

they put in, they should *dominari plusquam Reges*, more than Kings, both by setting themselves above all Kings in their temporal Estates, and presuming by Censure to deprive them of their Dominions; which (setting aside the due Homage by such Kings as owe Suit and Service to Superiors) none could expect, much less demand of other: nor did ever set their foot so hard in the necks of their Peers, as Pope *Alexander* did in the neck of *Frederick*. For, is it likely, that when Christ not only commanded *Peter* to put up his Sword, drawn with greater zeal in Passion, than judgment upon Deliberation, but added also to that Charge a Commination in generality, that whosoever drew the Sword, should perish by the Sword; his Purpose was to bind the Hands of his Apostles? but yet to leave the Passions of those that should succeed them, at full liberty. Christ paid tribute unto *Cæsar*, as appeareth, as well for *Peter* as for himself; thereby moulding the Measures and Proportions of the Churches Conformity. For strange it were, that *hæres succedens in defuncti locum*, the Heir succeeding in the place of the Deceased, should by any Law be strengthen'd and enabled to do more than the Testator himself might have done; or the Party to whom Delegation is transmitted, than the Principal that did delegate. One Rule can never fail, That *discipulus* is not *supra Magistrum*, because he can never fail that gave out that Rule: and if a Man observe it well between the Function of Christ which was *Magisterium*, and the Scope now shot at which is *Imperium*, the difference is infinite. Our Saviour acknowledged to *Pilate*, that the Power which he both had and exercised over him, was not terrestrial, nor temporary, but it was from Above: to which Doctrine nothing can be more repugnant, than the Schoolmen's Dream, that our Princes having at this Day the like Jurisdiction with Piety, to that which *Cæsar* held with Pride, should be subject touching their Estates and Dignities, to the Censure of his Disciples, who in Person (whilst his Conversation was here on Earth) renounced that Prerogative out of disparity to the scope and end of his Office. For as our Saviour doth prove à *minori* in another place, that his Disciples ought in reason to wash one another's Feet, because he that was their Master had vouchsafed out of humility to wash theirs; by the same consequence I prove, that whosoever professeth to be *Imitator Petri*, (as *Peter* was *Imitator Christi*) ought to desist from forcible intrusion upon these undue Claims of more than Imperial Prerogatives, which were neither challeng'd by any Levitical Predecessor, nor possess'd by the Testator, nor conveyed by the Testament. For the Grant which was conveyed by God the Father to his Son, *omnis judicii*, of universal Judgment both in Heaven and Earth, is absolute; whereas the Charter which the Church of Christ receiveth of her Spouse, is limited and tied to the validity of the Evidence, and the strength of Witnesses, with the Prescription of Antiquity. When Christ knew that some would even in Passion make him a King perforce, and maugre his Affection and Resolution, *fugit in montem solus*; whereas they themselves, as *Succesores Christi*, & *hæredes Apostolorum*, descend from the Mount of Contemplation into the Valleys of secular Agitation, to make a Party for their Advancement *ad regalia Christi*, made a difference between his Disciples (following a Master that had not so much as the Fox, a Hole wherein to put his Head) and those that dwell *in Regum domibus*; whereas now the difference (if there be

any) is on the other side. This orderly and modest manner of proceeding, recommended by the *Lycurgus* of the Gospel, which is Christ, was continued by the reverend Apostles during their time; and likewise by the godly Bishops that succeeded them, for the space of a thousand Years: for further than the Censure of esteeming those as Ethnicks and Publicans that wilfully refused to give ear to the Doctrine of the Church, I find not that the Church presumed, the Popes challenged, nor Princes acknowledged.

St. Peter (from whose Prerogative many seek to derive this Privilege of deposing Kings upon Conviction, or rather Supposition, as it happened for the most part of Contumacy) commands the Faithful to obey even that Prince that was a Butcher of the Flock, and a bloody Tyrant in his Time, (because he was Superexcellent) and all Magistrates that were subordinate in Charges and Employments under him. He forbiddeth all good Pastors also, which ought to be *forma gregis*, the Pattern of the Flock, *providere coactè*, to provide by compulsion, or *in Cleris dominari*, to domineer among the Clergy, (tho' that be within the compass of their own square) much less meant he to set them over Emperors and Kings, that are fixed in the highest Element; nay, which is more, he denies flatly (if we may give any Credit to that Author which bears the Title of *Saint Clement*) that any of his Successors were ordained by God, to be *cognitores negotiorum secularium*, Examiners or Judges of Causes that are secular, which is now become the chiefest Scope and Object of your Primacy.

Wherefore, if *Peter* were commanded to put up his Sword, when Christ was at his Elbow to heal (as he did) the greatest Wound that it could make; how much more ought his Successors to keep the Sword within the Scabbard, since it is soberly and orderly put up, and that they may do more hurt in their Passion, than they can help by their Privilege? *St. Paul*, his Fellow Martyr and Apostle, would never have subjected *omnem animam* every Soul, whether they were Bishops or Monks, Regular or Secular (as *Chrysostom* notes) to superior Authority, in case he had been privy to an exemption of some Souls by express Warrant. The Quality of evil Princes ought not in reason to extenuate the force of the Inhibition, tending to the Peace and Order both of Church and State: for then *St. Peter* would not have commanded Servants to be subject to their Lords, *non solum bonis & modestis, sed etiam dyscolis*, not only to those that are good and modest, but also to those that are perverse: *Non propter metum, sed propter conscientiam*, not for Fear but for Conscience, saith God's Spirit. Neither would *St. Jude* have censured those Malecontents so sharply that do *spernere potestatem, blasphemare majestatem*, not in respect of their Glory, but of their Lieutenancy. This is not the readiest and best Resolution, *manendi in vocatione*, of continuing in our Vocation without Impatience or Strife, to wind our Obedience out of that Obligation wherein the Gospel found us, and God hath elected us. The Servants of God had recourse in all times to lawful Remedies, upon the Offer of unlawful Wrongs: and tho' there could not be a worse Prince, or rather a more ugly Monster upon Earth, than he that held the place of *Cæsar* in the time of *Paul*; yet *Paulus appellavit Cæsarem*, and being taken at his word, was sent thither to be tried orderly. It was lawful for the Prophet *Nathan* to reprove *David* for his Sin, tho' he did not pluck him out of his Chair

Chair of State. Our Saviour describing *Herod's* Quality, in crafty Circumvention of God's Saints, did properly and aptly term him, *Vulpem*, a Fox, tho' he did not undertake to hunt him out of his Earth. And tho' to warn, admonish, and assure the *Tetrarch*, *non licere*, that it was not lawful for him to keep his Brother's Wife, were an Office fit for a *John Baptist*, and a worthy Pastor of a holy Church; yet he neither would nor durst adventure to release his Subjects of their Faith which they ought him by their Homage. *Polycarpus* the Disciple of St. *John*, as we find him reported by *Eusebius*, dispensed with no Breach of any Bond, tho' in cases that intend peril to Salvation, as Idolatry, and the like. The Christians of the first Age were neither *Albinians* nor *Nigrians*, sayeth *Tertullian*; that is, stained with no Faction either to those aspiring Parties, or Affections of the Time, but devoted to the Service of the Sovereign, *quomodo iuvit & ipsi expedierit*, so far as it was lawful for the Person, and expedient for the Prince himself. How far is that? Even so far as they honour him, *ut hominem a Deo secundum, & solo Deo minorem*, as the next Person to God, and inferior to him alone, without making him (as some did) a Competitor with the Omnipotent.

Honest Men will start and shrink at those loud Alarms, when they read with how great Obedience and Humility that blessed Father *Athanasius* (upon whose Shoulders our aged Mother the Church of God leaned, in the time of sharpest Persecution, to take her rest) cleared himself of the false Suspicions and wrongful Aspersions, that were cast on him by device of speaking evil of *Constantius* the great Arian Emperor: his dutiful Respect was grounded upon that Warning of the Holy Ghost, not to curse the King in the secret of our Conscience, nor in the most private and inward Corner of our Cabinet to wish evil to him. St. *Hilary* would not so much as moderate or stint himself, but leaves it wholly to the discretion of a wicked Emperor, *quatenus & quomodo eum loqui jubeat*, how and how far he would bid him speak. St. *Ambrose* acknowledgeth no Weapons of Defence to be so proper to the Priest, as Tears and Prayers: for I can pray, saith he, I can sigh and weep, but I cannot resist any other way. And therefore St. *Jerome* to *Heliandus* saith, a King ruleth Men whether they will or no; a Bishop those that are willing. *Ille terrore subjecit, hic servituti donatur*.

To that Question moved by *Donatus* out of Faction and Scorn, *Quid Imperatori cum Ecclesia?* What hath the Emperor to deal or intermeddle with the Church? *Optatus* a learned Father, answers tunably to the Note and Ditty of *Tertullian* that is mentioned before, that (since God only is above the Sovereign) *Donatus* in extolling himself above the Emperor (as Antichrist out of Pride shall above all that is called God) *jam hominum excessit metas*, hath now transcended the bounds of humanity. The Patience and Piety of thirty Popes, laying down their Heads upon the Block successively, (at the first planting of the Church) to seal the Bond of Conscience with the Blood of Innocency, may teach those that come after, as well to follow their Example, as to claim their Primacy. For tho' *Liberius*, a Pastor of that Rank, was unjustly banished and exiled from his Church; yet he never sought to right himself by the bloody Sword, but rather by that golden rule of Obedience, and Patience, which our Saviour left to his Disciples *sub sigillo*, and they to the Church in

deposito. *Simancha* with his Fellows may perhaps answer to these Passages, that the Church was swathed all this while in the bands of Weakness, that the Sickle carried not at that time an edge sharp enough for those stubborn Weeds, and that the faithful had not as yet raised themselves to that height of Credit, that might give life to their Execution. But if the constancy of Obedience had been squared by the liberty of Men's Election, and this had been the Latitude of Loyalty in those well disposed Times, when Bishops only sought God's Honour, not their own Prerogatives; surely the Church of Christ had wanted a great part of those Martyrs and Confessors, which are ranked at this day in the Roman Calander. They that take this scope, may conceive and publish when it pleaseth them, that Lay Subjects in like manner are no longer bound to Obedience and Loyalty, than they find themselves over-weak to make powerful Opposition to ungodly Magistrates; and so confound all Laws of Justice in the State, and all degrees of Subjects that in private are bound to live orderly. *Tertullian* doth notably convince this Paradox, as well of Falshood as Levity, by making a clear Demonstration of the Strength and Potency of godly Christians in his own time, (which was among the first) in case they would have put their Forces to the strongest Proof, since all publick places, as Courts, Consistories, Camps, and Forts, were stored and furnished with Men of that Profession and Quality.

The Legions that were entertained by faithless Princes in pay, and prospered in the greatest Actions they undertook, might have purchased a far better Fortune at an easier rate, in case they could have satisfied their own Consciences, by opposing against Order. If the godly Christians that lived under *Constantius* an Arian, would have sought their ease, by stepping over to the service of *Constance* and *Gratian* that were Religious; they might have caused their own Sovereign to shrink at their Transport, that before made advantage of their Humility. If any Man will take upon him more in these days, saith *Chryostome*, than was granted heretofore to Subjects that were under Infidels, *Quod majora sibi concessita esse dixerint*, because they say that more is committed unto them; they must be taught, *non nunc honoris sui tempus esse*, that it is not the time and place of their Preferment, since they are as Pilgrims in this World, but they shall in another shew appear more bright and glorious to all Men, *quando Christus apparuerit, & tunc cum Christo comparebunt in gloria*, when Christ appears, and they with him then shall appear in Glory. Tho' St. *Gregory* confesseth himself to have been so powerful in *Italy*, that he needed not to have left among the *Lombards* either Duke or Count, in case he would have opposed confidently his Endeavour against their Rage; yet finding *Theodolinda* the Queen to have been seduced sily by some Serpent of that sort from the sincerity of her Profession, and dangerously withdrawn from God to *Belial*, from Piety to Heresy; o'ok no harder course, than by forewarning her with a fatherly Affection, and in humble Terms to take heed in time, that she tainted not the sweet Bread of many moral Virtues (worthy to be served in the Supper of the Lamb) with the Leaven of the Falshood and Impiety of those misbelieving Teachers that abused her Credulity.

It had not been hard for *Chryostome* (in respect of the tender Love which was borne him by his Flock,

Flock, not *ad aras* only, but *ultra aras*, if his Patience had been pliant to their Desires) to have wearied that ungodly Princess *Eudoxia*, that would never give him rest nor breath in the crooked ways of her own Wickedness. But if the Doctrine of some Schoolmen in this Age be found to differ so much from the former Demonstrations of Obedience and Truth, why should I not complain, That *nunc desinit esse remedio locus, ubi quæ fuerant olim vitia, nunc mores sint?* It is true that long after this, the Officers of the French King, Philip the Fair, complained, and upon just Cause, *augenda sacerdotum jura, jura Regia minui*, that the King's Rights or Liberties were appaired by raising the Rights and Privileges of the Priests. It may be likewise true that is written by a Countryman of ours, that Gregory the seventh confessed on his Death-bed, (but with what Remorse or touch of Conscience God knows) *Ex minutione laicorum se sacerdotum promovisse gloriam*, which in divers words is of one effect: but yet all Bishops were not of that mind, but keeping fast in Memory that Observation of the Prophet *David*, That to drink of Waters drawn from the Springs of *Bethel*, with peril and hazard of Men's Lives, was *sanguinem bibere*, to drink Blood, were as cautious in quenching sparks of Dissension and Strife by Charity, as others were to kindle them out of Ambition and Vain-glory. For in cases of this nature, *Non est opus fervientis animæ, sed medentis studio*: for Charity is patient and courteous, *Nec inflatur nec est ambitiosa*. Peter hath two Keys, one of Knowledge, another of Power: these are prepared and fitted also to two Locks, that is, Induration and Ignorance: and hardly shall we find, that without both, and a sure Use of both, any strong Locks of Opposition or Obstruction, have been opened. Wherefore no Man need to doubt, but that among so many godly, grave, and learned Bishops, (as will ever rank themselves, *tantum in acie ordinata*, to discourage and affright the forlorn Hopes of *Simancha's* School) these Positions will sink: and some that have been loth to yield out of Humour, yet will be forced to faint out of Cowardice.

The godly Learned never once vouchsafed to lend their Ears to the deceitful Tunes of bewitching Charms; rather grounding their Opinions upon the fourth Council of *Toledo*, by which all sorts of Persons are condemned without Distinction or Exception, *Qui fidem regibus suis Sacramento promissum observare contemnerent*, that contemned or scorned to keep the Faith which they promised by Oath to their Sovereign: taking by this first part, all perfidious Traitors in general.

But that which follows, pincheth *Navarre* and his Disciples at the very Heart: *Ut ore simularent juramenti professionem, cum mente retinerent perfidie impietatem*, and with their Mouth dissembled a Profession by Oath, when in their Minds (or mentally, to use the very word of our School-men at this day) they retained still the wicked purpose of Treason. Indeed *Pythagoras* imprinted nothing in the Minds of his Scholars more deeply, than that profane Verse,

Jura, perjura, secretum prodere noli.

The Epicure on the other side was satisfied *modo mentem injuratum gereret, etiamsi lingua juraret*. And you, *M. Garnet*, (to make up such a Triangle as can never be reduced to a Cube, that is, a perfect Square) divulge and publish to your Auditory

(which those blind Philosophers durst not profess beyond the compass of their Schools) that it is lawful to draw Words to the Sense of Thoughts, to cast a mist of Error before an eye of single Trust, and to deceive your Brother for your own Security. I am very sure the learned Fathers neither knew the Way, nor had the Will to escape by such a kind of *deceptio visus*, as directly tends *ad destructionem animæ*. For when *Athanasius* was overtaken by a Pursuivant, and asked *Quantum inde abesset Athanasius?* how far *Athanasius* was from thence? tho' it stood upon his Life in a time (as you make of this) of Persecution, and he a Person far more choice and dainty for the defence of God's own Quarrel, (as appear'd by his quick and sharp Encounters with the professed Enemies of Truth in that holy *Nicene* Council) than you are in this Kingdom for the Justification of those bad Attempts and impious Actions, which you take in hand, yet he answer'd as freely without Fraud as Fear, *non longè abesse Athanasium*: which was very true, because he was the Man for whom the Party fought, and cared little, as appears, how soon they met him. A Man of weak Conceit may apprehend how far our Saviour himself was from these chymical Constructions, and Evasions sophistical, by that universal Proposition, *Quicumque me negaverit*, whosoever denied him before Men, should be denied by him before his Father, &c. For to put out cautious Equivocators from all hope of Succour in this Streight by their distinction of verbal and mental Negatives, I urge the precedent Warning in that very Text before, *Non timere eos qui occidunt corpus, & animam non possunt occidere*; not to fear those which have power only to kill the Body, and not the Soul. For if our Saviour had left his Disciples such a strength of Surety for retreat upon Pursuit, as verbal Flourishes, (whatsoever were conceived or resolved in the Mind) he needed not so carefully to arm them with encouragement and hope against Assaults of Cruelty.

The Passages which both you and other of your Complices wrest from the Mouth of Christ himself for a fair countenance of Cozenage in this Labyrinth, would rather *commovere nauseam quàm bilem*: tho', I must tell you, that singular Examples drawn from our Saviour, that was both God and Man, (and not only knew by his eternal Wisdom, but was also by his matchless Power to rectify whatsoever seemed to our dull Conceits obscure) are neither Rules of our Encouragement, nor Warrants for our Imitation. I make no doubt for my part, but these Eggs of Equivocation and mental Reservation (never engendered nor covered by fairer Birds in better Times) were hatch'd (as the Poets feign) of Osprays with a Thunderclap. For among the Martyrs and Pastors primitive, their Praises were re-founded with the loudest and sweetest Cries, that were most resolute (without Evasions or Tricks) to lay down a transitory Life in a Moment, to the Purchase of a better in Eternity; so far they were from forcing Wit, or straining Craft to secure Cowardice. But to pass over this just Motive of Digression, I will conclude the chief Point, which is the Care best Men have ever had, to prefer Obedience before Security, Loyalty before Life, with a discreet Answer of a Pope to a King of ours, which may serve you for a better Precedent in the Course of Patience, than that either of *Gregory VII.* *Boniface VIII.* or *Alexander VI.* in their Practices of Extremity,

if it so stand with your pleasure. *Richard* the holy Warrior, having committed a *Norman* Bishop Prisoner, whom he took in field against him with his Coat-armour upon his back, received within a-while after an urgent request (if not a powerful instance) from the Pope, at the earnest desire of other Bishops, for the Prisoner's enlargement; whom it pleased his Fatherhood in the Letter, by a word of Indulgency (but yet without that ground of equity which moved the Apostle *obsecrare pro filio suo, quem genuit in vinculis*, to press *Philemon* for his son *Onesimus*, whom he begat to Christ and his Church in duress) to call his Son. The King wittily alluding by his answer to that place in *Genesis*, where *Joseph's* parti-coloured and pied Coat was offered to the aged Father stained and sprinkled with Blood, sent not the Prisoner who remained fast, but the Coat-armour (which was loose) to the Pope, inquiring à *beatissimo Patre* (by this mild Question) *an hæc esset filii sui tunica?* whether this were the Coat of his Son? The Pope surprized with a Demonstration, and observing heedfully the Marks which could not lye, returned a grave answer to the King, *Nec hæc esse filii sui tunicam*, That neither this was the Attire of his Son, nor he purposed so to acknowledge the Party that was taken in that Coat, and therefore left him wholly to civil Justice, and the King's gracious Pleasure. For it is true, that Ambition, which is most bold upon advantage, is most cowardly upon surprize: and howsoever Humours may sometimes urge Minds that are not evenly ballanced with Discretion and Conscience, to undertake Attempts ever above Duty, and oftentimes above their Strength; yet second Wits observe the Slips and Errors of the first, and thereupon concluding at more leisure out of judgment, that *vis expert consilii mole ruit sua*, they begin likewise to fear that vast Desires as well as Buildings, where Foundations are not firm, sink by their own Magnitude. It is not possible that Humours should be durable, (considering that *materia prima*, the first Matter, out of which they spring, like *Proteus*, is capable of as many Shifts and Forms as the World hath Variations and Accidents) wearing and consuming like a Garment with incessant use: but the moral Virtues which have their Root in the Deity itself, and derive their Influence from Grace, must of necessity be co-eternal with their Author, who doth not only plant, but water, and produce out of his own Goodness, correspondent Fruits that suit their original.

By these Demonstrations we learn what Laws were current, what Bounders kept, and what course and manner of proceeding was observed towards Princes by modest Bishops, which either lived very near, or imitated those that lived next to the Precedents of apostolick Humility. Now therefore it shall not be impertinent (the Subject moving in due place and with due circumstance) to descry (not by idle Imaginations, but by evident Impressions) how covertly, and as it were by stealth, Incroachments crept upon the Carpet, before they durst by any forcible attempt invade the Seat of Power: *et cum dormirent homines, venit homo inimicus*; and when Men were in sleep, the Devil came, & *superseminavit zizania*. It is confessed indifferently by all Persons of all sorts, that are either judicious or sensitive, that those *Maxims* which pierce to the Center, and touch the very life of Conscience, ought rather to be fixed upon the Poles of Constancy, than carried

upon the Wheels of Change; and that not *Israel* alone, but all moral and indifferent Affections ought to answer *Amen* to the Curse which God pronounced with his own Mouth against all Men of whatsoever quality, that dare presume to remove or put aside Land-marks, or Bounders of Jurisdiction, which preserve Peace: and yet by tract of time and long experience, we see that *ab illo motu trepidationis*, ever since that trepidation or quivering (as it is termed by *Astrologers*) which prevailed in the minds of fearful Princes, under powerful strains, there have been many variations of Degrees and Distances in the conclusions of Church-government, especially within these last six hundred Years; which moves wise Men to resort to the judgment of a grave Philosopher, (discourfing of diversity of Times and Persons that did sway those Times, either by Predominance or Art) *quo minus ab ortu aberant*, the less distant they were from the first Original, the more perfectly they discerned Truth: and of the same mind is *Tertullian*, *perfectiora prima*, the nearer the Spring-head, the purer Streams: which is the Scope of our Industry.

To rip up matters therefore from the very Root, without obstruction or passion, we may observe, that so long as the Plough of Persecution did not only make deep Furrows on the backs of godly Bishops by Torture, (which the Prophet by the Text in the Psalm, *Super dorsum meum fabricaverunt peccatores*, seemeth to touch) but by Vexation and Anguish also in their very Souls, which those humble Spirits feel that are most sensitive of the least scratch given to Loyalty; it rent up by the roots all those Weeds of Ambition and Emulation which in calm seasons are apt to spring out of the rank grounds of original Infirmity: For till the blessed Reign of *Constantine*, wherein the rage of Persecution began to cease, I find almost universally no other kind of strife among the godly Fathers, than whose counsel or endeavour, by a religious and modest kind of emulation, might be of best use to the propagation of the Church's limits, and of God's Glory. The Church itself (which is the Body mystical of Christ) might by Analogy be properly resembled to the Stomach of a Body natural, which though it receive much, yet makes equal distribution, by dividing and dispersing that which it receives, to the use and sustenance of all the other parts, which would otherwise decay, and by degrees waste and perish.

If all this while a Tribune had stood up to complain against the Church of *Rome*, as *Menenius Agrippa* did against the Senate, comparing it to the Belly, (which devoured all, and did no good) the poorest and the weakest Member would have utterly disclaimed and disavowed the least sense of such a wrong: But if the Belly afterward by caring only how to feed itself, did pine the other Parts, (as the Populars did then suggest) and by transforming the orderly and well compacted Body of the State politick into a Monster, by so great disproportion of nourishment, did violate the Laws of Nature, and dissolve the Bonds of Union, we must confess, that both *Menenius* with them, and (if the case be like) all faithful Patriots and Members among us, have reason to require remedy.

It is certain, that the end of these first Bishops was then to feed the Flock, not to fill the Pail; to spread the Faith, not to extend the Line; to draw Kings to perfection, not to depose them from

from their States; to settle Peace, not to raise Diffension; to prepare the Subjects hearts to Obedience, not to inflame it with Prejudice; to be at peace with all the World, holding peace of Conscience to be all in all, so they might gain to Christ, and in no case to shew themselves *percussores*, or *violentes*, which the Canons of the Church (beside the Prohibition of *Paul* himself) will not suffer.

Some of the latter (but best learned) Writers, finding by the curious Examination of sundry Passages, and infinite Interpreters, how hard, or rather how impossible it is to prove their Title to this high Prerogative of deposing Kings, by direct Evidence out of the Word of God, and such Witnesses of Record as are above exception; resort to prove by Charter, Grant, and Privilege from Princes Pieties: As for example, from *Constantine* the first and best, *Phocas* the first and worst, *Ina* King of the West Saxons that was religious, and King *John* that was impious, as well *sans feye*, as his Title was *sans terre*. In which Crew, some intending serious Devotion, others pretending feigned Satisfaction to other Ends; and all, as the Times then taught, that no Seeds spring up more speedily than those which are sworn *in area Dominica*, for redemption of Souls, lest them better earnest of their Hopes by Gift, than our Saviour did in his Testament by Legacy. Against the pretended Charter or Donation, which some of the Canonists more zealous than judicious seek to derive from *Constantine* to *Sylvester*, tho' I need say little, because the best grounded Judgments and most modest Spirits of that sort, have torn away the painted Visard from that warped Face; yet because in matters of this moment too much cannot be said, I mean, more succinctly than the nature of that Subject (being once undertaken) doth permit, to press some short Arguments. First, how unlike it is that *Sylvester* (the next Bishop but one to that worthy and renowned Rank of Martyrs that lost their Lives for the Profession of *Christ*) should upon the first pause of Respiration to take breath, (after so many manful Combats against God's Enemies) abuse the favour of so gracious a time, by hunting after the vain Tenures of Principality. The Bishops that have kept themselves above Water all this while, by the strength and favour of that powerful Hand, which supported *Peter* on the Seas when he was at the point to sink, by learning now to swim suddenly with the Bladders of the World's Ambition, might have cast themselves into greater danger of drowning in the Rivers of *Damascus*, than in the *Red-Sea* that the Saints passed over.

Platina reports out of the Pope's own Records, that *Sylvester* refused at the hand of *Constantine* *diadema gemmis distinctum*, a Crown or Diadem set with precious Stones, as an Ornament not convenient nor agreeable to a Pastor in his place. Tho' godly *Nestor* calls it only *signum superbie*, a sign or badge of Pride; *Sylvester* should have been found guilty not of a Sign, but of Pride it self, and that in the highest kind, by the grand Jury of all his Predecessors Saints in Heaven, in case he had accepted what these Men certify to have been offered. Among' the Fathers and Histories of the Church (how copious and large soever in expressing the great Favours which the Spouse of Christ received by the Piety and Bounty of this Emperor in other kinds) appears no scrip of Evidence to make good this Grant; which were an

Argument of great ingratitude, if they had either heard of any Disposition in the Prince to give it, or in the Pope to accept it. Neither is it like that so religious a Prince would have left that to his Son, that he gave to the Church, nor from thence his godly Successors, as *Theodosius*, would have detained it. Besides, all Writers prove how powerful the Lieutenants of the *Greekish* Empire, whom they called *Exarchs*, were long after the date of this Pretence, which could not stand with the strength wherein hereby they strive to plant the Papacy. I find by direct acknowledgement, *venisse proventus*, &c. that Revenues came from certain places for the maintenance of the Church of *St. Paul*, erected at the humble suit of *Sylvester* by *Constantine*; and from *Sardinia*, by the Report of some, to that Church which his holy Mother built. Again, that the Tributes were conferred on the Churches, which some Cities payed into the Exchequer in former times: and these I take to be the Shadows and Colours of this idle Dream. For of the Charter it self, (which exceedeth ten times in value all that is recorded touching Churches in particular, and in respect of a greater Eminency and Prerogative, should have carried a far greater Reputation, and made a fairer shew) there is not so much as a mark whereby they may take their Aim that are most ambitious. How little credit, strength or honour any Church can gain by deriving Charters from *Phocas*, a lascivious faithless Tyrant, wickedly embued with the slaughter of *Mauritius* his Master, Wife, and Heirs, and usurping that Estate unjustly, (by the Countenance whereof he was bold to give more than either of Right he ought or could) I leave to their Opinions that love to measure Claims and Titles rather by the line of Equity, than by the last of Ambition. But yet to make more of a Tyrant by vouchsafing a short answer to his Shadow, than in Conscience is requisite; I first infer, that such Charters granted chiefly upon ground of Cunning, and with a purpose to maintain the Plot by Party, which was undertaken and begun by Fraud, might either have been afterward revoked by himself, or annulled and repealed by his Successors: And further say, by judgment of the best Civilians, that no Prince's Act is warrantable, without the publick Assent, according to that Maxim, *Quod omnes tangit, ab omnibus approbari debet*, that tendeth to the State's prejudice.

Last of all, I prove that our Country in particular could take no Copper by this Transposition, admitting it to have been sound and absolute, because we were excluded from the Care, Protection and Providence of the *Roman* Empire, very near two hundred Years before that *Phocas* with his bloody Hand began to steer that Monarchy. For after that *Aetius*, Lieutenant for the *Roman* Emperor in the parts of *France*, did only send Instructions and Orders to the wasted *Britons* how to range their Battles, and dispose their Fights, with a careful, and yet a final Answer, not to look for any more Supplies or Aids for that Estate, which then fell into Faction, and was no longer able to support it self; the *Britons* holding themselves abandoned, (in which case all Laws free them both of Duty, and Dependency) after many bloody Battles under their own Kings against the *Scots* and *Picts*, fell into the *Saxons* hands, who like a *Pharaoh* that never knew *Joseph* or his Father's House, erected a brave Monarchy (tho' sometimes quartered and divided into many Parts among themselves) and

and maintained it in absolute Authority, without acknowledgment of any foreign or superior Command, till by a second or third Relapse, it became a Prey to the *Norman* Conquest. Wherefore *Phocas* having neither Possession nor Right in this State (left by Negligence, or abandoned by Necessity so many Years before,) could convey no more to the Church, than he either had, or ought to have, which was *accidens sine subiecto, Individuum vagum, and a nihil indeclinabile.* The Contribution of *Peter-Pence* to *Rome* by *Ina*, being called in the *Saxon* Histories the King's *Almshouse*, in the Laws of *Canutus, Larga Regis benignitas.* and in that Abstract which is left of the Conqueror's and Conqueror's Decrees, *Regis eleemosyna,* proceeded (as the words import) not of Duty but of Charity; and in respect of any temporal Prerogative (which is the Key of these aspiring Claims) doth rather prove the Pope then sitting to have been King *Ina's* Beadsmen, than King *Ina* then reigning, to have been the Pope's Homager.

I could alledge also an allowance of a special Mansion for *English* Pilgrims that were drawn to *Rome* about Affairs, bearing that Title to this day, in respect of the great Piety and Bounty of the *Saxon* Kings; which falling within the compass of that natural Contract *Do ut des,* copiously handled by the Civil Laws, and compared with the Contribution, may rather prove an Exchange than an Imposition.

To the colour of King *John's* Donation, who was as likely to have parted with his Soul as with his Crown, and upon the same Conditions, if Necessity had pressed him; I could give Satisfaction by that sound note of a Monk of *Saint Albans,* according tunably with that former concerning *Phocas* out of the Civil Laws, that, *Regis non est dare regnum, quod est respublica, sine assensu Baronum qui tenentur regnum defendere:* and therefore he cannot give away the Ports and Cities, which are Branches and Members of the Main. But I will take it up a straighter Link, and avow by *Matthew Paris,* that so far was the Parliament, which he termeth *Regni universitatem,* from assenting *detestanda obligationi* to this detestable and hateful Band (as it is fitly called by the Monk of *Westminster*) that the Metropolitane himself, *pro universitate contradixit,* contradicted and withstood it in the behalf of the whole Parliament.

The Judgment of *Philip* the *French* King upon the Publication of this Charter is much commended by a Writer of that Age, for the defence of this Paradox, which he thought would prove *perniciosum Regibus & Regnis exemplum,* a dangerous Example, and fearful Precedent both to Kings and Kingdoms. He would have Men resort to *Peter's* Successors about matters that concern the Soul, and not *de regnis, guerris, vel militia,* which do not belong to him. Last of all, the Saying which was luckily inserted in this Charter or Donation, namely, *Salvis nobis & heredibus nostris justitiis, libertatibus & regalibus nostris,* makes it absolutely void and of no effect: the main Prerogative being safely preserved, by God's Providence, which the King would otherwise have let slip, by a circumvented and over-awed Facility. It is reported by the Monk of *Westminster,* a Witness (according to the State of those Times) of best Regard, that the Pope residing and abiding at *Lions,* this detestable Grant was burnt. The Author of *Eulogium* addeth further, that it was re-

leased *cum omni fidelitate & homagio,* by the Pope's Direction to the *English* Parliament. And Sir *Thomas More,* that lost his Life in defence of the Pope's Primacy, deserves best of any to be credited in my Conceit, avowing, First a Weakness in the King seeking to subject his Crown to superior Commands; and next, in the Grant a Nullity. Besides, not only Sir *Thomas More* affirms, that the Pope's Imposition, with the King's Concession, was never paid; but it is further fortified by Addition out of the Rolls of Parliament, in the fiftieth Year of *Edward* the Third, that when the King was threatned with a Citation from *Rome* for detaining Dues upon this Grant, with large Arrearage, the whole Body Spiritual and Temporal of the Kingdom there assembled, after grave Deliberation and long Advise-ment, *resisterent & contradicerent, avec toute leur puissance;* and upon these Grounds, that the Charter was against the King's Oath at his Coronation, and without the Voice of his Parliament.

Since therefore *Phocas, Ina, John,* nor *Constantine,* add any further Weight to the Pretence of a deposing Interest, than was in charge before; Discretion and Observation will judge whether the State of the *Roman* Bishops were not had in greater Reverence while they sought to win by Piety, than to strain in Passion, to bow than to break, and to temper than to exasperate. Religion and Humility then were the Corner-stones of that stately Front which the World so much at the first admired in the Church of *Rome,* tho' afterward by the change of Bishops in that See, and of Humours in those Bishops, so great alteration was found, as *Minerva* coming afterward to *Athens,* could hardly take notice of her own Ship, nor *Constantine* at *Rome* of his own Nurse; nor (as *St. Hierome* notes of painted Women, that cast up their Eyes to Heaven) if we consider how many false Colours have been set upon the Pillars of Church Government, hardly Christ of his own Creature in the time of Pope *Alexander* the VIth, if he had been put in mind to call on him. In the beginning it agreed with *Daniel's* Image in the Head of Gold for godly Government, in the Breast of Silver for unspotted Conscience, and in the Legs of Brass for incessant Industry. But afterward in succeeding Ages, the Heads of many Popes grew humorous, their Breast avaricious, and their Legs idle.

