Distress shall be granted until after such Appeal be determined.

VI. Provided, and be it enacted, That no Quaker or reputed Quaker shall by virtue of this Act be qualified or permitted to give Evidence in any Criminal Causes, or serve on any Juries, or bear any office or place of profit in the Government; any thing in this Act contained to the contrary in any wise notwithstanding.

VII. Provided, that this Act shall continue in force for the space of Seven years, and from thence to the end of the next Session of Parliament, and no longer.

Abridgment.

Enacted, that,

--any Quaker, being lawfully required to take an Oath, shall be permitted to make his Solemn Affirmation,

-- which shall be of the same force as an Oath,

--and such Affirmations falsely made, shall be Perjury.

Any Quakers refusing to pay Tythes, or Church-rates,

-- shall be convened before two Justices,

— who shall state what is due, and order payment, if under 10*l*.

--and, in case of Refusal, grant Warrant to levy by Distress.

An Appeal shall lie to the Quarter-Sessions,

--where Judgment being given against the Appellant, the Justices shall give Costs.

After appeal is made, no Warrant of Distress shall be granted.

Such Affirmation shall not avail in Criminal Causes, or Juries, or for Office.

This Act shall continue 7 years.



Abridgment.

13, 14 Will. III. Cap. 4.

*An Act for Continuing an Act, Intituled, An Act that the Solemn Affirmation and Declaration of the People called Quakers, shall be accepted instead of an Oath in the usual form.*

Quakers,  
in particu-  
lar.

A.D. 1701.

Recital of 7, 8  
W. 3. c. 34.—and the Expira-  
tion thereof, Nov.  
22. prox.The said Act  
shall be continued  
11 years.

**W**hereas an Act made in the seventh and eighth years of his present Majesties Reign, Intituled, An Act that the Solemn Affirmation and Declaration of the People called Quakers shall be accepted instead of an Oath, in the usual Form, was made to continue for seven years, and from thence to the end of the next Sessions of Parliament, and the same will expire at the end of the next Sessions of Parliament after the two and twentieth day of November next: Now for the further avoiding the Inconveniencies in the said Act mentioned, to those people and their families, Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the authority of the same, That the said recited Act with all the Clauses and Powers therein contained, shall continue and be in force for and during the term of eleven years, after the determination of the said Act, and from thence to the end of the next Session of Parliament.

## C A P. V.

ANABAPTISTS, in particular.

32 Henr. VIII. Cap. 49.

*In an Act, Entituled, An Act concerning the King's most gracious, general, and free Pardon.*

Anabap-  
tists, in  
particular.

A.D. 1541.

**A**ND also except out of the said pardons, these heresies and erroneous opinions hereafter ensuing, that is to say, That Infants ought not to be baptized, and if they be baptized, that they ought to be rebaptized when they come to lawful age. That it is not lawful for a Christian man to bear office or rule in the Common-wealth. That no mans Laws ought to be obeyed. That it is not lawful for a Christian man to take an oath before any Judge. That Christ took no bodily substance of our blessed Lady. That sinners after baptism cannot be restored by repentance. That every manner of death, with the time and hour thereof is so certainly prescribed, appointed and determined to every man of God. that neither any Prince by his sword can alter it, nor any man by his own wilfulness prevent or change it. That all things be common, and nothing feberal.

E X P.

3, 4 Edw. VI. Cap. 24.

*In an Act, Entituled, An Act for the King's Majesties most free and general Pardon.*

A.D. 1549.

**P**rovided also, and be it enacted by the authority aforesaid, that this Act of free pardon shall not extend to any person or persons, which at any time heretofore have offended in these heresies and erroneous opinions hereafter ensuing: that is to say, that Infants ought not to be Baptized, and if they be Baptized, they ought to be Rebaptized when they come to lawful age. That it is not lawful for a Christian man to bear office or rule in the commonwealth. That no mans laws ought to be obeyed. That it is not lawful for a Christian man to take an oath before any Judge. That Christ took no bodily substance of our blessed Lady. That sinners after Baptism cannot be restored by repentance, That all things be or ought to be common, and nothing feberal.

E X P.

The Tenets of  
the old Anabaptists  
excepted out of the  
general Pardon.The Tenets of  
the old Anabaptists  
excepted out of the  
general Pardon.



Anabap-  
tists, in  
particular.  
A.D. 1562.

39 ARTICLES.

xvi. *Of Sin after Baptism.*

NOT every deadly Sin willingly committed after Baptism, is Sin against the Holy Ghost, and unpardonable. Wherefore the grant of repentance is not to be denied to such as fall into sin after Baptism. After we have received the Holy Ghost, we may depart from grace given, and fall into sin, and by the grace of God (we may) arise again, and amend our lives. And therefore they are to be condemned, which say they can no more sin as long as they live here, or deny the place of forgiveness to such as truly repent.

Abridgment.  
Sins after Baptism are pardonable by Repentance; --against the Error of the Anabaptists, That they cannot depart from Grace, and that true Penitents may not be forgiven.

A.D. 1562.

39. ARTICLES.

In Art. xxvii. Entit. *Of Infant Baptism.*

—The Baptism of young Children is in any wise to be retained in the Church, as most agreeable to the Institution of Christ.

Baptism of young Children ought to be retained.

A.D. 1660.

12 Car. II. Cap. 17.

In an Act, Entituled, *An Act for the Confirming and Restoring of Ministers.*

E X P.

VI. And be it further enacted, That every Ecclesiastical person or Minister, formerly sequestred or ejected, dispossessed and kept out after lawful presentation and perception of the profits of any of the said Ecclesiastical Benefices, Livings or Promotions, which hath not subscribed any petition to bring the late King Charles of blessed memory to trial, or which hath not by writing, preaching, printing, or any other open act procured, endeavoured and justified the murder of the said late King; or which hath not by preaching, printing, writing, or constant refusal to baptize, declared his judgment to be against Infant-baptism, shall be restored to the same, and to the possession thereof, at or before the five and twentieth day of December next ensuing.

No sequestred Minister shall be restored, who hath publicly declared against Infant Baptism.

A.D. 1661.

13, 14 Car. II.

*In the Preface to the Book of Common-Prayer.*

IT was thought convenient, that some Prayers and Thanksgivings, fitted to special Occasions should be added —together with an Office for the Baptism of such as are of Riper years; which, although not so necessary when the former Book was Compiled, yet by the growth of Anabaptism, through the licentiousness of the late times crept in amongst us, it is now become necessary.

The Office of Baptism of those of Riper years, added, upon the growth of Anabaptism.

A.D. 1562.

39 ARTICLES.

In Art. xxxvii. Entit. *Of the Civil Magistrates.*

The Laws of the Realm may punish Christian-men with Death, for hainous and grievous Offences.

It is lawful for Christian Men, at the Commandment of the Magistrate, to wear Weapons, and serve in the Wars.

Falseness of Anabaptists Doctrines, That Christians may not be put to death, nor wear weapons.

A.D. 1562.

xxxviii. *Of Christian Mens Goods, which are not common.*

THE Riches and Goods of Christians are not common, as touching the Right, Title, and Possession of the same, as certain Anabaptists do falsely boast. Notwithstanding every Man ought of such things as he possesseth, liberally to give Alms to the Poor, according to his Ability.

The Goods of Christians are not common, --as the Anabaptists affirm,



Abridgment.

Tolerati-  
on of Dis-  
senter's.

C A P. VI.

TOLERATION of DISSENTERS.

1 Will. & Mar. Cap. 18.

A.D. 1688.

An Act for exempting their Majesties Protestant Subjects, dissenting from the Church of England, from the Penalties of certain Laws.

Dissenters shall be Exempted from the Penalties of,

As much as some ease to scrupulous Consciences in the Exercise of Religion, may be an effectual means to unite their Majesties Protestant Subjects in Interest and Affection,

--- 23 El. c. 1.

--- 29 El. c. 6.

--- 1 El. c. 2. §. 14.

--- 3 Jac. 1. c. 4.

--- 3 Jac. 1. c. 5. &c.

Statutes, 25 Car. 2. c. 2.

--- and 30 Car. 2. c. 2.

--- shall be in force against Dissenters.

No Dissenter shall have the benefit of this Act, but who shall take the Oaths, and subscribe the Declaration.

II. Be it enacted by the King and Queen's most excellent Majesties, by and with the advice and consent of the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, and by the authority of the same, That neither the Statute made in the three and twentieth year of the Reign of the late Queen Elizabeth, Entituled, An Act to Retain the Queen Majesties Subjects in their due Obedience; Nor the Statute made in the twenty ninth year of the said late Queen, Entituled, An Act for the more speedy and due Execution of certain Branches of the Statute made in the three and twentieth year of the Queen's Majesties Reign, viz. the aforesaid Act; Nor that Branch or Clause of a Statute made in the first year of the Reign of the said Queen, Entituled, An Act for the Uniformity of Common Prayer and Service in the Church, and Administration of the Sacraments, whereby all persons having no lawful or reasonable excuse to be absent, are required to resort to their Parish Church or Chapel, or some usual place where the Common Prayer shall be used upon pain of Punishment by the Censures of the Church, and also upon pain that every person so offending shall forfeit for every such Offence twelve pence; Nor the Statute made in the third year of the Reign of the late King James the First, Entituled, An Act for the better discovering and repressing Popish Recusants; Nor that other Statute made in the same year, Entituled, An Act to Prevent and Avoid Dangers which may grow by Popish Recusants; Nor any other Law, or Statute of this Realm made against Papists or Popish Recusants, except the Statute made in the five and twentieth year of King Charles the Second, Entituled, An Act for preventing Dangers which may happen from Popish Recusants; And except also the Statute made in the thirtieth year of the said King Charles the Second, Entituled, An Act for the more effectual preserving the Kings Person and Government, by disabling Papists from sitting in either House of Parliament; shall be construed to extend to any person or persons dissenting from the Church of England, & that shall take the Oaths mentioned in a Statute made this present Parliament, Entituled, An Act for removing and preventing all Questions and Disputes concerning the assembling and sitting of this present Parliament; and shall make and subscribe the Declaration mentioned in a Statute made in the thirtieth year of the Reign of King Charles the Second, Entituled, An Act to prevent Papists from sitting in either House of Parliament; Which Oaths and Declaration, the Justices of Peace at the general Sessions of the Peace to be held for the County or place where such person shall live, are hereby required to tender and administer to such persons as shall offer themselves to take, make and subscribe the same, and thereof to keep a Register: And likewise none of the persons aforesaid, shall give or pay as any Fee or Reward to any Officer or Officers belonging to the Court aforesaid, above the sum of six pence, nor that more than once, for his or their Entry of his taking the said Oaths, and making and subscribing the said Declaration; Nor

4 Mod. Rep 274.

[That shall take.] In the Judgment given against Larwood, 6 Will. & Mar. it was declared by the Court, as follows; "The Defendant should at first have pleaded in Bar, That he was a Dissenter from the Church, &c. and then brought himself within the compass of the Act of Indulgence; of which the Court cannot take

any notice, because it is a private Act: for before it was made, the Law did not take any notice of Protestant Dissenters, but only of Dissenters from the Church in general: Besides, 'tis an Act which doth not extend to all sorts of Protestant Dissenters, but only to such who shall qualify themselves, as therein is prescribed.

above



Tolerati-  
on of Dis-  
senter.

above the farther sum of six pence for any Certificate of the same, to be made out and signed by the Officer or Officers of the said Court.

III. And be it farther enacted by the authority aforesaid, That all and every person and persons already convicted or prosecuted in order to Conviction of Recusancy, by Judgment, Infamation, Action of Debt, or otherwise grounded upon the aforesaid Statutes, or any of them, that shall take the said Oaths mentioned in the said Statute made this present Parliament, and make and subscribe the Declaration aforesaid, in the Court of Erchequer, or Assizes, or General or Quarter Sessions to be held for the County where such person lives; and to be thence respectivelv certified into the Erchequer; shall be thenceforth exempted and discharged from all the Penalties, Seizures, Forfeitures, Judgments and Executions incurred by force of any the aforesaid Statutes, without any Composition, Fee or farther Charge whatsoever.

IV. And be it farther enacted by the authority aforesaid, That all and every person and persons that shall, as aforesaid, take the said Oaths, and make and subscribe the Declaration aforesaid, shall not be liable to any pains, penalties or forfeitures mentioned in an Act made in the five and thirtieth year of the Reign of the late Queen Elizabeth, Entituled, An Act to retain the Queen's Majesties Subjects in their due Obedience; Nor in an Act made in the two and twentieth year of the Reign of the late King Charles the Second, Entituled, An Act to prevent and suppress seditious Conventicles; Nor shall any of the said persons be prosecuted in any Ecclesiastical Court, for or by reason of their Non-conforming to the Church of England.

V. Provided always, and be it enacted by the authority aforesaid, That if any Assembly of persons dissenting from the Church of England shall be had in any place for Religious Worship with the doors locked, barred or bolted, during any time of such Meeting together, all and every person or persons that shall come to and be at such Meeting, shall not receive any benefit from this Law, but be liable to all the pains and penalties of all the aforesaid Laws recited in this Act for such their Meeting, notwithstanding his taking the Oaths, and his making and subscribing the Declaration aforesaid.

VI. Provided always, That nothing herein contained shall be construed to exempt any of the persons aforesaid from paying of Tythes or other Parochial Duties, or any other Duties to the Church or Minister, nor from any prosecution in any Ecclesiastical Court or elsewhere for the same.

VII. And be it farther enacted by the authority aforesaid, That if any person dissenting from the Church of England, as aforesaid, shall hereafter be chosen or otherwise appointed to bear the Office of High Constable, or Petit Constable, Churchwarden, Overseer of the Poor, or any other Parochial or Ward Office, and such person shall scruple to take upon him any of the said Offices in regard of the Oaths, or any other matter or thing required by the Law to be taken or done in respect of such Office; every such person shall and may execute such Office or Employment by a sufficient Deputy, by him to be provided, that shall comply with the Laws in this behalf. Provided always, the said Deputy be allowed and approved by such person or persons, in such manner as such Officer or Officers respectivelv should by Law have been allowed and approved.

VIII. And be it farther enacted by the authority aforesaid, That no person dissenting from the Church of England in Holy Orders, or pretended Holy Orders, or pretending to Holy Orders, nor any Preacher or Teacher of any Congregation of dissenting Protestants, that shall make and subscribe the Declaration aforesaid, and take the said Oaths at the General or Quarter Sessions of the Peace to be held for the County, Town, Parts or Division where such person lives, which Court is hereby impowered to administer the same, and shall also declare his approbation of, and subscribe the Articles of Religion mentioned in the Statute made in the thirteenth year of the Reign of the late Queen Elizabeth, except the thirty fourth, thirty fifth and thirty sixth, and these words of the twentieth Article, viz. [the Church hath power to decree Rites or Ceremonies, and Authority in Controversies of Faith, and yet] shall be liable to any of the pains or penalties mentioned in an Act made in the seventeenth year of the Reign of King Charles the Second,

3. Lev. 376.   
 [Prosecuted] Two Persons who were published, and married, in a Conventicle, were afterwards libelled against in the Spiritual Court, for Incontinence and Fornication; and, upon moving for a Prohibition, time was assigned to show Cause why it should not go, and the Proceedings in the Ecclesiastical Court were stay'd in

the mean time. Afterwards, it was agreed that a Prohibition should be granted, and that the Plaintiff should Declare; that so, upon Demurrer, the point might be try'd. But what the Judgment was, or whether the Cause proceeded to Trial, doth not appear by the Report.

Abridgment.

Any Person al ready Convicted, shall be discharged upon taking the said Oaths, and subscribing.

Further Exemptions from the Penalties of

--- 35. El. c. 1.

--- 22. Car. 2. c. 1.

No Meeting, with doors closed, shall have the benefit of this Act,

--- nor shall it be any Exemption from paying of Tythes, &c.

Dissenters may execute Parochial or Ward-Offices, by deputy.

No Dissenting Preacher taking Oaths, and subscribing the Declaration,

--- and the Articles of Religion, except 34, 35, 36, and part of 20th,

--- shall be liable to the penalties of



Abridgment.

---17 Car. 2. c. 2.

---13, 14 Car. 2. c. 4.

The Subscribing of Declarations, and taking of Oaths, shall be entered of Record.

Anabaptist Preachers shall enjoy the benefit of this Act, without subscribing to *Infant Baptism*.

Dissenting Teachers shall be exempted from bearing Offices.

Any Dissenters may be required to subscribe the Declaration, and take the Oaths,

---and, upon refusal committed to Prison,

--- and refusing at Quarter-Sessions, he shall be taken for a Papist Convict.

Quakers shall subscribe the Declaration,

---to be faithful to the King and Queen,

---and against deposing of Princes by the Pope,

--- and the Papal Supremacy.

--- and also they shall subscribe to the Belief,

Entituled, An Act for restraining Non-Conformists from inhabiting in Corporations; For the penalties mentioned in the aforesaid Act made in the two and twentieth year of his said late Majesties Reign, for or by reason of such person preaching at any Meeting for the Exercise of Religion; Nor to the penalty of one hundred pounds mentioned in an Act made in the thirteenth and fourteenth of King Charles the Second, Entituled, An Act for the Uniformity of Publick Prayers, and Administration of Sacraments, and other Rites and Ceremonies: And for establishing the Form of Making, Ordaining and Consecrating of Bishops, Priests and Deacons in the Church of England, for officiating in any Congregation for the Exercise of Religion permitted and allowed by this Act.

IX. Provided always, that the making and subscribing the said Declaration, and the taking the said Oaths, and making the Declaration of Approbation and Subscription to the said Articles, in manner as aforesaid, by every respective person or persons herein before-mentioned, at such General or Quarter Sessions of the Peace, as aforesaid, shall be then and there entered of Record in the said Court, for which six pence shall be paid to the Clerk of the Peace and no more. Provided that such person shall not at any time preach in any place, but with the doors not locked, barred or bolted as aforesaid.

X. And whereas some dissenting Protestants scruple the baptizing of Infants, Be it enacted by the authority aforesaid, That every person in pretended Holy Orders, or pretending to Holy Orders, or Preacher, or Teacher, that shall subscribe the aforesaid Articles of Religion, Except before excepted, and also except part of the seven and twentieth Article touching Infant Baptism, and shall take the said Oaths, and make and subscribe the Declaration aforesaid, in manner aforesaid, every such person shall enjoy all the Privileges, Benefits and Advantages which any other dissenting Minister as aforesaid, might have or enjoy by virtue of this Act.

XI. And be it further enacted by the authority aforesaid, That every Teacher or Preacher in Holy Orders, or pretended Holy Orders, that is a Minister, Preacher or Teacher of a Congregation, that shall take the Oaths herein required, and shall make and subscribe the Declaration aforesaid, and also subscribe such of the aforesaid Articles of the Church of England, as are required by this Act in manner aforesaid, shall be thenceforth exempted from serving upon any Jury, or from being chosen and appointed to bear the Office of Church-warden, Overseer of the Poor, or any other Parochial or Ward Office, or other Office in any Hundred of any Shire, City, Town, Parish, Division or Wapentake.

XII. And be it further enacted by the authority aforesaid, That every Justice of the Peace, may at any time hereafter require any person that goes to any Meeting for the Exercise of Religion, to make and subscribe the Declaration aforesaid, and also take the said Oaths or Declaration of Fidelity herein after mentioned, in case such person scruples the taking of an Oath, and upon refusal thereof, such Justice of the Peace is hereby required to commit such person to prison without Bail or Mainprize, and to certify the Name of such person to the next General or Quarter Sessions of the peace to be held for that County, City, Town, Part or Division where such person then resides, and if such person so committed, shall upon a second tender at the General or Quarter Sessions refuse to make and subscribe the Declaration aforesaid, such person for refusing shall be then and there recorded, and he shall be taken thenceforth to all intents and purposes, for a Popish Recusant Convict, and suffer accordingly, and incur all the penalties and forfeitures of all the aforesaid Laws.

XIII. And whereas there are certain other persons, Dissenters from the Church of England, who scruple the taking of any Oath, Be it Enacted by the Authority aforesaid, That every such person shall make and subscribe the aforesaid Declaration of Fidelity following, viz.

**I** A. B. Do Sincerely Promise and Solemnly Declare before God and the World, that I will be true and Faithful to King *William* and Queen *Mary*; And I do Solemnly Profess and Declare, that I do from my Heart Abhor, Detest and Renounce as Impious and Heretical, that damnable Doctrine and Position, that Princes Excommunicated or Deprived by the Pope, or any Authority of the See of *Rome*, may be Deposed or Murdered by their Subjects, or any other whatsoever, and I do declare, that no Foreign Prince, Person, Prelate, State or Potentate hath, or ought to have any Power, Jurisdiction, Superiority, Preheminence or Authority Ecclesiastical or Spiritual within this Realm.

And shall Subscribe a Profession of their Christian Belief, in these Words,

Tolerati-  
on of Dis-  
senter.



Tolerati-  
on of Dis-  
senter,

**I** A. B. Profess Faith in God the Father, and in Jesus Christ his Eternal Son, the true God, and in the Holy Spirit, one God blessed for evermore; and do acknowledge the Holy Scriptures of the Old and New Testament to be given by Divine Inspiration.

Which Declarations and Subscription shall be made and Entred of Record at the General Quarter Sessions of the Peace for the County, City, or Place where every such person shall then reside. And every such person that shall make and subscribe the two Declarations and Profession aforesaid, being thereunto required, shall be exempted from all the pains and penalties of all and every the aforesaid Statutes made against popish Recusants, or protestant Nonconformists, and also from the penalties of an Act made in the fifth year of the Reign of the late Queen Elizabeth, Intituled, An Act for the Assurance of the Queens Royall Power over all Estates, and Subjects, within her Dominions; For or by reason of such person not taking or refusing to take the Oath mentioned in the said Act; And also from the penalties of an Act made in the thirteenth and fourteenth years of the Reign of King Charles the Second, Intituled, An Act for Preventing Mischiefs that may arise by certain Persons called *Quakers*, refusing to take lawful Oaths; And enjoy all other the benefits, privileges and advantages, under the like limitations, provisoes and conditions which any other Dissenters shall, or ought to enjoy by virtue of this Act.

XIV. Provided always, And be it enacted by the authority aforesaid, that in case any person shall refuse to take the said Oaths, when tendered to them, which every Justice of the Peace is hereby Impowered to do, such person shall not be admitted to make and subscribe the two Declarations aforesaid, though required thereunto either before any Justice of the Peace, or at the General or Quarter Sessions before or after any Conviction of popish Recusancy, as aforesaid, unless such person can within thirty one days after such tender of the Declarations to him, produce two sufficient protestant Witnesses, to testify upon Oath that they believe him to be a protestant Dissenter, or a Certificate under the hands of four Protestants, who are Conformable to the Church of England, or have taken the Oaths and subscribed the Declarations above mentioned, and shall also produce a Certificate under the Hands and Seals of six or more sufficient Men of the Congregation to which he belongs, owning him for one of them.

XV. Provided also, and be it enacted by the authority aforesaid, that until such Certificate under the Hands of Six of his Congregation, as aforesaid, be produced, and two protestant Witnesses come to attest his being a protestant Dissenter, or a Certificate under the hands of four Protestants, as aforesaid, be produced, the Justice of the Peace shall, and hereby is required to take a Recognizance with two Sureties in the penal sum of Fifty pounds, to be levied of his Goods and Chattels, Lands and Tenements, to the use of the King and Queens Majesties, their Heirs and Successors, for his producing the same; And if he cannot give such Security, to commit him to prison, there to remain until he has produced such Certificates, or two Witnesses, as aforesaid.

XVI. Provided always, and it is the true intent and meaning of this Act, That all the Laws made and provided for the frequenting of Divine Service on the Lords day, commonly called Sunday, shall be still in force, and Executed against all persons that offend against the said Law, Except such persons come to some Congregation or Assembly of Religious Worship, allowed or permitted by this Act.

XVII. Provided always, and be it further enacted by the authority aforesaid, that neither this Act nor any Clause, Article or thing herein contained shall extend or be Construed to extend to give any Ease, Benefit, or Advantage to any Papist, or popish Recusants whatsoever; or any person that shall deny in his preaching or writing the Doctrine of the blessed Trinity, as it is Declared in the aforesaid Article of Religion.

XVIII. Provided always, and be it enacted by the authority aforesaid, that if any person or persons at any time or times after the tenth day of June, do and shall willingly and of purpose, maliciously or contemptuously come into any Cathedral or parish Church, Chapel, or other Congregation permitted by this Act, and disquiet or disturb the same, or misuse any preacher or teacher, such person or persons upon proof thereof before any Justice of Peace, by two or more sufficient Witnesses, shall find two Sureties to be bound by Recognizance in the penal sum of Fifty pounds, and in default of such Sureties shall be committed to prison, there to remain till the next General or Quarter Sessions; And upon Conviction of the said Offence at the said General or Quarter Sessions, shall suffer the pain and penalty of twenty pounds, to the use of the King and Queens Majesties their Heirs and Successors.

Abridgment.

—of a Trinity,  
—and of the divine  
Authority of Scrip-  
ture.

These Declara-  
tions and Subscrip-  
tions shall be enter-  
ed of Record,

—and, being made,  
shall exempt from  
all Penalties against  
Popish Reculants,  
and Nonconfor-  
mists,

— and from the  
penalties of

—5 *El. c. 1.*

—13, 14, *Car. 2*  
*c. 1.*

— and give a Title  
to all the Benefits  
of other Dissenters.

Any Persons re-  
fusing the Oaths,  
shall not be ad-  
mitted to Subscribe  
the Declarations.

— without the testi-  
mony of two Pro-  
testant Witnesses,  
as to his being a  
Protestant Dissen-  
ter,

— or a Certificate  
from four Church  
of England Pro-  
testants,

— and from six of  
the Congrega-  
tion he belongs to.

— till when, the Justice  
of Peace shall take  
a Recognizance of  
50*l.* for his produ-  
cing such Certifi-  
cates and Witnesses,

— and, if he give  
not such Security,  
shall commit him  
to Prison.

Laws for frequen-  
ting Service on  
Sunday, shall be  
in force against all,  
except Persons go-  
ing to Conventi-  
cles.

No Papist shall  
have the benefit of  
this Act,

Nor any who shall  
deny the Trinity.

Any Person who  
shall disturb the  
Service of the  
Church of England  
or of Dissenters,

— shall be bound,  
With two Sureties,  
in 50*l.*

— and upon Con-  
viction, shall forfeit  
20*l.*

XIX.



## Abridgment.

Every Place for separate Congregation shall be Certified to the Bishop, or Archdeacon, or at Quarter Sessions, and registered, or recorded.

Lev. 263.

The Act of Toleration shall be Confirmed ;

--- and if any person (Teachers excepted) is or shall be prosecuted, for not qualifying himself according to the said Act,

---the qualifying himself during the Prosecution, shall entitle him to the benefit of it ;

---and also Teachers, qualified, in one County, may, in virtue thereof, officiate in another,

---producing Certificate, and Swearing and Subscribing, if required.

XIX. Provided always, That no Congregation or Assembly for Religious Worship shall be permitted or allowed by this Act, until the place of such Meeting shall be Certified to the Bishop of the Diocess, or to the Arch-Deacon of that Arch-Deaconry, or to the Justices of the peace at the General or Quarter-Sessions of the peace for the County, City or place in which such Meeting shall be held, and Registered in the said Bishops, or Arch-Deacons Court respectively, or Recorded at the said General or Quarter-Sessions ; The Register or Clerk of the peace whereof respectively is hereby Required to Register the same, and to give Certificate thereof to such person as shall demand the same, for which there shall be none greater Fee nor Reward taken than the Sum of Six pence.

[Registered,] *Ann. 8 Will. 3.* an Action Report ; where it is only refer'd to, in the was brought by divers Inhabitants of *Finley-Chapel in Lancashire*, against the Register of the Bishop of *Chester*, for refusing to make Entry in the Registry, for the said Chapel to be a Conventicle, and for making a false Return to a *Mandamus* issued for that end ; but how the Cause ended, appears not in the

way of pleading, as an instance of 4 or 5 Persons joyning in an Action upon the Case, for the false Return aforesaid, and as adjudged, after divers arguments in several Terms, that the Action was well laid *per omnes conjunctim*.

## 10 Annæ, Cap. 2.

In an Act, Entituled, *An Act*----- *for Confirming the Toleration, &c.*

VII. And it is hereby further enacted and declared by the Authority aforesaid, That the Toleration granted to Protestant Dissenters, by the Act made in the first year of the Reign of King William and Queen Mary, Intituled, *An Act for Exempting Their Majesties Protestant Subjects, Dissenting from the Church of England*, from the Penalties of certain Laws, shall be, and is hereby Ratified and Confirmed, and that the same Act shall at all times be inviolably observed, for the Exempting of such Protestant Dissenters as are thereby intended, from the pains and penalties therein mentioned.

VIII. And for the rendering the last mentioned Act more effectual, according to the true intent and meaning thereof, Be it further enacted and declared by the Authority aforesaid, That if any person Dissenting from the Church of England, (not in Holy Orders, or pretended Holy Orders, or pretending to Holy Orders, nor any Preacher or Teacher of any Congregation) who should have been Entitled to the benefit of the said last mentioned Act, if such person had duly taken, made, and subscribed the Oaths and Declaration, or otherwise qualified him or her self, as required by the said Act, and now is or shall be prosecuted upon or by virtue of any of the penal Statutes, from which Protestant Dissenters are exempted by the said Act, shall at any time during such prosecution, take, make, and subscribe the said Oaths and Declaration, or being of the people called Quakers, shall make and subscribe the aforesaid Declaration, and also the Declaration of Fidelity, and subscribe the profession of their Christian Belief according to the said Act, or before any two of her Majesties Justices of the Peace (who are hereby required to take and return the same to the next Quarter-Sessions of the Peace, to be there Recorded ;) such person shall be, and is hereby Entitled to the Benefit of the said Act, as fully and effectually as if such person had duly Qualified himself within the time prescribed by the said Act, and shall be thenceforth Exempted and Discharged from all the Penalties and Forfeitures incurred by force of any of the aforesaid penal Statutes.

IX. And whereas it is and may be Doubted, whether a Preacher or Teacher of any Congregation of Dissenting Protestants, duly in all respects qualified according to the said Act, be allowed by virtue of the said Act, to Officiate in any Congregation in any County, other than that in which he so qualified himself, although in a Congregation or place of Meeting duly Certified and Registered, as is required in the said Act ; Be it declared and enacted by the Authority aforesaid, That any such Preacher or Teacher, so duly qualified according to the said Act, shall be and is hereby allowed to Officiate in any Congregation, although the same be not in the County wherein he was so qualified ; provided that the said Congregation, or place of Meeting hath been before such Officiating, duly Certified and Registered or Recorded according to the said Act : And such Preacher or Teacher, shall, if required, produce a Certificate of his having so qualified himself, under the hand of the Clerk of the peace for the County or place where he so qualified himself, which Certificate such Clerk of the peace is hereby required to make ; and shall also before any Justice of the peace of such County or Place where he shall so Officiate, Make and Subscribe such Declaration, and take such Oaths as are mentioned in the said Act, if thereunto required.

Toleration of Dissenters.

A.D. 1711.



## T I T. XXVI.

## POPIISH PRIESTS and RECUSANTS, Restrained by divers PENALTIES and INCAPACITIES.

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## C A P. I.

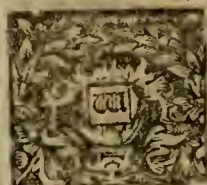
JESUITS, and PRIESTS of the Church of Rome.

A.D. 1584.

27 Eliz. Cap. 2.

*An Act against Jesuits, Seminary Priests, and other such like Disobedient Persons.*

*Jesuits & Priests, of the Church of Rome.*



Whereas divers persons called or professed Jesuits, Seminary Priests, and other Priests, which have been, and from time to time are made in the parts beyond the Seas, by or according to the Order and Rights of the Romish Church, have of late comen and been sent, and daily do come and are sent into this Realm of England, and other the Queens Majesties Dominions, of purpose, (as it hath appeared, as well by sundry of their own Examinations and Confessions, as divers other mani-

Many Jesuits are sent from beyond Sea,



Abridgment.

---to stir up Sedition and Rebellion.

Enacted, that, ---all Jesuits, Seminary Priests, &c. shall depart the Realm in 40 days, after this Sessions,

---and none, who were born in the Realm, shall come into it, or remain in it,

--- upon pain of High Treason.

To entertain them after the said 40 days, shall be Felony,

---and all Persons (not Religious) in Seminaries abroad,

--- shall return in six months,

--- and take the Oath of Supremacy, upon pain of High Treason.

lest means and proofs) not only to withdraw her Highness Subjects from their a due obedience to her Majesty, but also to stir up and move Sedition, Rebellion, and open Hostility within the same her Highness Realms and Dominions, to the great endangering of the safety of her most Royal Person, and to the utter ruin, desolation and overthrow of the whole Realm, if the same be not the sooner by some good means foreseen and prevented.

II. For reformation whereof, be it ordained, established and enacted by the Queen's most excellent Majesty, and the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, and by the authority of the same Parliament, That all and every Jesuits, Seminary Priests, and other Priests whatsoever, made or ordained out of the Realm of England, or other her Highness Dominions, or within any of her Majesties Realms or Dominions, by any authority power or jurisdiction, derived, challenged or pretended from the See of Rome, since the Feast of the Nativity of St. John Baptist, in the first year of her Highness Reign, shall within forty days next after the end of this present Session of Parliament, depart out of this Realm of England, and out of all other her Highness Realms and Dominions, if the wind, weather and passage shall serve for the same, or else so soon after the end of the said forty days, as the wind, weather and passage shall so serve.

III. And be it farther enacted by the authority aforesaid, That it shall not be lawful to or for any Jesuit, Seminary Priest, or other such Priest, Deacon, or Religious or Ecclesiastical person whatsoever, being born within this Realm, or any other her Highness Dominions, and heretofore since the said Feast of the Nativity of St. John Baptist, in the first year of her Majesties Reign, made, ordained or professed, or hereafter to be made, ordained or professed, by any authority or jurisdiction derived, challenged or pretended from the See of Rome, by or of what name, title or degree soever the same shall be called or known, to come into, be or remain in any part of this Realm, or any other her Highness Dominions, after the end of the same forty days, other than in such special cases, and upon such special occasions only, and for such time only as is expressed in this Act; and if he do, that then every such offence shall be taken and adjudged to be high Treason, and every person so offending, shall for his offence be adjudged a Traitor, and shall suffer, lose and forfeit as in case of high Treason.

IV. And every person which after the end of the same forty days, and after such time of departure as is before limited and appointed, shall wittingly and willingly receive, relieve, comfort, aid or maintain any such Jesuit, Seminary Priest, or other Priest, Deacon, or Religious or Ecclesiastical person, as is aforesaid, being at liberty or out of hold, knowing him to be a Jesuit, Seminary Priest, or other such Priest, Deacon, or Religious or Ecclesiastical person, as is aforesaid, shall also for such offence be adjudged a felon, without benefit of Clergy, and shall suffer death, lose and forfeit, as in case of one attainted of felony.

V. And be it farther enacted by the authority aforesaid, That if any of her Majesties Subjects (not being a Jesuit, Seminary Priest, or other such Priest, Deacon, or Religious or Ecclesiastical person, as is before mentioned) now being, or which hereafter shall be of, or brought up in any Colledge of Jesuits, or Seminary already erected and ordained, or hereafter to be erected or ordained in the parts beyond the Seas, or out of this Realm in any foreign parts, shall not within six months next after Proclamation in that behalf to be made in the City of London, under the Great Seal of England, return into this Realm, and thereupon within two days next after such return, before the Bishop of the Diocess, or two Justices of Peace of the County where he shall arrive, submit himself to her Majesty and her Laws, and take the Oath set forth by Act in the first year of her Reign, That then every such person which shall otherwise return, come into, or be in this Realm, or any other her Highness Dominions, for such offence of returning or being in this Realm, or any other her Highness Dominions, without submission, as aforesaid, shall also be adjudged a Traytor, and suffer, lose and forfeit as in case of high Treason.

a Due Obedience.] This they did, by teaching the People that the Queen was no Queen, and that whatever had been done by her since the Bull of Pope Pius, was null and void; as may be seen more particularly, in the History of her Reign, Ann. 1569.

aa Recessive.] Ann. 10 Car. 1. Sir Simon Clerk brought an Action upon the Case,

against another who had said these words, Sir Simon Clerk kept Faulkner the Jesuit in his house a week together, knowing him to be a Jesuit; and Verdict was given for the Plaintiff with 100l. damages; inasmuch as the Crime charged, is made by this Statute a Crime of so high a nature, and is attended with such heavy Punishments.

Jesuits, & Priests of the Church of Rome.

Cambd. Eliz.

Palm. 410. Latob. 1, 93.



Jesuits, &  
Priests of  
the Church  
of Rome.

VI. And be it further enacted by the authority aforesaid, That if any person under her Majesty's subjection or obedience, shall at any time after the end of the said forty days, by way of exchange, or by any other shift, way or means whatsoever, wittingly, and willingly, either directly or indirectly, convey, deliver or send, or cause or procure to be conveyed or delivered, to be sent over the Seas, or out of this Realm, or out of any other her Majesty's Dominions or Territories, into any foreign parts, or shall otherwise wittingly or willingly yield, give or contribute any money or other relief, to or for any Jesuit, Seminary Priest or such other Priest, Deacon, or Religious or Ecclesiastical person as is aforesaid, or to or for the maintenance or relief of any College of Jesuits, or Seminary already erected or ordained, or hereafter to be erected or ordained in any the parts beyond the Seas, or out of this Realm in any foreign parts, or of any person then being of or in the same Colleges or Seminaries, and not returned into this Realm with submission, as in this Act is expressed, and continuing in the same Realm, That then every such person so offending, for the same offence shall incur the danger and penalty of Præmunire, mentioned in the Statute of Præmunire, made in the Sixteenth year of the Reign of King Richard the Second.

VII. And be it further enacted by the authority aforesaid, That it shall not be lawful for any person of, or under her Highness's obedience, at any time after the said forty days, during her Majesty's life (which God long preserve,) to send his or her Child, or other person being under his or her Government, into any the parts beyond the Seas out of her Highness's obedience, without the special licence of her Majesty, or of four of her Highness's Privy Council, under their Hands, in that behalf first had or obtained (except Merchants, for such only as they or any of them shall send over the Seas, only for or about his, her or their Trade of Merchandize, or to serve as Mariners, and not otherwise) upon pain to forfeit and lose for every such their offence, the sum of one £. l.

VIII. And be it also enacted by the authority aforesaid, That every offence to be committed or done against the tenor of this Act, shall and may be enquired of, heard and determined, as well in the Court commonly called the Kings Bench, in the County where the same Court shall for the time be, as also in any other County within this Realm, or any other her Highness's Dominions where the offence is or shall be committed, or where the offender shall be apprehended and taken.

IX. Provided also, and be it enacted by the authority aforesaid, That it shall and may be lawful for and to every Owner and Master of any Ship, Bark or Boat, at any time within the said forty days, or other time before limited for their departure, to transport into any the parts beyond the Seas any such Jesuit, Seminary Priest, or other such Priest aforesaid, so as the same Jesuit, Seminary Priest, or other Priest aforesaid so to be transported, do deliver unto the Mayor or other chief Officer of the Town, Port or place, where he shall be taken in, to be transported, his name, and in what place he received such order, and how long he hath remained in this Realm, or in any other her Highness's Dominions, being under her obedience.

X. Provided also, that this Act or any thing therein contained, shall not in any wise extend to any such Jesuit, Seminary Priest, or other such Priest, Deacon or Religious or Ecclesiastical person, as is before mentioned, as shall at any time within the said forty days, or within three days after that he shall hereafter come into this Realm, or any other her Highness's Dominions, submit himself to some Archbishop or Bishop of this Realm, or to some Justice of Peace within the County where he shall arrive or land, and do thereupon truly and sincerely before the same Archbishop, Bishop, or such Justice of Peace, take the said Oath set forth in Anno primo, and by writing under his hand confess and acknowledge, and from thenceforth continue his due obedience unto her Highness's Laws, Statutes, and Ordinances, made and provided, or to be made or provided in causes of Religion.

XI. Provided always, if it so happen at any time hereafter, any Peer of this Realm to be indicted of any offence made treason, felony or Præmunire, by this Act; that he shall have his tryal by his Peers, as in other cases of Treason, felony, or Præmunire is accustomed.

XII. Provided nevertheless, and it is declared by authority aforesaid, that if any such Jesuit, Seminary Priest, or other Priest abovesaid, shall fortune to be so weak or infirm of body, that he or they may not pass out of the Realm by the time herein limited without imminent danger of life, and this understood as well by the corporal Oath of the party, as by other good means, unto the Bishop of the Diocess, and two Justices of Peace of the same County where such person or persons do dwell or abide, That then and upon good and sufficient bond of the person or persons, with sureties of the sum of £. li. at the least, with Condition that he or they shall be of good

Abridgment.

Whosoever shall contribute money to the maintenance of Priest, or Seminary,

-- or of any Person in a Seminary abroad,

--- shall incur a Præmunire.

No Subject shall send Children beyond Sea, without special Licence,

-- upon pain to forfeit 100*l.*

Offences against this Act may be determined in the same County.

Jesuit, &c. may be transported,

--- delivering his name, &c. to the Chief Officer of the Port.

This Act shall not extend to any Jesuit, and who shall submit himself, and take the Oath of Supremacy.

Peers shall be tried by Peers.

Jesuits, &c. being sick, may be permitted by the Bishop and two Justices, to stay.



## Abridgment.

--for any time not exceeding six months.

Any Person knowing that a Jesuit is within this Realm, and not discovering him, --shall make fine, and be imprisoned at the Queen's pleasure; --and a Justice, being informed, and concealing, shall forfeit two hundred Marks.

A Privy-Counsellor, being informed, shall give a note thereof.

All Oaths, Bonds, and Submissions, shall be certified into Chancery, -- upon pain of 100*l.* --and no Submission shall be good, if the Party come within 10 Miles of the Court.

Offences against the forefaid Act, excepted out of general Pardons.

good behaviour towards our Sovereign Lady the Queen, and all her liege people, then he or they so licensed and doing as is aforesaid, shall and may remain and be still within this Realm, without any loss or danger to fall on him or them by this Act, for so long time as by the same Bishop and Justices shall be limited and appointed so as the same time of abode exceed not the space of six months, at the most. And that no person or persons shall sustain any loss, or incur any danger by this Act, for the receiving or maintaining of any such person or persons so licensed, as is aforesaid for and during such time only as such person or persons shall be so licensed to tarry within this Realm: Any thing contained in this Act to the contrary notwithstanding.

XIII. And be it also further enacted by authority aforesaid, that every person or persons, being subjects of this Realm, which after the said forty days shall know and understand that any such Jesuit, Seminary Priest, or other Priest abovesaid, shall abide, stay, tarry, or be within this Realm, or other the Queens Dominions and Countries, contrary to the true meaning of this Act, and shall not discover the same unto some Justices of the Peace or other higher Officer, within twelve days next after his said knowledge, but willingly conceal his knowledge therein: that every such offender shall make fine, and be imprisoned at the Queens pleasure. That if such Justice of Peace or other Officer to whom such matter shall be so discovered, do not within eight and twenty days then next following, give information thereof to some of the Queens privy Council, or to the President of the Queens Council established in the North, or in the Marches of Wales for the time being: That then he or they so offending, shall for every such offence forfeit the sum of two hundred marks.

XIV. And be it likewise enacted by the authority aforesaid, that such of the privy Council, President to Vice-president, to whom such information shall be made, shall thereupon deliver a note in writing subscribed with his own hand, to the party by whom he shall receive such information, testifying that such information was made unto him.

XV. And be it also enacted, That all such Oaths, Bonds and Submissions, as shall be made by force of this Act, as aforesaid, shall be certified into the Chancery by such parties before whom the same shall be made, within three months after such submission, upon pain to forfeit and lose for every such offence, C. li. of lawful English money, the said forfeiture to be to the Queen, her heirs and Successors.

XVI. And that if any person so submitting himself, as aforesaid, do at any time within the space of ten years after such submission made, come within ten miles of such place where her Majesty shall be, without especial licence from her Majesty in that behalf to be obtained in writing under her hand: That then, and from thenceforth, such person shall take no benefit of his said submission, but that the same submission shall be void, as if the same had never been.

31 Eliz. cap. 16. ---- 35 Eliz. cap. 14. ---- 39 Eliz. cap. 28.  
43 Eliz. cap. 19. 3 Jac. I. cap. 28. ---- 7 Jac. I. cap. 24. ---- 12 Car. II. cap. 11. ---- 2 Will. & Mar. cap. 10. ---- 6, 7 Will. III. cap. 20.

*In the Acts for General Pardon, in the aforesaid years.*

And also excepted out of this pardon, all and every offence and offences committed or done by any Jesuit, Seminary or Romish Priest whatsoever, contrary to the tenor or effect of the Statute made in the seven and twentieth year of the Reign of the late Queen Elizabeth, Entituled, An Act against Jesuits, Seminary-Priests, and other disobedient Persons, or any part thereof, and all Outlawries, Proceedings, Judgments and Executions for the same offences, or any of them.

Jesuits & Priests, of the Church of Rome.

A.D. 1588.  
&c.



Jesuits, &  
Priests, of  
the Church  
of Rome.  
A.D. 1592.

35 Eliz. Cap. 2.

In an Act, Entituled, *An Act for restraining of Popish Recusants to some certain places of Abode.*

§. XI. And be it further enacted and ordained by the authority aforesaid, That if any person which shall be suspected to be a Jesuit, Seminary, or Passing priest, being examined by any person, having lawful authority in that behalf, to examine such person which shall be suspected, shall refuse to answer directly and truly whether he be a Jesuit, or a Seminary, or a Passing Priest, as is aforesaid, every such person so refusing to answer, shall for his disobedience, and contempt in that behalf, be committed to prison by such as shall examine him, as is aforesaid, and thereupon shall remain and continue in prison without bail or mainprize, until he shall make direct and true answer to the said questions, whereupon he shall so be examined.

A.D. 1605.

3 Jac. I. Cap. 2.

*An Act for the Attainder of divers Offenders, in the late most barbarous, monstrous, detestable and damnable Treasons.*

E X P.

I N most humble manner beseeching your most excellent Majesty, your most honest, loyal, faithful and true hearted Subjects, The Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, That whereas Arthur Creswel Jesuit, who at the time of his profession to be a Jesuit, took upon him the name of Joseph Creswel, Oswald Tesmond, Jesuit, and Thomas Winter late of Huddington in the County of Worcester, Gentleman, the last day of June, in the four and fortieth year of the late Queen Elizabeth of famous memory, at Valedolid within the Kingdom of Spain, and at divers other days within the same four and fortieth year of the said late Queen, at Valedolid aforesaid, and elsewhere within the same Kingdom of Spain, by the means, procurement and privy of Robert Catesby, late of Ashby in the County of Northampton, Esquire, Francis Tresham late of Rushton in the said County of Northampton, Esquire, and Henry Garnet, Jesuit, (assuming upon him to be Superior of the Jesuits within this Realm of England) and others, being all natural born Subjects of this Realm, did traiterously and against the Duty of their Allegiance, move and incite Philip, then, and yet King of Spain, then being at open enmity and hostility with the said late Queen, with force to invade this Kingdom of England, and to joyne with the Papists and discontented persons within this Realm of England, to depose and overthrow the same late Queen, of, and from her Crown, and of, and from her Royal Estate, Title and Dignity, and to suppress and abolish the true Religion of Almighty God truly and sincerely professed within this Kingdom, and to restore the Superstitious Romish Religion within the same, and to bring this ancient, famous and most renowned Kingdom to utter ruin and miserable captivity under foreign Power: And for that the greatest impediment unto the same Invasion, would be the want of help of good Horses, the said Thomas Winter, the rather to encourage the same King therunto, was to offer to the same King on the behalf of the Papists of England, to give him assistance presently upon the Landing of his Forces, with One thousand five hundred, or Two thousand Horses: and that for their better accomplishing thereof, he should move the same King to furnish the Papists of England with a good sum of Money, partly to be employed to provide and furnish the Horses, and partly in Pensions, to be employed upon some such as were to be prepared for that Service: All which the said Thomas Winter did relate to the said King of Spain, who (the said Kingdoms of England and Spain then standing in hostility) took this offer in very good part, saying, That he would respect and account of the Catholics of England (meaning the Papists) as of his own Castilians, and thereupon agreed that he would make Invasion, and set foot in England about the Spring then next following, and would by way of exchange send over unto the Papists of England, One hundred thousand Crowns, to be paid at two days agreed upon; all which particulars are extant in the Confession of some of the chief Offenders: At which time sundry Papists of England did extraordinarily furnish themselves by the traiterous and wicked per-  
suasion and means of sundry Jesuits, both with Horse and Armour.

II. But before these things could be effected, Almighty God called the said late Queen to his Mercy: Immediately after whose decease, that is to say, in the same month of March wherein she departed out of this World, Christopher Wright, late of London, Gentleman, was employed by the said Robert Catesby, Francis Tresham, Henry Garnet and others into Spain, to negotiate with the said King of Spain, by the means of the said Creswel the Jesuit, and others, to proceed in that Invasion, which the said Thomas Winter had before negotiated with him: And afterwards on the two and twentieth day of June, in the first year of your Majesties Reign over this Realm of England, Sir William Stanley Knight, Hugh Owen Esquire, William Baldwin Jesuit, and others, did by and with the traiterous procurement, and the consent of the Offenders aforesaid, from and out of Flanders in the parts beyond the Seas, under the Government of the Archduke, traiterously employ and send Guy Fawks, late of London, Gentleman, unto the said King of Spain, to negotiate with him on the behalf of the said Papists of England, for Invasion to be had against this Realm of England, to the same effect as was committed to the said Christopher Wright, as aforesaid: And the said Guy Fawks and Christopher Wright, though they had all the furtherance of the said Creswel the Jesuit that he could give, yet finding no such entertainment with the said King, who (as by the sequel appeareth) grew into detestation with the said Propositions and Negotiations, as they expected or desired: But being wholly disappointed of all their hopes concerning that matter, the said Robert Catesby, and divers other persons within this Realm, did send over the said Thomas Winter into the said Countrey of

Abridgment.

Any person being examined whether he is a Jesuit, &c. and refusing to answer,

--shall be committed to prison.

Recited who were the Conspirators, and where their Conspiracies were acted,

That being natural born Subjects, they invited the King of Spain, to depose the Queen, and restore Popery,

--That the English Papists were to furnish Horses;

---and Moneys, for that and other uses, were to be sent from Spain.

That the King of Spain agreed to the proposal, and promised 100000 Crowns,

--- and the Papists furnished themselves with both Horse and Armour.

The same design was prosecuted after the Queen's Death,

---and Guy Fawks sent to the King of Spain.

---who rejected the Propositions,



## Abridgment.

-- and thereupon  
he and others un-  
dertook the Gun-  
Powder Plot,

-- and did against  
the meeting of  
Parliament, lay  
36 Barrels under  
the Houfe.

The said Facts  
appear by their  
own voluntary  
Confessions,  
-- for which feve-  
ral have ben indi-  
cated and attainted,

-- and others have  
suffered, or been  
slain in Rebellion.

Owen beyond  
Sea, and Tresham  
dead.

Enacted, hat,

-- all the said At-  
tainders and Con-  
victions shall be  
confirmed,  
-- and the rest shall  
be thereby convicted  
and attainted,

-- and forfeit as in  
such cases.

They, who are  
killed, or dead, or  
fled, shall likewise  
forfeit as in cases  
of High Treason.