That holy *Nicene* Council (whereof I never speak without Reverence and due Regard) in that great Division which was made of the Patriarchal Jurisdictions according to the State of the Church in those days, for establishment of Discipline and preservation of Unity, speaks not one word of any Temporal Command, much less of any Right in suspending or deposing Kings, or absolving Subjects from their Oaths of Obedience and Loyalty, to be left in the Nature of an Heirloom to the *Roman* Bishops by primitive Acknowledgment. But as *Sallust,* very gravely and like a faithful Patriot, complains touching the State Politick of *Rome* in his own time, that *postquam divitiæ bonori esse cœpere, & eas gloria, imperium, potentia sequerentur;* Faction and Pride began to creep up to the Seats of Senators, and the publick Justice of the State to shake: So likewise in the Church we find, that upon like Corruption like Disorders grew, and many Weaknesses began daily more and more to disclose themselves in those bright Sun-shine days which the Saints enjoyed by the

Bounty of a better Prince (as Cockle starts up when Corn grows ripe) which before was either shadowed with Discouragement, or suppressed by Discipline. I speak not this, because some such kinds of Heats and quick Distempers have not sometimes happened, and may not by occasions fall out again between God's own Elect, as *Peter* and *Paul*, *Paul* and *Barnabas*, and the godly Bishops in this very Council, which I press (tho' with that Measure which becomes the Ministers of God and his Apostles Successors) because it pleaseth him sometimes out of our Error to raise his own Honour, and to make Virtue perfect and compleat by Infirmitie: but to make it plain, that Plenty is the Daughter of Prosperity, Ambition of Plenty, and Corruption of Ambition. For after that Bishops were admitted to appeal from civil Courts by the Emperor himself, and their Sentences by Imperial Authority were made equal to his own; they began to raise their Crest, and within a while, as it is testified by one of the most antient approved Writers of the Church, *Episcopatus Romanus, non aliter quam Alexandrinus quasi extra sacerdotii fines egressus, ad secularem principatum jam antè delapsus est*: The See of *Rome*, in the same manner as that of *Alexandria*, as it were exceeding the Limits and Bounds of Priesthood, had slid into secular Principality; tho' the Bishops of neither of those Sees, as we may assure our selves, were ignorant of *Paul's* Prohibition to all degrees of Pastors, that they should not intermeddle with Secular Affairs, so far as concerns an over-dropping of the regal Plants, because a Bishop should no more live out of the Element of the Church, nor a Monk out of a Desert, than a Fish out of Water. For Christ fled into the Mountains when the People would have made him King: and Bishops ought with *Joseph* rather to leave their Cloaks behind them, than to consent to the Charms and vain Enticements of the World, which like the wanton Wife of *Potiphar* stretcheth forth her Arms, and (with the *Syrenes*) straineth her Voice to draw them within the compass of Tentation, and then taketh hold to drown them in Sensuality.

Now whereas it is said by *Socrates*, *Jam ante delapsus est*, that the See of *Rome* did slip before that time (whereof he speaks) into secular Principality, I am induced by the Report of *Ammianus Marcellinus*, a grave Writer, tho' no Christian, to take my Level somewhat higher for the finding of my Mark: for he living in that time about the Court (and observing as it were from the main top of the temporal Estate, what course was kept among all sorts and qualities of Persons in divers Elements) makes mention of a bloody Slaughter in a Church of *Rome*, where the Christians were wont to meet for the Celebration of their Mysteries, about the violent Competition and Contention between *Damasus* and *Ursicinus* for the Papacy; and taketh notice of one hundred and thirty-seven Carcases drawn out of that Church where they met about Election: and further writeth, that *Vivianus* then Lieutenant to the Emperor, was glad to make Retreat into the Suburbs, till the Rage were tempered, or the Strife ended. After this, as a Man partial to neither Part, and therefore in all likelihood the more indifferent and just in deeming rightly of the true state of the Cause, he gathers the chiefest motive of Contention and Emulation about the means of compassing this Height, to proceed from the great Ease, Wealth and Honour that prevailed

and were surely settled and established in that Dignity. His Reasons are, for that *Matronarum oblationibus ditabantur*, they were enriched with the offerings of Matrons or great Ladies: they rode in Coaches publickly; they were choicely suited in their Apparel; their Diet dainty, and sometimes above the rate and use of Princes in the times of their Banquering. That *Damasus* a Competitor was one of these, *Ammianus* doth not affirm, much less do I believe, finding with what Respect and Reverence *St. Hierom* that had been himself a Priest of *Rome* doth speak of him: yet the manner of his climbing and aspiring to the Seat was scandalous, not only unto such as were religiously devout, but even to *Ammianus Marcellinus* that was but morally precise; as doth appear by that grave Judgment which he gives of the blessed State, which as he thinks the Bishops of *Rome* might enjoy, in case they lived in that sober manner, with that bare Diet, mean Apparel, and humble Looks cast to the ground, which other Bishops in the Country did, neither tasting nor esteeming those choice Pleasures and Delights which the delicacy and great abundance of that Place afforded them.

This passion of a Writer whom we account prophane, in respect he was unregenerate to Christ, nor nursed by the breast of his Spouse the Church, puts me in mind of a zealous Passion in *Hector Boetius*, a great *Roman* Catholick, upon this very Subject in the *Scottish* History, *Hujusmodi antistites quàm sunt illorum dissimiles, quia diversa ingrediuntur via cum locum illorum occupent, &c.* He wonders at the Difference between those Bishops, and others at this day, which succeeding in their Places, take another Course: they glistered not in Gold, they were not resiant in Princes Courts, they were not attended by Guards, nor skilful in the Art of dissembling, more gainful by many degrees than that of Poetry, which the Universities use to crown with Laurel. This moved *Boniface* (I mean the Martyr, not the Challenger) to prefer the Devotion of the golden Bishops, that in the Church's Poverty administered with greater fervency in wooden Chalice, before the vanity of many blockish Bishops that in a richer State, with more Solemnity and less Zeal, administer in Chalices of Gold; because, as *Hierom* notes, external Riches add not to the worth of him, *qui corpus Domini in canistro vimineo, sanguinem in vitro portat*; that carries the Body of our Lord in a wicker Basket, and his Blood in a Glass. I would not be conceived by this Speech, to favour their ridiculous Conceits, that labour to draw the substance or the value of those Vessels in which Sacraments are administered, to the first Simplicity: for, the reason of *David's* judging it indecent for him to lodge *in domo cedrina cum arca Dei esset sub pellibus*, draws me to a greater estimation of Vessels appertaining to so high a Mystery. For sure I am, that the Value of the Content, doth infinitely surmount the Continent; and *in adiaphoris*, that is, things indifferent, we are left to the rule of Decency.

My only purpose is but to observe and tax the declination of Piety, together almost at one instant with multiplication of Metals and Minerals, the labour which is made for Charges and Employments for Commodity alone without Conscience; and to limit those excessive Grants *in manu viva*, which our Antecessors did *in manu mortua*, and the ranging of internal Piety to external Pomp, tho' of both it were better, that we wanted

means that are superfluous, than the moderation that is necessary. For *Cbrystom* notes two great Absurdities in cramming Churches till Satiety constrain them to regorge; the one, that Laymen are deprived of occasion to shew Charity; the other, that the Pastors themselves often neglect their Duties, to become Collectors. This is no ground for gleaning from the Church, which at this day doth rather need *Largitore hilari, quàm interprete maledico*: but to prove that Arguments against Excess and Height, are the surest Tenures, and the strongest Pillars of Stability; for *in se magna ruunt, summisque negatum est stare diu*. In defence of *Ammianus Marcellinus* from exception either of partiality or ignorance in that which he speaketh of the Matrons, I vouch a manifest Decree set forth, (not by the Leeches and Blood-suckers of the Church, but by *Valentinian* and *Gratian*, religious and worthy Princes) against any gain to be made by the Priests of the Church by Ladies Offerings; and this Decree was published by *Damasus* himself, according to direction of State: which proves that *Ammianus* in the judgment which he gave touching the motives of Defence, and Opposition, spake not idly.

To make the Case more plain, Whosoever raiseth any further doubt, may learn of *St. Hierom*, That some such excess (or at the least oversight) was censured about that time: where he seems not to be so much grieved and perplexed with the publishing of such a Law lighting upon just desert, as with the motive of that Law, which was greediness. Therefore our *English* Bishops in the time of *Edward III.* assented (tho' unwillingly) to the limiting of Church Revenues, when the State's Necessity put in a Caveat. And the Pope himself pretended neither Quarrel nor Unkindness to *St. Lewis of France*, for inhibiting the Grant of any more Lands or Revenues, than had been converted in former times to Churches without his privity.

The ground of this respective Caution and Moderation, I take to be derived from the Course which *Moses* held, being a Person as well publicly Wise, as spiritually Devout, in commanding all the Peoples Offerings of Benevolence and Piety to cease, after he had drawn in that proportion which was sufficient for the Furniture of the Tabernacle, where God was to be served and honoured. For the least Excess in things (which with moderation are laudable) doth easily degenerate into Vice, and all turns to humour that transcends the due proportion of Nourishment. We may soon be taught in *Genesis*, That they which could be satisfied with no moderate degrees of Altitude, in seeking to build Castles in the Air, before their Spires and Battlements might touch the Clouds, were confounded in their own idleness.

You have heard how the Churches of *Rome* and *Alexandria* were engulfed in the Depths of secular Principality to the wound of Monarchy, altho' *Spiritualis potestas non ideo præsudet, ut terrenæ in suo jure præjudicium faciat*, saith a learned Schoolman. But how hardly in the mean time the Civil State did brook these Slips, let us learn (if we deal indifferently) of *Orestes*, who was then Lieutenant for the Emperor, and complaineth bitterly of some Bishops, *Quod per eos non nihil de auctoritate eorum detractum esset, qui ad magistratus gerendos designati essent*, that they drew much from the Authority of those Persons, which were appointed to bear Office. This gallant Gentleman began

very early to discover (and by the break of day) by what degrees the Mystery of Ambition began to mine into the strength of Monarchy: he feared (and not without great likelihood) lest Princes seeking to resume their Rights, might in time be dealt withal, as the Badger was by the Hedgehog: For being wounded with the Prickles of his offensive Guest, whom at the first he welcomed and entertained in his Cabin as an inward Friend, he mannerly desired him to depart in Kindness as he came, but yet could receive no other Satisfaction to his just Expostulation, than, That he for his own part found himself to be very well at ease, and they that were not, had reason to seek out another Seat that might like them better. He foresaw by this forerunning Light, That Mistletoe and Ivy sucking by their strait Embraces, the very Sap that only giveth Vegetation from the Roots of the Oak and Hawthorn, must bloom and flourish of necessity, when the Trees should wither.

I know that Civil Jurisdiction in that good measure which is compatible with a Pastor's Charge, is so far from that inconvenience of hindering the growth of Piety (as some conceive) as it rather ripens the Fruits which in a further distance from the Sun, are either nipped by the Frost, or blasted by some bitter Wind: So as according to that of *Nabum*, *Risiduum locustæ Brucus devoret*. I tax those only that presume by forged Evidence to contend and strive with mighty Princes for their Seats, or attempt to set them besides their Thrones, which the blessed Virgin makes a Portion of God's own Prerogative. Otherwise I say with *Paul* of all the faithful, *Si in illis mundus judicabitur, indigni sunt qui de minimis judicent?* If the World shall be judged by them, are they unworthy to decide matters of least Account? And again, *Si Angelos judicent, quanto magis secularia?* And therefore *Epiphanius* the Bishop of *Cyprus* is highly commended in the Stories of the Church, for the discreet Temper and decent Order he held in managing Affairs both Ecclesiastical and Temporal. The Council of *Carthage* understood very perfectly the way to moderate between both Extremes, and in fanning away the smoke of Pride, to preserve the gloss of unsoiled Modesty. But the Patriarch of *Constantinople* finding by careful observation of Times and Accidents, what strange Effects the Church of *Rome* had wrought in raising Patriarchal Jurisdiction as high as the jealousy of Government and incompatibility of Imperial Prerogative would endure, adventured upon the wings of Pride, to mount so far above the pitch of his other Partners, as if *St. Gregory* himself had not abated this presumption more by the strength of Arguments than the edge of Power, it is not unlike but he would have made himself in the end by faction of Adherents *smilem altissimo*.

Thus easy it is for many grains of Sand by *Nep-tune's* Blessing to make a Shelf; for many *Peter Pence* by *Ina's* Bounty to make a Bank; and by gathering a great heap of Sticks together by *Minerva's* Providence, to make a Nest high and wide enough for long winged Hawks to breed in the proportion of their own earnestly affected, and long labour'd Sublimity. Such were the Drifts and Devices for the space of many Years of certain *Roman* Bishops, often straining, but never reaching to their End, which was, to make a Rise so high, as might carry them over the Heads of Emperors, till more than three hundred Years

after the Secession of *Constantine* and his Successors into the East; their Lieutenants wanting now that *Gorgon's* Head of universal Regiment and united Strength, whereof they had disposed formerly; till that unlucky division of one Eagle's Neck into two, which made the fairest Bird a Monster, as according to that one noted Maxim of our Saviour, *Omne regnum in se divisum desolabitur*, gave way, tho' much against their Wills, to that improvement of the Jurisdiction of *Peter's* Keys, which hath not since that time been less feared, than at the first it was favoured. The first motive of the translating of the Western Empire into the East, as *Socrates* reports, was chiefly to this end, *ut vulnera quæ erant à tyrannis inflicta, illis jam sublatis tollerentur*, for the Cure of those Wounds which were given by Tyrants, now that they were rid out of the way. Men liked of this, and commended the Discourse that urged it, till Experience, together with their own Disasters, made them find, that, of both Extremes, it is better to admit an outward Distemper, than an inward Combustion. The Ebb hath not been greater by the waining of the Empire, than the Flood hath been *ex consequente* by the waxing of the Church: which finding that the Beams are brightest, and her Glory greatest while the Sun is under our Horizon, from whence she borrows and derives her Light, hath sought ever since with her best Diligence to quit her self to those Rays Imperial which by Vicinity may weaken, or by Conjunction may darken her. It is true that *Constantine* upon the Change did at the first exempt Bishops only, but not Priests from Convention in Civil Courts; the first step to that Greatness (which was *in objecto*) to the Papacy. *Gratian* in the Year three Hundred and eighty, and *Honorius* in the Year four Hundred and six, confirmed it, *Theodosius* and *Valentinian* were pleased for increase of Favour, that Priests also in lieu of Civil Judges, might take their Trial before Bishops, if the Parties interested in the Cause could be satisfied. *Justinian* more reservedly than his Antecessors, expounds the meaning of the grant of matters only appertaining to the Church, not otherwise, and for his Labour receiveth a wipe at the hands of *Bellarmino*. *Heraclius* exempteth Bishops and Priests absolutely from all Courts, excepting only that of Delegates from the Emperor. But *Guicciardine*, no *Lutheran* or *Zuinglian*, as many term Persons of a diverse Judgment in our days, but a Roman Catholick; no *German* or *Helvetian*, but an *Italian*; no Simplest, but a Man as deeply Learned, as discreetly Judicious, observeth, That tho' some dark Cloud had overcast a Portion of the Beams Imperial in the highest Sphere, yet till this time of the Translation of the Seat to *Constantinople*, and a good space after, many Tokens both of humble Reverence, and respective Regard to the Civil State, were evident. For the Popes without admittance either of the Emperors themselves, or of their Lieutenants called *Exarchs*, ascend not to the Throne. The Popes in all their Grants and publick Dispatches, set down the Date by these words, *Regnante domino nostro*, such or such an Emperor. Tho' by variation of Times (which breeds a Change in all Bodies, States or Governments beneath the Moon) this good manner began to be first abated, and in time determined. After this unlucky Separation of the *Greek* Head from the *Latin* Body, first, it fell into a kind of Giddiness; after, into Imbecil-

lity, the cause of dangerous Convulsions in those Estates; and like top Branches that are not duly fed and nourished with the lively Sap of their own native Root, they fell afterward to warp and wither both in Beauty and Glory. The Princes grew daily more and more into Contempt, either out of want of Desire, or Ability, or both, to defend *caput Imperii* from incursions of Infidels, oppressions of Usurpers, and attempts of Conspirators. Then fell the Grands of *Italy* to renounce all Duty, Contributions, or Reliefs to the far distant Parallel; from which as from a Gulf they found no relax. They drew back Obedience from Lieutenant-Governors, who gasping (almost at the very last point) for Breath, could light upon no true Cordial to comfort them; Posts could not ply so fast between *Rome* and *Constantinople*, as occasion of State did urge; and beside, which is the most desperate effect of a declining Fortune, Messengers were employed oftentimes with Intercession, but returned ever without Remedy; Disputations were lame, Expectations idle, Affections mutinous. And tho' I find by the best Writers, that during this time of staggering, so long as any spark of hope could live, either of secure Defence, or timely and sufficient Supplies, the Bishops endeavoured their best to preserve the Life of Loyalty in the Breast of Fear; yet at the last the Civil State declining, the Church fainting, and all Hope languishing, when both Peers and Bishops wasted like Images of Wax *à petit feu*, felt the Fury as well of the domestical as the foreign Sword, and waxed weary of the fruitless Comforts that were sent out of the East; they resolved jointly to call in their next Neighbours the *French* for Protection, who were able to defend them with a stronger Arm, a quicker Dispatch, and a better Purse than this sunk Estate surrounded with an Ocean of incurable Extremities. That there wanted in the Pope both then and ever since, Affection, Invention, or Expedition, to raise *Rome* once again, tho' in another Element, *ex Albæ ruinis*, to draw their Generation of Greatness out of the Corruption of Power, and to make their best advantage of their Errors that were wont to give them a commanding check, they may believe that find no grounds of Judgment, of Experience and Truth to conceive otherwise. For being put into possession, by this long desired and lately planted Emperor, of a satisfaction, both for Profit and for Power, proportionable to the pains which they had taken, *Cum sudore vultus & tremore cordis*, about the new Establishment, they found other means to multiply their Strength and Credit every day, by taking sure hold of opportunity, which being lost with idleness, returns no more to Expectation. They began then to establish their Estates in that height of Security, from the Frowns of predominant Commands, which many of their Predecessors had eagerly apprehended, *Tanquam spado mulierem amplexans, & suspirans*, (as the Prophet speaks significantly in another point) but yet failed of the final Scope and Reward of their Industry.

The strongest Adamant that drew Reverence and Love to the Church of *Rome*, in the first spring of Religion, was the Constancy of so many godly Bishops, as with the streams of their Blood watered the Plants of their Profession, desiring rather to die with Honour, than to deny with Infamy. Besides, it is certain, that during the short time of their sitting in that Seat, their chiefest End was to bind

bind Subjects to Superiors with so great Obedience, and Superiors to Subjects with so great Conscience, as those Men were esteemed both most godly and most happy, that were either inspir'd with their Pity, or grounded upon their Principles. *St. Peter's* Galley might very well hold on a constant and happy course for a-while after the main stroke of Oars did cease, that was set out at the first with the Force and Industry of so many worthy Mariners, as made for no other Port than Heaven: which Observation cannot be thought strange, by Men that understand how hard, or almost impossible it is for one Prince that is humorous, succeeding many that were godly and judicious, to work upon the sudden any dangerous Effect, by Countermotion or Opposition to the Spheres of the former Government.

For to the raising of this height upon the Foundation of Religion and Integrity, some brought Stone, some Timber, some Lime, some Sand, and some gave their own Labour and Direction *gratis*; every one affording supplies and helps according to the measure of their Strength, or the proportion of his Ability. But after that the Bishops began to find the strength of their own Estates by removes of Emperors, and that instead of little ease, they got Elbow-room; it was a means to make them stretch their Arms, and extend their Forces into Elements, which like *Terra Incognita*, were before unknown to them.

Some of the most artificially and refinedly ambitious, finding by the *Roman* Histories (as it is probable) that *Cæsar* was never absolute in Power, *Priusquam protestatem pontificiam cum Cæsarea potentia conjunxisset*, hold it as found a course for them, seeking the like in another Climate, *Cæsaream cum pontificia conjungere*: making no doubt but as *in Abstracto* they had been regarded with Reverence; so *in Concreto*, they might be feared with Observation. The necessity which enforced all *Italians* after the departure of *Charlemaine*, to rely upon the Pope's Aid for common Defence: the Bond of Conscience, which moved the greater part of the World in those days to resort to *Rome*, either for satisfaction to Souls, or for preservation of Unity: the confidence of Emperors and Kings in compromising Causes of Unkindness or Dissensions to such a Bishop, as professing like a Father equal Affection and Tenderness, was not suspected of halting on either side: the Strife and Emulation of mighty Potentates to assure themselves of the Love and Friendship of that Party, whom the greater number regarded as a Judge, and few or none for many Years suspected as an opposite: the Fear and Peril into which some Emperors were drawn of hazarding their own Fortunes, by disputing his Prerogative: the Contribution of all States, Qualities and Degrees of Christians (according to the Custom and Manner of those Times) to the Maintenance of *St. Peter's* Successor: the secret Interest which the Pope had in many Kingdoms, by the Merit of his Predecessors, that did first send learned Pastors and Doctors to preach unto them Redemption by Christ Crucified: the exercise of *St. Peter's* Keys, by binding and loosing Sins in a kind of Excellency, and Supereminency above other Bishops in all parts of Christendom: the Conceit which was holden of a Bishop's Conscience, whom the Canons will not suffer to be *Solicitus de iis quæ sunt mundi*, in comparison of any Secular Authority, whose only Object is the seal of Longitude and Latitude: the danger of

offending one, whom the greatest part endeavoured with studious Affections to please: the subtle Union of *St. Peter's* Keys with *St. Paul's* Sword to this end, that while the one did open Locks, the others (like that of *Nebemias*) might cut off Impediments: the great Revenue and Demain, which was annexed to *St. Peter's* Chair, first by the Charter of *Charlemaine*, and then by the great Countess *Maude's* Legacy: the Pope's art in contriving the manner of the Choice of Emperors by the Co-rupters of *Germany*, rather than by Occasion of making their Returns to *Rome*, their Teeth might be set on edge with a fresh Appetite, to taste of the forbidden Fruit which grows *in Horti medio*, and thereby compassing the Tree of the Knowledge of Good and Evil, covered with the Leaves of Limitation for so many Years, to make their Estates once again Absolute: the Pope's Caution in referring to Himself as it were *in deposito*, a special Interest (only for pretence) of Crowning and Confirming Emperors at *Rome*, even after they had been Elected and Crowned in *Germany*, tho' when they sought it, they seldom compassed it: the Pope's Eye to the retaining of those Rights and Royalties in the Princes Electors hands, which were mortgaged by precedent Emperors, lest the bruised Feathers of the Eagle, impeded once with these hard Quills, might again be able to carry her up to the Spire of the Capitol: the long lasting, and strongly working Faction in *Italy* of the *Guelphes* and *Gibellines*, Imperial and Pontifical: the salt League between the Pope and the *French* Kings, ever labouring to maintain the strength of the holy Arms, against all violent and sturdy Storms, as a Plant of his own Policy: the Rule which hath been ever providently observed and kept by the Popes, in eschewing Quarrel or Contention with any powerful Prince in *Europe*, before he make himself sure of a Party opposite in the same degree, and likely so far as the Wit or Aim of any mortal Creature is able to extend to make the match too hard for him: the sure hold which the Pope hath of the Hearts and Services of all the Clergies, in as many Kingdoms as are Romanly Catholique, by exercising the Interest either of Investing or Confirming *Metropolitans*, that have the highest Charge in the Church, and draw the Consciences and Devotions of Lay Souls after them, by direct Dependency: the Pope's Custom of sorting Cardinals and Officers for the Church out of such powerful and worthy Families, as may make both them and all their Allies and Friends to be in their Devotion and Gratitude more fast to them: the reservation of certain Cafes, wherein the Pope only will give himself Commission of Oyer and Terminer, thereby pressing the greatest Bell-weather of the Flock, without an express Relaxation, *ab ipso ore apostolico*, to appear personally: the device of sending Princes to the Holy-Land, so soon as ever they began either to pick Quarrels with the Church of *Rome*, or might be made by their Absence of better use to it: the Local Interdictions of Priests by Warrant from the Pope, to celebrate for the satisfaction of Souls, which (so far as I have read) was first set on broach among our *English* Bishops by *Alexander* the third, about the Year 1170, but not very luckily to those that by observing them with a stricter kind of Obedience and Awe, than the Laws of the Realm would admit, were in great peril of their own Possessions, with loss of Liberties.

Last of all, the Garisons and Forts which have been erected and maintained in Defence of St. Peter's Patrimony, were high Steps to carry and convey the Pope to that height of crushing Princes in their own Element, which many quarrel, some tolerate; but in very truth (if the Case once come to be their own) none favour. So long (saith a grave and learned Writer, and a Roman Catholick) as the Popes attended those Charges only that concerned the Soul, their chiefest Care, Desire, and Study was to be protected under the Wings of the Secular Estate: but the State of the Emperors declining faster than they rose, the Popes began to neglect both their Arms and Amity; then fell they to defend by Writing and Discourse, that it belonged rather to the Church to give Laws to the Empire, than to receive from the Emperor; pressing forward still without looking back, for fear perhaps of being transformed with the Wife of Lot, *in statuam salis*, and abhorring nothing more than the very sound of a Remitter to the creeping State of their first simplicity, the wrested Censures of the Church, either to the Passions of Humour, or proportion of State: they studied more industriously the ways of making Wars and heaping Treasure, than of steering Peter's Ship, or instructing Souls; they sought more slyly than sincerely to make their Consistory strong by the support of Tyrants and Usurpers, which having cast off Caesar's Yoke with Contempt of disarmed Ostentation, found no means so proper as the Countenance of the Church of Rome, for their Establishment both in Dignity of Security. For proof whereof, I wish it may be tried by Inquisition, whether Robert Guiscard having filched Puglia from the sacred Empire, that is a fair Feather from a feeble Bird, sought not after that to hold it of the Pope in Fee; and whether Roger King of Sicily in the Year 1130, possessed not himself of that Kingdom by such a trick of Legerdemain, (for all was Fish that came to Peter's Net about that time) and many his Successors in that Corruption both of Conscience and Conversation, became now rather *Piscatores imperiorum quam hominum*; tho' the Censure of St. Paul extended only *ad interitum carnis*, but not *posteritatis vel diadematis*.

After this some of them mounted to that Point of Challenge, as they were not ashamed to take upon them the Prerogative of deposing Emperors. For Boniface the 8th after he had presented himself (as the German Catholiques report) to the Eye of the World in his Habit merely Secular, that is with a Crown on his Head, a Sword girt by his side, and with Profession that he was as well a Caesar as a Pope, at the next Leap gave a greater strain, claiming Precedency of Philip the French King, *Tam in spiritualibus quam in temporalibus*, tho' some of the most learned among the Schoolmen oppose absolutely to this Paradox; and might as fitly wonder at this armed Pope, as the Prior of Duresme did of his Earled Bishop, *O quam manifeste jam exorbitat noster Episcopus transformatus a vestigiis sancti Cuthberti!* Urban withdrew not only the Persons, but *bona* the Goods of the Clergy from the Trials of Civil Courts. In case of Treason the Popes would oftentimes have exempted Bishops from the Bar, tho' Princes Absolute would never yield to this Demand as a right by Acknowledgment: howsoever at the Pope's Request some of them have been pleased to remit Wrongs out of Indulgency. Let Platina give Evidence con-

cerning strange Devices vented, and Plots undertaken, to bring all the Princes of the World to hold their Crowns *ad placitum*, and in effect at the will of Peter's Successor: Some being called in question for personal Transgressions, some for idle Words, some for taking part with Princes whom Popes hated, some for refusing to participate in Actions which the Pope favoured; some that the Pope might prefer his own Friends to their Seats, some for standing stiffly against Humours out of Suspicion, some to make the Pope himself more strong, some to make his Enemies more weak. And sure I am by Confession of those that in Religion were ever consonant to the Roman Canons, that after once the Rule of Gregory was riveted into the Conscience of Christians (which in those days were more fearful to offend, than studious to learn) *Sententiam judicis quamvis injustam timendam esse*, that the Sentence of a Judge is to be feared, tho' unjust: howsoever all the Laws of Europe in this Case by the grounds of Nature grant Appeals, what Quarrel soever it pleased the Pope out of Displeasure, just or unjust, to pretend, himself being ever (for the most part) both Judge and Party, that must be satisfied to the full, tho' it cost an Emperor his Crown.

And because *Homo spiritualis judicatur à nemine*, some of the Canonists proceeded so far in flattery after these Encouragements, as to exempt the Pope's censure from examination, tho' they carry with them heaps of Souls to Hell: which tho' the wiser and the better sort reject, as a Doctrine fitter for the School of Mahomet than a Scholar of the Church; yet it will be ever reckoned and reputed probably as well *error prædicationis*, as *conversacionis*, so long as it shall pass the print without reproof; and to use the phrase of St. Hierom upon like occasions, *prinsquam Asterisco juguletur*. Emmanuel the Greek Emperor craving earnestly of Alexander III. that both Empires of the East and West might be re-united for a greater strength and a more assured support against the Enemies of the Faith, his answer was, *Se nolle id unire quod majores sui de industria disjuxissent*; that he would not unite that which his Predecessors had of set purpose sever'd; tho' in very truth it may be proved a worse part in those that laid their Heads, and set their Hands together, being as they were, but Men *ad illud separandum quod Deus conjunxit*, to make a separation in that which God had conjoined and fastened. Tho' Alexander the Pope had modestly forbore to answer the Request of Emmanuel in so plain language as might move the World to say to him as the Maid did to St. Peter in the Palace of the High-Priest, *Verè tu ex illis es, nam & loquela tua te manifestum facit*: yet by the course which this Pope's Predecessors took in planting *Sedem Imperii*, the Seat of the Empire rather among the Germans, where by larger distance he might less offend, than in *Romana Metropoli*, than in Rome itself, where he might eclipse the Glory of the Pope, we might easily have apprehended both what was the Object, and where would be the end of that Policy. Hereunto I add an Indenture made by another of that rank, with Charles Duke of Anjou before his establishment in the Kingdom of Sicily, That neither he during his own time, nor any of his Heirs and Successors after him, should accept of any offer which the German Princes might be drawn to make to him of the Empire; much less that he or they should hunt after it: his fear was (after an experiment)

ment) by the long buffing between the Pope and *Frederick*, (who was by right both Emperor and King of *Sicily*) that the Vicinity and Neighbourhood of so great a State as that Kingdom to *Rome*, in case it fell into the hand of an evil Neighbour, (with the least colour or advantage of a Title) might stir up easily in the disposition of a Prince that were courageous, an earnest desire of a discontinued Estate: because howsoever Questions be over-ruled among private Persons upon the ground of Prescription in point of Law, yet where the Sword must flourish for the Master's Prize, *Præscriptio nulla, quantumvis diuturni temporis, occurrit Cæsari*. I need not at this present to name that provident and discreet Cardinal, who in one of the late Conclaves, put in a timely Caution to the rest of his Fellows at the choice of a Pope, to beware of too servile a regard of the Partialities and Passions of potent Princes, that *Sede vacante* recommended their chiefest Favourites to *St. Peter's* Chair, to no other end than that they might again, by Quintessence of Craft, reduce the modern Majesty of the Church of *Rome* to that bare *Jus patronatus*, wherein it stood during the Reigns of domineering Emperors; and while they were able to free themselves of that servile Yoke, which by the loss of many Lives, by the waste of great Treasure, and the highest Improvement of their Predecessors Art, (that set their own Lives light in respect of the Churches liberty) was cast off. These are the steps by which so far as I can gather, either by observing the Current of Time, the Reports of Histories, or the deep Impressions of Experience, the Popes have ascended sometime warily, sometime confidently, but almost ever (after the translation of the Empire into the East) powerfully to this height of Prerogative, which have made them sufficiently strong, as it is said of *David* in the Scripture, *Cum leonibus tanquam cum agnis ludere*, and to tread upon the *Asp* and the *Basilisk*. What *Soto*, *Sylvester*, *Simancha*, *Navarre*, or *Bellarmino*, either think or publish in their chymical Distinctions of *directè* and *indirectè*, *propriè* and *impropriè*, *simpliciter* and *secundum quid*, *absolutè* and *tantummodo in ordine ad spiritualia*, it much matters not; because in this point they do merely transgress *mandata Dei propter traditionem suam*, leaping like Sheep that are frightened with their own shadow, over Hedges one in the neck of another, without fore-thinking of the Ditch on the other side, vouching no one Tittle rightly to this purpose out of the Word of God, regarding nothing that is ancient, nor adding any reason of Importance that is new; filling the Schools with Clamours, the Church with Errors, and all christian Estates with Tragedies. Yet in disproof of their Distinctions, which are only circles and sharp angles of scholastical Conceits; beside the grounds of sober Judgment formerly set down, I will produce a learned Jury of those Bishops whom these School-men repute firmly and completely Catholic, (whom they emblazon by descent of Pedegree the only true and lawful Heirs of *Christ*, and whom they reverence as his Apostles Successors) that did absolutely refuse in the most servile times to subscribe the Pope's private and peremptory Censures against their own Sovereigns. They did observe their Oaths of Loyalty out of the Bond of Conscience, without regard of canonical Absolution; and never shrunk upon Threats or Terrors that thundred at *Rome*, from the positive Laws and Duties of their own Countries. They

were not ignorant that the High-Priest in the Law was *circundatus infirmitate*, and bound by the Law to offer Sacrifice as well for his own private Sins as for the Sins of the Multitude. They had read that *St. Peter* the first Founder of the Church of *Rome* was called *Satban*, for giving counsel (that was not found) to our Saviour, after the bestowing of those Titles of Prerogative which many urge. They find him pinched not behind his back, but reprov'd to his face by *St. Paul*, for that he did not hold a strait course for the Propagation of the Faith. They learned of an Apostle, so far only to follow others, as they were found to follow *Christ*. They heard that many Popes had revoked their first Censures upon better information: that *Alexander III.* gave free liberty to the Archbishop of *Ravenna* of abstinence from satisfaction to his own Directions, so as withal he gave the reason which moved him to abstain; and that *Adrian* himself enforceth not Obedience *manente dubio*, so long as the Point was in question, or traversed. They were greatly moved with the Precedents of those religious and faithful Auditors at *Theffalonica*, that examined the passages of holy Writ alledged by *St. Paul*, for the better trial of the Doctrine *an ita se haberent*, whether they were vouch'd in a right and proper Sense or no. Last of all, because they found the Privilege of not Erring in the Pope to be limited by the Schoolmen themselves to matter of Faith, not of Policy, and to be rather Cathedral than Personal; it was a course familiar and usual among many grave Bishops of that Age, to examine papal Censures as well by the Standard of God's Word, as by the Weights of the Consistory; and so far only to give way to insurgent Jurisdiction, as it might not at the issue of their Lives unhappily fall out to them *in singultum cordis*, that they had run counter. If they have either Cause or Colour to challenge any one or more of this Jury that is impanelled, *ex hominibus legalibus*, for Trial of this Point in question, as prejudicial either to the Cause, or to the Church, I will undertake to set him *rectum* upright, *in ipsa Curia Romana*, by the Warrant of their own Records, tho' that be greater pain than I need against any of the Schoolmen, that mould daily new Distinctions out of the Quintessence of their own conceited and self-pleasing Wits, without the right Stamp of Antiquity.

I have touch'd by discourse precedent, how far *Philip* the French King, surnamed for his Personage *Le Beau*, was secur'd by the whole Clergy of his Realm, so far as concerned the Bond of their Allegiance and Loyalty, *non obstante* the rash Proceeding and peremptory Censures of Pope *Boniface*. To this I add the Answer which was made by *Hincmar*, Archbishop of *Rhemes*, to Pope *Adrian*, (forbidding him under pain of Censure to yield either Reverence or Service to the King, as to his lawful Sovereign) that Persons of all Qualities, as well Ecclesiastical as Secular within the Realm of *France* (assembled upon the Publication of the Pope's Censure) had set down this Conclusion with a kind of Astonishment, *nunquam ulli prædecessorum suorum*, that no such Injunction was ever sent to any of their Predecessors before that time. A strong Evidence in my Conceit, as well of Novelty as of Injury.

By another grave Report touching the Kingdom of *Sicily*, I find in an Epistle of the Archbishop of *Panormum*, how strange the Bishops of that State held an Oath of Obedience to the See of

Rome; tender'd by the Pope's Nuncio to one of them at the receiving of the Pall, and with this strong Exception, *Non inveniri de hujusmodi juramento statuta in Conciliis*, that in the Councils no Canon could be found, whereby to press the taking of such an Oath by an Archbishop. Yet can I not deny, that *Sicily* did more depend upon the Directions of the Pope, by the Condition of some former Contract between that Kingdom and the Church of *Rome*, than many other Provinces.

When *Gregory IV.* had a purpose in his head peremptorily to proceed against *Lewis le Debonaire*, the *French* Bishops in flat Terms answer'd, *Se nolle*, &c. that they would not submit their Judgments to that Offer; but the Ground thereof being both weak and unjust, he should well know, that *Si excommunicatus veniret excommunicatus discederet*: If he came with a Purpose to excommunicate, he should depart excommunicated. Add unto this out of a *French* Record, an Instance of one *John Tanquerell*, condemned by the Divines of *Paris*, for labouring to defend that the Pope in some Cases might depose the King. So strange was the Doctrine of deposing Princes, and transposing Crowns, esteem'd ever in those very Times which are thought to carry the strongest Tincture of Affection, which many call Servitude. But if Heresy and Infidelity were the proper Causes, as they are made the ordinary Motives of these brave attempting and undertaking Censures against crown'd Potentates, there might be some better Colour of Excuse, tho' no better Ground of Justification (because neither we have any such Custom, nor the Church of God:) But we know that Prerogative is the *Magna Charta* which they study that pursue this Point; and let the Prince (against whom the Pope intends or pretends a Quarrel) be as Catholic in all Points of Profession as the Pope himself, yet he cannot save his Stake in seeking to save his Soul; for the Challenge being once on foot, until the Supposition be acknowledged, the Censure qualified, or the Pope satisfy'd, there shall be no other ground nor object of the Process than Heresy. This moved many Bishops (notwithstanding their Obedience to the High-Priest) yet to examine the Condition, and whether the Direction were *ab initio secundum legem Dei*, as *Moses* limited. The best learned among the Schoolmen make not Obedience either an Abstract in the Clouds, or an *Individuum vagum*, or (as some do the Prerogative of Princes) a *nemo scit*, but they conceive it as a Duty ranged by Prescription *ad leges Evangelicas*.

Upon this ground of Reason, Equity and Conscience, *Gerbartus* Archbishop of *Rhemes* was drawn to an absolute Renunciation of any Grant that can be made to any mortal Man in particular, of so large Capacity, *ut quicquid libet liceat*; lest that Person being forestalled, corrupted, or seduced by Fear, Gain, or Ignorance, might put all Courses out of frame: with this further Advice, that in Limitation of Power, the holy Gospels, the Prophets and Apostles, and the Canons of the Church indited by God's Spirit, and observed in all Ages by those Pastors whom the Holy Ghost appointed to direct and govern the Church of God, might be *Lex communis Ecclesie Catholice*. This Rule gives a round *superfedeas* to Mr. Garnet, and his Schoolmasters: and further we find *Ino*, the learned Bishop of *Chartres*, so far a Friend (how hardly soever the *French* King dealt with him in respect of his Absence from that Convention, wherein the Pope's Proceedings against the King were

sharply censured by all the States) as to deny the Subjection or Subordination of a King to any Superior in his temporal Estate. And tho' the King should refuse out of Contumacy to give ear to the Counsel of the godly Bishops, (which was the Case as he conceived at that time, being infinitely addicted to the Pope) *Divino tamen judicio relinquendum esse*, yet he must be left only to the divine Chastisement. And as *Bracton* saith, *Sufficit ei ad poenam quod Deum expectat ultorem*. How confidently and how often the Synods, Parliaments, and Schools of *France* have run upon the Pikes of papal Censures, in defence of the King's Estate *paramounte*, sometime by their Decrees provincial, sometime by their Sanctions pragmatial, and sometime by Prohibitions, which cut the Sinews of all superlative Commands with so sharp an Edge, as after that they were never able either to march or move, I need not amplify, but only point with my Finger to the Coronation of the King now regnant at his first Entrance, by Bishops, *Roman* Catholics, (without either awe of Superior, or fear of Censure, or conceit of Irregularity) while he stood within the danger of the Curse; and conclude this Point with one Example very pregnant, as I imagine, of *St. Lewis*, inserted by the Pope himself into the List of holy Confessors and Saints in the *Roman* Calendar, notwithstanding his severe Decree, that no kind of Levies or Taxations should be made in *France* by the Pope's Instruments, without the knowledge of his Privy-Council or himself; nor then also, but in Cases of evident Necessity.

But now lest Mr. Garnet or his Complices should except against the State of *France*, as over-tickle in the Seat of Satisfaction, when the Scope of the Church is Gain; tho' we must add some greater weight of Credit to these Courses, in respect the Bishops were both Orthodoxal and Canonical that assented to their Publication with the other Peers: I will prove further, that in Tenderness of Care to preserve the Prerogative of Monarchy within the Bounds and Limits of itself, the Kings of *England* have neither been inferior, nor least sensitive. May it therefore please Mr. Garnet, and so many other of that Suit as hold the Subject bound to follow whatsoever is decreed at *Rome* upon supposition of Heresy, or suggested Shews of Infidelity against their Sovereign, to take notice of the Titles, Names, and Judgments of these Persons which I shall present to their Consideration; not from the Presbyteries, which may distaste their Relish, but out of the List of *English* Authors, limned among Catholics with golden Characters.

I will begin with the first of our Kings *post Conquestum*, and proceeded to others as they fall into the Circle of exception in their Courses, and proceeding orderly. *Quid Papae cum Imperii vel regni libertate?* What hath the Pope to do with the Liberty of an Empire or Kingdom (saith *William* the Conqueror) to whom it rather belongeth to take care of Souls, and of the Church's Security? Afterwards, in that quick Contention that fell out between *William II.* and *Anselme* the Archbishop about the Pope, (tho' I will never avow this King to have been an holy Confessor, nor all his Expostulations to have been regular Demands) yet they must give me leave to note with what Affection and Resolution, notwithstanding the Pope's intercoming to make himself a Party in the Quarrel, the Bishops did adhere to their own Sovereign. *Notum habeat sanctitas vestra*, Your Holiness, saith *Henry I.* must understand, that by God's help the

Dignities and Liberties of this Kingdom shall receive no wipe of Abatement during my Reign: for tho' I had an Humour of embasing my self so much, as to shrink upon so sure a Ground; *tamen optimates mei, imò totius Angliæ populi id nullo modo paterentur*; yet my Peers, nay, all the Commons of my Realm would never suffer it. And after this, the Bishop of *Exeter* sent to *Rome*, received a very gracious and mild Answer of the Pope, touching the Kingdom's Liberties. *Henry II.* would admit no Legate from thence, nor Repair of any his Subjects to that See, before they gave Security, *quòd malum suum vel regno suo non quærerent*.

The Suffragan of *Canterbury* in very modest and humble manner advised *Thomas*, his Archbishop, rather to appease the King's Wrath by a submissive Letter, which had ever been the course of Proceedings among the Pastors primitive, than by heaping Coals to inflame his Passions, in so violent and desperate a kind, as might perhaps cause a Revolt from the *Roman* Hierarchy.

Nubrigenis, another Countryman of ours, compareth the Archbishop's Opposition at that time to the King, to *St. Peter's* Zeal, in the Question between him and *St. Paul*. For tho' no Man denies, saith he, that the Archbishop in this Particular was *zelo fervidus*; yet *an plene & secundum justitiam, Deus novit*, whether sufficiently, and according to the Right, God knoweth; since it is written in the *Proverbs*, That *prudens in tempore tacebit, quia tempus malum*; A wise Man will hold his peace in time, because the Time is evil, as he thought that to be. The Speech is modest, and yet declareth, that even in those Times Men that were void of Passion, tho' of one and the same Profession, coming to scan the Point of Conscience, judged indifferently, without either smart to the Subject, or wrong to the Sovereign: which makes me the more to praise the Wisdom of that Canon of the Church, which (with great reason) dissuades over-rough searching of Sores deeply fester'd, or over-quickly proceeding in a time when Censures are set light; for Experience hath taught, that this were but to cast Pearls before Swine, and to give that which is *sanctum, canibus*.

The whole Reign of King *John*, being in effect nothing but a Tragedy acted in the Eye, and to the Scorn of *England* over all the World, between the Pope and him, our Bishops skirmishing sometimes (out of Conscience) on the King's side against the Pope in this Fraction of the politick Estate, and sometimes (out of Faction) on the Pope's side against the King; yet the greatest part of them at *Windsor*, as one of our Authors writes, *Non obstante sententiâ quâ Rex erat innodatus*, did communicate and religiously receive with him.

Henry III. suspecting some hard measure (as it seems upon the smart and horror of Examples past) expected a formal Oath of his Bishops that repaired to the Council of *Lions* before their setting forth, that they should assent to nothing there debated, or to be decreed to his or his Crown's prejudice. At the same Council the King complained (not by the Virtue of his Letters, but by the Voice of his Bishops) of a wrongful Claim pretended by the Pope of an Imposition, under the mask and colour of Episcopal Assent; which in the behalf of all the rest, was roundly contradicted by the Metropolitan. Upon notice taken of this Complaint, the Pope alluding to the Spleen of *Frederick* the Emperor against his Predecessor, said that the King of *England* began to *Frederize*: but it skills not

much, said he; for, *habet Rex Angliæ suum concilium, & ego meum*; as he might very well, and yet be no Gainer.

Edward I. sent Sir *John Lexington* to all the Bishops as they were assembled in the House of Convocation, with an express *Caveat*, that they should in no ways yield to the Pope's earnest Instance for satisfaction in a Demand: To which Prohibition, as my Author writes, *& ipsi paruerunt*, they obeyed accordingly.

Edward II. stood resolutely upon the Maintenance of his Gift of the Treasurership of *York* against the Pope's *Breves*, striving forcibly by the Colour of a former Grant, to prefer a Nephew of his own; and upon what Ground? Because (saith the King) the Peers of this Kingdom are bound by their Oath of Homage, to maintain the Rights and Liberties of this State, whereof Collation of Dignities hath ever been reputed a special Branch, and therefore cannot *salvâ conscientiâ*, admit or endure the least Blemish of an invested Honour. For if it were not lawful for the Bishops of those Ages, as appeareth by Record, *Feodum Laicum Romanæ Ecclesiæ obligare*, to tie a Lay-fee upon the Church of *Rome*; how much less is it reasonable, lawful or convenient at this day, to engage either the Prince's Right, or the Subjects Loyalty?

To these I add a very earnest Letter written to the Pope by the same Prince, in such a Style, and with Ink tempered with so sharp Ingredients, as *ex unguibus leonem*: for he doth there protest, and that with some Fervency, *Se jus regni sui contra papam, & omnes defensurum*; that he would defend the Right and Title of his Crown against all Persons whatsoever, without Distinction or Diversity. I note by this Occasion the Temperance of the Pope at that time, who neither replies with Passion, nor thunders in Heat. For tho' it be true that *England* by Position and Sight hath a great Advantage of many other States and Kingdoms of *Europe*, that are neither so well fenced, nor so compleatly compassed by Sea, proposing to stand resolutely in defence of itself, tho' the Cause were good, and the Prince martial; yet it appeareth, that the Pope for his part also was more patient than some of his Successors (impeached by more Difficulties and stronger Impediments) have been since that time; or else considering the Claim which he pretended to Collations and Investitures in many other Estates, where he found Princes more afraid, he might at the least have made an Offer (tho' to small effect) of his virulent Exceptions, which being used without Discretion, are indeed but the Vessels of an indiscreet Pastor, to take the Words of *Zachary*.

Neither Law nor Nature do allow to any Agent, *potestatem operandi*, for the Maintenance of it self, *sine præparatione mediærum*, without the preparation of Means proportionable to that Faculty which it affords: and therefore in this Case we must infer, that either the Pope wanted Passion or Power, or Instruments to further his Ends (according to the scope of his Desire) powerfully. The Abbot of *Tavestock* was fined at five hundred Marks, for receiving a Bull from *Rome*, wherein there were but *aliqua verba regi, & coronæ sue præjudicialia*. The whole Court of Parliament, wherein the Party of the Bishops and Abbots among the Lay-Peers, for the number was not weak, gave their Promise to King *Richard II.* with Protestation to defend his regal Rights and Immunities against all Opposition, tho' it were made by the

Pope himself. And herewithal I note the Reason in the Record, suitable to the Resolution (which was spoken of before) left the Crown of *England*, which had been ever free from the Restraint of any superior Command, might on a sudden slip unawares into the Snare of Servitude; and therefore the main Article in Parliament enforced for the Deprivation of *Richard II.* was, That he had by admitting Bulls from *Rome*, intralled the Crown of *England*, which was free from the Pope and all other foreign Power.

The Pope's ignorance in the state of *English* Affairs, was the Motive by which the Wisdom of the State was drawn during the Reign of the same Prince and all that succeeded, to condemn, disable, and reject all Bulls or Breves of Direction from *Rome*, that stood upon no Warrant of Certificate from some Bishop in the Land to guide his Aim; and those Bishops (as we find by the Reports of History and Record) were ever the worse esteem'd, and the less regarded by their own Prince and Country, that posted over to seek foreign Aid, when they might have found greater Ease, by resorting to their home-bred Oracles, and *non ad transmarina judicia*; which they ought to do by the Council of *Carthage*.

They that desire to be more particularly informed of the prosperous Success of some Bishops, that were forward in execution of the Pope's Orders without Licence from the King, may find a Seizure made upon all the Temporalities of those Bishops of *Ely* and *Norwich*, for the Publication of a Bull against *Hugh* Earl of *Chester*: and further observe also, that the Bishop of *Ely* was condemned of Felony by a Jury at the King's Bench, notwithstanding his bold Challenge to be *unctus Domini & frater Papae*, the Pope's Brother; but a younger it seems, by bearing his Dignity with so great a Difference. The Bishop of *Carlisle* in like manner (notwithstanding the Privilege of Unction) was condemned of High-Treason at the Bar, (tho' not in the Pope's Cause) in the Time of *Henry IV.* and that worthily. For tho' *Solomon* spared the Life of *Abiathar* out of a special Favour, and a kind of Reverence to Religion, *Quia portavit arcam Domini*, because he had once carried the Ark of God; yet by that he calls him *virum mortis*, I may lawfully conclude, what in Justice he might have done concerning Life: but of his Deprivation the Text itself gives clear Evidence.

I add to this Example the learned Judgment of *Baptista Baiardus*, a profound Civilian, That a Bishop offending in case of Treason, cannot be exempted by his Function from Trial before a Judge merely Secular: and for Proof hereof no Man can witness better than *Philip de Comines*, what slight answer was given by the *French* King his Master, to the Pope's incessant Suit by the *Nuncio*, for the Release of a Cardinal, whose Place and Dignity was more eminent.

In *Spain* itself, which seems in this Age to be most precise and tender of that Point which is termed the Church's Liberty, (tho' neither circumscribed within any certain Limits of Admittance, nor defined till this day by any Doctor of either Law) their own Writers avow, That the Bishop of *Coimbra* was constrained by the State to recall a Sentence against the King, which the Pope himself hath both encouraged and justified. *Don Pedro* King of *Arragon*, in scorn of the Pope's Charge, under pain of Censure not to take upon

him any longer the Title of that Crown; which, out of his own particular Affection he had settled before upon another Prince's Head, intitled himself *Imperatorem maris, & regnorum dominum*; meaning rather to advance than dismiss his Style by the Pope's Ladder.

Many of their Kings, as I could express at better Leisure, have withstood peremptory Censures of the Church of *Rome*, almost *ad deliquium anime*: sometime upon Supposition of Incontinency; sometime upon the stay of the main stroke of that Oar in their Estate; sometime about Collations, Transpositions; Investitures; without any inward Gall or Vexation of Conscience, for exasperating a Pope's Humour in defence of their own Prerogative. Let the Walls and Battlements of the Castle *Saint Angelo* in *Rome*, bear record of the Piety, Patience and Humility of *Charles* the Fifth, Grandfather to the King of *Spain* now regnant, when the Pope in Passion overstrained both the Duty of a Child, and the Patience of so great a Potentate. I think Mr. *Garnet* will admit, that these thousand Years there was not a more obedient Daughter to the Church of *Rome* than *Queen Mary*, that could never rest in quiet, till she had reduced the straying Sheep of her Dominions, as she conceived, to *St. Peter's* Fold: and yet without regard or awe of the Pope's sharp Censures against the King her Husband, she never gave over aiding him with Money, and assisting him with Force, till he was perfectly reconciled to the Church, and the Strife determined. For as by the Law of God she found herself precisely bound in cleaving to her Husband, with whom by Union she became *una caro*, to forsake all the World: so in the same Law she finds in point of fact no straighter Bond, nor stronger Warrant of Obedience to the Sentence of the Priest, than she observes the Priest to ground himself upon the Law of God; that is, *quem ipse secundam Legem docuerit*: which Rest is indeed that *Lapis Lydius* to which we ought all to resort for the Trial of all Coins that are current among Christians, whose Image or Stamp soever they seem to bear, in case we find them oftentimes embased by an Allay, and apt to mine into the Foundations of Equity and Piety. For till I see it clear either by Doctrine or Experience, that God created all Men Stoicks, or rather as void of Sense as Stocks, and instituted Popes not only *dispensatores mysteriorum*, Distributors of his Mysteries, but *tanquam angelos lucis*, as Angels of Light, or more than Angels of Light, because in those, as *Job* records, *invenit pravitatem*; I must borrow leave in discerning matters of this Quality, to make use of the little Reason, and the great Respect I have: leaving those that are of another Mind, to borrow such Discretion by Observation, which in this World all Persons at all times neither ever had, nor can ever have.

By these Precedents and many more, which time serves not to dilate or to enlarge, I hold it very clear, that both Princes and their Bishops have obeyed these Papal Censures in matters touching their Prerogative and State, neither longer nor oftner than Debility or Necessity enforced them to abate their Sails, in a storm of Distress: Tho' Decrees privative have been often squared by Laws positive; and that albeit many Kings have made a shew to be mild Spectators of their Neighbours Harms, yet if the case came once to touch either their own Affection or their Right, they were content

tent to read without the ordinary Consonants of the Roman Alphabet. If then the Weapons with which our Antecessors fought against Ambition and Wrong, have been eaten into by the Cankers of superstitious Fears, or overawed by retchless Sloth; let us scour them with the Powder of Experience, (since these hot Alarms begin to sound) before we be surprized in over-great Security; and by resorting often to the rule of God's direction, which is *verus Judex & sui & obliqui*, we shall the better understand, according to the Quality of superior Commands, either to lay down our Lives, or submit our Conformity. It was in my conceit a Pain well taken of late Years to reduce the Feast of our Saviour's Nativity as near to the right Term or Period, as Art and Industry could devise, by taking up the loose Minutes which by tract of Time and multiplication of Degrees had drawn out a wider Distance by certain Days, than was consonant to the first Calendar: and therefore the like Labour in another kind might worthily reduce the Challenge which Popes have pretended in some cases above Kings, to the same proportion which it held under Gregory the First, Leo, and all other Bishops of that See before that Date, by cutting off Encroachments, which by fractions of Time have brought the Church into Scandal, and the greatest part of Princes into Jealousy: For all this while Boldness undertakes, Wit contrives, Assistance furthers, Conscience prepares, Scrupulosity consents, Strength prevails, and Majesty suffers.

Now must I begin either by Mr. Garnet's Leave or against his Leave, to rip up the false Stitches of the Canon, *Nos sanctorum prædecessorum*, confidently vouched at his first approach to the Council-board, after justified before the Lords in Commission, and at this instant stood upon (as our own Ears can witness) in defence of that supposed Interest of deposing or dispatching lawful Kings, which is the binding Knot of the late *Gordian* Conspiracy. For tho' wise Men that either follow learned Conscience, or any certainty of Direction or Rule, will tax Mr. Garnet's haste in presupposing Censures, which the Pope did never yet pronounce, in dealing worse with his own Sovereign, than any other Prince in his Condition, running without an Errand, and rebelling without a Colour; yet I will take this Canon for the time *de bene esse* as it lies, *ut concusso fundamento arx ipsa concidat*. This only Principle (if I err not) hath more afflicted, discredited, and disabled the Pope's Means and Instruments, in working his own Ends, than all the Batteries that have been bent against the Vatican for the space of five hundred Years. For what Prince under Heaven can repute his State secure, so long as every small distaste to the Pope's desire may ground a Challenge, the Challenge may procure a Citation, the Citation may produce a Sentence, the Sentence either neglected or not satisfied, infers Contumacy, and Contumacy deprives the supposed Delinquent of that Honour which Nature gives, Conscience avows, and Consent fortifies? so as in this Case either Gregory the Seventh in respect of his ill hap, or no other Person upon Earth, hath reason to acknowledge that Rule of the Holy Ghost, that *in quo peccamus, in eodem plectimur*. The words of the Canon strongly bent against the Crown Imperial of Henry IV. are not many, but yet heavy, and in *English* thus: *We observing the Statutes of our holy Predecessors, do absolve those that are bound by Fidelity and Oath to*

Persons excommunicated, from their Oaths, and do forbid them to observe or keep their Fealty toward them, quousque ipsi ad satisfactionem veniant, till they come to yield Satisfaction.

Thus far the Text of the Canon *expressis verbis*: but since this is that *pillula aurea* (or rather *deaurata*) that Pill not of Gold but Guilt, which is preserved in the Cabinet of the Church of Rome to purge Princes of their Choler *in morbis acutis*, in hot Fevers; that is, whensoever they begin to square with the Pope about any point of Ecclesiastical Prerogative: and since Mr. Garnet for his own part likes the Composition so well, as that he shrinks not in defence thereof to hazard the Life and State of his matchless Sovereign, and his Royal Issue, supposing them to be more sick (God be thanked) than they find themselves; it behoveth me out of Affection and Duty to my dear Sovereign (tho' otherwise unworthy so much as to gather *herbas agrestes* with that Child of the Prophet, *in die critico*, upon this day critical) to examine the first *recipe* as I find it formally subscribed by the Pope's own Hand, that by more heedful looking into the quality of particular Ingredients, I may the better understand, by Understanding judge, and out of Judgment resolve how well it agrees with the Precepts *melioris ævi*, both in Proportion and Property.

The first Ingredient (of observing Statutes) I confess to be of great effect in working the Cure of any Grievance to the Church or Commonwealth: but yet I find it not of use among the Canonists, that exempt the Pope from the regular Observation of any Law or Statute, that out of his own Election he likes not to follow. But to the matter, I would learn whose Statutes they are, or by whom enacted, or in what Parliament, that Gregory VII. intending to depose an Emperor, (established by the Providence of God, and taking God's own Office into his hand, by making himself in this point *Similem Altissimo*) will observe thus tenderly. Surely the Prophet *David* was never in the number of those Predecessors that promulged any such Decree, condemning Persons with all kinds of Presumption or Discontent, that shall induce a Subject to lift up his Hand *contra Unctum Domini*. Our Saviour was none of them, commanding his Disciples to give unto *Cæsar* what is *Cæsar's*, and rather to endure, than offer violence to any Man, much less to Magistrates. *St. Peter*, that ought to be the first in respect of the Descent which the Popes derive, gave never any Voice to any such Decree: for he enjoins Obedience even to Tyrants, whose Authority was absolute. *Saint Paul* was none: for he commandeth Prayers to be made by the Faithful, *pro regibus, & omnibus qui in sublimitate constituti sunt*, for Kings, and all those that are placed in Sublimity, as at that instant *Nero* the Tyrant was; and to what end? that under them the Christians might peaceably live.

Out of the rank of these Predecessors, he must exclude Pope *Xistus*, who touching the Rule of Conscience, resolved rather to obey God than Man: but touching the point of Obedience, made no kind of resistance nor opposition to Tyranny. And *Origen's* Opinion was, That *omnia crimina que vindicari vult Deus, non per Antistites, & Principes Ecclesiarum, sed per mundi Judices voluit vindicari*. He must exclude *Marcellinus*, that offended no Magistrate any further, than to make the Church of God know that *Cæsar's* Decrees were no lawful Warrants, as some taught, for Idolatry.

He must exclude *Cornelius*, who being charged with a Course of entertaining Intelligence by Letter with *St. Cyprian* the Bishop of *Carthage* (at that time) protested at his Death, that the contents of those Letters had no other end or drift, than preservation of Souls. So far were they from derogation of Obedience to Authority, as *St. Gregory* had never read this Statute: for unless they will avow that *Servus* may be *supra Dominum*, which Christ denies, they must confess that *Gregory* acknowledging himself a Servant to *Mauritius*, he could neither overtop him, nor reign over him.

Neither is it probable that Pope *Anastasius* to an Emperor of that Name would have written, That the breast of his Clemency was the shrine of publick Happiness, and that his height carried the place of that Lieutenancy, which God commanded to rule and govern upon Earth, if he had held him a Tenant of his Crown to the See Apostolick; and therefore with our venerable Countryman I must conclude, that the Master-rule of our Life, is *Ecclesie primitivæ actus imitari*, to imitate the Examples of the Church Primitive.

But if (notwithstanding this Obedience) they will enforce a Man to reign, who with his own Mouth doth profess the contrary, which is to serve; let them call to mind that Observation of the wisest King that ever was, That one of the chief Instruments, *Per quæ movetur terra*, by which the Earth is shaken, is *Servus cum regnaverit*. I know not what Pope can pretend a better Title to the Prerogative of making Laws and Statutes, than all or some of these which had their Course, and held that Chair; and yet we find not that all this while the Case was put (much less ruled) by such Laws or Statutes, as might either countenance the Pope's Challenge, or excuse his Intrusion. But why should we thus puzzle or afflict our Spirits in turning over both the Testaments, in ransacking the Volumes of the Councils, or in founding the Judgment of the learned Fathers about the Names of those holy Predecessors which are only recorded in their Library? In singling some of the Principals from the body of the Herd, and hearing them express their own Conceits in their own Words, it may perhaps be found that their Reputations in this point have been further charged, than they can be blemished: bare Words are not to be recorded without demonstrations of Right, or impressions of Acknowledgment. But in the course of my own reading (which were sufficient to find out a black Swan if any were, tho' not so well able to resolve a Doubt as many are) I may protest that I could never light upon a Precedent of any Pope before *Gregory VII.* that took notice of any Statute, much more enacted or approved any for the maintenance of this deposing Challenge; altho' in case there had been such, I would hardly have preferred the Practice of any Sinner that may swerve, before the Precepts of a Saviour that derives Doctrine from Deity.

The Civil Laws decree, That *Si princeps causam inter partes audierit & sententiam dixerit, est lex in omnibus similibus*: If a Prince have heard a Cause among the Parties and pronounced Sentence, in all like Cases it shall stand for Law; much more in Cases of Obedience and Sufferance, which *Rex Regum*, the King of all Kings hath both heard and determined. For if the Schoolmen have resolved truly and advisedly, that the Pope cannot remit Sins without Sacramental Ministration, nor alter

Forms essential, nor *ad placitum* release Vows; because this absolute Prerogative only appertains to the Key of him which opens and no Man shuts; much less can any Pope out of the strength of Passion (tho' warped and involved within many folds of fair Appearances) deprive Magistrates.

Whether the Chair of *Gregory VII.* brake or not (as one Writer notes) at the pronouncing of the Sentence (because the Pope or the Sentence, or both Pope and Sentence were too heavy for a Chair that had not been so far pressed or surcharged for the space of a thousand Years) it is not my purpose at this present to dispute; but I am very sure, that the Policy, the Discipline, and Order of the Church received a great Crack, when the force of the Spirit was perverted and abused to the satisfaction of inordinate Desires, which Mortification should rather suppress, than Ambition execute. For *St. Bernard* writeth with great Judgment to Pope *Eugenius*, that *Episcopi & ministri Ecclesie cum tractant politica*, when Bishops and Pastors of the Church intermeddle with Civil Policy, (I mean so far as may put Princes to their plunge) they invade the Limits, they disturb the Functions, and thrust their Sickle into the Harvest of other Men. If none of the Predecessors of *Gregory VII.* (in which many were Religious, regarding more internal Piety, than external Pomp) were privy to the Reason or Promulgation of such a Law, but *Gregory* himself first undertook the Exercise *duorum gladiatorum*, of two Swords upon a weak Text in *St. Luke*, (which is not taken in that Sense by any of those Fathers whom *Thomas Aquinas* voucheth in *catena aurea*;) Is it not then more than probable, that this Law was both enacted and proclaimed in one day, without any former Precedent or Record, either in *albo Pretorum*, or in *rubrica Martyrum*?

Tribemius a grave and learned Writer, living in the Year 1005, who was about the time wherein the Pope was put into this Heat, affirms, That this Question was then argued, but not determined: and where? not *inter Episcopos*, but *inter Scholasticos*, among the Schoolmen, Whether it belonged to the spiritual Jurisdiction of the Pope, to depose an Emperor from Sovereign Dignity.

The Church of *Liege* in like manner in the same Quarrel, and soon after the same time, avow by Letter to Pope *Paschal*, that none of those holy Predecessors of which *Gregory VII.* speaks, ever drew the Sword against any Emperor, before himself, commanding that great Lady the Countess *Maud* (that in her Life depended wholly upon his Direction, and on her Death-bed left a rich Legacy to the Church) and that *in remissionem peccatorum*, to persecute this Prince: whereas Christ himself, whom *Gregory* should imitate upon the same Condition *peccatorum remissionis*, that is, as we forgive the Trespasses, enjoineeth his Disciples to forgive their Enemies, and that not seven times only (which agrees well with the number of *septimus Gregorius*) but seventy times seven, using the number of finite for infinite, which agrees better with the Duty of *Gregorius Episcopus*.

Otho Frisingensis, another Author of those times, concurring formally with the two precedent Witnesses, affirms, that *legendo & relegendo*, in reading and reading over again the Lives and Actions of Emperors, he could not hit upon any one in that Rank, that before *Henry IV.* was expelled or deposed by the Papacy. Wherefore the Proof

standing

standing very clear and pregnant, as I take it on this side, as well *Quia probatur manifestum*, as *Quia non probatur contrarium*; that this Act of Gregory found no Right antecedent whereupon to ground a reasonable Consequent; I would gladly learn for my own Instruction of any Writer, modern or ancient, whether it were a just part in a Judge to condemn an Emperor, *causâ inauditâ*, or a wise part in an Emperor, to put his Crown *in manus Papales*, into the Pope's hands without surer hold; or a religious part in a Pope, to vouch such Records as are not any where set down, if they be not in Tables of Ice, *Idque flantibus auris*, the Winds blowing Southerly. But it may be I have mistaken by Error, or overshot with Haste, or omitted by Prejudice some such Predecessor to Gregory, as was Author of some such Act, without any kind of Exception made in the behalf of the Prince, either of Invalidity of the Sentence, or of Peril in the Precedent. For this Pope voucheth Zachary, a Predecessor of his own, that deposed Childerick the King of France; tho', as Gelesus reports to Anastasius, this heavy Sentence fell not on him, so much for any Crime committed by himself, as because he was reputed *Inutilis*, unprofitable, or of no use to so great a Monarchy.

I would be loth that any Man should hold me so presumptuous or indiscreet, as to carry over a Question of this Importance, with a peremptory Strain, as if no Author had reported this Suppression of Childerick to have been in very deed the powerful Act and Execution of Zachary. For I acknowledge that some such there are (tho' earnestly transported with a desire to raise and improve the Reputation of Rome, by an effect of so forcible Authority.) My desire is therefore only to be heard in a word or two, and so far to be credited, as the weight of Reasons may demonstrate, that only the Peers of France deprived Childerick by uniform Consent, howsoever they were providently careful afterward, that their Proceeding upon tickle Terms, might pass more currently the Voice and Censure of the World, by Approbation of so grave an Oracle. But herein first I note, That Gregory gives Evidence with his own Mouth *in causa propria*, in a Cause that concerns himself, which *Isaiab* did not, appealing *ad Legem & testimonium*; nor our Saviour, excluding any Man's Report, *Qui de seipso perhibet testimonium*; nor St. Peter upon Advantage *Sermonis prophetici*. The Civilians allow not this Prerogative to *Cæsar*, nor the Bishops of *Africa* to *Zozimus*, nor *Johannes de Parisiis* to any Pope, *nisi scripturæ fulciatur auctoritate*, unless he be supported by the Warrant of Holy Writ; nor the Canons themselves to any mortal Man that may be subject to Affections. But I will let this Advantage pass, tho' it may seem strange, that whereas the Figure of St. Peter's Person was sufficient whilst he conversed upon Earth, to cure private Men of their Infirmities, it happens after his Translation into the Mount, that the shadow of his Function should prevail so far as to the suppression of Monarchies.

First therefore, in disproof of Absolution from Oath, and Deprivation of regal Jurisdiction ascribed to this Pope, I take hold of the Gloss itself, expounding this word *deposuit*, for *deponentibus consensit*: For hereby it appears, that this honest Man being far from their Ambition and Presumption, that hold it a great Honour for a Pope

to depose a King, sought carefully and modestly to acquit that Chair of an imputed Crime, (or Error at the least) applying the Text of his own Record to the Testimony of the best Histories. For in a Story found in the Library of the Abbey of *Fulda* among the *Germans* it is plain, and by the Report of a *French* Writer very antient, that King *Pepin* of *France* was surrogated into the place of *Childerick* by the whole Nation of the *Francks* ; *relatione tantummodo missâ ad sedem Apostolicam*, report being only made to the See Apostolick.