Flanders, to procure the said Guy Fawks, a natural born Subject of this Realm, and yet a most traiterous, desperate and bloody minded person, then serving as a Souldier in the Low-countries, to come over into this Realm, and by and with the traiterous conspiracy and consent of the said Henry Garnet, Oswald Tesmond, John Garret and other Jesuits, and Thomas Percy late of London, Esquire, John Wright late of London, Gentleman, the said Christopher Wright, Francis Tresham, Robert Winter, late of Huddington aforesaid, Esquire, John Grant late of Norbrook, in the County of Warwick, Esquire, Ambrose Rookwood, late of Stanningfield in the County of Suffolk Esquire, Everard Digby late of Gotehust in the County of Buckingham Knight, Robert Keys late of London Gentleman, and Thomas Bates late of London Yeoman; to undertake the execution of the most wicked, barbarous, execreable, and abominable Treason that ever could enter into the heart of the most wicked man, by blowing up with Gun-powder the House of Parliament, at such time as your most excellent Majesty, and your dearest Consort the Queen, and the most noble Prince Henry, together with the Lords Spiritual and Temporal, and the Judges of the Realm, and the Knights, Citizens and Burgesses of Parliament, should be in the Parliament House assembled, (for which most traiterous and barbarous purpose, there were secretly laid in a Vault or Cellar under the Parliament House, thirty six Barrels of Gun powder, or thereabouts) to the utter overthrow and subversion of the whole State of this flourishing and renowned Kingdom. if God of his infinite mercy had not most miraculously, by your Majesties blessed direction discovered the same, in finding out the said Barrels of Gun-powder in the said Vault or Cellar, but few hours before the time appointed for the execution thereof: All which most heinous, horrible and damnable Treasons, are most manifest and apparent by the voluntary Confessions and Acknowledgments of the Offenders themselves: Of which most barbarous, bloody, and detestable Treason, for conspiring and preparing to blow up the said Parliament House with Gun-powder, the said Robert Winter, Thomas Winter, Guy Fawks, Robert Keys, Ambrose Rookwood, John Grant, and Thomas Bates, have ben lately indicted, and during this present Session of Parliament, arraigned, convicted by Verdict, and thereupon attainted: And the said Sir Everard Digby Knight, hath likewise ben indicted, and during this present Session of Parliament convicted and attainted by his own confession of Record upon his Arraignment, according to the Laws of this your Majesties Realm, as by the Records of their several Indictments and Attainders it doth and may more plainly appear: And for the which Offences the said Sir Everard Digby, Robert Winter, Thomas Winter, Guy Fawks, Ambrose Rookwood, John Grant, Robert Keys, and Thomas Bates, have suffered pains of death according to their demerits: And the said Robert Catesby, Thomas Percy, John Wright, and Christopher Wright, were lately slain in open Rebellion, by them and other the said most wicked Traitors moved and stirred within divers parts and Counties of this Realm, shortly after the said discovery of their said most detestable and damnable Treason, in conspiring and preparing to blow up the said Parliament House, as aforesaid: And the said Hugh Owen doth (of purpose, and for fear of condign punishment according to his demerits) reside and keep himself beyond the Seas, by means whereof he cannot, in respect of such his voluntary absence, be arraigned, and publicly by due trial of Law, upon apparent testimony and proof against him, be proceeded withal for his most heinous and abominable Treasons: And the said Francis Tresham being likewise one of the said most detestable Traitors, and being apprehended and imprisoned in the Tower of London, having by sundry his Examinations confessed himself a principal Traitor in all the said most wicked and abominable Treasons, died in the said Tower, during the time of his said imprisonment, and before he could be indicted of the said Treason:

III. It may therefore please your Majesty, of your blessed care and disposition to and for the continuance of Gods true Religion and Service, and for the preservation and safety of your most excellent Majesty, and the gracious Queen, the most noble Prince, and the rest of your Royal Progeny, and for the untire love, favour, and hearty affection that your Majesty hath always heretofore born and yet beareth to the Common wealth and safety of this your Realm of England, (to the end that all others may hereafter fear to enter into any cogitation to attempt the like barbarous and detestable Treasons,) That all and every the Convictions and Attainders of the said Robert Winter, Thomas Winter, Guy Fawks, Ambrose Rookwood, John Grant, Robert Keys, Thomas Bates, and Sir Everard Digby, may be approved and confirmed; And be the same approved and confirmed by the authority of this present Parliament: And that it may be further enacted by the authority aforesaid, That as well the said Robert Winter, Guy Fawks, Ambrose Rookwood, John Grant, Robert Keys, Thomas Bates, and Sir Everard Digby, as also the said Robert Catesby, Thomas Percy, John Wright, Christopher Wright, Hugh Owen, and Francis Tresham, and every of them, for the most abominable and detestable Treason, in conspiring and preparing the blowing up of the said Parliament House, stand and be adjudged, and by authority of this present Act, convicted and attainted of High Treason: and that such and so many of the said Offenders and persons as are attainted by the course of the Common Laws of this Realm, as is aforesaid, shall lose and forfeit to your Majesty, and to your Heirs and Successors, all and every such their Mannors, Messuages, Lands, Tenements, Rents, Reversions, Remainders, Possessions, Rights, Conditions, Interests, Offices, Fees, Annuities, and all other their Hereditaments, Goods, Chattels, Debts, and other things of whatsoever names, natures, or qualities they be, which they the said Offenders and persons already attainted, by the course of the Common Laws of this Realm, as is aforesaid, or any of them, had, or any other person or persons, to their or any of their use or uses, had the day of the said several Treasons specified in the several Indictments whereupon they have been attainted, by them or any of them committed, perpetrated or done, as is aforesaid, or at any time since thence:

IV. And that the said Robert Catesby, Thomas Percy, John Wright, Christopher Wright, Hugh Owen, and Francis Tresham, shall forfeit and lose to your Majesty, your Heirs and Successors, all and every such their Mannors, Messuages, Lands, Tenements, Rents, Reversions, Remainders, Possessions, Rights, Conditions, Interests, Offices, Fees, Annuities, and all other Hereditaments, Goods, Chattels, Debts, and other things, of whatsoever names, natures, or qualities they be, which they the said Robert Catesby, Thomas Percy, John Wright, Christopher Wright, Hugh Owen, and Francis Tresham, or any of them had, or any other person or persons, to their or any of their use or uses had, the days and times of their said several Treasons, by them and every of them committed, perpetrated and done, as is aforesaid; That is to say, the said Robert Catesby, Thomas Percy, John Wright, and Christopher Wright, the twentieth day of May, in the second year of your Majesties Reign of England, France, and Ire-

Jesuits, &  
Priests of  
the Church  
of Rome.



Jesuits, & Priests of the Church of Rome.

land, and of Scotland, the seven and thirtieth, or at any time thence; the said Hugh Owen the twentieth day of May last past, or at any time after; And the said Francis Trelham the fourteenth day of October last, or any time since: And that all and singular such Manors, Messuages, Lands, Tenements, Rents, Reversions, Remainders, Possessions, Rights, Conditions, Offices, Fees, Annuities, and all other Hereditaments, Goods, Chattels, Debts, and other the Premises of all and singular the said Offenders, as by the Laws and Statutes of this Realm, or by force of this Act of Parliament are or shall be forfeited to your Majesty, shall be deemed, vested, and judged to be in the actual and real possession of your Majesty, without any Office or Inquisition thereof hereafter to be taken or found: Saving to all and every person and persons, Body politick and corporate, and to their Heirs, Successors and Assigns of every of them, other than the said persons attainted, and other than the said Offenders before by this Act attainted, and their Heirs, and the Heirs of every of them, claiming any thing in the said Manors, Messuages, Lands, Tenements, and other the Premises, or any part thereof, only as Heir or Heirs, and all and every other person and persons claiming, or having any thing in the premises, or any part thereof, to their uses, or to the use of any of them, All such Estate, Right, Title, Use, Possession, Interest, Reversion, Remainder, Entry, Condition, Fees, Offices, Rents, Annuities, Leases, Commons, Action, Suit, Petition, Execution, and all other Hereditaments, and all actions and means to recover or obtain the same whatsoever, which they or any of them had or ought to have in the premises, or any part thereof, at or before the said several Treasons by the said several Offenders respectively committed or done, in as large and ample manner to all intents and purposes, as if this Act had never been had nor made; any thing therein contained to the contrary thereof notwithstanding:

V. And also all such estate, right, title, use, possession, interest, reversion, remainder, entry, conditions, fees, offices, rents, annuities, commons; and all other commodities and hereditaments whatsoever, which they or any of them (except the persons before excepted) now have, or at any time hereafter shall or may have, only by virtue of any lawful Conveyance or Limitation made before the same several Treasons committed or done, for which the said Offenders have been attainted, or are by this Act attainted, in as large and ample manner to all intents and purposes, as if this Act had never been had or made; this Act, or any thing therein contained to the contrary thereof notwithstanding.

VI. Provided always, That this Act, or any thing therein contained, shall not extend to give the Kings Highness, his Heirs or Successors, any benefit or commodity of, or to any Goods, Chattels or Debts, that were any of the said persons, at the Common Law or by this Act attainted, at the time of the several Treasons by them done and committed, and by them or any of them lawfully and justly, without fraud or covin, given, granted, bargained, released, or discharged before the fifth day of November last past; but that all and every such person and persons to whom any lawful bargain, gift, grant, release, or discharge hath been made, as is aforesaid, shall and may have, hold, and enjoy the same, and be acquitted and discharged thereof, in such like manner and form to all intents and purposes, as though this Act had never been had or made.

Abridgment.

Saving of Rights to others.

This Act shall not entitle the King to any thing passed away, without fraud, before Nov. 5th.

A.D. 1685.

3 Jac. I. Cap. 25.

In an Act, Entituled, An Act for Confirmation of the Subsidies granted by the Clergy.

EX P.

MOST Religious and gracious Sovereign; your Majesties liege and humble Subjects, the Bishops and Clergy of the Province of Canterbury, called together by the authority of your highness writ, and orderly assembled at this present in a provincial Synod or Convocation, knowing by the direction of holy Scripture, not only how lawful and needful the sceptres and swords of Princes are here on earth, for the repressing of wrongs and violences; and preserving of peace and equity amongst men (to which end they were first created, and are still continued by the ordinance of God himself) but also how honourable and profitable the persons and powers of Christian Kings, would and should be to all the faithful, God having promised them as nursing fathers to the Church of Christ, that under them we might lead a safe and quiet life in all godliness and honesty: and withall remembering, after the death of the late Queen of famous memory, when our unthankfulness to God so deserving, and our distraction of minds amongst ourselves, making way thereunto, we justly feared rage of enemies abroad, and the rout of malecontents at home, how graciously God dealt with us and this whole land, by speedily bringing your Majesty to the rightful possession of the crown of this realm, as next heir to the same by lineal descent from King Henry the seventh, most worthily renowned for many Princely vertues, but specially for reuniting the two Royal stocks and families of this Kingdom, most dangerously divided before that time, and in him most happily conjoined, and quietly placing you in the Princely Throne of that your most noble progenitor, with the joyfull and most wonderful applause of all sorts of your people, and chiefly of such as since ly and truly served God and loved his Truth: And having ever since so manifest and manifold tryals of Gods most admirable gifts and blessings bestowed as well on your sacred Person, excelling in all wisdom, learning, prudence, piety, clemency, and bounty, as on your flourishing government, adorned with peace on all sides, plenty of all things, and safety from all foreign maligners and domestical impugners, notwithstanding the unshamefaced brood of Antichrist, the Jesuits and their Adherents, leave no means unsought to trouble the tranquillity of your State, and undermine the felicity of your Reign, as much as in them lyeth: And still beholding your inflamed and resolute zeal and love to the Gospel of Christ daily to increase, your earnest and exquisite desire and care for the order and unity of his Church always to augment, your extraordinary and right Princely favours and honours afforded to his Ministers, and Servants, the Pastors and Leaders of his flock, more and more to abound: might not so much forget themselves, as not to acknowledge it to be their bounden duties, first to render all possible praise and glory to God for these his exceeding graces and mercies plentifully poured on the Church and Realm of England, by your Royal person and happy regiment, with their ardent and humble prayers to God long to continue these heavenly blessings to the people of this Kingdom, under your religious and blessed government; And next to shew themselves observant, suppliant, and obedient to your godly proceedings, And likewise mindful and thankful for so rare and inestimable bounties and benefits as they have received from your Princely hands and Laws, to their no small comfort and encourage-

Convocation's acknowledgement of the Blessings of King James's Reign;

--- particularly of his defence of the Protestant Religion against the unshamefaced brood of Antichrist, the Jesuits.



Abridgment.

## C A P. II.

## BULLS of RECONCILIATION, and Popish BOOKS.

13 Eliz. Cap. 2.

*An Act against the bringing in, and putting in execution of Bulls, Writings, or Instruments, and other Superstitious things from the See of Rome.*

Recital of the Clause, 5 El. c. 1. which makes it a *Premunire* to maintain the authority of the Pope.

— notwithstanding which divers persons (to subject the Realm to the Pope, and stir up Sedition,)

— have obtained Bulls of Absolution and Reconciliation from Rome,

— and many Persons have been absolved, and reconciled,

— who now absent themselves from divine Service, and have cast off their Allegiance.

Where in the Parliament holden at Westminster, in the fifth year of the Reign of our Sovereign Lady the Queens Majesty that now is, by one Act and Statute then and there made, Entituled, An Act for the assurance of the Queens Majesties Royal Power over all States and Subjects within her Highness Dominions, it is among other things very well ordained and provided, for the abolishing of the usurped power and jurisdiction of the Bishop of Rome, and of the See of Rome, heretofore unlawfully claimed and usurped within this Realm, and other the Dominions to the Queens Majesty belonging, That no person or persons shall hold or stand with, to set forth, maintain, defend or extol the same usurped power, or attribute any manner of jurisdiction, authority or preeminence to the same to be had or used within this Realm, or any the said Dominions, upon pain to incur the danger, penalties and forfeitures ordained and provided by the Statute of Prohibition and *Premunire*, made in the sixteenth year of the Reign of King Richard the Second, as by the same Act more at large it doth and may appear: And yet nevertheless, divers seditious and very evil disposed people, without the respect of their duty to Almighty GOD, or of the Faith and Allegiance which they ought to bear and have to our said Sovereign Lady the Queen, and without all fear and regard had to the said good Law and Statute, or the pains therein limited, but minding, as it should seem, very seditiously and unnaturally, not only to bring this Realm, and the Imperial Crown thereof (being in very deed of it self most free) into the thraldon and subjection of that foreign, usurped, and unlawful jurisdiction, preeminence and authority claimed by the See of Rome, but also to estrange and alienate the minds and hearts of sundry her Majesties Subjects from their dutiful obedience, and to raise and stir sedition and rebellion within this Realm, to the disturbance of the most happy peace thereof, have lately procured and obtained to themselves from the said Bishop of Rome, and his said See, *b* divers Bulls and Writings, the effect whereof hath been, and is to absolve and reconcile all those that will be contented to forsake their due obedience to our most gracious Sovereign Lady the Queens Majesty, and to yield and subject themselves to the said feigned, unlawful and usurped authority; and by colour of the said Bulls and Writings, the said wicked persons very secretly, and most seditiously, in such parts of this Realm where the people for want of good instruction are most weak, simple and ignorant, and thereby farthest from the good understanding of their Duties towards GOD and the Queens Majesty, have by their lewd and subtil practices and persuasions, so far forth wrought, that sundry simple and ignorant persons have been contented to be reconciled to the said usurped authority of the See of Rome, and to take absolution at the hands of the said naughty and subtil practisers, whereby hath grown great disobedience and boldness in many, not only to withdraw and absent themselves from all Divine Service, now most godly set forth and used within this Realm, but also have thought themselves discharged of, and from all Obedience, Duty and Allegiance to her Majesty, whereby most wicked and unnatural rebellion hath ensued, and to the further danger of this Realm is hereafter very like to be renewed, if the ungodly and wicked attempts in that behalf be not by severity of Laws restrained and bydded:

*b* Divers Bulls.] This Statute, as we see, was made in the year 1571; and from the History of the three preceeding years, it appears, That the Pope had granted authority to *Saunders* and others, to absolve all the *English* who would return to the Church of *Rome*: That the same Pope had sent his Bull into *England* by *Morton* the Priest, to Anathematize the Queen,

and deprive her of her Throne, and absolve her Subjects from their Oaths of Obedience; That, in virtue, thereof, many of the People were withdrawn from their Allegiance, a dangerous Rebellion raised, circular Letters sent to the Papists to rise and assist in the cause, and the Bull it self published in the City of *London*, in a very insolent manner.

Bulls of Reconciliation, and Popish Books.

A.D. 1571.

Comb. ann. 1568.

— ann. 1570.

— ann. 1559



Bulls of  
Reconcili-  
ation and  
Popish  
Books.

II. For remedy and redress whereof, and to prevent the great mischiefs and inconveniences that thereby may ensue, Be it enacted by the Queens most excellent Majesty, with the assent of the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, and by the authority of the same, That if any person or persons, after the first day of July next coming, shall use, or put in ure in any place within this Realm, or in any the Queens Dominions, any such Bull, Writing, or Instrument written or printed, of absolution or reconciliation, at any time heretofore obtained and gotten, or at any time hereafter to be obtained or gotten from the said Bishop of Rome, or any his Successors, or from any other person or persons authorized, or claiming authority by or from the said Bishop of Rome, his Predecessors or Successors, or See of Rome; Or if any person or persons after the said first day of July, shall take upon him or them by colour of any such Bull, Writing, Instrument, or Authority, to absolve or reconcile any person or persons; Or to grant or promise to any person or persons within this Realm, or any other the Queens Majesties Dominions, any such absolution or reconciliation, by any speech, preaching, teaching, writing, or any other open deed: Or if any persons within this Realm, or any the Queens Dominions, after the said first day of July, shall willingly receive and take any such absolution or reconciliation:

III. Or else, if any person or persons have obtained or gotten since the last day of the Parliament holden in the first year of the Queens Majesties Reign, or after the said first day of July shall obtain or get from the said Bishop of Rome, or any his Successors or See of Rome, any manner of Bull, Writing, or Instrument, written or printed, containing any thing, matter or cause whatsoever: or shall publish, or by any ways or means put in ure any such Bull, Writing or Instrument; That then all and every such Act and Acts, offence and offences, shall be deemed and adjudged by the authority of this Act, to be high Treason, and the Offender and Offenders therein, their procurors, abettors and counsellors to the fact and committing of the said offence or offences, shall be deemed and adjudged high Traytors to the Queen and the Realm, and being thereof lawfully indicted and attainted, according to the course of the Laws of this Realm, shall suffer pains of death, and also lose and forfeit all their Lands, Tenements, Hereditaments, Goods and Chattels, as in cases of high Treason by the Laws of this Realm ought to be lost and forfeited.

IV. And be it further enacted by the authority aforesaid, That all and every aiders, comforters, or maintainers of any the said Offender or Offenders, after the committing of any the said acts or offences, to the intent to set forth, uphold, or allow the doing or execution of the said usurped Power, Jurisdiction or Authority, touching or concerning the premises, or any part thereof, shall incur the pains and penalties contained in the Statute of Præmunire, made the sixteenth year of the Reign of King Richard the Second.

V. Provided always, and be it further enacted by the authority aforesaid, That if any person or persons to whom any such Absolution, Reconciliation, Bull, Writing or Instrument as is aforesaid, shall, after the said first day of July, be offered, moved, or perswaded to be used, put in ure, or executed, shall conceal the same offer, motion or perswasion, and not disclose and signify the same by writing or otherwise, within six weeks then next following, to some of the Queens Majesties Privy Council, or else to the President or Vice-president of the Queens Majesties Council established in the North parts, or in the Marches of Wales for the time being; that then the same person or persons so concealing, and not disclosing, or not signifying the said offer, motion or perswasion, shall incur the loss, danger, penalty, and forfeiture of misprision of high Treason.

VI. And that no person or persons shall at any time hereafter be impeached, molested or troubled in or for misprision of Treason, for any offence or offences made Treason by this Act, other than such as by this Act are before declared to be in case of misprision of high Treason.

VII. And be it further enacted by the authority aforesaid, That if any person or persons shall at any time after the said first day of July, bring into this Realm of England, or any the Dominions of the same, any token or tokens, thing or things called or named by the name of Agnus Dei, or any Crosses, Pictures, Beads, or such like vain and superstitious things, from the Bishop or See of Rome, or from any person or persons authorized, or claiming authority by or from the said Bishop or See of Rome, to consecrate or hallow the same: (Which said Agnus Dei is used to be specially hallowed and consecrated, as it is termed, by the said Bishop in his own person, and the said Crosses, Pictures, Beads, and such like superstitious things

Abridgment.

Enacted, that,

— Any Person putting in execution such Bulls,

— or absolving and reconciling in virtue of them,

— or receiving Absolution or Reconciliation,

— or obtaining any Instrument from Rome,

— or publishing them,

— shall be adjudged guilty of High Treason;

— and the Aiding, and Maintaining, shall be Præmunire.

Any Person having Absolution &amp;c. offered, and not disclosing it,

— shall be guilty of Misprision of High Treason.

Offences made Treason by this Act, shall not be punished as Misprision.

Any Person who shall bring in Agnus Dei's, Crosses, &amp;c.

(which are first hallowed by the Pope, &amp;c.)



## Abridgment.

---and deliver or offer them to be used,

---shall (as also the Person receiving) incur a *Præmunire*.

No Person, to whom such Offer is made,

-- if he seize the Person offering,

--- or inform the Bishop or a Justice,

--- or deliver them to a Justice, if taken,

--- shall incur the said Danger.

All Persons having such Instruments,

--- and delivering them to the Bishop, to be defaced,

--- and desiring to be restored to the Church of England,

--- shall be clearly pardoned.

---and so also shall those, who have received Absolution,

--- if they confess, and desire to be restored, as above-said,

Justice of Peace, not discovering Informations to a Privy Council, or in 14 days,

things been also hallowed either by the said Bishop, or by others having power, or pretending to have power for the same, by or from him or his said See, and divers pardons, immunities and exemptions granted by the authority of the said See, to such as shall receive and use the same: And that if the same person or persons so bringing as is aforesaid, such Agnus Dei, and other like things as have been before specified, shall deliver, or cause, or offer to be delivered the same, or any of them to any Subject of this Realm, or of any the Dominions of the same, to be worn or used in any wise: that then as well the same person and persons so doing, as also all and every other person or persons which shall receive and take the same, to the intent to use or wear the same, being thereof lawfully convicted and attainted by the order of the Common Laws of this Realm, shall incur into the dangers, penalties, pains and forfeitures ordained and provided by the Statute of *Præmunire* and *Provison*, made in the sixteenth year of the Reign of King Richard the Second.

VIII. Provided nevertheless, and be it further enacted by the authority aforesaid, That if any person to whom any such Agnus Dei, or other the things aforesaid, shall be tendered and offered to be delivered, shall apprehend the party so offering the same, and bring him to the next Justice of Peace of that Shire where such tender shall be made, if he shall be of power, and able so to do; or for lack of such ability, shall within the space of three days next after such offer made as is aforesaid, disclose the name and names of such person or persons as so shall make the same offer, and the dwelling place, or place of resort of the same person or persons (which he shall endeavour himself to know by all the ways and means he can) to the Ordinary of that Diocess, or to any Justice of Peace of that Shire where such person or persons to whom such offer shall be made as is aforesaid, shall be resistant: and also if such person or persons to whom such offer shall be made, shall happen to receive any such Agnus Dei, or other thing above remembered, and shall within the space of one day next after such receipt, deliver the same to any Justice of Peace within the same Shire where the party so receiving shall be then resistant, or shall happen to be: That then every such person or persons doing any the acts or things in this provision above mentioned in form above declared, shall not by force of this Statute incur any danger or penalty appointed by this Statute; this Act, or any thing therein contained to the contrary in any wise notwithstanding.

IX. And be it further enacted by the authority aforesaid, That all and every person and persons which at any time since the beginning of the first year of the Queens *Mariæ* Reign that now is, have brought or cause to be brought into this Realm any such Bulls, Writings, or instruments of Reconciliation only as are above mentioned, and now have any of the same Bulls, Writings or Instruments in his or their hands or custody, and shall and do within the space of three months next after the end of any Session, or dissolution of this present Parliament, bring and deliver all such Bulls, Writings and Instruments which they or any of them now have in his or their custody, to the Bishop of the Diocess where such absolution hath been given and received, to the intent that the same Bulls, Writings or Instruments may be cancelled and defaced, and shall openly and publickly before such Bishop, confess and acknowledge his or their offence therein, and humbly desire to be received, restored and admitted to the Church of England, shall stand and be clearly pardoned and discharged of all and every offence and offences done or committed in any matter or cause concerning any of the said Bulls, Writings or Instruments, for or touching such absolution or reconciliation only. And that all and every person or persons which have received or taken any absolution from the said Bishop of Rome, or his said See of Rome, of any reconciliation unto the said Bishop or to the said See of Rome, sithence the said first year of the Reign of our Sovereign Lady the Queen, and shall within the said space of three months next after any Session, or dissolution of this present Parliament, come before the Bishop of the Diocess of such place where such absolution or reconciliation was had or made, and shall publickly and openly before the same Bishop, confess and acknowledge his or their offence therein, and humbly desire to be received, restored, and admitted to the Church of England, shall likewise stand and be clearly pardoned and discharged of all and every offence and offences done or committed in any matter or cause concerning the said Bulls, Writings or Instructions, for or touching only receiving of such absolution or reconciliation, and for and concerning all absolution or reconciliation had or received by colour of any the said Bulls, Writings or Instructions only.

X. Provided also and be it further enacted by the authority aforesaid, that if any Justice of Peace, to whom any matter of offence before mentioned, shall be uttered, shewed or declared as is aforesaid, do not within the space of xiv. days next after it shall be to him shewed or uttered, signify or declare the same to some of the Queens *Mariæ* Privy Council, that then the same Justice of Peace shall incur the danger,

Bulls of Reconciliation, and Popish Books.

pain



Bulls of  
Reconcili-  
ation  
Popish  
Books.

pain and forfeiture provided by the said Statute made in the said sixteenth year of King Richard the Second.

XI. Provided also, and be it further enacted by the authority aforesaid, That any Nobleman being a Peer of this Realm, shall at any time hereafter happen to be indicted for any the offence or offences aforesaid, that then every such Nobleman and Peer of this Realm, shall have his tryal by his Peers, as in cases of high Treason, and misprision of Treason hath heretofore been accustomed or used:

XII. Saving to all and every person or persons, bodies politick or corporate, their Heirs and Successors, and the Heirs and Successors of every of them, other than the said offenders and their Heirs, claiming only as Heir or Heirs to any such offenders, and such person and persons as claim to any their uses, all such Rights, Titles, Interests, Possessions, Leases, Rents, Reversions, Remainders, Offices, Fees and all other Profits, Commodities, and Hereditaments, as they or any of them shall have at the day of the committing such offence or offences, or any time before, in as large and ample manner to all intents and purposes, as if this Act had never been had or made; any thing herein contained to the contrary thereof notwithstanding.

A.D. 1605.

3 Jac. I. Cap. 5.

In an Act, Entituled, *An Act to prevent and avoid Dangers which may grow by Popish Recusants.*

XXV. And be it further enacted by the authority of this present Parliament, that no person or persons shall bring from beyond the Seas, nor shall print, sell, or buy any Popish Primers, Ladies Psalters, Manuals, Rosaries, Popish Catechisms, Missals, Breviaries, Portals, Legends and Lives of Saints, containing superstitious matter printed or written in any language whatsoever, nor any other superstitious books printed or written in the English tongue, upon pain of forfeiture of forty shillings for every such book: One third part thereof to be to the Kings Majesty, his Heirs and Successors, one other third part to him that will sue for the same, and the other third part to the Parson of the Parish where such book or books shall be found, to be recovered by action of Debt, Bill, Plaint, or Information in any of the Kings Majesties Courts of Record, wherein no Estoin, Protection, or Wager of Law shall be admitted or allowed, and the said books to be burned.

XXVI. And that it shall be lawful for any two Justices of Peace within the limits of their Jurisdiction or authority, and to all Mayors, Bailiffs, and chief Officers of Cities and Towns Corporate in their liberties, from time to time, to search the Houses and Lodgings of every Popish Recusant convict, or of every person whose Wife is or shall be a Popish Recusant convict, for Popish books and Reliques of Popery: And that if any Altar, Pix, Beads, Pictures, or such like Popish Reliques, or any popish book or books shall be found in their or any of their custody, as in opinion of the said Justices, Mayor, Bailiff, or chief Officer, as aforesaid, shall be thought unmeet for such Recusant, as aforesaid, to have or use the same, shall be presently defaced and burnt, if it be meet to be burned: And if it be a Crucifix or other Relique of any price, the same to be defaced at the general Quarter sessions of the peace, in the County where the same shall be found, and the same so defaced, to be restored to the Owner again.

A.D. 1580.

23 Eliz. Cap. 1.

*An Act to Retain the Queens Majesties Subjects in their due Obedience.*

Where sithence the Statute made in the thirteenth year of the Reign of the Queen our Sovereign Lady, Entituled, An Act against the bringing in, and putting in execution of Bulls, Writings and Instruments, and other Superstitious things from the See of Rome, divers evil affected persons have practised, contrary to the meaning of the said Statute, by other means than by Bulls or Instruments, Written or Printed, to withdraw divers the Queens Majesties Subjects from their natural Obedience to her Majesty, to obey the said usurped authority of Rome, and in respect of the same, to perswade great numbers to withdraw their due Obedience from her Majesties Laws, established for the due Service of Almighty God:

Abridgment.

-- shall incur a  
Præmunire.  
Peers shall be  
tried by Peers.

Saving of Rights  
to others.

None shall im-  
port Popish Books,  
upon pain of for-  
feiture 40 s. for  
each, and burning  
of the Books.

Justices &c. may  
search the houses of  
Popish Recusants,

--and finding Al-  
tar, Reliques, &c.  
may deface and  
burn them.

The Papists e-  
vade the Stat. 13  
Eliz. c. 2. by recon-  
ciling other ways  
than by Bulls,

-- and drawing  
Subjects from their  
Allegiance.

II. For



Bulls of Reconciliation, and Popish Books.

Abridgment.

Enacted, that, —All Persons having Power to absolve, and withdraw Subjects from Obedience, —or from their Religion, —or to move them to promise Obedience to the Pope, —or doing any like Overt-Act, —shall be adjudged guilty of High Treason: —And so also, any Persons complying with them.

Aiders and Maintainers shall be guilty of misprison of Treason.

Offences against this Act, and others concerning the Supremacy, &c. shall be inquirable before the Justices,

—within one year and a day;

... but Justices of Peace shall not enquire of Treason, and misprison of Treason.

Stat. p. 3.

Every Person, putting in Practice to absolve from Obedience, —or to reconcile to Rome, —or to move to promise Obedience to any Foreign Power,

II. For reformation whereof, and to declare the true meaning of the said Law, be it declared and enacted by the authority of this present Parliament, That all persons whatsoever, which have or shall have, or shall pretend to have, power, or shall by any ways or means put in practice to absolve, persuade, or withdraw any of the Queens Majesties Subjects, or any within her Highnesss Realms and Dominions, from their natural obedience to her Majesty: Or to withdraw them for that intent from the Religion now by her Highnesss Authority established within her Highnesss Dominions, to the Romish Religion; Or to move them or any of them, to promise any Obedience to any pretended Authority of the See of Rome, or of any other Prince State or Potentate, to be had or used within her Dominions, or shall do any overt act to that intent and purpose, and every of them, shall be to all intents adjudged to be Traytors, and being thereof lawfully convicted, shall have Judgment, suffer and forfeit, as in case of High Treason. And if any person shall after the end of this Session of Parliament, by any means be willingly absolved or withdrawn as aforesaid, or willingly be reconciled, or shall promise any Obedience to any such pretended Authority, Prince, State or Potentate as is aforesaid, that then every such person their Procurers and Counselliers thereunto, being thereof lawfully convicted, shall be taken, tried and judged, and shall suffer and forfeit as in cases of High Treason.

III. And be it likewise enacted and declared, That all and every person and persons that shall wittingly be aiders or maintainers of such persons so offending as is above expressed, or of any of them knowing the same, or which shall conceal any offence as aforesaid, and shall not within twenty days at the furthest, after such persons knowledge of such offence, disclose the same to some Justice of Peace, or other higher Officer; shall be taken, tried and judged, and shall suffer and forfeit as Offenders in misprison of Treason. †

VIII. And be it likewise enacted, that all and every offences against this Act, or against the Acts of the first, fifth, or thirteenth years of her Majesties Reign, touching acknowledging of her Majesties Supream Government in causes Ecclesiastical, or other matters touching the Service of God, or coming to Church, or establishment of true Religion in this Realm, shall and may be inquirable, as well before Justices of Peace, as other Justices named in the same Statutes, within one year and a day after every such offence committed: any thlug in this Act, or in any other Act to the contrary notwithstanding.

IX. Be it likewise enacted, That the Justices of Oyer and Terminer, and Justices of Assise, and Gaol-delivery, in their severall limits, shall have power to enquire, hear and determine of all offences against this Statute: And Justices of Peace in their open Quarter Sessions of Peace, shall have power by vertue of this Act to enquire, hear and determine of all offences against this Act (except Treason, and misprison of Treason.)

c Shall pretend.] Upon the Indictment against *Campion* and others, ann. 33 *Eliz.* (concerning which, the Justices and Barons were assembled at Serjeants Inn,) it was resolved by them, That if any Person shall pretend to have power to absolve, tho' he move none with an intent to draw them from their Obedience; or shall move any with an intent to draw them from their Obedience, tho' he pretend not to have power to Absolve; that both these Acts, singly taken, are Treason within the purview of this Statute.

3 Jac. I. Cap. 4.

A.D. 1605.

In an Act, Entituled, *An Act for the better discovering and repressing of Popish Recufants.*

§. XII. And further be it enacted by the authority aforesaid, That if any person or persons at any time after the said tenth day of June, shall either upon the Seas, or beyond the Seas, or in any other place beyond the Dominions of the Kings Majesty, his Heirs or Successors, put in practice to absolve, persuade, or withdraw any of the Subjects of the Kings Majesty, or his Heirs and Successors of this Realm of England, from their natural obedience to his Majesty, his Heirs or Successors, or to reconcile them to the Pope or See of Rome, or to move them or any of them to promise obedience to any pretended authority to the See of Rome, or to any other Prince, State or Potentate, That then every such person, and their procurers, coun-

d Their Procurers.] By comparing and 5th Clauses of Stat. 13 *Eliz.* c. 2, and the Penalties of this Act, with the 3d, 4th Stat. 23 *Eliz.* c. 1. it will appear, that, fellows



*Bulls of Reconciliation and Popish Books.*

felions, aiders and maintainers, knowing the same, shall be to all intents adjudged Traytors, and being thereof lawfully convicted, shall have judgment, suffer and forfeit as in cases of high Treason.

XXIII. And if any such person as aforesaid, at any time after the said tenth day of June, shall be, either upon the Seas, or beyond the Seas, or in any other place within the Dominions of the Kings Majesty, his heirs or successors, willingly absolved or withdrawn as aforesaid, or willingly reconciled, or shall promise obedience to any such pretended authority, Prince, State or Potentate, as aforesaid, That every such person and persons, their procurers and counsellors, aiders and maintainers, knowing the same, shall be to all intents adjudged Traytors, and being thereof lawfully convicted, shall have judgment, suffer and forfeit as in cases of high Treason.

XXIV. Provided nevertheless, That the last mentioned Clause of this Branch, or any thing therein contained, shall not extend, or be taken to extend to any person or persons whatsoever, which shall hereafter be reconciled to the Pope or Sec of Rome, as aforesaid (for and touching the point of so being reconciled only) that shall return into this Realm, and thereupon within six days next after such return, before the Bishop of the Diocess, or two Justices of Peace (joyntly or severally) of the County where he shall arrive, submit himself to his Majesty and his Laws, and take the Oath set forth by Act in the first year of the Reign of the late Queen Elizabeth (commonly called the Oath of Supremacy) as also the Oath before set down in this present Act, which said Oaths the said Bishop and Justices respectively shall have power and authority by this present Act to administer to such persons as aforesaid. And the said Oaths so taken, the said Bishop and Justices before whom the said Oaths shall be so taken respectively, shall certify at the next general or quarter Sessions of the Peace, to be holden within the said Shire, Limit, Division or Liberty, wherein such person as aforesaid shall submit himself, and take the said Oaths as aforesaid, upon pain of every one neglecting to certify the same as aforesaid, the sum of forty pounds.

XXV. And be it further enacted, That all and every person and persons that shall offend contrary to this present Branch of this Statute, shall be indicted, tried, and proceeded against, by and before the Justices of Assize and Gaol-delivery of that County for the time being, or before the Justices of the Court of Kings Bench, and be there proceeded against according to the Laws and Statutes of this Realm against Traytors, as if the said offence had been committed in the same County where such person or persons shall so be taken: Any Law, Custom, or Statute to the contrary in any wise notwithstanding.

XXVI. Provided always, That if any Peer of this Realm shall happen to be indicted of any offence made Treason by this Act, he shall have his Trial by his Peers, as in other like cases of Treason is accustomed.

now, they were made somewhat higher and more severe, than they had been, during the Reign of Queen Elizabeth. And to warrant the Nation in laying on heavier Penalties and Discouragements; it need only be remembred, what the occasion of them was, viz. an Attempt, just then discove-

red, the most execrable and barbarous that we read of in any Age or Nation, i. e. the Gunpowder-Plot: which was carried on, and brought to the point of Execution, as by other methods surprisngly wicked, so particularly by the Practices that are provided against, in this branch of the Statute.

**Abridgment.**  
--- shall be adjudged a Traitor,  
--- and so also, every Person complying.

This last Clause shall not extend to such, as submit and take the Oaths, before the Bishop, or 2 Justices,

--- who shall certify such Oaths at the Quarter Sessions,

--- upon pain to forfeit 40<sup>l</sup>.

All Offences against this Act, may be tried at the Assizes or King's Bench.

Peers shall be tried by Peers.

C A P. III.

*Saying and hearing of M A S S.*

23 Eliz. Cap. 1.

In an Act, Entituled, *An Act to Retain the Queen's Majesties Subjects in their due Obedience.*

A. D. 1580.

*Saying and Hearing of Mass.*

IV. **A**ND be it likewise enacted, That every person which shall say or sing Mass, being thereof lawfully convicted, shall forfeit the sum of Two hundred marks, and be committed to prison in the next Gaol, there to remain by the space of one year, and from thenceforth till he have paid the said sum of Two hundred marks: And that every person which shall willingly hear Mass, shall forfeit the sum of One hundred marks, and suffer imprisonment for a year.

Any Person saying Mass, shall forfeit 200 Marks, and be Imprisoned for a Year.

--- and hearing Mass, 100 Marks, and like Imprisonment.



Abridgment.

3 Jac. I. Cap. 5.

*An Act to prevent and avoid Dangers, which may grow by Popish Recufants.*

*Saying, and  
Hearing, of  
Mafs.*

A.D. 1605.

To discover Jesuits, who withdraw Subjects from their Religion and Allegiance;

Enacted, that,

Any Person discovering a Recufant who keeps Jesuits, &c.

--- or Mafs said, with the Persons present, and the Priest,

--- shall have the 3<sup>d</sup> part of the forfeitures, if the 3<sup>d</sup> exceed not 50<sup>l</sup>.

--and a Certificate from the Judges to the Sheriff for payment.

Whereas divers Jesuits, Seminaries and Popish Priests, daily do withdraw many of his Majesty's Subjects from the true Service of Almighty God, and the Religion established within this Realm, to the Romish Religion, and from their loyal Obedience to his Majesty, and have of late secretly persuaded divers Recufants and Papists, and encouraged and emboldened them to commit most damnable Treasons, tending to the overthrow of Gods true Religion, the destruction of his Majesty and his Royal Issue, and the overthrow of the whole State and Commonwealth, if God of his goodness and mercy had not, within few hours before the intended time of execution thereof, revealed and disclosed the same: Wherefore to discover and prevent such secret damnable Conspiracies and Treasons, as hereafter may be put in ure by such evil disposed persons, if remedy be not therefore provided, Be it enacted by the Kings most excellent Majesty, the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, and by the authority of the same, That such person as shall first discover to any Justice of Peace, any Recufant, or other person which shall entertain or reliebe any Jesuit, Seminary, or Popish Priest, or shall discover any Mafs to have been said, and the persons that were present at such Mafs, and the Priest that said the same, or any of them, within three days next after the offence committed, and that by reason of such discovery any of the said offenders be taken and convicted or attainted, That then the person which hath made such discovery, shall not only be freed from the danger and penalty of any Law for such offence, if he be an offender therein, but also shall have the third part of the forfeiture of all such sums of moneys, goods, chattels and debts, which shall be forfeited by such offence (so as the same total forfeiture exceed not the sum of one hundred and fifty pounds, and if it shall exceed the said sum of one hundred and fifty pounds, then the said person, so discovering the said offence, shall have the sum of fifty pounds only, for every such discovery :) And such person, so discovering the same, after conviction of the offender, shall have a Certificate from the Judges or Justices of Peace, before whom such conviction shall happen to be, directed to the Sheriff or other Officer of the same county, limit or place, that shall seize the goods, or levy the said forfeiture, commanding the said Sheriff or other Officer to pay the same accordingly to him that so discovered the same, out of the monies to be levied by vertue of the said forfeitures; which warrant and payment shall be effectual in the Law for that purpose, and a sufficient discharge in that behalf for the Sheriff or other Officer upon his accompt.

11, 12 Will. III. Cap. 4.

A.D. 1699.

*An Act for the further Preventing the Growth of Popery.*

The Number and insolence of Priests, increasing,

Enacted, that,

--and Person seizing a Popish Bishop, Priest, or Jesuit,

--- and convicting him of saying Mafs,

Where there has been of late a much greater resort into this Kingdom than formerly, of Popish Bishops, Priests and Jesuits, and they do very openly, and in insolent manner, affront the Laws, and daily endeavour to pervert His Majesties Natural born Subjects, which has been occasioned by neglect of the due Execution of the Laws already in force: For preventing the further growth of Popery, and of such Treasonable and Execrable Designs and Conspiracies, against his Majesties person and Government, and the Established Religion, as have lately, as well as frequently heretofore, been brought to light, and happily defeated by the wonderful Providence of God: Be it enacted by the Kings most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by authority of the same, That from and after the Five and twentieth Day of March, One thousand and seven hundred, all and every person and persons, who shall Apprehend and Take one or more Popish Bishop, Priest or Jesuit, and Prosecute him or them so Apprehended and taken, until he or they be Convicted of Saying Mafs, or of Exercising any other part of the Office or Function of a Popish Bishop or Priest within these Realms, shall have and receive from the Sheriff or Sheriffs of the County where such Conviction shall be made (without paying any Fee for the same) for every such Offender so



Saying, and  
Hearing, of  
Mafs.

so Convicted, the sum of one hundred pounds, within Four months after such Conviction, and demand thereof made, by tendering a Certificate to the said Sheriff or Sheriffs, under the hand or hands of the Judge or Judges before whom such Conviction shall be made, certifying the Conviction of such Popish Bishop, Priest or Jesuit, and also that such Popish Bishop, Priest or Jesuit, Popish Bishops, Priests or Jesuits, was or were taken by the person or persons claiming the said Reward: And in case any Dispute shall happen to arise between the persons so apprehending any Popish Bishop, Priest or Jesuit, touching their Right and Title to the said Reward, that then the said Judge or Justices, so respectively certifying as aforesaid shall in and by their said Certificate direct and appoint the said Reward to be paid unto and amongst the parties Claiming the same, in such share and proportion as to the said Judge or Justices shall seem just and reasonable; And if it shall happen any such Sheriff or Sheriffs shall Die, or be Removed before the Expiration of Four months after such Conviction and Demand made of the said Reward (not being paid, as aforesaid) that then the next succeeding Sheriff or Sheriffs of the said County shall pay the same, within Two months after Demand, and Certificate brought, as aforesaid; And if Default of Payment of the said Sum or Sums of Money shall happen to be made by any Sheriff or Sheriffs, such Sheriff or Sheriffs so making Default, shall forfeit to the person or persons to whom such Money is due, as aforesaid, Two hundred pounds, to be Recovered by him or them, or his or their Executors or Administrators, in any of His Majesties Courts of Record at Westminster, by Action of Debt, Bill, Plaint or Information, wherein but one Impar- lance, and no Essoign, Protection or Wager of Law shall be Allowed, with full Costs of Suit by him or them expended in the Recovery of the same.

II. And it is hereby further Enacted, That all Sheriffs, their Successors, Executors or Administrators, upon producing such respective Certificates, or a Duplicate or Duplicates thereof, shall have the monies contained in such Certificate paid to them by the Lord Treasurer, or Commissioners of his Majesties Treasury for the time being, out of the Revenue of the Crown.

III. And for a further remedy against the growth of Popery, over and beyond the good Laws already made, Be it further enacted by the authority aforesaid, That if any Popish Bishop, Priest or Jesuit whatsoever, shall say Mass, or exercise any other part of the Office or Function of a Popish Bishop or Priest within these Realms, or the Dominions thereto belonging; Or if any Papist or person making profession of the popish Religion, shall keep School, or take upon themselves the education or government or boarding of youth in any place within this Realm, or the Dominions thereunto belonging, such person or persons, being thereof lawfully convicted, That then every such person shall on such conviction be adjudged to perpetual imprisonment, in such place or places within this Kingdom, as the King, by advice of his Privy Council, shall appoint.

V. Provided always, That nothing in this Act contained, shall be construed to extend to any popish Priest, for saying Mass, or Officiating as a Priest, within the Dwelling-house of any Foreign Minister residing here, so as such Priest be not one of his Majesties natural born subjects, nor naturalized within any of his Kingdoms or Dominions; and so as the name of such Priest, and the place of his Birth, and the foreign Minister to whom he shall belong, be Entered and Registered in the Office of the principal Secretary of State.

Abridgment.

--- shall receive 100*l.* from the Sheriff,  
--- upon Certificate from the Judges,

--- who shall proportion the Shares of the Persons apprehending.

The Sheriff neglecting to pay, shall forfeit 200*l.*

---and paying, shall be allowed it in the Treasury.

Any Priest, &c. saying Mass,

---or Papist teaching School,

---shall be adjudged to perpetual imprisonment.

Proviso for Mass, in the Houses of foreign Ministers,  
---the Priest not being a Subject,  
---and his name, &c. enter'd in the Secretary's Office.



Abridgment.

C A P. IV.

ABSENTING from CHURCH, with CONVICTIONS, and FORFEITURES thereupon.

23 Eliz. Cap. 1.

A.D. 1580.

In an Act, Entituled, An Act to Retain the Queens Majesties Subjects in their due Obedience.

Every Person above 16, absenting from Church, shall forfeit twenty pounds a Month,

...and absenting for 12 Months, shall be bound to good behaviour, in 200l.

Any person keeping a School-master who doth not repair to Church, &c. shall forfeit 10l. a Month, ...and the School-master shall be disabled, and Imprisoned one Year.

All Offences against this Act (except Treason or Misprision of Treason) shall be discharged, upon Submission, and Conformity.

V. BE it also further enacted by the authority aforesaid, That every person above the age of sixteen years, which shall not repair to some Church, Chapel, or usual place of Common Prayer, but forbear the same, contrary to the tenour of a Statute made in the first year of her Majesties Reign, for Uniformity of Common Prayer, and being thereof lawfully convicted, shall forfeit to the Queens Majesty for every month after the end of this Session of Parliament which he or she shall so forbear 20 Twenty pounds of lawful English money; and that over and besides the said forfeitures, every person so forbearing, by the space of twelve months, as aforesaid, shall for his or her obstinacy, after Certificate thereof in Writing made into the Court commonly called the Kings Bench, by the Ordinary of the Diocess, a Justice of Assise and Gaol-delivery, or a Justice of Peace of the County where such offender shall dwell or be, be bound with two sufficient Sureties in the sum of Two hundred pounds at least, to the good behabour, and so to continue bound, until such time as the persons so bound do conform themselves and come to the Church, according to the true meaning of the said Statute made in the said first year of the Queens Majesties Reign.

VI. And be it further enacted, That if any person or persons, body politick or corporate, after the Feast of Pentecost next coming, shall keep or maintain any School-master which shall not repair to Church, as is aforesaid, or be allowed by the Bishop or Ordinary of the Diocess where such Schoolmaster shall be so kept, shall forfeit and lose for every month so keeping him, Ten pounds.

VII. (Provided, That no such Ordinary, or their Ministers, shall take any thing for the said allowance.) And such School-master or Teacher, presuming to teach contrary to this Act, and being thereof lawfully convicted, shall be disabled to be a Teacher of Youth, and shall suffer imprisonment without Bail or Mainprize for one year.

X. Provided always, That every person guilty of any offence against this Statute, (other than Treason, and misprision of Treason) which shall, before he be there of indicted, or at his arraignment or trial before judgment, submit and conform himself before the Bishop of the Diocess where he shall be resident, or before the Justices where he shall be indicted, arraigned or tried, (having not before made like submission at any his tryal, being indicted for his first like offence) shall upon his recognition of such submission in open Assises or Sessions of the County where such person shall be resident, be discharged of all and every the said offences against this Act (except Treason and misprision of Treason) and of all pains and forfeitures for the same.

XI. And be it likewise enacted, That all forfeitures of any sums of money limi-

ted shall not repair.] In the Case of Parker and Sir John Courson, and his Wife, where, upon Information against the Wife, a demand was made of 220l. for eleven Months; it was proved that she was Sick for a great part of the time, and urged that might be admitted as a reasonable Excuse; but forasmuch as it was alledged, that she was a Recusant both before and after, it was said by the Court, that it shall not excuse her: for it shall be intended, that she obstinately forbore during that time; wherefore

she was found guilty for all the times. [If he or she.] It hath been adjudged, that tho' the Husband is Conformable, yet if the Wife is a Recusant, and forbear to repair to Divine Service, according to the intent and meaning of this Act, he shall be Subject to the payment of the penalties, for the Recusancy of his Wife.

20 Twenty pounds a month.] This doth not take away the penalty of 1s. for every Sunday and Holyday, 1 Eliz. c. 2. § 14.

Absenting from Church, with Convictions and Forfeitures thereupon.

1 Eliz. c. 14

See sect. 8, 9, as before, in pag. 632.

Dr. Foster's Case, 11 Co. 61. b. 64. 2. The like 3 Bull. 87. 4 Lenn. 239.

11 Rep. 63. b.

2172 c. 2. §. 14.

ted



*Absenting from the Church, with Convictions and Forfeitures thereupon.*

ted by this Act, shall be divided in three equal parts, whereof one third part shall be to the Queens Majesty to her own use, one other third part to the Queens Majesty, for relief of the poor in the Parish where the offence shall be committed, to be delivered by Warrant to the *k* principal Officers in the Receipt of the Exchequer without further Warrant from her Majesty, and the other third part to such person as will sue for the same in any Court of Record, by Action of Debt, Bill, Plaint or Information; in which Suit, no Essoin, Protection, or Wager of Law shall be allowed. And that every person which shall forfeit any sums of money by virtue of this Act, and shall not be able, or shall fail to pay the same, within three months after Judgment thereof given, shall be committed to prison, there to remain until he have paid the said sums, or conform himself to go to Church, and there do as is aforesaid.

XII. Provided also, That every person which usually on the Sunday shall have in his or her house Divine Service which is established by the Law of this Realm, and be thereat himself or her self usually or most commonly present, and shall not obstinately refuse to come to Church, and there to do as is aforesaid, and shall also four times in the year at the least be present at the Divine Service in the Church of the Parish where he or she shall be resident, or in some other common Church, or such Chapel of ease; shall not incur any pain or penalty limited by this Act for not repairing to Church.