It is likewise evident by the same Author, that before any Ambassador was sent to *Rome* from *France* , this silly Cypher of a King, *non re sed nomine tantummodo regnabat*, was a King in Title, not in Truth, and did only fill the place of Royalty upon the Stage of Scorn: and therefore when the Reals were all converted into Nominals, let no Man wonder at the Voice of Ratification, but rather note the Reproof of Imbecillity. The whole sway and stroke of Affairs in the State rested at that time in the hand of one Person only, that was *Maire du Palais*, his sole Act was authentic, his Word was Law; to him they resorted for Resolution; to him they gave Thanks for Satisfaction: and therefore if it be true that *privatio præsupponit habitum*, it must likewise be true that *Childerick* could not be deprived of a State whereof he was not possessed at that instant, without new Grounds of Philosophy. Another Author writes, *mississe Barones ad Zachariam Papam*, that the Barons of *France* sent to Pope *Zachary* as it were to consult, whether *ignavum pecus* a Drone that devours, or a Bee that labours, were more sufficient to command so great a State; and that *Zachary*, not unlike in this to *Alexander* the Great, bestowed his Voice of Approbation on him that should be reputed *dignissimus*. *Gagwin* makes a Question to be moved to Pope *Zachary* from the whole Estate of *France* , by this kind of Comparison, Whether of these two Persons, *datâ electione*, free Choice being given, were more capable of Government, he that spends his time at Home *nihil agens* idly, or he that bending his whole endeavour to Affairs *industriâ virtuteque publica negotia moderaretur*. But the Pope's answer being (by the Report of this Author) as was testified before, *hoc adducti responso Proceres sibi Regem delegerunt*, the Peers induced by the same, chose *Pepin* King. But as we know, that a Question in point of Fact, submits no Claim of Right, so the Pope's Answer out of Discretion, implies no Bond or Obligation of Necessity. With this Opinion concurs another Writer of that State, proving by an express Deduction of the whole Cause, that the Choice of *Pepin* proceeded originally from the free Consent of the *French* Peers; tho' for prevention of all Doubts and Scruples, lest Malecontents might ascribe the Process rather to respective Faction than to single Faith, there was great use of the Pope's Authority *disponentis in dubio Procerum*, resolving the Doubt which caused the Peers to stagger. This would have been the end, whatsoever Clouds were cast, or the Pope had said: but *abundans cautela non nocet*, and the Persons that either are not at all, or very little interested by their own particular in the Point in question, are presumed by the Law to regard the Matters with Eyes of greatest Equity. This manner of proceeding is not strange; for *Joab* fearing at the height of his Fortune the shot of Envy, pressed *David* with a powerful Argument, to come in Person,

Person, and receive the Honour of giving up of the Fort of *Rabbath*, that by his Industry was brought to the last pinch, lest his own Glory in the World might swell too much by the fortunate Addition of so prosperous an Accident. We count that Doctor happy, that resorts to the sick Patient *in declinatione morbi*: and it hath ever been accounted an effect of Skill, to wind in the Conscience of an upright Judge for the Countenance of a Cause humorously undertaken by the first Author, that works under the Reputation of unsuspected Truth. Wherefore tho' this *Major du Palais*, or Superintendant-General over all the *French* Affairs, held in his best Course to mask Religion with the Veil of Holiness; tho' *Zachary* were not unwilling in the End to take hold of this offer for the grounding of a Precedent of Challenge, and Advantage in like Causes at another time; tho' the Peers were willing to leave *Speciem* to *Zachary*, reserving *Vim* the Strength and Execution only to themselves, let this be neither Rule nor Instrument of curbing Princes of better Understanding, or emboldening Popes of stronger Minds. For as well might the poor Fly sitting on the Cart-wheel while it was in moving, wonder at the great Cloud of Dust which she raised in the beaten way, as *Gregory* or *Zachary* draw Counsel to Power, or make that Act their own, which was hammered in the Forge of Ambition, countenanced with a Colour of Necessity, and executed by a Minister, that being weary of Subordination, resolved by this Trick, when the Means were fitted and prepared to the Plot, to make himself absolute. The Case of Kings were pitiful, if *ex factis singularibus* out of special Facts and Practices, as the Chapter of *Liege* writeth gravely to Pope *Paschal*, it were lawful to draw leaden Rules in their disgrace. For some Men undertake too much out of Presumption; some yield too much out of Cowardice; the greater part strain farther than they ought of Right; and those weak Rules lighting by mishap into the Hand of Power, not tempered with Conscience, are sometime forced by Affection, sometime bent with Corruption, and for the greatest part applied with Subtilty. It seemeth not (by the report of *Paulus Æmilius*) that this manner of proceeding against Princes by the chief Pastors of the Church (tho' without Passion, and at the Request of publick States) was usual or ordinary in those Days; much less humorous, violent, or voluntary Decrees. For *Zachary* himself was at the first so moderate and mannerly, *ut non auderet tam magni momenti cogitationem suscipere*, so much as apprehend a Conceit or Thought of so great a Business. And therefore tho' we should dispense with *Gregory VII.* in vouching this Predecessor in the point; yet the Predecessor himself by Daintiness, doth in a sort disclaim the Charter which he should pretend, without either enforcing or urging (in so plain a Sphere) any external Traverse of Obliquity.

By this Author it is manifest, with what Tenderness, Advice, and Caution the Pope opened a Vein that is apt to bleed above the Measure which the Doctor's Art prescribes: For finding by Equity, that *Childerick* was the last Branch (tho' sear and withered) of *Clouis* the first Christian Prince among the *French*, that he was *sine liberis, sine ingenio*, without either Issue or Discretion, (the strongest Sinews both of Succession and Government) that he was so benumbed with Sloth

and Sensuality, that he could not feel the taking off his Crown from his Head, that his Suppression was not only sought by *France*, but applauded by the World: the Pope proceeded, having perhaps in his Eye the Bond whereby he might engage the Kindness of King *Pepin* to the Church of *Rome*, against the *Greekish* Emperors, (transported with Jealousy.) This makes *Kransius* in his History of *Saxe* to wonder at the fastness between the *French* Kings and the Popes (like hands that wash and help one another by mutual Support) in attaining those high Objects which both aimed at. *Antoninus* joins with others in expressing the Demand Comparative between a Prince of Judgment, and a *faict-neant*, an Image, and a Man; between a King indeed, and one *qui solo nomine regio tegeretur*, that was only masked with the Name and Title of a King; adding, that the States assembled upon the first return of the Pope's Answer, suppressed *Childerick*, and raised his Competitor. *Zachary* was so far from levelling at the Person or the Crown of *Childerick* in hypothesis, (if we give credit to our own Countryman *Polychronicon*) as he only meant *in thesi* to set down his Judgment of the difference which a wise State ought to make between two Princes qualified, not only in a kind of Disproportion, but of a direct Opposition of Gifts and Properties. *Gotesfridus Viterbiensis*, striking rather at the Root, than at the Branches of this Enterprize, affirms not *Francos Zacharie paruisse decreto, sed acquievisse consilio*: tho' the Difference be as great as between an absolute Injunction and a politick Advice. *Sabellicus*, without so much as dreaming of a Donative, avows a Counsel by these words, *consulco prius pontifice. Nauclere* yet more roundly if it be possible, that after the Peers had first elected, the Pope ratified: And with him agrees *Blondus* in one Tune, without either rest of Violence, or inducement of Affection.

Out of *Aventine* I draw two Reasons of Conclusion against the Jurisdiction of Pope *Zachary*. The first, That being moved by the *French* Peers as before, he takes his ground of Answer from the revolt of the ten Tribes, (tho' as aptly as a Man might avow the rising of *Jack Cade* against his anointed Sovereign.) For, the Sins of that ungodly Race, the Curses that were pronounced against the Rebels themselves, and the Censures of God's Prophets, evidently prove, that the Fact was exorbitant. The same Reason may be drawn from *Zachary's* own Paradox at the same Return, defending, that since Princes hold their Crowns and Governments of the Peoples Choice, in whom it resteth absolutely *constituere & destituere*, to constitute and desert; tho' the Doctrine be as dangerous as it is damnable, yet hereby it is evident (for me) that the Right of Deposition (being as the Pope himself avows, invested in the People) was not in himself, and by Consequent, that he was a Counsellor, but no Commander; an Assistant, not a Judge; and that he did only approve by Admittance, not enjoin by Prerogative.

I know that *M. Garnet* and the rest will as unwillingly admit the Judgment of the Centuries in this Circumstance concerning *Childerick*, (as other would Barons of another side) further than the Warrant of their Proof makes way; which moves me with a better Will to let them pass, and leave the Judgment of this Point upon the Credit of such Authors as had no reason to speak more than

than Truth for Advantage of either part, because in those days not the Manner, but the Matter; not the Circumstance, but the Substance; not *quo jure*, but *ad quem finem*, came to be decided between the Pope and the Parliament.

But touching the Pope's Process against *Henry*, the Chapter of the Church of *Liege* doth unfeignedly protest, that in their exact Perusal of both Testaments, they could find no Precedent *bujusmodi precepti Apostolici*, of any such Injunction or Writ Apostolick. A good caution to make us tender in misdeeming of their Reports and Testimonies, which (living in the time of this Distemper void of Passion, and qualify'd with Modesty, being learned both in the Scriptures and the Civil Laws, and regarding more the Peace and Quiet of the Church, than the Partialities or Humours of either side) affirms soundly out of Knowledge, and confidently upon their Credit, that this *Gregory VII.* was the first Pope that deposed any Prince by the Warrant of *St. Peter's* Keys; or, to use their own Phrase, that ever lifted up the priestly Launce against *Cæsar's* Sword, not dreaming of any formal Process sent out by Pope *Zachary* against King *Childerick*.

The very Circle of a Crown Imperial (so far as any State or Fortune beneath the Moon can reach) implies a Perpetuity of Motion: for according to that Principle of the Mathematicks, as it begins from all parts alike, so *in seipsa definit*, and ends absolutely in it self, without any other Point or Scope objectual to move unto. That the Pope hath sometimes set the Crown Imperial upon *Cæsar's* Head, since the crowning of King *Pepin*, (whom I take to be the first) ought to be no reason of his tossing Crowns from head to head like Tennis-balls; for this were the way by Signs to destroy Substances, and to oppose Formality to Necessity, and Occasion to Institution. The Metropolitan of every Kingdom, may do as much in form, *Non conferendo jus, sed implendo justitiam*, not conferring Right, but doing what is just and right, as it is aptly said by one of their own Partners. For tho' the Pope reserve unto himself this final Interest of crowning an elected Emperor at *Rome*, and some Flatterers would derive a kind of Necessity for Consummation and Establishment from thence; yet many Emperors of an elder Date, and *Charles V.* in our Time, have been ready with their Swords in their Hands to prove (notwithstanding *filial* regard and reverence to the Mother-Church) that the stroke of Power is absolute without relative Formality. I conclude this Question concerning *Childerick*, with an Argument inevitable either by Invention or Sophistry, not disabling the Witnesses. For *Soto*, both a Frier and a learned Schoolman, holds, That *extra causas fidei ipsi Pontifices nunquam ausi sunt Reges deponere*: The Popes themselves durst never depose any King without the compass of such Matters as concern Faith. But *Childerick* was deposed not for any Point of Faith, but as Pope *Gelasius* writes to *Anastasius*, because he was of no use to the Commonwealth; therefore it is not possible that *Childerick* should be deposed by Pope *Zachary*. What Hue-and-Cry hath been made in former Times against uncivil Claims, varnish'd with religious Pretences, nothing proves more plainly than the strong Opposition which was made at the *Holy-Land* to *Pelagius* the Pope's Legate, for seeking to draw in all parts to the Share of the Church, at the taking the rich City *Damietta*, not unlike to the

Partition which was made by the Lion to other Beasts that hunted in his Company: For it is true that at the first they wonder'd, and after complain'd, that the Minister of him, whose Office was to strengthen by Advice; should discourage by too much Greediness.

To that Example which is given by *Gregory VII.* of *Alexander I.* another supposed Predecessor, absolving Christians from Oaths, it were Idleness to shape any formal Answer; since it hath neither Likelihood in common Sense, nor Ground of Antiquity: For, in a thousand Years after *Alexander I.* this kind of releasing Oaths was not hatched, much less practis'd. It is not probable that a discreet Pope, void of Humours, (as in that first Spring of Piety all were) would have sought to range a faithless Prince to formal Discipline, since *Paul* himself refuseth to judge those that were no Sheep of the Fold, but *foris*, that is, without. And as unprobable it is, that when the Bishops of *Rome* intended most the winning of Souls by Obedience, that should give so great cause of Distaste to those Princes, that by the strength of their own Laws were most absolute in Authority. It may be that *Alexander I.* might comfort and secure the Conscience of some Christians, that were over-scrupulous and precise in observing wicked and unlawful Oaths, which are *ipso jure nulla*, (tho' the Pope should not dispense) and therefore broken with a better Conscience towards God, than kept. But how proves that the Breach of lawful Oaths to Princes that are rightly seated in their State, (tho' perhaps not ever good) which the Church condemns, and no Law justifies? I hold it most absurd, that the Church of *Rome* for Greatness, or the Church universal for Instruction, would not have kept Record of such a Fact, if any such had been: but it is not hard to prove *quidlibet ex quolibet*, where Men may devise to join their own Positions, without care either to answer for Presumption, or to account for Ignorance, and then to grace them with Protestations of Piety.

The Caution which *St. Peter* is said to give at the Ordination of *St. Clement*, that no Man should be favour'd or kindly entertain'd by the true Professors of Religion, against whom his Successors should conceive Offence, may be admitted without prejudice to this Point; if we speak of such just Offences as God's Law punisheth. There are Cases wherein a Man, that doth but in a word salute and give a God-speed to a grievous Sinner, is said *Communicare operibus ipsius malignis*: but this is not ever; when *St. Clement's* Successors censure more out of Passion, than out of Reason. Christian Princes were not so much as thought upon when this Courte was set, and therefore far out of Pope *Alexander's* Aim, that is, made to wound a King standing so far off, with a headless Arrow. Reason satisfies thus far, that the Pastors of the Church (excluding us out of the Fold) can bereave us only of those things which they give us at our coming in; that is, the Kingdom of Heaven, more in value than ten Millions of Worlds, but no Kingdom upon Earth; Co-inheritance with Saints, not with Sinners; eternal Blessings, not temporal Benefits. It appears the Wardrobe is very beggarly (as one of Mr. *Garnet's* Fellows wrote over in such another Case) that affords nothing but Rags instead of Robes; and the Stock goes low, that would pay Counters for *Portagues*.

These are all the Predecessors which *Gregory VII.* presents as it were in a Mummery, to cast Dice for

a Prince's Crown, as the Soldiers did for the seamless Coat of Christ: for they come, and go out again, without either speaking any Word, or giving other Notice, than by Signs, which is nothing in effect: their End should rather give Evidence, than make Appearance, dispute, than dally. It is hard that the Pope should flourish in this shameful manner, about the Heads of anointed Majesty with a rusty Sword, which since the time that St. Peter was commanded to put it into the Scabbard, was never drawn, nor by the Rule of Christ ought to be.

King *Edgar* in an excellent Oration, persuading the *Saxon* Bishops that had the Sword of *Peter*, to join Hands with him that had the Sword of *Constantine* for the cleansing of the Church, meant nothing less, than that it could be in a Bishop's power against himself, to make use of the material Sword, which was assigned to his Custody. He tells *Dunstan* in the same Speech afterward, That it was he that committed this Trust to the Bishop's Care, that should chastise Offenders indeed: But how? *Episcopali censura, & autoritate Regia*, by the episcopal Censure, and the King's Authority. *Gregory VII.* was not yet awake, who putting two Swords into one Sheath, intends nothing more, than to drive Princes out of the Field with their own Weapons.

But howsoever some weak Sovereigns, that received their Authority from God for term of Life, have notwithstanding been content to hold it of the Pope at will; this bars not others of a quicker Spirit, to examine Evidence concerning the point of Right, before they suffer themselves to be concluded in the Court of Equity. Subjects that are dutiful, and not apt to be transported from their Faith with every Blast of ambitious Spleen, cleave fast to the Foundation which is the Band of Obedience, not voidable by strong Intruders, nor partial Interpreters. I confess, that a godly Pastor ought chiefly to provide, that Christ's humble Sheep should be folded in due Season, and safely guarded from the Persecution of Wolves: but the Sheep, for their part also, ought to be as cautious, that a Wolf be not the Bellweather; which hath happen'd as often in many Churches, as the Bishops out of their Affections and wreakful Passions have been Authors of a far greater Effusion of Blood, than Hereticks or Infidels out of their Malignity. Further, if we may give credit to that strange Vision which *Sozomen* in his History reports, there arose a Question not only among Doctors upon Earth, but even among Saints in Heaven, what Course was best to be taken with *Julian* the Renegade, notwithstanding his Apostacy, in respect of Place: and yet of both, I presume, that Mr. *Garnet* held him a Man of worse Condition and Affection towards God and godly Men than *Henry IV.* whom without the least gall of Conscience, or supposition of Doubt, the Pope deprived thus unworthily.

Touching the Quality of this afflicted and tormented Emperor, and the true state of his Cause, which was the Ground and Motive of the Pope's sharp Choler, I need not at this time say much, when much cannot be said for want of time; but will leave him with his Opposite to their final Trial by Grand-Jury at the dreadful Bar, where the Books of all Accounts and Evidences shall be laid open, and Sentence shall be rather grounded upon just Desert, than partial Desire: And where no Man shall be either charged out of the Envy of *Cressus*, or defended by the Eloquence of *Anthony*.

I am not ignorant of that which Writers on both sides (Imperial and Pontifical, *Guelphes* and *Gibelines*) have set down touching Pope and Emperor, according to that Humour which Infection and Distraction of Parts envenom'd their Pens. I know that a Man may err easily, bending too much out of Partiality or Prejudice to the Byass of either side: and I want that just measure of Discretion and Distinction which should level Grounds, that are made unequal and uneven by distemper'd Conceits. But whether the Pope were vexed and disquieted with *Henry's* Challenge of Investiture of Bishops *per baculum & annulum*, and Collation of Church-Preferments, as some think, (tho' many Kings, and ours especially, have had, and ever challenged the like Prerogative in their own Estates) or with the Instigation of *Sigisfred* the Archbishop of *Mentz*, to withdraw Subjects over-hastily from their ordinary Resort to *Rome*, as others write, (tho' this hath been the Case of some other Princes in like sort that escaped Thunder-claps) or whether *Henry's* mean Account of the Pope's Admonitions, or his Preparation to withstand Force with Force, put the Pope into Choler, as other Emperors have done often times, both before and since, with more easy Penance for supposed Pertinacy: Whether all these or any one of these Occasions gave fire to the Train, tho' I presume not to resolve, yet I may be bold to conceive in my own Opinion, that the Medicine was over-sharp and violent for the Malady. True it is, that the Grudge of *Gregory* to this Emperor began first to fester in his Heart a good space before, in respect of the Countenance and Aid which *Henry* gave to *Gibert*, Bishop of *Parma*, chosen Pope by the Cardinals on that side of the *Alps*, with Opposition unto *Alexander*, whom *Gregory* that was then but an Arch-deacon, highly favour'd.

But supposing all were true that either colourably or justly hath been given out in this Cause for Truth, I desire to learn of some grave Doctor, whether these poor Motives were proportionable to the Pope's glowing Indignation, which shutting his Gate against the Emperor, (I will not say uncivilly, but uncharitably, that came barefoot in a bitter Frost to witness true Contrition of heart, for satisfaction to Wrath) set up a Competitor against him in *Germany*, while he was labouring by this painful Pilgrimage to *Rome*, to work a perfect Reconcilement with the Pope; and to write to the Party opposite (lest they might shrink upon those Shews of Friendship, likely to ensue between the Emperor and him) that he would send him back, as he would use the Matter, *culpabiliorum* more culpable, and by consequence more subject to their violent Advantages.

Nay, which is worst of all, after Peace and Friendship, and absolute forgiveness of Offences sworn, and the Sacrament received by the Emperor, (for the better assurance of the League intended at the Pope's own Hand) to arm his Son against him in the Field, under the pretence and mask of Zeal, *ut nomen Augusti ab heresi vindicaret*, that he might redeem the Title of *Augustus* from the blot of Heresy; for to this Center all the Lines of the Pope's disguised Exceptions may be drawn, and in this Gulf they vanish: as if no Man could embrace a sound Belief, unless he had a servile Heart; as if all that oppose against Intruders were Hereticks; as if it were not lawful for the Emperor to set up a Traverse in the Church, so long as he resolved to exclude the Pope from Competition to
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the Chair of State: or as if the supposition of Heresy at large without Conviction of any Point heretical, against the Canons of the Church by Proof, were a common Jail, wherein the Pope's Custom is to lodge all Christian Princes, that by contradiction to partial demands upon just grounds, are condemned as his Cast-aways.

Last of all, I would know where the Pope learned to forgive *culpam*, but not *penam*, to a Prince, that in the end was more willing to sollicit Union, than to rankle Hate; or where he learned to distinguish between Restitution to Grace and Majesty, by suspending that part of his Favour that might put him into possession of his own lawful Interest. I find by *Sigibert* the Abbot of *Gemelack*, that in his time it was holden *heresis nondum in mundum emersa*, that the Chaplains of that powerful God, that oftentimes makes Hypocrites to reign *propter peccata populi*, should cast the Rod into the Fire, before that Faults were chastised according to Deserts; or by their absolute Commands, displace those Instruments, that, as powerful Executioners of heavenly Judgment, are to discharge the Duty which is laid upon them.

But howsoever *Gregory* might in those Dog-days scorch an Emperor by the Combustion of Beams that *ex diametro* were opposite, by the strength of a Party raised by Advantage of the Time; yet by succeeding Tokens I observe, that God was just, tho' Popes were humorous. For one of those Arch-traitors whom the Pope erected out of Passion, and supported out of Pride, was slain afterward at the winning of a Town; another in the Field, tho' (as one writes) not impenitent for his Treachery. The Pope himself, worn as it seems with Vexation and Strife, lived not many Years; and having left his Point in this Prince, was never able to any great purpose to sting afterwards. The mutinous and rebellious Bishops (that had oppressed and resisted by the Pope's Direction) never held up their Heads after the fatal Blow which they received at the Synods of *Mentz* and *Wormes*, but were either slain by their own Sheep, or perished in the Mountains by a most hard Destiny.

Walran Bishop of *Megburgh* writing to a *German* Count, gives a very just Cause of this Concurrence in Malignity of sharp Accidents: For since by resisting Power (saith the Bishop) they resisted God, it was not possible for the Success to be better. *Platina* reports, that in the very *interim*, while the Pope was as yet advising and consulting about the best Course to be taken with this discontented Prince, some wiser than the rest were of the mind, *Regem non ita cito anathematizandum*, that a Prince was not to be accursed in such post-haste. But Oppositions were idle, the Pope's Heart being wholly set upon Revenge, and supporting this whole Process with the Commission which Christ gave to *St. Peter* to feed his Sheep, that is, to teach and instruct the Flock: for I make as great difference between Instruction and Destruction, as between feeding and strangling, tho' by the very form of the Sentence, (as it is set down against this Emperor) it be manifest that *Gregory* commandeth *St. Peter* and *St. Paul*, as if they were his Bailiffs-errant, to execute the Writs of his pontifical and privative Authority.

Touching the Charge of absolving Subjects from their Oaths, which is the chiefest Instrument by which the Canon *Nos Sanctorum* works, in seeking to subvert the Seats of Kings, upon such

grounds of Quarrel and Exceptions as may be made, I will chiefly note, That *Gregory* doth in this Case assume more to his Dignity by Deputation, than God himself doth to his Deity by Prerogative. For admitting Oaths to be lawful, voluntary and without derogation from Right, (as those are which we make to Princes as becomes) he concludes all their Ministers, that dare presume to violate Faith engaged upon those due Respects, within the compass of Perjury. The Promise which God makes to Man in swearing by himself, he will not (tho' it tend to the quicker and the juster punishment of Sin) release unto himself; and yet shall we think that the Promise which was made by a Sinner to him, can be released without him? *Frater non redimet, redimet homo? non dabit Deo placationem suam & pretium redemptionis animæ suæ*, as we may conclude in this case with the Prophet. Tho' God were so justly moved with displeasure against Man, as he seemed to repent his own Free-Grace in planting an ingrateful Stock in a barren Soil; & *præcavens in futurum, & tactus dolore cordis intrinsecus*, which inward Wound might very far provoke the Wrath of God against his Creature: yet in respect of his Word engaged, from the beginning of the World, That the blessed Seed of a Woman (whom all Generations call blessed) should bruise the Serpent's Head; which Mystery was to be wrought with effect *plenitudine temporis*; he would not dispense with his own Promise, but suffered the purpose of Free-grace to be carried upon the Wheels of eternal Providence, to the prefixed Period of his own Benignity. The grievous Sins of the Prophet *David* and of his Offspring, provoked God's Wrath justly to wipe both the Blossoms and the Root, out of all Grace and Mercy: and yet in respect of an Oath taken long before, that an Heir of his Line should never want, to keep his Throne, it pleased him for the making good of his own Promise, to remit his Displeasures.

The greatest hope of Encouragement that God's People could draw from the Prophet *Samuel*, when they implored his Assistance in Distress, was this, That God having by a solemn Oath selected and in a sort impropriated that Nation as a choice People to himself, would neither exclude them out of Protection, nor leave them to Fury.

The Rule of God's own Direction is very strict, That if any Man hath made a Vow to God, & *se juramento constrinxerit*, and bound himself by Oath to keep the same, it shall no longer be in his own Election to make it void, but he shall perform precisely what was deliberately promised. It is not known to any Man of Understanding, what the Law sets down concerning the Redemption of Vows upon just Cause in the presence of the Priest, and at such a rate as the Votary, according to the measure and proportion of his Means, is able (without undoing) to afford. Again, all Men understand that unlawful Vows and Oaths (as that of *Jephtha*, *Herod*, and many other rash Protesters of like sort) force not the Point of Conscience in the least degree: But when we take an Oath advisedly and freely, according to the Measures and Conditions limited and expressed in the Law of God, that is, according to Judgment, Righteousness, and Truth; yea, tho' it be by Duty to a wicked Prince, *Ezekiel* will teach us by the warrant of the Holy Spirit, that God himself will nail upon the Head of the Perjuror, the Oath which he hath set light, and the Covenant which he hath perfidiously broken.

By the reason which Pope Gregory makes his warrant of releasing the Subjects Oaths to Henry the Fourth, the Prophet *Hananiah* one of the High Priests for the time, might as well have dispensed with the Oaths of God's People to *Nebuchodonosor* an Infidel, and an Idolater. But God himself condemneth all Priests and Prophets that by false hopes went about to ease the People's Burden before the time prefixed for their Penance by his Imposition: and the Days of *Hananiah* the false Prophet were cut off for his flattery. Wherefore as the Boldness and Presumption is very great in any mortal Man to dive so deeply into the secret Mysteries of Providence, as to judge at what Time, in what Person, upon what Condition, or by what Warrant one Sinner may release another of his Oath: so likewise the Charter which the School-men in the Pope's behalf pretend upon this Claim, must undoubtedly be very weak, whensoever they shall undertake without Assurance of God's certainly revealed Will, to discharge the Conscience of Man engaged by Election, and obliged with Solemnity. The School-men shall never be able to make clear Proof by any ground out of either Testament, by any Canon of the Councils Primitive, nor any of the Fathers living in a purer Air than ours, (howsoever they devise Distinction upon Distinction, rather to entangle than to settle Faith) that this Doctrine of accursing Princes upon light occasions, of releasing Oaths, of deposing Magistrates, is consonant to those Principles of Obedience and Patience which our Saviour left to his Apostles, and they like Heirlooms to their Successors. If it be clear by *St. Matthew*, that our Peace shall return unto our selves, when they to whom we wish the Peace, declare themselves unworthy of our wish; undoubtedly as true it is, that our Curses shall recoil upon our own Heads, (and that worthily) when they that are within the Bosom of the Church, (which is the House of God) declare themselves unworthy of the Curses which without Desert we cast upon them. For as it is a Question well moved in this Case of *Balaam*, *quomodo maledicat ei, cui non maledixit Dominus?* so is it as discreetly noted by *St. Gregory*, that *ligandi & solvendi potestate se privat, qui eam injuste exercet*: he deprives himself of the Power of binding and loosing Sins, that seeks to practise without Grounds that may be justified. *Origen* writes excellently, that where the Motives of sharp Sentences are unjust, and not able to endure the touch of due Regard, he that is cast out, goes not, *sed qui manet intus, excluditur*.

It was not in the power of the Priest by the Law of *Moses*, to make him a Leper that was clean, but to judge (by search) whether he were clean or not: and therefore *St. Augustine* may more confidently deliver his own Conclusion, That rash Judgment hurts not the Person *de qua temere judicatur, sed ei qui temere judicat*. The Reason may be drawn out of another of the same suit, *quia dum volumus per iram aliena coercere, graviora committimus*: in seeking to correct the Faults of other Men in Passion, our selves commit Faults that are greater, for want of Charity.

Therefore I conclude, and that *magistraliter*, as the School-men speak, out of the very Canons themselves, *manere Petri privilegium, ubicunque fertur ex ipsius equitate iudicium*: that *Peter's* Privilege doth continue so long as the Sentence is pronounced out of *Peter's* Equity, and not otherwise. To that Caution put in by *St. Gregory* out of scrupulosity of Conscience, *Vel iniquam iudicis sententiam timendam*, that the Sentence of a lawful Judge ought to be feared, (yea, tho' it be unjust) we may give a reasonable Answer, by restraining that fear to such a kind of Modesty and Tenderness as being ever apt to suspect Frailty in it self, shall offend less by searching Sin with too deep, than too short an Instrument; and by supposing out of the Sense of an humble Spirit, that all Men are more apt to flatter themselves in the ways of their own Errors, than a learned, discreet and religious Judge to censure without a just Occasion.

A wise Man that desires to preserve his Health, receiving Pills from the Hand of his Physician, who understandeth the State of his Body out of Knowledge and Experience, much better than himself, presumeth at the first impression, that some Humour may offend either in quantity or quality which deserveth Correction, tho' he know it not: but after calling to mind upon advised Observation, that his Appetite is ordinary, his Temper perfect, his Digestion strong, and all those other Circumstances, which the learned in that Faculty regard, suitable to a perfect Constitution and State of Health, he begins to apprehend (by opposing the Sense of his own Parts to his Doctor's Aim) that Men, tho' grave and learned otherwise, may err either by mistaking Principles, or giving too light ear to false Informations, which are rightly termed the Spectacles of Error. For God doth only search the Hearts and Reins, and therefore only knows truly with what Ignorance or Skill the Plaister is applied to the part either festered indeed, or for want of a sound Judgment (in those that take upon them as his Vicegerents to discern) so deemed of. God hath pronounced in his Word, that *spiritus hominis tantummodo*, the Spirit of Man only knows those things which are in Man, and the Spirit of God alone those things which belong to God: and therefore *de occultis vel de male intellectis*, that Spirit which only breathes in the Nostrils of mortal Men, can neither discern nor judge infallibly. But if any Man object, that Popes proceeding against Princes, arm themselves with sufficiency of Proof, before they come to resolve to the Defendant's Prejudice: I answer, that Presumptions too far carried in the scope of Passion, have caused many Popes to err against Emperors in the Act of Process. And lest we stray too far in seeking an Example, even this *Gregory* the VII. condemned *Henry*, *Causa inaudita*, before the Cause was heard, as some Writers of that Age testify. That Rule of Equity which warrants orderly Appeals from Judges ill informed, to Judges grounding Sentence upon Proof above Exception, in matters of less weight than this, hath been current in all Policies and Times: for, *Lex iusto non est posita*. And howsoever for the maintenance of Order, outward Forms are to be kept with Moderation and Reverence; yet to the Soul of Man, the Conscience standeth for a thousand Witnesses, and is in very deed the truest touch. And therefore for my own part I shall never tax that Patient, that privily, and without disgrace to the Doctor, throws the Pills out of the Window which are sent, if from certain and undoubted Knowledge of his own inward State, he be sure, that for the Reparation of Health, or for the Cure of a supposed Sickness, his Body hath no need of them.

I stand the longer upon satisfaction to this Place of *Gregory*, because it is opposed in Defence of all

erring Judges, to the snaring (or at the least to the frightening) of those Souls that are oftentimes most timorous, because they are most innocent. But in the mean time, note that this godly Father released no Subject of his Oath in point of Duty; he accursed no Prince in the Chair of Royalty; he confounded no State by extent of Primacy; but knew very well how easily a Judge may err by strong Imagination, with *Gad* in the Book of *Judges*, mistaking *capita hominum pro umbris montium*, the Heads of Men for the Shadows of Hills; & *hoc errore decipi*, and by this Error be deluded and dazzled.

The Chapter of *Liege* utterly rejecting this Release of Oaths and Fealty, might be moved with many Grounds. First, because the Breach of a lawful Oath (as hath been justified before) falls into the compass of a mortal Sin. Again, because many of their Predecessors were departed to God in peace of Conscience, that till the last point of Life observed their Oath; whose Example they had small reason to under-value. Furthermore, they alledged, and not without just cause, that supposing this Emperor as impious as the Sentence did import, yet it became them no more than *Zedekiah* (till the Fire of Correction had eaten out the Rust of Sin) to withdraw their Necks presumptuously from the Yoke of *Nebuchadnezzar*. I conclude this Point with a fit Example of the Wisdom of our Kings in former times, drawn out of the Cabinet of most antient Records: For nothing could give them Satisfaction touching the Loyalty and Fidelity of their own Prelates, till they had inserted into the Oath of Homage these words; *In verbo veritatis*, (which binds Conscience) in place of former words of an elder date, *Salvo ordine*, which left Churchmen in effect to their own Liberty. For it is free, saith an old *Roman* Catholick, *Johanes de Parisiis*, for any lawful Prince to repel the Violence of the spiritual Sword by the best means he can, finding that it tendeth to the Disturbance of the civil State, *cujus cura incumbit Regi*, the Care whereof belongeth to the King; or else he should bear the Sword idly.

But now to make the best use that the fitness of this Occasion offers upon the worst Motive that ever was heard of among Men before this Accident; and to make all Men see that have either Eyes of Understanding in their Heads, or the Fear of God's Judgments in their Hearts, how rashly our late Undertakers (who steer *Peter's* Ship in our narrow Seas, Mr. *Garnet* being one of the chief Pilots) have run her upon the Rock of Rebellion, neither looking to the Card of Conscience, nor regarding the Compass of Faith: I desire that certain Observations may be kept in memory; as certain Monuments of God's powerful Works were in *Israel*, *tanquam signa predicantia*; that is, forewarning Signs and Cautions for Abstinence to giddy Malecontents in future times: which otherwise, upon the Motives of like Mischiefs, may be metamorphosed into Figures of like Inhumanity; for an Angel said to *Tobit*, That to publish and reveal the Works of God, is laudable.

I know that strange things happen oftentimes by Accident, (so far as the weakness of our Sense is able to apprehend) tho' Truth assures us, that without the Providence of God no Sparrow lights upon the Ground: And *Pericles* justly maketh Fortune to be nothing else but *vera cause ignoracionem*, our Ignorance of the proper and true Causes of all things. But yet where a wild Boar by rooting in

the Ground doth not accidentally express one *A*, but adds to that so many Letters in due Course as presents this whole word *Agamemnon* to the Reader's Eye; where a Man doth not cast three quaters upon three Dice, but three thousand quaters upon three thousand: and where Order, which proceeds from Reason and Election; is kept in coherent Forms, Chance hath no stroke of Predominance by the right grounds of Philosophy. Wherefore no Man can tell whether some of those Confederates alive, (because I dare not say that there are none) looking back as it were from the Shore upon the Rocks and Quickfands which they escaped in this Storm, (calling to account the bad Success, not of one or two, but of all their many Counsels, Labours and Events in this luckless Action, keeping in mind that Observation among the *Galenists*, that where all Simples work against their kind or Property, the Cure is desperate) finding our *Jerusalem* to be built as a City, *Cujus participatio in idipsum*; marking that our gracious, our just, and best deserving King (supported by God's Angels, which are *Spiritus administratorii in ministerium missi propter eos qui capiunt hereditatem salutis*) doth dwell in *adjutorio Altissimi*; and that it is in vain to work upon a Monarchy, *cujus cor est unum & anima una*, whose Heart and Soul in the point of Obedience is one and the same: will return to the Resolution wherein they stand engaged by the Laws of God, and of their own native Soil; give ear to the Voice of their own Shepherd, and acknowledge humbly with *Jacob*, that *Dominus erat in loco isto, & ipsi nesciebant*: God with the mighty Protection of his powerful Hand was in the Place, altho' they knew it not.

First therefore I observe, that when you, Master *Garnet*, and your practising Disciples, laid a Pack together for a Project of Invasion against the late Queen, and in her later days, with hope to put out a Flush of Princes with a Prime of Jacks, which will never stand in this State, I trust, with our right Game of *primus ero*: God took away this Lady in her ripe and mellow Years, when her Head was white with the Blossoms of the Almond-Tree, as he did *Josias*, *Ne videret mala quæ eventura erant*, lest she should see the Mischiefs which was likely to ensue; and had followed undoubtedly, (as Men were restrained from the certain Knowledge of the only rightful Successor) if the *bonus genius* of our dear Sovereign had not, thro' the Preparation of ordinary Means and Instruments, by supernal Grace established this State in the full Fruition of their long lasting Security.

The Bulls which by the Practice of you and your *Catiline*, the lively Image of your Heart, should (by loud lowing) have called all his Calves together with a Preparation to band against our Sovereign, at the first Break-of-day, and to have cropped those sweet Olive-Buds that environ the regal Seat, did more good than hurt, as it happened, by calling in a third Bull, which was *Bull* the Hangman, to make a speedy Riddance and Dispatch of this forlorn Fellowship.

In the time of *Henry VI.* *Humphrey* Duke of *Glocester*; finding certain Bulls that came from *Rome* to be very prejudicial to the King's Estate, without asking leave of any Man, cast them roundly into a Bonfire. The late Queen of happy Memory entertaining the Bull which *Felton* set upon the Bishop of *London's* Gate, with the same or greater Distaste, because the Drift was to embase her Title, and transport her Crown; gave it as

quick Dispatch by like Destiny: And Master *Garnet* thought his Bulls as worthy to be sacrificed in a quick Fire as any of the rest, for their Idleness and Weakness in effecting what was wished, and expected by the Friends that invited them. These Bulls Master *Garnet* were *Cornuptæ*: you were warned by the State to shut them up, in respect of the Mischief that they meant; you regarded not the Prohibitions of Law, but gave them Scope of grazing in certain Grounds, where the Marks of their Impressions are visible. If this be denied, *Catesby* your apt Scholar and choice Friend shall charge your Conscience, who drew from the Direction of these Bulls that shroud Argument, That if it were lawful to keep a right Heir from his Kingdom, in respect of Conscience, before Establishment, it was as lawful to remove him after he were established. The Wisdom of the Holy Ghost ordaineth, That *vos lapidibus obruetur si occidetur dominus*: tho' we leave all to the Law's Ordinance, and his Majesty's good Pleasure. But whatsoever happeneth in the Process, I must confess that Bulls have little reason to require a *Mittimus* into these Parts, since neither their Access is acceptable, nor their Success fortunate. The Point whereat I wonder most, (in revolving these strange Events) is, That the Bulls which were consumed into Ashes at *White Webbs*, should be brought forth this day to be baited at the *Guildhall*.

At the King's first entrance into this happy State, with as great Security and Ease, as if he had removed after an ordinary fashion from *London* to *Greenwich*, and from *Greenwich* to *Hampton-Court*, the most expedient Device for the Disturbance of the general Applause (which entertained *nostrum Salomonem pacificum* with a kind of Joy and Cheerfulness unspeakable) as was conceived by the Brotherhood, was to awake the purpose of Invasion, that slept in foreign Parts, by a set Messenger employed. But tho' *Venus* had commended this Petition by Letter of Request to *Mars*, it would not have been heard, God having then prepared and disposed the Minds of Princes on both sides to such a Peace, as could admit neither secret Operation, nor open Execution of Hypocrisy. This was not by the Method of Divine Process, *eligere infirma ut confundat fortia*: But this was rather by the Spirit of *Achitophel's* Suggestion, *abuti fortibus ut confunderentur omnia*. But Thanks be to God, the Lion is alive, out of whose Mouth you must have drawn your dropping Honey-Comb, before your Riddle could have had either the Grace or the Success which you desire among our conspiring *Philistines*: So that we only find your fixed Trust in Tumult and Vexation, (as the Prophet speaketh) instead of that Hope and Silence which should have been your Sheet-Anchor.

Your End was by possessing Princes with the Motives of your Malice to stir Compassion; because it happeneth often that Exhalations drawn up to the highest Region by the Beams of the Sun, are there inflamed and sent back again with a fiery Effect: But *multi committunt eadem diverso crimina fato*. A great Philosopher observeth to the same Effect, that *Prosperum scelus virtus vocatur*: And tunably to this Consort another, that tho' the Fact and Intent were one in both, yet *Ille crucem sceleris pretium tulit, hic diadema*. But in this Case by the Goodness of God it fell out quite contrary; for the Princes being as weary of War,

as you were of Peace, desiring as much to spare Blood, as you to let it out; and regarding more the Grounds of their own Discretion than the Storms of your Passion, sent away your second *Mercury* with a Flea in his Ear, and instead of procuring Treasure and Supplies, were content to learn, (by the Scope of this Employment) that some Professors of the Catholick Religion had other Views wherein to exercise their Inventions and Meditations beside the Repetition of the *Rosary*, which without so manifest a Proof, perhaps they would either not at all, or not so easily have credited.

The Conspirators could not devise a more likely Motive of Attraction whereby to draw *Malecontents* and *Bouteseux* into the Mischief which their Malice did intend, than by whispering into the Ears of ignorant and ill-advised Catholicks, that his Majesty had violated a former Promise made to some of them before, of Toleration in point of Conscience: For Ears that itch after light Reports, and Minds that interpret common Fears in that Sense which tends to their private Harm and Prejudice, (converting for the most part to rank Poison whatsoever is prepared by the best Affections to kindle Nutriment) take hold of the first Overture. But for prevention of this Peril, God so wrought, by disposing Times and Accidents to best Effects, as before the Poison could pierce to the secret of Men's Thoughts, *Watson* the Priest had confessed to my self (sent from his Majesty to the Jail at *Winchester*, for the finding out of the first Author of this leud Report) not past one day or two before his Death, (at which time no Man is presumed by the Civil Laws to lye) that he never could receive any spark of Comfort touching Ease of Conscience to Catholicks from his Majesty, how unjustly soever the World had made him Author of that Scandal; tho' withal he added how unwilling he had been to utter the King's Answer to the Catholicks at his return in his own Words, and with those incurable Obstructions, (which appeared by the manner) for fear lest over-great Discouragement might make them desperate, and drive them to seek other Helps, as some did, which this Action makes evident.

Besides, there are in *England* some Recusants at this day, that for a Need both could and would avow the like Report of *Percy* after his Returns out of *Scotland*, both before and after the Queen's Death; advising no Man to depend upon the least Conceit or Apprehension of Hope from thence, but make the best shift they could devise for themselves; for in the point of Conscience he found the King's Intent and final Purpose to be peremptory. By this plain Dealing many were deprived of their best Advantage of improving this shroud Circumstance, both as a Colour of Exception and a Mask of Conspiracy.

The Practice was begun with auricular Confession, as the safest Lock to which Men durst adventure to commit a Secret of this weight; for, who could hope to draw that from a Confident or a Confessor in respect of Safety, (besides Censures of the Church) the Peril reaching and extending to the Loss of Life? But by the Streams of *Jordan* running backwards to the drowning of the worst disposed part, it came to pass that by the words which passed between *Greenwell* and *Bates* (*Catesby's* Servant) in Confession upon the horror of his Conscience against so foul a Fact, those Circumstances happily fell out, which being brought

brought to light, made a fair Introduction into that full Discovery which the Lords laboured. It may be thought that God himself abhorring the falshood of a Priest, (that under the Colour of the Keys, abusing both his Person and his Power, is not ashamed to contrive Conspiracies so much more perilous and pestilent, as they are countenanced with a more holy shew) hath set a Mark of his own Wrath both upon the Matter and the Minister. For the Patients are oftentimes beguiled in judging by Taste the Quality of the Simples, and Ingredients which they receive, *decepto sensu cum judicio*, the Judgment of the Senses being first deceived, & *corruptis organis*.

It is clear, that for the secreting and concealing of this Purpose (till by Progression it might be ripened for the desired End) the Seal of the Sacrament of Union was set to this Contract of Blood; as if God would be put in Trust with the keeping of these prophane Bands and Obligations of Conscience, against the Rule and Canon of his own written Law, *que versatur tantummodo in bonæ fidei Judiciis*. But we that know what desperate Effects unworthy eating of the Sacrament, and the Presumption of bearing the Standard of our Saviour in open Field against himself, have wrought in Minds polluted with Impressions of Sins, that are voluntary and premeditate, will not greatly wonder at the bad Success of this Conjunction, calling to mind that the first Work of *Judas* after the receiving of the Sop, was to betray his Master, and the next to hang himself; and in such a manner, *ut creparet medias & effunderentur ejus viscera*, that he brake in the middle, and his Entrails came out of him.

The purpose of these Gallants in binding Faith and Promise one to another by solemn Oath, (tho' *Demens est qui fidem præstat errori*) stood upon the Distrust that one reposed in another's Love and moveless Constancy, holding themselves as sure after such Seal of the Contract; as *Seleucus* did himself in the Speculation of a City to be built in the Air above the reach of the Capacity or Wit of Man; but yet Experience reveals, that the Hands of *Madian* have fought against themselves, the Voices of *Babel* have confounded their own Plots, and these forlorn Hopes like the Knights of *Cadmus* (as appeareth by the Scope of their own Confessions) *mutuis conciderunt vulneribus*, have been wounded to death one by another.

The Course of Mining into the strong Wall of the Parliament, was in very deed more laborious and slow, but yet more sure and secret than the latter by the Vault, in case the Pioneers had proceeded resolutely according to the Plot of the first Device: For prevention of which almost inevitable Stroke, the Cellar was set open even in the very heat of their endeavour, as it were by the handy-work of God himself; and not only set open, but almost miraculously put into their hands by a faithful Servant of the King's, whose ordinary Caution could not possibly have been so far over-shot, without an inward working and contriving Favour from above, which took hold of the Feet of Sinners in that very Snare that they had prepared and set for those that were most innocent. They flatter'd their own Conceits so idly (but yet so far with the facility of working upon this unexpected Overture) as if it had been the Will of God, that to them, as to *Jacob* hunting for his Prey, *occurreret quod volebant*: But on the other side we may observe with Joy and Comfort, That

tho' they watched eagerly with *Esau* for those Days of Mourning, wherein the Death of *Isaac* might prepare a way for their most bloody and most violent Revenge, like Rats between the Hanging and the Wall *suo perierunt judicio*, they were first betrayed, and afterward perished by their own Discovery.

Their Spleen was even *sevire in Saxa*, bent against the Walls and House of Parliament, as an instrumental Cause for producing many sharp Laws, for the space of more than forty Years, against the Religion, which their own disguised Affections did eagerly embrace, with a purpose to convert *Hierusalem in acervum lapidum*, into a heap of Stones. Thus *Polymnestor* stricken blind (out of Rage against *Hecuba*) sought to murder all the Women he could meet. Thus *Fulvia* by thrusting Needles into the Tongue of *Cicero* (after he was dead) sought Revenge of his sharp Invectives against *Anthony*: And thus *Anthony* himself warred against the Walls of the Senate-house at *Rome* after *Cæsar's* Death; but yet the Place is as it was, the Benches stand as they did, and they that sat on them have the same Affections which before they had; enforced perhaps by this late more than *Neonian* attempt of endangering both their Souls and Bodies at one Blast (for want of time to call for Grace) to strike a deeper Wound than any of their Ancestors had done before into the Cause which the Scope and Drift of these Undertakers pretended by their Inventions to rectify. The *Roman* Southsayers had reason to divine, that when Bulls, Bandogs and Asses (which are Beasts created for Obedience and Use) grew mad upon a sudden, and without a certain Cause, *Bellum servile imminabat*; and of this Composition was the late pack of Rebels, that with the same barbarous inhumanity, which was well observed at the Ruin of *Saguntum*, *nihil reliqui fecerunt ut non ipsis elementis fieret injuria*; left nothing undone for their parts to wrong the very Elements. I grant that they might learn their Art of building muddy Walls of the Swallow, which are but Summer Birds; and their Skill in weaving Cobwebs of the Spinners, whom *Minerva* hated; chiefly, because their Works were more laborious than durable, and most commonly swept away before they came to finishing. But this Trick of subverting and demolishing, they could not learn better than of the *Montanists*, *Qui non laborabant* (as *Tertullian* reports) *ut ædificarent sua, quàm ut destruerent aliena*, to build their own as to destroy other Men's; *Huigenus invisum superis!*

The Train of Powder was laid only for true Men by wicked Traitors; to this end chiefly, that after Innocency had endured, Malice might insult, that *cùm scelera profunt, peccat qui rectè facit*; and conclude with the rankest *Albeists* of our Time, a Prejudice of God's Anger against faithful Subjects, out of the barbarous effects of their own Villany: For this Argument is used in defence of the Slaughter of the last *French* King. But as we find just cause to rejoice thus far with *Shadrach, Meshech* and *Abednego*, *Nihil potestatis in nostra corpora habuisse ignem*; That the rage of the Fire had no force or strength against our Bodies, God's Angels coming down of purpose both to disperse the Flame, and to infuse in lieu thereof *ventum roris flantem*, a cool Wind of mild Air breathing, to slack wasting Heat, *Ut neque eos contristaret ignis, nec quicquam molestiæ inferret*; as it could neither make them sad, nor offend them

them any way : So on the other side, God wrought so powerfully in this particular, (to give a Taste and a Feeling to some of the chief Traitors of those endless Flames, that in another World shall never ease, without Contrition and Confession in this) as in the chiefest Puzzle and Perplexity of their ill thriving Practices, they were blasted by the Rage of their own Gunpowder.

Thus *Alexander VI.* and his Darling *Borgia*, the only Monster of that Age, were poisoned by error of the Cupboard-keeper, out of the Bottles that were kept in store (and by *Cæsar's* own appointment) against Supper, for the destruction of certain Cardinals. And thus it happens many times (God's Justice far surmounting Man's Capacity) that those Instruments which we select for execution of Malice, serve for the protection of Innocents, *Et sæpe fugiendo mala, in majora incurrimus.*

These *Catilines* in the raging distemper of their Passion, (which meeteth their own wants & *commoda aliena pari dolore*) were so desirous to draw Blood even *ad animæ deliquium*, of the noblest, the truest and best Subjects of the State in all Degrees, that had not one drop of attainted or infected Blood in any Vein ; and to make sure Work, that there might be spare of none, like the *Roman Triumviri*, they held it safest to let out their own, without distinction of Kinsmen, Allies or Friends ; leaving no one Man of Mark out of the Lilt, which was agreed upon by the Conspirators. But mark the Proof : for (as *Leo* writeth to *Mauritius*) *in victoria veritatis, sola veritatis inimici perierunt*, none but the Enemies of Truth did perish in Truth's Victory. For whosoever loves to dive into the waters of Contradiction, whose Property is, as a learned Father notes, rather *correre* than *portare* ; may be sure to expect in vain, that the Hand of Christ which assisted *Peter* in his Faith, should support them in their Fraud : for between Truth and Falshood, as well the differences as the degrees are infinite.

It was holden a safe course and of great use for advancement of this bloody Project, that a Faculty might be granted to some Persons (which in that rank were reputed choice for their excess in Cruelty, and barbarous Inhumanity above all the rest) for the calling in of such other Assistants and Confederates, as *Non propter eximias virtutes*, but such as *parces negotiis erant nec supercrant*, and that when the Stock grew poor, might be best able to defray Expences, to ease Burthens, and advance Desires. But it fell not out that any good grew to the Cause by any Person let in at this Loop, howsoever their Affections were bent : for *Francis Trisham* the last above, intended much, but effected little by Relief ; only this I note, that by his Passions and Words in his first answer at the Council-board before the Lords, he left so deep Impressions both of his Fore-feet and his Hinder-feet, as tho' we could not evidently descry the Hare, yet we easily discerned what course she took, and thereupon the better with a full Cry upon so hot a Scent, pursued the Game that halted to get over.

No Man can deny but it was in *Robin Catesby* the trick of a crafty Pate, enrounding violently the ruin of our Sovereign, and his Royal Progeny, to engage the fortunes of his dear Friends, *Rookwood, Grant, &c.* to his hungry Creditors, in deep Bonds, before he would impart to them the Secret of his Plot, supposing certainly, that in respect of

their own danger by his fall, they would be more apt to undergo the hazard of all events, and rather chuse to die with him, (tho' the worst should chance) than to beg after him ; having in the mean time in their Eye so bright an Object of enticing Hopes, That *summa scelera incipiuntur cum periculo, peraguntur cum præmio.* But as the greatness and inwardness between wicked Men (according to the grounds of moral Wisdom) is accounted rather Conspiracy than Amity, (having but *metum & noxam conscientie pro fœdere* ;) so likewise in this Case, the Success was suitable, for one led another by the Links of Combination to the reward of Cozenage. Trust was the Trap, false Hopes the Baits ; and all the Fruit they could expect by Tricks, was of the same quality with the Grapes and Pomegranates that grew in *Sodom*, after the Ruin of the Town, as we read in *Origen*, (that is) smelling of Sulphur, tho' delightful to the Eye. And even as those upon the first touch were apt to dissolve into Powder, so were these upon proof to run into Gunpowder.

The scope of some chief Actor in this Tragedy (more sensitive in that point of Compassion, as it seems, than the rest) was, to advise a Noble Gentleman (whom in respect of his approved Love and Loyalty to the King his Sovereign, he durst not trust) by an obscure Letter (more resembling the Riddle of an *Oedipus* than the Counsel of a Friend) that he should abstain from the Place prefixed at the Time determined. The dark figure of the Writing, the strange manner of delivering, the small likelihood of any Cloud at that time gathering, might have moved many Men rather to have neglected, than apprehended so blind a figure of Discovery. But this discreet and worthy Gentleman, conceiving that Men experienced in Mysteries of State were better able than himself, both to discern of Spirits, and unloose hard Knots ; imparted this Occurrent to certain of the Privy Council, and they to the King, who by that Spirit of true Divination, which is infused into the Lips of the King by God, (as the Proverbs say) never gave over mining into the purpose of this Admonition, with due regarding Circumstances and Presumptions, according to the nature of the Motion, till the Barrels were brought into Light, and order was taken to drive the Devils out of their Den, the Materials out of their Opportunities, and the Pioneers from all possibility of effecting the Powder-works.

The purpose of these Gallants *qui pascentur scelerè*, was to feast their Eyes with the sight of our dead Carcases ; for since they were no Doves, but Ravens, the less wonder that they did *sequi cadavera* : But now by God's Providence it comes to pass, that their Limbs feed the Fowls of the Air ; unless, the curse of God, the putrefaction of Sin, and horror of the Fact, move all the Creatures of God to loath and abhor to look upon them.

The same Sly Serpent that seduced *Eve* (by the deceitful bait of understanding Good and Evil) to transgress, induced some of these (I doubt not) to undertake more gallantly, upon hope to be reputed holy Angels in this Life (in case their Enterprise succeeded happily) or Martyrs in the next, if it fell out otherwise. But by evident Confession it appears, that the very Night wherein the Powder should have wrought the desperate Effect, either the Light of Reason, the Horror of Vexation, or the Power of Revelation, pre-

sented,

sented to *Robert Winter* in a Dream, the faces of his chief Friends, and the highest Traitors that should have acted Execution upon the bloody Stage, in such a ghastly and ugly Figure, more like to that *malus Genius* which appeared unto *Brutus* the Night before his Death, or the Face of *Hector* that appeared unto *Andromache*, or the Countenance which they themselves held afterward upon the Pinacles of the Parliament, than to that Figure of Beatitude, by which their own fantastical Conceits and alluding Apprehensions were too much flattered. For, it is not only true that God, as *Job* says, *terret per somnia*, affrights by Dreams, & *per visiones horrorem concutit*, and by Visions shakes the Mind with Horror: but beside, this ground out of the Book of Wisdom can never fail, as I said before, that *cum timida sit nequitia, dat testimonium condemnationis*: Wickedness gives evidence of Condemnation, because it is timorous, *Et semper presumat seum perturbata conscientia*.

While the wisest in this wicked Pack (upon the Discovery made by that worthy Lord of whom I spake before) began to lay their Heads together, and in a Staggering with great uncertainty what Course to take, stood with the King of *Babylon*, as the Poet says, *in bivio quærentes divinationem*; some doubting, some securing, some hoping, some despairing, and all setting the Cause in such a Course, as in case *Percy* their Explorator (that was let out like a Raven, and sent as a Spy to descry by the best Inducements he could find, whether the State took hold of their Discoveries or not) brought back ill news, a Ship might be prepared on the sudden for the transport of this his Pack. God dazzled their Eyes with so dark a mist of Error and Perplexity, as they could not find the right way to get out of the Wood; and their Prophet *Percy* by securing doubts at his return, inspired new Life into dead Hopes, that the Project for speedy rigging of a Ship was carelessly cast off, and Error left to make full Satisfaction by Suffering. For God, that caused the first Vessel to be built by *Noah* for the saving of those eight faithful, pure and selected Souls, that should with Time renew the World which Sin had drowned in the depths of Despair, would not permit that any other of that Mould or Fabrick, should preserve these eight unfaithful, unpure and detested Souls, whose End was to destroy this *μνησκόπος* of our *English* Orb, which hath been so strongly, so often, and so powerfully protected under the Wings of his Tenderness.

As *Joab* kissed *Abner* when he gave him the Stab, *Jezabel* proclaimed a Fast when she cut *Naboth's* Throat, and *Judas* kissed our Saviour when his End was only to betray him to the *Pharisees*: So *Percy*, the right Limb of *Lucifer*, pretended with a Colour of Devotion to kiss the Image of the blessed Virgin, after he had plighted Faith and Promise to his Complices, by blowing up the Body of the State, to destroy the King, who is indeed the sacred Image of the eternal Son. But God, whose holy purpose was to publish to the World how far his Blessed Mother is from countenancing and protecting Traitors, that by opposing to his Deputy revolt from him, branded this Act of Hypocrisy with so palpable a Mark for an Admonition everlasting to well-meaning Souls, that are oftentimes surprized in their Weakness, by false seeming shews of Piety, when the Practices are foul, as on that very Feast of the Blessed

Virgin, (whose Picture *Percy* did embrace) which shall set forth to the World's End the Memory of Christ's Incarnation, whom the Traitors would have wounded thro' the Side of his Lieutenant in the Seat of Majesty, an Act did pass in Parliament, for the blowing up of these Monsters and their Hopes, that by an Act which never had the Voice of any Member of the Parliament, would have blown up both Houses.

To your own drift and purpose, Master *Garnet*, in recommending that antient Hymn, used on the Day of all Saints,

*Gentem auferte perfidam
Credentium de finibus;*

for a speedy Dispatch of many Innocents, that God, which converts both the Labours and the Prayers of the Wicked into Sin, and reflecteth Execrations of Infidelity upon the Heads of those that execrate and curse without just ground, gave Satisfaction, tho' in a contrary Element; purging the present State of *Catesby*, *Percy*, and their Complices, which may truly be reckoned, and reputed above all Men that ever were, *Gens perfidissima*, transcending all Proportions either of precedent or future Immanity. As for your Fervency in swearing and forswearing manifest Untruths, and such as you were forced afterwards to confess with a blushing Countenance, it proceeded as I think from a reverent Regard to shadow great Faults, which breaking out of *Chaos* into Light, might cast Scandal as you thought upon your whole Society. And this I gather evidently, as well out of your own Speeches, as out of your Request; that the Censure of your Weakness might determine personally, within the Compass of your Fault. But we receive a farther Benefit thereby in distinguishing between the Protestations of plain Dealers, and of those that are taught to equivocate; to mark those that pronounce verbally, when they renounce mentally, and those that in point of Fact are not ranged unto the Rules of Faith; and the Civil Laws have resolved, both justly and judiciously, that Construction ought ever to be made against the Party that comes masked to the Bar, and speaks ambiguously upon Advantage, when he should speak plainly for Satisfaction.

I dare undertake, it was certainly conceived by you Mr. *Garnet*, and by Mr. *Hall* your Fellow-Prisoner both in Profession and Bands, that if by any Accident you might confer but half an Hour after you had passed the File of their Examinations, that had both you and your Cause in hand, the Lips of Scandal would have been sealed and shut up so close, as nothing might evaporate to emblemish Oaths, since the Lords of the Commission forbearing Torture, dealt so tenderly; and thereupon you found a second vent of Whispering between two Doors, but with no better Proof by this Adventure than by the rest. For your former Reservedness, being now encouraged and urged by the Spur of Opportunity, became so confident in running beyond it self thro' the chief Points whereof the State was most eager and desirous to take certain Notice at that time, as they that could not reap, might glean, and many Shifts and subtil Traverses were over-wrought by this Occasion, which could not be extracted out of your Breast either by Intreaty or Industry.

By writing to the Pope in a Christian and humble manner for the tempering and cooling of hot Humours

Humours of some giddy-headed Catholicks by his Apostolick Authority, lest they might cause Distemper in the State, carried in appearance a great likelihood of that Obedience and Patience which the Word of God enjoins, and was accordingly divulged both by you Mr. Garnet, and many others of your Suit, for the Satisfaction of their Conceits that were suspicious of your plain Faith: But many grew to Fear by the Forewarnings which *Watson* left before his Death, that this was but a Visard of Invention to dazzle Trust: And most grew suspicious of a Mischief imminent, tho' they knew not what it was: The World heard Rumours of a Feat to be wrought for the Catholicks in Parliament, tho' they could not understand the Mean, and Experience hath taught the Ground of this submissive Letter to the Pope, after the bestowing of all the Barrels among the Piles of Wood, to have only proceeded out of Fear, that such another hot Alarm as arose in *Wales* about the giddy Mutinies of some light Catholicks might awake those Eyes of *Argos* that were brought into so sweet a Slumber by the Pipe of *Mercury*, and put all Vises and Devices out of Frame, that were to work with Leisure, Silence, and Repose in the great hellish Enterprize.

Thus God intended mercifully the prosperous and happy Defeat of *Achitophel's* Device, was content that the first Contrivers should put it to the highest Proof, that upon Discovery the Practice might be more clear, the State more secure, and the Fault more inexcusable. For *homo inimicus* the envious Man sows his Tares so sily and secretly at the first, as the Eye of Observation cannot reach to the depth of Fraud; but like Bastard-slips, the higher they grow, the more evidently they discover the true Parent's Impiety.

Greenwell desiring more the good Success of this Invention, than the planting of the Roman Faith, enjoined *Bates* in the Secret of Confession to reveal the Purpose to no Priest; so jealous and suspicious he was (in respect of the Main) both of Weakness and Error in his own Consort: and you Mr. Garnet, no less provident in those Things which concerned your own Safety or Reputation, or as it is said by one spiteful alike with you,

Subfedit dubius totam dum colligit iram;

forbad *Greenwell* to give the least inkling to *Catesby* of your Privity to the Proceeding, tho' you were made acquainted with the matter in generality. And more, when you were assured of a likelihood of good Success by *Catesby's* own Encouragement, (so much wiser are the Children of this World, that do rather *sapere quæ sunt carnis*, than *sentire quæ sunt spiritus*, as *Paul* forewarns, than the Children of Light, but this is only in their own Generation) you were so careful out of fear to be surpris'd with a Lye, (as the wicked Judges were by *Daniel* upon the Question *sub qua arbore*, under what Tree) and that your Confessions might be consonant, that the Quintessence of Wit sublimed to the highest Point, could not work more precisely and more punctually for prevention of Discovery by orderly Digestion of all Occasions or Directions, than you did by this Preparative. But against the stroke of Providence all Counter-practices are vain: for *dies diei erubescat verbum, & nox nocti indicat scientiam*, as may appear by that *nubes testium*, that Cloud of Witnesses, which turning to a *Scottish* Mist, hath not only

wet both your self and your Fellows to the Skin, but beside, made all their shameful Parts so manifest, (even to vulgar Eyes, that were to act upon the bloody Stage) as the Priests themselves appeaching one another, and falling out to be *suorum flagitiorum proditores*, were as much deceived in the theorick of Trust, as the Lay Disciples were in the practick of Conspiracy.

For it is no less strange than true, that the powerful God (which by his Word assureth us that the Birds of Heaven shall bring those Projects and Inventions to Light, that are contrived in the secret Thought, or privy Cabinet of any wicked and false-hearted Subject against the King) hath so fitted and prepared Instruments of Overtures, as the Mysteries which passed in Confession between the Priests themselves (revealed by themselves) come this Day and in this renowned Place to be scanned and censured.

I will now shut up this Audit of Demonstrations which we descry God's Anger (working almost miraculously in the Transmutation of Substances and Change of Properties for accomplishment of his own just Ends) with the highest Object of your wicked Aim, which was the destruction of the most just, learned, bountiful, temperate, and tender-hearted King, (I may speak it on my Conscience without base Flattery) that ever was ranked either in the *English* or the *Scottish* Register: his Right, his Heart, his Tongue, hath wished Happiness, and brought Security to this State; which if you and your Confederates disdain or wilfully reject, his own good Wishes shall return to himself, and the Dust of those harmless Feet, that never were *veloces ad effundendum sanguinem*, swift or hasty to shed Blood, shall raise a Cloud between you and that eternal Judge in the dreadful Day, to plague your Ingratitude. For what is the Fault (in the Name of God) that can offend the most precise and captious Conceits (excepting Conscience, for which he must neither account to *Bruno* or *Ignatius*, but to God alone) wherein the King may be said to have cast Dust in their Eyes, that were most violent and diligent in preparing Fuel, and making Fire for the sacrificing of a Lamb, whose innocent Blood, like that of *Abel*, would have cried for Vengeance in the Ear of God, against the cursed Crew of all the Conspirators, if their Success had been fortunate?

By the way, I cannot cease to wonder at the Providence and Piety of this thrice happy King, this *Pacator Orbis*, (the real Attribute of *Constantine*) who seeketh to establish the Throne of his Dominion and Power, neither with the three Feet of *Apollo's* Stool at *Delphos*, which his own Interpreters have understood of Nimbleness, Observation and Subtilty; nor only with the Lions and Lions Whelps, that garnished the six Steps ascending to the Chair of *Solomon*, to stir up Magnanimity, both in young and old, but according to the Rules and antient Prescripts of our *English* Government, with the three Piles of Conscience, Honour, and the People's Love; and that so steadfastly, as the Sons of *Belial* have neither Hope nor Possibility of compassing their own Desires, without cutting off these Three, that is Bishops, Peers, and Commons at one Blow, *ut cespes unus & Regem nostrum, & Rempub. tegeret*. Therefore hold not the Peril strange wherein you stand at this present, of another kind of Triplicity specified by *Solomon*, for proportionable Punishment of your barbarous affection in Working (by the

Quintessence

Quintessence of Inhumanity) the Ruin both of Prince and State, for *Funiculus triplex non facile rumpitur*. For to Men of uncertain Wits and Aims, it happens often in Experience, That by the least swerving either of the Eye of Judgment, or of the Hand of Use, instead of the White of Ambition, they hit point-blank the Mark of Execution: Therefore no Man shall be able to avow either in the present or the future Time, that they which sit as Judges in this Case of execrable Treason, wash their Hands with *Pilate* in Hypocrisy, when you and your Confederates that stand forth to be tried, cannot wash your own Hands with the Prophet *David*, *inter Innocentes*, among those that are innocent.

Princes use not to taste Offers without Assays: We cannot admit your Obstinacy in refusing to pledge the Health of this whole Estate; and no Man knows better (Mr. Garnet) than your self, by what Writ true Men are warranted *in poculo quod nobis miscuistis, miscere vobis duplum*, to give you double Measure of the Draught which you had prepared for the State's Destruction; when your Purpose was (if Courses had suited to your wish) that it should begin from them. By this it appears, That *virtutis cursus* (if that were in you which the World did imagine) was *celerior quam ætatis*, that your Life hath overrun your Loyalty.

It is hard for a Man so many ways engaged to a Prince, and for so many Favours as my self, to cut evenly between Affection and Truth, or to provide so tenderly by Preoccupation, as no Spider may suck Poison out of a Rose: but *justa est alea*, and therefore since it is neither my delight to sow soft Pillows under Princes Elbows, nor the King's desire that his trusty Servants and true Counsellors should with the glosing Prophets in the Days of *Micah* utter *placencia potius quam solida*, I would only crave that Liberty which is afforded in Case of private Persons to Affections that are most indifferent, which is to present his Picture to the Eye of Observation in true Colours and Proportions, without swerving too far on either hand, (because he must ever be *iniquus dignitatis Judex, qui aut invidet aut nimium favet*) and to wipe away the Wrong which hath been done to him, (and hereafter may by false Aspersions, from the Pencils of prejudicate Conceit) awake my Spirits in discharge of Duty, beside Obligations of Grace, to raise my Compaits thus high at the least, and to lend my strongest Arms and best Endeavours to the just Defence of a most just and worthy King, furiously and unjustly set upon. What Spirit moved you and yours (Mr. Garnet) to dissolve the Quiet of a State, that never conceived you in her Womb, with a purpose that (like the brood of Vipers) you should make your Issue into Life by eating out the Bowels of the Dam that gave you both Creation and Nourishment? for it could not be, but the Commonwealth *in ipsa vindicta libertatis*, as yours termed it, *esset peritura*, when *Catesby* and his desperate Rout meant not *subigere nostram urbem*, as the *Athenian* Orator saith of *Philip*, *sed funditus evertere*; well knowing that those that escaped, to be Slaves *neque voluerunt esse, neque potuerunt*. What ailed you to mine into the strongest Fort of your dear Countrymen, who living by the Temper of the King's Affections under *Libra*, that is as much as under the Golden-Line of Justice, Moderation, and Grace, can hardly judge out of their own Affection, whether

the Nights or the Days pass over their Heads more happily. For neither is it possible at this Day for *Virgo*, that barren Sign, to endanger us by Orbity or Age, nor for *Taurus* the Bull to goar our Sides with Anticipation, nor for *Scorpio* to sting us in the Heart, nor for *Sagittarius* to wound us in the Reins, nor *Aries* the Roman Engine to butt with his offensive Head at the Walls of our High-Court of Parliament: *Tempestas abiit, & ecce nova facta sunt omnia*.

At his Majesty's first Entrance he found us embroiled and greatly weakened by the deeply fettered long running Ulcer of a lasting War; what was the Cure? A beam of Wisdom seasonably derived from the Practice and Experience of the wisest King that ever was, to conclude a Peace *cum omnibus Nationibus in circuitu*, that every faithful Subject might enjoy the shade of his own Fig-tree, and the Fruit of his own Vine from *Dan* to *Beersheba*. I do easily believe, Mr. Garnet, that this Course was nothing agreeable to your Affections and Ends, that sought a greater Gain by fishing in Streams that were more troubled; and sitting on a bare Bough, like the Raven when the Lion and the Leopard came forth to fight, began bravely to sound a Point of War, in hope that whether of both those had the worst, one should serve for a Prey for him to feed upon. And with the wicked Crew in *Lucan* your Prayer was,

Non pacem petimus Superi date gentibus iras;

but were of another Mind and Hope to make you pine a good while longer at the Calms of our Repose, before you put us into these Distempers, that have made your own best Friends, and fairest Fortunes absolutely desperate; to whom so far as in Modesty you could ask, I may say with *Paterculus*, *quod tumultuando adipisci petiistis, quiete obtulisset Respublica*. Peace is the Mark wherewith the Holy Ghost would have all religious Affections to aim: It is the Razor that cuts the Throat of crying Sins; it is the good Angel that drives Horror out of the Conscience of every Christian, when Death threatens to arrest; it is the chiefest Badge by which our Saviour would have his true Disciples known from Hypocrites; and it is both the richest and the last Jewel which departing hence to his Father, he left to his Spouse the Church for a Legacy. And therefore our Prayer by opposition to your Exorcism must be thus,

Nulla salus bello, pacem te poscimus omnes.