XIII. And be it likewise enacted and declared, That every Grant, Conveyance, Bond, Judgment and Execution, had or made since the beginning of this Session of Parliament, or hereafter to be had or made, of covinous purpose to defraud any Interest, Right or Title, that may or ought to grow to the Queen, or to any other person, by means of any Conviction or Judgment by virtue of this Statute, or of the said Statute of the said thirteenth year, shall be, and be adjudged to be utterly void against the Queen, and against such as shall sue for any part of the said penalties in form aforesaid.

XIV. Provided always, That if any Peer of this Realm shall happen to be indicted of any offence made Treason or misprision of Treason by this Act, he shall have his trial by his Peers, as in other like cases is accustomed.

XV. Provided also, That neither this Act, nor any thing therein contained, shall extend to take away or abridge the authority or jurisdiction of the Ecclesiastical Censures for any cause or matter, but that the Archbishops and Bishops, and other the Ecclesiastical Judges, may do and proceed, as before the making of this Act they lawfully did or might have done; Any thing in this Act to the contrary notwithstanding.

**Abridgment.**

All Forfeitures by this Act shall be divided into 3 parts;

--- and being not paid, the Party shall be imprisoned, till he pay, or Conform.

Proviso for such as have Service in their Houses,

--- and come to Church four times a year.

Every Grant, &c. to defeat any right growing by Convictions, shall be void.

Peers shall be tried by Peers.

This Act shall not abridge Ecclesiastical Censures.

11 Rep. f. 60.

Nov 117.

Vid. 29. Eliz. c. 6. 2 Lenn. 167

[ Three equal Parts.] In 12 Jac. 1. (Dr. Foster's Case) it was resolved, that this branch of *distribution* shall extend as well to the Clause of Penalty for Recusancy, as to the Clause of saying and hearing of Mass, &c. And it had been resolved before (3 Jac. 1.) that if the Party be convicted, upon an *Information* on this Statute, there the Informer shall have the Penalty; but if the Party, before the *Information*, be convicted of it upon an *Indictment* at the Suit of the King, there the King shall have all the Penalty to himself. And yet, three years after the making of this Act, when Scot was indicted upon it, and upon that *Indictment* Judgment was given for the Queen, and afterwards Error was assigned, that Scot was not named of any *Parish*, but

generally, *within Southwark*, where are many Parishes, and so it could not appear to which of them the *third part* belonged; to this the Court did not reply, that the *Indictment* was therefore good, because being an *Indictment*, the *whole* belonged to the Queen; but they resolved, that it was therefore good, because, afterwards, the Inhabitants of the Parish in which the Offence was committed, might sue in the Exchequer for their third part of the Penalty, and surmise in their Bill that the Offence was committed within their Parish. *k* **Principal Officers.]** The Principal Officers of Receipt, are the Treasurer and Chamberlains; but the Principal Officers of the Exchequer, are the Treasurer and Barons.

Savil, 38.



Abridgment.

28 Eliz. Cap. 6.

An Act for the more speedy and due Execution of certain Branches of the Statute made in the 23<sup>d</sup> year of the Queen's Majesty's Reign, entituled, An Act to retain the Queen's Majesties Subjects in their due obedience.

Absenting  
from  
Church,  
with Con-  
victions  
and For-  
feitures  
thereupon.

A.D. 1586.

To avoid Frauds  
in the Execution of  
the Statute, 23. El.  
c. 1.

--- Every Feoff-  
ment, &c. made  
by a Person not re-  
pairing to Church,

--- which is revo-  
cable at pleasure,  
--- or for the behoof  
of him or his Fa-  
mily,

--- shall be void, as  
to the Penalty of  
the said Statute.

Every Conviction  
recorded, shall be  
estreated before the  
end of Easter-term,

--- and all Convicti-  
ons shall be in the  
Kings Bench, or  
at the Assizes,

--- and be estreated  
and certified be-  
fore the end of the  
following Term.

All Persons con-  
victed, and in ar-  
rests, shall pay at  
Hob. 205.

FOR avoiding of all frauds and delays heretofore practised, or hereafter to be put in ure, to the hindrance of the due and speedy execution of the Statute made in the Session of Parliament holden by Prorogation at Westminster, the sixteenth day of January, in the three and twentieth year of the Reign of our most gracious Sovereign Lady the Queens Majesty, entituled, An Act to retain the Queens Majesties Subjects in their due Obedience, Be it enacted by the authority of this present Parliament, That every Feoffment, Gift, Grant, Conveyance, Alienation, Estate, Lease, Incumbance, and limitation of use, of, or out of any Lands, Tenements or Hereditaments whatsoever, had or made at any time since the beginning of the Queens Majesties Reign, or at any time hereafter to be had or made by any person which hath not repaired, or shall not repair to some Church, Chapel, or usual place of Common-prayer, but hath forborn, or shall forbear the same contrary to the tenour of the said Statute; and which is or shall be revokable at the pleasure of such offender, or in any wise directly or indirectly meant or intended, to or for the behoof, relief or maintenance, or at the disposition of any such offender, or wherewith or wherewith, or in consideration whereof, such offender or his Family shall be maintained, relieved or kept, shall be deemed and taken to be utterly frustrate and void, as against the Queens Majesty, for or concerning the levying and paying of such sums of money as any such person by the Laws or Statutes of the Realm already made, ought to pay or forfeit for not coming or repairing to any Church, Chapel, or usual place of Common Prayer, or for saying, hearing, or being at any Mass, and shall also be seized and had to and for her Majesties use and behoof, as hereafter in this Act is mentioned; any pretence, colour, fained consideration, or expression of any use to the contrary notwithstanding.

II. And further be it enacted by the authority aforesaid, That every conviction heretofore recorded for any offence before mentioned, not already estreated or certified into the Queens Majesties Court of Exchequer, shall from the Justices before whom the Record of such conviction shall be remaining, be estreated and certified into the Queens Majesties Court of Exchequer, before the end of Easter Term next coming, in such convenient certainty for the time and other circumstances, as the Court of Exchequer may thereupon award out Process for seizure of the lands and goods of every such offender as hath not paid their said Forfeitures, according to the Laws and Statutes in such case provided; And that every conviction hereafter for any offence before mentioned, shall be in the Court commonly called the Kings Bench, or at the Assizes, or general Gaol delivery, and not elsewhere, and shall from the Justices before whom the Record of such conviction shall remain, be estreated and certified into the Court of Exchequer, before the end of the Term next ensuing after every such conviction, in such convenient certainty as is aforesaid mentioned.

III. And be it also enacted by the authority aforesaid, That every such offender in not repairing to Divine Service, but forbearing the same contrary to the said Statute, as hath been heretofore convicted for such offence, and hath not made sub-

[King's Bench.] Ann. 15. Jac. 1  
it was moved, in arrest of a Judgment given in the Court of Common Pleas, against a Recusant, on the Stat. 23 Eliz. that, by this Clause, the Cognisance was taken from that Court, and the Court of Exchequer. But the Judges of the Common Pleas, upon mature deliberation, declared that this was a groundless conceit of my Lord Coke, and that the Information did well lie in the that Court; inasmuch as the Statute 23 Eliz. gives two Remedies upon Recusancy; one for the Queen alone, by Indictment; the other for the Queen, Informer, and

Poor, by Action of Debt, &c. and since the Statute wholly relates to Indictments, the meaning of this Clause only is; that the Indictments for the Queen herself shall, be there, and not elsewhere (i. e. before Justices of Peace, as by 23 Eliz. it must be.) And it was held in Dr. Fisher's Case, that neither is the Power of the Justice of Peace hereby taken away as to Indictment, but only as to Conviction; the Restraint being as to Conviction only, and, by consequence, the Power to take the Indictment remaining entire.

11 R. 2. 63. b.

mission



*Absenting from the Church, with Convictions and Forfeitures thereupon.*

mission, and been conformable according to the true meaning of the said Statute, shall without any other Indictment or Conviction, pay into the Receipt of the said Exchequer, all such sums of money as according to the rate of twenty pounds for every month since the same conviction, do yet remain unpaid, in form as hereafter ensueth; that is to say, the one moiety thereof before the end of the next Trinity Term, and the other moiety thereof before the end of the next Hillary Term, or at any such other times, as by the Lord Treasurer, the Chancellor, and the Chief Baron of the Exchequer, or any two of them, shall by composition, upon good bond and surety taken, be limited, before the end of the next Trinity Term, if any such composition shall happen to be; And shall also in every Easter and Michaelmas Term, until such time as the same person do make submission, and be conformable, according to the true meaning of the said Statute, pay into the said Receipt of the Exchequer twenty pounds for every month, which he shall incur in all that mean time.

IV. And be it also enacted by the authority aforesaid, That every such offender, in not repairing to Divine Service, but forbearing the same contrary to the said Statute, as hereafter shall fortune to be thereof once convicted, shall in such of the Terms of Easter or Michaelmas, as shall be next after such conviction, pay into the said Receipt of Exchequer after the rate of twenty pounds for every month, which shall be contained in the *m* Indictment whereupon such conviction shall be; And shall also for every month after such conviction, without any other Indictment or conviction, pay into the Receipt of the Exchequer aforesaid, at two times in the year; that is to say, in every Easter Term, and Michaelmas Term, as much as then shall remain unpaid, after the rate of twenty pounds for every month after such conviction; And if default shall be made in any part of any payment aforesaid, contrary to the form herein before limited, that then and so often the Queens Majesty shall and may, by Process out of the said Exchequer, take, seize, and enjoy all the Goods, and two parts as well of all the Lands, Tenements and Hereditaments liable to such seizures, or to the penalties aforesaid, by the true meaning of this Act, leaving the third part only of the same Lands, Tenements and Hereditaments, Leases and Farms, to and for the maintenance and relief of the same offender, his wife, children and family.

V. And for the more speedy conviction of such offender, in not repairing to Divine Service, but forbearing the same contrary to the said Statute, Be it enacted by the authority aforesaid, That the Indictment of every such offender mentioning the not coming of such offender to the Church of the Parish where such person at any time before such Indictment, was, or did keep house or residence, nor to any other Church, Chapel or usual place of Common-Prayer, shall be sufficient in the Law; and that it shall not be needful to mention in any such Indictment that the party offender, was or is inhabiting within this Realm of England, or any other the Queens Majesties Dominions. But if it shall happen any such offender then not to be within this Realm, or other her Majesties Dominions, that in such case the party shall be relieved by Plea, to be put in, in that behalf, and not otherwise: And that upon the Indictment of such offender, a Proclamation shall be made at the same Assizes or Gaol delivery in which the Indictment shall be taken, if the same be

**Abridgment.**  
the rate of 20 l. a month for what is past,

--- and net (conforming) the same for the time to come.

---and so likewise, every person that shall hereafter be convicted.

In default of payment, all Goods, and two parts of Lands, may be Seized.

--- the third part being left for the maintenance of his Family.

The Indictment mentioning the not coming to Church, shall be sufficient,

---and Proclamation being made,

11 Rep. 61. a.

1 Cro. 845.  
2 Roll. 25.

Ibid.

*m* Indictment.] This doth extend only to the case of Indictment for the Queen, and not to Action popular, or Information.

*n* And enjoy.] In the 43<sup>d</sup> of Elizabeth, it was declared in Gage's Case, that the Queen had the two parts as a pledge, and a *nomine pænae*, and that the Profits thereof should not be accounted to go to the payment of any part of the Debt, but should be retained, until the Debt of 20 l. by the month should be satisfied in some other manner; so as it did not avail the Heir of Gage, (in order to have the Land again) to plead, that part of the Debt was discharged by the profits of the Lands, and the residue paid in; because, they said, no part of payment was to be out of the profits.

At the same time, the Justices conceived (but did not finally determine,) that the Lands of Tenants in tail being seized for non-payment of the penalty, and he dying, the issue in tail will not have the Lands

again, till the Debt is satisfied.

*o* Goods.] Recognizances acknowledged to a Recusant himself shall not be forfeited to the King; for the Statute speaks only of Goods; and Debts are not included in that term: But if a Recusant take Recognizances in other Men's Names, there is *Corvin* apparent, and it shall be presumed that they were taken with an intent to prevent the King in levying the Forfeiture; and, by the Common Law, when any thing is done with a purpose to defraud the King of his lawful duty, he shall not be barred of it *per aliquem*, if the Statute was made *de directo*.

*p* Lands.] In a year or two after the making of this Statute, it was adjudged in the Exchequer, after great debate, that Copy hold-Lands, are not within it, by reason of the prejudice that may come thereby to the Lord, who hath not committed any Offence, and who therefore shall not lose his Customs and Services.

12 Rep. r.

1 Lenz. 97.  
Owen. 37.

taken



Abridgment.

that the Body be rendered to the Sheriff,

--- Non-appearance thereupon shall be Sufficient Conviction.

No Forfeiture, nor Seifure, shall continue after Conformity or Death.

The 3d part of the Forfeitures (assigned before to the Poor,)

--- may be also employed for the maintenance of Houses of Correction, and maimed Soldiers.

This Act shall not void any Lease &c. with Rent reserved, and made bona fide,

--- otherwise than for the Payment of Forfeitures out of the Rent,

nor shall it extend to continue Seifures of Land holden for Life only, after Death.

Kelyng, 35.

taken at any Assize or Gaol-delivery) by which it shall be commanded, that the body of such offender shall be rendered to the Sheriff of the same County, before the said next Assizes, or general Gaol-delivery to be holden in the same County: and if at the said next Assizes or Gaol-delivery, the same offender so proclaimed, shall not make appearance of record, that upon such default recorded, the same shall be as sufficient a conviction in Law of the said offence whereof the party so standeth Indicted, as is aforesaid, as if upon the same Indictment, a Trial by Verdict thereupon had proceeded and been Recorded.

VI. Provided always, That whensoever any such offender, as is aforesaid, shall make submission, and become conformable, according to the form limited by the same statute, made in the three and twentieth year of the Queens Majesties Reign, or shall fortune to die; That then no forfeiture of twenty pounds for any month, or seizure of the Lands of the same offender, from and after such submission and conformity, or death, and full satisfaction of all the arrearages of twenty pounds monthly, before such seizure due or liable, shall ensue, or be continued against such offender, so long as the same person shall continue in coming to Divine Service, according to the intent of the said Statute.

VII. And where by the said former Statute, the third part of the forfeitures for not coming to Divine Service, is limited to the poor, Be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the Lord Treasurer of England, Chancellor, and chief Baron of the Exchequer for the time being, or two of them, to assign and dispose of the full third part of the twenty pounds for every month paid or to be paid into the Receipt of the Exchequer, as is aforesaid, for the relief and maintenance as well of the poor, and of the houses of Correction, as of impotent and maimed Souldiers, as the same Lord Treasurer, Chancellor, and chief Baron, or any two of them, shall order and appoint: Any thing in the said Statute, made in the said three and twentieth year of her Majesties Reign, mentioned to the contrary thereof in any wise notwithstanding.

VIII. Provided always, That this Act or any thing therein contained, shall not in any wise extend or be construed to make void or impeach any Grant or Lease heretofore made bona fide, without fraud or covin, whereupon any yearly rent or payment is reserved, or payable, or any grant or lease hereafter to be made bona fide, without fraud or covin, whereupon the accustomed yearly rent or payment is reserved, or any other conveyance, assurance, or assignment whatsoever heretofore made bona fide, without fraud or covin, which is not or shall not be revokable at the pleasure of such offender, otherwise than to give benefit and title to her Majesty, her Heirs and Successors, to have, perceive, and enjoy such rents, and payments during the continuance of such Lease and Grant, according to the true meaning of this Act.

IX. And provided also, That this Act or any thing therein contained, shall not in any wise extend or be construed to continue any seizure of any Lands or Tenements of such offender, in her Majesties hands, or in the hands of her Heirs or Successors, after the offenders death, which Lands or Tenements he shall have or be seized of only for term of his life, or in the right of his wife; Any thing in this Act to the contrary in any wise notwithstanding.

¶ The Body of such Offender.] In *Gay's Case*, 2 Car. 1. it was resolved, that if a Recufant who was proclaimed at the Assizes according to this Statute, render himself in the next Assizes to plead or traverse, &c. he must appear in Person, and is to be in custody.

¶ To the Sheriff before, &c.] In *Webb's Case*, where the Proclamation was, that the Body of the Recufant should be rendered at the next Assizes, instead of, to the Sheriff, before the next Assizes, the Conviction was adjudged, not to be according to Law.

*Absenting from Church, with Convictions and Forfeitures thereupon.*

*Palm. 39. 3 Lev. 333.*

A.D. 1592.

35 Eliz. Cap. 1.

In an Act, Entituled, *An Act to Retain the Queen's Majesties Subjects in their due Obedience.*

X. And for the more speedy levying and recovering for and by the Queens Majesty of all and singular the pains, duties, forfeitures and payments which at any time hereafter shall accrue, grow, or be payable by vertue of this Act, or of the Statute made in the three and twentieth year of her Majesties Reign concerning Recufants: Be it enacted by the authority aforesaid, that all and every the said pains, duties, forfeitures, and payments shall and may be recovered and levied to her Majesties use by action of debt, bill, plaint, information, or otherwise in any of the Courts commonly called the Kings Bench, Common Pleas or Exchequer, in such

The Queen may recover the Penalties of this Statute, and the Stat. 23. Eliz. c. 1. not only by Indictment, but by Action of debt, &c.

sect



Absenting from Church, with Convictions and Forfeitures thereupon.  
A.D. 1688.

fort, and in all respects as by the Ordinary course of the common Laws of this Realm, any other debt due by any such person in any other case should or may be recovered or levied, wherein no essoign, protection, or wager of Law shall be admitted or allowed.

1 Will. & Mar. Cap. 18.

In an Act, Entituled, *An Act for Exempting their Majesties Protestant Subjects Dissenting, &c.*

§. II. That neither the Statute made in the Three and twentieth year of the Reign of the late Queen Elizabeth, Intituled, An Act to Retain the Queen's Majesties Subjects in their due Obedience, — shall be construed to extend to any person or persons dissenting from the Church of England. —

Abridgment.

Dissenters shall be exempted from the Penalties of the foregoing Statute.

A.D. 1580.

23 Eliz. Cap. 16.

In an Act, Entituled, *A Confirmation of the Queen's General and Free Pardon.*

E X P.

Prohibited also, that this Act of general pardon, shall not in any wise extend to any person or persons, which the last day of this present Session of Parliament, be by force of any commandment, remaining in any prison, or in any other place of special custody, as persons restrained from liberty, for their obstinacy and disobedience, in refusing to come to the Church to hear Divine Service, or for any other matter or cause touching their wilful obstinacy and disobedience, in causes of religion or doctrine, now lawfully established within this Realm, but that they shall be excepted, and they and every of them, for so long time as they shall so still continue in such their wilful obstinacy and disobedience, forprised out of this general pardon.

Persons refusing to come to Church, excepted out of General Pardon,

And yet nevertheless, whensoever the said persons or any of them shall willingly submit themselves in their obedience to her Majesty, and will come to the Church to hear Divine Service, and willingly refuse their said wilful obstinacy, and conform themselves in the said causes of religion and doctrine, and continue in such their conformity and due obedience to her Majesty according as by the Laws and Statutes of this Realm they ought to do; then and from thenceforth all and every such person and persons so submitting and yielding themselves in their due obedience towards her Majesty, and so continuing in the same, shall forthwith be received and enabled by force of this Act, to have and enjoy the full benefit of this general pardon, as largely and fully in all respects, as any other of her Majesties good subjects have or ought to enjoy by virtue of this Act of general pardon.

--- unless they submit and conform.

A.D. 1584. &c.

27 Eliz. cap. 30. --- 29 Eliz. cap. 29. --- 31 Eliz. cap. 16.  
39 Eliz. cap. 28. --- 43 Eliz. cap. 19. --- 7 Jac. I. cap. 24. --- 3 Jac. I. cap. 27. --- 21 Jac. I. cap. 33.

*In the Acts of General Pardon in the foresaid Years.*

E X P.

And also excepted, all persons which have committed or done any offence, either contrary to the statute made in the three and twentieth year of her Majesties reign, entituled, An Act to retain the Queens Majesties Subjects in their due obedience, or any part thereof: And all outlawries, proceedings, and judgments, and executions, upon the same offences or any of them, for such and so long time as they shall continue disobedient or wilfully obstinate in any the same offences: And yet nevertheless whensoever the same persons, or any of them shall willingly submit themselves in their due obedience to her Majesty, and will come to the Church to hear divine service, and willingly refuse the said wilful obstinacy, and conform themselves to the said causes in Religion and Doctrine, and continue in such their conformity and due obedience to her Majesty, according as by the Laws and Statutes of this Realm they ought to do: that then and from thenceforth all and every such person and persons, so submitting and yielding themselves in their due obedience towards her Majesty, and so continuing in the same, shall forthwith be received and enabled by force of this Act, to have and enjoy the full benefit of this general Pardon, as largely and fully in all respects, as any other of her Majesties good Subjects have or ought to enjoy by virtue of this Act of general pardon.

Offences against 23 Eliz. c. 1. excepted out of General Pardon,

--- unless the Party do submit and conform.



Abridgmer.

1 Jac. I. Cap. 4.

An Act for the due Execution of the Statutes against Jesuits, Seminary Priests, and Recufants.

Absenting from Church, with Convictions and Forfeitures thereupon.

A.D. 1603.

All Statutes against Priests and Popish Recufants, made in the Reign of Queen Eliz. shall be put in Execution,

FOR the better and more due execution of the Statutes heretofore made, as well against Jesuits, Seminary Priests, and other such like Priests, as also against all manner of Recufants, Be it ordained and enacted, by authority of this present Parliament, That all and every the Statutes heretofore made in the Reign of the late Queen of famous memory, Elizabeth, as well against Jesuits, Seminary Priests, and other Priests, Deacons, Religious and Ecclesiastical persons whatsoever, made, ordained or professed, or to be made, ordained or professed by any authority or jurisdiction derived, challenged or pretended from the See of Rome, as those which do in any wise concern the withdrawing of the Kings Subjects from their due obedience, and the Religion now professed, and the taking of the Oath of Obedience unto the Kings Majesty, his heirs and Successors, together with all those made in the said late Queens time against any manner of Recufants, shall be put in due and exact execution.

...but any Person Conforming, shall be discharged of Penalties, during Conformity:

II. Provided nevertheless, and be it enacted, by the authority of this present Parliament, That if any that is or shall be a Recufant, shall submit or reform him or her self, and become obedient to the Laws and Ordinances of the Church of England, and repair to the Church, and continue there during the time of the Divine Service and Sermons, according to the true meaning of the Statutes in that behalf, in the said late Queens time made and provided, That then every such person, for and during such time as he or she shall so continue in such conformity and obedience, shall from henceforth be freed and discharged of and from any the penalties and losses which the same person might otherwise sustain and bear, in respect or by reason of such persons Recufancy:

...and the Heir, be in no Recufant,

III. And if any Recufant shall hereafter die, his heir being no Recufant, That in every such case, every such heir shall be freed and discharged of all and singular the penalties, charges and incumbrances happening upon him or her, in respect or by reason of his or her Ancestors Recufancy: and if at the decease of any such Recufant, his heir shall happen to be a Recufant, and after shall become conformable and obedient to the Laws and Ordinances of the Church of England, and repair to the Church, and continue there during the time of the Divine Service and Sermons, according to the intent and true meaning of the said Statutes and Ordinances in that behalf made, as is aforesaid, and also shall take the Oath of Supremacy in such sort as that Oath is expressed in one Act of Parliament made in the first year of the Reign of our late Sovereign Lady Queen Elizabeth, before the Archbishop or Bishop of the Diocess, That in every such case every such heir shall be freed and discharged of all and singular the penalties, charges and incumbrances happening unto him or her, in respect or by reason of any of his or her Ancestors Recufancy.

...or being Recufant, and afterwards Conforming,

IV. Provided always, and be it enacted by authority of this present Parliament, That if the Heir of any Recufants shall happen to be within the age of sixteen years at the time of the decease of his or her Ancestors, and shall after his or her said age of sixteen years, become or be a Recufant, that in every such case, any such heir shall not be freed or discharged of all or any of the penalties, charges and incumbrances happening upon him or her, in respect or by reason of any of his or her Ancestors Recufancy, until he or she shall submit or reform him or her self, and become obedient to the Laws and Ordinances of the Church of England, and repair to the Church and continue there during the time of Divine Service and Sermons, according to the intent and true meaning of the said Statutes and Ordinances in that behalf, as is aforesaid, and shall take the said Oath of Supremacy in manner and form aforesaid: and yet nevertheless, from and after such submission and Oath had and taken, every such heir shall be freed and discharged of all and singular the penalties, charges and incumbrances happening upon him or her in respect, or by reason of any of his or her Ancestors Recufancy.

...shall be discharged from the Penalties of his Ancestor's Recufancy.

Heir being under 16, and continuing or becoming a Recufant, after,

...shall not be freed from the Penalties of his Ancestor's Recufancy,

...unless he Conform.

...the two parts of Lands that are Seized shall go to

V. And be it further enacted by the authority of this present Parliament, That where any seizure shall be had of the two parts of any Lands, Tenements, Hereditaments, Leases or Farms, for the not payment of the xx. l. due and payable for

Seizure shall be had.] And to the and die before the King is satisfied, and also before Seizure made; the Lands shall not be seized after his death.

2 Roll. 25.

each



Absenting from Church, with Convictions and Forfeitures thereupon.

each month, according to the Statute in that case lately made and provided, That in every such case, every such two parts shall according to the extent thereof, go towards the satisfaction and payment of the xx. l. due and payable for each month, and unpaid by any such Recusant. And that the third part thereof shall not be extended or seized by the Kings Majesty, his Heirs or Successors, for not payment of the said xx. l. payable for each month forfeited or lost by any such Recusant: And where any such seizure shall be had of the two parts of the Lands, Tenements, Hereditaments, Leases or Farms of any such Recusant, as is aforesaid, and such Recusant shall die, (the debt or duty, by reason of his Recusancy, not paid, satisfied or discharged) that in every such case, the same two parts shall continue in his Majesties possession, until the residue or remainder of the said debt or duty be thereby or otherwise paid, satisfied, or discharged: And that his Majesty, his Heirs or Successors, shall not seize or extend any third part descending to any such Heirs, or any part thereof, either by reason of the Recusancy of his or her Ancestors, or the Recusancy of any such Heir.

Abridgment. wards the payment of 20 l. per month, if unpaid, --but not the third part, --nor the 2 parts, longer, than till such Arrears are paid.

A.D. 1605.

3 Jac. I. Cap. 4.

An Act for the better discovering, &c. of Popish Recusants.

As much as it is found by daily experience, that many his Majesties Subjects, that adhere in their hearts to the Popish Religion, by the infection drawn from thence, and by the wicked and devilish counsel of Jesuits, Seminaries, and other like persons dangerous to Church and State, are so far perverted, in the point of their Loyalties and due Allegiance unto the Kings Majesty, and the Crown of England, as they are ready to entertain and execute any treasonable Conspiracies and Practices, as evidently appears by that more than barbarous attempt to have blown up with Gun-powder the King, Queen, 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 Jesuits and Seminaries, and in advancement of their Religion, by their Scholars taught and instructed by them to that purpose, which attempt by the only goodness of Almighty G D was discovered and defeated: And where divers persons popishly affected, do nevertheless, the better to cover and hide their false hearts, and with the more safety to attend the opportunity to execute their mischievous designs, repair sometimes to Church, to escape the penalty of the Law in that behalf provided:

Many Persons Popishly affected, -- and under the devilish Counsels of Jesuits,

II. For the better discovery therefore of such persons, and their evil actions to the Kings Majesty, and the State of this his Realm, to the end that being known, their evil purposes may be the better prevented, Be it enacted by the Kings most excellent Majesty, the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, and by the authority of the same, That every Popish Recusant convicted, or hereafter to be convicted, which heretofore hath conformed him or her self, or which shall hereafter conform him or her self, and repair to the Church, and continue there during the time of Divine Service, according to the Laws and Statutes in that behalf made and provided, shall within the first year next after the end of this Session of Parliament, (if he or she be conformed as aforesaid, before the end of this Session of Parliament) or within the first year next after that he or she shall after this Session of Parliament so conform him or her self, and repair to Church as aforesaid, and after the said first year, shall once in every year following at the least, receive the blessed Sacrament of the Lords Supper, in the Church of that Parish where he or she shall most usually abide or be within the said year, wherein by the true meaning of this Statute, he or she ought to receive.

-- do come to Church to escape the Laws.

Enacted, that,

-- Every Popish Recusant, conforming, shall also receive the Sacrament once a year,

III. And if there be no such parish Church, then in the Church next adjoining to the place of his or her such most usual abode: And if any Recusant so conformed, shall not receive the said Sacrament of the Lords Supper accordingly, he or she shall for such not receiving, lose and forfeit for the first year, twenty pounds, and for the second year for such not receiving, forty pounds, and for every year after, for such not receiving, threescore pounds, until he or she shall have received the said Sacrament as is aforesaid: And if after he or she shall have received the said Sacrament as is aforesaid, and after shall afterwards at any time offend in not receiving the said Sacrament as is aforesaid, by the space of one whole year, That in every such case, the person so offending, shall for every such offence lose and forfeit threescore pounds of lawful English money, the one moiety to be to our Sovereign Lord the Kings Majesty, his heirs and successors, and the other moiety for him that will sue for the same; and to be recovered in any of the Kings Courts of Record at Westminster, or before Justices of Assize or general Gaol-delivery, or before Justices of the Peace at their general Quarter-sessions, by Action of Debt, Bill, Plaint or Information, wherein no Essoin, Protection, or Wager of Law, shall be allowed.

--upon pain to forfeit --for the first 20l. --for the second, --40l. -- for third, &c. 60l.

Recusant having received the Sacrament, and neglecting to do it afterwards, shall forfeit for every offence, 60l.

VI. And



Abridgment.

Church wardens, &c. shall present monthly absence of Recusants, from Church,

-- with Children, and Servants,

-- to be recorded by the Clerk of the Peace,

-- the forfeiture, of not presenting, 20s. --- of not entering 40s.

If the Person Presented be convicted, the Presenter shall have 40s.

Justices of Assize and Peace shall hear and determine matters touching Recusants,

-- and make Proclamation, that the Body of the Recusant be rendered:

-- and the Party not appearing, shall be Convicted.

Every Recusant Convict, shall pay 20l. a month,

-- unless the King shall chuse to take two parts of the Lands.

IV. And be it further enacted by the authority of this present Parliament, That the Church-wardens and Constables of every Town, Parish or Chapel, for the time being, or some one of them, or if there be none such, then the chief Constables of the Hundred where such Town, Parish or Chapel is or shall be, or one of them, as well in places exempt, as not exempt, shall once in every year present the monthly absence from Church of all and all manner of Popish Recusants within such Towns and Parishes, and shall present the names of every of the Children of the said Recusants, being of the age of nine years and upwards, abiding with their said Parents, and as near as they can, the age of every of the said Children, as also the names of the Servants of such Recusants, at the General or Quarter Sessions of that Shire, Limit, Division or Liberty.

V. And be it further enacted by the authority aforesaid, That all such presentments shall be accepted, entered and recorded in the said Sessions by the Clerk of the Peace or Town-Clerk for the time being, or his Deputy, without any Fee to be had, asked or taken for the same: and in default of such presentment to be made, the said Church-wardens, Constables, or high Constables respectively, shall for every such default forfeit twenty shillings; and in default of such accepting, entering and recording without Fee, as aforesaid, the said Clerk of the Peace, or Town-Clerk, shall for every such offence, forfeit and lose forty shillings.

VI. And that upon every presentment of such monthly absence, as aforesaid, whereupon such party so presented, shall after happen to be indicted and convicted (not being for the same absence before presented) Then the said Church-wardens Constables or High Constables, respectively, so making such presentments, shall have a Reward of forty shillings, to be levied out of the Recusants Goods and Estate, in such manner and form as by the more part of the said Justices shall be by Warrant under their Hands and Seals, then and there ordered and appointed.

VII. And be it further enacted by the authority aforesaid, That the Justices of Assize and Gaol-delivery at their Assizes, and the said Justices of Peace at any of their said Sessions, shall have power and authority by virtue of this Act, to enquire, hear and determine of all Recusants and Offences, as well for not receiving the Sacrament aforesaid, according to the meaning of this Law, as for not repairing to Church, according to the meaning of former Laws, in such manner and form as the said Justices of Assize and Gaol-delivery do, or may now do by former Laws in case of Reculancy for not repairing to Church, and also shall have power at their Assizes and Gaol-delivery, and at the Sessions (in which any Indictment against any person, either for not repairing to Church according to the former Laws, or not receiving the said Sacraments according to this Law, shall be taken) to make Proclamation, by which it shall be commanded, that the Body of every such offender shall be rendered to the Sheriff of the same County, or Bailiff, or other Keeper of the Gaol of the Liberty, before the next Assizes and general Gaol-delivery, or before the next general or quarter Sessions respectively to be holden for the said Shire, Limit, Division or Liberty; and if at the said next Assizes and general Gaol-delivery or Sessions, the same offender so proclaimed, shall not make appearance of Record, that then upon every such default recorded, the same shall be a sufficient conviction in the Law of the said Offence whereof the party shall stand indicted as aforesaid, as if upon the same Indictment a trial by verdict thereupon had proceeded, and been found against him or her, and recorded.

VIII. And be it further enacted, That every Offender in not repairing to Divine Service, but forbearing the same, contrary to the Statutes in that behalf made and provided, that hereafter shall fortune to be thereof once convicted, shall in such of the Terms of Easter and Michaelmas as shall be next after such conviction, pay into the Receipt of the Exchequer after the rate of twenty pounds for every month which shall be contained in the Indictment, whereupon such conviction shall be, and shall also for every month after such conviction, without any other indictment or conviction, forfeit twenty pounds, and pay into the Receipt of the Exchequer aforesaid, at two times in the year, that is to say, in every Easter and Michaelmas Term, as much as then shall remain unpaid, after the rate of twenty pounds for every month after such conviction, except in such cases where the King shall and may by force of this Act refuse the same, and take two parts of the Lands, Tenements, Hereditaments, Leases and Farms of such Offender, till the said party being indicted for not coming to Church, contrary to the former Laws, shall conform himself and come to Church, according to the meaning of the Statute in that behalf made and provided.

IX. And

Absenting from Church, with Convictions and Forfeitures thereupon.



*Absenting  
from  
Church,  
with Con-  
victions  
and For-  
feitures  
thereupon.*

IX. And that every conviction recorded for any Offence before mentioned, shall from the Justices before whom the record of such conviction shall be remaining, be certified into the Kings Majesties Court of Exchequer, before the end of the Term following such conviction, in such convenient certainty for the time, and other circumstances, as the Court of Exchequer may thereupon award out Process for the seizure of the lands and goods of every such offender, as the cause shall require. And if default shall be made in any part of any payment aforesaid, contrary to the form herein before limited, that then and so often, the Kings Majesty, his Heirs and Successors, shall and may by Process out of the said Exchequer, take, seize and enjoy all the Goods, and two parts as well of all the Lands, Tenements, Leases and Farms of such Offender, as all other Lands, Tenements and Hereditaments liable to seizure, or to the penalties aforesaid, by the true meaning of this Act, leaving the third part only of the same Lands, Tenements and Hereditaments, Leases and Farms, to and for the maintenance and relief of the said Offender, his Wife, Children and Family.

X. And whereas by an Act made in the Session of Parliament holden by pro rogation at Westminster, in the three and twentieth year of the Reign of the late Q. Elizabeth, Entituled, An Act to retain the Subjects of the said late Queen in their due Obedience, It was amongst other things enacted by authority of the said Parliament, That every person above the age of sixteen years, which should not repair to some Church, Chapel, or usual place of Common Prayer, but forbear the same contrary to the tenor of a Statute made in the first year of the Reign of the said late Queen, for the Uniformity of Common Prayer, and being thereof lawfully convicted, should forfeit to the said Queen, for every month after the end of the said Session of Parliament which he or she should forbear, twenty pounds of lawful English money, as in and by the said Act of Parliament more at large appeareth :

XI. And whereas afterward by another Act of Parliament of the said Queen, it was further enacted by the authority of the said Parliament (amongst other things) how and when the said payments of the said twenty pounds should be made, and that if default should be made in any part of any payment of the said twenty pounds, contrary to the form in the said last specified Statute limited, that then, and so often, the said Queen should and might by Process out of her Highness Exchequer, take, seize and enjoy all the Goods, and two parts as well of all the Lands, Tenements and Hereditaments, Leases and Farms, of such Offender, as of all other the Lands, Tenements and Hereditaments liable to such seizure, or to the penalties aforesaid, by the true meaning of the said Act of Parliament, leaving the third part only of the same Lands, Tenements and Hereditaments, Leases and Farms, to and for the maintenance and relief of the same Offender, his Wife, Children and Family, as in and by the last specified Statute more at large also may appear : Now forasmuch as the said penalty of twenty pounds monthly, is a greater burthen unto men of small living, than unto such as are of better ability, and do refuse to come unto Divine Service as is aforesaid, who rather than they will have two parts of their Lands to be seized, will be ready always to pay the said twenty pounds according to the limitation of the said Statutes, and yet retain the residue of their Livings and Inheritance in their own hands, being of great yearly value, which they do for the most part employ (as experience hath taught) to the maintenance of Superstition and Popish Religion, and to the relief of Jesuits, Seminaries, Popish Priests, and other dangerous persons to the State : Therefore to the intent that hereafter the penalty for not repairing to Divine Service might be inflicted in better proportion upon men of great ability, be it enacted by the authority of this present Parliament, That the Kings Majesty, his Heirs and Successors, shall from and after the Feast of Saint Michael the Archangel next coming after the end of this Session of Parliament, have full power and liberty to refuse the penalty of twenty pounds a month, though it be tendered ready to be paid according to the Law, and thereupon to seize and take to his own use, and the uses, intents and purposes hereafter limited, two parts in three to be divided, as well of all the Lands, Tenements and Hereditaments, Leases and Farms, that at the time of such seizure shall be, or afterwards shall come to any the said Offenders, in not coming to Church, or any other to his or her use, or in trust of him or her, or at his or her disposition, or whereby or wherewith, or in consideration whereof, such Offender or his Family, or any of them shall be relieved, maintained or kept, as of all other Lands, Tenements and Hereditaments, in any wise, or at any time liable to such seizures, or to the penalties aforesaid, and the same to retain to his own, and other uses, intents and purposes hereafter in this Act appointed, till every such Offender shall conform him or her self respectively as aforesaid, in lieu and full recompence of the twenty pounds monthly, that during such seizure and

Abridgment.

Every Conviction shall be Certified into the Exchequer,

--- and in default of Payment, the King may seize two parts of the Lands.

Recital of 23. El. c. 1. Inflicting a Penalty of 20l. per month,

--- and of 29 El. c. 6. which enables the Queen to seize two parts, in default of Payment,

--- which being a great Burthen to the Poor,

--- and too easy to the Rich.

--- the King shall have Power to refuse the 20l. and take the two parts of the Estate,

--- and retain them till the Offender Conform.



## Abridgment.

Saving of Rights to others.

The King shall not take the Mansion-house, nor let the two parts to the Recufant, -- and Security shall be given against Waste.

No Man shall be chargeable for his Wife, -- nor any Woman during marriage.

Dissenters shall be exempted from the Penalties of the foregoing Act.

Action against Recufants, may be laid in any County.

Convictions of Recufants, excepted out of Pardon.

retainer shall incur; any thing in the said Statutes, or any of them, or any other Statute to the contrary in any wise notwithstanding: Saving to our Sovereign Lord the Kings Majesty, his Heirs and Successors, and all and every person and persons, bodies politick and corporate, their Heirs and Successors, (other than the said Offender, his or her Heirs, and all claiming to his or their use, or in trust for him or them, or at his or their will or disposition) all and all manner of Leases Rents, Conditions, and other Rights and Titles whatsoever had made and done (Bona fide) and without fraud and covin, before such seizure.

XII. Provided always, and be it enacted by the authority aforesaid, That the Kings Majesty, his Heirs and Successors, shall not take into his two parts, but leave to such offender, his chief Mansion-house, as part of his third part, and shall not Demise, Lease, or put over the said two parts, nor any part thereof, to any Recufant, nor to or for the use of any Recufant: And that whosoever shall take the same in Lease otherwise of his Majesty, his Heirs and Successors, shall give such security not to commit, nor suffer waste to be committed in or upon any the said premises, as by the Court of Exchequer shall be allowed sufficient.

XL. Provided always, and be it enacted, That no person shall be charged or chargeable with any penalty or forfeiture by force of this Act, which shall happen for his wives offence in not receiving the said Sacrament during her marriage, nor that any woman shall be charged or chargeable with any penalty or forfeiture by force of this Act, for any such offence of not receiving, which shall happen during her marriage.

1 Will. & Mar. Cap. 18.

In an Act Entituled, *An Act for Exempting their Majesties Protestant Subjects, Dissenting, &c.*

§. II. — Nor the Statute made in the Third Year of the Reign of the late King James the First, Entituled, *An Act for the better Discovering and Repressing of Popish Recufants* — shall be construed to extend to any person or persons Dissenting from the Church of England.

21 Jac. 1. Cap. 4.

In an Act, Entituled, *An Act for the Ease of the Subjects, concerning Information upon Penal Statutes.*

V. Provided always, That this Act, or any Clause contained therein, shall not extend to any Information, Suit or Action, grounded upon any Law or Statute made against Popish Recufants, or for, or concerning Popish Recufancy, or against those that shall not frequent the Church to hear Divine Service, — but that such offence may be laid or alledged to be in any County, at the pleasure of any Informer; Any thing in this Act to the contrary notwithstanding.

2 Will. & Mar. c. 10. -- 6, 7 Will. III. c. 20. -- 7 Annæ, c. 22.

*In the Acts of General Pardon.*

And except also all Convictions of Popish Recufants for their Recufancy.

Absent ing from Church, with Convictions and Forfeitures thereupon.

A. D. 1689.

A. D. 1623.

A. D. 1690. &c.

CAP.



CAP V.

OATHS and other TESTS for the DISCOVERING of Papists.

A.D. 1605.

3 Jac. I. Cap. 4.

An Act for the better discovering, &c. of Popish Recusants.

Oaths, and other Tests for the discovering of Papists.

XIII. **A**ND for the better trial how his Majesties Subjects stand affected in point of their Loyalty and due obedience, Be it also enacted by the authority aforesaid, That from and after the end of this present Session of Parliament, it shall be lawful to and for any Bishop in his Diocess, or any two Justices of Peace, whereof one of them to be of the Quorum, within the limits of their Jurisdiction, out of the Sessions, to require any person of the age of eighteen years or above, being, or which shall be convicted or indicted of or for any Recusancy, other than Noble men or Noble women, for not repairing to Divine Service, according to the Laws of this Realm, or which shall not have received the said Sacrament twice within the year then next past, Noble men and Noble women excepted, or any person passing in or through the Country, Shire or Liberty, and unknown, except as is last before excepted; that being examined by them upon Oath, shall confess, or not deny himself or her self to be a Recusant, or shall confess or not deny that he or she had not received the Sacrament twice within the year then last past; to take the Oath hereafter following upon the holy Evangelists: Which said Bishop, or two Justices of the Peace, shall certify in Writing subscribed with his or their Hands at the next General or Quarter Sessions for that Shire, Limit, Division or Liberty within which the said Oath shall be so taken, the Christian name, Sir-name, and place of abode of every person which shall so take the said Oath; which Certificate shall there be recorded by the Clerk of the Peace, or Town Clerk, and kept amongst the Records of the said Sessions.

XIV. And be it further enacted, That if any such person or persons, other than Noble men, or Noble women, shall refuse to answer upon Oath to such Bishop, or Justices of Peace, examining him or her, as aforesaid, or to take the said Oath so duly tendered unto him or her by such Bishop, or two such Justices of Peace, out of Sessions, that then the said Bishop or Justices of Peace shall and may commit the same person to the common Gaol, there to remain without bail or mainprize, until the next Assize, or General or Quarter Sessions to be holden for the said Shire, Division, Limit or Liberty; where the said Oath shall be again in the said open Assizes or Sessions required of such persons, by the said Justices of Assize, or Justices of Peace then and there present, or the greater number of them: And if the said person or persons, or any other person whatsoever, other than Noble men or Noble women, of the age of eighteen years or above, shall refuse to take the said Oath being tendered unto him or her by the Justices of Assize and Gaol-delivery, in their open Assizes, or the Justices of Peace, or the greater part of them, in their said General or Quarter Sessions; every person so refusing, shall incur the danger and penalty of *w* Præmunire, mentioned in the Statute of Præmunire made in the xvj. year of the Reign of King Richard the Second, except women covert, who upon refusal of the said Oath, shall be by the said Justices of Assize in their open Assize, or Justices of Peace in their General or Quarter Sessions, for the said offence, committed only to the Common Gaol, there to remain without bail or mainprize, till they will take the said Oath.

The Tenour of which Oath hereafter followeth:

XV. **I** A. B. do truly and sincerely acknowledge, profess, testify and declare in my conscience before God and the World, That our Sovereign Lord *x* King James, is lawful and rightful King of this Realm and all other his Majesties

*w* Præmunire.] Which Judgment (*viz.* to be out of the King's Protection, his Lands, Tenements, Goods, and Chattels to be perpetually forfeited to the King, and to be imprisoned during his Life,) was solemnly pronounced against the Lord *Vaux*, for refusal of this Oath, in the 10th year of King James the first.

*x* King James.] *Green* and others being indicted for refusing the Oaths, *Ann.* 23

*Car.* 2. pleaded, that the Statute is not now in force, but expired with the Death of King James, since no mention is made of his Heirs and Successors. But it was said, that the constant Practice had been otherwise, that the same Objection might be made to the Oath of Supremacy, and that the Name of the Person was only an instance of the thing designed, but that it extended to the Successors also. *Domi-*

Abridgment:

It shall be lawful for any Bishop, or two Justices, to tender the following Oath,

—to Persons Convict,

—or Absenters from the Sacrament — or Persons suspected of Recusancy, —and to certify to the Quarter Sessions the taking thereof,

—but they may commit to Gaol, such as refuse it, till the Assizes, or Sessions,

—where it shall be again tender'd,

—and the Refusal a Præmunire;

—except to Women Covert, who shall only be Imprisoned.

The Oath:

—that King James is lawful King,

*Bull.* 199.

*Rowe.* 212. *1 Petr.* 171.



## Abridgment.

and the Pope hath no right to depose him,

--- that notwithstanding any Excommunication, &c. he will continue to bear Allegiance to him,

--- That he abhors the Doctrine of deposing Princes by the Pope,

--- That he believes, the Pope cannot absolve him from this Oath,

--- That he Swears without Equivocation, or Reservation,

--- to all which, his Name shall be Subscribed.

No Indictment for Recufancy shall be avoided, for lack of Form.

Any Person Indicted, and Conforming,

--- shall be allowed to reverse the Indictment.

Dominions and Countries; and that the Pope, neither of himself, nor by any authority of the Church or See of Rome, or by any other means with any other, hath any power or authority to depose the King, or to dispose any of his Majesty's Kingdoms or Dominions, or to authorise any Foreign Prince to invade or annoy him, or his Countries, or to discharge any of his Subjects of their Allegiance and Obedience to his Majesty, or to give Licence or Leave to any of them to bear Arms, raise Tumults, or to offer any violence or hurt to his Majesty's Royal Person, State or Government, or to any of his Majesty's Subjects within his Majesty's Dominions.

Also I do swear from my Heart, That notwithstanding any Declaration or Sentence of Excommunication, or Deprivation made or granted, or to be made or granted by the Pope or his Successors, or by any authority derived, or pretended to be derived, from him or his See, against the said King, his Heirs and Successors, or any Absolution of the said Subjects from their Obedience: I will bear Faith and true Allegiance to his Majesty, his Heirs and Successors, and him and them will defend to the uttermost of my Power, against all Conspiracies and Attempts whatsoever, which shall be made against his or their Persons, their Crown and Dignity, by reason or colour of any such Sentence or Declaration, or otherwise, and will do my best endeavour to disclose and make known unto his Majesty, his Heirs and Successors, all Treasons and Traiterous Conspiracies, which I shall know or hear of to be against him or them.

And I do further Swear, That I do from my Heart abhor, detest and abjure, as impious and heretical, this Damnable Doctrine and Position, that Princes which be excommunicated or deprived by the Pope, may be deposed or murdered by their Subjects, or any other whatsoever.

And I do believe, and in my Conscience am resolved, That neither the Pope, nor any other Person whatsoever, hath power to absolve me from this Oath, or any part thereof, which I acknowledge by good and full authority to be lawfully ministred unto me, and do renounce all Pardons and Dispensations to the contrary.

And these things I do plainly and sincerely acknowledge and swear, according to these express words, by me spoken, and according to the plain and common sense and understanding of the same words, without any Equivocation, or mental Evasion, or secret Reservation whatsoever: And I do make this Recognition and Acknowledgment heartily, willingly, and truly, upon the true Faith of a Christian. So help me God.

Unto which Oath so taken, the said person shall subscribe his or her Name or Mark.

XVI. And be it further enacted by the authority aforesaid, That no Indictment or Judgments had or found, or hereafter to be had or found against any person or persons, for not repairing to some Church or Chapel, or usual place of Common Prayer, but absenting him or her self by the space of one month, contrary to the Laws and Statutes in that behalf provided, or for not receiving the said Sacrament contrary to this present Law, nor any Proclamation, Actlawy, or other proceeding thereupon, shall at any time hereafter be avoided, discharged or reversed, by reason of any default in form, or lack of form, or ther defect whatsoever (other than by direct Traverse to the point of not coming to Church, or not receiving the said Sacrament) whereof such person or persons hath been or shall be indicted, but the same Indictment shall stand in force, and be proceeded upon; any such default of form, or other defect whatsoever notwithstanding.

XVII. Provided always, that if any person or persons so indicted, or to be indicted, shall at any time hereafter submit and conform him or her self, and become obedient to the Laws of the Church of England, and repair to the Parish Church of his or her most abiding; and if there be none such, then to the Church next adjoining to his or her so dwelling, and there hear Divine Service, according to the true meaning of the Statute in that behalf made and provided, and there publickly receive the said Sacrament, according to the Laws of this Realm of England now established; That then every such person and persons so indicted, shall and may from henceforth be admitted and allowed to avoid, discharge, reverse and undo the said Indictment and Judgments, and all proceedings thereupon, in such manner and form as if this present Act had not been had nor made; any thing herein contained to the contrary in any wise notwithstanding.

3 Cro. 504  
 [Of any Default.] By reason of this Clause, it was doubled by the Court, in the Case of the Marquis of Winchester, whether any Exception whatsoever be good, upon Conviction of Recufancy. But tho' an Indict-

ment or Information for Recufancy shall not be quashed for Form; yet on Traverse of the fact, and Bail given, the Outlawry shall be reversed for Form.

XVIII. And

*Absenting from Church, with Convictions and Forfeitures thereupon.*



*Oaths, and  
other Tests,  
for the dis-  
covering of  
Papists.*

XVIII. And forasmuch, as it is found by late experience, That such as go voluntarily out of this Realm of England, to serve foreign Princes, States or Potentates, are for the most part perverted in their Religion and Loyalty by Jesuits and Fugitives, with whom they do there converse, Be it therefore enacted by the authority aforesaid, That every Subject of this Realm that, after the tenth day of June next coming, shall go or pass out of this Realm, to serve any foreign Prince, State or Potentate, or shall after the said tenth day of June pass over the Seas, and there shall voluntarily serve any such foreign Prince, State or Potentate, not having before his or their going or passing as aforesaid, taken the Oath aforesaid, before the Officer hereafter appointed, shall be a Felon.

XIX. And that if any Gentleman or person of higher degree, or any person or persons, which hath born, or shall bear any Office or Place of Captain, Lieutenant, or any other Place, Charge or Office in Camp, Army or Company of Souldiers, or Conduct of Souldiers, shall after go or pass voluntarily out of this Realm, to serve any such foreign Prince, State or Potentate, or shall voluntarily serve any Prince, State or Potentate, before that he and they shall become bound by Obligation, with two such Sureties as shall be allowed of by the Officers, which are hereafter by this Act limited to take the same Bond, unto our Sovereign Lord the Kings Majesty, his Heirs or Successors, in the sum of twenty pounds of current English money at the least, with Condition to the effect following, shall be a Felon.

The Tenor of which Condition followeth, viz.

XX. That if the within bounden, &c. shall not at any time then after be reconciled to the Pope or See of Rome, nor shall enter into or consent unto any Practice, Plot or Conspiracy whatsoever, against the Kings Majesty, his Heirs and Successors, or any his or their Estate or Estates, Realms or Dominions; but shall within convenient time after knowledge thereof had, reveal and disclose to the Kings Majesty, his Heirs and Successors, or some of the Lords of his or their Honourable Privy Council, all such Practices, Plots and Conspiracies; That then the said Obligation to be void.

XXI. And that for the due execution of this Branch of this present Law, it shall and may be lawful to and for the Customer and Controller of every Port, Haven or Creek, or one of them, and their and either of their Deputy or Deputies, and none other, to receive and accept all and every such Bond and Obligation to and for the uses aforesaid, and to minister and give the Oath aforesaid, according to the true intent of this Statute (taking for such Bond six pence, and no more, and for the said Oath no fee at all) which said Customer and Controller shall register and certify all and every such Bond and Oath so taken, into the Court of Exchequer at Westminster once every year, upon pain of five pounds for every Bond not so certified, and twenty shillings for every Oath not so certified.

Provided always, That this last mentioned Branch shall not extend to any person or persons which are already gone, or shall go beyond the Seas to serve any Foreign Prince, State or Potentate, before the tenth day of June next coming, for his said going and passing before the said tenth day of June.

XXXV. And be it further enacted by authority of this present Parliament, That upon any lawful Writ, Warrant or Process awarded to any Sheriff or other Officer, for the taking or apprehending of any popish Recusant, standing excommunicated for such Recusancy, it shall be lawful for such Sheriff, or other Officer authorized in that behalf, if need be, to break open any House wherein such person excommunicated shall be, or to raise the power of the County, for the apprehending of such person, and the better execution of such Warrant, Writ or Process.

XXXVI. And be it further enacted, that all and every offence to be committed or done against this present Act, shall and may be enquired of, heard and determined before the Justices of the Kings Bench, Justices of Assize and Gaol-delivery, in their several Assizes and Gaol-deliveries; And all offences, other than Treason, shall be enquired, heard and determined before the Justices of Peace in their General or Quarter Sessions to be holden within the Shire, Division, Limit or Liberty wherein such offence shall happen.

XXXVII. Provided always, and be it enacted by the authority aforesaid, That any attainder of Felony made Felony by this Act, as is aforesaid, shall not in any wise extend to take away the Dower of the wife of any such person attainted, or be any bar for the recovery of the same, nor shall make or work any corruption of Blood, or disinheritment of any of the Heir or Heirs of any such person or persons so attainted; This Act or any thing therein contained, to the contrary in any wise notwithstanding.

Abridgment.

Any Person who shall go to serve a Foreign Prince,

--without taking the said Oath,

---shall be a Felon.

Officers, besides the Oath, shall give a Bond of 20/-

--(on pain of being Felons)

---That they will not be reconciled to the See of Rome, ---nor will conspire against the King, ---but will disclose all Conspiracies.

This Bond shall, be taken, and Oath ministered, by the Customer, &c. of the Port,

---who shall certify them into the Exchequer.

This Branch shall not extend to Persons already gone, or a going.

Sheriff may break open any House, to apprehend a Recusant Excommunicate.

Justices of the Kings Bench, and Assize, shall hear and determine; ---and Justices of Peace, except in cases of Treason.

Felonies made by this Act, shall not take away Dower, nor disinherit the Heir.



## Abridgment.

In any Action for the execution of this Statute, the Defendant may plead the general Issue.

This Act shall not abridge the Authority Ecclesiastical.

Lords of the Council shall tender the Oaths to Noble-men and Women,

--- who, refusing, shall incur a *Præmunire*.

Lord Warden of the Cinque-ports shall take the Bond, and minister the Oath, in the Cinque-ports.

The Oath set down, 3. Jac. 1. c. 4. declares the Duty of a good Subject,

--- but being opposed by Papists,

Enacted, that,

--- Every Person, Ecclesiastical and Temporal, above the age of eighteen, shall take the said Oath,

--- Archbishops, and Bishops, before the Lord Chancellor.

--- Ecclesiastical Ministers, before Archbishops or Bishops.

XXXVIII. And be it further enacted, That if any Action or Actions shall at any time hereafter be commenced or brought against any person or persons doing, committing, or commanding any act or thing for or concerning the execution of this present Statute, or any article or clause therein contained, That then every Defendant in such Action or Actions, may plead the general issue, and be received to maintain the same by any evidence that shall prove his doings and proceedings warrantable by this Law.

XXXIX. Provided always that neither this Act, nor any thing therein contained, shall extend to take away or abridge the authority or jurisdiction of the Ecclesiastical Censures, for any cause or matter, but that the Commissioners of his Majesty, his Heirs and Successors, in causes Ecclesiastical, for the time being, and the Archbishops, Bishops and other Ecclesiastical Judges may do and proceed, as before the making of this Act they lawfully did or might have done; Any thing in this Act to the contrary in any wise notwithstanding.

XLI. Provided also, and be it enacted by authority of this present Parliament, That in all causes where any Bishop or Justices of the Peace may by force of this Act require and take of any Subject the Oath abovementioned, That the Lords of the Privy Council for the time being, or any six of them, whereof the Lord Chancellor, Lord Treasurer, or the Principal Secretary for the time, to be one, shall have full power, and authority by force of this Act, at any time or times, to require and take the said Oaths before-mentioned, of any Noble-man or Noble-woman (then being above the age of eighteen years; And if any such Noble-man or Noble-woman (other than women married) shall refuse to take such Oath or Oaths, that in every such case, such Noble-man or Noble-woman shall incur the pain and danger of a *Præmunire*.

XLII. Provided also, and be it enacted by authority of this present Parliament, That where any person or persons shall go or pass out of the Cinque-ports, or any member thereof, to any parts beyond the Seas, to serve any foreign Prince, State or Potentate; That in every such case, the Lord Warden of the Cinque-ports for the time being, or any person by him in that behalf appointed or to be appointed, shall have full power and authority by virtue hereof, to take the Bond, and minister the Oath to such passengers, as is above-mentioned.

7 Jac. 1. Cap. 6.

A.D. 1609.

*An Act for administering the Oath of Allegiance, and Reformation of married Women Recusants.*

Whereas by a Statute made in the third year of your Majesties Reign, Entituled, An Act for the better Discovering and Repressing of Popish Recusants, the Form of an Oath to be ministered and given to certain persons in the same Act mentioned, is limited and prescribed, tending only to the declaration of such duty, as every true and well-affected Subject, not only by bond of Allegiance, but also by the Commandment of Almighty God, ought to bear to your Majesty, your Heirs and Successors: Which Oath such as are infected with Popish Superstition do oppugne, with many false and unsound Arguments, the just defence whereof your Majesty hath heretofore undertaken and worthily performed, to the great contentment of all your loving Subjects, notwithstanding the gainsayings of contentious Adversaries.

II. And to shew how greatly your loyal Subjects do approve of the Oath, they prostrate themselves at your Majesties feet, beseeching your Majesty, That the same Oath may be administered to all your Subjects: to which end we do with all humbleness beseech your Highness that it may be enacted, and be it enacted by the authority of this present Parliament, That all and every person and persons, as well Ecclesiastical as Temporal, of what estate, dignity, prebeminence, sex, quality, or degree soever he, she, or they be, or shall be, above the age of eighteen years, being in this Act mentioned and intended, shall make, take and receive a Corporal Oath upon the Evangelists, according to the tenor and effect of the said Oath set forth in the forementioned Statute, before such person or persons as hereafter in this Act is expressed: That is to say, all and every Archbishop and Bishop that now is, or hereafter shall be, before the Lord Chancellor, or Lord Keeper of the Great Seal for the time being.

III. And all and every Ecclesiastical Judge, Officer and Minister of what estate, dignity, prebeminence or degree soever he or they be or shall be, before the Archbishop of the Province, or Bishop, or other Ordinary of the Diocess for the time being, wherein

Oaths, and other Tests for the discovering of Papists.



Oaths, and  
other Tests  
for the dis-  
covering of  
Papists.

wherein such Ecclesiastical Judge, Officer or Minister ought to exercise his said Office, Place or Function.

IV. And all and every person and persons of or above the degree of a Baron of Parliament, or of a Baroness of this your Highness Realm of England, and of all your Highness Privy Council, residing in London or Westminster, or within thirty miles thereof, and the Presidents of Wales and the North parts, before any four of your Highness Privy Council, whereof the Lord Chancellor, Lord Treasurer, Lord Privy Seal, or Principal Secretary for the time being, to be one: And if such person or persons live and reside in the Countrey, distant above thirty miles from London, then before the Lord Bishop of the Diocess, or such other person or persons as the Lord Chancellor or Lord Keeper of the Great Seal for the time being, shall there to by Writ of Dedimus Potestatem authorize.

V. And all and every the sworn Servants, ordinary and extraordinary, of your Highness the Queens Grace, or of the Household of the Prince of Wales, and of the rest of your Highness Children, before the Lord Steward, the Lord Chamberlains and Vice-Chamberlains to your Highness and the Queen, the Treasurer and Controller of your Highness Household, the Master of your Highness Horse, the Dean of the Chapel, and the Knight Marshal for the time being, the Officers of the Green-cloth, or any three of them.

VI. All and every Temporal Judge, Justices of the Peace, Sheriffs, Escheators, Feodaries, and other Officers and Ministers of Justice, in this present Act not specially mentioned, and every other person and persons that doth or shall receive any Fee of your Highness, your Heirs and Successors, before the Lord Chancellor, or Lord Keeper of the Great Seal, Lord Treasurer, Lord Admiral, Lord Warden of the five Ports for the time being, or one of them, or before one of the Chief Justices of either of your Majesties Bench, or of the Common Pleas, or before the Justices of Assize for the same County where the parties reside, or other such persons as the Lord Chancellor or Keeper of the said Great Seal shall thereunto authorize.

VII. And all Mayors, Bailiffs, or other chief Officers of Cities and Towns corporate, by what name soever they be called or known, before such person or persons as usually administer the Oath to them at their first entrance into their said Offices.

VIII. And all and every the Knights, Citizens, Burgeses, and Barons of the five Ports of the Commons House of Parliament, at any Parliament or Session of Parliament hereafter to be assembled, before he or they shall be permitted to enter into the said House, before the Lord Steward for the time being, or his Deputy or Deputies: And the Master of the Ordnance, Lieutenant of the Tower of London, and Mint-Master there, the four principal Officers of your Navy under the Lord Admiral, before the Lord Chancellor or Lord Keeper of the Great Seal, and the Lord Admiral for the time being, or any of them.

IX. And all the Officers, Ministers, Servants, and others, within your said Tower of London, before the Lieutenant of the Tower.

X. And all Vice-admirals, Captains, Masters, Officers, Ministers, and Souldiers in your Highness Ships, or any of them, before the said four principal Officers of your Navy, or any two of them.

XI. And all persons having charge of Castles, Fortresses, Blockhouses or Garrisons, and all Captains who shall have charge of Souldiers within your Highness Realm, before the Justices of Assize of the same County, or before two Justices of peace of the same County, City or Liberty where the same Castles, Fortresses or Blockhouses shall stand, or the charge of Souldiers shall be.

XII. All Doctors, Advocates, and Proctors of the Civil Law, and their Clerks, before the Bishop of the Diocess where they shall for the most part dwell or reside.

XIII. And all and every person or persons Temporal, that hereafter shall sue Livery or Ouster le maine out of the Hands of your Highness, your Heirs and Successors, before his or their Ouster le maine sued forth and allowed, before the Master of the Wards and Liberics, or before the Surveyor and Attorney of your Highness said Court, in open Court.

XIV. All the Sergeants at Law, Servants to the Judges in your Highness Courts at Westminster, and all other in the Sergeants Inns, before the chief Justice of your Majesties Bench, the chief Justice of the Common Pleas, and the chief Baron of your Exchequer, or some, or one of them.

XV. All your Highness Subjects, in the Inns of Court, or that hereafter shall be admitted thereunto, and the Principals and Treasurers of every Inn of Chancery, before the Readers and Benchers of the several Houses whereto they belong, or four of them at the least, in their open Halls.

XVI. All other your Majesties Subjects, as well ancients as other, not being

Abridgment.

--all of or above the degree of Baron, &c. before 4 of the Council,

--or being in the Countrey, before the Bishop, &c.

--Servants of the Court, before the Great Officers,

--Ministers of Justice, &c. in the Courts of Justice,

--Mayors, &c. before such as admit them,

--Members of the House of Commons, before the Lord Steward.

--Officers of the Ordnance, and Navy, before the Lord Chancellor or Lord Admiral.

--Officers of the Tower, before the Lieutenant.

Sea-Officers, and Soldiers, before the Officers of the Navy.

Governours of Castles, and Captains, before the Justices of Assize or Peace.

Civilians, &c. before the Bishop.

Persons suing Livery, &c. before the Master of the Wards, &c.

Sergeants, before the Chief Justices, or Chief Baron.

Lawyers in Inns of Court, &c. before four Readers or Benchers.

Ancients, and others, in Chancery.



## Abridgment.

before Principal,  
 &c.

Under-Officers  
 in the Law, before  
 the Judge of their  
 Courts.

Officers in Chan-  
 cery, before the  
 Master of the Rolls,  
 &c.

Clergy, and  
 School-Masters,  
 before the Bishop.

Governours in  
 the University,  
 and Beadles, pub-  
 licly in the Con-  
 vocation-House.

--and all taking  
 Degrees, before  
 the Vice-Chan-  
 cellor.

-Fellows and Scho-  
 lars, before the  
 Head.

Doctors of Phy-  
 sick, before the  
 President of the  
 College.

Aldermen, &c.  
 before the chief  
 Officer.

If no time is limi-  
 ted, the Oath shall  
 be taken within 6  
 Months after this  
 Session.

Privy-Counfel-  
 lours and Bishops,  
 may tender the  
 Oath to Barons and  
 Baroneffes,

--and two Justices.  
 to all under;

--and if any Per-  
 son of, or above,  
 the degree of a  
 Baron, be Present-  
 ed for Recufancy,  
 the Oath shall be  
 Minister'd by three  
 of the Privy Coun-  
 cil,

--and any, under  
 that degree being  
 presented,

being Principal or Treasurer, that now are, or hereafter shall be admitted into any  
 June of Chancery, before the Principal or Treasurer, and Ancients, of the several  
 Inns of Chancery, or four of them, in their open Halls.

XVII. All Prothonotaries, Philizers, Officers, Ministers, Attorneys and Clerks  
 that now are, or hereafter shall be admitted to write or practise in any of your High-  
 nels Courts at Westminster, or in any other Court of Record, before the Judge or  
 Judges of the same Court.

XVIII. All Clerks of the Chancery, and all their Under-clerks, and all other Of-  
 ficers of the said Court of Chancery, and their Clerks, before the Master of the  
 Rolls for the time being, or before two of the Masters of the said Court of Chan-  
 cery.

XIX. All Parsons, Vicars, and Curates, and all other persons Ecclesiastical  
 taking Orders, and all and every School-Master and Usher, before the Bi-  
 shop of the Diocess, or other Ordinary in the same, sitting in open Court.

XX. The Vice-chancellors of both the Universities for the time being, and  
 the Presidents, Wardens, Provofts, Masters of Colleges and Halls, and all  
 other Heads and Principals of Houses, Proctors and Beadles of the Universi-  
 ties, publicly in the Convocation, before the Senior Masters there present.

XXI. And all and every other persons whatsoever, that is or shall be promoted  
 to any degree in School, before the Vice-chancellor of the said University for the  
 time being, in the Congregation-house.

XXII. All fellows of Houses, and all Scholars of Halls or Colleges, that now  
 are, or hereafter shall be received into the same, being under the degree of a Baron,  
 before the President, Master, Provoft, Warden, or other Head or chief Gover-  
 nour of that College, Hall, or House whereinto he shall be received, and in the open  
 Hall.

XXIII. And all Doctors of Physick, and all other who practise Physick, that now  
 are, or hereafter shall be admitted into the College of Physicians in London, before  
 the President of the same College for the time being.

XXIV. And all Aldermen, Sheriffs, or Under-Officers whatsoever, of the Cities  
 and Towns-corporate, and all such as hereafter shall be made Freemen of the said  
 City, or Town-corporate, before the Mayor, Bailiffs, or other chief Officer of the  
 said City or Town, in the open Hall.

XXV. And to the intent that due execution may be had of the premises without  
 delay, it is further enacted by the authority aforesaid, That all the persons before  
 named, who have any certain time limited or expressed when to take the aforesaid  
 Oath, shall at the time therein prescribed take the same, and the rest within six  
 months next after the end of this present Session of Parliament.

XXVI. And be it further enacted by authority of this present Parliament, that it  
 shall and may be lawful to and for any of the Privy-council of your Highness,  
 or of your Heirs and Successors, and to and for every Bishop in his Diocess, to  
 require any Baron or Baroneffes, of the age of eighteen years or above, to take the  
 said Oath, and to and for any two Justices of peace, within any County, City or  
 Town-corporate, whereof one to be of the Quorum, to require any person or persons,  
 of the age of eighteen years or above, under the degree of a Baron or Baroneffes, to  
 take the said Oath: And if any person or persons, of and above the said age and de-  
 gree, now stand, or hereafter at any time shall stand and be presented, indicted or  
 convicted for not coming to Church, or not receiving the holy Communion or Sa-  
 crament of the Lords Supper, according to the Laws and Statutes of this Realm,  
 before the Ordinary, or other having lawful power to take such presentment or indict-  
 ment, Then three of the Privy-council of your Highness your Heirs, and Succes-  
 sors, whereof the Lord-chancellor, Lord-treasurer, Lord-privy-seal, or principal Secre-  
 tary to be one, upon knowledge thereof, shall require such person or persons to take  
 the said Oath: And if any other person or persons whatsoever, of and above the said  
 age, and under the said degree, now stand, or at any time hereafter shall stand, and  
 be presented, indicted, or convicted for not coming to Church, or receiving the holy  
 Communion or Sacrament of the Lords Supper, according to the Laws and Sta-  
 tutes of this Realm, before the Ordinary, or any other having lawful power to take  
 such presentment or indictment; or of any Minister, Petty-constable, Church-war-

Oaths, and  
 other Tests  
 for the dis-  
 covering of  
 Papists.

12 Rep. 130.

y Justices of Peace.] Ann. 9 Jac. 1. it was unanimously agreed by the Justices, at Serjeants-Inn, that the Justices of Peace may make a special Warrant to Constables, &c. to have the Bodies of Parties (who are to take the Oath according to this Statute) before them; and agreed as unani-

mously, that the Constables, in such case, might not break the Houses of the Parties named in their Warrants; because they are not Offenders, till they refuse the Oath, before them who have Authority to tender it.



*Oaths, and other Tests, for the discovering of Papists.*

dens, or any two of them, shall at any time hereafter complain to any Justice of Peace, near adjoyning to the place where any person complained of shall dwell, and the said Justice shall find cause of suspicion, That then any one Justice of Peace, with in whose Commission or power such person or persons shall at any time hereafter be, or to whom complaint shall be made as aforesaid, shall upon notice thereof, require such person or persons to take the said Oath: and that if any person or persons being of the age of eighteen years or above, shall refuse to take the said Oath duly tendered to him or her, according to the true intent and meaning of this Statute, That then the persons authorized by this Law to give the said Oath, shall and may commit the same Offender to the common Gaol, there to remain without bail or mainprise, until the next Assizes, or general Quarter Sessions to be holden for the said Shire, Division, Liuit or Liberty; where the said Oath shall be again in the said open Sessions required of such person by the said Justices of Assize, or Justices of the Peace then and there present, or the greater number of them: And if the said person or persons, of the age of eighteen years or above, shall refuse to take the Oath, being tendered to him or her by the said Justices of Assize and Gaol Delivery, in their own Assizes or Gaol-delivery, or the Justices of Peace, or the greater part of them, in their Quarter Sessions, Every person so refusing, shall incur the danger and penalty of Praemunire, mentioned in a Statute made in the sixteenth year of the Reign of King Richard the Second, (except women Covert, who shall be committed only to prison, there to remain without bail or mainprise, till they will take the said Oath.)

XVII. And be it further enacted, That every person refusing to take the said Oath, as above, shall be disabled to all intents and purposes, to execute any publick place of Judicature, or to bear any other Office (being no Office of Inheritance or Ministerial Function) within this your Highness Realm of England: Or to the use or Practice of the Common Law, or the Science of Physick or Surgery, or the Art of an Apothecary, or any Liberal Science, for his or their gain, within this Realm: until such time as the same person shall receive the same Oath, according to the intent of this Statute.

XXVIII. And be it further enacted, That if a married Woman (being lawfully convicted as a Popish Recusant, for not coming to Church) shall not within three months next after such conviction, conform herself, and repair to the Church, and receive the Sacrament of the Lords Supper, according to the former Laws and Statutes made and provided in that behalf touching Recusants, That then she shall be committed to prison by one of the Privy Council of your Highness, your Heirs or Successors, or by the Bishop of the Diocess, if she be a Baroness, or if she be under that degree, by two Justices of the Peace of the same County, whereof one to be of the Quorum, there to remain without bail or mainprise, until she shall conform herself and come to Church, and receive the Sacrament of the Lords Supper: unless the Husband of such Wife shall pay to the Kings Majesty, his Heirs or Successors, for the offence of the said Wife, for every month Ten pounds of lawful money of England, or else the third part (in three parts to be divided) of all his Lands and Tenements, at the choice of the Husband whose wife is so convicted as aforesaid, for and during so long time as she remaining a Recusant convicted, shall continue out of prison: during which time (and no longer) she may be at liberty.

A. D. 1609.

7 Jac. I. Cap. 2.

*An Act that all such as are to be Naturalized, or restored in Blood, shall first receive the Sacrament, and the Oaths of Allegiance and Supremacy.*

As much as the Naturalizing of Strangers, and restoring to Blood persons attainted, have been ever reputed matters of mere Grace and Favour, which are not fit to be bestowed upon any others than such as are of the Religion now established in this Realm; Be it therefore enacted by the Kings most excellent Majesty, the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, That no person or persons of what quality, condition or place soever, being of the age of eighteen years or above, shall be Naturalized, or restored in Blood, unless the person or persons have received the Sacrament of the Lords Supper within one month before any Bill exhibited for that purpose, and also shall take the Oath of Supremacy, and the Oath of Allegiance, in the Parliament House, before his or her Bill be twice Read: And for the better effecting of the Premises, Be it further enacted by the authority aforesaid, That the Lord Chancellor of England, or Lord Keeper of the Great Seal for the time being, if the Bill begin in the Upper House, and the Speaker of the Commons House of Parliament for the time being, if the Bill begin there, shall have authority at all times during the Session of Parliament, to minister such Oath and Oaths, and to such person and persons, as by the true intent of this Statute is to be ministered. This Act to take place from and after the end of this present Session of Parliament.

Abridgment.

—it shall be ministered by any one Justice.

The Persons who tender the Oath, may, upon refusal, commit to Gaol, till Assizes, or Sessions;

—where, the refusal shall be a Praemunire.

All Persons refusing the Oath, shall be disabled.—from places of Judicature—and all Offices—and Sciences of gain.

Married Woman being a Papist Convict, shall be committed to prison,

—till she conform,

—or the Husband pay 10l. a Month,

—or the third part of his Lands.

Naturalization being unfit to be given to persons of another Religion, Enacted, that, —No person shall be Naturalized, unless he receive the Sacrament, and take the Oaths,

—which shall be ministered by the Speakers of the two Houses.



Abridgment.

25 Car. II. Cap. 2.

An Act for preventing Dangers which may happen from Popish Recufants.

Oaths, and other Tests, for the discovering of Papists.

A.D. 1672.

Every Person bearing Office, Civil or Military, or having Patent Places from the King, or of Trust under him, or in the Navy,

or being of the Household of the Duke,

shall take the Oaths of Supremacy and Allegiance,

and receive the Sacrament upon some Lords-day.

all Persons admitted to the fore-said Offices, Civil and Military,

shall take the said Oaths, the next Term after, or at the next Quarter-Sessions,

FOR preventing dangers which may happen from Popish Recufants, and quieting the minds of his Majesties good Subjects, Be it enacted by the Kings most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, and by authority of the same, That all and every person and persons, as well Peers, as Commoners, That shall bear any Office or Offices, Civil or Military, or shall receive any Pay, Salary, Fee or Wages, by reason of any Patent or Grant from his Majesty, or shall have Command or Place of Trust from, or under his Majesty, or from any of his Majesties Predecessors, or by his or their authority, or by authority derived from him or them, within the Realm of England, Dominion of Wales, or Town of Berwick upon Tweed, or in his Majesties Navy, or in the several Islands of Jersey and Guernsey, or shall be of the Household, or in the Service or Employment of his Majesty, or of his Royal Highness the Duke of York, who shall inhabit, reside or be within the City of London or Westminster, or within thirty Miles distant from the same, on the first day of Easter Term that shall be in the year of our Lord One thousand six hundred seventy three; or at any time during the said Term, all and every the said person and persons shall personally appear before the end of the said Term, or Trinity Term next following, in his Majesties High Court of Chancery, or in his Majesties Court of Kings Bench, and there in publick and open Court, between the hours of Nine of the Clock and Twelve in the Forenoon, take the severall Oaths of Supremacy and Allegiance; which Oath of Allegiance is contained in the Statute made in the Third year of King James, by Law established; and during the time of the taking thereof by the said person and persons, all Pleas and Proceedings in the said respective Courts shall cease; and that all and every of the said respective persons and Officers, not having taken the said Oaths in the said respective Courts aforesaid, shall on or before the first day of August, one thousand six hundred seventy three, at the Quarter-Sessions for that County or place where he or they shall be, inhabit or reside, on the twentieth day of May, take the said Oaths in open Court, between the said hours of nine and twelve of the Clock in the Forenoon; and the said respective Officers aforesaid, shall also receive the Sacrament of the Lords Supper, according to the Usage of the Church of England, at or before the first day of August, in the year of our Lord, One thousand six hundred and seventy three, in some Parish Church, upon some Lords-day, commonly called Sunday, immediately after Divine Service and Sermon.

II. And be it further enacted by the authority aforesaid, That all and every person or persons that shall be admitted, entred, placed, or taken into any Office or Offices, Civil or Military, or shall receive any Pay, Salary, Fee or Wages, by reason of any Patent or Grant of his Majesty, or shall have Command or place of Trust, from, or under his Majesty, his Heirs or Successors, or by his or their authority, or by authority derived from him or them, within this Realm of England Dominion of Wales, or Town of Berwick upon Tweed, or in his Majesties Navy, or in the several Islands of Jersey and Guernsey, or that shall be admitted into any Service or Employment in his Majesties, or Royal Highnesses Household or Family, after the first day of Easter Term aforesaid, and shall inhabit, be or reside, when he or they is, or are so admitted or placed, within the Cities of London or Westminster, or within thirty miles of the same, shall take the aforesaid Oaths, in the said respective Court or Courts aforesaid, in the next Term after such his or their admittance or admittances into the Office or Offices, Employment or Employments aforesaid, between the hours aforesaid, and no other, and the proceedings to cease as aforesaid; And that all and every such person or persons to be admitted after the said first day of Easter Term, as aforesaid, not having taken the said Oaths in the said Courts aforesaid, shall at the Quarter Sessions for that County or place where

3 Nov. 760.

County or Place.] It was found by Judgment was given against him, notwithstanding he had taken the Oaths as Justice; and as to the second head, the Court agreed, that if such a Plea were admitted, the Mayor of a Town, (in whose power it is to hold Sessions, when he will) might defeat the Statute, at pleasure.

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he or they shall reside, next after such his admittance or admittances into any of the said respective Offices or Employments aforesaid, take the said several and respective Oaths as aforesaid; and all and every such person and persons so to be admitted as aforesaid, shall also receive the Sacrament of the Lord's Supper, according to the Usage of the Church of England, within three months after his or their admittance in, or receiving their said Authority and Employment, in some publick Church, upon some Lords-day, commonly called Sunday, immediately after Divine Service and Sermon.

III. And every of the said persons, in the respective Court where he takes the said Oaths, shall first deliver a Certificate of such his receiving the said Sacrament, as aforesaid, under the hands of the respective Minister and Churchwarden, and shall then make proof of the truth thereof, by two credible Witnesses at the least, upon Oath; All which shall be enquired of, and put upon Record in the Respective Courts.

IV. And be it further enacted by the authority aforesaid, That all and every the person or persons aforesaid, that do or shall neglect or refuse to take the said Oaths and Sacrament in the said Courts and Places, and at the respective times aforesaid, shall be *ipso facto* adjudged incapable and disabled in Law, to all intents and purposes whatsoever, to have, occupy or enjoy the said Office or Offices, Employment or Employments, or any part of them, or any matter or thing aforesaid, or any profit or advantage appertaining to them, or any of them, and every such Office and Place, Employment and Employments shall be void, and is hereby adjudged void.

V. And be it further enacted, That all and every such person or persons that shall neglect or refuse to take the said Oaths, or the Sacrament as aforesaid, within the times, and in the places aforesaid; and in the manner aforesaid, and yet after such neglect or refusal, shall execute any of the said Offices or Employments, after the said times expired, wherein he or they ought to have taken the same, and being thereupon lawfully convicted, in, or upon any Information, Presentment or Indictment, in any of the Kings Courts at Westminster, or at the Assizes, every such person and persons shall be disabled from thenceforth, to Sue, or use any Action, Bill, Plaint or Information in course of Law, or to prosecute any Suit in any Court of Equity, or to be Guardian of any Child, or Executor or Administrator of any person, or capable of any Legacy or Deed of Gift, or to bear any Office within this Realm of England, Dominion of Wales, or Town of Barwick upon Tweed; and shall forfeit the sum of five hundred Pounds, to be recovered by him or them that shall Sue for the same, to be prosecuted by any Action of Debt, Suit, Bill, Plaint or Information in any of his Majesties Courts at Westminster, wherein no Escoin, Protection or Wager of Law shall lie.

VI. And be it further enacted by the authority aforesaid, That the Names of all and singular such persons and Officers aforesaid, that do or shall take the Oaths aforesaid, shall be in the respective Courts of Chancery, and King's Bench, and the Quarter-Sessions Inrolled, with the day and time of their taking the same, in Rolls made and kept only for that intent and purpose, and for no other; The which Rolls, as for the Court of Chancery, shall be publickly hung up in the Office of the Petty Bag, and the Roll for the Kings Bench in the Crown Office of the said Court, and in some publick place in every Quarter Sessions, and there remain during the whole Term, every Term, and during the whole time of the said Sessions, in every Quarter Sessions, for every one to resort to, and look upon without Fee or Reward; and likewise none of the person or persons aforesaid, shall give or pay as a-

<sup>a</sup> And Sacrament.] *Ann. 25 Car. 2.* Sir John Read was made High-Sheriff of Hertfordshire, being then under Sentence of Excommunication, for Non-payment of Alimony to his Wife, upon a Divorce between them. He took upon him the Office, and executed it for three months; but then refused to serve any longer, because, being Excommunicated, he could not receive the Sacrament, and therefore supposed that after three months he was *ipso facto* discharged; and so the Judges coming soon after, found no Sheriff to attend them. But (notwithstanding the foresaid Plea) the Court were all of opinion, that he was Punishable for not removing the Disability; it being in his power to get himself ab-

solved from the Excommunication; and therefore Judgment was given against him.

<sup>b</sup> Disabled in Law.] A Judgment was given in *Newbury-Court*, where the Mayor was Judge; and Error assigned, that he having not qualified himself according to this Statute, the Office was void before the Judgment given, and the Cause was *coram non Judice*; and the Court held, that the executing his Office without qualifying himself, did not only make him liable to the Penalty of the Law, but that by the neglect, the Office was void to all intents and purposes, as to the Jurisdiction it self; for which reason, the Judgment was reversed.

Abridgment.

--- and receive the Sacrament within three months after Admittance,

---of which he shall deliver a Certificate, and make proof to the Court

Every Person neglecting to do as above said, shall be *ipso facto* incapable of the Office

--- and, executing it after such neglect,

---shall be disabled to sue — or be Guardian — Executor, or Legatee — or bear Office — and shall forfeit 500*l.*

The Names of Persons who have taken the Oaths, shall be hung up in Court,

— to be resorted to, without Fee.

<sup>2</sup> Mod. Rep. p. 299.

<sup>2</sup> Lev. 184.  
<sup>3</sup> Keble, 682,  
721.



## Abridgment.

The Courts empowered and required, to administer the Oaths.

Parents, not Recufants, fuffering Children to be Popifhly Educated,

--- Shall be difabled from all Offices in Church or State, — and likewise the Children, till they Conform, and take the Oaths, and receive the Sacrament.

A Declaration againft Transubftantiation, fhall be made at the fame time,

— and register'd.

This Act fhall not take away, — the Rights of Peerage,

— nor Creationmony, &c.

— nor Penfion granted for confideration,

— nor Grants of Inheritance,

--- nor Penfions to certain Loyalifts,

--- nor Office of Inheritance, being fupply'd by a Deputy who takes the Oaths, &c.

— and is approved by the King.

ny Fee or Reward, to any Officer or Officers belonging to any of the Courts aforefaid, above the fum of Twelve pence for his or their Entry of his or their taking of the faid Oaths aforefaid.

VII. And farther, That it fhall and may be lawful to and for the refpective Courts aforefaid, to give and adminifter the faid Oaths aforefaid, to the perfon or perfons aforefaid, in manner as aforefaid; and upon the due tender of any fuch perfon or perfons to take the faid Oaths, the faid Courts are hereby enjoyned to adminifter the fame.

VIII. And be it further enacted, That if any perfon or perfons not bred up by his or their Parent or Parents from their Infancy in the Popifh Religion, and profefling themfelves to be Popifh Recufants, fhall breed up, instruct or educate his or their Child or Children, or fuffer them to be instructed or educated in the Popifh Religion; every fuch perfon being thereof convicted, fhall be from thenceforth difabled of bearing any Office or place of Trust or Profit in Church or State: And all fuch Children as fhall be fo brought up, instructed or educated, are and fhall be hereby difabled of bearing any fuch Office or Place of Trust or Profit, until he and they fhall be perfectly reconciled, and converted to the Church of England, and fhall take the Oaths of Supremacy and Allegiance aforefaid, before the Juftices of the Peace, in the open Quarter Sessions of the County or Place where they fhall inhabit, and thereupon receive the Sacrament of the Lords Supper, after the Ufage of the Church of England, and obtain a Certificate thereof under the Hands of two or more of the faid Juftices of the Peace.

IX. And be it further enacted by the authority aforefaid, That at the fame time when the perfons concern'd in this Act, fhall make the aforefaid Oaths of Supremacy and Allegiance, they fhall likewise make and fubfcribe this Declaration following, under the fame Penalties and Forfeitures as by this Act appointed,

**I** A. B. do declare, That I do believe there is not any Transubftantiation in the Sacrament of the Lords Supper, or in the Elements of Bread and Wine, at or after the Consecration thereof by any Perfon whatsoever.

X. Of which Subfcription there fhall be the like Register kept, as of the taking the Oaths aforefaid.

XI. Provided always, That neither this Act, nor any thing therein contained, fhall extend, be judged or interpreted any ways to hurt or prejudice the Peerage of any Peer of this Realm, or take away any right, power, privilege or profit, which any perfon (being a Peer of this Realm) hath or ought to enjoy by reason of his Peerage, either in time of Parliament, or otherwife, or to take away Creationmony, or Bills of Impoft, nor to take away or make void any Penfion or Salary granted by his Majefty to any perfon for valuable and fufficient confideration for Life, Lives or Years, other than fuch as relate to any Office, or to any place or Trust under his Majefty, and other than places of bounty or voluntary Penfions; nor to take away, or make void any Estate of Inheritance granted by his Majefty, or any his Predeceffors, to any perfon or perfons, of, or in any Lands, Rents, Tythes, or Hereditaments, not being Offices; nor to take away or make void any Penfion or Salary already granted by his Majefty to any perfon who was Inftumental in the happy prefervation of his Sacred Majefty after the Battel of Worcester, in the year One thoufand fix hundred fifty one, until his Majefties Arrival beyond the Seas; nor to take away or make void the Grant of any Office or Offices of Inheritance, or any Fee, Salary or Reward for executing fuch Office or Offices, or thereto any way belonging, granted by his Majefty, or any his Predeceffors, to, or enjoyed, or which hereafter fhall be enjoyed, by any perfon or perfons who fhall refufe or neglect to take the faid Oaths, or either of them; or to receive the Sacrament, or to fubfcribe the Declaration mentioned in this Act in manner therein expreffed: Nevertheless fo as fuch perfon or perfons having or enjoying any fuch Office or Offices of Inheritance, do or fhall fubftitute and appoint his or their fufficient Deputy or Deputies (which fuch Officer or Officers refpectively are hereby impowred from time to time to make or change, any former Law or Ufage to the contrary notwithstanding) to exercife the faid Office or Offices, until fuch time as the perfon or perfons having fuch Office or Offices, fhall voluntarily in the Court of Chancery, before the Lord Chancellor or Lord Keeper for the time being, or in the Court of Kings Bench, take the faid Oaths, and receive the Sacrament according to Law, and fubfcribe the faid Declaration; and fo as all and every the Deputy and Deputies fo as aforefaid to be appointed, take the faid Oaths, receive the Sacrament, and fubfcribe the faid Declaration from time to time, as they fhall happen to be fo appointed, in manner as by this Act fuch Officers whole Deputies they be, are appointed

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pointed to do; and so as such Deputies be from time to time approved of by the Kings Majesty under his Privy Signet: but that all and every the Peers of this Realm shall have, hold and enjoy what is provided for, as aforesaid, and all and every other Person or Persons before mentioned, denoted or intended within this Proviso, shall have, hold and enjoy what is provided for, as aforesaid, notwithstanding any incapacity or disability mentioned in this Act.

XII. Provided also, That the said Peers and every of them may take the said Oaths, and make the said Subscription, and deliver the said Certificates before the Peers sitting in Parliament, if the Parliament be sitting within the time limited for doing thereof, and in the Intervals of Parliament in the High Court of Chancery, in which respective Courts all the said Proceedings are to be recorded in manner aforesaid.

XIII. Provided always, That no married Woman, or Person under the age of eighteen years, or being beyond, or upon the Seas, or found, by the lawful Oaths of twelve Men, to be non compos mentis, and so being and remaining at the end of Trinity Term, in the year of our Lord one thousand six hundred seventy three, having any Office, shall, by virtue of this Act, lose or forfeit any such his or her Office (other than such married Woman during the life of her Husband only) for any neglect or refusal of taking the Oaths, and doing the other things required by this Act to be done by Persons having Offices; so as such respective Persons, within four Months after the death of the Husband, coming to the age of eighteen years, returning into this Kingdom, and becoming of sound mind, shall respectively take the said Oaths, and perform all other things in manner as by this Act is appointed for Persons to do, who shall happen to have any Office or Offices to them given or fallen, after the end of the said Trinity Term.

XIV. Provided also, That any Person who by his or her neglect or refusal, according to this Act shall lose or forfeit any Office, may be capable by a new Grant of the said Office, or of any other, and to have and hold the same again, such Person taking the said Oaths, and doing all other things required by this Act, so as such Office be not granted to, and actually enjoyed by some other Person at the time of the regranting thereof.

XV. Provided also, That nothing in this Act contained, shall extend to make any Forfeiture, Disability, or Incapacity in, by or upon any Non-Commission-Officer or Officers in his Majesties Navy, if such Officer or Officers shall only subscribe the Declaration therein required, in manner as the same is directed.

XVI. Provided also, That nothing in this Act contained, shall extend to prejudice George Earl of Bristol, or Anne Countess of Bristol his Wife, in the Pension or Pensions granted to them by Patent under the Great Seal of England, bearing date the Sixteenth day of July, in the year of our Lord, One thousand six hundred sixty and nine, being in lieu of a just Debt due to the said Earl from his Majesty, particularly expressed in the said Patent.

XVII. Provided also, That this Act, or any thing therein contained, shall not extend to the Office of any High-Constable, Petty-Constable, Tithingman, Headborough, Overseer of the Poor, Church-warden, Surveyor of the Highways, or any like inferior Civil Office, or to any Office of Forester, or Keeper of any Park, Chase, Warren or Game, or of Bailiff of any Manor or Lands; or to any like Private Offices, or to any Person or Persons having only any the beforementioned, or any the like Offices.

*Abridgment.*

Peers may take Oaths in Parliament, if sitting,

—or else, in Chancery.

Proviso, for married Women, Persons under age, beyond Sea, or non compos,

—in case they take the Oaths, &c. as soon as the said Reasons and Impediments are removed.

The same Office, forfeited, may be held again by a new Grant.

Non-Commission Officers need only subscribe the Declaration.

Proviso for the Pension of the Earl and Countess of Bristol,

—and that this Act shall not extend to Inferior Offices.

A.D. 1688.

I Will. & Mar. Cap. 18.

In an Act, Entituled, *An Act for Exempting Their Majesties Protestant Subjects, dissenting, &c.*

§ II.—Except the Statute made in the Fife and twentieth Year of King Charles the Second, Entituled, An Act for Preventing Dangers which may happen from Popish Recusants—[which shall be construed to extend to Dissenters.]

Dissenters shall not be exempted from the Penalties of the foregoing Statute.



## Abridgment.

8 Annæ, Cap. 15.

In an Act, Entituled, *An Act for Explaining and Enlarging an Act for the Security of Her Majesties Person, &c.*

Dr. *Newton*, Master of *S. Katherine's*, being abroad, and not to return within 3 Months,

—shall be duly Qualified by receiving the Sacrament, &c. after his Return.

§ IX. And whereas Henry Newton, D<sup>r</sup>. of Laws, Her Majesties Envoy Extraordinary to the Great Duke of Tuscany, being appointed Master of St. Catherine's Hospital near the Tower of London, cannot return home till the time for Qualifying himself, by receiving the Sacrament of the Lords Supper, taking the Oaths, and making the Declaration and Subscriptions required by Law, will be Expired: Be it Enacted by the Authority aforesaid, That in case the said Henry Newton shall receive the Sacrament of the Lords Supper, within Three Months after his Return from beyond the Seas, and shall take the Oaths, and make the Declaration and Subscriptions required by Law, in one of Her Majesties Courts of Record at Westminster, the next Term, or at the next Quarter Sessions held for the County of Middlesex, after the said three Months; the same shall be good and available to the said Henry Newton, to all intents, constructions, and purposes whatsoever; and the said Henry Newton shall be deemed to have qualified himself as fully and effectually, as if he had taken the said Oaths, and made the said Declaration and Subscriptions, within the precise time required by Law; Any Law or Statute to the contrary in any wise notwithstanding.

1 Will. &amp; Mar. Sess. 2, &amp;c.

*In the Land-Taxes, during K. William's Reign.*

Commissioners for the Land-Tax shall not be liable to the Penalties of Stat. 25 Car. 2. c. 2.

— † Provided always, and be it further Enacted by the Authority aforesaid, That no Commissioner or Commissioners, who shall be employed in the Execution of this Act, shall be liable for or by reason of such Execution, to any of the Penalties mentioned in an Act made in the Five and twentieth Year of the Reign of King Charles the Second, For preventing of Dangers which may happen from Popish Recufants.

A.D. 1689.

† A like Clause was, before, in 31 Car. 2. c. 1.

1 Annæ to Ann. 1710.

*In every Land-Tax.*

No Commissioners, Assessors, or Collectors, shall be liable to the Penalties of the foresaid Act.

— Provided always, and be it further Enacted by the Authority aforesaid, That no Commissioner, Assessor or Collector, who shall be Employed in the Execution of this Act, shall be liable, for or by reason of such Execution to any of the Penalties mentioned in an Act made in the Five and twentieth Year of the Reign of King Charles the Second, For preventing Dangers which may happen from Popish Recufants.

2 Will. &amp; Mar. Cap. 10.

In an Act, Entituled, *An Act for the King and Queen's most gracious, general, and free Pardon.*

Offences against the said Act, excepted out of General Pardon.

§ XLIX. And also excepted out of this Act all Penalties of Five hundred Pounds, which shall by any Act passed in this Session of Parliament be inflicted or appointed to be Levied upon any Person or Persons, for or in respect of holding or exercising any Office or Place, and offending contrary to an Act of Parliament made in the Five and twentieth Year of the Reign of King Charles the Second, Entituled, An Act for preventing Dangers which may happen from Popish Recufants.

A.D. 1690.

6, 7 Will.

Oaths and other Tests for the discovering of Papists.

A.D. 1709.



*Oaths and other Tests for the discovering of Papists.*

A.D. 1694.  
1708.

† Since Her Majesty's happy Accession to the Crown. 7 Ann.

6, 7 Will. III. Cap. 20.---- 7 Annæ, Cap. 22.

In an Act, Entituled, *An Act for the King's most gracious, general, and free Pardon.*

§ XXXI. And also excepted out of this Act of General Pardon, all Offences committed or done † contrary to, or against an Act of Parliament made in the Five and twentieth Year of the Reign of King Charles the Second, Intituled, An Act for preventing Dangers which may happen from Popish Recusants.

Abridgment.

Offences against the said Act, excepted out of General Pardon.

C A P. VI.

*Civil Disabilities, and Burdens, by reason of Recusancy.*

*Civil DISABILITIES, and BURDENS, by reason of Recusancy.*

3 Jac. I. Cap. 5.

*An Act to prevent and avoid Dangers which may grow by Popish Recusants.*

§ VIII. **A**ND be it further Enacted by the Authority aforesaid, That no Recusant convict shall at any time after the end of this Session of Parliament, practise the Common Law of this Realm, as a Councelloz, Clerk, Attorney or Solicitor in the same, nor shall practise the Civil Law as Advocate or Proctor, nor practise Physick, nor use or exercise the Trade or Art of an Apothecary, nor shall be Judge, Minister, Clerk or Steward, of or in any Court, or keep any Court, nor shall be Register or Town-Clerk or other Minister or Officer in any Court, nor shall bear any Office or Charge, as Captain, Lieutenant, Corporal, Sergeant, Ancient-bearer, or other Office in Camp, Troop, Band or Company of Soldiers; nor shall be Captain, Master, Governour, or bear any Office of Charge, of or in any Ship, Castle or Fortrels of the Kings Majesty, his Heirs and Successors, but be utterly disabled for the same; And every Person offending herein, shall also forfeit for every such offence, One hundred Pounds; the Due Moiety whereof shall be to the Kings Majesty, his Heirs and Successors, and the other Moiety to him that will Sue for the same, by Action of Debt, Bill, Plaint or Information, in any of the Kings Majesties Courts of Record, wherein no Escoin, Protection or Wager of Law shall be admitted or allowed.

IX. And be it also Enacted by the Authority aforesaid, That no Popish Recusant convict, nor any having a Wife being a Popish Recusant convict, shall at any time after the end of this Session of Parliament, or any Popish Recusant hereafter to be convict, or having a Wife which hereafter shall be a Popish Recusant convict, at any time after his or her Conviction, shall exercise any publick Office or Charge in the Commonwealth, but shall be utterly disabled to exercise the same by himself, or by his Deputy, (Except such Husband himself, and his Children, which shall be above the Age of Nine Years abiding with him, and his Servants in Household, shall once every Month at the least, not having any reasonable excuse to the contrary, repair to some Church or Chapel usual for Divine Service, and there hear Divine Service; And the said Husband, and such his Children and Servants as are of meet Age, receive the Sacrament of the Lords Supper, at such times as are limited by the Laws of this Realm, and do bring up his said Children in true Religion.)

X. And be it also Enacted by the Authority aforesaid, That every Married Woman, being, or that shall be a Popish Recusant convict, (her Husband not standing convicted of Popish Recusancy) which shall not conform her self,

No Recusant Convict shall  
—Practise the Law,  
—nor Physick,  
—nor be a Judge or Officer in any Court,  
—nor Officer by Sea or Land,

—upon pain to forfeit 100 l.

No Popish Recusant Convict, nor any having Wife that is so,

—shall bear Office in the Commonwealth,

—unless Husband, Children, and Servants, repair to Church and receive the Sacrament.

Married Woman, being a Popish Recusant Convict,



Abridgment.

—and abfenting from Service and Sacrament for one year before her Husbands death,

—shall forfeit the third part of her Joynture.

Popish Recufant Convict shall be disabled, as a perfon Excommunicate,

—till he or she Conform,

--but they may Sue for fuch Lands as are not to be Seized for Recufancy.

Popish Recufant married otherwise than according to the Church of England, shall be disabled to have Freehold,

—and Woman, to claim dower, or Joynture, or Goods,

—and fuch man, marrying a woman that hath no Lands to make him Tenant by courtesie, shall forfeit 100*l*.

2 Bullstr. 155.

self, and remain conformed, but shall forbear to repair to some Church or usual place of Common Prayer, and there to hear Divine Service and Sermon, if any then be, and within the said Year receive the Sacrament of the Lords Supper, according to the Laws of this Realm, by the space of one whole Year next before the death of her said Husband, shall forfeit and Lose to the Kings Majesty, His Heirs and Successors, the issues and profits of two parts of her Joynture, and two parts of her Dower in three parts to be divided during her life, of or out of any the Lands, Tenements or Hereditaments, which are or were her said Husbands; and also disabled to be Executrix or Administratrix of her said Husband, and to have or demand any Part or Portion of her said late Husbands Goods or Chattels, by any Law, Custom, or Usage whatsoever.

XI. And be it further Enacted by the Authority aforesaid, That every Popish Recufant, which is or shall be convicted of Popish Recufancy, shall stand and be reputed to all intents and purposes c disabled, as a Person lawfully and duly excommunicated, and as if he or she had been so denounced and excommunicated according to the Laws of this Realm, until he or she so disabled shall conform him and her self, and come to Church, and hear Divine Service, and receive the Sacrament of the Lords Supper, according to the Laws of this Realm, and also take the Oath appointed and prescribed in one other Act made this present Session of Parliament, Intituled, An Act for the better discovering and repressing of Popish Recufants: And that every Person and Persons Sued or to be Sued by such Person so to be disabled, shall and may plead the same in disabling of such Plaintiff, as if he or she were excommunicated by sentence in the Ecclesiastical Court.

XII. Provided nevertheless; That it shall and may be Lawful for any such Person so disabled, for and notwithstanding any thing in this Law contained, to Sue or Prosecute any Action or Suit, for or concerning only such of his or her Lands, Tenements, Leases, Rents, Annuities, and Hereditaments, or for the issues and profits thereof, which are not to be seized, or taken into the Kings Hands, His Heirs or Successors, by force of any Law, for or concerning his or her Recufancy, or any part thereof.