But how long is it, I pray you, Mr. Garnet, since the Heart of every faithful Subject in this Kingdom was ready to break with a fearful Contemplation of those Rocks, upon which the Vessels of all Fortunes both publick and particular were likely to have run, at what time soever *Deborah* was to walk the ways of all Flesh, and to be laid up to rest in the Grave of her Ancestors, for want of a certainly designed Successor, upon whom *Israel* might only fix their Eyes, both for Satisfaction in Conscience, and infallible Direction to Loyalty? In those Days the State was charged by all your Pens and Pamphlets with an uncivil, or rather an unchristian Facility in flattering the present time, with Peril to the time to come, in preferring Humours personal before real Plagues, and in settling the whole weight of this State upon

the Staff of Age, with no less Confidence than if it had been a Pole of Eternity. You could then insinuate for the kindling of undutiful Affections at home, how deeply both the Queen should be charged in another Day for setting the Kingdom's Rest upon the weak Cards of her own particular Respects; and others for inclining so much out of awe to the Predominance of Time; as without the Work of God's powerful Hand, their Fear might have been the Cause of the State's Overthrow. Nothing was then more rife in the Mouths of many Catholicks, than the Wrong that was done to the true and lawful Issue of that worthy Queen, who (instead of digging up a Turf according to the manner) made her Grave an Entry in her Son's behalf to the Title of these Crowns; as if she should have said with the Conqueror when he took a fall at his first Landing, *Terram capio*: by laying down her Life, she took a formal Livery and Seisin for her Son, her Life I say, more precious than either my Mind is able to apprehend, or my Pen to deliver.

Give me leave therefore to enquire of you in the Phrase of *Paul*, and rather with true Zeal than detracting Spleen, *O insensati Galatae, quis vos suscitavit non obedire veritati?* O ye senseless Galatians, who hath (since that) stirred up your Passions against Obedience to Truth, and moved you in this manner to abhor the most cordial Receipts for Cure of inveterate Infirmities, as if they were compounded of *Coloquintida*, which in hatred of Time past you only sought, as your only Restoratives? For tho' every Man that had in his head either half a Drachm of Discretion, or the least Scruple of common Sense, knew very well what should become of those which in the Day of Demonstration durst protest with *Sheba* the Son of *Belial* by Sound of Trumpet, *nullam sibi esse partem in David, neque hereditatem in filio Jesse*; that since they had neither part in *David*, nor inheritance in the Son of *Jesse*, it were free to *Israel* to return to their Pavilions: Yet I must confess that the wiser sort *in omnem eventum* (to make the Foundation more sure) would have purchased the publick Satisfaction in this Degree at an excessive Rate, which was suppressed by the Strength of Law, and overcast with a Cloud of Suspicion. We are not ignorant in those Days, Mr. Garnet, how many did expect with *Esau*, *diem luctus* for opportunity of Revenge. We knew both in what manner, and by what means some heavy Bodies, and more heavy Spirits were in hope to raise themselves like Bustards in fallow Fields *vi turbineis*, by the strength of a Whirlwind, to that height which Ambition (void of due Consideration) did foolishly affect.

It is evident that *Ismael* would have been *Isaac's* Pity-fellow; and every day more Arguments were brought to light of a strong Desire in many Minds, That *Eteocles* and *Polynices* might make partition of their Inheritance *acuto ferro*, with a sharp cutting Sword: But as *Paterculus* reports of the Security of the *Roman* Empire, otherwise than was expected, after the Death of *Augustus*, we felt not so much as a quivering of that Commonwealth, of whose Ruin we stood in so great Fear, *tanta fuit unius viri Majestas, ut nec bonis, neque contra malos opus armis foret*: For so great was the Majesty of one Man, that not so much as those that were dutiful, needed Weapons against those that were traitorous; for whatsoever he pro-

tested was safe, and whatsoever he rejected did only perish.

And thanks be given to God, we are now so safe and thorowly secured from foreign Groans and pining Fears by these sweet Olive-buds which environed the Mercy-Seat, as *Doleman* may indeed *dolere*, that by no kind of Instrument he can *dolare*, that is, boar or wimble into this glorious and graceful Stock, wherein he would inoculate the Grievs of his stinging Grievances.

Again, it cannot be denied, That the State of this strong Island, if it be considered by Integrity and Union of Parts, was in a manner paralytical (so long as *Scotland* was divided from this Realm of *England* as it were in half) by Privation as well of Motion, as of Sense: And by reason of Obstructions in divided Heads (that stop the free Course and Passage of the Spirits thro' all and every part and Member of the Main from Preservation of Health and Strength) it was like to fall by the least Distemper symptomatical into a dead Apoplexy. It was a Work of Mercy in our Saviour to cure *manum aridam*, I mean *aridam* in respect of the small use to us, tho' active, strong and powerful for it self. It was an Act of Policy in *Cesar* to shut up the back Door that let in the *Germans* to the disturbance and disquiet of those Parts in *Gaul*. And great Wisdom it was once in *Severus*, to part those from us with a Wall of Hostility, whom since a more divine Hand hath happily fastened to us in eternal Fraternity: For the Holy Ghost accounteth it a Curse to stand alone, because he cannot be sure of his next Neighbour to take him up: The Branch bears Fruit no longer than it continues in the natural and proper Vine, fed with the same Sap, strengthened from the same Root, cut and pruned by the same Vinetor. Thus *England* and *Scotland* are the Twins of *Hypocrates*, that must ever laugh and weep together; they are the *Castor* and *Pollux* that must ever rise and set together; they are the two Hands of one Body Natural and Politick, that ought both to wash one another's Spots, and supply Weaknesses: To conclude, they are that *cor* and *cerebrum*, that Heart and Brain, so fastened and knit together in Harmony and Correspondencies, that without a perfect Union of both, it is not possible for the Isle of *Britain* to move with Power, to feel with Tenderness, or to breathe in Security.

Our Ancestors desired to have seen this happy Day, (I will not say as *Abraham* desired the Days of Christ, lest the Comparison might perhaps seem over-bold, but yet as they that live under the Pole desire to see the Sun which is familiar,) as may appear by Treaties between Princes in the Times of some of our wisest Kings, as the Third and Seventh *Henries*: And again, by the Continuance of that earnest Instance of the Eighth, for a Match between the young Queen *Mary* and Prince *Edward* his eldest Son, upon easy Conditions. The Letts in former Times proceeded in part from the practice of foreign Potentates, envying the Greatness of united Crowns; and in part from the Flaws of Domestick Factions within the Bodies of both Kingdoms, neglecting the Benefit of Opportunity thus offered upon the light Impressions of private Fears. God himself bestowed this Union between the Realms of *Israel* and *Judab* (sever'd much after the same Measure and Proportion that ours have been so long) as the strongest Pledge of Favour, and the richest Blessing of eternal

nal Bounty that his loving Kindness could confer upon both States, *ut esset Rex unus omnibus imperans, ut non essent ultra duæ gentes, nec dividerentur amplius in duo regna*: that there might be but one King to reign indifferently over all, that they might no longer be reputed two Nations; and with a further Condition, That from that time forward, they should be no more divided into two Monarchies.

Many Motives of Encouragement have been propounded, many Satisfactions to Jealousy have been tendered, many Instruments of excellent Advantage have been set on work in former Times, but to small Effect, so long as Wisdom rather debated, than Right determined; and besides, for that *nondum tempus a somno surgere*: but our Age is that *plenitudo temporis*, that full Period of Time wherein so many working Causes and Inducements draw to one Conclusion of Equality in Happiness in both Estates, as unless we will embate what our Ancestors with less Advantage did improve, disable what they did admire, reject what they did recommend, and in a sort repel the Grace of God which knocketh at our Door, we must acknowledge, *Non fecisse Deum taliter omninationi*, That God hath not dealt thus with every Nation. For our *Rex pacificus*, our *Deliciae Britannæ gentis*, our *Leo Rubens*, (which according to *Merlin's* Prediction, was to hold in one Paw the Battlements of New Troy, in another *Sylvam Caledoniam*, which can level in common Sense at no other Prince that wielded the Scepter of this State before) hath by God's blessed Providence as well united the Parts of *England, Scotland and Ireland*, in one Body of Dominion, as the Lines of *Edgar, Fergus the Conqueror, Mac Morragh, and Cadwallader* in one Center of Conjunction, and thereby compounded out of many Waters, that *Margaritam pretiosam*, for the compassing whereof rather than it should escape our Hands, we ought to purchase it at as high a Rate, as the wise Merchant did that other in *St. Luke, qui, inventa una pretiosa Margerita, abiit, & vendidit omnia quæ habuit, ut emeret eam*: having found one precious Pearl among the rest, went and sold all that he possessed in the World beside, to purchase it.

I resemble the rare Object of the King our Master's aim, (in seeking to unite and knit together all his Subjects Affections, Scopes and Endeavours, *Nodo indissolubili*, to this End chiefly, that it may not rest hereafter in the power of Flesh to sever what hath been conjoined by the Hand of Grace) rather *Margaretæ* than to any other Jewel of great Price, because her Name was *Margaret*, by whom his Majesty derives his lineal Descent by just Title of the *Saxon Kings*. Her Name was *Margaret*, that being eldest Daughter to King *Henry VII.* invested in the Blood of our dear Sovereign King *James*, the most absolutely and radically united Interest of the two renowned Families of *York and Lancaster*: wherein we are to note *ex abundante*, that at the Point prefixed of one hundred Years, in which this worthy Princess was conveyed, by a lucky Match for this renowned Island, to her Husband *James IV.* her Royal Offspring *James VI.* our matchless Sovereign, made his happy Entrance into the possession of all these Crowns with a chearful Jubilee. I would be glad for my private Comfort, and in grateful Duty to the gracious Bounty of this blessed Line, (if it be lawful to intermingle *corpus opacum* with so many glorious Aspects) in a light touch to record and

view the Revolutions and Fortunes of my own Family. For as the Duke of *Norfolk* was a forward Minister in attending this great Princess (by the wise King's Direction) to the full accomplishing of the nuptial Solemnity; so his Heir in the third Degree, by Misconstruction of humble Thoughts, and witty Workmanship upon weak Suspicion, was drawn into the Loss both of Life and State, for gazing too much upon the gleams of this rising Glory; and our Royal Sovereign (the true and lawful Heir of that peerless *Margaret*, on whom the Service did attend) reserved by Destiny to restore the Honour of that fading House, which was overcast with a Cloud of Scorn, and as it were to lay new Earth to the Root of that sapless Tree whose Leaves were fallen, and the fairest Branches withered. Of my self, on whom it hath pleased my most gracious Master and dear Sovereign, to cast more Favour than either *sub spe* I could merit, or *in re* I can utter, this only shall be said in acknowledgement of Favour and Admiration of Grace,

Ultimus hic ego sum qui quam benè, quam malè, nolo Dicere, qui de me judicet, alter erit.

The Name of the late old Countess of *Lenox* was also *Margaret*, by whom as Daughter to the Queen of *Scotland*, by an Earl of *Angus* in a second Match, the younger Branch of that Princely Line was thorowly incorporate into the Person of the King on his Father's side, for a stronger Union, if it were possible, both of Blood and Interest, and for a double Ornament of his Royal Progeny. She was no *Margaret I* confess, but a worthy *Mary*, that in the last Descent covered *fermentum acceptum*, the Leaven which she had received by Descent into Three Kingdoms, as the discreet Woman in the Gospel did her own into three Lumps of Dough, till by her blessed Issue, Founder of our perpetual Quiet, they might be all thorowly and compleatly leavened.

Now to draw to the Conclusion, which is the Knot of these united Ends, that is that worthy Sovereign, to whom

De nostris annis sibi Jupiter augeat annos.

That you and your Disciples, *Mr. Garnet*, in reward of so great Merit of this Island, were so hasty to blow up by your Powder-Plots into a higher Region, than that wherein his Throne was by God established, together with those very Walls, which as I find by antient Record, were first by the Holy Confessor *St. Edward* raised, of whose Family his Majesty descends, that one King might be buried, and the chief of his Race destroyed within the Compass of one Monument. But howsoever *Mr. Garnet* was willing to forget that this Place was once sanctified for a Refuge and Retreat to all sorts of Persons in Distress, by his own Canons; yet God that would not destroy *Judah* for his Servant *David's* sake, his Providence in like sort purposing to continue the Piety of that blessed King in this fairest Branch of his Descent; the Justice of that Divine Majesty holding it an Act of Atheism to cast *tot Margaritas porcis*, so many Pearls to Swine, or *Sanctum canibus*, that which is Holy to Dogs, bounded the Malice of these graceless Imps within so narrow Streights, as it rested not in their power by the Murder of our King to stain the Confessor's Walls with his

own Blood, or under the Vizard of St. *Edward's* Profession, to extirp the Roots of St. *Edward's* Posterity. For in the Proverbs we are certainly assured, that *domus justorum permanebit*, the House or Generation of the Just shall continue: But it falls out in a better Consequence, That the Skull of faithless *Percy* should stand Centinel where he was once Captain Pioneer; and *Lambeth* should now be *Catesby's* Horizon, that was his Arsenal: And their giddy Pates are left *tanquam malus navis*, like the Mast of a Ship, to use the Prophet's Phrase, to warn Passengers by what just Disaster these roving Pirates came to their unhappy End; especially for seeking the Golden-Fleece, not by *Jason's* Merit, but by *Medea's* Sorcery.

To conclude, we may learn of the wise Man, That there can be neither Wisdom, nor Counsel, against God. The Ribs of a crazed Vessel are too weak to bruise the Rock which they rush upon. We spur Asses to no purpose, when God's Angel is *ad oppositum*. *Jacob* having shrunk a Sinew, halted all the days of his Life, after he wrestled so long and to so little purpose with God Omnipotent. Men are sure to gain no more than their own Smart, that kick against the Thorn: In such Attempts it is neither in him that wills, nor in him that runs, but in God that shews Mercy to those that direct themselves according to Discipline: for *Sortes mittuntur in Sinum*, the Lots are cast into the Lap, but it is God that disposeth the Lottery. Tho' your purpose were all one with *Abab* and *Jezabel*, in seeking to cut the Throat of *Naboth* for his Ground: Tho' you gave out your Hymn before this holy Act, as they proclaimed a religious Fast: Tho' you made yourselves sick (as *Abab* did) with Anguish and Vexation, because you could not have your Wills; yet since you could neither *occidere* nor *possidere*, your Luck was worse than theirs: For by God's powerful and preventing Grace, you were thrust as well from all the Means and Advantages of killing whom you hated, as of possessing what you coveted. It were good therefore that (upon so many plain Experiments) you would confess with certain Wanderers in the Book of Wisdom, *Lassatos esse vos*, that you are wearied and over-laboured in these crooked ways, and have been ever since you leaped out of *Via regia*, the King's High-way, which neither leads to Dishonour, nor ends in Misery. Nothing is more proper *Materiae*, to Matter, than to flow (say the Philosophers) *nisi à forma sistitur*, unless it be stayed and fixed by the Form; nor any thing more proper to Humanity, (according to the Rule of Truth) than to err, if Grace direct it not. *Mahomet* confesseth in his Alcoran, That the Throne of Christ was raised by Patience, his by Revenge; that by Miracles, his by Tyranny. The Modesty and Piety of Christians afflicted for the Point of Conscience in the Time of *Tertullian*, appears by the Reason which he gives of their Abstinence *à suffocato & sanguine*, that is, *ne quo sanguine contaminarentur, vel intra viscera sepulto*; that they might admit no Pollution by Blood, tho' it were buried within their Bowels.

Pardon me, Mr. *Garnet*, tho' I doubt whether in the Point of Conscience alone, you would voluntarily and resolutely abide the Saw of *Esay*, the Bolts of *Jeremy*, the Gibbet of *Peter*, the Sword of *James*, or the stoning of St. *Stephen*, much less make a Gathering among those of your Profession, toward the preparing of an humble Sacri-

fice for the Life of *Nebuchadnezzar* (as you esteem the King) that with the Rage of a Tiger sought his Life, and waxed thus impatient of that soft and easy Hand, which it pleased him in his gracious Compassion and Tenderness, before the late intended Tragedy, to hold over you; so that with *Seneca* you might justly say, *Nihil felicitati meae deerat, nisi moderatio ejus*. Those golden Comforts of the Prophets to contrite Offenders, ought at this time to be of greater Estimation and Value in your Thoughts, than all the Treasures of the *Vatican*. You cannot steer the Ship of your crazed Conscience more safely in this sharp Storm (which hath been raised by your selves) than by the Council of *Laetantius*, which doth warrant, That to Minds truly penitent, *Optimus portus est mutatio consilii*, Change of Resolution is the best Haven and safest Harbour. After an humble acknowledgment of a grievous Sin *in fratres vestros*, against your Brethren, with the Sons of *Jacob*, and withal, that for this Cause chiefly Tribulation hath taken hold of your highest Top: First, yield unfeigned Thanks to Almighty God for preventing this destructive Project, that would have cast so great a weight of Judgment upon your Soul, and for turning your ill Purpose to his Honour: Then thank your merciful and tender-hearted King, who seeks not to surprize you suddenly, as *Levi* did *Sichem*, *Quando dolor vulnerum erat gravissimus*; as you would have dealt with him; and to assault you in the greatest Horror and the sharpest Torture of your crying Sin; but by imitation of that eternal Object whose Person he represents, whose Example he regards, agreeably to that Record in the Book of Wisdom, *Dat tempus ad locum per quæ potestis mutari à malitia*, gives Time and Place by which you may be changed from your Malice: Crave Pardon of the World, for leaving such a Precedent to future Times, of a possibility to atchieve so desperate an Act, which may perchance, according to the Dispositions and Humours of Men diversly affected, as well *admonere* as *prohibere*, that is, put the World in mind that such a matter may be, as forbid that it be not.

Remember the difference which *Theodoret* doth discreetly put, between Suffering and the Cause of Suffering, between Torture to force Conscience, and legal Punishments to chastise Faults. To conclude my last Caution with your last Occasion,

Discite justitiam moniti, & non temere Divos:

Because, *Hæc vos sapere vel mori jubent*; and withal (as *Martial* did for *Trajan*) wish to the best of Majesty, to whom you meant the worst of Malice,

*Dii tibi dent quicquid, princeps Auguste, mereris,
Et rata perpetuo, quæ tribuere, velint.*

Then the Lord Chief Justice making a pithy Preamble of all the apparent Proofs and Presumptions of his Guiltiness, gave Judgment, that he should be drawn, hanged, and quartered.

And my Lord of *Salisbury* demanded, if *Garnet* would say any thing else?

Garnet answered, No, my Lord, but I humbly desire your Lordships all to commend my Life to the King's Majesty; saying, That at his pleasure he was ready either to die or live, and do him Service.

And so the Court arose.

ON the 3d of *May*, *Garnet*, according to his Judgment, was executed upon a Scaffold, set up for that Purpose at the West End of *St. Paul's Church*. At his arise up the Scaffold, he stood much amaz'd, Fear and Guiltiness appearing in his Face. The Deans of *Paul's* and *Winchester* being present, very gravely and christianly exhorted him to a true and lively Faith to Godward, a free and plain Acknowledgement to the World of his Offence; and if any further Treason lay in his Knowledge, to unburden his Conscience, and shew a Sorrow and Detestation of it: But *Garnet*, impatient of Persuasions, and ill-pleas'd to be exhorted by them, desir'd them not to trouble him, he came prepar'd, and was resolv'd. Then the Recorder of *London* (who was by his Majesty appointed to be there) ask'd *Garnet* if he had any thing to say unto the People before he died: It was no time to dissemble, and now his Treasons were too manifest to be dissembled; therefore, if he would, the World should witness what at last he censur'd of himself, and of his Fact; it should be free to him to speak what he list'd. But *Garnet*, unwilling to take the Offer, said, His Voice was low, his Strength gone, the People could not hear him, tho' he spake to them; but to those about him on the Scaffold, he said, The Intention was wicked, and the Fact would have been cruel, and from his Soul he should have abhorred it, had it been effected: But he said, He had only a general Knowledge of it by Mr. *Catesby*, which in that he disclosed not, nor used Means to prevent it, herein he had offended; what he knew in Particulars was in Confession, as he said. But the Recorder wish'd him to be remembred, that the King's Majesty had under his Hand-writing these four Points amongst others.

1. That *Greenway* told him of this, not as a Fault, but as a thing which he had Intelligence of, and told it him by way of Consultation.

2. That *Catesby* and *Greenway* came together to him to be resolv'd.

3. That Mr. *Tesmond* and he had Conference of the Particulars of the *Powder-Treason* in *Essex* long after.

4. *Greenway* had ask'd him who should be the Protector? but *Garnet* said, That was to be refer'd till the Blow was past.

These prove your Privy besides Confession, and these are extant under your Hand. *Garnet* answer'd, Whatsoever was under his Hand was true. And for that he disclosed not to his Majesty the things he knew, he confessed himself justly condemn'd; and for this did ask Forgiveness of his Majesty. Hereupon the Recorder led him to the Scaffold to make his Confession publick.

Then *Garnet* said, Good Countrymen, I am come hither this blessed Day of *The Invention of the holy Cross*, to end all my Crosses in this Life: The Cause of my Suffering is not unknown to you; I confess I have offended the King, and am sorry for it, so far as I was guilty, which was in concealing it; and for that I ask Pardon of his Majesty. The Treason intended against the King and State was bloody, my self should have detested it, had

it taken effect. And I am heartily sorry that any Catholicks ever had so cruel a Design. Then turning himself from the People to them about him, he made an Apology for Mrs. *Anne Vaux*, saying, There is such an honourable Gentlewoman who hath been much wronged in Report: For it is suspected and said, that I should be married to her, or worse. But I protest the contrary: She is a virtuous Gentlewoman, and for me a perfect pure Virgin. For the Pope's Breves, Sir *Edmund Baynam's* going over Seas, and the Matter of the *Powder-Treason*, he refer'd himself to his Arraignment, and his Confessions: For whatsoever is under my Hand in any of my Confessions, said he, is true.

Then addressing himself to Execution, he knel'd at the Ladder-foot, and asked if he might have time to pray, and how long. It was answer'd, He should limit himself, none should interrupt him. It appear'd he could not constantly or devoutly pray; Fear of Death, or Hope of Pardon, even then so distracted him: For oft in those Prayers he would break off, turn and look about him, and answer to what he over-heard, while he seem'd to be praying. When he stood up, the Recorder finding in his Behaviour as it were an Expectation of a Pardon, wish'd him not to deceive himself, nor beguile his own Soul; he was come to die, and must die; requiring him not to equivocate with his last Breath; if he knew any thing that might be Danger to the King or State, he should now utter it. *Garnet* said, It is no time now to equivocate; how it was lawful, and when, he had shew'd his Mind elsewhere: But, saith he, I do not now equivocate, and more than I have confess'd I do not know. At his ascending up the Ladder he desired to have Warning before he was turned off. But it was told him, he must look for no other Turn but Death. Being upon the Gibbet, he used these Words: *I commend me to all good Catholicks, and I pray God preserve his Majesty, the Queen, and all their Posterity, and my Lords of the Privy Council, to whom I remember my humble Duty, and I am sorry that I did dissemble with them: But I did not think they had had such Proof against me, till it was shew'd me; but when that was proved, I held it more Honour for me at that time to confess, than before to have accused. And for my Brother Greenway, I would the Truth were known; for the false Reports that are, make him more faulty than he is. I should not have charg'd him, but that I thought he had been safe. I pray God the Catholicks may not fare the worse for my Sake; and I exhort them all to take heed they enter not into any Treasons, Rebelions, or Insurrections against the King. And with this ended speaking, and fell to praying; and crossing himself, said, In nomine Patris & Filii, & Spiritus Sancti; and pray'd, Maria mater gratiæ, Maria mater misericordiæ, tu me à malo protege, & horâ mortis suscipe. Then, In manus tuas, Domine, commendo Spiritum meum: Then, Per Crucis hoc Signum (crossing himself) fugiat procul omne malignum. Infige Crucem tuam in corde meo, Domine; Let me always remember the Cross: and so returned again to Maria mater gratiæ, and then was turned off, and hung till he was dead.*



XXI: *The Trial of GEORGE SPROT in Scotland, for High-Treason, in conspiring with John Earl of Gowrie to murder King James I. 12 Aug. 1608. 6 Jac. I.*

GEORGE SPROT, a Notary*, inhabiting at *Aymouth*, having given cause of Suspicion by some Words which fell from him, and afterwards by some Papers found upon him, that he was privy to, and acquainted with the † Plotting of the late Earl of *Gowrie* and *Robert Logane*, for the cruel murdering of King *James*, was seized and committed to Prison; and after divers Examinations, being moved with remorse of Conscience for the long concealing his Fore-knowledge of this Conspiracy, confesseth, declareth, and deponeth, That he knew perfectly, that *Robert Logane*, late of *Restalrig*, was privy, and upon the Fore-knowledge of *Gowrie's* treasonable Conspiracy. And for the greater Assurance of his Knowledge, deponeth, That he knew that there were divers Letters interchanged betwixt them, anent the treasonable Purpose aforesaid, in the beginning of the Month of *July* 1600. Which Letters, *James Bour*, called *Laird Bour*, Servitor to *Restalrig*, (who was employed Mediator betwixt them, and privy to all that Errand) had in keeping, and shewed the same to *Sprot* in the Place of *Fast-Castle*. The first of *Gowrie's* Letters, containing in effect, as followeth:

‘ **G**OOD Laird of *Restalrig*, you understand what Conditions should have been betwixt us, of before. Indeed I purposed to have come by your House, but understanding of your Absence in *Lothiane*, I came not. Always I wish you either your self to come West, or else to send some sure Messenger, who may confer with me anent the Purpose you know. But rather would I wish your self to come, not only for that Errand, but for some other thing that I have to advise with you.’

To the which Letter *Restalrig* wrote an Answer, and sent the same to the Earl of *Gowrie*, by the said *James Bour*, of the Tenure following:

‘ **M**Y Lord, my most humble Duty and Service heartily remembred. At the Receipt of your Lordship's Letter I am so comforted, that I can neither utter my Joy, nor find my self sufficiently able to requite your Lordship with due Thanks. And persuade your Lodship in that Matter, I shall be as forward for your Lordship's Honour, as if it were my own Cause. And I think there is no living Christian that would not be content to revenge that *Machiavellian* Maf-
sacring of our dear Friends; yea howbeit it should be, to venture and hazard Life, Lands, and all other things else. My Heart can bind

‘ me to take part in that Matter, as your Lordship shall find better Proof thereof. But one thing would be done, namely, That your Lordship should be circumspect and earnest with your Brother, that he be not rash in any Speeches touching the Purpose of *Padua*. My Lord, you may easily understand, that such a Purpose as your Lordship intendeth, cannot be done rashly, but with Deliberation. And I think, for my self that it were most meet to have the Men your Lordship spake of, ready in a Boat or Bark, and address them as if they were taking Pastime on the Sea, in such fair Summer-time. And if your Lordship could think good, either your self to come to my House of *Fast-Castle* by Sea, or to send your Brother, I should have the Place very quiet and well provided after your Lordship's Adventisement, where we should have no scant of the best Venison can be had in *England*: And no others should have Access to haunt the Place, during your Lordship's being here, but all things very quiet. And if your Lordship doubt of safe landing, I shall provide all such Necessaries as may serve for your Lordship's Arrival, within a Flight-shot of the House. And persuade your Lordship you shall be as sure and quiet here, while we have settled our Plot, as if you were in your own Chamber: for I trust and am assur'd we shall hear Word within few days from them your Lordship knoweth of; for I have care to see what Ships comes home by. Your Lordship knoweth I have kept the Lord *Bothwell* quietly in this House in his greatest Extremity, say both King and Council what they liked. I hope (if all things come to pass, as I trust they shall) to have both your Lordship and his Lordship at one good Dinner afore I die. *Hæc jocose*, to animate your Lordship: I doubt not, my Lord, but all things shall be well. And I am resolved, whereof your Lordship shall not doubt, of any thing on my part, yea to peril Life, Land, Honour and Goods; yea, the Hazard of Hell shall not affray me from that, yea altho' the Scaffold were already set up. The sooner the Matter were done, it were the better, for the King's Buck-hunting will be shortly; and I hope it shall prepare some dainty Cheer for us to dine against the next Year. I remember well, my Lord, and I will never forget, so long as I live, that merry Sport which your Lordship's Brother told me of a Nobleman at *Padua*; for I think that a *Parasceve* to this purpose. My Lord, think nothing that I commit the Secrecy hereof, and Credit to this Bearer; for I dare not only venture my Life, Lands, and all other things I have else, on

* Spotswood's *History of the Church of Scotland*, p. 509.

† *Ibid.* p. 459. See *State-Trials*, vol. VII. p. 33, and 78.

his Credit, but I durst hazard my Soul in his keeping, if it were possibly in earthly Men; for I am so perswaded of his Truth and Fidelity. And I trow (as your Lordship may ask him if it be true) he would go to Hell-Gates for me; and he is not beguiled of my Part to him. And therefore I doubt not but this will perswade your Lordship to give him Trust in this Matter, as to my self. But I pray your Lordship direct him home with all possible haste, and give him strait Command, that he take not a Wink sleep, while he see me again, after he come from your Lordship. And as your Lordship desireth in your Letter to me, either rive or burn, or else send back again with the Bearer; for so is the Fashion, I grant.

Which Letter written every word with *Restalrig's* own Hand, was subscribed by him after his accustomed manner, *Restalrig*, and was sent to the Earl *Gowrie* by the said *James Bour*. After whose Return, within five days, with a new Letter from *Gowrie*, he staid all night with *Restalrig* in **Gunnies-Green*; and *Restalrig* rode to *Lothiane* the Morn thereafter, where he staid five or six days. Then after his returning, past to *Fast-Castle*, where he remained a certain short Space.

And farther deponeth, that he saw and heard *Restalrig* read the last Letter, which *Bour* brought back to him from *Gowrie*, and their Conference there-ant. And heard *Bour* say; Sir, if ye think to make any Commodity by this Dealing, lay your Hand to your Heart. And *Restalrig* answer'd, that he would do as he thought best. And farther said to *Bour*, Howbeit he should sell all his own Land that he had in the World, he would pass thorow with the Earl of *Gowrie*, for that Matter would give him greater Contentment, nor if he had the whole Kingdom: and rather or he should falsify his Promise, and recall his Vow that he had vowed to the Earl of *Gowrie*, he should spend all that he had in the World, and hazard his Life with his Lordship. To whom *Bour* answer'd: You may do as you please, Sir, but it is not my Counsel, that you should be so sudden in that other Matter. But for the Condition of *Dirlton*, I would like very well of it. To whom *Restalrig* answer'd, Content your self, I am at my Wit's-end.

And farther, *Sprot* deponeth, that he enter'd himself thereafter in Conference with *Bour*, and demanded what was done betwixt the Laird and the Earl of *Gowrie*. And *Bour* answer'd, that he believ'd that the Laird should get *Dirlton* without either Gold or Silver, but feared that it should be as dear unto him. And *Sprot* inquiring how that could be; *Bour* said they had another Pie in hand, nor the selling of any Land: but prayed *Sprot*, for God's sake, that he would let be, and not trouble himself with the Laird's Business; for he feared, within few days, the Laird would be either Land-less or Life-less.

And the said *George Sprot* being demanded if this his Deposition was true, as he would answer upon the Salvation and Condemnation of his Soul; and if he will go to death with it, seeing he knoweth the time and hour of his Death to approach very near; deponeth for Answer, That he hath not a Desire to live, and that he knows the Time to be short, having care of no earthly Thing, but only for clearing of his Conscience in the Truth of all

these Things, to his own Shame before the World, and to the Honour of God, and Safety of his own Soul; that all the former Points and Circumstances contained in this his Deposition, with the Deposition made by him the 5th Day of *July* last, and the whole remanent Depositions made by him sen that Day are true, which he will take on his Conscience, and as he hopeth to be saved of God, and that he would seal the same with his Blood.

And farther, being demanded where this above-written Letter, written by *Restalrig* to the Earl of *Gowrie*, which was return'd again by *James Bour*, is now; deponeth that he abstracted it quietly from *Bour*, in looking over and reading *Bour's* Letters, which he had in keeping of *Restalrig's*; and that he left the above-written Letter in his Chest among his Writings, when he was taken and brought away, and that it is closed and folded within a piece of Paper.

This aforesaid Deposition was made by him the tenth of *August* 1608, written by *James Primerose*, Clerk of his Majesty's Privy-Council, and subscribed with the said *George Sprot's* own Hand; in the Presence of

The Earl of <i>Dunbar</i> ,	Sir <i>Will. Hart</i> , his Majesty's Justice,
The Earl of <i>Lothiane</i> ,	Mr. <i>John Hall</i> ,
The Bishop of <i>Rosse</i> ,	Mr. <i>Patrick Galoway</i> ,
The Lord <i>Schune</i> ,	Mr. <i>Peter Hewart</i> , Ministers of the Kirks of
The Lord <i>Halyrudehouse</i> ,	<i>Edinburgh</i> .
The Lord <i>Blantyre</i> ,	

Subscribed with all their Hands.

And also the 11th Day of the aforesaid Month and Year, the said *George Sprot* being re-examin'd; in the Presence of a Number of the Council and Ministers aforesaid, and it being declar'd to him, that the time of his Death now very near approached, and that therefore they desir'd him to clear his Conscience with an upright declaration of the Truth; and that he would not abuse the holy Name of God, to make him, as it were, a Witness to Untruths; and especially being desired that he would not take upon him the innocent Blood of any Person dead or quick, by making and forging Lyes and Untruths against them:

Deponeth, that he acknowledgeth his grievous Offences to God (who hath made him a reasonable Creature) in abusing his holy Name with many Untruths, sen the beginning of this Process: but now being resolv'd to die, and attending the hour and time when it shall please God to call him, he deponeth with many Attestations, and as he wisheth to be participant of the Kingdom of Heaven, where he may be countable and answerable, upon the Salvation and Condemnation of his Soul, for all his Doings and Speeches in this Earth, that all that he hath deponed sen the fifth Day of *July* last, in all his several Depositions, were true in every Point and Circumstance of the same; and that there is no Untruth in any Point thereof.

And having desired Mr. *Patricke Galoway* to make a Prayer, whereby he might be comforted now in his Trouble; which was done:

The said Deponer, with many Tears after the Prayer, affirmed this his Deposition to be true; and for the Confirmation thereof, declared, that he would seal the same with his Blood.

* A House of *Restalrig's*.

And the next Day thereafter, being the 12th of the aforesaid Month of *August*, upon the aforesaid Confession, the said *George* was brought forth and presented in Judgment upon Panel, within the Tollbooth of *Edinburgh*, before Sir *William Hart* of *Preston*, his Majesty's Justice, and there in a fenced Court holden by him that Day, assisted by the honourable Persons following, his Assessors in that Errand: They are to say,

Alexander Earl of *Dumfermling*, Lord Chancellor,

George Earl of *Dunbar*, Treasurer,

John Archbishop of *Glasgow*,

David Bishop of *Rosse*,

Gawin Bishop of *Galloway*,

Andrew Bishop of *Brechin*,

David Earl of *Crawford*,

Mark Earl of *Lothiane*,

John Lord *Abirnetby* of *Saltoun*,

James Lord of *Balmerinob*, Secretary,

Walter Lord *Blantyre*,

John Lord *Halyrudhouse*,

Michael Lord *Burley*,

Sir *Richard* *Cokburne* of *Clarkintoun*, Knight,

Mr. *John* *Preston* of *Fenton Barnes*, Collector-General,

Sir *John* *Skeyne* of *Currbil*, Knight, Clerk of Register:)

was delated, accused, and pursued by Sir *Thomas Hamilton* of *Binning*, Knight, Advocate to our Sovereign Lord for his Highness's Entries, of the Crimes contained in his Indictment, produced by the said Advocate; whereof the Tenure followeth:

G *George Sprot*, Notary in *Ayemouth*, You are indicted and accused, forsomuch as *John*, sometime Earl of *Gowrie*, having most cruelly, detestably, and treasonably conspired in the Month of *July*, the Year of God 1600 Years, to murder our dear and most gracious Sovereign the King's most excellent Majesty: And having imparted that devilish Purpose to *Robert Logane* of *Restalrig*, who allowed of the same, and most willingly and readily undertook to be Partaker thereof: The same coming to your Knowledge at the times and in the manner particularly after specified, you most unnaturally, maliciously, and treasonably concealed the same, and was art and part thereof in manner following. In the first, in the said Month of *July* sixteen hundred Years, after you had perceiv'd and known, that divers Letters and Messages had past betwixt the said sometime Earl of *Gowrie*, and the said *Robert Logane* of *Restalrig*, you being in the House of *Fast-Castle*, you saw and read a Letter written by the said *Robert Logane* of *Restalrig*, with his own Hand, to the said *John* sometime Earl of *Gowrie*, of the Tenure following:

MY Lord, my most humble Duty and Service heartily remember'd. At the Receipt of your Lordship's Letter I am so comforted, that I can neither utter my Joy, nor find my self sufficiently able to requite your Lordship with due Thanks. And persuade your Lordship in that Matter, I shall be as forward for your Lordship's Honour, as if it were mine own Cause. And I think there is no living Christian that would not be content to revenge that *Machiavellian* massacring of our dear Friends, yea, howbeit it should be, to venture and hazard Life, Lands and all other thing else. My

Heart can bind me to take part in that Matter, as your Lordship shall find better Proof thereof. But one thing would be done: namely, That your Lordship should be circumspect and earnest with your Brother, that he be not rash in any Speeches touching the Purpose of *Padua*.