XIII. And for that Popish Recufants are not usually Married, nor their Children Christned, nor themselves Buried according to the Law of the Church of England, but the same are done superstitiously by Popish Persons in secret, whereby the Days of their Marriages, Births and Burials cannot be certainly known, Be it further Enacted by Authority of this present Parliament, That every Man being, or which shall be a Popish Recufant convicted, and who shall be hereafter Married otherwise than in some open Church or Chapel, and otherwise than according to the Orders of the Church of England, by a Minister lawfully Authorized, shall be utterly disabled and excluded to have an Estate of Freehold in any the Lands, Tenements and Hereditaments of his Wife, as Tenant by the Courtesie of England: And that every Woman being, or which shall be a Popish Recufant convicted, and who shall be hereafter Married in other form than as aforesaid, shall be utterly excluded and disabled, not only to claim any Dower of the Inheritance of her Husband whereof she may be endowable, or any Joynture of the Lands and Hereditaments of her Husband, or any of his Ancestors, but also of her Widows Estate, and Frank-Bank in any Customary Lands whereof her Husband died seized, and likewise be disabled and excluded to have or enjoy any Part or Portion of the Goods of her Husband, by virtue of any Custom of any County, City or Place where the same shall lie or be: And if any such Man shall be Married with any Woman contrary to the intent and true meaning of this Act, which Woman hath or shall have no Lands Tenements, or Hereditaments, whereof he may be Entitled to be Tenant by the Courtesie, then such Man so Marrying as aforesaid shall forfeit and lose C. li. the one half thereof to be to the Kings Majesty, His Heirs and Successors, and the other Moiety to

Civil Disabilities, and Burdens, by reason of Recufancy.

Handwritten notes in the right margin.

c Disabled ] Ann. 11 Jac. 1. it was said by the Lord Chief Justice Coke, as follows, "By the Statute 2 Jac. 1. c. 5. every "Recufant Convict is to be Excommunicated; "and therefore, in my Circuit, I do not admit of them for Witnesses between party

"and party, they being no competent Witnesses; and therefore you (the Recufants at the Bar) being to find Sureties for the good Behaviour, we will not take Popish Recufants for your Sureties.

such



*Civil Disabilities, and Burdens, by reason of Recusancy.*

such Person or Persons as shall sue for the same by Action of Debt, Bill, Plaint or Information, in any of the Kings Majesties Courts of Record, wherein no Escoin, Protection, or Wager of Law shall be admitted or allowed.

XIV. And that every Popish Recusant which shall hereafter have any Child born, shall within one Month next after the Birth thereof, cause the same Child to be Baptized by a Lawful Minister, according to the Laws of this Realm, in the open Church of the same Parish where the Child shall be born; or in some other Church near adjoining, or Chapel where Baptism is usually administered: Or if by infirmity of the Child it cannot be brought to such place, then the same shall within the time aforesaid, be baptized by the lawful Minister of any of the said Parishes or Places aforesaid: upon pain that the Father of such Child, if he be living by the space of one Month next after the birth of such Child, or if he be dead within the said Month, then the Mother of such Child, shall for every such offence forfeit *£*. li. of lawful money of England; one third part whereof, to be to the Kings Majesty, his Heirs and Successors, one other third part to the Informer, or him that will sue for the same, and the other third part to the poor of the said Parish; to be recovered by Action of Debt, Bill, Plaint or Information, in any of the Kings Majesties Courts of Record, wherein no Escoin, Protection or Wager of Law shall be admitted or allowed.

XV. And if any Popish Recusant, man or woman, not being excommunicate, shall be buried in any place, other than in the Church or Church-yard, or not according to the Ecclesiastical Laws of this Realm, That the Executors or Administrators of every such Person so buried, knowing the same, or the party that causeth him to be so buried, shall forfeit the Sum of *xx*. li. the one third part whereof shall be to our Sovereign Lord the King, the other third part to the Informer, or him or them that will sue for the same, and the other third part to the poor of the Parish where such Person died; to be recovered by Action of Debt, Bill, Plaint or Information in any of the Kings Majesties Courts of Record, wherein no Escoin, Protection or Wager of Law shall be admitted or allowed.

XVII. And for that many Subjects of this Realm, being neither Merchants, nor their Factors, nor Apprentices, Soldiers, nor Mariners, are of late gone beyond the Seas without Licence, and are not as yet returned, Be it further enacted by the authority of this present Parliament, That if any of the said Persons so gone beyond the Seas without Licence, which are not yet returned, shall not within Six Months next after their return into this Realm, then being of the age of eighteen years or more, take the Oath above specified before some Justice of Peace of the County, Liberty, or Limit where such Person shall inhabit or remain, that then every such Offender shall take no benefit by any gift, conveyance, descent, devise, or otherwise, of, or to any Lands, Tenements, Hereditaments, Goods or Chattels, until he or they being of the said age of eighteen years or above, take the said Oath: And that likewise in the mean time the next of kin to the Person so offending; which shall be no Popish Recusant, shall have and enjoy the said Lands, Tenements, Hereditaments, Goods and Chattels so given, conveyed, descended or devised, until such time as the Person so offending shall conform himself, and take the aforesaid Oath, and receive the said Sacrament of the Lords Supper: And after such conforming, taking of the said Oath, and receiving of the said Sacrament, he or they that shall have so received the profits of the said Lands, Tenements, Hereditaments, Goods and Chattels, shall make account of the profits so received, and in reasonable time make payment thereof, and of the value of such Goods and Chattels, to such Person as shall so conform him or her self, as aforesaid.

XXII. Moreover, because Recusants convicted are not thought meet to be Executors or Administrators, to any Person or Persons whatsoever, nor to have the Education of their own Children, much less of the Children of any other of the Kings Subjects, nor to have the Marriage of them: Be it therefore enacted by the authority aforesaid, That such Recusants convicted, or which shall be convicted at the time of the death of any Testator, or at the time of the granting of any administration, shall be disabled to be Executor, or Administrator by force of any Testament hereafter to be made, or Letters of Administration hereafter to be granted, nor shall have the custody of any

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Popish Recusant, causing Child to be baptized otherwise than according to the Church of England, shall forfeit 100 l.

—and being buried otherwise than according to the Ecclesiastical Laws, his Executors, &c. shall forfeit 20 l.

All Persons gone beyond Sea,

—who shall not return in 6 Months, and take the Oath, shall have no benefit by gift, &c. nor estate,

—till they Conform, &c.

—in which case, the possessor shall be accountable for the Profits.

Papist Convict shall not be Executor, Administrator,



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—nor Guardian,

—but the next of kin who conforms, shall be Guardian.

Wards being passed to a Popish Recusant, shall be void.

This Act shall not abridge the Authority Ecclesiastical.

Dissenters shall be exempted from the Penalties of the foregoing Act.

Laws against Popery being as yet ineffectual,

Enacted, That,

—every Member of the House of Lords and Commons,

—before he sits in either House,

Child, as Guardian in Chivalry, Guardian in Socage, or Guardian in Nurture of any Lands, Tenements, or Hereditaments, being Freehold or Copyhold, but shall be adjudged disabled to have any such Wardship, or Custody of any such Child, or of their Lands, Tenements, or Hereditaments, being Freehold or Copyhold, as aforesaid.

XXIII. And that for the better education and preservation of the said Children, and of their Estates, the next of the kin to such Child or Children, to whom the said Lands, Tenements or Hereditaments of such Child or Children cannot lawfully descend, who shall usually resort to some Church or Chapel, and there hear Divine Service, and receive the holy Sacrament of the Lords Supper thrice in the Year next before, according to the Laws of this Realm, shall have the Custody and Education of the same Child, and of his said Lands and Tenements, being holden in Knight-Service, until the full age of the said Ward of one and twenty Years, and of his said Lands, Tenements, and Hereditaments being holden in Socage, as a Guardian in Socage, and of the said Lands, Tenements, and Hereditaments holden by Copy of Court-Roll of any manor, so long as the custom of the said manor shall permit and allow the same, and in every of the said cases shall yield an account of the profits thereof to the said Ward, as the case shall require.

XXIV. And that if at any time hereafter, any of the Wards of the Kings Majesty, or of any other, shall be granted or sold to any Popish Recusant convict, such grant or sale shall be utterly void and of none effect.

XXV. Provided always, That neither this Act, nor any thing therein contained, shall extend to take away or abridge the authority or jurisdiction of the Ecclesiastical Censures, for any cause or matter, but that the Commissioners of His Majesty, his Heirs and Successors, in Causes Ecclesiastical, for the time being, Archbishops, Bishops, and other Ecclesiastical Judges may do, and proceed as before the making of this Act they lawfully did or might have done; Any thing in this Act to the contrary in any wise notwithstanding.

## I Will. &amp; Mar. Cap. 18.

A.D. 1688.

In an Act, Entituled, *An Act for exempting Their Majesties Protestant Subjects, dissenting, &c.*

§ II.—Nor that other Statute made in the same Year, Entituled, An Act to Prevent and Avoid Dangers which may grow by Popish Recusants; shall be construed to extend to any Person or Persons dissenting from the Church of England.—

## 30 Car. II. Cap. 1. (Stat. 2.)

A.D. 1678.

*An Act for the more effectual Preserving the King's Person and Government, by disabling Papists from sitting in either House of Parliament.*

As much as divers good Laws have been made for preventing the increase and danger of Popery in this Kingdom, which have not had the desired Effects, by reason of the free access which Popish Recusants have had to His Majesty's Court, and by reason of the Liberty which of late some of the Recusants have had and taken to Sit and Vote in Parliament:

II. Wherefore, and for the safety of His Majesty's Royal Person and Government, Be it Enacted by the Kings most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and of the Commons in this present Parliament Assembled, and by the Authority of the same, That from and after the first Day of December, which shall be in the Year of our Lord God One thousand six hundred seventy and eight, no Person that now is, or hereafter shall be a Peer of this Realm, or Member of the House of Peers, shall Vote, or make his Proxy in the House of Peers, or Sit there during any Debate in the said House of Peers;

Nor

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Now any Person that now is, or hereafter shall be a Member of the House of Commons, shall Vote in the House of Commons, or Sit there during any Debate in the said House of Commons, after their Speaker is chosen, until such Peer or Member shall from time to time respectively, and in manner following, first take the several Oaths of Allegiance and Supremacy, and make, subscribe, and audibly repeat this Declaration following;

III. **I** A. B. Do solemnly and sincerely, in the presence of God, Profess, Testifie and Declare, That I do believe that in the Sacrament of the Lords Supper, there is not any Transubstantiation of the Elements of Bread and Wine, into the Body and Blood of Christ, at or after the Consecration thereof, by any Person whatsoever: And that the Invocation, or Adoration of the Virgin *Mary*, or any other Saint, and the Sacrifice of the Mass, as they are now used in the Church of *Rome*, are Superstitious and Idolatrous. And I do solemnly, in the presence of God, Profess, Testifie and Declare, That I do make this Declaration, and every part thereof, in the plain and ordinary sense of the Words read unto me, as they are commonly understood by *English* Protestants, without any Evasion, Equivocation, or Mental Reservation whatsoever, and without any Dispensation already granted me for this purpose by the Pope, or any other Authority or Person whatsoever, or without any hope of any such Dispensation from any Person or Authority whatsoever, or without thinking that I am, or may be acquitted before God or Man, or absolved of this Declaration, or any part thereof, although the Pope, or any other Person or Persons, or Power whatsoever, should dispense with or annul the same, or declare that it was null or void from the beginning.

IV. Which said Oaths and Declaration shall be, in this and every succeeding Parliament, solemnly and publickly made and subscribed betwixt the Hours of Nine in the Morning and Four in the Afternoon, by every such Peer and Member of the House of Peers, at the Table in the middle of the said House, before he take his Place in the said House of Peers, and whilst a full House of Peers is there with their Speaker in his place; and by every such Member of the House of Commons, at the Table in the middle of the said House, and whilst a full House of Commons is there duly Sitting with their Speaker in his Chair; and that the same be done in either House in such like Order or Method, as each House is called over by respectively.

V. And be it further Enacted, That from and after the said first Day of December, every Peer of this Realm, and Member of the House of Peers, and every Peer of the Kingdom of Scotland, or of the Kingdom of Ireland, being of the Age of One and twenty Years or upwards, not having taken the said Oaths, and made and subscribed the said Declaration; and every Member of the said House of Commons, not having as aforesaid taken the said Oaths, and made and subscribed the said Declaration; and every Person now, or hereafter convicted of Popish Recusancy; who hereafter shall at any time after the said first Day of December, come advisedly into, or remain in the presence of the Kings Majesty, or Queens Majesty, or shall come into the Court or House where they or any of them reside, as well during the Reign of his present Majesty (whose Life God long preserve) as during the Reigns of any his Royal Successors Kings or Queens of England; shall incur and suffer all the Pains, Penalties, Forfeitures and Disabilities in this Act mentioned or contained, unless such Peer, Member or Person so convicted, do respectively in the next Term after such his coming or remaining, take the said Oaths, and make and subscribe the said Declaration in his Majesties High Court of Chancery, between the Hours of Nine and Twelve in the Forenoon.

VI. And be it further Enacted by the Authority aforesaid, That if any Person that now is, or hereafter shall be a Peer of this Realm, or Member of the House of Peers, or Member of the House of Commons, shall presume to do any thing contrary to this Act, or shall offend in any of the Cases aforesaid, That then every such Peer and Member so offending, shall from thenceforth be deemed and adjudged a Popish Recusant convict to all intents and purposes whatsoever, and shall forfeit and suffer as a Popish Recusant convict, and shall be disabled to hold or execute any Office or Place of Profit

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—shall take the Oaths, and subscribe a Declaration,

—against Transubstantiation,

—and Adoration of Saints, &c.

—without Equivocation, or Reservation,

—or hope of being absolved by the Pope.

The said Oaths, and Declaration, shall be publickly taken, and made, in either House.

Every Peer and Commoner, not having taken the Oaths, and subscribed,

—and every Popish Convict,

—presuming to come to Court,

—shall suffer the Penalties of this Act,

—unless they qualify themselves the Term after.

Offenders against this Act shall be adjudged Popish Recusants,



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—and suffer Penalties, and Disabilities, belonging to such, with others

Lords and Commons may cause any Member to take the Oaths, and make the Declaration, as they shall see occasion;

—and any such Member sitting before, shall be disabled to sit, during that Parliament.

Disability to sit, by this Act, shall make the place void;

—and a new Writ shall issue.

Sworn Servants to King or Queen, shall qualify themselves according to 25 Car. 2 c. 2.

—and if they come to Court, after the refusal or neglect thereof,

or Trust, Civil or Military, in any of His Majesties Realms of England or Ireland, Dominion of Wales, or Town of Berwick upon Tweed, or in any of His Majesties Islands or Foreign Plantations to the said Realms belonging; and shall be disabled from thenceforth to sit or vote in either House of Parliament, or make a Proxy in the House of Peers, or to sue or use any Action, Bill, Plaint or Information in course of Law, or to prosecute any Suit in any Court of Equity, or to be Guardian of any Child, or Executor or Administrator of any Person, or capable of any Legacy or Deed of Gift; and shall forfeit for every wilful offence against this Act the Sum of Five hundred Pounds, to be recovered and received by him or them that shall sue for the same; and to be prosecuted by any Action of Debt, Suit, Bill, Plaint or Information in any of His Majesties Courts at Westminster, where no Essoign, Protection or Wager of Law shall lie.

VII. And be it further Enacted by the Authority aforesaid, That from the said first Day of December, it shall and may be lawful to and for the House of Peers, and House of Commons, or either of them respectively, as often as they or either of them shall see occasion, either in this present Parliament, or any other hereafter to be holden, to order and cause all, or any of the Members of their respective Houses of Parliament, openly in their respective Houses of Parliament, to take the said Oaths, and to make and subscribe the said Declaration, at such times, and in such manner as they shall appoint. And if any Peer shall contrary to such Order made by their said House, wilfully presume to sit therein, without taking the said Oaths, and subscribing the said Declaration, according to the said Order, every such Peer, or Member of the House of Peers, so presuming to sit, shall be adjudged, and is hereby declared to be incapable and disabled in Law to all intents and purposes whatsoever, to sit in the said House of Peers, and give any Voice therein, either by Proxy, or otherwise howsoever, during that Parliament. And if any Member or Members of the House of Commons, shall contrary to such Order made by their House, wilfully presume to sit therein, without taking the said Oaths, and making and subscribing the said Declaration, every such Member or Members of the House of Commons, so presuming to sit, shall be adjudged, and is hereby declared to be incapable, and disabled in Law, to all intents and purposes whatsoever, to sit in the said House of Commons, or give any Voice therein during that Parliament.

VIII. And be it Enacted, That in every case where any Member or Members of the House of Commons shall by virtue of this Act be disabled to sit or vote in the House of Commons, Then, and in every such case, without any farther conviction, or other proceedings against such Member or Members, the place or places for which they or any of them were elected, is hereby declared void, and a new Writ or Writs shall issue out of the High Court of Chancery, by Warrant or Warrants from the Speaker of the House of Commons for the time being, and by Order of the said House, for the Election of a new Member or Members, to serve in the House of Commons, in the place or places of such Member or Members so disabled; to all intents and purposes, as if such Member or Members were naturally dead.

IX. And be it further Enacted by the Authority aforesaid, That from and after the first Day of December, One thousand six hundred seventy eight, every person then being, and who after that time shall be sworn Servant to the Kings or Queens Majesty, not having before that time duly taken the Oaths, and made and subscribed the Declaration contained in an Act, Entituled, An Act for preventing Dangers which may happen from Popish Recusants, shall take the said Oaths, and make and subscribe the Declaration before expressed, in His Majesties High Court of Chancery, in the manner aforesaid, either in the next Term after the said first Day of December, or in the next Term after any such person shall be so sworn a Servant, or in case of lawful Impediment by Sickness, proved upon Oath, and allowed to be such, under the Hand of the Lord Chancellor, or Lord Keeper for the time being, then in the next Term after such Impediment removed; and if any such person shall refuse or neglect to do the same, and yet after such refusal or neglect, shall advisedly come into, or remain in the presence of the Kings or Queens Majesty, or shall come into the Court or House where they

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they or any of them reside, as well during the Reign of his present Majesty, as during the Reigns of his and Their Royal Successors, Kings or Queens of England, and every of them; every such Person shall be disabled to hold any Place as such sworn Servant, and shall incur and suffer all the Pains, Penalties, Forfeitures and Disabilities in this Act mentioned or contained.

X. Provided, That nothing in this Act shall relate to, or have any effect upon any Person being a Natural Born Subject of the King of Portugal, who now is or hereafter shall be a sworn Servant to the Queens Majesty, not exceeding Nine in number at any one time: nor to such Women-Servants as her Majesty shall, under her Hand and Seal, from time to time, for that purpose be pleased to nominate; the said Women-Servants so nominated, not exceeding the number of Nine at any one time.

XI. And be it Enacted, That during the time of taking of the said Oaths, and making and subscribing the said Declaration, all other Matters and Proceedings, as well in the said Houses of Parliament, as in the said Court, shall cease; And the said Oaths, Declaration, and Subscription, together with a Schedule of the Names of the Persons who shall, by virtue of this Act, take and subscribe the same, shall be Made, Entred, and Filed in Parchment-Rolls from time to time, duly provided for that purpose by the Clerk of the House of Lords, and the Clerk of the House of Commons, and by the Clerk of the Petty-Bag in Chancery, for the several and respective uses, as aforesaid; and none of the Peers or Members shall give or pay any Fee or Reward to any such Clerk, above the Sum of Twelve Pence, for the Entry of his taking the said Oaths, and making and subscribing the said Declaration: All which Rolls respectively the said Clerks are hereby required, from time to time, without any Fee or Reward, to shew to any Person desiring to look upon the same; And the said House of Peers, and House of Commons, and Court of Chancery, are hereby severally impowred and required in the first place, all other Business laid aside, to administer the said Oaths, Declaration and Subscription, respectively, as occasion shall be from time to time, to all and every the Person and Persons aforesaid, duly demanding the same, according to the directions, purport and meaning of this present Act.

XII. Provided always, That this Act, nor any thing herein contained, shall extend to the prejudice of any Person for coming into, or remaining in the presence of the King or Queens Majesty, who shall first have Licence so to do, by any Warrant under the Hands and Seals of Six or more Privy Counsellors, by Order of his Majesties Privy-Council, upon some urgent occasion therein to be expressed, so as such Licence exceed not the space of Ten Days, and that the said Licence be first filed and put upon Record in the Office of the Petty-Bag in Chancery, for any body to view without Fee or Reward, and no Person be Licensed for above the number of Thirty Days in any one Year.

XIII. Provided nevertheless, That if any Offender contrary to this Act, shall at any time after such Offence, take the said Oaths, and make and subscribe the said Declaration in his Majesties High Court of Chancery, and in the manner aforesaid, every such Person shall be from thenceforth freed and Discharged of and from all Seizures, Penalties, and Losses which he might otherwise sustain or bear for or by reason of being a Popish Recusant Convict by virtue of this Act; and shall be freed and Discharged from all Disabilities and Incapacities incurred thereby, so as such Freedom and Discharge extend not to restore any such Person to any Office or Place filled and supplied upon voidance by this Act, nor to any other Office, till after the expiration of One Year, from the taking the said Oath, and making the Declaration aforesaid, nor to make void, or at any time Discharge the said Forfeiture of Five hundred Pounds, incurred as aforesaid.

XIV. Provided always, That nothing in this Act contained, shall extend to his Royal Highness the Duke of York.

Abridgment.

—shall suffer the Penalties of this Act.

Proviso for nine Servants to the Queen, being Portuguese,

—and English Women, not exceeding nine.

All Oaths and Subscriptions shall be Enrolled,

—and administered before any other Business.

Six of the Council may License any Person, upon occasion, to come to the King or Queen.

Offender taking Oaths and Subscribing, shall be no longer under the Penalties and Disabilities.

Proviso for the Duke of York.



Abridgment.

I Will. & Mar. Cap. 18.

In an Act, Entituled, *An Act for exempting Their Majesties Protestant Subjects, dissenting, &c.*

§ II.—And Except also the Statute made in the Thirtieth Year of the said King Charles the Second, Entituled, An Act for the more Effectual Preserving the Kings Person and Government, by Disabling Papists from Sitting in either House of Parliament; — [ which shall be construed to extend to Dissenters. ]

Civil Disabilities, and Burdens, by reason of Recusancy.

A.D. 1688.

I Will. & Mar. Cap. 18.

In an Act, Entituled, *An Act for exempting Their Majesties Protestant Subjects, dissenting, &c.*

§ II. [ Every Dissenter, in order to enjoy the benefit of the Toleration ] shall make and subscribe the Declaration mentioned in a Statute made in the Thirtieth Year of the Reign of King Charles the Second, Entituled, An Act to Prevent Papists from Sitting in either House of Parliament.

A.D. 1688.

6, 7 Will. III. Cap. 20.

In an Act, Entituled, *An Act for the King's most gracious, general, and free Pardon.*

XXXII. And also Excepted all Offences committed against an Act of Parliament made in the Thirtieth Year of the Reign of the said King Charles the Second, Entituled, An Act for the more effectual preserving the King's Person and Government, by Disabling Papists from Sitting in either House of Parliament, and all Forfeitures, Pains, Penalties and Disabilities, which any Person or Persons is, are, or may be liable to, by reason of any of the said Offences committed against either of the said Statutes.

A.D. 1694.

7 Annæ, Cap. 22.

In an Act, Entituled, *An Act for the Queen's most gracious, general, and free Pardon.*

—And also Excepted out of this Act all Offences committed or done, since Her Majesties happy Accession to the Crown, contrary to or against— an Act of Parliament made in the Thirtieth Year of the Reign of the said King Charles the Second, Entituled, An Act for the more effectual preserving the King's Person and Government, by Disabling Papists from sitting in either Houle of Parliament.

A.D. 1708.

I Will. & Mar.---then intermitted till 4 Will. & Mar.---and then resum'd.

A.D. 1689.

*In the Land-Tax.*

XLV. And be it further Enacted by the Authority aforesaid, That every Papist, or reputed Papist, being of the Age of † Sixteen Years, and upwards, who shall not have taken the Oaths mentioned, and required to be taken by an Act made in the First Year of the Reign of Their late Majesties King William and Queen Mary, Entituled, An Act for Abrogating the Oaths of Supremacy and Allegiance, and Appointing other Oaths, shall

† 3 Anne, &c. it was made Eighteen.

Dissenters shall not be exempted from the Penalties of the foregoing Act.

Dissenters shall Subscribe Declaration, in Stat. 30 Car. 2. c. 1. to enjoy the benefit of the Toleration.

Offences against the foregoing Act, excepted out of General Pardon.

Offences against the foregoing Act, since the Queen's Reign, excepted.

Papists shall be double-taxed,



*Civil Disabilities, and Burdens, by reason of Recusancy.*

shall Yield and Pay unto Her Majesty double the Sums and Rates, which by Force and Virtue of any Clause in this Act before-mentioned and contained, he or she should or ought to pay, or be charged with; to be assessed, levied, collected, answered and paid, in such manner, and by such ways and means, and according to such Rules and Directions, and under such Penalties and Forfeitures, as are before in this Act expressed or appointed, for and concerning the above-mentioned Rates and Sums.

XLVI. Provided nevertheless, That if any such Papist, or reputed Papist, within Ten Days next after the first Meeting of the said Commissioners, in the respective Counties or Places where he or she ought to be taxed or assessed, according to the Intent of this present Act, shall take the said Oaths before Two or more of the said Commissioners (which Oaths the said Two or more Commissioners are Impowered to Administer,) in that Case he or she shall not be liable to be doubly assessed, as aforesaid.

A.D. 1699.

II, 12 Will. III. Cap. IV.

In an Act, Entituled, *An Act for the further preventing the growth of Popery.*

§ IV. And be it also further Enacted by the Authority aforesaid, That from and after the Nine and twentieth Day of September, which shall be in the Year of our Lord, One thousand seven hundred, If any Person Educated in the Popish Religion, or professing the same, shall not within Six Months after he or she shall attain the Age of Eighteen Years, take the Oaths of Allegiance and Supremacy, and also Subscribe the Declaration set down and express in an Act of Parliament, made in the Thirtieth Year of the Reign of the late King Charles the Second, Entituled, An Act for the more effectual preserving the Kings Person and Government, by disabling Papists from Sitting in either House of Parliament, to be by him or her Made, Repeated and Subscribed in the Courts of Chancery or King's Bench, or Quarter-Sessions of the County where such Person shall reside; every such Person shall in respect of him or her self only, and not to or in respect of any of his or her Heirs or Posterity, be disabled and made incapable to Inherit or Take, by Discent, Devise or Limitation, in Possession, Reversion or Remainder, any Lands, Tenements or Hereditaments, within the Kingdom of England, Dominion of Wales, or Town of Berwick upon Tweed; And that during the Life of such Person, or until he or she do take the said Oaths, and Make and Subscribe the said Declaration, in manner, as aforesaid, the next of his or her Kindred, which shall be a Protestant, shall have and enjoy the said Lands, Tenements and Hereditaments, without being accountable for the Profits by him or her received during such enjoyment thereof, as aforesaid; But in case of any wilful Waste committed on the said Lands, Tenements or Hereditaments, by the Person so having or enjoying the same, or any other by his or her Licence or Authority, the Party Disabled, his or her Executors and Administrators, shall and may Recover Treble Damages for the same, against the Person Committing such Waste, his or her Executors or Administrators, by Action of Debt, in any of his Majesties Courts of Record at Westminster. And that from and after the Tenth Day of April, which shall be in the Year of our Lord, One thousand seven hundred, every Papist, or Person making Profession of the Popish Religion, shall be Disabled, and is hereby made Incapable to Purchase either in his or her own Name, or in the Name of any other Person or Persons, to his or her Use, or in Trust for him or her, any Manors, Lands, Profits out of Lands, Tenements, Rents, Terms or Hereditaments, within the Kingdom of England, Dominion of Wales, and Town of Berwick upon Tweed; And that all and singular Estates, Terms, and any other Interests or Profits whatsoever out of Lands, from and after the said Tenth Day of April, to be made, suffered or done, to or for the Use or behoof of any such Person or Persons, or upon any Trust or Confidence, mediately or immediately, to or for the Benefit or Relief of any such Person or Persons, shall be utterly void and of none effect, to all Intents, Construations and Purposes whatsoever.

Abridgment.

—unless they take the Oaths before the Commissioners.

Every Papist, who shall not take the Oaths, and Subscribe in 6 Months, after 18 Years of Age,

—shall be disabled to Inherit,

—and the next Protestant Heir shall enjoy the Lands,

—but without Waste.

Papists shall be disabled to Purchase,

—and all Estates, Terms, &c. for their use, upon Trust, shall be void.



Abridgment.

C A P. VII.

*Ecclesiastical Methods for RECLAIMING of Recufants.*

C A N O N S, 1603.

*lxvi. Ministers to Confer with Recufants.*

EVERY Minister being a Preacher, and having any Popish Recufant or Recufants in his Parish, and thought fit by the Bishop of the Diocese, shall labour diligently with them from time to time, thereby to reclaim them from their Errors. And if he be no Preacher, or not such a Preacher, then he shall procure, if he can possibly, some that are Preachers so qualified, to take pains with them for that purpose. If he can procure none, then he shall inform the Bishop of the Diocese thereof, who shall not only appoint some Neighbour Preacher or Preachers adjoining, to take that Labour upon them, but himself also (as his important Affairs will permit him) shall use his best Endeavour, by Instruction, Persuasion, and all good means he can devise, to reclaim both them and all other within his Diocese so affected.

Minister shall endeavour to reclaim Recufants, if a Preacher, &c.

—if not, he shall procure one to do it,

—or Bishop shall appoint one,

—and use his own endeavours.

*Ecclesiastical Methods for Reclaiming of Recufants.*

I Jac. I.

C A N O N S, 1603.

*cx. Schismaticks to be presented.*

IF the Church-wardens or Quest-men or Assistants, do or shall know any man within their Parish or elsewhere, that is a hinderer of the word of God to be read or sincerely Preached, or of the execution of these our Constitutions, or a fautor of any usurped or foreign power by the Laws of this Realm justly rejected and taken away, or a defender of Popish and erroneous Doctrine: they shall detect and present the same to the Bishop of the Diocese or Ordinary of the place, to be censured and punished according to such Ecclesiastical Laws as are prescribed in that behalf.

Fautors of the Papal Power, and Doctrin, shall be Presented.

I Jac. I.

C A N O N S, 1603.

*cxiv. Ministers shall present Recufants.*

EVERY † Parson, Vicar, or Curate, shall carefully inform themselves every year hereafter, how many Popish Recufants, Men, Women and Children above the age of thirteen years, and how many being Popishly given (who though they come to the Church, yet do refuse to receive the Communion) are Inhabitants, or make their abode either as Sojourners or common Guests in any of their several Parishes, and shall set down their true names in writing (if they can learn them) or otherwise such names as for the time they carry, distinguishing the absolute Recufants from half Recufants: and the same, so far as they know or believe, so distinguished and set down under their Hands, shall truly Present to their Ordinaries before the Feast of the Nativity next ensuing, under pain of suspension to be inflicted upon them by their said Ordinaries, and so every year hereafter upon the like pain, before the Feast of St. John Baptist. Also we ordain, That all such Ordinaries, Chancellors, Commissaries, Archdeacons, Officials, and all other Ecclesiastical Officers, to whom the said Presentments shall be exhibited, shall likewise within one Month after the Receipt of the same, under pain of suspension by the Bishop, from the Execution of their Offices for the space of half a year (as often as they shall offend therein) deliver them or cause to be delivered to the Bishop respectively; who shall also exhibit them to the Archbishop within six Weeks, and the Archbishop to his Majesty within other six Weeks after he hath received the said Presentments.

Ministers shall inform themselves of the number of Papisits,

—and Persons Popishly affected,

—and shall present them to the Ordinary, yearly,

—and such Presentments made to Chancellors, and other Officers, shall be delivered to the Bishop,

—by the Bishop, to the Archbishop, —by the Archbishop, to the King.

† Vide Stat. 3 Jac. I. c. 4. § 4.

I Jac. I.



*Papists  
Confined to  
certain  
Places of  
Abode.*

A. D. 1592.

## C A P. VIII.

*Papists* CONFINED to certain PLACES of ABODE.

35 Eliz. Cap. 2.

*An Act for restraining of Popish Recusants to some certain Places of Abode.*

**F**OR the better discovering and avoiding of such Traiterous and most dangerous Conspiracies and Attempts as are daily devised and practised against our most Gracious Sovereign Lady the Queens Majesty, and the happy Estate of this Common-weal, by sundry wicked and seditious Persons, who terming themselves Catholicks, and being (indeed) Spies and Intelligencers not only for Her Majesties Foreign Enemies, but also for Rebellious and Traiterous Subjects born within Her Highnesss Realms and Dominions, and hiding their most detestable and devilish purposes under a false pretext of Religion and Conscience, do secretly wander and shift from place to place within this Realm, to corrupt and seduce Her Majesties Subjects, and to stir them to Sedition and Rebellion :

II. Be it Ordained and Enacted by our Sovereign Lady the Queens Majesty, and the Lords Spiritual and Temporal, and the Commons in this present Parliament Assembled, and by the Authority of the same, That every Person above the Age of Sixteen Years, born within any of the Queens Majesties Realms and Dominions, or made Denizen, being a Popish Recusant, and before the end of this Session of Parliament, convicted for not repairing to some Church, Chapel, or usual place of Common Prayer, to hear Divine Service there, but forbearing the same, contrary to the Tenor of the Laws and Statutes heretofore made and provided in that behalf, and having any certain place of dwelling and abode within this Realm, shall, within forty Days next after the end of this Session of Parliament (if they be within this Realm, and not restrained or stayed either by Imprisonment, or by Her Majesties Commandment, or by order and direction of some Six or more of the Privy Council, or by such Sickness and Infirmity of Body, as they shall not be able to Travel without imminent danger of Life, and in such cases of absence out of the Realm, restraint or stay, then within Twenty Days next after they shall return into the Realm, and be enlarged of such Imprisonment or Restraint, and shall be able to Travel) repair to their place of dwelling where they usually heretofore made their common abode, and shall not at any time after pass or remove above five Miles from thence.

III. And also that every Person being above the Age of Sixteen Years, born within any Her Majesties Realms or Dominions, or made Denizen, and having, or which hereafter shall have any certain place of dwelling and abode within this Realm, which being then a Popish Recusant, shall at any time hereafter be lawfully Convicted for not repairing to some Church, Chapel, or usual place of Common Prayer, to hear Divine Service there, but forbearing the same contrary to the said Laws and Statutes, and being within this Realm at the time that they shall be Convicted, shall within forty Days next after the same Conviction (if they be not restrained or stayed by Imprisonment or otherwise, as is aforesaid, and in such cases of restraint and stay, then within Twenty Days next after they shall be enlarged of such Imprisonment, or Restraint, and shall be able to Travel) repair to their place of usual dwelling and abode, and shall not at any time after pass or remove above five Miles from thence, upon pain that every Person and Persons that shall offend against the tenor and intent of this Act in any thing before mentioned, shall Lose and Forfeit all his and their Goods and Chattels, and shall also Lose and Forfeit to the Queens Majesty all the Lands, Tenements and Hereditaments, and all the Rents and Annuities of every such Person so doing or offending, during the Life of the same Offender.

Abridgment.

Conspiracies being carried on by Popish Spies, who shift from place to place,

Enacted that,

—every Papist convicted, above Sixteen Years of age,

—having any certain Dwelling,

—shall repair to it, and not remove above 5 Miles;

—and in like manner, those who shall hereafter be Convicted,

—upon pain, in both cases, to Forfeit Goods and Chattels, and Estate, during Life.



Abridgment.

Papift Convict having no dwelling,

—shall repair to the place of his Birth, or to his Parents, and not remove 5 Miles,

—upon pain to forfeit Goods and Chattels, and Estate during Life.

Copyholder Recufant shall Forfeit to the Lord,

—or if the Lord be a Recufant, to the Queen.

Recufant having removed to his dwelling, as above-said,

—shall deliver his name to the Minister, &c.

—who shall enter it in a Book,

—and certifie it to Quarter-Sessions.

Recufants, if indigent, being not affected by the Laws in being,

Enacted, that,

—Any Popish Recufant, who hath not 20 Marks a Year, or 40<sup>l</sup> in Goods,

IV. And be it also Enacted by the Authority aforesaid, That every Person above the Age of Sixteen Years, born within any her Majesties Realms or Dominions, not having any certain place of dwelling and abode within this Realm, and being a Popish Recufant, not usually repairing to some Church, Chapel, or usual place of Common Prayer, but forbearing the same, contrary to the same Laws and Statutes in that behalf made, shall within forty Days next after the end of this Session of Parliament (if they be then within this Realm, and not imprisoned, restrained, or stayed, as aforesaid, and in such case of absence out of the Realm, Imprisonment, Restraint, or Stay, then within Twenty Days next after they shall return into the Realm, and be enlarged of such Imprisonment or Restraint, and shall be able to Travel) to repair to the place where such Person was born, or where the Father or Mother of such Person shall then be dwelling, and shall not at any time after remove or pass above five Miles from thence; upon pain that every Person and Persons which shall offend against the tenor and intent of this Act in any thing before mentioned, shall Lose and Forfeit all his and their Goods and Chattels, and shall Forfeit to the Queens Majesty, all the Lands, Tenements and Hereditaments, and all the Rents and Annuities of every such Person so offending, during the life of the same Person.

V. And be it further Enacted by the Authority aforesaid, That every such Offender, as is before mentioned, which hath or shall have any Lands, Tenements or Hereditaments, by Copy of Court Roll, or by any other Customary Tenure at the will of the Lord, according to the Custom of any Manor, shall Forfeit all and singular his and their said Lands, Tenements and Hereditaments so holden by Copy of Court Roll, or Customary Tenure, as aforesaid, for and during the life of such Offender (if his or her Estate so long continue) to the Lord or Lords of whom the same be immediately holden (if the same Lord or Lords be not then a Popish Recufant, and Convicted for not coming to Church to hear Divine Service, but forbearing the same contrary to the Laws and Statutes aforesaid, nor Seized or Possessed upon trust, to the use or behoof of any such Recufant, as aforesaid) and in such case the same Forfeiture to be to the Queens Majesty.

VI. Provided always, and be it further Enacted by the Authority aforesaid, That all such Persons as by the intent and true meaning of this Act, are to make their repair to their place of dwelling and abode, or to the place where they were born, or where their Father or Mother shall be dwelling, and not to remove or pass above five Miles from thence, as is aforesaid, shall within Twenty Days next after their coming to any of the said places (as the case shall happen) notify their coming thither, and present themselves, and deliver their true Names in Writing to the Minister or Curate of the same Parish, and to the Constable, Headborough, or Tythingman of the Town, and thereupon the said Minister or Curate shall presently enter the same into a Book to be kept in every Parish for that purpose.

VII. And after, the said Minister or Curate, and the said Constable, Headborough or Tythingman, shall certifie the same in Writing to the Justices of the Peace of the same County at the next general or Quarter-Sessions to be holden in the same County, and the said Justices shall cause the same to be entred by the Clerk of the Peace in the Rolls of the same Sessions.

VIII. And to the end that the Realm be not pestered and overcharged with the multitude of such Seditious and Dangerous People, as is aforesaid, who having little or no ability to answer or satisfie any competent Penalty for their Contempt and Disobedience of the said Laws and Statutes, and being committed to Prison for the same, do live for the most part in better case there, than they could if they were abroad at their own liberty; The Lords Spiritual and Temporal and the Commons in this present Parliament Assembled, do most humbly and instantly beseech the Queens Majesty, that it may be further Enacted, That if any such Person or Persons being a Popish Recufant (not being a Feme Covert, and not having Lands, Tenements, Rents, or Annuities, of an absolute Estate or Inheritance or Freehold, of the clear yearly value of Twenty Marks, above all charges, to their own use and behoof, and not upon any secret trust or confidence for any other, or Goods and Chattels in their own right, and

Papists Confined to certain Places of Abode.

to



*Papists  
confined to  
certain  
Places of  
Abode.*

to their own proper use and behoof, and not upon any such secret trust and confidence for any other, above the value of xl. Pounds) shall not within the time before in this Act in that behalf limited and appointed, repair to their place of usual dwelling and abode, if they have any, or else to the place where they were born, or where their Father or Mother shall be dwelling, according to the tenor and intent of this present Act; and thereupon notify their coming, and present themselves, and deliver their true Names in Writing, to the Minister or Curate of the Parish, and to the Constable, Headborough or Tythingman of the Town, within such time, and in such manner and form, as is aforesaid; or at any time after such their repairing to any such place, as is before appointed, shall pass or remove above five Miles from the same; and shall not within Three Months next after such Person shall be apprehended or taken for offending, as is aforesaid, conform themselves to the obedience of the Laws and Statutes of this Realm, in coming usually to the Church to hear Divine Service, and in making such publick Confession and Submission as hereafter in this Act is appointed and expressed, being thereunto required by the Bishop of the Diocese, or any Justice of the Peace of the County where the same Person shall happen to be, or by the Minister or Curate of the Parish; That in every such case, every such offender, being thereunto warned or required by any two Justices of the Peace, or Coroner of the same County where such Offender shall then be, shall upon his or their corporal Oath before any two Justices of the Peace, or Coroner of the same County, abjure this Realm of England, and all other the Queens Majesties Dominions for ever; and thereupon shall depart out of this Realm at such Haven and Port, and within such time as shall in that behalf be assigned and appointed by the said Justices of Peace or Coroner before whom such Abjuration shall be made, unless the same Offenders be letted or stayed by such lawful and reasonable means or causes, as by the Common Laws of this Realm are permitted and allowed in cases of Abjuration for Felony; and in such cases of let or stay, then within such reasonable and convenient time after, as the Common Law requireth in case of Abjuration for Felony, as is aforesaid.

IX. And that every Justice of Peace and Coroner before whom any such Abjuration shall happen to be made, as is aforesaid, shall cause the same presently to be entred of Record before them, and shall certifye the same to the Justices of Assises or Goal-delivery of the said County, at the next Assises or Goal-delivery to be holden in the same County.

X. And if any such Offender, which, by the tenor and intent of this Act, is to be abjured, as is aforesaid, shall refuse to make such Abjuration, as is aforesaid; or after such Abjuration made, shall not go to such Haven, and within such time as is before appointed, and from thence depart out of this Realm, according to this present Act; or after such his departure shall return or come again into any Her Majesties Realms or Dominions, without Her Majesties special Licence in that behalf first had and obtained: That then in every such case, the Person so offending, shall be adjudged a Felon, and shall suffer and lose as in case of Felony, without benefit of Clergy.

XI. And be it further Enacted and Ordained by the Authority aforesaid, That if any Person which shall be suspected to be a Jesuit, Seminary, or Haling Priest, being examined by any Person having lawful Authority in that behalf, to examine such Person as shall be so suspected, shall refuse to answer directly and truly whether he be a Jesuit or a Seminary, or Haling Priest, as is aforesaid; every such Person so refusing to answer, shall for his disobedience, and contempt in that behalf, be committed to Prison by such as shall examine him, as is aforesaid, and thereupon shall remain and continue in Prison without Bail or Mainprise, until he shall make direct and true answer to the said questions whereupon he shall be so examined.

XII. Provided nevertheless, and be it further Enacted by the Authority aforesaid, That if any of the Persons which are hereby limited and appointed to continue and abide within five Miles of their usual dwelling-place, or of such place where they were born, or where their Father and Mother shall be dwelling, as is aforesaid, shall have necessary occasion or business to go and travel out of the compass of the said five Miles, That then, and in every such case, upon Licence in that behalf to be gotten under the hands of two of the Justices of the Peace of the same County, with the privity and assent in writing of the Bishop of the Diocese, or of the Lieu-

**Abridgment.**

—offending against this Act,

—and not Conforming within 3 Months,

—shall take an Oath to abjure the Realm, and depart at such Port, &c. as the Justices shall appoint;

Which Abjuration shall be certified at the next Assises.

To refuse Abjuration, or to return without Licence, shall be Felony.

Any Person suspected to be a Jesuit, and refusing to answer directly,

—shall be committed to Prison.

Two Justices, with consent of the Bishop, or Lord Lieutenant, &c. may grant Licence to travel beyond 5 Miles,

tenant,



Abridgment.

—and Persons being Summomed to appear in any Court, &c.

—shall not incur the pain;

—nor they who are bound to surrender themselves, upon Proclamation.

Offenders, who, before Conviction, submit and Conform,

—shall be discharged from all Pains.

—Form of Submission, viz.

—Sorrow for offending,

—Abjuration of Papal Authority, —Promise of Conformity.

Ministers shall enter all Submissions, and certifie them to the Bishop.

Recufant relapsing, after Submission, shall enjoy no benefit by it.

tenant, or of any Deputy-Lieutenant of the same County, under their hands, it shall and may be lawful for every such Person to go and travel about such their necessary business, and for such time only for their travelling, attending and returning, as shall be comprised in the same Licence; Any thing before in this Act to the contrary notwithstanding.

XIII. Provided also, That if any such Person so restrained, as is aforesaid, shall be urged by Process, without fraud or covin, or be bounden without fraud or covin to make appearance in any of Her Majesties Courts, or shall be sent for, commanded or required by any three or more of Her Majesties Privy-Council, or by any four or more of any Commissioners to be in that behalf nominated and assigned by Her Majesty, to make appearance before Her Majesties said Council or Commissioners, That in every such case, every such Person so bounden, urged, commanded or required to make such appearance, shall not incur any pain, forfeiture or loss, for travelling to make appearance accordingly, nor for his abode concerning the same, nor for convenient time for his return back again upon the same.

XIV. And be it further Provided and Enacted by the Authority aforesaid, That if any such Person or Persons so restrained, as is aforesaid, shall be bound, or ought to yield and render their Bodies to the Sheriff of the County where they shall happen to be, upon Proclamation in that behalf without fraud or covin to be made, That then in every such case, every Person which shall be so bounden, or ought to yield or render their Body, as aforesaid, shall not incur any pain, forfeiture or loss for travelling for that intent and purpose only, without any fraud or covin, nor for convenient time taken for their return back again upon the same.

XV. And furthermore, be it Enacted by the Authority of this present Parliament, That if any Person or Persons that shall at any time hereafter offend against this Act, shall before he or they shall be thereof convicted, come to some Parish-Church on some Sunday or other Festival Day, and then and there hear Divine Service, and at Service-time, before the Sermon or reading of the Gospel, make publick and open Submission and Declaration of his and their conformity to Her Majesties Laws and Statutes, as hereafter in this Act is declared and appointed; that then the same Offenders shall thereupon be clearly discharged of and from all and every the pains and forfeitures inflicted or imposed by this Act, or any of the said Offences in this Act contained: the same Submission to be made as hereafter followeth: That is to say,

XVI. **I** A. B. do humbly confels and acknowledge, That I have grievously offended God, in contemning Her Majesties godly and lawful Government and Authority, by absenting my self from Church, and from hearing Divine Service, contrary to the godly Laws and Statutes of this Realm, and I am heartily sorry for the same, and do acknowledge and testifie in my conscience, that the Bishop or Sea of Rome hath not, nor ought to have any Power or Authority over Her Majesty, or within any Her Majesties Realms or Dominions. And I do promise and protest, without any dissimulation, or any colour or means of any Dispensation, that from henceforth I will from time to time obey and perform Her Majesties Laws and Statutes, in repairing to the Church, and hearing Divine Service, and do my uttermost endeavour to maintain and defend the same.

XVII. And that every Minister or Curate of every Parish where such Submission and Declaration of conformity shall hereafter be so made by any such Offender, as aforesaid, shall presently enter the same into a Book to be kept in every Parish for that purpose, and within Ten Days then next following shall certifie the same in writing to the Bishop of the same Diocese.

XVIII. Provided nevertheless, That if any such Offender, after such Submission made, as is aforesaid, shall afterward fall into relapse, or estoons become a Recufant in not repairing to Church to hear Divine Service, but shall forbear the same, contrary to the Laws and Statutes in that behalf made and provided; that then every such Offender shall lose all such benefit as he or she might otherwise by virtue of this Act have or enjoy, by reason of their said Submission, and shall thereupon stand and remain in such plight, condition, and degree, to all intents, as though such Submission had never been made.

XIX. Provided

Papists confined to certain Places of Abode.



*Popists  
confined to  
certain  
Places of  
Abode.*

XIX. Provided always, and be it Enacted by the Authority aforesaid, That all and every Woman married, or hereafter to be married, shall be bound by all and every Article, Branch, and Matter contained in this Statute, other than the Branch and Article of Abjuration before mentioned. And that no such Woman married, or to be married, during marriage, shall be in any wise forced, or compelled to abjure, or be abjured by this Act; Any thing therein contained to the contrary thereof notwithstanding.

Abridgment—  
Married-women  
are within the Act,  
—except Abjuration.

A.D. 1605.

3 Jac. I. Cap. 5.

In an Act, Entituled, *An Act to prevent and avoid dangers which may grow by Popish Recusants.*

§ VI. And whereas by a Statute made at Westminster in the five and thirtieth Year of the Reign of Queen Elizabeth, Entituled, An Act for the restraining of Popish Recusants to some certain Place of Abode, it was, amongst other things, Ordained and Enacted, That every Popish Recusant, then or after convicted for not repairing to Church, Chapel, or usual place of Common Prayer, having any certain place of Dwelling and Abode within this Realm, should, within the time limited by the said Statute, repair to their place of usual Dwelling and Abode, or not having any certain place of Dwelling or Abode within this Realm, should likewise within the time limited by the said Statute, repair to the place where such Person was born, or where the Father or Mother of such Person should be dwelling, and not at any time remove or pass above five Miles from thence, under the pains in the said Statute limited and provided: Which Statute, by reason of sundry Licences given unto such Recusants, under colour of a Proviso in the said Statute contained, hath not wrought that good effect in the Commonwealth, as was hoped: Be it therefore Enacted and Ordained by this present Parliament, and by the Authority of the same, That the said Statute made in the said five and thirtieth Year of the said Queen Elizabeth, for and concerning the confining of the said Recusants, under the Pains and Penalties therein contained, shall by this Act, and by the Authority of the same, be confirmed, and be hereafter put in due execution, according to the tenor, true intent and meaning of the said Statute in that behalf made: And that the said Proviso in the said Statute contained, giving power to grant Licence or Licences unto the said Recusants, to go and travel from or out of the compass of the said five Miles, shall be, from and after the end of this present Session of Parliament, utterly repealed and void; Any thing in the said Statute to the contrary notwithstanding.

Recital of the  
foregoing Statute,

—which hath been  
render'd ineffectual,  
by Licences.

The said Statute  
shall be confirm'd,

—and the Proviso  
for Licences re-  
peal'd.

A.D. 1605.

3 Jac. I. Cap. 5.

In an Act, Entituled, *An Act to prevent and avoid dangers which may happen by Popish Recusants.*

§ II. And whereas the repair of such evil-affected Persons to the Court or to the City of London may be very dangerous to His Majesties Person, and may give them more Liberty to Meet, Consult, and Plot their Treasons and Practices against the State, than if they should be restrained and confined unto their private Houses in the Country: For remedy hercof, Be it Enacted by the Authority aforesaid, That no Popish Recusant convicted, or to be convicted, shall come into the Court or House where the Kings Majesty, or His Heir Apparent to the Crown of England shall be, unless he be commanded so to do by the Kings Majesty, His Heirs and Successors, or by Warrant in writing from the Lords and others of the most Honourable Privy-Council of the Kings Majesty, His Heirs and Successors, or any of them; upon pain to forfeit for every time so offending, One hundred Pounds, the one Moiety to the Kings Majesty, His Heirs and Successors, the other Moiety to him that will discover and sue for the same, by Action of Debt, Bill, Plaint, or Information, in any of His Majesties Courts of Record, wherein no Escoin, Protection, or Wager of Law shall be allowed.

Repair of Recu-  
sants to Court, and  
City, giving an  
opportunity to  
Plot,

Enacted, that,  
—no Recusant  
Convict, without  
special Command,  
shall come to  
Court, upon pain  
of 100 l.



Abridgment.

All Persons, who have absented from Divine Service, 3 Months,

—shall remove 10 Miles from London, and deliver their Names to the Lord Mayor, or Justices,

—upon pain to forfeit 100 l.

—and the same to be done by Recusants, who shall hereafter live in or near London.

Proviso for Tradesmen, and such as have no other dwelling.

Recusants may travel beyond five Miles, by Licence from the King, or three of the Council,

III. And that all Popish Recusants indicted or convicted, and all other Persons which have not repaired to some usual Church or Chapel, and there heard Divine Service, but have forborn the same by the space of Three Months last past, contrary to the Laws and Statutes of this Realm, dwelling, abiding, or remaining within the City of London, or the Liberties thereof, or within Ten Miles of the said City, shall, within Three Months next after the end of this Session of Parliament, depart from the said City of London, and Ten Miles compass of the same, and also shall deliver up their Names to the Lord Mayor of London, in case such Recusant do dwell or remain within the City of London, or the Liberties thereof: And in case the said Recusant shall dwell or remain in any other County within Ten Miles of the same City, then the said Recusant shall deliver up his or her Name to the next Justice of Peace within such County where the said Recusant shall so dwell or remain, within Forty Days after the end of this Session of Parliament, upon pain that every Person offending herein, shall forfeit to our Sovereign Lord the Kings Majesty, His Heirs and Successors, the Sum of One hundred Pounds, the one Moiety whereof shall be to the Kings Majesty, His Heirs and Successors; the other Moiety to him or them that will Sue for the same, by Action of Debt, Bill, Plaint, or Information, in any of the Kings Majesties Courts of Record, wherein no Essoin, Protection, or Wager of Law shall be admitted or allowed.

IV. And that all Popish Recusants, which shall hereafter come, dwell, or remain within the said City of London, or the Liberties thereof, or within Ten Miles of the said City, which now are, or hereafter shall be indicted or convicted of such Recusancy, or which shall at any time hereafter not repair unto some usual Church or Chapel, and there hear Divine Service, but shall forbear the same by the space of Three Months, contrary to the Laws and Statutes of this Realm, shall, within Ten Days after such Indictment, or Conviction, depart from the said City of London, and Ten Miles compass of the same, and also shall deliver up their Names to the Lord Mayor of London for the time being, in case such Recusant shall dwell or remain within the said City of London, or the Liberties thereof: And in case the said Recusant shall dwell or remain in any other County within Ten Miles of the said City, then the said Recusant shall deliver up his or her Name to the next Justice of Peace within such County where the said Recusant shall so dwell or remain, within the said Ten Days next after such Indictment or Conviction; upon pain that every Person offending herein, shall likewise forfeit to our said Sovereign Lord the Kings Majesty, His Heirs and Successors, the like Sum of an Hundred Pounds; the one Moiety whereof shall be to the Kings Majesty, His Heirs and Successors, and the other to him or them that will Sue for the same, by Action of Debt, Bill, Plaint, or Information, in any of the Kings Majesties Courts of Record, wherein no Essoin, Protection, or Wager of Law shall be admitted or allowed.

V. Provided always, That such Person or Persons as now use any Trade, mystery, or manual Occupation within the said City of London, or within Ten Miles of the same, and such as have or shall have their only dwelling within the said City, or Ten Miles compass of the same, not having any other dwelling or place of abode elsewhere, shall or may remain and continue in such place within the said City, or Ten Miles of the same, as they have dwelled, inhabited, or remained in by the space of Three Months next before this present Session of Parliament; Any thing herein contained to the contrary notwithstanding.

3 Jac. I. Cap. 5.

A.D. 1605.

In an Act, Entituled, *An Act to prevent and avoid dangers which may grow by Popish Recusants.*

S VII. Provided nevertheless, and be it further Enacted by this present Parliament, and by the Authority of the same, That it shall and may be lawful for the Kings most Excellent Majesty, His Heirs and Successors, or for Three or more of His Majesties most Honourable Privy-Council, or for Three or more of the Privy-Council of His Heirs and Successors, in writing

*Papists confined to certain Places of Abode.*



*Papists confined to certain Places of Abode.*

writing under the Hands of the said Privy-Counsellors, to give Licence to every such Reculant to go and travel out of the compass of the said Five Miles, for such time as in the said Licence shall be contained, for their travelling, attending, and returning, and without any other cause to be expressed within the said Licence. And if any of the Persons which are so confined, by virtue of the said Statute, as is aforesaid, shall have necessary Occasion or Business to go and travel out of the compass of the said Five Miles, That then, and in every such case, upon Licence in writing in that behalf to be gotten, under the Hands and Seals of Four of the Justices of the Peace of the same County, Limit, Division, or Place next adjoyning to the Place of Abode of such Reculant, with the privity and assent in writing of the Bishop of the Diocese, or of the Lieutenant, or of any Deputy-Lieutenant of the same County, residing within the said County or Liberty, under their Hands and Seals; In every of which Licence or Licences in writing so to be had and made, shall be specified and contained both the particular cause of the said Licence, and the time how long the said Party Licensed shall be absent, in travelling, attending, and returning. It shall and may thereupon be lawful for every such Person so Licensed, to go and travel about such their necessary business, and for such time only for their travelling, attending, and returning, as shall be comprised in the said Licence, the said Party so Licensed first taking his corporal Oath before the said Four Justices of the Peace, or any of them (who shall have Authority, by virtue of this Act, to minister the same) that he hath truly informed them of the cause of his journey, and that he shall not make any causeless stays: And that all and every Licence hereafter to be made in this behalf, contrary to the tenor, effect, and true meaning of this Statute, shall be utterly void, frustrate, and of none effect; Any thing in the said former Act, or in this Act, to the contrary notwithstanding. And every Person so confined, which shall depart or go above five Miles from the place whereunto he is or shall be confined, not having such Licence, and not having taken such Oath, as aforesaid, shall incur the Pain and Penalty, and forfeit as a Reculant convicted, and passing or going above five Miles from the said place whereunto he is or shall be confined by the said Statute of Tricesimo quinto Elizabethæ, should do.

Abridgment.

—or from four Justices, with the privity of the Bishop, Lieutenant, &c.

—the Party first making Oath of the cause, and time of staying.

All other Licences shall be void.

Every Person travelling above five Miles without such Licence, shall suffer, as in 35 Eliz. c. 2.

2 Cro. 352.

*d Hands and Seals*] In the case of *Maxfield*, 11 Jac. 1. the Licence was found to be ill, because under *Seals* only, and not under *Hands*.

the Deputy-Lieutenant; whose Assent also ought to be by it self, and not with the other Four.

Ibid.

*e Deputy-Lieutenant*] It is not enough, that there be Three Justices, and a Fourth, who is both Deputy-Lieutenant and Justice; but it ought to be by Four Justices, besides

*f Particular Cause*] Another fault in the forementioned Licence for which it was adjudged to be ill, was, that the Cause ought not to have been shown in a *general* manner, as, *for urgent Causes*.

Ibid.

A.D. 1688.

I Will. & Mar. Cap. 9.

*An Act for the removing Papists and reputed Papists from the Cities of London and Westminster, and Ten Miles distance from the same.*

Whereas the great numbers of Papists resorting to the Cities of London and Westminster, are, and for a long time have been, found dangerous to the Peace and Safety of this Kingdom; For the better preservation of the Common Safety, and avoiding their mischievous practices and designs, Be it Enacted by the King and Queens most Excellent Majesties, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament Assembled, and by the Authority of the same, That for the better discovering and removing all Papists and reputed Papists out of the said Cities and Ten Miles of the same, it shall and may be lawful, and it is hereby Required, that the Lord Mayor of London for the time being, and every Justice of the Peace of the City of London, and for the City and Liberties of Westminster and Borough of Southwark, and of the Counties of Middlesex, Surry, Kent, and Suffex, within their respective Counties, Cities, Boroughs and Limits, do from time to

The great resort of Papists to London being very dangerous,

Enacted, that,

—the Lord Mayor and Justices of the Peace, shall cause all reputed Papists to be brought before them,

to



Abridgment.

—and tender them the Declaration, 30 Car. 2. c. 1.

—and any Person refusing it and continuing within Ten Miles, shall suffer as a Popish Recufant Convict.

The Names of Subscribers, and Refusers, shall be Certified to the King's Bench, or Quarter Sessions,

—and if they refuse there also, they shall be adjudged Papists Convict.

Proviso for Tradesmen, and those who have no other Dwelling,

—in case they certify their Names, &c. at the Quarter Sessions.

Proviso for Servants to Ambassadors,

—and for the Servants of Queen Dowager,

—so as none who are Subjects, be Jesuit, Priest, Monk, or Friar,

All Powers given to the Justices of *Suffex* by the foregoing Act by mistake, shall extend to *Essex*.

to time cause to be Arrested and brought before him every Person or Persons not being a Merchant Foreigner within the said Cities, or within Ten Miles of the same, as are, or are reputed to be Papists, and tender unto him the Declaration mentioned in the Statute made in the Thirtieth Year of King Charles the Second, Intituled, An Act for the more effectual preserving the Kings Person and Government, by disabling Papists from Sitting in either House of Parliament; And in case such Person upon such tender, refuse audibly and solemnly to repeat, make and subscribe the said Declaration, and shall after such refusal remain, continue, or be within the said City or Cities, or Ten Miles distance from the same, That in every such Case he or she shall forfeit and suffer, as a Popish Recufant Convict, by the Laws already Established, shall or may forfeit or suffer.

II. And it is hereby further Enacted, That every Justice of Peace shall and do certify all and every Subscription before him by virtue of this Act taken, and likewise the Names of all and every Person refusing to repeat, take, make or subscribe, as aforesaid, upon tender, under the Hand and Seal of the said Justice, into the Court of Kings Bench, the next Term, or else at the next Quarter Sessions that shall be of or for the County or Place where such taking, subscribing or refusal shall happen; And if the said Person so refusing and certified, shall not within the next Term or Sessions after such refusal, appear in the Court of Kings Bench or Sessions where such Certificate shall be Returned, and in open Court audibly and solemnly repeat, take, make and subscribe the Declaration aforesaid, and Indorse or Enter his so doing, upon the Certificate so Returned, shall be from the time of such his neglect or refusal, taken, esteemed and adjudged a Popish Recufant Convict, and as such to forfeit and be proceeded against.

III. Provided always, That this Act shall not extend to such Person or Persons, as now use any Trade, Mystery, or manual Occupation, within the said Liberties of London and Westminster, or within Ten Miles of the same; nor to such as within Six Months, before the Thirteenth Day of February, One thousand six hundred eighty eight, had their dwellings or places of Abode within the said Cities, or Ten Miles compass of the same, not having any dwelling or place of Abode elsewhere, so as he or they, before the First Day of August, One thousand six hundred eighty nine, do certify his or their Names, Additions, and Places of Abode, at the Sessions of the Peace to be held for the said respective Cities, Counties, or Places; and the Clerk of the Peace shall not take or receive above Two Pence for the entry of the Name, Addition and place of Abode of any one Person.

IV. Provided, That nothing in this Act shall relate to, or have any effect upon any Foreigner that is or shall be a menial Servant to any Ambassador, or publick Agent.

V. Provided, That nothing in this Act shall relate to, or have any effect upon any Person being a Natural born Subject of the King of Portugal, who now is, or hereafter shall be a sworn Servant to the Queen Dowager, nor to any other Servants being Natural born Subjects of Their Majesties, as Her Majesty the Queen Dowager shall under her Hand and Seal from time to time for that purpose be pleased to nominate, the said Servants so nominated not exceeding the number of Thirty at any one time, so as none of the said Servants, being natural born Subjects of Their Majesties, be a Jesuit, Priest, Monk, or Friar; Any Law or Statute notwithstanding.

I Will. & Mar. Cap. 17.

A.D. 1688.

An Act for Rectifying a Mistake in a certain Act of this present Parliament, For the Amoving Papists from the Cities of London and Westminster.

Whereas in an Act of this present Parliament, Intituled, An Act for the amoving Papists, and reputed Papists from the Cities of London and Westminster, and Ten Miles distance from the same, the County of Suffex is by mistake in the said Act inserted for the County of Essex; Be it Enacted by

Papists confined to certain Places of Abode.



*The Disarming of Papists.*

by the King and Queens most Excellent Majesties, with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament Assembled, and by the Authority of the same, That all and every the Powers and Authorities by the said Recited Act given to the Justices of the Peace of the County of Suffex, be and are hereby Declared and Enacted to extend to the County of Essex, and the Justices of Peace of the said County of Essex and Limits thereof.

Abridgment.

C A P. IX.

*The DISARMING of Papists.*

A.D. 1605.

3 Jac. I. Cap. 5.

In an Act, Entituled, *An Act to prevent and avoid Dangers which may grow by Popish Recusants.*

XXVII. **A**ND be it also Enacted by the Authority aforesaid, That all such Armour, Gunpowder and Munition, of whatsoever kinds, as any Popish Recusant Convict within this Realm of England, hath or shall have in his House or Houses, or elsewhere, or in the Hands or Possession of any other at his or their disposition, shall be taken from such Popish Recusants or others, which have or shall have the same to the use of such Popish Recusant, by Warrant of Four Justices of Peace at their General or Quarter-Sessions to be holden in the same County where such Popish Recusant shall be Resident (other than such necessary Weapons, as shall be thought fit by the said Four Justices of Peace to remain and be allowed for the defence of the Person or Persons of such Recusants, or for the defence of his, her, or their House or Houses) and that the said Armour and Munition so taken, shall be kept and maintained at the costs of such Recusants, in such places as the said Four Justices of Peace at their said Sessions of the Peace shall set down and appoint.

XXVIII. And be it further Enacted by the Authority aforesaid, That if any such Recusant having, or which shall have any such Armour, Gunpowder and Munition, or any of them, or if any other Person or Persons, which shall have any such Armour, Gunpowder, and Munition, or any of them, to the use of any such Recusant, shall refuse to declare or manifest unto the said Justices of Peace, or any of them, what Armour he, she, or they have, or shall have, or shall let, hinder or disturb the delivery thereof, to any of the said Justices, or to any other Person or Persons, authorized by their Warrant to take and seize the same; then every such Person so offending, contrary to this Statute in this behalf, shall Forfeit and Lose to the Kings Majesty, his Heirs and Successors, his and their said Armour, Gunpowder and Munition, and shall also be Imprisoned by Warrant of or from any Justices of the Peace of such County, by the space of Three Months, without Bail or Mainprize.

XXIX. And yet nevertheless be it Enacted by the Authority aforesaid, That notwithstanding the taking away of such Armour, Gunpowder and Munition, the said Popish Recusant shall and may be charged with the maintaining of the same, and with the buying, providing, and maintaining of Horse, and other Armour, and Munition, in such sort, as other his Majesties Subjects from time to time shall be appointed and commanded, according to their several abilities and qualities; and the said Armour, and Munition at the charge of such Popish Recusant, for them, and as their own provision of Armour and Munition, shall be shewed at every Muster, shew or use of Armour, to be had or made within the said County.

Armour and Ammunition shall be taken from Popish Recusants Convict,

—by Warrant of Four Justices,

—and be kept at the cost of the Recusants.

If they conceal, or refuse to deliver it, the Armour, &c. shall be Forfeited,

—and the Recusants Imprisoned for Three Months.

Notwithstanding this, Recusants shall be at the Charge of Shewing Horse and Armour.



Abridgment.

I Will. & Mar. Cap. 15.

An Act for the better securing the Government by disarming Papists and reputed Papists.

The Disarming of Papists. A.D. 1688.

For security against Papists, Enacted that,

—Two Justices knowing or suspecting any one to be a Papist, may tender the Declaration, 30 Car. 2. c. 1.

—and if he refuse to subscribe, he shall be liable to the Penalties of this Act.

Names of Subscribers, and Refusers, shall be certified to the Quarter-Sessions,

—and no Person refusing to subscribe, shall keep Arms in his House,

—but Two Justices may empower any Person to search for the same,

—and Seize them for the use of the Crown.

Every Papist, within 10 Days after refusal, shall deliver Arms and Ammunition, —and not hinder any Person, warranted to seize,

FOR the better securing of the Government against Papists and reputed Papists, Be it Enacted by the King and Queens most Excellent Majesties, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament Assembled, and by Authority of the same, That it shall and may be Lawful for any Two or more Justices of the Peace, who shall know or suspect any Person to be a Papist, or shall be informed that any Person is, or is suspected to be a Papist, to Tender, and they are hereby authorized and required forthwith to tender to such Person, so known or suspected to be a Papist, the Declaration set down and expressed in an Act of Parliament made in the Thirtieth Year of the Reign of the late King Charles the Second, Entituled, An Act for the more effectual Preserving the Kings Person and Government by disabling Papists from Sitting in either House of Parliament, to be by him made, repeated and subscribed; And if such Person so required, shall refuse to make, repeat and subscribe the said Declaration, or shall not make, repeat, and subscribe the said Declaration, or shall refuse or forbear to appear before the said Justices, for the making, repeating and subscribing the said Declaration, upon notice to him given, or left at his usual place of abode, by any Person Authorized in that behalf, by Warrant under the Hands and Seals of the said two Justices; such Person from thenceforth shall be taken to be, and is hereby declared to be liable and subject to all and every the Penalties, Forfeitures and Disabilities hereafter in this Act mentioned.

II. And be it hereby further Enacted, That the said Justices of Peace shall certify the Name, Surname, and usual place of abode of every Person, who being required, shall refuse or neglect to make, repeat and subscribe the said Declaration, or to appear before them for the making, repeating and subscribing the said Declaration: As also of every Person, who shall make, repeat and subscribe the said Declaration at the next General Quarter-Sessions to be holden for the Shire, Riding, Division or Liberty, for which they shall be Justices of the Peace, to be there recorded by the Clerk of the Peace, or Town-Clerk, and kept amongst the Records of the said Sessions.

III. And for the better securing Their Majesties Persons and Government, Be it further Enacted and Declared, That no Papist or reputed Papist, so refusing or making default, as aforesaid, shall or may have or keep in his House, or elsewhere, or in the Possession of any other Person to his use, or at his disposition, any Arms, Weapons, Gunpowder or Ammunition (other than such necessary Weapons, as shall be allowed to him by Order of the Justices of the Peace, at their General Quarter-Sessions, for the defence of his House or Person:) And that any Two or more Justices of the Peace, from time to time, by Warrant under their Hands and Seals, may authorize and empower any Person or Persons in the Day-time, with the assistance of the Constable or his Deputy, or the Tythingman, or Headborough, where the Search shall be, (who are hereby required to be aiding and assisting herein) to search for all Arms, Weapons, Gunpowder or Ammunition which shall be in the House, Custody or Possession of any such Papist or reputed Papist, and seize the same for the use of Their Majesties, and Their Successors; which said Justices of the Peace shall from time to time, at the next General Quarter-Sessions to be held for the County, Riding, Division or Liberty where such Seizure shall be made, deliver the said Arms, Weapons, Gunpowder and Ammunition in open Court, for the use aforesaid.

IV. And be it further Enacted, That every Papist or reputed Papist, who shall not within the space of Ten Days after such refusal, or making default, as aforesaid, discover and deliver, or cause to be delivered to some of Their Majesties Justices of the Peace all Arms, Weapons, Gunpowder, or Ammunition whatsoever, which he shall have in his House, or elsewhere, or which shall be in the possession of any Person, to his use or at his disposition, or shall hinder or disturb any Person or Persons authorized by Warrant under



*The Disarming of Papists.*

under the Hands and Seals of any Two Justices of the Peace, to search for and seize the same; that every such Person so offending, contrary to the Statute in this behalf made, shall be committed to the Common Gaol of the County or Place, where he shall commit such offence, by Warrant under the Hands and Seals of any Two Justices of the Peace, there to remain without Bail or Mainprize, for the space of Three Months; and shall also forfeit and lose the said Arms, and pay treble the value of them to the use of Their Majesties, and Their Successors, to be appraised by the Justices of the Peace, at the next general Quarter-Sessions to be held for the said County, Riding, or Division, to Their Majesties and Their Successors.

V. And be it further Enacted, That every Person who shall conceal, or be pryvy, or aiding or Assisting to the concealing, or who knowing thereof shall not discover or declare to some of Their Majesties Justices of the Peace, the Arms, Weapons, Gunpowder, or Ammunition of any Person so refusing, or making default, as aforesaid, or shall hinder or disturb any Person or Persons authorized, as aforesaid, in searching for, taking and seizing the same, shall be committed to the Common Gaol of the County, or Place where he shall commit such Offence, by Warrant under the Hands and Seals of any Two Justices of the Peace, there to remain without Bail or Mainprize for the space of Three Months; and shall also forfeit and lose treble the value of the said Arms to Their Majesties and Their Successors.

VI. And be it further Enacted, That if any Person or Persons shall Discover any concealed Arms, Weapons, Ammunition, or Gunpowder, belonging to any refusing or making default, as aforesaid, so as the same may be seized, as aforesaid, for the use of Their Majesties and Their Successors; the Justices of the Peace, upon delivery of the same at the General Quarter-Sessions, as aforesaid, shall have power, and they are hereby required, as a Reward for such a Discovery, by Order of Sessions, to allow to him or them a Sum of Money, amounting to the full value of the Arms, Weapons, Ammunition, or Gunpowder so discovered; the said Sum to be Assessed by the Judgment of the said Justices at their said Sessions, and to be Levied by Distress and Sale of the Goods of the Person Offending against this Act: rendering the Overplus which shall arise by such Sale, above the said Sum so allowed, and above the necessary Charges of taking such Distress, to the Owner.

VII. Provided always, That if any Person, who shall have refused or made default, as aforesaid, shall desire to submit and conform, and for that purpose, shall present himself before the Justices of Peace at the General Quarter-Sessions to be holden for the County, Riding, Division, or Liberty where his refusal or making default, as aforesaid, shall be Certified, as aforesaid, and shall there in open Court, Make, Repeat and Subscribe the said Declaration contained in the said Act made in the said Thirtieth Year of the Reign of the said late King Charles the Second, and take the several Oaths contained in an Act made in this present Parliament, Entituled, An Act for Removing and Preventing all Questions and Disputes concerning the Assembling and Sitting of this present Parliament; he shall from thenceforth be Discharged of and from all Disabilities and Forfeitures which he might or should be liable to for the future, by reason of his refusal or default, as aforesaid.

VIII. And be it further Enacted, That no Papist or reputed Papist so refusing, or making default, as aforesaid, at any time after the Fifteenth Day of May, in the Year of our Lord, One thousand six hundred eighty nine, shall or may have or keep in his own possession, or in the possession of any other Person to his use, or at his disposition, any Horse or Horses which shall be above the value of Five Pounds to be sold; And that any Two or more Justices of the Peace from time to time, by Warrant under their Hands and Seals, may and shall Authorize any Person or Persons, with the Assistance of the Constable or his Deputy, or the Tythingman, or Headborough, where the Search shall be (who are hereby required to be Aiding and Assisting herein) to Search for, and Seize, for the use of Their Majesties and Their Successors, all such Horses; which Horses are hereby declared to be forfeited to Their Majesties and Their Successors.

**Abridgment.**

—upon pain to be committed to Gaol,

—and forfeit the Arms, and treble value of them.

Every Person concealing, or aiding to conceal, or disturbing others in seizing,

—shall be imprisoned for Three Months, —and forfeit treble the value of the Arms.

Any Person, Discovering conceal'd Arms, so as they be seized,

—shall have, as a reward, a Sum not exceeding the value of the Arms,

—to be Levied by distress of the Goods of the Offender.

Any Offender who shall submit and conform,

—and Subscribe, as aforesaid, and Take the Oaths,

—shall be discharged from all Disabilities for the future.

No Papist, refusing Oaths and Declaration, shall keep a Horse above 5 *l.* value,

—upon pain, to be seized and forfeited to the King.



Abridgment.

Any Person concealing, or aiding to conceal Horses, shall be committed to Prison for 3 Months, —and forfeit treble the value of the Horses.

Papists, not being trusted with setting out Horses and Arms,

Enacted, that,

—some other, appointed by the Lieutenant, &c. shall do it in their name,

—and be paid out of their Estate,

—by distress, or by Levying upon Tenants.

The foregoing Clause shall be perpetual.

IX. And be it further Enacted, That if any Person shall conceal, or be aiding and assisting in the concealing any such Horse or Horses belonging to any Papist, or reputed so, refusing or making default, as aforesaid, after the said Fifteenth Day of May; such Person shall be committed to Prison by such Warrant, as aforesaid, there to remain without Bail or Mainprize by the space of Three Months, and shall also forfeit and lose to Their Majesties and Their Successors treble the value of such Horse or Horses, which value is to be settled, as aforesaid.

9, 10 W. III. Cap. 31. ---10, 11 W. III. Cap. 12. ---11, 12 W. III. Cap. 14. ---

*In the Acts for Raising the Militia.*

II. And whereas Papists, reputed Papists, and such Persons as do or shall refuse to take the Oaths mentioned in an Act of Parliament made in the First Year of the Reign of King William and Queen Mary, Entituled, An Act for Abrogating the Oath of Supremacy and Allegiance, and appointing other Oaths, when lawfully tendered to them, are not thought fit to be intrusted with setting out Horses and Arms in the Militia of this Kingdom: Be it Enacted by the Authority aforesaid, That where any Papist, or reputed Papist, or other Person refusing to take the Oaths, as aforesaid, are, in respect of their Estates, charged or chargeable to the finding any Horse, Horseman, and Arms, or any Foot Soldier and Arms; the Lieutenant or Lieutenants, or in their absence the Deputy Lieutenants of and for the County, Riding, Division or Place where such Estates do lie, or Three or more of them, are hereby authorized and impowered to nominate and appoint such Person or Persons as they shall think most meet and proper to furnish and set forth one or more Horse, Horsemen and Arms, or Foot Soldiers and Arms for the said Estates; And shall and may charge the same Estates with the Payment of the yearly Sums hereafter mentioned (that is to say) for a Horse, Horseman and Arms, the Sum of Eight Pounds, and for every Foot Soldier and Arms, the Sum of Thirty Shillings, to be paid to the Persons that shall furnish or set forth the same; And in case such Papist or reputed Papist, or Person refusing to take the Oaths, as aforesaid, shall neglect or refuse to pay the same upon Demand, It shall and may be lawful to and for the said Lieutenants, or Three or more of the said Deputy Lieutenants, by Warrant under their Hands and Seals, to Levy the same by Distress and Sale of the Goods of such Papist or reputed Papist, or Person refusing to take the Oaths, as aforesaid, or upon his and their several and respective Tenant or Tenants; and the remaining Arrears from the said Persons refusing the Discharge thereof, for the like Services already performed, to be adjudged and determined by Three Deputy Lieutenants, or more of them, rendering the Overplus to the Party so distrained, all necessary Charge in Levying thereof being first deducted; And the Tenant or Tenants so paying or distrained on, as aforesaid, shall and are hereby impowered, to deduct the same out of their Rents, payable for the said Estates.

I Annæ, Cap. 23.

*In an Act, Entituled, An Act for Raising the Militia of this Kingdom.*

III. And whereas by Virtue of a Clause contained in the said Act made in the Tenth and Eleventh Years of the Reign of King William the Third, Entituled, An Act for Raising the Militia for the Year One thousand six hundred ninety nine, although the Months Pay formerly advanced, be not repaid, the Lieutenant or Lieutenants, or in their absence Three or more of the Deputy Lieutenants for such County, Riding, Division or Place where the Estates of Papists and reputed Papists, or other Persons refusing to take the Oaths mentioned in an Act of Parliament made in the First Year

*The Disarming of Papists.*

A.D. 1697, &c.

A.D. 1702.



*The Disarming of Papists.*

of King William and Queen Mary, Entituled, An Act for Abrogating the Oaths of Allegiance and Supremacy, and appointing other Oaths, when Lawfully tendered to them, shall or do lye, are impowered to nominate and appoint such Person or Persons, as they shall think most meet and proper, to furnish or set forth one or more Horses, Horsemen and Arms, or Foot Soldiers and Arms, for the same Estate, and are impowered to charge the said Estates with the Payment of the yearly Sums therein mentioned, to such Person and Persons as shall furnish and set forth the same, with such Remedies for the Recovery thereof, as are in the said Clause expressed: And whereas some Doubts have arisen concerning the said Clause, Be it therefore Enacted and Declared by the Authority aforesaid, That the said Clause in the said Act made in the Tenth and Eleventh Years of the Reign of King William the Third, was intended to be, and shall be deemed and taken to be perpetual.

Abridgment.

C A P. X.

*Popish Education of Children in Foreign Parts.*

*Popish* EDUCATION of CHILDREN in Foreign Parts.

A.D. 1584.

27 Eliz. Cap. 2.

In an Act, Entituled, *An Act against Jesuits, Seminary Priests, &c.*

VII. **A**ND be it further Enacted by the Authority aforesaid, That it shall not be lawful for any Person, of, or under Her Highnesss Obedience, at any time after the said Forty Days, during Her Majesty's Life (which God long preserve) to send his or her Child, or other Person, being under his or her Government, into any the Parts beyond the Seas, out of Her Highnesss Obedience, without the special Licence of Her Majesty, or of four of Her Highnesss Privy-Council, under their Hands in that behalf first had or obtained (except Merchants, for such only as they or any of them shall send over the Seas, only for or about his, her, or their Trade of Merchandize, or to serve as Mariners, and not otherwise;) upon pain to forfeit and lose for every such offence, the Sum of One hundred Pounds.

No Parent, or Guardian, shall send Children beyond the Seas, without Licence,

—upon pain to forfeit 100 l.

A.D. 1603.

1 Jac. I. Cap. 4.

In an Act, Entituled, *An Act for the due Execution of the Statutes against Jesuits, &c.*

VI. And be it further Enacted by the Authority of this present Parliament, That all and every Person and Persons under the Kings Obedience, which at any time (after the end of this Session of Parliament) shall pass or go, or shall send or cause to be sent any Child, or any other Person under their or any of their Government, into any the parts beyond the Seas, out of the Kings Obedience, to the intent to enter into, or be resident in any College, Seminary, or House of Jesuits, Priests, or any other Popish Order, Profession or Calling whatsoever, or repair in or to any the same, to be instructed, perswaded, or strengthened in the Popish Religion, or in any sort to profess the same: every such Person so sending, or causing to be sent any Child or other Person beyond the Seas to any such purpose or intent, shall for every such offence forfeit to His Majesty, His Heirs and Successors, the Sum of C. l. and every such Person so passing or being sent beyond the Seas to any such intent and purpose, as is aforesaid, shall by Authority of this present Act, as in respect of him or her self only, and not to or in respect of any of his Heirs or Posterity, be disabled and made incapable to inherit, purchase, take, have,

Any Person sending a Child to be Educated in a Seminary abroad,

—shall forfeit 100 l.

—and the Child shall be disabled to inherit,



Abridgment.

—and all Estates, Terms, &c. upon trust, shall be void.

Any Person being now in a Seminary abroad,

—and not returning and submitting in one Year,

—shall be disabled to inherit,

—till he conform.

No Woman, nor Child under 21, shall pass over the Seas,

—upon pain, that the Officer of the Port shall forfeit his Office,

—and the Owner and Master, the Ship and Goods.

Children sent to be Educated abroad, shall have no benefit of Gift, &c.

—unless they take the Oath, at 18 Years,

or enjoy any Honors, Lands, Tenements, Annuities, Profits, Commodities, Hereditaments, Goods, Chattels, Debts, Duties, Legacies, or Sums of Money, within this Realm of England, or any other His Majesties Dominions: and that all and singular Estates, Terms, and other Interests whatsoever, hereafter to be made, suffered, or done, to or for the use or behoof of any such Person or Persons, upon any trust or confidence mediately, or immediately, to or for the benefit or relief of any such Person or Persons, shall be utterly void and of none effect, to all intents, constructions and purposes.

VII. And be it further Enacted by the Authority aforesaid, That if any Person born within this Realm, or any the Kings Majesties Dominions, be at this present in any College, Seminary, House, or Place in any Parts beyond the Seas (to the end to be instructed or strengthened in the Popish Religion) which shall not make return into this Realm, or come of His Majesties Dominions, within One Year next coming after the end of this Session of Parliament, and submit himself, as is aforesaid, shall be in respect of himself only, and not to or in respect of any of his Heirs or Posterity, utterly disabled and incapable to inherit, have, or enjoy any Honors, Lands, Tenements, Hereditaments, Goods, Chattels, Debts, or other things aforesaid, within this Realm, or any other His Majesties Dominions. Provided always, That if any Person or Child, so passing, sent, sending, or now being beyond the Seas, as aforesaid, to such intent as is before mentioned, shall after become conformable and obedient unto the Laws and Ordinances of the Church of England, and shall repair to the Church, and there remain and be, as is aforesaid, and continue in such Conformity, according to the true intent and meaning of the said Statutes and Ordinances; that in every such case, every such Person and Child, for and during such time as he or she shall continue in such Conformity and Obedience, shall be freed and discharged of all and every such disability and incapacity, as is before mentioned.

VIII. And be it further Enacted by the Authority of this present Parliament, That no Woman, nor any Child under the Age of xxi. Years (except Sailors or Ship-boys, or the Apprentice or Factor of some Merchant in Trade of Merchandize) shall be permitted to pass over the Seas (except the same shall be by Licence of the King, his Heirs or Successors, or of some Six or more of the Kings Privy-Council, thereunto first had under their Hands;) upon pain that the Officers of the Port that shall willingly or negligently suffer any such to pass, or shall not enter the names of such Passengers Licensed, shall forfeit his Office, and all his Goods and Chattels; and upon pain that the Owner of any Ship or Vessel, that shall wittingly or willingly carry any such over the Seas without Licence, as aforesaid, shall forfeit his Ship or Vessel, and all the Tackle; and every Master or Mariner, of or in any Ship or Vessel offending, as aforesaid, shall forfeit all their Goods, and suffer Imprisonment by the space of xii. Months, without Bail or Mainprize.

3 Jac. I. Cap. 5.

A.D. 1605.

In an Act, Entituled, *An Act to prevent and avoid dangers which may grow by Popish Recufants.*

§ XVI. And be it further Enacted by this present Parliament, That if the Children of any Subject within this Realm (the said Children not being Soldiers, Mariners, Merchants, or their Apprentices, or Factors) to prevent their good Education in England, or for any other cause, shall hereafter be sent or go beyond Seas, without Licence of the Kings Majesty, or Six of His Honourable Privy-Council (whereof the Principal Secretary to be one) under their Hands and Seals, That then all and every such Child and Children so sent, or which shall so go beyond the Seas, shall take no benefit by any gift, conveyance, descent, devise, or otherwise, of or to any Lands, Tenements, Hereditaments, Leases, Goods, or Chattels, until he or they being of the Age of xviii. Years or above, take the Oath mentioned in an Act of Parliament made this present Session, Entituled, An Act for the better discovering and repressing of Popish Recufants, before some Justice of Peace of the

Popish Education of Children in Foreign Parts.



*Popish Education of Children in Foreign Parts.*

the County, Liberty, or Limit where such Parent of such Children as shall be so sent, did and shall inhabit and dwell: And that in the mean time the next of his or her kin, which shall be no Popish Recusant, shall have and enjoy the said Lands, Tenements, Hereditaments, Leases, Goods and Chattels so given, conveyed, descended, or devised, until such time as the Person so sent or gone beyond the Seas, shall conform him or her self, and take the aforesaid Oath, and receive the Sacrament of the Lords Supper: And after such Oath taken, and conforming of himself, and receiving the Sacrament of the Supper of the Lord, he or they which have so received the Profits of the said Lands, Tenements, Hereditaments, Goods and Chattels, or any of them, shall make account of the Profits so received, and in reasonable time make Payment thereof, and restore the value of the said Goods to such Person as shall so conform him or her self, as aforesaid: And that all such Persons as shall send the said Child or Children over Seas, without Licence, as aforesaid (unless the said Child or Children be Merchants, or their Apprentices or Factors, Mariners or Soldiers) shall Forfeit £. li. to be divided, had and recovered in Three equal Parts (whereof the one Third Part shall be to the King, his Heirs and Successors, the other Third Part to such as shall Sue for the same, and the other Third Part to the Poor of such Parish where such Offender doth inhabit or remain) by Action of Debt, Bill, Plaint, or Information in any the Kings Majesties Courts of Record, wherein no Escoin, Protection, or Wager of Law shall be admitted or allowed.

**Abridgment.**

—till which the next of kin, being a Protestant, shall take the Profits,

—and shall make Account to the Owner, if he Conform.

Persons who send the Children, shall Forfeit 100 l.

A. D. 1627.

3 Car. I. Cap. 2.

*An Act to restrain the passing or sending of any to be Popishly bred beyond the Seas.*

**F**Orasmuch as divers ill affected Persons to the true Religion established within this Realm, have sent their Children into Foreign parts to be bred up in Popery, notwithstanding the restraint thereof by the Statute made in the first Year of the Reign of our late Sovereign Lord King James, of Famous Memory; Be it Enacted, That the said Statute shall be put in due Execution: And be it further Enacted by the Kings most Excellent Majesty, and the Lords Spiritual and Temporal, and Commons in this present Parliament Assembled, and by the Authority of the same, That in case any Person or Persons under the Obedience of the King, his Heirs and Successors, at any time after the end of this Session of Parliament, shall pass or go, or shall convey or send, or cause to be sent or conveyed, any Child, or other Person, out of any of the Kings Dominions, into any the parts beyond the Seas, out of the Kings Obedience, to the intent and purpose to enter into, or be Resident or Trained up in any Priory, Abbey, Nunnery, Popish University, Colledge or School, or House of Jesuits, Priests, or in any private Popish Family, and shall be there by any Jesuit, Seminary Priest, Friar, Monk, or other Popish Person, instructed, persuaded or strengthened in the Popish Religion, in any sort to profess the same, or shall convey or send, or cause to be conveyed or sent, by the hands or Means of any Person whatsoever, any Sum or Sums of Money, or other thing, for or towards the maintenance of any Child, or other Person already gone or sent, or to go, or to be sent, and trained and instructed, as is aforesaid, or under the name or colour of any Charity, Benevolence or Alms, towards the Relief of any Priory, Abbey, Nunnery, Colledge, School, or any Religious House whatsoever: Every Person so sending, conveying, or causing to be sent and conveyed, as well any such Child or other Person, as any Sum or Sums of Money, or other thing, and every Person passing or being sent beyond the Seas, being thereof Lawfully Convicted, in or upon any Information, Presentment or Indictment, as is aforesaid, shall be disabled from thenceforth to sue or use any Action, Bill, Plaint, or Information, in course of Law, or to prosecute any Suit in any Court of Equity, or to be Committee of any Ward, or Executor or Administrator to any Person, or capable of any Legacy or Deed of Gift, or to bear any Office within the Realm; and shall Lose and Forfeit all his Goods and Chattels, and shall Forfeit all his Lands, Tenements and Hereditaments, Rents, Annuities,

Stat. 1 Jac. 1. c. 4. being ineffectual,

Enacted, that,

—any person sending, or being sent, to be Popishly Educated abroad,

—or conveying Money for Maintenance, or as Alms, to such Seminaries,

—shall be disabled to sue, to be Executor, or Legatee, and to bear Office,

—and shall Forfeit Goods and Chattels; and Lands during Life.



Abridgment.

No Person, Conforming in Six Months after Return, shall incur the Penalties.

Offences shall be heard and determined before the Justices of the Kings Bench and Assise.

Any Person Conforming, shall have Lands restored.

Annuities, Offices and Estates of Freehold, for and during his natural Life.

II. Provided always, That no Person sent or conveyed, as aforesaid, that shall within Six Months after his return into this Realm, conform himself unto the present Religion Established in this Church of England, and receive the Sacrament of the Lords Supper, according to the Statutes made concerning Conformity in other cases required from Popish Recufants, shall incur any Penalties aforesaid.

III. And it is Enacted, That all and every of the said Offences against this Statute may be enquired, heard and determined before the Justices of the Kings Bench, or Justices of Assise, or Gaol delivery, or of Oyer and Terminer of such Counties where the Offenders did last dwell or abide, or whence they departed out of this Kingdom, or where they were taken.

IV. Provided also, That if any Person or Child, so passing, or sent, or now being beyond the Seas, shall after his return into this Realm, conform himself to the present Religion Established in the Church of England, and receive the Sacrament of the Lords Supper, according to the Statutes made for or concerning Conformity in other cases required from Popish Recufants, for and during such time as he or she shall so continue in such Conformity and Obedience, according to the true intent and meaning of the said Laws and Statutes, shall have his or her Lands restored to them again.

Popish Education of Children in Foreign Parts.

11, 12 Will. III. Cap. 4.

A. D. 1699.

In an Act, Entituled, *An Act for the further preventing the growth of Popery.*

Recital of Stat. 3. Jac. 1. by which the Forfeiture for sending Children abroad, is 100 l. between the King and Prosecuter,

and Enacted, that, —the said 100 l. shall be to the sole use of them, who shall discover and Convict, —and if Popish Parents shall refuse suitable Maintenance to their Protestant Children,

—the Lord Chancellor, upon complaint, may make Order therein.

VI. **A**ND whereas by an Act made in the Third Year of King James the First, Entituled, An Act to prevent and avoid dangers which may grow by Popish Recufants, whosoever shall be Convicted of sending or causing to be sent, any Child, or any other Person under their Government, into Parts beyond the Seas out of the Kings Obedience, to the intent that such Child or Person so sent should be Educated in the Romish Religion, contrary to the said Act, is to Forfeit One hundred Pounds, one half to the Kings Majesty, and the other half to him that shall Sue for the same: For the greater Incouragement and Reward of those who shall discover such Offenders, Be it Enacted by the Authority aforesaid, That the said Sum of One hundred Pounds shall be to the sole use and benefit of him or her who shall Discover and Convict any Person so offending, to be recovered in such manner as in the said recited Act is Enacted; Any thing in the said Act to the contrary notwithstanding.

VII. And to the end that the Protestant Children of Popish Parents may not in the Life-times of such their Parents, for want of fitting Maintenance, be necessitated in compliance with their Parents, to imbrace the Popish Religion, contrary to their own Inclinations; Be it Enacted by the Authority aforesaid, That from and after the said Five and twentieth Day of March, One thousand seven hundred, if any such Parent, in order to the compelling such his or her Protestant Child to change his or her Religion, shall refuse to allow such Child a fitting Maintenance, suitable to the degree and ability of such Parent, and to the Age and Education of such Child; then upon complaint thereof made to the Lord High Chancelor of England, or Lord Keeper of the Great Seal, or Commissioners for the Great Seal for the time being, It shall be Lawful for the said Lord Chancelor, Lord Keeper, or Commissioners, to make such Order therein as shall be agreeable to the intent of this Act.



Popish Education of Children in Foreign Parts.

A. D. 1702.

I Annæ, Cap. 30.

*An Act to oblige the Jews to Maintain and Provide for their Protestant Children.*

**T**o the end that sufficient Maintenance be provided and allowed for the Children of Jewish Parents, who shall turn Protestants: Be it Enacted by the Queens most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament Assembled, and by Authority of the same, That from and after the Twenty fourth Day of June, One thousand seven hundred and two, if any Jewish Parent, in order to the Compelling his or her Protestant Child to Change his or her Religion, shall refuse to allow such Child a fitting Maintenance, suitable to the Degree and Ability of such Parent, and to the Age and Education of such Child, then (upon Complaint thereof made to the Lord High-Chancellor of England, or Lord-Keeper of the Great-Seal, or Commissioners for the Great-Seal, for the time being) it shall and may be Lawful for the said Lord-Chancellor, Lord-Keeper, or Commissioners, to make such Order therein, for the Maintenance of such Protestant Child, as he or they shall think fit.

Abridgment.

If any Jewish Parent refuse to allow a suitable Maintenance to his Protestant Child,

the Lord-Chancellor, &c. shall make Order therein.

[ 8 N ]

TIT.



# T I T. XXVII.

## Perpetual Security to the CHURCH of ENGLAND, against PAPISTS and POPYRY.

### The CONTENTS.

- CAP. I. *Papists debarred from SUCCEEDING to the CROWN.*
- CAP. II. *Further Security to the PROTESTANT Establishment.*
- CAP. III. *Protestant Succession in the HOUSE of HANOVER.*
- CAP. IV. *Additional CONFIRMATIONS of the Succession in the HOUSE of HANOVER.*
- CAP. V. *Regard of the Church of England to FOREIGN PROTESTANTS.*

### C A P. I.

#### *Papists debarred from SUCCEEDING to the CROWN.*

13 Car. II. Cap. I.

A.D. 1661.

In an Act, Entituled, *An Act for Safety and Preservation of His Majesties Person and Government, against Treasonable and Seditious Practices and Attempts.*

§ II.

#### Abridgment.

Any Person affirming that the King is a Papist, or designs to introduce Popery,

—shall be disabled to hold any Place, Ecclesiastical, Civil, or Military.

2 Brownl. 166. Godb. 147.



AND be it further Enacted by the Authority aforesaid, That if any Person or Persons at any time after the Four and twentieth Day of June, in the Year of our Lord, One thousand six hundred sixty and one, during His Majesties Life, shall maliciously and advisedly publish or affirm the King to be an Heretick or a Papist, or that he endeavours to introduce Popery, or shall maliciously and advisedly, by Writing, Printing, Preaching, or other Speaking, express, publish, utter or declare any Words, Sentences, or other thing or things, to incite or stir up the People to hatred or dislike of the Person of His Majesty, or the Established Government; then every such Person and Persons, being thereof legally Convicted, shall be disabled to have or enjoy, and is hereby disabled and made incapable of having, holding, enjoying, or exercising any Place, Office, or Promotion Ecclesiastical, Civil or Military, or any other Imployment in Church or State, other than that of his Peerage, and shall likewise be liable to such further and other Punishments as by the Common Laws or Statutes of this Realm may be in such Cases.—

g A Papist ] To say of a Subject, *He is a Papist*, was heretofore declared, not to be actionable: but *An. 35 Car. 2.* in the case of *Roe and Cargis*, it was adjudged to be actionable; partly with regard to the Offices

which the Plaintiff held in the Government, and partly by reason of a greater degree of *Odium* which then attended the name of *Papists*, than had, in common Opinion, belonged to it in former times.

I Will.

E X P.  
*Papists debarred from Succeeding to the Crown.*



*Papists  
debarred  
from Suc-  
ceeding to  
the Crown.*  
A.D. 1688.

I Will. & Mar. Cap. 2.

In an Act, Entituled, *An Act, &c. Settling the Suc-  
cession of the Crown.*

IX. And whereas it hath been found by Experience, that it is inconsistent with the safety and welfare of this Protestant Kingdom, to be Governed by a Popish Prince, or by any King or Queen Marrying a Papist; the said Lords Spiritual and Temporal, and Commons, do further pray that it may be Enacted, That all and every Person and Persons that is, are, or shall be Reconciled to, or shall hold Communion with the See or Church of Rome, or shall profess the Popish Religion, or shall Marry a Papist, shall be Excluded, and be for ever incapable to Inherit, Possess, or Enjoy the Crown and Government of this Realm, and Ireland, and the Dominions thereunto belonging, or any part of the same; or to Have, Use, or Exercise any Regal Power, Authority, or Jurisdiction within the same; And in all and every such Case or Cases, the People of these Realms shall be, and are hereby Absolved of their Allegiance; And the said Crown and Government shall from time to time Descend to and be Enjoyed by such Person or Persons, being Protestants, as should have Inherited and Enjoyed the same, in case the said Person or Persons so Reconciled, holding Communion, or Professing or Marrying, as aforesaid, were naturally Dead.

X. And that every King and Queen of this Realm, who at any time hereafter shall come to and succeed in the Imperial Crown of this Kingdom, shall on the first Day of the Meeting of the first Parliament, next after his or her coming to the Crown, sitting in his or her Throne, in the House of Peers, in the presence of the Lords and Commons therein Assembled, or at his or her Coronation, before such Person or Persons who shall Administer the Coronation Oath to him or her, at the time of his or her taking the said Oath (which shall first happen) Make, Subscribe, and Audibly Repeat the Declaration mentioned in the Statute made in the Thirtieth Year of the Reign of King Charles the Second, Entituled, An Act for the more effectual Preserving the Kings Person and Government, by Disabling Papists from sitting in either House of Parliament. But if it shall happen, that such King or Queen, upon his or her Succession to the Crown of this Realm, shall be under the Age of Twelve Years, then every such King or Queen shall Make, Subscribe, and audibly Repeat the said Declaration at his or her Coronation, or the first Day of the Meeting of the first Parliament, as aforesaid, which shall first happen after such King or Queen shall have attained the said Age of Twelve Years.

Abridgment.

Every Person, being a Papist, or Marrying a Papist,

—shall be incapable to enjoy the Crown,

—and the People Absolv'd from Allegiance,

—and the Crown shall descend to the next Protestant Heir.

Every King and Queen, in Parliament, or at Coronation,

—shall Subscribe the Declaration, 30 Car. 2. c. 1.

—and, being under 12 Years of Age, shall Subscribe when they attain that Age.

A.D. 1688.

I Will. & Mar. Cap. 6.

In an Act, Entituled, *An Act for Establishing the  
Coronation-Oath.*

§ II. *Archbishop or Bishop.*

Will You to the uttermost of Your Power Maintain the Laws of God, the true Profession of the Gospel, and the Protestant Religion Established by Law?

*King and Queen.*

All this I promise to do.

Promise, at Coronation, to maintain the Protestant Religion.

A.D. 1700.

12, 13 Will. III. Cap. 2.

In an Act, Entituled, *An Act for the further Limi-  
tation of the Crown, and the better Securing the  
Rights and Liberties of the Subject.*

II. Provided always, and it is hereby Enacted, That all and every Person and Persons, who shall or may take or inherit the said Crown, by Virtue of the Limitation of this present Act, and is, are, or shall be reconciled to,

No Papist shall inherit the Crown;



**Abridgment.**

—and every King shall take the Coronation Oath, and Subscribe the Declaration, according 1 W. & M. c. 2.

Articles, that shall take place, after the Death of Princess *Anne*, King *William*, and and their Issue.

to, or shall hold Communion with the See or Church of Rome, or shall profess the Popish Religion, or shall Marry a Papist, shall be subject to such Incapacities, as in such Case or Cases are by the † said recited Act Pro- vided, Enacted and Established; And that every King and Queen of this Realm, who shall come to and succeed in the Imperial Crown of this Kingdom, by Virtue of this Act, shall have the Coronation Oath Admini- stred to him, her or them, at their respective Coronations, according to the Act of Parliament made in the First Year of the Reign of his Ma- jesty, and the said late Queen Mary, Entituled, † An Act for Establishing the Coronation Oath, and shall Make, Subscribe and Repeat the Declaration in the Act first above recited, mentioned or referred to, in the Manner and Form thereby Prescribed.

III. And whereas it is requisite and necessary that some further Provision be made for Securing our Religion, Laws and Liberties, from and after the Death of his Majesty and the Princess Anne of Denmark, and in De- fault of Issue of the Body of the said Princess, and of his Majesty respec- tively; Be it Enacted by the Kings most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in Parliament Assembled, and by the Authority of the same,

That whosoever shall hereafter come to the Possession of this Crown, shall joyn in Communion with the Church of *England*, as by Law Established.—

*Papists debarred from Suc- ceeding to the Crown.*

† 1 W. M. c. 2.