And a certain Space after the execution of the aforesaid Treason, the said *Robert Logane* of *Restalrig*, having desired the Laird of *Bour* to deliver to him the aforesaid Letter, or else to burn it; and *Bour* having given to you all Tickets and Letters, which he then had either concerning *Restalrig*, or others; to see the same, because he could not read himself, you abstracted the above-written Letter, and retained the same in your own hands, and divers times read it, conteining farther in substance nor is formerly set down, according to the words following:

My Lord, you may easily understand, that such a Purpose as your Lordship intendeth, cannot be done rashly, but with Deliberation. And I think for my self, that it were most meet to have the Men your Lordship spake of, ready in a Boat or Bark, and address them as if they were taking Pastime on the Sea, in such fair Summer time. And if your Lordship could think good, either your self to come to my House of *Fast-Castle* by Sea, or to send your Brother, I should have the Place very quiet, and well provided after your Lordship's Advertisement, where we should have no scant of the best Venison can be had in *England*. And no others should have access to haunt the Place during your Lordship's being here, but all things very quiet. And if your Lordship doubt of safe landing, I shall provide all such Necessaries as may serve for your Lordship's Arrival, within a Flight-shot of the House. And persuade your Lordship you shall be as sure and quiet here, while we have setted our Plot, as if you were in your own Chamber: for I trust, and am assured, we shall have word within few Days from them your Lordship knoweth of; for I have care to see what Ships comes home by. Your Lordship knoweth I have kept the Lord *Botwell* quietly in this House in his greatest Extremity, say both King and Council what they liked. I hope (if all things come to pass, as I trust they shall) to have both your Lordship and his Lordship at one good Dinner afore I die. *Hæc jocosè*, to animate your Lordship: I doubt not my Lord but all things shall be well. And I am resolved, whereof your Lordship shall not doubt, of any thing on my part, yea, to peril Life, Land, Honour and Goods; yea, the Hazard of Hell shall not affray me from that, yea, altho' the Scaffold were already set up. The sooner the Matter were done, it were the better; for the King's Buck-hunting will be shortly; and I hope it shall prepare some dainty Cheer for us to dine against the next Year. I remember well, my Lord, and I will never forget, so long as I live, that merry Sport which your Lordship's Brother told me of a Nobleman at *Padua*: for I think that a *Parasceve* to this Purpose. My Lord, think nothing that I commit the Secrecy hereof and Credit to this Bearer; for I dare not only venture my Life, Lands, and all other things I have else, on his Credit, but I durst hazard my Soul in his keeping, if it were possible in earthly Men; for I am so persuaded of his Truth and Fidelity. And I trow (as your Lordship may ask him if it be true) he would go to Hell-gates for

for me; and he is not beguiled of my Part to him. And therefore, I doubt not but this will persuade your Lordship to give him Trust in this Matter, as to my self. But I pray your Lordship direct him home with all possible haste, and give him strait Command, that he take not a Wink sleep, while he see me again, after he come from your Lordship. And as your Lordship desireth in your Letter to me, either rive or burn, or else send back again with the Bearer; for so is the Fashion, I grant.

Which Letter written every word with the said *Robert Logane* his own Hand, was subscribed by him after his accustomed manner, with this Word, *Restalrig*.

And albeit by the Contents of the aforesaid Letter, you knew perfectly the Truth of the said most treasonable Conspiracy, and the said *Robert Logane* of *Restalrig*, his Foreknowledge, Allowance, and Guiltiness thereof; like as you were assured of the same by his receiving of divers Letters sent by *Gowrie* to him, and by his sending Letters to *Gowrie* for the same Purpose, and by sundry Conferences betwixt the said *Robert Logane* of *Restalrig*, and the said *James Bour*, in your Presence and Hearing concerning the said Treason, as well in the said Month of *July* immediately preceding the attempting of the said Treason, as at divers other times shortly thereafter, as likewise by the revealing thereof to you by the said *James Bour*, who was upon the Knowledge and Device of the said Treason, and was employed as ordinary Messenger by the said *Robert Logane* of *Restalrig*, to the said sometime Earl of *Gowrie*, in the Traffick of the said damnable Treason, whereby your Knowledge, Concealing and Guiltiness of the said Treason was undeniable: yet, for further Manifestation thereof, about *July* 1602 Years, the said *Robert Logane* of *Restalrig* shewed to you that *Bour* had told him, that he had been somewhat rash to let you see a Letter which came from the Earl of *Gowrie* to the said *Robert Logane* of *Restalrig*, who then urged you to tell what you understood by that Letter. To whom you answer'd, That you took the meaning of it to be, that he had been upon the Counsel and Purpose of *Gowrie's* Conspiracy. And he answer'd you, whatever he had done, the worst was his own: But if you would swear to him, that you should never reveal any thing of that Matter to any Person, he should be the best Sight that ever you saw; and in token of farther Recompense he then gave you twelve pound of Silver. Nevertheless, albeit you knew perfectly the whole Practices and Progress of the said Treason, from the beginning thereof as said is, as well by the sight of the said Letters, as also by your Conferences with the said *James Bour*, called *Laird Bour*, and *Robert Logane* of *Restalrig*; yet during all the days of their Life-times, who lived till the Year of God 1606 Years, or thereby, and so by the space of six Years after that, you knew the guiltiness of the treasonable Conspiracy aforesaid, you most treasonably concealed the same; and so you was and is art and part of the said most heinous, detestable and treasonable Conspiracy, and of the Knowledge and Concealing thereof; and therefore you ought and should incur, underlie and suffer the Sentence and Pain of High-Treason. To the Token, that ye have not only by your Depositions subscribed with your Hand, and solemnly made in Presence of many of the Lords of his Majesty's Council, and of the Ministers of the Borough of *Edin-*

burgh, of the Dates, the 5th, 15th and 16th days of *July* last by-past, and 10th and 11th days of *August* Instant, confessed every Head, Point, and Article of the Indictment above written, but also by divers other your Depositions subscribed likewise with your Hand, you have ratify'd the same; and sworn constantly to abide thereat, and to seal the same with your Blood, which you cannot deny.

Which Indictment being read openly in Judgment to the said *George Sprot*, before he was put to the Knowledge of an Inquest, he confessed in the Presence of the said Lord Justice and whole Assessors above-named, the same and every Point thereof to be true and of Verity. And therefore the Justice ordained the same Indictment to be put to the Knowledge of a condign Inquest of the honest, famous and discreet Persons under-written. They are to say:

William Trumbill of *Ardre*.

William Fisher, Merchant, Burgess of *Edinburgh*.

Robert Stuart, there.

Edward Johnston, Merchant, Burgess there.

Harbert Maxwell of *Cavens*.

James Tennent of *Linhouse*.

William Trumbill, Burgess of *Edinburgh*.

George Brown in *Gorgymill*.

John Hucheson, Merchant, Burgess of *Edinburgh*.

John Leyis, Merchant, Burgess there.

James Somervell, Merchant, Burgess there.

William Simintoun, Burgess there.

John Cunnison in *Dirlton*.

Tho. Smith, Merchant, Burgess of *Edinburgh*.

And *John Cowtis*, Burgess there.

Which Persons of Inquest being chosen, sworn and admitted, after the Accusation of the said *George Sprot*, before them of the said treasonable, heinous, and detestable Crimes contained in the Indictment aforesaid, and reading of the said Indictment of new again in his and their Presence; the said *George Sprot* of new confessed in the Audience of the said Inquest the aforesaid Indictment and every Point thereof to be true and of Verity. Whereupon the said Sir *Thomas Hamilton* of *Binning* Knight, his Majesty's Advocate, as before, asked Act and Instrument: And in respect thereof protested, in case the said Inquest cleansed him of the said Crimes for wilful and manifest Error. And therefore the whole fornam'd Persons of Inquest remov'd all together forth of Court to the Inquest House, where they being inclosed, by Plurality of Votes elected and made choice of the said *Harbert Maxwell* of *Cavens* to be Chancellor, or Foreman. And having with great Deliberation gravely consider'd the Effect and whole Circumstances of the said Indictment, and constant judicial Confession made by the Party pannelled, as well before the said Lord Justice and his Assessors, as thereafter in Presence of the Inquest themselves, they all voted upon the whole Effect of the said Indictment. And being ripely and well advised therewith, re-enter'd again in Court, where they all in one Voice by the Mouth of the said Chancellor or Foreman, found, pronounced, and declar'd the said *George Sprot* (according to his own Confession judicially made in their Presence and Audience) to be guilty, culpable, filed and convict of art and part of the said most heinous, detestable and treasonable Conspiracy contained in his Indictment above-written, and of the Knowledge and Concealing thereof. For the which Cause the said Justice, by the Mouth of the Dempster of Court, by his Sentence and Doom decerned and ordained the said *George Sprot* to be taken to the Market Cross of

Edinburgh, and there to be hanged upon a Gibbet till he be dead, and thereafter his Head to be stricken from his Body, and his Body to be quartered and demeaned as a Traitor, and his Head to be affixed and set up upon a Prick of Iron upon the highest part of the Tollbooth of *Edinburgh*, where the Traitor *Gowrie*, and others of the Conspirators Heads stand; and his whole Lands, Heritages, Tacks, Stedings, Rooms, Possessions, Goods and Geere to be forfeited and eschet to our Sovereign Lord his use, for his treasonable and detestable Crimes above specify'd. Which was pronounc'd for Doom.

Extractum de libro Actorum Adiornalis S. D. N. Regis per me D. Johannem Cobburne de Ormestoun militem, Clericum Justitiarie ejusdem generalis. Sub meis signo & subscriptione manualibus.

The Doom being pronounced, the said *George* was convoyed to a privy House, where he remain'd at his secret Meditation, and afterwards in Conference with the Ministers and others, unto the time all things was provided necessary for his Execution: and being brought to the Place where he was to die, he in publick Audience of the whole People, at the three sides of the Scaffold, ratify'd the former Depositions made by him concerning the treasonable Practices intended and devised betwixt *Gowrie* and *Restalrig*, for the murdering of our most gracious Sovereign, and bereaving his Highness of his Life, and his own Knowledge, and concealing of their Guiltiness. For the which he humbly craved God and his Majesty Forgiveness, being most sorry and grieved that he had offended God and the King's Majesty in concealing such a vile, detestable and unnatural Treason, enterprized by them against his gracious Sovereign, who hath been ever so good and gracious to his Subjects; protesting that if he had a thousand Lives to render, and were able to suffer ten thousand Deaths, it were not a sufficient Satisfaction and Recompense for his Offence. And that God had preserved him from many great Perils, when his Life was in extreme Danger, to bring him to this publick Declaration of that detestable and horrible Fact, in Presence of all the People, uttered by him in these words following: *To my own Shame, and to the Shame of the Devil, but to the Glory of God.* And for Satisfaction of the Consciences of all those that have or can make any doubt of the Truth of this so clear a Matter, he acknowledged that his haunting with *Restalrig*, who was a Man without Religion, and subject to many other Vices, as also his continual being in Company with the Laird of *Bour*, who likewise was irreligious and without fear of God, and his being ingyred by them into their Matters after his first sight of *Restalrig's* Letter written by him to *Gowrie*, brought him from one Sin to another, and consequently upon this grievous Crime, for the which most justly, worthily and willingly, he is now to render his Life. And thereupon he desired all the People there present to beware of evil Company, and namely of the Society of those who are void of Religion; saying to them, That this was the most glorious Day that ever his Eyes did see. In the midst almost of these Speeches, he had prostrate himself, and fell upon his Knees in Presence of the whole People, making a very pithy Prayer, in the Form following.

‘ O Father, how shall I call Thee Father, that
‘ am so unworthy to be called thy Son? I

‘ have wandered astray like a Lost-Sheep, and thou
‘ of thy Mercy hast brought me home unto Thee,
‘ and hast preserv'd my Life from many Dangers
‘ until this Day, that I might reveal these hidden
‘ and secret Mysteries to mine own Shame, and
‘ thy Glory. Thou hast promised, that whenso-
‘ ever a Sinner from his Heart will repent and call
‘ to Thee, that thou wilt hear him, and grant him
‘ Mercy.’

And thus he continued a good Space in a most fervent Prayer, to the great Admiration of all the Standers-by. And having ended the same, one of the Ministers prayed again, and the Prisoner joined with him, *That God would forgive his Sins, and receive his Soul to Mercy.* After which, *Sprot* standing up made divers Requests: First, that what he had deliver'd by his Confession on the Scaffold, might be put into his Process, that the World might take notice of it. Secondly, that such as were present (as they might have Opportunity) would be Suiters unto the King, that his Majesty would forgive him this Offence; for the which, he said, *He craved Pardon of God, of his Sovereign, and the World.* And thirdly, he desired those of the Ministry which were present, that wheresoever they came they would proclaim in the Pulpit his Confession of his Crime, his Sorrow for the same, and his full Hope that God would pardon him. And to the end that this might be perform'd, he took the Hands of such Ministers as stood near about him, so binding a Promise on them. And here, being told by the said Ministers and other Persons of Quality, that being so near his Departure out of the World, it concerned him to speak nothing but the Truth, and that upon the Peril of his Soul: he answer'd, That to the end they should know, that he had spoken nothing but the Verity, and that his Confession was true in every respect, he would (at the last Gasp) give them some apparent Token for the Confirmation of the same. Then fitting himself to the Ladder, the Executioner cometh to him, and, as the manner is, asking Forgiveness of him; *With all my Heart*, saith he, *for you do but your Office, and it is the thing I desire; because suffering in my Body, I shall in my Soul be joined to my Saviour.*

Afterward ganging up the Ladder with his Hands loose and untied, being on the upper Part thereof, he desired Liberty to sing the sixth Psalm, and requested the People to accompany him in the singing thereof. Which being granted, he took up the Psalm himself with a very loud and strong Voice, far by his accustomed Form, being before his coming to the Scaffold a weak spirited Man, of feeble Voice and Utterance; and was assisted with the Number of a Thousand Persons at the least, who accompany'd him in singing that Psalm. After the ending whereof he again openly repeated and ratified his said former Confession: and with that, recommending his Soul to God, he fastened a Cloth about his own Eyes, and was cast over the Ladder, so ending this mortal Life.

Before his last Breath, when he had hung a pretty Space, he lift up his Hands a good height, and clapped them together aloud, three several times, to the great Wonder and Admiration of all the Beholders. And very soon thereafter he yielded his Spirit.



XXII. Proceedings between the Lady Frances Howard, Countess of Essex, and Robert Earl of Essex her Husband, before the King's Delegates, in a Cause of Divorce, 1613. II Jac. I. *

UPON the Petition of *Frances* Countess of *Essex*, complaining that the Earl her Husband was incapable of consummating their Marriage, and praying a Commission to examine, if her Complaint was well founded; the King granted her Request, and appointed the following Persons Commissioners;

<i>George</i> Archbishop of <i>Canterbury</i> ,	<i>Sir Julius Cæsar</i> , LL.D.
<i>John</i> Bishop of <i>London</i> ,	<i>Sir Thomas Parry</i> , LL.D.
<i>Lancelot</i> Bishop of <i>Ely</i> ,	<i>Sir Daniel Donne</i> , LL.D.
<i>Richard</i> Bishop of <i>Litchfield</i> and <i>Coventry</i> ,	<i>Sir John Bennet</i> , LL.D.
<i>John</i> Bishop of <i>Rockester</i> ,	<i>Dr. Francis James</i> ,
	and
	<i>Dr. Thomas Edwards</i> .

The Libel contain'd the following Allegations.

I. That she, at the time of the Marriage, was thirteen years old, and is at this time twenty two or twenty three.

II. That she and *Robert* Earl of *Essex* were marry'd by publick Rites and Ceremonies of the Church in *January* 1603.

III. That the aforesaid *Robert*, at the time of the pretended Marriage, was about fourteen, and is about twenty two or twenty three at this time; and ever since, and at this present, is a Man (as far forth as a Man may judge) and hath been in good Health, and perfect Estate of Body, nor any way hinder'd by any Ague or Sickness, but that he might have carnal Copulation with a Woman.

IV. That since the pretended Marriage, at least by the space of whole and continue three years after the said *Robert* had fully attained the Age of eighteen Years, as Time and Place did serve, after the fashion of other married Folks, the said *Frances Howard* in hope of lawful Issue, and desirous to be made a Mother, liv'd together with the said *Robert*, at bed and board, and lay both naked and alone in the same Bed, as married Folks use: And desirous to be made a Mother, from time to time, again and again yielded her self to his power, and as much as lay in her, offer'd her self and her Body to be known; and earnestly desired Conjunction and Copulation.

V. And also the said Earl, in the same time very often, again and again, did try to have Copulation, as with his lawful Wife, which she refus'd not, but used the best means she could: notwithstanding all this, the said Earl could never carnally know her, nor have that Copulation in any sort which the married Bed alloweth.

VI. Yet before the said pretended Marriage, and since, the said Earl hath had, and hath Power and

Ability of Body to deal with other Women, and to know them carnally, and sometimes have felt the Motion and Pricks of the Flesh carnally, and tending to carnal Copulation, as he saith and believeth; and peradventure, by a perpetual and natural Impediment, hath been hindered all the former time, and is at this present, that he can have no Copulation with the said Lady *Frances*.

VII. Furthermore, the said Lady *Frances* hath been, and is fit and able to have Copulation with a Man, and such a one as may be carnally known; neither hath in this regard any Impediment.

VIII. Moreover, the said Lady *Frances* remaineth, and is at this present, a Virgin. Also at the time of the pretended Marriage, the said Lady *Frances* was unacquainted with the Earl's want of Ability and Impediment, formerly mention'd.

IX. And furthermore the said Earl, long before this Suit commenced, hath very often, and at sundry times confessed in good earnest, before Witnesses of good Credit, and his Friends and Kinsfolks, that altho' he did his best Endeavour, yet he never could, nor at this time can, have Copulation with the said Lady *Frances*, no not once.

X. And lastly, in regard of womanish Modesty, the Lady *Frances* hath conceal'd all the former Matters, and had a Purpose ever to conceal them, if she had not been forced, thro' false Rumours of Disobedience to the said Earl, to reveal them.

She requireth, since this pretended Matrimony is but a Fact, and not in Right, it may be pronounced, declared, and adjudged as none, and of none effect; and she may be quiet and free from all Knots and Bonds of the same, by your Sentence and Authority.

The Earl of Essex put in his Answer the 5th of July, 1614.

The first and second he answereth affirmatively.

To the third, he thinketh that at the Time of his Marriage, he was full fourteen Years, and is now twenty two and upwards; neither since hath had, or hath any Sickness or Impediment to hinder him, but that he might have had Copulation with a Woman, saving in the time of his Sickness of the Small-Pox, for two or three Years after his Marriage, which continued for a Month or six Weeks, and at another time, when he had a few Fits of an Ague.

To the fourth, he affirmeth, that for one Year he divers times attempted; that the two other Years, when he was willing, she shewed herself sometimes willing, but other times refused, and he

* Complete Hist. of England, Vol. III. pag. 686, 692. Edit. 1706. Bacon's Works, Vol. I. pag. 78.

lay in Bed most commonly with her, but felt no Motions or Provocations.

To the fifth, he answereth, that he never carnally knew her, but found not any defect in himself, yet was not able to penetrate into her Womb, nor enjoy her.

To the sixth, he believeth, that before and after the Marriage, he hath found an Ability of Body to know any other Woman, and hath oftentimes felt Motions and Provocations of the Flesh, tending to carnal Copulation; but for perpetual and natural Impediments, he knoweth not what the Words mean; but that he hath lain by the Lady *Frances* two or three Years last past, and had no Motion to know her, and he believes never shall.

To the seventh, he believeth not that the said Lady *Frances* is a Woman able and fit for carnal Copulation, because he hath not found it.

To the eighth and ninth, he believeth them both to be true, and thinketh that once before some Witnesses of Credit, he did speak to this purpose, *That he oftentimes had endeavoured carnally to know her, but that he did not, nor could not.*

Doubts conceived out of the Façt and Procefs in the Suit between the Lady Frances Howard, and the Earl of Essex.

1. Whether the Libel be defective, especially in the fourth Article, where it is said, that *Dominus Comes Essex pluribus & iteratis vicibus* (which may be verified and satisfied in two or three times) *dictam dominam Franciscam ejus uxorem prætenfam cognoscere tentavit, &c.*

2. Whether the Answer of my Lord of *Essex* to the said fourth Article in that behalf, being but thus, *That he did divers times attempt, &c.* be full, certain and sufficient.

3. Whether in this case my Lord of *Essex* his Oath (*cum 7 manu propinquorum*) be not by Law requisite, as well as my Lady's.

4. Whether my Lord of *Essex* would be inspected by Physicians, to certify (so far as they can by Art) the true Cause and Nature of the Impediment.

5. Whether by triennial Cohabitation, there having been no carnal Copulation between them (*Impedimentum maleficii* being accidental) *præsumatur præcessisse vel potius subsequutum fuisse matrimonium contractum & solemnizatum.*

6. Whether they ought *post præceptum Judicis* (notwithstanding their triennial Cohabitation before the Suit began) to cohabit together, *saltem per aliquod temporis spatium arbitrio Judicis moderandum,* for further Trial, &c.

DEPOSITIONS taken in the Case of the Earl of Essex, and the Lady Howard.

The Oath taken by the Lady Frances Howard.

THAT since the Earl of *Essex* was eighteen Years of Age, he and I have for the space of three Years diverse and sundry times lain together in naked Bed all Night. And at sundry of the said times the said Earl hath purposely endeavoured and attempted to consummate Marriage with me, and to have carnal Copulation with me for Procreation of Children: And I have at such times, as the said Earl hath attempted so to do, yielded myself willing to the same Purpose. All

which notwithstanding, I say and affirm upon my Oath, that the said Earl never had carnal Copulation with me,

Frances Howard.

Interrogatories administred to all Witnesses (excepting the Earl and Countess of Suffolk) produced, and examined on behalf of the Earl of Essex, and who had been produced against him on the part of the Lady Frances Howard, in a Suit brought by the said Lady against the Earl of Essex, for the Nullity of a pretended Marriage.

1. Let each Witness be interrogated, as to his Age, Birth, Condition and Place of Abode; and where he has chiefly resided for ten Years last past; and how long he has known the Parties contesting.

2. Whether he is a Relation or Kinsman of the Party on whose Behalf he is produced; and if so, in what degree of Consanguinity.

3. Which of the Parties, Plaintiff or Defendant, he most favours; with which of them he is most conversant, and to which he would confer the Better-of-the-day, if in his Power.

4. Whether he has communicated to any body, or any body has conferred with him concerning the Nature and Substance of his Deposition in this Cause: And if he answer in the Affirmative, then let him declare with whom he so conferred and what the Discourse that passed between them.

5. Whether he came of his own Accord, or by Compulsion, to give his Testimony in this Cause.

6. Let him depose what he knows of the Contents in the 4th Article of the Libel put in, in this Cause; or any Part thereof: And in what Month and Year the Earl of *Essex* attained to the full Age of eighteen Years; and in what Place and Places the Earl and the Plaintiff for the whole space of three Years after such time, had Society of Bed and Board, cohabited and lay together; and for how long together in each distinct Place.

7. Let him likewise depose what he can say to the Contents in the sixth Article of the aforesaid Libel; and whether he knows what perpetual and incurable Impediment the Earl did and does labour under; and let him express the Nature and Quality thereof, and when he knew it; and let him give the Causes of such his Knowledge in every Circumstance.

8. Let him depose likewise what he can say to the Contents in the 10th Article of the said Libel: And of the Time and Place, and how often and before whom the Earl confessed and acknowledged as in the said Article is contained and specified.

Depositions, upon the Articles of the Libel put in by the Lady Frances Howard, taken June 2, 1613.

Katherine Fines, Daughter of *Thomas Lord Clinton*, aged about 18 Years, deposeth, that she hath known the Lady *Frances* for about a Year and a half, and the Lord *Essex* for above a Year.

To the 1st, 2d, and 3d Article, cannot depose.

To the 4th Art. says, That from *Midsummer* last to *All-hollantide*, the Earl of *Essex* and Lady *Frances* remained and kept Company together as Man and Wife; first in the Countess of *Leicester's* House at *Drayton* in *Warwickshire*; and after at the Earl's own House at *Chartley* in *Staffordshire*: And that for two of the Nights they lodged at *Drayton*, being on a *Sunday* at Night and on a *Monday* at Night, they to her Knowledge lay together

gether in one Chamber; she seeing the Earl go into the said Chamber undress'd and ready for Bed; and she verily believes they did lie together in the same Bed those two Nights, for that she knows there was but one Bed in the said Chamber. That before *Christmas* last the said Lady *Frances* lying at *Salisbury-House* in the *Strand*, the Earl came thither and went into the Chamber where Lady *Frances* was in Bed, and went to Bed to her, and there was no other Bed in that Chamber; and this Deponent heard the Earl and Lady *Frances* talking together a good part of that Night.

Her Depositions to the Interrogatories administred for the other Side.

To the 1st Art. Speaks as to her Birth and Abode.

2d Art. That she is Cousin-German to the Lady *Frances*.

3d Art. That as to this Cause she favours the Parties equally; that her Conversation is most with the Plaintiff; and that if it were in her Power, she would give the Decision according to Right.

4th Art. Answers in the Negative.

5th Art. That she was not compelled, but was made acquainted by some that she should be used as a Witness in this Cause, and had Notice given her when she should come.

The Deposition of Elizabeth Raye, the Daughter of William Raye, of Woodstock in Oxfordshire, Gent. taken to the Libel: Aged above 20 Years.

That she has known the Lady *Frances* for above two Years; and the Earl of *Essex* for the same time.

To the 4th Art. That she served the Lady *Frances* for above twelve Months, and that shortly after she came to serve her, my Lady went to my Lord *Knowles's* House at *Carwsem* in *Oxfordshire*, where she staid about a Fortnight, and the Lord *Essex* came thither to her, and laid in naked Bed with the said Lady *Frances* divers Nights, as this Deponent hath heard them report that attended the Lady in her Chamber: That the Deponent herself at *Drayton* attending the said Lady in her Chamber, did see them in naked Bed together as Man and Wife for divers Nights; as they did likewise afterwards at *Chartley*, for above a Quarter of a Year, and at *Michaelmas* after that, at *Durham-House* at *London*.

Her Examination to the Interrogatories on the other Side.

To the 1st Art. Speaks as to her Abode at distinct Times.

2d Art. Answers in the Negative.

3d Art. That she favours both Parties equally; converses with neither of them; and if in her Power, would have Right take place.

4th Art. Answers Negatively.

5th Art. That she was requested to come to testify in this Cause, but was not compelled by any Process.

6th Art. Hath heard it reported that the Earl of *Essex* was 22 Years old in *January* last.

7th and 8th Art. No wise concern this Deponent.

The Deposition of Frances Britten, Widow, taken to the Libel.

That she is aged about 55 Years, and hath known both the Parties respectively from their Infancy.

To the 4th Art. That the Deponent having oftentimes occasion of Business with the Lady *Frances*, hath come to her since her Marriage to the Earl, and hath seen the Earl and she dine and sup together as Man and Wife: That between *Michaelmas* and *All-hollantide* was three Years, this Deponent coming to Lady *Frances's* Lodging at *Hampton-Court* early in the Morning, she was brought into the Bed-Chamber, where she did see them in naked Bed together; as likewise she did at Lady *Frances's* Lodging at *Whitehall*: That perceiving them in Bed together, this Deponent stept back, but the Lady *Katherine Howard* her Sister being there, called the Deponent in, and then Lady *Frances* stept out of her Bed and left the Earl there: That this was on *St. Valentine's-day*, for that Lady *Katherine* told the Earl, that there was a Valentine for him. Cannot depose further, saving that when this Deponent was at *Hampton-Court*, as is before mentioned, after the Earl and Lady *Frances* were risen, the Lady missing a Pendant Ruby that usually hung at the Ring in her Ear, desired this Deponent to look for it in the Bed. That thereupon she and the Lady's Chamber-maid turned down the Bed-cloaths, and there they saw the Places where the Earl and Lady had lain, but that there was such a Distance between the two Places, and such a Hill between them, that this Deponent is persuaded they did not touch one another that Night.

Her Examination on the other Side.

To the 1st Art. Hath already spoken.

2d Art. Answers Negatively.

3d Art. That she favours both Parties equally, converses most with the Plaintiff, but would have Right take place in the Decision of the Cause, if in her Power.

4th Art. Speaks Negatively.

5th Art. Came at the Request of Lady *Frances*, but no ways compelled.

6th Art. Refers herself to her former Deposition.

7th and 8th Art. Do not concern her to answer.

The Deposition of Catherine Dandenell, one of the Lady Frances's domestick Servants; aged about 16 years.

Hath known the Lady *Frances* about four Years, and the Earl for about three.

To the 4th Art. That about this time three Years, Lady *Frances* went to the Lord Chamberlain, her Father's, at *Awdley-end* in *Essex*, and remained there all that Summer, whither the Earl came to her and staid sometimes a Week, sometimes a Fortnight, and they conversed together as Man and Wife, and lay together many Nights to this Deponent's knowledge, who hath seen them so over Night, and hath found them together in naked Bed in the Morning. As she likewise hath, at the Earl's House at *Chartley*; and at the Lady *Walsingham's* at the *Tilt-yard*; and the Countess

of *Leicester's* at *Drayton*; and at *Salisbury-house*, and *Durham-house*.

Her Examination to the Interrogatories on the other Side.

To the 1st Art. Hath already spoke.

2d Art. Answers Negatively.

3d Art. Most favoureth the *Lady Frances*, and is most in her Company, and wisheth the Victory to go where the Right is.

4th Art. Answers Negatively.

5th Art. That she comes at the Plaintiff's Request, no ways compelled.

6th Art. Refers herself to her former Deposition.

7th and 8th Art. Do not concern her to answer.

The Deposition of Anne Jaconim, one of the domestick Servants of Lady Frances; aged about 24 years.

Hath known the Parties in difference between three and four Years.

To the 4th Art. That for all such Time she hath attended on *Lady Frances* as her Chamber-Maid, and that all along until within these twelve Months last, the Earl hath cohabited at Bed and Board with the said *Lady Frances*, at *White-hall*, *Chartley*, *Tilt-yard*, and other Places: Hath often seen them lie together naked in one and the same Bed, and at *Salisbury-house* in the *Strand*, since *Christmas* last.

In her Examination on the opposite Side, deposeth as the last Witness did.

The Deposition of Thomas Bamforde, Yeoman; aged about 40 years.

Hath known the *Lady Frances* by sight about five Years, and the Earl by sight about three Years.

To the 1st, 2d and 3d Art. Cannot depose.

4th Art. Deposeth, That in 1611, about the latter end of the Summer, the Earl of *Essex* and *Lady Frances* were at the *Lady Corbett's* House in *Derbyshire*, whom the Deponent then did and still doth serve; that they continued there about a Week, and dined or supped together in the said House, and lay together in one and the same naked Bed, as it was commonly thought amongst the Servants of the said House.

His Examination on the other Side.

To the first Art. Hath already spoken.

2d Art. Answers Negatively.

3d Art. That he favours both Sides equally, converses with neither, and wisheth the Victory in this Suit may go according as the Equity of the Cause requireth.

4th Art. Answers Negatively.

5th Art. Came on Request of *Lady Frances*, no ways compelled.

6th Art. Refers himself to his former Deposition.

7th and 8th Art. Not concerned to answer.

The Deposition of George Powell, Gent. aged about 36 Years.

Hath known the Parties in difference about three Years.

To the 1st, 2d and 3d Art. Cannot depose.

4th Art. Says, That he served the Earl and *Lady Frances* from *May* 1609, to this time, and still doth attend on *Lady Frances*. During all which time they did cohabit and keep Company together as Man and Wife, sometimes at *White-hall*, *Greenwich*, and in their Progress attending the King and Queen, at *Kensington*, all the Summer 1611, at *Chartley*, at *Durham-house*, *Acwley-end*, and other Places. That their Cohabitation together continued till the end of the Year 1612, and that it was commonly reported amongst the Servants of the House, that they did lie together in one and the same naked Bed. That this Deponent hath from time to time seen their Servants put them to Bed together; and that he hath come to their Chamber to know their Commands, and it was told him they were in Bed together. That in *June* or *July* 1609, this Deponent being called into their Lodging-Chamber at *Greenwich*, in a Morning, saw them in naked Bed together.

His Examination on the other Side.

To the 1st Art. Hath spoken already.

2d Art. Answers Negatively.

3d Art. Favours both Parties equally, is most conversant with *Lady Frances*, his Employment being to wait on her, and wisheth that Right may take place.

4th Art. Answers Negatively.

5th Art. Comes on Request of *Lady Frances* to give his Testimony, and no ways compelled thereto.

6th Art. Refers to his former Deposition.

7th and 8th Art. Concern not this Deponent to answer.

The Deposition of William Power, of London Merchant; aged near 60 Years.

Hath known *Lady Frances* about ten Years, and the Earl of *Essex* for about seven.

To the 1st Art. Says, The Earl and *Lady Frances* were in *Christmas* time, either seven Years since last *Christmas*, or seven come *Christmas* again, to his knowledge married together in the Chapel at *White-hall*, for that this Deponent was present at the Marriage.

2d and 3d Art. Cannot depose any thing certainly.

4th Art. Says, That this time two Years they cohabited as Man and Wife, and kept House together at the Earl's House at *Chartley*. That this Deponent was there about four Months, and hath divers times been in their Lodging-Chamber in a Morning, and hath seen them in naked Bed together.

His Examination on the other Side.

To the 1st Art. Hath already spoken.

2d Art. Answers Negatively.

3d Art. Favoureth both the Parties in this Suit alike, is most in the Plaintiff's Company: And wisheth they were come to an Agreement.

4th Art. Answers Negatively.

5th Art. That he came on no Compulsion, but was requested by Sir *William Button*, on Behalf of the *Lady Frances*.

6th Art. Refers himself to his Depositions made to the 4th Art of the Libel.

7th and 8th Art. Not concerned to answer the same.

The Deposition of Benjamin Orwell, one of the domestick Servants of the Lady Frances; aged above 17 Years.

Hath known the Parties in difference for seven Years.

To the 1st, 2d and 3d Art. Cannot depose.