† 1 W. M. c. 6.

C A P. II.

*Further Security to the PROTESTANT Establishment.*

7, 8 Will. III. Cap. 27.

In an Act, Entituled, *An Act for the better Se- curity of His Majesties Royal Person and Go- vernment.*

*Further Security to the Pro- testant E- stablish- ment.*

A.D. 1695.

Enacted that,

—any Person who shall refuse the Oaths of Allegi- ance and Supremacy,

—shall be liable to all the Penalties of a Popish Recusant Convict,

—and the Persons Tendring the Oaths, shall Re- cord their Names,

—and Certifiethem to the Justices of Assize,

**B**E it Enacted by the Kings most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Com- mons in this present Parliament Assembled, and by the Authority of the same, That from and after the First Day of May, One thousand six hun- dred ninety six, all and every Person and Persons who shall Refuse to take the Oaths mentioned and appointed to be taken, in an Act of Parliament made in the First Year of the Reign of his present Majesty and the late Queen, of Blessed Memory, Entituled, An Act for the Abrogating of the Oaths of Supremacy and Allegiance, and Appointing other Oaths, or either of them, when tendered to him or them by any Persons lawfully Authorized to Administer or Tender the same; or shall Refuse or Neglect to Appear, when Lawfully Summoned, in order to have the said Oaths Tendered to him or them: shall, until he or they have duly taken the said Oaths, be liable to Incur, Forfeit, Pay and Suffer all and every the Penalties, Forfeitures, Sums of Money, Disabilities, and Incapacities, which by the Laws and Statutes of this Realm, now in Force, or any of them, are Inflicted upon Popish Recusants duly Convict of Recusancy. And that for the better and more orderly Levying and Answering the said Penalties and Forfeitures to his Majesty, his Heirs and Successors, the Persons so Tendering the said Oaths, shall, upon every such Refusal or Default of Appearance, as aforesaid, Record and Enter in Parchment, the Christian and Surnames, and the Place of Abode of the Person or Persons so Re- fusing, or not Appearing, as aforesaid, to take the said Oaths, or either of them, together with the time of such Tender and Refusal, or Default of Appearance, and shall Deliver and Certifie the said Record or Entry to the Justices of Assize, Justices of Oyer and Terminer, or Gaol Delivery, at their next Session within the same County, who shall forthwith Extreat and Certifie the same into his Majesties Court of Exchequer, to be there Entered



Further  
Security to  
the Pro-  
testant E-  
stablish-  
ment.

Entred of Record, to the end that the said Court of Exchequer may thereupon Award and Issue such Process against the Lands and Goods of the said Person or Persons mentioned in such Extreat or Certificate, as may by the Laws and Statutes of this Realm, be Awarded and Issued against the Lands or Goods of a Popish Reculant Convict.

XIX. And be it further Enacted by the Authority aforesaid, That no Person who shall refuse to take the Oaths directed by an Act made in the first Year of the Reign of His present Majesty and the late Queen Mary, Intituled, An Act for Abrogating of the Oaths of Supremacy and Allegiance, and Appointing other Oaths, or being Quakers, shall refuse to Subscribe the Declaration of Fidelity, directed by one other Act of Parliament made in the said first Year of the Reign of His present Majesty and the late Queen, Entituled, An Act for Exempting Their Majesties Protestant Subjects, Dissenting from the Church of *England*, from the Penalties of certain Laws, (which Oaths and Subscription respectively, the Sheriff or Chief Officer taking the Poll at any Election of Members to serve in Parliament, at the request of any one of the Candidates, are hereby Impowered and Required to Administer) shall be admitted to give any Vote for the Election of any Knight of the Shire, Citizen, Burghers or Baron of the Cinque-Ports, to serve in Parliament.

Abridgment.

None who refuse the Oaths of Allegiance and Supremacy,

—or the Declaration of Fidelity,

—shall Vote for Members of Parliament.

### C A P. III.

#### Protestant Succession in the HOUSE of HANOVER.

12, 13 Will. III. Cap. 2.

#### An Act for the further Limitation of the Crown, and better Securing the Rights and Liberties of the Subject.

Whereas in the first Year of the Reign of Your Majesty, and of our late most Gracious Sovereign Lady Queen Mary (of Blessed Memory) an Act of Parliament was made, Entituled, [An Act for Declaring the Rights and Liberties of the Subject, and for Settling the Succession of the Crown] wherein it was (amongst other things) Enacted, Established and Declared, That the Crown and Regal Government of the Kingdoms of England, France, and Ireland, and the Dominions thereunto belonging, should be and continue to Your Majesty and the said late Queen, during the joynt Lives of Your Majesty and the said Queen, and to the Survivor: And that after the Decease of Your Majesty and the said Queen, the said Crown and Regal Government should be and remain to the Heirs of the Body of the said late Queen: And for Default of such Issue, to Her Royal Highness the Princess Anne of Denmark, and the Heirs of Her Body: And for Default of such Issue, to the Heirs of the Body of Your Majesty. And it was thereby further Enacted, That all and every Person and Persons that then were, or afterwards should be Reconciled to, or shall hold Communion with the See or Church of Rome, or should profess the Popish Religion, or Harry a Papist, should be Excluded, and are by that Act made for ever incapable to Inherit, Possess or Enjoy the Crown and Government of this Realm and Ireland, and the Dominions thereunto belonging, or any part of the same: or to have, Use, or Exercise any Regal Power, Authority, or Jurisdiction within the same: And in all and every such Case and Cases the People of these Realms shall be and are thereby absolved of their Allegiance: And that the said Crown and Government shall from time to time Descend to and be Enjoyed by such Person or Persons, being Protestants, as should have Inherited and Enjoyed the same, in case the said Person or Persons, so Reconciled, holding Communion, Professing, or Harrying, as aforesaid, were naturally dead. After the making of which Statute, and the Settlement therein contained, Your Majesties good Subjects, who were restored to the full and free Possession and Enjoyment of their Religion,

Recital of 1 Will. & Mar. concerning the Succession in the Protestant Line,

—and the desire of the Nation to see Issue descending from K. Will. and Q. Mary.

Protestant  
Succession  
in the  
House of  
Hanover.

A.D. 1700.



Abridgment.

*Protestant Succession in the House of Hanover.*

Q. *Mary and the D. of Gloucester, being dead,*

—and a further provision for the Succession, recommended by the King,

Enacted, that,

—the Princess *Sophia* and her Heirs, being Protestants, shall be next in Succession to *K. Will.* and the Princess *Anne*, and their Issue;

—which Succession the Lords and Commons promise to maintain and defend.

No Papist shall inherit the Crown;

Rights and Liberties, by the Providence of God giving Success to Your Majesties just Undertakings and unwearied Endeavours for that Purpose, had no greater temporal Felicity to hope or wish for, than to see a Royal Progeny descending from Your Majesty, to whom (under God) they owe their Tranquillity, and whose Ancestors have for many Years been principal Assertors of the Reformed Religion and the Liberties of Europe, and from our said most Gracious Sovereign Lady, whose Memory will always be precious to the Subjects of these Kingdoms; And it having since pleased Almighty God to take away our said Sovereign Lady, and also the most hopeful Prince William Duke of Gloucester, (the only Surviving Issue of Her Royal Highness the Princess Anne of Denmark) to the unspeakable Grief and Sorrow of Your Majesty and Your said good Subjects, who, under such Losses, being sensibly put in mind, that it standeth wholly in the Pleasure of Almighty God, to prolong the Lives of Your Majesty and of Her Royal Highness, and to grant to Your Majesty, or to Her Royal Highness, such Issue as may be Inheritable to the Crown and Regal Government aforesaid, by the respective Limitations in the said recited Act contained, do constantly Implore the Divine Mercy for those Blessings; And Your Majesties said Subjects, having daily Experience of Your Royal Care and Concern for the present and future Welfare of these Kingdoms, and particularly Recommending from Your Throne a further Provision to be made for the Succession of the Crown in the Protestant Line, for the Happiness of the Nation, and the Security of our Religion; And it being absolutely necessary for the Safety, Peace and Quiet of this Realm, to obviate all Doubt, and Contentions in the same, by reason of any pretended Titles to the Crown, and to maintain a Certainty in the Succession thereof, to which Your Subjects may safely have Recourse for their Protection, in case the Limitations in the said recited Act should determine: Therefore for a further Provision of the Succession of the Crown in the Protestant Line, We Your Majesties most Dutiful and Loyal Subjects, the Lords Spiritual and Temporal, and Commons in this present Parliament Assembled, Do beseech Your Majesty that it may be Enacted and Declared: And be it Enacted and Declared by the Kings most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament Assembled, and by the Authority of the same, That the most Excellent Princess Sophia Electress and Dutchess Dowager of Hanover, Daughter of the most Excellent Princess Elizabeth late Queen of Bohemia, Daughter of our late Sovereign Lord King James the First, of happy Memory, Be and is hereby Declared to be the next in Succession in the Protestant Line, to the Imperial Crown and Dignity of the said Kingdoms of England, France, and Ireland, with the Dominions and Territories thereunto belonging, after His Majesty, and the Princess Anne of Denmark, and in Default of Issue of the said Princess Anne, and of His Majesty respectively: And that from and after the Deceases of His said Majesty, our now Sovereign Lord, and of Her Royal Highness the Princess Anne of Denmark, and for Default of Issue of the said Princess Anne, and of His Majesty respectively, the Crown and Regal Government of the said Kingdoms of England, France, and Ireland, and of the Dominions thereunto belonging, with the Royal State and Dignity of the said Kingdoms, and all Honours, Stiles, Titles, Regalities, Prerogatives, Powers, Jurisdictions, and Authorities to the same belonging and appertaining, shall be, remain and continue to the said most Excellent Princess Sophia, and the Heirs of Her Body, being Protestants: And thereunto the said Lords Spiritual and Temporal, and Commons, shall and will, in the Name of all the People of this Realm, most humbly and faithfully submit themselves, their Heirs and Posterities; and do faithfully promise, That after the Deceases of His Majesty, and Her Royal Highness, and the Failure of the Heirs of Their respective Bodies, to Stand to, Maintain, and Defend the said Princess Sophia, and the Heirs of Her Body, being Protestants, according to the Limitation and Succession of the Crown in this Act specified and contained, to the utmost of their Powers, with their Lives and Estates, against all Persons whatsoever that shall attempt any thing to the contrary.

II. Provided always, and it is hereby Enacted, That all and every Person and Persons, who shall or may take or inherit the said Crown, by Virtue of the Limitation of this present Act, and is, are, or shall be reconciled to,



Protestant  
Succession  
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Hanover.

to, or shall hold Communion with the See or Church of Rome, or shall profess the Popish Religion, or shall Marry a Papist, shall be subject to such Incapacities, as in such Case or Cases are by the said recited Act Provided, Enacted and Established; And that every King and Queen of this Realm, who shall come to and succeed in the Imperial Crown of this Kingdom, by Virtue of this Act, shall have the Coronation Oath Administered to him, her or them, at their respective Coronations, according to the Act of Parliament made in the first Year of the Reign of his Majesty, and the said late Queen Mary, Entituled, An Act for Establishing the Coronation Oath, and shall Make, Subscribe and Repeat the Declaration in the Act first above recited, mentioned or referred to, in the Manner and Form thereby Prescribed.

III. And whereas it is requisite and necessary that some further Provision be made for Securing our Religion, Laws and Liberties, from and after the Death of his Majesty and the Princess Anne of Denmark, and in Default of Issue of the Body of the said Princess, and of his Majesty respectively; Be it Enacted by the Kings most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in Parliament Assembled, and by the Authority of the same,

That whosoever shall hereafter come to the Possession of this Crown, shall joyn in Communion with the Church of *England*, as by Law Established.

That in Case the Crown and Imperial Dignity of this Realm shall hereafter come to any Person, not being a Native of this Kingdom of *England*, this Nation be not obliged to Engage in any War for the Defence of any Dominions or Territories which do not belong to the Crown of *England*, without the Consent of Parliament.

That no Person who shall hereafter come to the Possession of this Crown, shall go out of the Dominions of *England*, *Scotland*, or *Ireland*, without Consent of Parliament.

That from and after the time that the further Limitation by this Act shall take effect, all Matters and Things relating to the well Governing of this Kingdom, which are properly Cognizable in the Privy Council by the Laws and Customs of this Realm, shall be Transacted there, and all Resolutions taken thereupon shall be Signed by such of the Privy Council as shall Advise and Consent to the same.

That after the said Limitation shall take effect, as aforesaid, no Person born out of the Kingdoms of *England*, *Scotland* or *Ireland*, or the Dominions thereunto belonging (although he be Naturalized or made a Denizen, Except such as are born of *English* Parents) shall be capable to be of the Privy Council, or a Member of either House of Parliament, or to enjoy any Office or Place of Trust, either Civil or Military, or to have any Grant of Lands, Tenements or Hereditaments from the Crown, to himself, or to any other or others in Trust for him.

That no Person who has an Office or Place of Profit under the King, or receives a Pension from the Crown, shall be capable of serving as a Member of the House of Commons.

That after the said Limitation shall take effect, as aforesaid, Judges Commissions be made *Quamdiu se bene gesserint*, and their Salaries Ascertained and Established: but upon the Address of both Houses of Parliament, it may be Lawful to remove them.

That no Pardon under the Great Seal of *England*, be pleadable to an Impeachment by the Commons in Parliament.

IV. And whereas the Laws of *England* are the Birth-right of the People thereof, and all the Kings and Queens who shall ascend the Throne of this Realm, ought to Administer the Government of the same according to the said Laws, and all their Officers and Ministers ought to serve them respectively according to the same; The said Lords Spiritual and Temporal, and Commons, Do therefore further humbly pray, That all the Laws and Statutes of this Realm, for Securing the Established Religion, and the Rights and Liberties of the People thereof, and all other Laws and Statutes of the same, now in Force, may be Ratified and Confirmed; And the same are by his Majesty, by and with the Advice and Consent of the said Lords Spiritual and Temporal, and Commons, and by Authority of the same, Ratified and Confirmed accordingly.

Abridgment.

—and every King shall take the Coronation Oath, and Subscribe the Declaration, according to *1 W. & M. c. 6.*

Articles, that shall take place, after the Death of Princess *Anne*, King *William*, and their Issue.

That the Prince shall Communicate with the Church of *England*.  
—That the Nation shall not engage to defend Foreign Dominions.

—That he shall not go beyond Sea without Consent of Parliament.

—That Privy Councillors shall Sign their Resolutions.

—That Foreigners shall have no Offices, nor Grants.

—That none in Office shall be Member of the House of Commons.

—That the Commission of Judges be, *Quamdiu, &c.*

—That no Pardon be Pleadable to an Impeachment.

Confirmation of all Laws, for Securing the Religion and Liberties of the People.



Abridgment.

I Annæ, Cap. 17.

In an Act, Entituled, *An Act for the enlarging the Time for taking the Oath of Abjuration, &c.*

Protestant Succession in the House of Hanover. A. D. 1702.

To hinder the Protestant Succession from taking place,

—according to the Limitations in Parliament,

—shall be High Treason.

§ III. And for the further Security of her Majesties Person, and the Succession of the Crown in the Protestant Line, and for Extinguishing the Hopes of the pretended Prince of Wales, and all other Pretenders, and their open and secret Abettors; Be it further Enacted by the Authority aforesaid, That if any Person or Persons, at any time after the First Day of March, One thousand seven hundred and two, shall endeavour to deprive or hinder any Person, who shall be the next in Succession to the Crown for the time being, according to the Limitations in an Act, Entituled, An Act declaring the Rights and Liberties of the Subject, and settling the Succession of the Crown; and according to one other Act, Entituled, An Act for the further Limitation of the Crown, and better securing the Rights and Liberties of the Subject, from succeeding after the Decease of her Majesty (whom God long preserve) to the Imperial Crown of this Realm, and the Dominions and Territories thereunto belonging, according to the Limitations in the beforementioned Acts; That is to say, such Issue of her Majesties Body, as shall from time to time be next in Succession to the Crown, if it shall please God Almighty to Bless her Majesty with Issue; and during the time her Majesty shall have no Issue, the Princess Sophia, Electress and Dutchess Dowager of Hanover; and after the Decease of the said Princess Sophia, the next in Succession to the Crown for the time being, according to the Limitation of the said Acts; and the same maliciously, advisedly and directly shall attempt by any Overt Act or Deed: Every such Offence shall be adjudged High Treason, and the Offender or Offenders therein, their Abettors, Procurers and Comforters, knowing the said Offence to be done, being thereof convicted or attainted, according to the Laws and Statutes of this Realm, shall be deemed and adjudged Traytors, and shall suffer Pains of Death, and all Losses and Forfeitures, as in Cases of High Treason.

4, 5 Annæ, Cap. 1.

A. D. 1705.

*An Act for exhibiting a Bill in this present Parliament, for Naturalizing the most Excellent Princess Sophia, Electress and Dutchess Dowager of Hanover, and the Issue of her Body.*

The Princess Sophia, and her Issue, being beyond Sea, cannot qualifie themselves for Naturalization, according to 7 Jac. 1.

—for which reason, a Bill of Naturalization shall be brought in, notwithstanding the said Act.

Whereas the most Excellent Princess Sophia Electress and Dutchess Dowager of Hanover, and the Issue of her Body, are to be Naturalized, and by reason of their being beyond the Seas, they cannot qualifie themselves in order thereto, according to the Act made in the Seventh Year of the Reign of King James the First, which required every Person to receive the Sacrament of the Lords Supper, within One Month before any Bill for Naturalization be exhibited, and also take the Oaths of Supremacy and Allegiance in the Parliament House, before his or her Bill be Twice Read: Be it Enacted by the Queens most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and the Commons in this present Parliament Assembled, and by the Authority of the same, That a Bill for the Naturalization of the most Excellent Princess Sophia, Electress and Dutchess Dowager of Hanover, and the Issue of her Body, shall and may be exhibited and brought into this present Parliament, and Twice Read: Any Law, Statute, Matter, or Thing whatsoever, to the contrary notwithstanding.

4, 5 Annæ,



Protestant  
Succession  
in the  
House of  
Hanover.  
A. D. 1705.

4, 5 Annæ, Cap. 4.

*An Act for the Naturalization of the most Excellent Princess Sophia, Electress and Dutchess Dowager of Hanover, and the Issue of Her Body.*

Whereas the Imperial Crown and Dignity of the Realms of England, France and Ireland, and the Dominions thereto belonging, after the Demise and Death of Your Majesty, Our most Gracious Sovereign, without Issue of Your Body, is limited by Act of Parliament, to the most Excellent Princess Sophia, Electress and Dutchess Dowager of Hanover, Grand-daughter of the late King James the first, and the Heirs of Her Body being Protestants: And whereas Your Majesty, by Your Royal Care and Concern for the Happiness of these Kingdoms, Reigns in the Hearts and Affections of all Your People, to their great Comfort and Satisfaction, and will be a Glorious Example to Your Royal Successors in future Ages: And to the end the said Princess Sophia, Electress and Dutchess Dowager of Hanover, and the Issue of Her Body, and all Persons lineally Descending from Her, may be Encouraged to become acquainted with the Laws and Constitutions of this Realm, it is just and highly Reasonable, that they, in Your Majesties Life-time (whom God long Preserve) should be Naturalized, and be Deemed, Taken and Esteemed Natural-born Subjects of England: We Your Majesties most Dutiful and Loyal Subjects, the Lords Spiritual and Temporal, and Commons in Parliament Assembled, do most humbly Beseech Your Majesty that it may be Enacted; And therefore be it Enacted by the Queens most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and the Commons in this present Parliament Assembled, and by the Authority of the same, That the said Princess Sophia, Electress and Dutchess Dowager of Hanover, and the Issue of Her Body, and all Persons Lineally Descending from Her, born or hereafter to be born, be and shall be, to all intents and purposes whatsoever, Deemed, Taken and Esteemed Natural-born Subjects of this Kingdom, as if the said Princess, and the Issue of Her Body, and all Persons Lineally Descending from Her, born or hereafter to be born, had been born within this Realm of England; Any Law, Statute, Matter or Thing whatsoever to the contrary notwithstanding.

II. Provided always, and be it further Enacted by the Authority aforesaid, That every Person and Persons, who shall be Naturalized by virtue of this Act of Parliament, and shall become a Papist or profess the Popish Religion, shall not Enjoy any Benefit or Advantage of a Natural-born Subject of England; but every such Person shall be Adjudged and Taken as an Alien, born out of the Allegiance of the Queen of England, to all intents and purposes whatsoever; Any thing herein contained to the contrary notwithstanding.

A. D. 1711.

10 Annæ, Cap. 4.

*An Act for Settling the Precedence of the most Excellent Princess Sophia, Electress and Dutchess Dowager of Hanover, of the Elector Her Son, and of the Electoral Prince the Duke of Cambridge.*

Whereas by the Laws and Statutes of this Realm, the Imperial Crown and Dignity of the Kingdoms of Great Britain, France, and Ireland, and the Dominions thereto belonging, after the Demise and Death of Your Majesty, our most Gracious Sovereign, whom God long preserve in Health and Prosperity, for the Happiness and Good of Your Subjects, and in default of Issue of Your Majesties Body, is Limited to the most Excellent Princess Sophia, Electress and Dutchess Dowager of Hanover, Grand-daughter of the late King James the first, and the Heirs

Abridgment.

Limitation of the Crown to the Princess Sophia, recited,

—and that it is convenient, that She and Her Issue be Naturalized.

The Princess Sophia, and Her Issue shall be esteemed Natural-born Subjects of England.

Every Person, Naturalized by this Act, becoming Papist, shall be adjudged an Alien.

The Crown being Limited to the Princess Sophia, and her Heirs,



Abridgment.

—and the Queen having signified Her Pleasure, That their Precedence be Settled;

Enacted,

—That they take Place before the Archbishop of Canterbury, and all other Peers.

The Provisions made by 12 W. 3.

—for Signing of Resolutions by the Privy-Council,

—and for disabling of Officers and Pensioners to be Members of the House of Commons,

—shall be Null.

of Her Body, being Protestants; And Your Majesty having, out of Your great Affection and Regard to the said most Excellent Princess Sophia, Electress and Dutchess Dowager of Hanover, and the Heirs of Her Body, being Protestants, signified Your Royal Pleasure to the Lords Spiritual and Temporal in Parliament Assembled, to have their Precedence Settled by Act of Parliament, in manner as herein after is mentioned: We Your Majesties most Dutiful and Loyal Subjects, the Lords Spiritual and Temporal, and Commons in Parliament Assembled, do most Humbly beseech Your Majesty that it may be Enacted: And therefore be it Enacted by the Queens most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament Assembled, and by the Authority of the same, That the Royal Issue of Your Majesties Body, the said most Excellent Princess Sophia, Electress and Dutchess Dowager of Hanover, the most Serene Elector of Brunswick-Lunenburg, Her Son and Heir Apparent, the most Noble George Augustus, Electoral Prince of Hanover, and Duke of Cambridge, only Son of the said most Serene Elector, and also the Heirs of the Body of the said most Excellent Princess Sophia, Electress and Dutchess Dowager of Hanover, being Protestants, in all Places, and upon Occasions, shall have Rank and Precedence, and take Place before the Archbishop of Canterbury, and all Great Officers, and the Dukes, and all other Peers of these Realms; Any Law, Statute or Custom whatsoever to the contrary notwithstanding.

Protestant Succession in the House of Hanover.

4 & 5 Annæ, Cap. 8.

A.D. 1705.

In an Act, Entituled, *An Act for the better Security of the Succession to the Crown of England in the Protestant Line.*

XXIV. And whereas in and by the said Act of Parliament, made in the Twelfth Year of the Reign of His late Majesty King William the Third, of Glorious Memory, Entituled, An Act for the further Limitation of the Crown, and better Securing the Rights and Liberties of the Subject, It was amongst other things Enacted, in the words following, That from and after the time that the further Limitation by this Act shall take effect, all Matters and things relating to the well Government of this Kingdom, which are properly Cognizable in the Privy-Council by the Laws and Customs of this Realm, shall be transacted there, and all Resolutions taken thereupon, shall be Signed by such of the Privy-Council as shall Advise and Consent to the same: Be it Enacted by the Authority aforesaid, That the said recited Clause shall be, and the same is hereby Annulled and Repealed, as if the same Act had never been made.

† By this Act, divers Provisions were made, to take place, upon the Demise of the Queen, without Issue; all which were recited, and enacted again, in Stat. 6 Anne c. 7. (on occasion of extending the Succession to Great Britain) and may be seen at large in Cap. 4.

XXV. And whereas also in the said Act it was amongst other things Enacted, in the words following, That no Person who has an Office or Place of Profit under the King, or Receives a Pension from the Crown, shall be capable of serving as a Member of the House of Commons; And it appearing reasonable that the said recited Clause should be Repealed: Be it therefore Enacted by the Authority aforesaid, That the said last recited Clause shall be, and is hereby Annulled and Repealed, as if the same Act had never been made.



Additional  
Confirmations of the  
Succession in the  
House of  
Hanover.

A.D. 1701.

## C A P. IV.

*Additional CONFIRMATIONS of the Succession in  
the HOUSE of HANOVER.*

13, 14 Will. III. Cap. 6.

*An Act for the further Security of His Majesties  
Person, and the Succession of the Crown in the Pro-  
testant Line, and for Extinguishing the Hopes of  
the pretended Prince of Wales, and all other Pre-  
tenders, and their open and secret Abettors.*

Whereas by an Act made in the first Year of the Reign of Your most Excellent Majesty and Your late Royal Consort Queen Mary, of ever Blessed Memory, Entituled, An Act declaring the Rights and Liberties of the Subject, and Settling the Succession of the Crown, It was Enacted, Established, and Declared, That the Crown and Regal Government of the Kingdoms of England, France, and Ireland, and the Dominions thereunto belonging, should be and continue to Your said Majesties and the Survivor of You, during Your joynt Lives, and the Life of the Survivor of Your Majesties; and that after the Decease of Your Majesty and of the said late Queen Mary, the said Crown and Regal Government should be and remain to the Heirs of the Body of the said late Queen; and for Default of such Issue to Her Royal Highness the Princess Anne of Denmark, and the Heirs of Her Body; and for Default of such Issue, to the Heirs of the Body of Your Majesty: And whereas by one other Act made in the Twelfth Year of Your Majesties Reign, Entituled, An Act for the further Limitation of the Crown, and better Securing the Rights and Liberties of the Subject, It was Enacted, That the Crown and Regal Government of the said Kingdoms, and the Dominions thereunto belonging, with the Royal State and Dignity of the said Realms, and all Honours, Stiles, Titles, Regalties, Prerogatives, Powers, Jurisdictions, and Authorities, to the same belonging and appertaining, after the Decease of Your Majesty, and of the said Princess Anne of Denmark, and in Default of Issue of the said Princess Anne of Denmark, and of Your Majesty respectively, should be, Remain, and Continue to the most Excellent Princess Sophia, Electress and Dutchess Dowager of Hanover, Daughter of the most Excellent Princess Elizabeth late Queen of Bohemia, Daughter of our late Sovereign Lord King James the first, and the Heirs of the Body of the said Princess Sophia, being Protestants: And whereas the French King, in hopes of disturbing the Peace and Repose of Your Majesty and Your Kingdoms, and creating Divisions therein, hath since the making the said Act, caused the pretended Prince of Wales to be Proclaimed in Your Majesties said Kingdom of France, by the Name, Stile, and Title of James the Third, King of England Scotland, and Ireland, whereupon the said pretended Prince hath assumed the said Stile and Title, in Open Defiance of the Provisions made for the Establishment of the Title and Succession of the Crown, by the said several Acts of Parliament; on which said Acts, the Safety of Your Majesties Royal Person and Government, the Continuance of the Monarchy of England, the Preservation of the Protestant Religion, the Maintenance of the Church of England as by Law Established, the Security of the Ancient and Undoubted Rights and Liberties and the future Peace and Tranquillity of this Kingdom, do (under God) intirely depend; To the Intent therefore that the said Acts may be for ever Inviolably Preserved, and that all future Questions and Divisions, by reason of any pretended Titles to the Crown, may be prevented; We Your Majesties most Dutiful and Loyal Subjects, the Lords Spiritual and Temporal, and Commons in this present Parliament Assembled, do humbly beseech Your most Excellent Majesty that it may be Enacted:

And

Abridgment.

Recital of the  
Act, 1 Will. & Mar.  
for Settling the  
Succession,

—and of the Act,  
12, 13 Will. 3. for  
the further Limi-  
tation of the  
Crown.

The French King  
hath caused the  
pretended Prince  
of Wales to be pro-  
claimed King.

—in open Defi-  
ance of the Acts of  
Succession,

—on which de-  
pend the preserva-  
tion of Church and  
State.



Abridgment.

Enacted, That,  
—all Persons in Office, Civil or Military, or having place under His Majesty, or His Predecessors,

—or being of the Household of the Prince or Princess;  
—or Ecclesiastical Persons, or Members of University,  
—or Schoolmasters, or Ushers,  
—or Dissenting Preachers,  
—or belonging to the Law,  
—( being within 30 Miles of London, )

—shall take an Oath ( of Abjuration ) in one of the Courts of Westminster-Hall,

Viz.  
—That K. William is Lawful and Rightful King,

—That the Pretended Prince of Wales hath no Right,

—That he will Defend King William against all Conspiracies,  
—and disclose to Him and His Successors, all Treasons,  
—That he will maintain the Protestant Succession,

—That he takes this Oath, without Equivocation, Reservation, &c.

And be it Enacted by the Kings most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament Assembled, and by Authority of the same, That all and every Person and Persons, as well Peers as Commoners, that shall bear any Office or Offices, Civil or Military, or shall Receive any Pay, Salary, Fee or Wages, by Reason of any Patent or Grant from His Majesty, or shall have Command or Place of Trust from or under His Majesty, or from any of His Majesties Predecessors, or by His or Their Authority, or by Authority derived from Him or Them, within the Realm of England, Dominion of Wales, or Town of Berwick upon Tweed, or in His Majesties Navy, or in the several Islands of Jersey and Guernsey, or shall be of the Household, or in the Service or Imployment of His Majesty, or of His Royal Highness Prince George, or Her Royal Highness the Princess Anne of Denmark; and all Ecclesiastical Persons, all Members of Colleges and Halls in either University, that are or shall be of the Foundation ( being of the Age of Eighteen Years ) and all Persons teaching Pupils in either University or elsewhere, and all Schoolmasters and Ushers, and all Preachers and Teachers of Separate Congregations, and every Person that shall Act as a Serjeant at Law, Counselor at Law, Barrister, Advocate, Attorney, Solicitor, Proctor, Clerk, or Notary, by Practising in any manner as such in any Court or Courts whatsoever; who shall inhabit, reside, or be within the Cities of London or Westminster, or within Thirty Miles distant from the same, on the first Day of Easter Term, which shall be in the Year of our Lord, One thousand seven hundred and two, or at any time during the said Term: shall personally appear before the End of the said Term: or of Trinity Term next following, in His Majesties High Court of Chancery, or in His Majesties Court of Kings-Bench, Common-Pleas, or Exchequer, and there in Publick and Open Court, between the Hours of Nine of the Clock and Twelve in the Forenoon, take the Oath herein after mentioned: That is to say:

I A. B. do truly and sincerely Acknowledge, Profess, Testifie, and Declare in my Conscience before God and the World, That our Sovereign Lord King William is Lawful and Rightful King of this Realm, and of all other His Majesties Dominions and Countries thereunto belonging. And I do solemnly and sincerely Declare, That I do believe in my Conscience, that the Person pretended to be Prince of Wales, during the Life of the late King James, and since His Decease, pretending to be, and taking upon himself the Stile and Title of King of England, by the Name of James the Third, hath not any Right or Title whatsoever to the Crown of this Realm, or any other the Dominions thereto belonging: And I do Renounce, Refuse and Abjure any Allegiance or Obedience to him. And I do Swear that I will bear Faith and true Allegiance to His Majesty King William, and Him will Defend to the utmost of my Power against all Traiterous Conspiracies and Attempts whatsoever, which shall be made against His Person, Crown or Dignity. And I will do my best Endeavour to Disclose and make Known to His Majesty and His Successors all Treasons and Traiterous Conspiracies, which I shall know to be against Him or any of Them. And I do faithfully Promise, to the utmost of my Power, to Support, Maintain and Defend the Limitation and Succession of the Crown against him the said James, and all other Persons whatsoever, as the same is and stands Limited ( by an Act Entituled, An Act declaring the Rights and Liberties of the Subject, and Settling the Succession of the Crown ) to His Majesty during His Majesties Life, and after His Majesties Decease, to the Princess Anne of Denmark, and the Heirs of Her Body, being Protestants; and for Default of such Issue, to the Heirs of the Body of His Majesty, being Protestants: And as the same by one other Act Entituled, An Act for the further Limitation of the Crown, and better Securing the Rights and Liberties of the Subject, is and stands Limited after the Decease of His Majesty and the Princess Anne of Denmark, and for Default of Issue of the said Princess, and of His Majesty respectively, to the Princess Sophia, Electress and Dutchess Dowager of Hanover, and the Heirs of Her Body, being Protestants. And all these things I do plainly and sincerely Acknowledge and Swear, according to these exprefs Words by me spoken, and according to the plain and common Sense and Understanding of the same Words, without any Equivocation, Mental Evasion, or secret Reservation whatsoever.

Additional Confirmations of the Succession in the House of Hanover.



Additional  
Confirmations of the  
Succession  
in the  
House of  
Hanover.

whatsoever, And I do make this Recognition, Acknowledgment, Abjuration, Renunciation, and Promise, heartily, willingly and truly, upon the true Faith of a Christian.

*So help me God.*

II. Unto which Oath so taken, every such Person so taking the same, shall Subscribe or make his Name or Mark, and during the time of taking the said Oath all Pleas and Proceedings in the said respective Courts, shall cease; and all and every the said respective Persons and Officers, not having taken the said Oath, and subscribed the same as aforesaid, shall on or before the first Day of August, in the Year of our Lord, One thousand seven hundred and two, at the General or Quarter Sessions for that County, Riding, Liberty, City, Borough, Town-Corporate, or Place, where he or they shall be, Inhabit or Reside on the Twentieth Day of May, in the Year of our Lord, One thousand seven hundred and two, take the said Oath in Open Court, between the said hours of Nine and Twelve of the Clock in the Forenoon, and Subscribe his Name, or Make his Mark under the same, as aforesaid.

III. And be it further Enacted by the Authority aforesaid, That all and every Person and Persons that shall be Admitted, Entred, Placed or Taken into any Office or Offices, Civil or Military; or shall Receive any Pay, Salary, Fee or Wages by reason of any Patent or Grant from His Majesty; or shall have Command or Place of Trust from or under His Majesty, or by His Authority, or by Authority derived from Him, within this Realm of England, Dominion of Wales, Town of Berwick upon Tweed; or in His Majesties Navy, or in the several Islands of Jersey and Guernsey; or that shall be admitted into any Service or Employment in His Majesties Household or Family, or of His Royal Highness Prince George, or of Her Royal Highness the Princess Anne of Denmark, after the said first Day of Easter Term aforesaid; shall take the said Oath at the same time that he or they shall Make and Subscribe the Declaration mentioned in a Statute made in the five and twentieth Year of the Reign of His late Majesty King Charles the Second, Entituled, An Act for Preventing Dangers which may happen from Popish Recusants; and all Ecclesiastical Persons, all Members of Colleges and Halls in either Universities, that are or shall be of the Foundation; being of, or as soon as they shall Attain the Age of Eighteen Years, and all Persons Teaching Pupils in either University, or elsewhere; and all Schoolmasters and Others; and all Preachers and Teachers of Separate Congregations; and every Person who shall Act as Serjeant at Law, Counsellor at Law, Barrister, Advocate, Attorney, Solicitor, Proctor, Clerk, or Notary, by Practising in any manner as such, in any Court or Courts whatsoever, who shall at any time after the first Day of Easter Term aforesaid, be Admitted into, or Enter upon any of the before mentioned Preferments, Benefices, Offices or Places, or shall come into any such Capacity, or shall take upon him or them any such Practice, Employment, or Business, as aforesaid, shall within Three Months after he or they shall be admitted into, or enter upon any such Preferment, Benefice, Office, or Place, or come into such Capacity, or take upon him or them such Practice, Employment, or Business, as aforesaid, Take and Subscribe the said Oath in one of the said Courts at Westminster, or at the General Quarter-Sessions of the County, City, or Place where he or they shall Reside.

IV. Provided, That nothing in this Act contained shall extend to any Person now beyond the Seas, who by Virtue of this Act ought to take the said Oath, so as such Person do within Three Months after his return into England take the said Oath, and Subscribe thereunto, according to the Appointment of this Act.

V. And be it further Enacted by the Authority aforesaid, That all and every the Person and Persons aforesaid, that do or shall neglect or refuse to Take the said Oath, and Subscribe thereto, as aforesaid, in the said Courts and Places, and at the respective times aforesaid, shall be ipso facto adjudged incapable and disabled in Law to all intents and purposes whatsoever, to have, occupy, or enjoy the said Office or Offices, Employment or Employments, or any part of them, or any matter or thing aforesaid, or any Profit or Advantage appertaining to them or any of them; and every such Office

Abridgment.

This Oath shall be Subscribed,

—and Persons who have not taken it, as aforesaid, shall take it at the Quarter Sessions, before Aug. 1. 1702.

All Persons who shall be admitted to any Office, Civil or Military, —or having Patent or Grant, —or Place, under His Majesty, or the Prince and Princesses,

—shall take this Oath, when they Subscribe the Declaration.

Ecclesiastical Persons, and Members of the Universities,

—Schoolmasters, and Others, —Dissenting Teachers, —and all Persons belonging to the Law,

—shall take this Oath, within three Months after their admission.

Persons beyond Sea shall take it in 3 Months after their return.

All Persons neglecting or refusing to take this Oath, shall be ipso facto incapable to hold the Office,



Abridgment.

—and, executing it, after such neglect or refusal,

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ed we

—shall be disabled to Sue, or be Guardian, Executor, &c.

—and also forfeit 500 l.

The said Courts shall and may tender the Oath,

—and keep Registers of Oaths and Subscriptions.

The same Office may be held by a new Grant, upon taking the Oath.

—Proviso, for Officers by Sea and Land,

—to take it within 3 Months after their return.

Every Member of both Houses of Parliament, shall take the Oath, before he Sit,

—and if any shall Vote, or make Proxy, before taking the Oath,

or Place, Employment and Employments, shall be Void, and is hereby adjudged Void.

VI. And be it further Enacted, That all and every such Person and Persons, who shall neglect and refuse to take the said Oath within the times, and at the Places aforesaid, and yet after such neglect or refusal shall by himself or themselves, his or their Deputy or Trustee, Execute any of the said Offices or Employments after the said time is Expired, wherein he or they ought to have taken the said Oath, and being thereof lawfully Convicted in or upon any Information, Presentment or Indictment in any of the Kings Courts at Westminster, or at the Assizes; every such Person or Persons shall be disabled from thenceforth to Sue or use any Action, Bill, Plaint, or Information in Course of Law, or to Prosecute any Suit in any Court of Equity, or to be Guardian of any Child, or Executor or Administrator of any Person, or capable of any Legacy or Deed of Gift, or to be in any Office within this Realm of England, Dominion of Wales, or Town of Berwick upon Tweed, and shall forfeit the Sum of five hundred Pounds, to be Recovered by him or them that shall Sue for the same, to be Prosecuted by any Action of Debt, Suit, Bill, Plaint or Information, in any of His Majesties Courts at Westminster, wherein no Essoign, Protection, or Wager of Law shall lie.

VII. And be it further Enacted, That it shall and may be Lawful to and for the respective Courts aforesaid, to Give and Administer the Oath aforesaid to the Person and Persons aforesaid; and upon due Tender to any Person or Persons to take the said Oath, the said Courts are hereby Required and Enjoyned to Administer the same; of the Taking and Subscribing whereof the like Register shall be kept, as by the said Act made in the five and twentieth Year of the Reign of King Charles the Second, was directed to be kept, of the Subscribing the Declaration therein mentioned.

VIII. Provided always, That any Person who, by any neglect or refusal, according to this Act, shall lose or forfeit any Office, may be capable of a new Grant of the said Office, or of any other, and have and hold the same again; such Person taking the said Oath in such manner, as aforesaid, so as such Office be not Granted to, or actually Enjoyed by some other Person at the time of the Regranting thereof.

IX. Provided also, That nothing herein contained shall be Construed to Extend to any Person in His Majesties Service on Board the Fleet, or beyond the Seas, or who shall go beyond the Seas in His Majesties Service before the Twentieth Day of May, in the Year of our Lord One thousand seven hundred and two, so as such Person take the said Oath, and Subscribe thereunto, as aforesaid, according to the Appointment of this Act, within Three Months after his return into England.

X. And be it further Enacted by the Authority aforesaid, That from and after the five and twentieth Day of March, in the Year of our Lord, One thousand seven hundred and two, no Person that now is, or hereafter shall be a Peer of this Realm, or Member of the House of Peers, shall Vote or make his Proxy in the House of Peers, or sit there during any Debate in the said House of Peers; nor any Person that now is, or hereafter shall be a Member of the House of Commons, shall Vote in the House of Commons, or Sit there during any Debate in the said House of Commons, after their Speaker is Chosen; until such Peer or Member shall from time to time respectively take the Oath aforesaid, and Subscribe the same in manner following; (that is to say) The said Oath shall be in this and every succeeding Parliament, Solemnly and Publickly Made and Subscribed between the Hours of Nine in the Morning and Four in the Afternoon, by every such Peer and Member of the House of Peers, at the Table in the middle of the said House, before he take his Place in the said House of Peers, and whilst a full House of Peers is there with their Speaker in his Place; and by every such Member of the House of Commons, at the Table in the middle of the said House, and whilst a full House of Commons is there duly Sitting with their Speaker in his Chair.

XI. And be it further Enacted, That if any Person that now is, or hereafter shall be, a Peer of this Realm, or Member of the House of Commons, in this, or any succeeding Parliament, shall after the said five and twentieth Day of March, Presume to Vote, or make his Proxy, not having taken the said Oath, and Subscribed the same, as aforesaid; every such

Additional Confirmations of the Succession in the House of Hanover.



*Additional  
Confirmations of the  
Succession  
in the  
House of  
Hanover.*

such Peer or Member so Offending, shall from thenceforth be deemed and adjudged a Popish Recusant Convict, to all intents and purposes whatsoever, and shall forfeit and Suffer as a Popish Recusant Convict; and shall be Disabled to hold or Execute any Office or Place of Profit or Trust, Civil or Military, in any of His Majesties Realms of England or Ireland, Dominion of Wales, or Town of Berwick upon Tweed, or in any of His Majesties Islands, or Foreign Plantations to the said Realms belonging; and shall be disabled from thenceforth to Sit or Vote in either House of Parliament, or make a Proxy in the House of Peers; or to Sue or Use any Action, Bill, Plaint, or Information in Course of Law, or to Prosecute any Suit in any Court of Equity; or to be Guardian of any Child, or Executor or Administrator of any Person, or Capable of any Legacy or Deed of Gift; and shall forfeit for every Wilsul Offence against this Act the Sum of five hundred Pounds, to be Recovered and Received by him or them that shall Sue for the same, and to be Prosecuted by any Action of Debt, Suit, Bill, Plaint, or Information in any of His Majesties Courts at Westminster, wherein no Escoign, Protection or Wager of Law shall lie.

XII. Provided always, That neither this Act, nor any thing therein contained, shall extend, be judged, or interpreted to take away, or make void, any Office of Inheritance, so as such Person or Persons, having an Office of Inheritance, do or shall Substitute and Appoint his or their Deputy or Deputies, according to a Proviso in the Act made in the five and twentieth Year of the Reign of King Charles the Second [Entituled, An Act for Preventing Dangers which may happen from Popish Recusants] and so as such Deputy or Deputies do take and subscribe the Oath in and by this present Act required and expressed; and so as such Deputy or Deputies be from time to time approved of by the Kings Majesty, under His Privy Signet.

XIII. And be it further Enacted, That it shall and may be Lawful to and for any Person or Persons Lawfully Authorized to Administer or Tender the Oaths mentioned and appointed to be taken, in an Act of Parliament made in the first Year of the Reign of His present Majesty, and of the late Queen, Entituled, An Act for the Abrogating the Oaths of Supremacy and Allegiance, and Appointing other Oaths, to Administer and Tender the Oath herein before appointed to be taken, to any Person or Persons whatsoever: And if any Person or Persons, to whom the said Oath shall be so tendered, shall neglect or refuse to take the same, the Person and Persons tendering the said Oath, shall Certifie the Refusal thereof to the next Quarter Sessions of the County, Riding, Liberty, Borough, Town Corporate or Place in which such Refusal shall be made; and the said Refusal shall be Recorded amongst the Rolls of that Sessions, and shall be from thence Certified by the Clerk of the Peace of such County, Riding, Liberty, Borough, Town Corporate or Place, into His Majesties Court of Chancery or Kings Bench, there to be Recorded amongst the Rolls of the said Courts, in a Roll or Rolls there to be provided and kept for that purpose only.

XIV. Provided always, That this Act, or any thing therein contained, shall not Extend to the Office of any High Constable, Petty Constable, Tythingman, Headborough, Overseer of the Poor, Church-wardens, Surveyors of the Highways, or any like Inferior Civil Office; or to any Office of Forrester, or Keeper of any Park, Chase, Warren, or Game, or Bailiff of any Manor or Lands, nor to any like Private Offices, nor to any Person or Persons, having only any the before mentioned, or the like Offices.

XV. And be it further Enacted by the Authority aforesaid, That if any Person or Persons, at any time after the five and twentieth Day of March, One thousand seven hundred and two, shall Compals or Imagine the Death of Her Royal Highness the Princess Anne of Denmark, or Endeavour to Deprive or hinder Her from Succeeding to the Imperial Crown of this Realm, and the Dominions and Territories thereunto belonging, after the Demise of His Majesty (whom God long Preserve) and the same Maliciously, Advisedly and Directly shall Attempt, by any Overt Act or Deed; every such Offence shall be Adjudged High Treason, and the Offender and Offenders therein, their Abettors, Procurers and Counsellors, and all any every their Aiders and Comforters, knowing the said Offence to be done, being thereof Convicted or Attainted, according to the Laws and Statutes of this Realm, shall be Deemed and Adjudged Traitors, and shall Suffer Pains of Death, and all Losses and Forfeitures, as in Cases of High Treason.

**Abridgment.**

—he shall be judged a Recusant Convict,  
—and disabled to hold any Office,

—and to Sit or make Proxy,  
—and to Sue, or be Guardian, Executor, &c.

—and shall forfeit 500 £.

This Act shall not make void any Office of Inheritance,

—if it be supply'd by a Deputy, who hath taken the Oath.

Persons who may administer the other Oaths, shall administer and tender this,

—and certifie all Refusals to the Sessions,

—which shall be certify'd to the Chancery or King's Bench, and there enroll'd.

This Act shall not extend to Inferior Offices.

To compass the Death of the Princess Anne, or hinder Her from Succeeding to the Crown,

—shall be High Treason.



Abridgment.

I Annæ, Cap. 22.

Additional Confirmations of the Succession in the House of Hanover.

An Act to declare the Alterations in the Oath Appointed to be Taken by the Act, Entituled, An Act for the further Security of His Majesties Person, and the Succession of the Crown in the Protestant Line, and for Extinguishing the Hopes of the pretended Prince of Wales, and all other Pretenders, and their Open and Secret Abettors.

By reason of the Death of K. William, and the Accession of Queen Anne,

—the Form of the Abjuration-Oath is necessary to be altered, as follows,

—That the Queen is Rightful and Lawful,

—That the Prince of Wales hath no Title,

—That he will be faithful to Queen Anne,

—and oppose and discover all Conspiracies,

—That he will maintain the Protestant Succession,

—That he takes this Oath, without Equivocation, &c.

Whereas by the Demise of his late Majesty King William the Third, and the Accession of Her present Majesty Queen Anne to the Imperial Crown and Dignity of these Realms, the Form of the Oath contained in an Act made in the Thirteenth Year of the Reign of his said late Majesty, Entituled, An Act for the further Security of His Majesties Person, and the Succession of the Crown in the Protestant Line, and for the Extinguishing the Hopes of the pretended Prince of Wales, and all other Pretenders, and their Open and Secret Abettors, is now become necessary to be Altered; Be it therefore Declared and Enacted, by the Queens most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament Assembled, and by the Authority of the same, That from and after the Twentieth Day of April, One thousand seven hundred and two, the Oath in the said recited Act mentioned, be Administred in such Manner and Form as is herein after set down and prescribed, (that is to say)

I A. B. do Truly and Sincerely Acknowledge, Profess, Testifie, and Declare in my Conscience, before God and the World, That our Sovereign Lady Queen ANNE is Lawful and Rightful Queen of this Realm, and of all other Her Majesties Dominions and Countries thereunto belonging. And I do solemnly and sincerely Declare, That I do believe in my Conscience, that the Person pretended to be Prince of Wales, during the Life of the late King James, and since his Decease pretending to be, and taking upon himself the Stile and Title of King of England, by the Name of James the Third, hath not any Right or Title whatsoever to the Crown of this Realm, or any other the Dominions thereto belonging: And I do Renounce, Refuse and Abjure any Allegiance or Obedience to him. And I do Swear, That I will bear Faith and true Allegiance to Her Majesty Queen ANNE, and Her will Defend to the utmost of my Power, against all Traiterous Conspiracies and Attempts whatsoever, which shall be made against Her Person, Crown or Dignity. And I will do my best Endeavour to disclose and make known to Her Majesty, and Her Successors, all Treasons and Traiterous Conspiracies, which I shall know to be against Her, or any of Them. And I do faithfully promise, to the utmost of my power, to Support, Maintain, and Defend the Limitation and Succession of the Crown, against him the said James, and all other Persons whatsoever, as the same is and stands Limited by an Act, Entituled, An Act declaring the Rights and Liberties of the Subject, and Settling the Succession of the Crown, to Her present Majesty, and the Heirs of Her Body, being Protestants: And as the same, by one other Act, Entituled, An Act for the further Limitation of the Crown, and better Securing the Rights and Liberties of the Subject, is and stands Limited after the Decease of Her Majesty, and for Default of Issue of Her Majesty, to the Princess Sophia, Electress and Dutchess Dowager of Hanover, and the Heirs of Her Body, being Protestants. And all these things I do plainly and sincerely Acknowledge and Swear, according to these exprefs Words by me spoken, and according to the plain and common Sense and Understanding of the same Words, without any Equivocation, Mental Evasion, or secret Reservation whatsoever. And I do make this Recognition, Acknowledgment, Abjuration, Renunciation, and Promise, Heartily, Willingly and Truly, upon the true Faith of a Christian.

So help me God.

II. And



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II. And that all and every Person and Persons, who are Enjoyed or Required to Administer, Take or Subscribe the Oath in the said recited Act mentioned, shall Administer, Take and Subscribe the same, according to the Form herein set down and prescribed; Any thing in the said recited Act to the contrary thereof in any wise notwithstanding.