4th Art. Saith, That for these two Years last past, the Deponent hath continually attended on Lady Frances at Kensington, Chartley, the Lady Corbett's, Countess of Leicester's, Lord Knowles's, and in all those Places the Earl and Lady Frances cohabited together as Man and Wife, and, as it was said by their Attendants, did commonly lie together in the same Bed naked. Hath seen the Earl come out of the Lady's Lodging-Chamber in his Pantables, having nothing on him but his Shirt: And verily believes he at such times came out of Bed from the said Lady Frances.

His Examination on the other Side.

To the 1st Art. Hath spoken already.

2d Art. Answers Negatively.

3d Art. That touching this Suit he favoureth the Parties alike, is most in Company with the Plaintiff; and if it were in him he would bestow the Victory where the most Right is.

4th Art. Answers Negatively.

5th Art. Answers, He was desired by Sir William Button, on the Plaintiff's Behalf, to come and testify in this Cause, and is not compelled.

6th Art. Refers to his former Deposition.

7th and 8th Art. Not concern'd to answer.

The Deposition of the Right Honourable Thomas Earl of Suffolk, Lord High Chamberlain of the Household, taken the 10th of June 1613; aged about 57 years.

To 1st Art. Says, It is true, for he was present at the Solemnization of the pretended Marriage.

2d Art. That Lady Frances was above thirteen Years of Age at the Time of the said Marriage, and is now above 22 Years old.

3d Art. That at the time of the Marriage the Earl was above 14 Years of Age, as the Deponent hath heard his Friends, who were likely to know his Age, report; and is now above 22 Years old. That to that Time and since the Earl was, in the Judgment of Men, of good Health and Strength of Body, except at two several Times, when he was sick of the Small-pox and an Ague; and was likely to be able to have the carnal Knowledge of a Woman, for any thing this Deponent could judge.

4th Art. Knows that after the Earl was come to the Age of 18 Years, he and Lady Frances kept Company, and lay together as Man and Wife, for three whole Years: Hath seen them in Bed together sometimes.

5th and 6th Art. That notwithstanding the Premises, the Earl never had any carnal Knowledge of Lady Frances, nor never could, as the Earl hath confessed to the Deponent.

7th, 8th and 9th Art. Believes these Articles to be true.

10th Art. That the Earl, in this Deponent's hearing, confessed divers times, in several Companies, that he hath done his Endeavour to have carnal Knowledge of Lady Frances, and yet never could.

11th Art. Believes this Article to be true.

12th, 13th, 14th and 15th Art. Refers himself to the Register of the Court of Delegates.

16th Art. Says his above Depositions are true.

The Deposition of the Right Honourable Katherine Countess of Suffolk; aged about 47 years.

To 1st, 2d, 3d Art. Deposes they are true.

4th, 5th, 6th, 7th Art. Believes to be true.

8th Art. Deposes to be true of her knowledge.

9th Art. Believes to be true.

10th Art. Hath heard it reported, and believes it to be true.

11th Art. Believes the same to be true.

4th Art. &c. Concludes as the Earl of Suffolk.

The Lord Archbishop of Canterbury's Reasons against the Nullity.

Inasmuch as we firmly believe, that the Scripture doth directly, or by consequence, contain in it sufficient matter to decide all Controversies, especially in things appertaining to the Church, as that Marriage among Christians can be no less accounted than a sacred Thing, as being instituted by God himself in Paradise, honoured by the Presence of our Saviour himself, declared by St. Paul to be a Sign of the spiritual Conjunctions between Christ and the Church:

I would be glad to know, and by what Text of Scripture, either by the Old or New Testament, a Man may have a Warrant to make a Nullity of a Marriage solemnly celebrated, *propter maleficium versus hanc*.

Which I do the rather ask, because I find warrant expressly in the Scriptures to make a Nullity of a Marriage *propter frigiditatem*, by the Words of our Saviour, *Mat. 19. 12. For there be some chaste, or Eunuchs, which are so born of their Mothers Belly, and there be some which are made chaste of Men, and there be some which have made themselves chaste for the Kingdom of Heaven.*

I would also know gladly what antient Father amongst the *Greeks* or *Latins*, by occasion of Interpretation of Scripture, or any Disputation, hath mentioned *maleficium versus hanc*.

The like I demand touching antient Councils, either General or Provincial, and concerning Stories Ecclesiastical, whether any such matter be to be found in them.

If for aught that appeareth never mention was made of this, till *Hircanus Rhemistis Episcopus*, who lived four hundred years after Christ; it may well be conceived that this was a Concomitant of Darkness or Popish Superstition, which about that time grew to so great an height (God permitting them) that Punishment might fall upon the Children of Unbelief.

But since the Light of the Gospel is now in so great a measure broken forth again, why should not I hope that those, who have imbraced the Gospel, should be free from this *Maleficium*; especially since amongst a Million of Men in our Age, there is but one found in all our Country, who is clearly and evidently known to be troubled with the same? And if there should be any which should seem to be molested, we are taught to use two Remedies, the one temporal Physick, the other eternal.

For the first, our Saviour said, *Hoc genus Dæmoniorum non ejicitur, nisi per orationem & jejunium:*

and

and St. Peter speaking of the Devil, *Cui resistite firmè in fide*; and the Canonists themselves prescribe Alms, Fasting and Prayer to be used in this Case; but that they join Supplication and their Exorcisms thereunto, and for corporeal Medicine to be applied therewith as against a Disease: so is the Judgment of our late Divines, whether they speak of *Maleficium* or not.

Now admit the Earl of *Essex* might be imagined to be troubled with *Maleficium versus hanc*; I demand what Alms hath been given, what Fasting hath been used, and what Prayers have been poured forth to appease the Wrath of God towards him or his Wife; or what Physick hath been taken, or Medicine hath been applied for three Years together? Not one of these things: but the first hearing must be to pronounce a Nullity in the Marriage, of which Declaration we know the beginning, but no mortal Man's Wit can foresee the end, either in his Person, or in the Example.

Then the Archbishop for Confirmation of his Opinion shewed the Testimony of *Melancthon*, *Pezelius*, *Hemingius*, *Polanus*, *Arcularius*, *Beza*, *Zanchius*.

Judicium Philippi Melancthonis de divortii ex impotentia.

Personæ quæ non sunt idoneæ ad commixtionem conjugalem nequaquam sunt conjuges, sed cum explorata est frigiditas, *Judex* pronunciet illas personas liberas esse. Nec fit tunc divortium, quia non erat conjugium, juxta dictum *Mat. 19.* sed fit declaratio, ut alii sciant, illam societatem non esse conjugium, & personæ quæ habet naturæ vires integras, concedi aliam feliciter copulationem legitimam. Sed ad explorandam frigiditatem *Jura* tempus constituunt, si res dubia est, ne ante triennium fiat sejunctio. Eodem modo pronunciant de iis in quibus natura ita læsa est fascino aut veneficio, ut ope medica sanari non possit, si toto triennio frustra tentata est medicatio.

Tanta autem est virtus aliquarum mulierum, ut occultent imbecillitatem virorum, sicuti viri doctissimi *Simonis Grynei* soror narravit, se, mortua prima conjugæ, duxisse viduam virginem, quæ undecim annos nupta fuerit viro frigido, nec unquam ulli, ante mortem viri, hanc rem patefecit. Hæc *Melancthon* in locis: *Loco de conjugio*, quæ *Christopherus Pezelius* suis in *Melancthonis* examen explicationibus inseruit, & eis adjecit hanc annotationem. *Impotentia* alia naturalis, alia accidentalis est. Naturalis, cum quis natura non est idoneus ad commixtionem conjugalem. Accidental, cum quis est castratus, aut veneficio corruptus. Rursus quæ ex veneficio accidit impotentia, aut curari potest medicamentis, aut est perpetua. Ex his distinctionibus sumitur explicatio questionis, an, & quomodo impotentia sit causa divortii. Nam inter impotentes, non potest constare conjugium, quia deest causa sufficiens & finalis. Primum, si persona illa quæ sana est, decepta fuit, & ignorans duxit impotentem, non igitur potuit esse consensus, qui est causa efficiens *Matrimonii*. Secundò, duplex est finis conjugii, unus est generatio sobolis, sicut dicitur, *Crescite & multiplicamini*: Alter finis est, Vitatio confusionis libidinum, juxta dictum; *Vitandæ fornicationis causa unusquisque habeat uxorem*. Hæc *Pezolius* 2 parte explicat. In *Examen Melancthon*.

In eadem Causa *Hemingii* Judicium.

Inhabilitas corporum ad usum matrimonii divortii causa est, & nonnunquam fascino & veneficio adeo inhabiles redduntur viri, ut nunquam sanari possint. Sed plura sunt judicii perpendenda, antequam divortii

sententiam ferat. Primum, an impotentia præcesserit *Nuptias*. Secundum, an sit subsecuta *Nuptias*. Tertium, an sit curabilis. Quartum, an ejus rei mulier conscia fuerit ante *Nuptias*. Si præcesserit *Nuptias*, potest liberari persona sana divortium petens, non enim fuit verum conjugium, siquidem non legitime consentiunt, cum unus fallit, alter errat, fallit impotens, errat potens. Cum ergo Deus nec fallaciam nec errorem probat, non est dicendus eos conjunxisse. Proinde *Judex*, si intellexerit ex probationibus incurabile esse vitium, mox declarabit suo testimonio, non fuisse *Matrimonium*; verum si spes sit curationis, triennium statuatur, in quo patienter expectetur curatio; quæ si frustra tentata fuerit, *Judex* pronunciat *Conjugium* nullum fuisse.

Si subsecutum est vitium post nuptias & complexum maritalem conjugum, nullo pacto permittendum est divortium: fortuna enim afflicta, si absit culpa, patienter in conjugio ferenda est. Si alter fuerit conscius infirmitatis alterius ante nuptias, cogantur simul habitare, & alia officia sibi mutuo præstare: Nam persona conscia vitii alterius absque cubio fraudem meditata est, quæ fraus non debet illi prodesse, si postea divortium petat. Hæc *Hemingius* libello de *Conjugio*, *Repudio*, & *Divortio*.

Polani professoris Theo. nuper in Academia Basiliensi Judicium.

Conjugium inire possunt, qui non sunt natura vel arte *Spadones*, aut quibus natura non est læsa fascino aut veneficio. Tales enim personæ nequaquam sunt conjuges. Ideo etiam nuptiis celebratis, cum trienni spatio explorata est *Spadonis* frigiditas, aut toto triennio tentata est naturæ læsæ medicatio, *Judex* pronunciat illas personas liberas esse. *Polanus* lib. 10. *Syn-tag.* cap. 53.

* *Arcularii* nuper professoris Theol. in Academia Marpurgensi Judicium. * *Sive Trcularii*.

Inter personas quæ propter frigiditatem aliudve naturæ vitium ad usum conjugii sunt ineptæ, cum non sit conjugium, teste *Christo Mat. 19.* divortium hic locum habere poterit. Si quam igitur personam talem alteri jungi contingat, *Judex*, explorata frigiditate aut naturæ vitio, utramque personam liberam pronunciat. Porro ad explorandam frigiditatem *Jura* triennii tempus præscribunt, præsertim si res dubia sit. Idem judicium est de eis quorum natura vel fascino vel veneficio ita sit læsa, ut ad conjugii usum reddantur inepti; & omnem medicorum operam intra triennium inanem fuerint experti. Hæc *Arcularius* in *arcu fœderis*, cap. 28.

Theodori Bezae Judicium.

Sponsalia cum personis paralyti immedicabili, quæ corpus prorsus enervavit, frigiditate insanabili, genitalium partium privatione, vel adeo insigni læsione, ut perpetua coitus impotentia necessario consequetur, affectis, contracta prorsus inutilia sunt, cum ad matrimonium a Deo vocati videri non possint, qui fidem in sponsalibus datam præstare, naturali objecto vitio nequeunt. Quod si sponsalibus factis, conjugio tamen nondum reipsa consummato, ejusmodi malum supervenerit, sentio ejusmodi sponsalia, veluti Deo ipso jubente, dirimenda; ut, quid objecto perpetuo impedimento, palam demonstrat, sibi istiusmodi sponsalia non placere. *Beza* lib. de *Divort.* & *Repud.* pag. 91. *Genev.* 1591. impress.

Atque hanc suam doctrinam *Beza* multis ex sacræ scripturæ testimoniis probat: sed tantum pag. 94. ei duas cautiones adjecit. Primam, si frigidus postea convalescit,

convalluit, repetere priorem uxorem, errore, viz. Separatam oportet, etiamsi alteri postea esset conjuncta: secundam cautionem, recte omnino in istiusmodi controversiis constitutum est, (ne quid videlicet fieret, quod postea mutari sine magno offendiculo non posset) ut triennium saltem ab ipso copulationis, i. e. ductæ uxoris die expectaretur, priusquam isti morbi insanabiles esse, & sponsalia conjugave dirimenda pronunciarentur. Hoc autem omnino de iis vitiis accipiendum est quæ per se non patent. Nam alioqui, ut in executione, vel si quis naturæ vitio, testibus aut genitali membro careat, quorsum ullum temporis intervallum?

Zanchii Judicium.

Quemadmodum Beza, sic nec Zanchius impotentiam ex veneficio attiget, sed tantum docet, quosdam esse casus, quibus matrimonia in ipsa Ecclesia benedicta nulla sint, & subinde hæc exempla subjungit. Si cum eo contrahitur, qui vir non erat, sed spado, aut propter perpetuum ei insanabilem morbum, officium conjugis præstare nullo modo potest. Hæc Zanchius lib. 4. de op. Dei, cap. 3. sed illam nec scripturæ testimoniis nec rationibus confirmat.

To these Arguments of the Archbishop, the King vouchsafed to give an Answer himself, which was as follows.

The KING'S Answer.

TO the First Article, that the Scripture doth directly or by consequence contain sufficient matter to decide all Controversies, especially in this appertaining to the Church: This in my Opinion is preposterous, and one of the Puritans Arguments, without a better Distinction or Explanation.

For the Orthodox Proposition is, That the Scripture doth directly, or by consequence, contain in it sufficient Matter to decide all Controversies in Points of Faith and Salvation, of which sort a Nullity of Marriage cannot be accounted for one; and therefore your Consequence upon the former Proposition must fail.

For further satisfaction of your following Question (I say) your second Question doth answer it: if there be warrant in Scripture for pronouncing a Nullity *propter frigiditatem*, then all the means which may make him *frigidus versus hanc*, must be comprehended therein; for why doth our Church justly condemn the Marriage of a Man with his Sister's Daughters, or the Marriage of two Sisters, but *ut paritate rationis*, for none of them are *in terminis* prohibited by the Scripture? only the Conclusion is gathered *à paritate rationis*. For if it be not lawful to marry the Father's Wife, because thereby you discover your Father's Shame; nor his Sister, because she is his Kinswoman; nor your own Sister, because thereby you discover your Father's and your Mother's Shame: it can no more be lawful to marry your Sister's Daughter, for thereby also you discover your own Shame; as also the same reason serves for ascending or descending in Points of *Consanguinity*, *quia par est ratio*.

The like is in this case; for altho' Christ spake only of three sorts of Eunuchs, yet *Ratio est quia non potest esse Copulatio inter Eunuchum & Mulierem*; and therefore St. Paul, 1 Cor. vii. telleth us clearly, that it is not *Conjugium sine Copulatione*. I conclude, therefore, a *paritate*

rationis, that Christ did comprehend under these three sorts all Inability which doth perpetually hinder *Copulationem versus hanc*, whether it be natural or accidental; for what difference is there between cutting off the Hand, and being made impotent thereof? *Amputatio & Mutilatio membri*, is all one in the Civil Law; and that is a like defrauding of the Woman, when either he who is to be her Husband is gelded, or when the use of that Member towards her is by any unlawful means taken from him. Neither is it any way needful to crave the particular Warrant of Scripture for a Nullity, no more than of Warrant in this place for any Nullity at all; for Christ doth not directly say, that a Marriage so made shall be nullified, neither doth he teach us what form or process shall be used in that, neither makes he mention of the triennial Probation, no more than he forbiddeth Marriage within the fourth Degree, without leave obtained of the Bishop of the Diocese. It is then sufficient to all moderate Christians to be taught out of the Word of God, that Marriage is *nulla sine Copulatione*; and these words, *quos Deus conjunxit*, are never found in Scripture, where *& erunt ei* doth not proceed, *viz.* they two shall be one Flesh.

But whether the Impediment be universal, or *versus hanc* only; or whether the Fault thereof hath been born with him, or done to him by Violence, or fallen unto him by Disease, or Disproportion, or Inaptitude betwixt the Parties, or unnatural Practices, that is ever *par ratio*, he is *Eunuchus versus hanc & omnes alias*, seeing to him only was she married.

Then *Paritate rationis*, such Nullities are grounded upon the aforesaid warrant of Scripture, neither had Christ any occasion to speak of the Jews Marriage concerning *Maleficium versus hanc*: for tho' it be apparent that God made King *Abimelech* and his Servants unable to abuse *Sarah*, *Abraham's* Wife, and so was he made by God himself *Eunuchus versus hanc*, and that it be not improbable that the Devil being God's Ape, should imitate God's Works, by his filthy Witchcraft, by making such as God will permit him, unable *versus hanc*; howbeit, it is very probable that it was long after that time the Devil put that trick upon the Earth.

As for the third and fourth Questions, what mention the Fathers and Councils do make of *Maleficium versus hanc*, I answer, that it may be (if they were well searched) that either something to this purpose in them, or at the least *Aliquid analogum*, with a *paritate rationis*, or by consequence, may serve to decide the Question.

But leaving this to search, my main Answer is, That we must distinguish oft-times: for in all the first Ages, as long as Persecution lay heavy upon the Church, and before the Empire became Christian, the Church did not meddle with any thing, which drew a Consequence after it of Possessions, or Inheritance, as Marriage doth; nay, even divers hundred Years after the Conversion of the Emperors, the Judgment and Decision of all such Questions did still remain *in foro Civili*, till the Popedom began to wax great, and assume, or rather usurp to her self a supreme and independent *Judicatory* in all *Ecclesiastical* Causes: and therefore the *Fathers* and *Councils* had no occasion to make mention of that which was not *de præfori* at that time.

‘ And besides, that is an evil Argument to say
 ‘ such a thing is not lawful, because the *Fathers*
 ‘ and *Councils* made no mention of it: for you
 ‘ know much better than I, divers and many Points
 ‘ betwixt the *Papists* and us are never mentioned
 ‘ by the *Fathers*, because they could never have
 ‘ dreamed that such Questions would arise; and
 ‘ therefore are the *Fathers* exact only in such Ques-
 ‘ tions as were agitated upon the State at that time,
 ‘ as *De Trinitate, de duabus in Christo Naturis*, and
 ‘ such like: and therefore ’tis sufficient that there
 ‘ can be nothing found which may justly be un-
 ‘ derstood to contradict this Opinion.

‘ And it is very probable (as I said before) that
 ‘ this trick of *Maleficium* had not then been put
 ‘ in practice in the World, and therefore not
 ‘ known or mentioned by them; for why may
 ‘ not the Devil as well find out new tricks of
 ‘ Witchcraft (when God will permit him) as he
 ‘ did daily new *Scets* of *Heresies*? for his Malice
 ‘ can never end until the end of Times.

‘ To the fifth Argument, my former Answer
 ‘ doth also serve; for till the 400th Year after
 ‘ Christ, it may be that devilish trick came never
 ‘ to be discovered. You know the old Proverb,
 ‘ *ex malis moribus bonæ leges*: and it is not unlike-
 ‘ ly that the time of Darknes gave the *Devil* oc-
 ‘ casion to devise such new Tricks (look my
 ‘ *Dæmonology*) and yet was that Law for which
 ‘ you cite *Hircanus*, by *Charles the Great*, who in
 ‘ many great Points (as you know) had so great
 ‘ Light, as I do scarce term this Time a Time of
 ‘ Blindnes: but howsoever the Darknes was in
 ‘ points of Superstition, I will still maintain (as
 ‘ I have ever done) that for matters of Order and
 ‘ Policy, all the World shall never be able to find
 ‘ out any so good and so old an Order of Argu-
 ‘ ment to be put in the place of it: in sign where-
 ‘ of there is no well governed Commonwealth
 ‘ in the Christian World, wherein the Common-
 ‘ Law is not received to judge in Questions of
 ‘ that nature; and it is certain, that this Question
 ‘ now in hand, is only a Question of Order and
 ‘ Policy: for the ground of this Question, that the
 ‘ essential point of Matrimony cannot be accom-
 ‘ plished *sine copula*, is warranted by express Scrip-
 ‘ ture, and confessed by your self.

‘ To your sixth Argument (or rather Hope) I
 ‘ fear that Hope shall prove contrary to Faith;
 ‘ for as sure as *God* is, there be *Devils*, and some
 ‘ *Devils* must have some Power, and their Power
 ‘ is in this World, neither are the *Elect* exempted
 ‘ from this Power; *Job* was not, *Paul* was not:
 ‘ *Christ* said to all his Disciples, *Cribraverit vos*
 ‘ *Sathanas*; and if the *Devil* hath any Power, it
 ‘ is over the *Flesh*, rather over the filthiest and
 ‘ most sinful part thereof, whereunto original Sin
 ‘ is soldred; as *God*, before and under the Law,
 ‘ to shew *officialem* of purging Man’s original Sin,
 ‘ ordained the *Præputium* of the Foreskin: and to
 ‘ exempt this of our Profession from the Power of
 ‘ Witchcraft, is a Paradox never yet maintained
 ‘ by any learned or wise Man.

‘ That the Devil’s Power is not so universal a-
 ‘ gainst us, that I freely confess; but that it is
 ‘ utterly restrained *quoad nos*, how was then a
 ‘ Minister of *Geneva* bewitched to death, and
 ‘ were the Witches daily punished by our Law?
 ‘ If they can harm none but the *Papists*, we are
 ‘ too charitable for avenging of them only.

‘ *Satan* is permitted to punish Man, as well for
 ‘ his breach of the second as of the first Table,

‘ and thereof are we no less guilty than the *Papists*
 ‘ are; and if the Power of Witchcraft may reach
 ‘ to our Life, much more to a Member, not so
 ‘ governed by the Fancy, wherein the Devil hath
 ‘ his principal Operation; and he may so estrange
 ‘ the Husband’s Affection towards the Wife, as
 ‘ he cannot be able to perform that Duty to her;
 ‘ for that is a common thing in many Men’s Na-
 ‘ tures, that they cannot do that thing but where
 ‘ they love, nor fight but where they are angry.
 ‘ God keep us therefore from putting the Trial of
 ‘ our Profession upon Miracles; let the Miracle-
 ‘ mongers live by their own Trade.

‘ To the seventh Argument touching Remedies,
 ‘ what do you know, whether both Parties, or
 ‘ either of them hath used these means of Remedy
 ‘ or not? And that special Remedy should be used
 ‘ publickly, for there I can see no Necessity; for
 ‘ *Non interest Reipub. nec Eccles.* and private Per-
 ‘ sons are commanded to do their Fastings and
 ‘ Alms, secretly and in private: no such Cure also
 ‘ is likely to succeed well, except the Parties own
 ‘ Hearts and Desires be set thereupon.

‘ And as for your Conclusion upon your *Incom-
 modum*, whether upon his Person or the Example,
 ‘ I can see none in either, so as to the Couple, be-
 ‘ tween them Marriage was never accomplished
 ‘ truly; they will peradventure both of them by
 ‘ the Declaration of the Nullity be capable to ac-
 ‘ complish Marriage with others, which they could
 ‘ never do between themselves; wherein they may
 ‘ have the Satisfaction of their Hearts, and enjoy
 ‘ the Blessing of Procreation of Children.

‘ And as for the Example, the Law shall be ful-
 ‘ filled with due Administration of Justice, which
 ‘ cannot prove for an Example or Precedent of a
 ‘ counterfeit Nullity hereafter, *Autoritas facti*, or
 ‘ rather *non facti, sed luce clarior* in this case, be-
 ‘ sides the many Probations and Confessions of the
 ‘ Parties which have been taken in this Process:
 ‘ whereas by the contrary, they shall be forcibly
 ‘ kept together, but never their Persons or Af-
 ‘ fections, and they still be forced to live in per-
 ‘ petual Scandal, or Misery, or both; and what
 ‘ such a kind of forced Continency may avail, the
 ‘ Monks Continency may teach us: and for a Pre-
 ‘ cedent in time to come, that reacheth no fur-
 ‘ ther, than to open a way of lawful Relief, to any
 ‘ Person who shall chance to be distressed in that
 ‘ sort.

‘ And for legal Doubts, they concern none of
 ‘ your Calling; if your Conscience be resolved in
 ‘ points of Divinity, that is your part to give your
 ‘ consent to the Nullity, and let the Lawyers take
 ‘ the burden of making that firm; and as for the
 ‘ Triennial Probation, I hope no Man can be so
 ‘ blind as to make a doubt, whether that be taken
 ‘ before or after the Suit begun: and in conclu-
 ‘ sion of Divine Solution of this Question proved
 ‘ clearly, that this Resolution of this Doubt, how-
 ‘ soever it was in Blindnes as you think, that is
 ‘ now proved in the greatest time of Light and
 ‘ Purity of the Profession of the Gospel.

‘ And for your Extract upon the late Divines
 ‘ Opinions upon this Question, I cannot guess
 ‘ what your Intent was in sending them to me, for
 ‘ they all agree in Terms with my Opinion: but
 ‘ there is such a thing as *Maleficium, & Maleficiale*
 ‘ *versus hanc*; and your very interlude Passages
 ‘ prove that clearest: and for that Advice con-
 ‘ cerning the Remedies, that is but *Consilium non*
 ‘ *Decretum*, not imposing a Necessity; but is to
 ‘ be

‘be used by Discretion, as occasion shall prove
‘and require it.

‘To conclude then, if this may satisfy your
‘Doubts, I will end with our Saviour’s Words
‘to St. Peter, *Cum conversus fueris, confirma fra-*
‘*tres tuos*; for on my Conscience, all the Doubts
‘I have yet seen, are nothing but *nodos in scirpo*
‘*querere.*’

Notwithstanding the Confessions in the Earl’s
Answer, the Court thought it necessary to satisfy
themselves of the Truth by the Inspection of Mid-
wives and Matrons. Whereupon it was decreed
by the Court, that six Midwives of the best Note,
and ten other noble Matrons, out of which they
themselves would chuse two Midwives, and four
Matrons, should inspect the Countess, the Entry
whereof is as follows: *Tunc Domini, viz. Arch.*
Cant. Lond. Eliens. Covent. & Lichf. Cæsar,
Parry, Donne, Bennet, Edwards, habita inter eos
privata deliberatione, ex numero matronarum præ-
dictæ elegerunt,

The Lady *Mary Tirwhit*, Wife of Sir *Philip*
Tirwhit Bart.

Lady *Alice Carew*, Wife of Sir *Matthew Carew*.

Lady *Dalison*, Wife of Sir *Roger Dalison*.

Lady *Anne Waller*, Widow.

& ex obstetricum numero, &c. Margaritam Mercer
& Christianam Chest. Et assignarunt Procurato-
rem dictæ domine Franciscæ ad sistendum hujusmodi
inspectrices coram Reverendo Patre Episc. London.
Cæsar, Donne, &c. inter cæteros nominat. isto die
inter horas quintam & sextam post meridiem, jura-
mentum in hac parte subituras, atque inspectione facta
fideliter relaturas earum judicium juxta earum scien-
tiam & experientiam, &c. coram dictis Dominis
Delegatis, sicut præfertur, assignatis quam cito fieri
possit ante horam quartam & sextam post meridiem
diei Jovis proxime, alioquin ad comparend. hoc in
loco, coram Commissariis dicto die Jovis inter horas
quartam & sextam post meridiem ejusdem diei, earum
judicium hanc in parte tunc relaturas, & ad interes-
sendum hora & loco respectivè prædictis, ad videndum
inspectrices prædictas juramento in hac parte onerari;
nec non quibuscunque aliis diebus hora & loco præ-
dictis Dominos Commissarios nominat. dictis inspectri-
cibus, ad referendum earum judicium assignat.

Accordingly between the Hours of that Day
afore said, were presented before the Delegates the
said Ladies, and sworn *ad inquirend. & inspiciend.*

1. Whether the Lady *Frances* were a Woman
fit and apt for carnal Copulation without any De-
fect, which might disable her for that purpose.

2. Whether she were a Virgin carnally unknown
by any Man.

Whereupon they went from the Presence of the
Commissioners into the next Room where the
Countess was, who was left alone with the said
Ladies*. After some convenient time they re-
turned, and delivered in their Report under their
Hands; all Persons being removed except the Re-
gister, that so the Ladies and Midwives might
more freely deliver their secret Reasons, &c.
which were not fit to be inserted into the Record;
and this is in sum their Report:

1. That they believe the Lady *Frances* fitted
with Abilities to have carnal Copulation, and apt
to have Children.

2. That she is a Virgin uncorrupted.

And to corroborate all this, the Countess in open
Court produced seven Women of her Consanguini-
ty, That inasmuch as the Truth was best known
to herself, she might by virtue of her Oath dis-
cover the same, and her Oath should be no farther
regarded than as it was confirmed by the Oath of
her Kinswomen. In order hereto the Countess took
an Oath, That since the Earl was eighteen Years
old, for three Years he and she had lain in Bed, &c.
as in the Libel. And then the seven Noble Wo-
men, *viz.*

Katharine Countess of *Suffolk*,
Frances Countess of *Kildare*,
Elizabeth Lady *Walden*,
Elizabeth Lady *Knevet*,
Lady *Katharine* *Thynne*,
Mrs. *Katharine* *Fiennes*,
Mrs. *Dorothy* *Neale*,

being sworn, deposed that they believed the same
was true; and in particular because,

1. That after they were both grown to Years of
Puberty, they both endeavour’d Copulation.

2. That notwithstanding, on her part, as ap-
pear’d by the Inspectors, she remain’d a Virgin
uncorrupted.

3. That the Earl had judicially sworn that he
never had, nor could, nor should ever know her
carnally.

Whereupon the Delegates declared the Law to
be, That *impotentia coëundi in viro* whatsoever,
whether by natural Defect, or accidental Means,
whether absolute towards all, or respective to his
Wife only, if it precede Matrimony, and be per-
petual (as by Law is presumed, when after three
Years Trial, after the Man is of the Age of eigh-
teen Years, there has been *nil ad copulam*, and the
Marriage not consummated) is a just Cause of Di-
vorce *à vinculo matrimonii*; and that the Proofs
produced in this Case were abundantly sufficient to
convince them of the Earl’s Impotency; and there-
fore pronounced Sentence that they should be di-
vorced from each other, and be at Liberty to
marry again; which Sentence was as follows.

‘That *Robert* Earl of *Essex*, and the Lady
‘*Frances* *Howard*, contracted by shew of Mar-
‘riage, did cohabit in one House, and lie toge-
‘ther in one Bed; *Nudus cum nuda, & solus cum*
‘*sola*; and that the said Lady *Frances* did shew
‘her self prompt and ready to be known of him,
‘and that the said Earl neither did nor could
‘have Knowledge of her, altho’ he did think
‘himself able to have Knowledge of other Wo-
‘men; and that the said Lady *Frances* by In-
‘spection of her Body by Midwives, expert in
‘matter of Marriage, was proved to be apt for
‘carnal Copulation with Man, and yet a Virgin:
‘Therefore we the said Judges deputed in the
‘Cause, first invoking the Name of Christ, and
‘setting God before our Eyes, do Pronounce,
‘Decree, and Declare, That the Earl of *Essex*,
‘for some secret, incurable, binding Impediment,
‘did never carnally know, or was, or is able
‘carnally to know the Lady *Frances* *Howard*:
‘And therefore we do Pronounce, have Decreed,
‘and do Declare, the pretended Marriage so con-

* Some Authors say, that the Countess under a pretence of Modesty, having obtain’d leave to put on a Veil, when she was inspected, caused a young Woman of her Age and Stature, dress’d in her Clothes, to stand the Search in her place.

'tracted and solemnized *de facto* between them,
' to have been, and to be utterly void and to no
' Effect, and that it did want, and ought to want
' the strength of the Law: And that the Lady
' *Frances* was, and is, and so ought to be free,
' and at liberty from any Bond of such pretended
' Marriage *de facto*, contracted and solemnized.
' And we do Pronounce, that she ought to be
' divorced, and so we do Free and Divorce her,
' leaving them as touching other Marriages to their
' Consciences in the Lord.
' Which our definitive Sentence and Decree we
' ratify and publish.'

Thomas Wint.
Lancel. Ely.
Rich. Coven. and Litchf.
John Rossen. } Bishops.

Julius Caesar,
Thomas Parry,
Daniel Donne; } Doctors.

The following Commissioners could not agree to this Sentence, and therefore absented themselves.

George Cant.
John London. } Bishops.

John Bennet,
Francis James,
Thomas Edwards, } Doctors.

Dec. 5. Soon after this Sentence, the Countess was married to the Viscount *Rocheſter*, lately made Earl of *Somerſet*.



XXIII. *The Trial of RICHARD WESTON* * *at the Guild-Hall of London, for the Murder of Sir Thomas Overbury* †, 19th of October, 1615. 13 Jac. I.

The COMMISSIONERS were,

The Lord Mayor.
The Lord Chief Justice of England.
Justice Crook.
Justice Doderidge.

Justice Haughton.
Serjeant Crew; and
Sir Henry Montague; Recorder.

Sir Edward Colke.



HE Court being set, and the King's special Commission read, the Lord * Chief Justice gave the Charge; the Effect whereof was,

He shewed how that by an Act of Parliament 22 *H. 8. cap. 9.* it was made Treason, and that wilful Poisoners should be boiled to death; rehearsing the Example of one *Richard Rowse*, that had poisoned a Man and Woman, and was therefore scalded to death.

First, To express the King's pious Inclinations and Command unto just Proceedings against all such as should be any way proved to be guilty of the Murdering and Poisoning of *Sir Thomas Overbury*, his Majesty's Prisoner in the Tower.

Then he laid open to the Jury the Baseness and Cowardliness of Poisoners, who attempt that secretly, against which there is no Means of Preservation or Defence for a Man's Life; and how rare it was to hear of poisoning in *England*, so detestable it was to our Nation: But that since the Devil had taught divers to be cunning in it, so that they can poison in what Distance of Space they please, by consuming the *Nativum Calidum* or *Humidum Radicale* in one Month, two, or three, or more, as they list; which they four manner of Ways do execute, 1. *Gustu*, 2. *Hauſtu*, 3. *Odore*, 4. *Contactu*.

Secondly, To aggravate the Manner and Quality of the Murdering, in shewing the Baseness of Poisoning above all other Kinds of Murder, declaring the Vengeance of God, and his Justness in punishing Offenders: He alledged 9 *Gen. 6. Quicumque effuderit humanum sanguinem, effundetur sanguis illius; ad imaginem Dei quippe factus est homo.* He also took the Example of *Uriah* by *David*; he therein observed how Adultery is most often the Begetter of that Sin.

He finished his Charge with serious Exhortations to the Jury to do Justice in presenting the Truth, notwithstanding the Greatness of any that upon their Evidence should appear to be guilty of the same Offence: comforting both Judges and Jury with the Scripture, *Psal. 5. ver. ultimo, For thou,*

Then he declared, That of all Felonies, Murder is the most horrible; of all Murders, Poisoning the most detestable; and of all Poisoning, the lingering Poisoning.

* He had been an Apothecary's Man, but was now made Under-Keeper to the new Lieutenant of the Tower, *Sir Jervis Elvis*.

† He was Son to *Sir Nicholas Overbury* of *Burton-upon-the-Hill* in *Gloucestershire*, educated at *Queen's-College* in *