V. And be it further Enacted by the Authority aforesaid, That all and every Person or Persons, who in Her Majesties High-Court of Chancery, or in Her Court commonly called the Kings-Bench, or the Quarter-Sessions, may, or are, or shall be obliged to take the Oaths mentioned in an Act of Parliament made in the first Year of the Reign of the late King William and Queen Mary, Entituled, An Act for Abrogating of the Oaths of Supremacy and Allegiance, and Appointing other Oaths, and to Make and Subscribe the Declaration mentioned in an Act of Parliament made in the five and twentieth Year of the Reign of the late King Charles the Second, Entituled, An Act for preventing Dangers which may happen from Popish Recusants, may for ever hereafter, at their Elections, take the said Oaths, and Make and Subscribe the said Declaration, and Deliver the Certificates of Receiving the Sacrament of the Lords Supper, and make Proof of the Truth thereof, which shall be Inquired of and put upon Record, according to the said last mentioned Act, in Her Majesties Court of Common-Pleas, or in Her Court of Exchequer at Westminster, in such manner and at such times, as by the said Acts, or either of them, they are obliged, or may Take the said Oaths, and Make and Subscribe the said Declaration, and Deliver and Prove such Certificates, to be Inquired of, and put upon Record, in the said Court of Chancery, or Court of Kings-Bench; And such Taking the Oaths, Making and Subscribing the said Declaration, and Delivering of such Certificates proving the Truth thereof, Inquiring of, and Putting upon Record in the said Court of Common-Pleas, and Court of Exchequer, shall be as Effectual to all Intents and Purposes, as if the same had been Taken, Made and Delivered, Inquired of, Proved and put upon Record in the said Court of Chancery, or in the said Court of Kings-Bench; and the Justices of the said Court of Common-Pleas, and Barons of the said Court of Exchequer, are hereby Authorized and Required respectively to Administer the said Oaths, and do all other things, as the Courts of Chancery and Kings-Bench were by the said Statutes, or either of them, Authorized and Required to do, or may do, by Virtue thereof.

VI. And it is hereby further Enacted by the Authority aforesaid, That the Names of all Persons and Officers aforesaid, that do or shall Take the Oaths aforesaid, in the Court of Common-Pleas or Court of Exchequer, shall be Inrolled in the said Courts where the same shall be taken respectively, with the Day and Time of their taking the same, in Rolls made and kept only for that Intent and Purpose, and for no other; the which Rolls, as for the Court of Common-Pleas, shall be publickly hung up in the Office of the Chief Prothonotary of the said Court; and the Roll for the Exchequer in the Office of the Queens Remembrancer of the said Court, and there remain during the whole Term, every Term, for every one to resort to, and to look upon without Fee or Reward: And likewise none of the Persons aforesaid shall Give or Pay any Fee or Reward to any Officer or Officers belonging to either of the said Courts of Common Pleas or Exchequer, above the Sum of Twelve Pence for his or their Entry of his or their taking of the said Oaths.

VII. And be it further Enacted by the Authority aforesaid, That all and every the Person and Persons who, by this Act or the said former Act made this present Parliament, are to Take and Subscribe the Oath therein or herein appointed to be taken, within Three Months after he or they shall be admitted into or enter upon any Preferments, Benefices, Offices, or Places, or come into any Capacity, or take upon him or them any such Practice, Employment or Business in the said former Act mentioned, may, in the next Term, or at the next Quarter-Sessions of the County, City, or Place, where he or they shall reside, after he or they shall be admitted into, or enter upon any such Preferment, Benefice, Office or Place, or come into any such Capacity, or take upon him or them such Practice, Employment, or Business, as aforesaid (though it be after the Expiration of the said Three Months) Take and Subscribe the said Oath in any of the said Four Courts of Westminster, or Quarter-Sessions, which shall be as good and effectual, to all

**Abridgment.**

Oaths and Subscriptions, made and taken in the Common-Pleas or Exchequer,

—shall be as effectual, as in Chancery or the Kings Bench,

—and the Oaths shall be Inrolled in the respective Courts, wherein they are taken.

All Persons admitted to Preferments, Offices, &c. may Take and Subscribe this Oath the next Term, or next Quarter-Sessions,

—although the Three Months be expired,



**Abridgment.**

—but neglecting, he shall incur the Penalties of the former Act.

intents and purposes, as if Taken and Subscribed within the said Three Months: But nevertheless every such Person that shall neglect to Take and Subscribe the said Oaths in the next Term, or next Quarter-Sessions, as aforesaid, shall incur and be liable unto all the Penalties, Forfeitures and Disabilities, for refusing or neglecting to Take or Subscribe the said Oath, at such time as in the said former Act is mentioned; and likewise unto all the other Penalties for executing such Office or Employment, if he shall execute the same after such neglect or refusal to Take and Subscribe the said Oath, as is therein mentioned.

*Additional Confirmations of the Succession in the House of Hanover.*

7 Annæ, Cap. 22.

A.D. 1708.

In an Act, Entituled, *An Act for the Queens most Gracious, General, and Free Pardon.*

Offences against 13 W. 3 c. 6.

XXVI. And also Excepted out of this present Act all Offences Done or Committed since Her Majesties happy Accession to the Crown, contrary to or against an Act of Parliament made in the Thirteenth Year of the Reign of His late Majesty King William the Third, Entituled, An Act for the further Security of His Majesties Person, and the Succession of the Crown in the Protestant Line, and for the Extinguishing the Hopes of the pretended Prince of Wales, and all other Pretenders, and their Open and Secret Abettors, or contrary to and against an Act of Parliament made in the First Year of the Reign of Her present Majesty, Entituled, An Act to Declare the Alterations made in the Oath Appointed to be Taken by the Act, Entituled, *An Act for the further Security of His Majesties Person, and the Succession of the Crown in the Protestant Line, and for the Extinguishing of the Hopes of the pretended Prince of Wales, and all other Pretenders, and their Open and Secret Abettors, and all Forfeitures, Pains, Penalties and Disabilities, which any Person or Persons is, are, or may be liable to by reason of any of the said Offences committed against either of the said Statutes.*

—and 1 Ann. c. 22.

—excepted out of the General Pardon.

5 Annæ, Cap. 8.

A.D. 1706.

In an Act, Entituled, *An Act for an Union of the Two Kingdoms of England and Scotland.*

By the terms of the Union,

A R T. II. That the Succession to the Monarchy of the United Kingdom of *Great Britain*, and of the Dominions thereto belonging; after Her most Sacred Majesty, and in Default of Issue of Her Majesty, be, remain, and continue to the most Excellent Princess *Sophia*, Electress and Dutchess Dowager of *Hanover*, and the Heirs of Her Body, being Protestants, upon whom the Crown of *England* is settled by an Act of Parliament made in *England* in the Twelfth Year of the Reign of His late Majesty King *William* the Third, Entituled, *An Act for the further Limitation of the Crown, and better Securing the Rights and Liberties of the Subject*: And that all Papists, and Persons Marrying Papists, shall be Excluded from, and for ever Incapable to Inherit, Possess or Enjoy the Imperial Crown of *Great Britain*, and the Dominions thereunto belonging, or any part thereof; and in every such case, the Crown and Government shall from time to time descend to, and be enjoyed by such Person, being a Protestant, as should have Inherited and Enjoyed the same, in case such Papist, or Person Marrying a Papist, was Naturally dead; according to the Provision for the Descent of the Crown of *England*, made by another Act of Parliament in *England*, in the First Year of the Reign of Their late Majesties King *William* and Queen *Mary*, Entituled, *An Act declaring the Rights and Liberties of the Subject, and Settling the Succession of the Crown.*

—the Monarchy of *Great Britain* shall descend, as Settled in *England*,

—and all Papists, and Persons Marrying Papists, shall be excluded.



Additional  
Confirmations of the  
Succession in the  
House of  
Hanover.  
A.D. 1707.

## 6 Annæ, Cap. 7.

*An Act for the Security of Her Majesties Person and Government, and of the Succession to the Crown of Great Britain in the Protestant Line.*

Whereas by the happy Union of England and Scotland, it is become necessary to make divers Alterations in relation to an Act Passed in the Parliament of England, in the Fourth Year of the Reign of Her present Majesty, whom God long preserve, Entituled, An Act for the better Security of Her Majesties Person and Government, and of the Succession to the Crown of England in the Protestant Line, and to extend the Provisions of the said Act throughout the whole United Kingdom, for the better Security of our most Gracious Sovereigns Person and Government, and of the Succession to the Crown of Great Britain in the Protestant Line, as it is now by the Laws and Statutes of this Realm Settled, Limited and Appointed; Be it therefore Enacted by the Queens most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and the Commons in this present Parliament Assembled, and by the Authority of the same, That if any Person or Persons shall Maliciously, Advisedly and Directly, by Writing or Printing, Maintain and Affirm, That our Sovereign Lady the Queen that now is, is not the Lawful and Rightful Queen of these Realms, or that the pretended Prince of Wales, who now Stiles himself King of Great Britain, or King of England, by the Name of James the Third, or King of Scotland, by the Name of James the Eighth, hath any Right or Title to the Crown of these Realms, or that any other Person or Persons hath or have any Right or Title to the same, otherwise than according to an Act of Parliament made in England in the First Year of the Reign of Their late Majesties King William and Queen Mary, of ever Blessed and Glorious Memory, Entituled, An Act Declaring the Rights and Liberties of the Subject, and Settling the Succession of the Crown; and one other Act made in England in the Twelfth Year of the Reign of His said late Majesty King William the Third, Entituled, An Act for the further Limitation of the Crown, and better Securing the Rights and Liberties of the Subject; And the Acts lately made in England and Scotland mutually for the Union of the Two Kingdoms; or that the Kings or Queens of this Realm, with and by the Authority of Parliament, are not able to make Laws, and Statutes of sufficient Force and Validity to Limit and Bind the Crown, and the Descent, Limitation, Inheritance, and Government thereof: every such Person or Persons shall be Guilty of High Treason, and being thereof Lawfully Convicted, shall be adjudged Traytors, and shall suffer Pains of Death, and all Losses and Forfeitures as in Cases of High Treason.

II. And be it further Enacted by the Authority aforesaid, That if any Person or Persons shall Maliciously and Directly, by Preaching, Teaching, or Advised Speaking, Declare, Maintain, and Affirm, That our Sovereign Lady the Queen that now is, is not the Lawful or Rightful Queen of these Realms, or that the pretended Prince of Wales, who now Stiles himself King of Great Britain, or King of England, by the Name of James the Third, or King of Scotland, by the Name of James the Eighth, hath any Right or Title to the Crown of these Realms, or that any other Person or Persons hath or have any Right or Title to the same, otherwise than according to an Act of Parliament made in England in the First Year of the Reign of Their said late Majesties King William and Queen Mary, Entituled, An Act Declaring the Rights and Liberties of the Subject, and Settling the Succession of the Crown; and one other Act made in England in the Twelfth Year of the Reign of His late Majesty King William the Third, Entituled, An Act for the further Limitation of the Crown, and better Securing the Rights and Liberties of the Subject; and the Acts lately made in England and Scotland mutually for the Union of the Two Kingdoms; or that the Kings or Queens of this Realm, with and by the Authority of Parliament, are not able to make Laws and Statutes of sufficient Force and Validity to Limit and Bind the Crown, and the Descent, Limitation, Inheritance, and Govern-

Abridgment.

It being necessary to make Alterations in the Stat. 4 *Annæ*, c. 8. since the Union of England and Scotland,

Enacted, that

—any Person who shall affirm, by Writing or Printing,

—that the Queen is not Lawful and Rightful Queen of Great Britain,

—or that the Prince of Wales hath Title to the Crown,

—or any Person, otherwise than according to the Act of Succession,

—or that King and Parliament cannot Limit the Inheritance of the Crown,

—shall be Guilty of High Treason;

—and whoever shall affirm any of these, by Preaching, Teaching, or Speaking, &c.

ment



**Abridgment.**

—shall incur the danger of *Præmunire*.

Information shall be within 3 days, and Prosecution within 3 Months.

The Parliament of *Great Britain* shall not be dissolved by the Death of the Queen,

—but may continue Six Months ;

—and if it stand Prorogued, it shall immediately meet ;

—but if no Parliament is in being, the last preceding shall meet.

Proviso, for the Queens Power to Prorogue and Dissolve,

—and that the Act for a Triennial Parliament, shall extend to the Parliament of *Great Britain*.

Privy-Council of *Great Britain*,

—and the Officers of State,

—and all Officers Civil and Military,

ment thereof: every such Person or Persons shall incur the Danger and Penalty of *Præmunire*, mentioned in the Statute of *Præmunire*, made in England in the Sixteenth Year of the Reign of King Richard the Second.

III. Provided always, and be it Enacted by the Authority aforesaid, That no Person shall be Prosecuted by Virtue of this Act for any Words spoken, unless the Information of such Words be given upon Oath to One or more Justice or Justices of the Peace within Three Days after such Words spoken, and the Prosecution of such Offence be within Three Months after such Information ; and that no Person shall be Convicted by Virtue of this Act for any such Words spoken, but by the Oaths of Two Credible Witnesses.

IV. And be it further Enacted by the Authority aforesaid, That this present Parliament, or any other Parliament which shall hereafter be Summoned and Called by Her Majesty Queen Anne, Her Heirs or Successors, shall not be Determined or Dissolved by the Death or Demise of Her said Majesty, Her Heirs or Successors ; but such Parliament shall and is hereby Enacted to Continue, and is hereby Impowered and Required, if Sitting at the time of such Demise, immediately to proceed to Act, notwithstanding such Death or Demise, for and during the Term of Six Months, and no longer, unless the same be sooner Prorogued or Dissolved by such Person to whom the Crown of this Realm of Great Britain shall come, remain and be, according to the Acts for Limiting and Settling the Succession, and for the Union above mentioned : And if the said Parliament shall be Prorogued, then it shall Meet and Sit on and upon the Day unto which it shall be Prorogued, and Continue for the residue of the said time of Six Months, unless sooner Prorogued or Dissolved, as aforesaid.

V. And be it further Enacted by the Authority aforesaid, That if there be a Parliament in being at the time of the Death of Her Majesty, Her Heirs or Successors, but the same happens to be separated by Adjournment or Prorogation, such Parliament shall immediately after such Demise, Meet, Convene and Sit, and shall Act, notwithstanding such Death or Demise, for and during the time of Six Months, and no longer, unless the same shall be sooner Prorogued, or Dissolved, as aforesaid.

VI. And be it further Enacted by the Authority aforesaid, That in Case there is no Parliament in being at the time of such Demise that hath Met and Sat, then the last preceding Parliament shall immediately Convene, and Sit at Westminster, and be a Parliament, to Continue, as aforesaid, to all intents and purposes, as if the same Parliament had never been Dissolved, but subject to be Prorogued and Dissolved, as aforesaid.

VII. Provided always, and it is hereby Declared, That nothing in this Act contained, shall extend, or be construed to extend to Alter or Abridge the Power of the Queen, Her Heirs or Successors, to Prorogue or Dissolve Parliaments, nor to Repeal, or make Void one Act of Parliament made in England in the Sixth Year of the Reign of Their late Majesties King William and Queen Mary, Entituled, An Act for the frequent Meeting and Calling of Parliaments ; but that the said Act shall Continue in Force in every thing that is not contrary to, or inconsistent with the Direction of this Act ; and the said Act for the frequent Meeting and Calling of Parliaments is hereby Declared and Enacted to extend to the Parliament of Great Britain, as fully and effectually to all Intents, Constructions, and Purposes, as if the same were herein and hereby particularly Recited and Enacted.

VIII. And be it further Enacted by the Authority aforesaid, That the Privy-Council of Her Majesty, Her Heirs or Successors, for the Kingdom of Great Britain, shall not be Determined or Dissolved by the Death or Demise of Her Majesty, Her Heirs or Successors ; but such Privy-Council shall Continue and Act as such by the space of Six Months next after such Demise, unless sooner Determined by the next Successor to whom the Imperial Crown of this Realm is Limited and Appointed to go, remain and descend ; nor shall the Office or Place of Lord Chancellor or Lord Keeper of the Great Seal of Great Britain, or of Lord High Treasurer of Great Britain, Lord President of the Council for Great Britain, Lord Privy-Seal of Great Britain, Lord High Admiral of Great Britain, or of any of the great Officers of the Queen or Kings Household for the time being ; nor shall any Office, Place, or Imployment, Civil or Military, within the Kingdom of Great Britain or Ireland, Dominion of Wales, Town of Berwick upon Tweed, Isles of Jersey, Guernsey, Alderney, and Sark, or any of Her Majesties

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jesties Plantations, become Void by reason of the Demise, or Death of her present Majesty, her Heirs or Successors, Queens or Kings of this Realm; but the said Lord Chancellor or Lord Keeper of the Great Seal of Great Britain, The Lord High Treasurer of Great Britain, The Lord President of the Council, The Lord Privy Seal, The Lord High Admiral of Great Britain, The Great Officers of the Household, and every other Person and Persons in any of the Offices, Places, and Employments aforesaid, shall Continue in their respective Offices, Places and Employments, for the Space of Six Months next after such Death or Demise, unless sooner Removed and Discharged by the next in Succession, as aforesaid.

IX. And be it further Enacted by the Authority aforesaid, That the Great Seal of Great Britain, the Privy Seal, Privy Signet, and all other Publick Seals in being at the time of the Demise of her Majesty, her Heirs or Successors, shall Continue and be made Use of as the respective Seals of the Successor, until such Successor shall give Order to the contrary.

X. And be it further Enacted by the Authority aforesaid, That whensoever her Majesty (whom God long preserve) shall happen to Demise and Depart this Life without Issue of her Body, the Privy-Council for Great Britain in being at the time of such Demise of her Majesty, shall with all convenient Speed cause the next Protestant Successor Entitled to the Crown of Great Britain, by Virtue of the Acts before mentioned, to be Openly and Solemnly Proclaimed in Great Britain and Ireland, in such manner and form as the preceding Kings and Queens respectively have been usually Proclaimed after the Demise of their respective Predecessors; And that all and every Member and Members of the said Privy-Council, wilfully Neglecting or Refusing to cause such Proclamation to be made, shall be Guilty of High-Treason, and being thereof lawfully Convicted, shall be Adjudged Traitors, and shall suffer Pains of Death, and all Losses and Forfeitures as in Cases of High-Treason: And also all and every Officer and Officers within the said Kingdoms of Great Britain and Ireland, who shall by the said Privy-Council be required to make such Proclamations, and shall wilfully Refuse or Neglect to make the same, shall be Guilty of High-Treason; and being thereof lawfully Convicted, shall be Adjudged Traitors, and shall suffer Pains of Death, and all Losses and Forfeitures as in Cases of High-Treason.

XI. And because it may happen that the next Protestant Successor may, at the time of such Demise of her Majesty, be out of the Realm of Great Britain in Parts beyond the Seas; Be it therefore Enacted by the Authority aforesaid, That for the Continuing of the Administration of the Government in the Name of such Protestant Successor, until her or his Arrival in Great Britain, the Seven Officers herein after named, who shall be in the Possession of their Offices at the time of such Demise of her Majesty, That is to say, The Archbishop of Canterbury at that time being, The Lord Chancellor or Lord Keeper of the Great Seal of Great Britain at that time being, The Lord President of the Council for Great Britain at that time being, The Lord Privy Seal of Great Britain at that time being, The Lord High Admiral of Great Britain at that time being, and the Lord Chief Justice of the Queens Bench at that time being; shall be and are, by Virtue of this Act, Constituted and Appointed Lords Justices of Great Britain, and are and shall be, by Virtue of this Act, Impowered, in the Name of such Successor, and in her and his stead, to Use, Exercise and Execute all Powers, Authorities, Matters, and Acts of Government, and Administration of Government, in as full and ample Manner as such next Successor could Use or Execute the same, if She or he were present in Person within this Kingdom of Great Britain, until such Successor shall arrive, or otherwise determine their Authority.

XII. Nevertheless be it further Enacted by the Authority aforesaid, That such Person, who by the Limitations aforesaid is or shall be next to Succeed to the Crown of this Realm, in case of her Majesties Demise without Issue, shall and is hereby Impowered, at any time during her Majesties Life, by Three Instruments under her or his Hand and Seal, Revocable or to be Altered at her and his Will and Pleasure, to Nominate and Appoint such and so many Persons, being Natural-born Subjects of this Realm of Great Britain, as She or he shall think fit, to be added to the Seven Officers before named to be Lords Justices, as aforesaid; who shall

Abridgment.

—may continue Six Months after the Demise of the Queen,

—and the Seals shall continue and be used, till altered by the Successor.

The Privy-Council of Great Britain, shall cause the next Protestant Successor to be Proclaimed,

—upon pain, that they, and the Officers refusing, shall be guilty of High-Treason.

If the next Successor be beyond the Seas, the Government shall be Administred, by the

—Archbishop of Canterbury,  
—Lord Chancellor,  
—Lord Treasurer,  
—Lord President,  
—Lord Privy Seal,  
—Lord High Admiral,  
—Lord Chief Justice of the Queens Bench,

—in as ample manner, as if such Successor were present.

During the Queens Life, the Successor may add as many as He or She shall think fit, by Three Instruments,



Abridgment.

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be Impowered, by Authority of this Act, to Act with them as Lords Justices of Great Britain, as fully and in the same manner as if they had been herein particularly named: Which said Lords Justices, or the major part of them, which shall Assemble, so as such major part be not fewer than Five, shall and may Use and Exercise all the Powers and Authorities before mentioned, as fully and effectually, to all intents and purposes, as if all of them had been Assembled together and Consenting.

XIII. And be it Enacted by the Authority aforesaid, That the said Three Instruments, Revocable and to be Altered, as aforesaid, shall be transmitted into Great Britain, to the Resident of such Person next to Succeed, as aforesaid, whose Credentials shall be Enrolled in the High Court of Chancery, and to the Archbishop of Canterbury, and the Lord Chancellor or Lord Keeper of the Great Seal of Great Britain, close Sealed up; and after they are so transmitted, shall be put into several Covers, which shall be severally Sealed up with Three several Seals of such Resident, and of the Archbishop of Canterbury, and of the Lord Chancellor or Lord Keeper of the Great Seal of Great Britain; and one of them, after it is so Sealed up, shall be Lodged and Deposited in the Hands of such Resident, one other of them in the Hands of the said Archbishop of Canterbury, and one other of them in the Hands of the Lord Chancellor or Lord Keeper of the Great Seal of Great Britain: And that if the next Successor shall be minded to Revoke or Alter Her or His Nomination or Appointment made, as aforesaid, and shall by Three Writings of the same Tenor, under Her or His Hand and Seal require the said Instruments Deposited, as aforesaid, to be Delivered up to some Person or Persons thereby Authorized to Receive the same, Then and in such case the said Persons with whom the said Instruments shall be Deposited, and every of them, and in case of any of their Deaths, their Executors or Administrators respectively, and every other Person in whose Custody any of the said Instruments shall happen to be, shall Deliver up the said Instruments accordingly; and they are hereby respectively Authorized and Required so to do: And if any of the said Persons, with whom the said Instruments shall be so Deposited, shall happen to Die, or be Removed from their respective Offices or Employments, during the Life of Her present Majesty, such Person and Persons, and in case of any of their Deaths, their Executors or Administrators respectively, and every other Person in whose Custody any of the said Instruments shall happen to be, shall, with all convenient speed, Deliver such of them, as shall be in his or their Custody, to the Successor or Successors of the Person so Dying or Removed, as aforesaid; which said several Instruments so Sealed up and Deposited, as aforesaid, shall immediately after the Demise of Her Majesty without Issue, be brought before the Privy-Council, where the same shall be forthwith Opened and Read, and afterwards Jurrolled in the High Court of Chancery.

XIV. And be it further Enacted by the Authority aforesaid, That if any of the said Persons with whom the said Instruments shall be Deposited, as aforesaid, or any of their Executors or Administrators, or any other Person in whose Custody the same shall happen to be, after the Deceases of any of the said Persons, shall Open any of the said Instruments, or shall wilfully Neglect or Refuse to produce before the said Privy-Council, as aforesaid, such of the said Instruments as shall be in his or their Custody, as aforesaid; every such Person so Opening, Neglecting or Refusing, shall incur the Pains and Penalties of a Præmunire inflicted by the said Statute of Præmunire.

XV. And be it further Enacted by the Authority aforesaid, That if all the said Instruments Deposited, as aforesaid, shall not be produced before the said Privy-Council, as aforesaid, then any one or more of the said Instruments so produced, as aforesaid, shall be as effectual to give such Authority, as aforesaid, to the Persons therein named, as if all of them had been produced, as aforesaid: And if there be not any Nomination by such Instruments, then the said Seven Officers, or any Five of them, are Constituted and Appointed to be Lords Justices of Great Britain, and are hereby Invested with the Powers and Authorities mentioned in this Act.

XVI. And be it further Enacted by the Authority aforesaid, That any Nomination and Appointment already made by the next Successor, signified by such Instruments Deposited, as aforesaid, pursuant to the said former Act for the better Security of Her Majesties Person and Government, and of the Succession to the Crown of England in the Protestant Line,

—which shall be transmitted to the Resident, the Archbishop, and Lord Chancellor, Sealed,

—and being sealed in Covers, with their Three Seals, shall be kept by them,

—and Delivered up, whenever the Successor shall revoke them by new ones.

If any of the said Three Persons Die, or be Removed, the Instrument shall be delivered, to his Successor,

—and upon the Death of the Queen without Issue, they shall all be Opened and Read before the Council.

Any of the three Persons, opening, or not producing them,

—shall incur the Pains of Præmunire.

Any one Instrument, produced, shall be as effectual, as all,

—and if no more be appointed, the Powers shall be in the Seven.

Any Nomination already made by the Successor, with regard to



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Line, shall be Deemed and Taken to be as Effectual for Constituting and Appointing the Persons so Nominated Lords Justices of England, to be Lords Justices of Great Britain, to all Intents, Construations and Purposes, as if such Nomination and Appointment were made pursuant to this Act.

XVII. And be it further Enacted, That the said Lords Justices Constituted, as aforesaid, shall not Dissolve the Parliament Continued and Ordered to Assemble and Sit, as aforesaid, without express Direction from such succeeding Queen or King: And that the said Lords Justices shall be and are hereby Restrained and Disabled from giving the Royal Assent in Parliament to any Bill or Bills for the Repealing or Altering the Act made in England in the Thirteenth and Fourteenth Years of the Reign of King Charles the Second, Entituled, An Act for the Uniformity of Publick Prayers, and Administration of Sacraments, and other Rites and Ceremonies: And for Establishing the Form for Making, Ordaining, and Consecrating Bishops, Priests, and Deacons in the Church of England; or the Act made in Scotland in the last Session of Parliament there, Entituled, Act for Securing the Protestant Religion, and Presbyterian Church-Government, and all and every the said Lords Justices Concurring in giving the Royal Assent to any Bill or Bills for Repealing or Altering the said Acts, or either of them, shall be Guilty of High Treason, and Suffer and Forfeit as in Cases of High Treason.

XVIII. And be it further Enacted by the Authority aforesaid, That the said Lords Justices before they Act or Intermeddle in their said Offices, or any of the Authorities hereby to them given, shall take the Oaths mentioned in an Act made in England in the First Year of the Reign of Their late Majesties King William and Queen Mary, Entituled, An Act for Abrogating the Oaths of Allegiance and Supremacy, and Appointing other Oaths; and also the Oath herein after Expressed and Enacted to be Taken after the Demise of Her Majesty without Issue of Her Body; which said Oaths shall be Taken before the Privy-Council appointed to Continue by Virtue of this Act, who are hereby Required and Impowered to Administer the same: And that all the Members of both Houses of Parliament, and every Member of the Privy-Council, and all Officers or Persons in any Offices, Places, or Employments, Civil or Military, who are or shall be by this Act Continued, as aforesaid, shall Take the said Oaths, and do all other Acts requisite by the Laws and Statutes of this Realm to Qualifie themselves to Be and Continue in such their respective Places, Offices, and Employments, within such Time, and in such Manner, and under such Pains, Penalties, and Disabilities, as they should or ought to do, had they been newly Elected, Appointed, Constituted, and Put into such Offices, Places or Employments in the usual and ordinary way.

XIX. And it is hereby further Enacted and Declared, That all and every the Persons that shall be any of the Lords Justices by Virtue of this Act, shall be Deemed and Taken as Persons Executing Offices of Trust within England, and shall be Required to do all Acts requisite by the Laws and Statutes of England, to Qualifie themselves to Be and Continue in their said Offices or Places of Trust, within such Times and in such Manner, and under such Pains, Penalties, and Disabilities, as in and by the said Act are required.

XX. And be it further Enacted by the Authority aforesaid, That from and after the Demise of Her Majesty without Issue of Her Body, instead of the Oath appointed to be taken by the Act Entituled, An Act for the further Security of Her Majesties Person, and the Succession of the Crown in the Protestant Line, and for Extinguishing the Hopes of the pretended Prince of Wales, and all other Pretenders, and their Open and Secret Abettors, and for Declaring the Association to be Determined, the following Oath shall be taken by all Persons Required by the said Act to take the said Oath therein mentioned, and hereby Altered and Changed (that is to say:)

I **A. B.** do Truly and Sincerely Acknowledge, Profess, Testifie, and Declare in my Conscience, before God and the World, That our Sovereign is Lawful and Rightful of this Realm, and of all other Majesties Dominions and Countries thereunto belonging. And I do solemnly and sincerely Declare, That I do believe in my Conscience, that the Person pretended to be Prince of Wales, during the Life of the late King James, and since His Decease, pretending to be, and taking upon himself the Stile and Title

Abridgment.

England, shall be good, as to Great Britain.

The Lords Justices shall not Dissolve the Parliament;

—nor shall they give Assent to any Bill, for altering the Act of Uniformity,

—upon pain of High Treason.

The Lords Justices, before they Act, shall take the Oaths,

—and likewise all Members of Parliament, and all Officers, Civil and Military, hereby continued.

The Place of Lord Justice, by this Act, shall be deemed an Office of Trust.

The Oath of Abjuration, upon the Demise of Her Majesty, shall be,

—That the Successor is Rightful and Lawful—



Abridgment.

—that the Prince of Wales hath no Right, —that he will be faithful to—

—and disclose all Treasons against—

—that he will maintain the Protestant Succession,

—that he takes this Oath, without Equivocation, Evasion, or Reservation.

After the Death of the Prince of Wales, the Clauses concerning him shall be left out,

—and a new one inserted.

The Seal used by the Successor, before Arrival,

—shall have the same effect as the Publick Seals.

Parliament called by the Lords Justices, shall not be Dissolved by the Arrival of the Successor.

If any of the 7 Offices be in Commission, the first Commissioner shall Act,

Title of King of England, by the Name of James the Third, hath not any Right or Title whatsoever to the Crown of this Realm, or any other the Dominions thereto belonging: And I do Renounce, Refuse, and Abjure any Allegiance or Obedience to him. And I do Swear that I will bear Faith and true Allegiance to \_\_\_\_\_ and \_\_\_\_\_ will Defend to the utmost of my Power, against all Traiterous Conspiracies and Attempts whatsoever, which shall be made against \_\_\_\_\_ Person, Crown or Dignity. And I will do my utmost Endeavour to Disclose and make Known to \_\_\_\_\_ Majesty and \_\_\_\_\_ Successors all Treasons and Traiterous Conspiracies, which I shall know to be against \_\_\_\_\_ or any of Them. And I do faithfully Promise, to the utmost of my Power, to Support, Maintain and Defend the Succession of the Crown against him the said James, and all other Persons whatsoever, as the same, by an Act, Entituled, *An Act for the further Limitation of the Crown, and better Securing the Rights and Liberties of the Subject*, is and stands Limited to the Princess Sophia, Electress and Dutchess Dowager of Hanover, and the Heirs of Her Body, being Protestants. And all these things I do plainly and sincerely Acknowledge and Swear, according to these express Words by me spoken, and according to the plain and common Sense and Understanding of the same Words, without any Equivocation, Mental Evasion, or secret Reservation whatsoever. And I do make this Recognition, Acknowledgment, Abjuration, Renunciation, and Promise, heartily, willingly, and truly, upon the true Faith of a Christian.

So help me God.

XXI. The Blanks of which Oath shall be filled up with the Name of her or him, as Queen or King, who shall be next in Succession, according to the said Act for the further Limitation of the Crown, and better Securing the Rights and Liberties of the Subject, when the said Oath is to take place, and with other proper Additions of the Words Her, His, or Him; and from and after the Death of the said pretended Prince of Wales, these Words following, viz. [And I do Solemnly and Sincerely Declare, That I do believe in my Conscience, that the Person pretended to be Prince of Wales, during the Life of the late King James, and since his Decease pretending to be, and taking upon himself the Stile and Title of King of England, by the Name of James the Third, hath not any Right or Title whatsoever to the Crown of this Realm, or any other the Dominions thereto belonging: And I do Renounce, Refuse, and Abjure any Allegiance or Obedience to him] shall be left out; and also the Words [against him the said James, and all other Persons whatsoever] shall be omitted, and instead thereof shall be inserted [against all Persons whatsoever.]

XXII. And be it further Enacted by the Authority aforesaid, That such next succeeding Queen or King shall and may make use of any Seal, to Affix to any Writing or Instrument, which She or He shall, before her or his Arrival in Great Britain, make and pass, to Execute, and Do, or cause to be Executed or Done, any Regal Act, and, it being Signified by such Writing or Instrument, that the same shall have the same Effect, as if Passed under the Great Seal of Great Britain, or any other Publick Seal used there, the same shall be of the same Force and Effect, as if it were actually Sealed by the Great Seal of Great Britain, or such other Publick Seal, which the same is Declared to be intended to have the Force and Effect of in such Writing or Instrument.

XXIII. And be it further Declared and Enacted, That if after the Death of her Majesty without Issue, and before the Arrival of any succeeding Queen or King in Great Britain, any Parliament shall be called by the Lords Justices, by Writs Tested in their Names; by the Arrival of such succeeding Queen or King in Great Britain, such Parliament shall not be Dissolved, but after such Arrival shall proceed without any new Summons.

XXIV. Provided always, That if any of the aforesaid Seven Offices, other than the Office of Lord High Treasurer of Great Britain, shall be in Commission at the time of such Demise of her Majesty, That then the first Commissioner of such respective Commission, shall be One of the said Lords Justices of Great Britain, and Use, Exercise and Execute all Powers, Authorities, Matters and Acts of Government by this Act vested in the said Lords Justices of Great Britain, according to the Directions and Provisions of this Act, in as full and ample manner, as if such Office or Offices were in

Additional Confirmations of the Succession in the House of Hanover.



*Additional  
Confirmations of the  
Succession  
in the  
House of  
Hanover.*

in the Hands of a single Person: Provided, That if there be no Lord High Treasurer of Great Britain, and the Office of Treasurer of the Exchequer shall be in Commission, then the first in that Commission shall be One of the Lords Justices of Great Britain.

XXV. And be it further Enacted by the Authority aforesaid, That no Person who shall have in his own Name, or in the Name of any Person or Persons in Trust for him, or for his Benefit, any new Office or Place of Profit whatsoever under the Crown, which at any time since the Five and twentieth Day of October, in the Year of our Lord One thousand seven hundred and five, have been Created or Created, or hereafter shall be Created or Created, nor any Person who shall be Commissioner or Sub-Commissioner of Prizes, Secretary or Receiver of the Prizes, nor any Comptroller of the Accompts of the Army, nor any Commissioner of Transports, nor any Commissioner of the Sick and Wounded, nor any Agent for any Regiment, nor any Commissioner for any Wine-Licences, nor any Governor or Deputy Governor of any of the Plantations, nor any Commissioners of the Navy employed in any of the Out-Ports, nor any Person having any Pension from the Crown during Pleasure; shall be capable of being Elected, or of Sitting or Voting as a Member of the House of Commons in any Parliament which shall be hereafter Summoned and Holden.

XXVI. Provided always, That if any Person being Chosen a Member of the House of Commons, shall accept of any Office of Profit from the Crown, during such time as he shall continue a Member, his Election shall be and is hereby Declared to be Void, and a new Writ shall Issue for a new Election, as if such Person so accepting was naturally Dead: Provided nevertheless, That such Person shall be capable of being again Elected as if his Place had not become Void, as aforesaid.

XXVII. Provided also, and be it Enacted, That in order to prevent for the future too great a Number of Commissioners to be Appointed or Constituted for the Executing of any Office, That no greater Number of Commissioners shall be Made or Constituted for the Execution of any Office, than have been Employed in the Execution of such respective Office at some time before the first Day of this present Parliament.

XXVIII. Provided also, That nothing herein contained shall Extend, or be construed to Extend to any Member of the House of Commons, being an Officer in Her Majesty's Navy or Army, who shall receive any new, or other Commission, in the Navy or Army respectively.

XXIX. And be it further Enacted, That if any Person hereby Disabled, or declared to be Incapable to Sit or Vote in any Parliament hereafter to be Holden, shall nevertheless be Returned as a Member to serve for any County, Stewartry, City, Town or Cinque-Port, in any such Parliament; such Election and Return are hereby Enacted and Declared to be Void, to all Intents and Purposes whatsoever: And if any Person Disabled, or declared Incapable by this Act to be Elected, shall after the Dissolution or Determination of this present Parliament, presume to Sit or Vote as a Member of the House of Commons in any Parliament to be hereafter Summoned, such Person so Sitting or Voting, shall Forfeit the Sum of Five hundred Pounds, to be Recovered by such Person as shall Sue for the same in England, by Action of Debt, Bill, Complaint or Information, wherein no Essoign, Protection or Wager of Law shall be allowed, and only one Impar lance.

XXX. And be it further Enacted and Declared, That every Person disabled to be Elected, or to Sit or Vote in the House of Commons of any Parliament of England, shall be disabled to be Elected or to Sit or Vote in the House of Commons of any Parliament of Great Britain.

XXXI. And be it further Enacted by the Authority aforesaid, That no Person who now is a Commissioner for Disposing the Sum of Three hundred ninety eight thousand and eighty five Pounds ten Shillings, and all other Sums arising to Scotland by way of Equivalent, upon the Agreements, and to the Purposes mentioned in the Articles of Union of the Two Kingdoms, shall, for or by reason of such Commission, or any other Commission for Disposing the said Equivalent, or any part thereof, or the Execution of any such Commission, or any thing relating thereunto, be disabled from being Elected a Member of Parliament, or Sitting or Voting as such in this or any future Parliament.

Abridgment.

—except the Office of Lord Treasurer, which shall be supplied by the first Commissioner of the Treasury of the Exchequer.

Possessors of Offices newly Erected,

—and of divers others,

—and all Pensioners at pleasure, —shall be incapable to be Elected Members of the House of Commons.

If any Member of the House of Commons, accept of Office, the Election shall be void, —but he may be Elected again.

There shall be no more Commissioners for any Office, than have been usual.

This Act shall not extend to Officers in the Navy or Army, receiving new Commissions.

If any Person, hereby Disabled, be Returned, the Election shall be void,

—and, if he presume to Sit, he shall forfeit 500 l.

Disabilities to Sit in the Parliament of England, shall be the same in the Parliament of Great Britain.

Commissioners for disposing the Equivalent, shall not be disabled from being Elected Members.



Abridgment.

Regard of the Church of England to Foreign Protestants

C A P. V.

Regard of the Church of England to FOREIGN PROTESTANTS.

5 Eliz. Cap. 26.

Entituled, *An Act for the Confirmation of a Subsidy granted by the Clergy.*

The Convocation acknowledges the Blessings of the Queen's Reign,

The Prelats and Cleargie of the Province of Canterburie, being lawfully congregated and assembled together in a convocation or synode, calling to their remembrance the great and manifold benefits which they have many and sundry wayes received of your Majesties most gracious bountifullnes, principally for the setting forth and advancing of Gods holy word, his sincere and true religion, and abolishing all foren power, contrary to the same: considering also the great debts wherewith the imperial Crowne of this Realme was charged, when it pleased almighty God first to call your highnesse to the governance of the same. And further, weying the great and intolerable charges, wherewith your Majestie of late hath bene burthened, in the repairing and furnishing of your Majesties navie, and provision of armor and munitions, most necessary and requisit for the defence and safegard of this Realme, whereof the same at the beginning of your highnesse reigne was void and destitute. And finally, pondering the inestimable charges susteined by your highnesse, aswell of late dayes, in reducing the Realme of Scotland to unitie and concord, as also in procuring as much as in your Highnesse lieth, by all kind of godly and prudent meanes, the abating of all hostility and persecution within the Realme of France, practised and used against the professors of Gods holy gospel and true religion, and in defending and preserving this your highnesse Realme and natural subiects in Christian peace and tranquillity against all assaults of foren enemies hitherto, during all the time of your most gracious and happy reigne—

E X P.

—and, particularly, Her Protection of the Protestants in France.

13 Eliz. Cap. 26.

Entituled, *An Act for the Confirmation of a Subsidy granted by the Clergy.*

The same with the foregoing,

The Prelats and Cleargie of the Province of Canterburie, being lawfully congregated and assembled together in a convocation or synode, calling to their remembrance the great and manifold benefits which they have many and sundry wayes received of your Majesties most gracious bountifullnes, principally for the setting forth and advancing of Gods holy word, his sincere and true religion, and abolishing all foraine power contrary to the same: considering further the inestimable charges susteined by your highnes of late dayes, aswell in repressing the detestable rebellion within this your Realme, attempted by some of your unnaturall subjects, enemies to God, to your Majestie, and to this their native Country, as also in procuring so much as in your highnes hath lien, by all godly and prudent meanes, the abating of all hostilitie and persecution within the Realme of France, and in other places, practised against the professors of Gods holy Gospel and true religion: pondering also what charges your highnes hath been at to reduce the Scots to an unitie and concord among themselves: and finally weighing the great charges wherewith your Majestie is like to be burdened hereafter, in defending and preserving this your Realme, with other your highnes dominions, and naturall subjects, in Christian peace and tranquillity, against all assaults of foraine enemies—

E X P.

—acknowledging the Queen's Protection of the Protestants, in France, and also in other places.

29 Eliz. Cap. 7.

Entituled, *An Act of one Subsidy granted by the Clergy.*

The like acknowledgement, as before,

The Prelats and Cleargie of the Province of Canterburie, being lawfully congregated and assembled together, in a Convocation or Synode, considering their bounden duties to your Majestie, their most naturall and gracious Sovereigne lady, and having in remembrance the manifold and ample benefits which they daily receive, not onely by your most gracious and godly government, whereby they be conserved in peace and quietnesse, and so moze able to serve God, and intende to their office and vocation: but also, and that most chiefly, by the setting forth and advancing of Gods most holy word, and his sincere and true religion in this your Realme, and abolishing of all foren power contrary to the same: Considering also the great and importable charges, that your Majestie hath lately susteined, aswell in the necessary provision of all kindes of munition, for the better fortifying both by Sea and Land of your highnesse dominions, and withstanding of foren invasion, as also in the provident and needful prevention of such intended notorious attempts, as manifestly tended not only to the disturbance of our peace, but even of the utter overthrow of the present happie estate of this your highnesse Realme, to the miserable ruine of divers other Countries associate and neere adjoining, and to the extirpation and rooting out of the sincere profession of the Gospel of Christ both here and elsewhere: And finally weighing the malice of the aduersaries of Gods trueth, sworne enemies to your Majestie, and to the prosperitie of this Realme, which doeth daily increafe (as by manifold popish

E X P.

—particularly, for preventing the Ruin of the Protestant Religion, here and elsewhere.



Regard of  
the Church  
of England  
to Foreign  
Protestants

popish and most devilish practises lately discovered it is most evident and apparant) whereby most dangerous and bloodie events are likely to ensue, unlesse by the speciall goodnesse of almightie God, and by your Majesties provident care (as by a principall meanes) they may be prevented, which must needs hereafter put your highnesse to very great and inestimable expences—.

Abridgment.

35 Eliz. Cap. 12.

Entituled, *An Act for the Confirmation of the Subsidies granted by the Clergy.*

E X P.

The Prelats and Cleargie of the Province of Canterburie, being lawfully congregated and assembled together, in a Convocation or Synode, considering their bounden duties to your Majestie, their most naturall and gracious Sovereigne lady, and having in remembrance the manifold and ample benefits which they daily receive not onely by your most gracious and godly government, whereby they bee conferred in peace and quietnesse and so moze able to serbe God, and intende to their office and vocation: but also, and that most chiefly, by the setting forth and advancing of Gods most holy word, and his sincere and true religion in this your Realme, and abolishing of all foren power contrary to the same: Considering also the great and importable charges, that your Majestie hath already, and is like heereafter to susseine aswell in the necessary provision of all kindes of munition, for the better fortifying both by Sea and Land of your highnesse dominions, and withstanding foren invasion, as also in the provident and needfull prevention of such intended attempts, manifestly tended not onely to the disturbance of our peace, to the utter overthrow of the present happy estate of this your highnesse Realme, to the miserable ruine of divers other Princes and Countreies associate and neere adjoining, and to the extirpation and rooting out of the sincere profession of the Gospel of Christ both here and elsewhere: And finally weighing the malice of the adversaries of Gods trueth sworne enemies to your Majestie, and to the prosperitie of this Realme, which doeth daily increase (as by manie and notozious attempts and preparations in divers respects farre exceeding those of former time, hath and doth appeare) whereby most dangerous, and bloodie events were likely to have ensued, unlesse by the special goodnesse of almightie God, and by your Majesties provident care (as by a principall meanes) they had beene and shal be heereafter prevented: which cannot be without your Majesties very great and inestimable expences—.

The like acknowledgement, somewhat differently expressed.

A.D. 1708.

13, 14 Car. II. Cap. 4.

In an Act, Entituled, *An Act for the Uniformity of Publick Prayers, &c.*

§. XV. Provided, That the Penalties in this Act shall not Extend to the Foreigners or Aliens of the Foreign Reformed Churches, allowed or to be allowed by the Kings Majesty, His Heirs and Successors in England.

Penalties in the Act of Uniformity shall not extend to Foreign Protestants.

7 Annæ, Cap. 5.

*An Act for Naturalizing Foreign Protestants.*

† This Act is Repealed: Vid. pag. prox.

† Whereas the Increase of People is a Means of Advancing the Wealth and Strength of a Nation: And whereas many Strangers of the Protestant or Reformed Religion, out of a due Consideration of the happy Constitution of the Government of this Realm, would be induced to Transplant themselves and their Estates into this Kingdom, if they might be made Partakers of the Advantages and Privileges which the Natural-born Subjects thereof do Enjoy; Be it Enacted by the Queens most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in Parliament Assembled, and by the Authority of the same, That all Persons born out of the Ligeance of Her Majesty, Her Heirs or Successors, who shall Take and Subscribe the † Oaths, and Make, Repeat, and Subscribe the \* Declaration appointed by an Act made in the Sixth Year of Her present Majesties Reign, Entituled, An Act to make further Provision for Electing and Summoning Sixteen Peers of Scotland, to Sit in the House of Peers in the Parliament of Great Britain, and for Trying Peers for Offences Committed in Scotland, and for the further Regulating of Voters in Elections of Members to Serve in Parliament; which said Oaths shall be Taken and Subscribed, and Declaration Made, Repeated and Subscribed in the Courts of Chancery, Queens-Bench, Common-Pleas, or Exchequer, in Term-time in England, or in any of them, in Open Court; or before the Lords of Council, and Session, or Lords of Justiciary, or Barons of the Exchequer, in Open Court in Scotland; or at some General Quarter-Sessions of the Peace to be held for the County where he or they do or shall Inhabit, Reside or Settle, between the Hours

For Encouragement to Foreign Protestants, to Transplant their Estates hither,

Enacted, that,

Any Foreigner who shall take the Oaths of Allegiance, Supremacy, and Abjuration, and Subscribe the Declaration against Transubstantiation, &c.

† Of Allegiance, Supremacy, and Abjuration.

\* Against Transubstantiation, &c. as in 30 Car. 2. c. 1. Vid. Tit. 27. c. 6.

of



Abridgment.

—shall be taken to be a Natural-born Subject;

—provided they produce Certificate of their having received the Sacrament within three Months.

Children of Natural-born Subjects, tho' born abroad, shall be adjudged Natural.

The same Law of Naturalization shall be in Ireland.

of Nine and Twelve in the Forenoon; the Taking and Subscribing of which Oaths, and the Making, Repeating and Subscribing such Declaration, shall be Entred on Record in the same Courts, for the doing whereof only One Shilling shall be paid; all and every such Persons shall be Deemed, Adjudged, and Taken to be Her Majesties Natural-born Subjects of this Kingdom, to all Intents, Construations and Purposes, as if they, and every of them, had been, or were born within this Kingdom.

II. Provided always, and be it Enacted by the Authority aforesaid, That no Person or Persons, of what Quality, Condition or Place soever, shall be Naturalized by virtue of this Act, unless the said Person or Persons shall have received the Sacrament of the Lords Supper, in some Protestant or Reformed Congregation within this Kingdom of Great Britain, within Three Months before their taking the Oaths in this Act mentioned; and shall at the Time and Place of Taking and Subscribing the said Oaths, and of the Making, Repeating and Subscribing the said Declaration, produce a Certificate Signed by the Person Administring the said Sacrament, and Attested by Two Credible Witnesses, whereof an Entry shall be made of Record in the said Court, without any Fee or Reward.

III. † And be it further Enacted by the Authority aforesaid, That the Children of all Natural-born Subjects, born out of the Ligeance of Her Majesty, Her Heirs and Successors, shall be Deemed, Adjudged and Taken to be Natural-born Subjects of this Kingdom, to all Intents, Construations, and Purposes whatsoever.

IV. And be it further Enacted by the Authority aforesaid, That all Persons born out of the Ligeance of Her Majesty, Her Heirs or Successors, who shall Qualifie themselves in the Courts of Chancery, Queens-Bench, Common-Pleas or Exchequer, within the Kingdom of Ireland, or at some General Quarter Sessions of the Peace, to be held for the County where he or they do or shall Inhabit, Reside or Settle within the said Kingdom, in like manner as Persons are by this Act required to do within the Kingdom of Great Britain; all and every such Persons shall be Deemed, Adjudged and Taken to be Her Majesties Natural-born Subjects of the said Kingdom of Ireland, to all Intents, Construations and Purposes, as if they, and every of them, had been, or were born within the said Kingdom of Ireland.

Regard of the Church of England to Foreign Protestants

† This Clause is still in force.

10 Annæ, Cap. 5.

A. D. 1711.

An Act to Repeal the Act of the Seventh Year of Her Majesties Reign, Entituled, An Act for Naturalizing Foreign Protestants (except what relates to the Children of Her Majesties Natural-born Subjects born out of Her Majesties Allegiance.)

Rehearsal of Stat. 7 Ann. c. 5.

—and Enacted,

That the said Act, shall be Repealed.

—but Naturalizations already made, shall stand good.

Whereas an Act of Parliament was Made and Passed in the Seventh Year of Her Majesties Reign, Intituled, An Act for Naturalizing Foreign Protestants: And whereas divers Mischiefs and Inconveniencies have been found by Experience to follow from the same, to the Discouragement of the Natural-born Subjects of this Kingdom, and to the Detriment of the Trade and Wealth thereof: Be it therefore Enacted by the Queens most Excellent Majesty, by and with the Advice and Consent of the Lords Spritual and Temporal, and Commons in this present Parliament Assembled, and by the Authority of the same, That the before mentioned Act, and all the Matters and Things therein contained (except so much of the said Act by which the Children of all Natural-born Subjects born out of the Allegiance of Her Majesty, Her Heirs and Successors, are to be Deemed, Adjudged and Taken to be Natural-born Subjects of this Kingdom) shall be, and is hereby Repealed, Annulled, and made Void, to all Intents and Purposes whatsoever; Provided nevertheless, That such Repeal shall not in any sort Prejudice or Impeach the Naturalization of any Persons who have been or shall be Naturalized at any time before the Fourth Day of February, which shall be in the Year of our Lord, One thousand seven hundred and eleven, pursuant to the Directions of the before mentioned Act.















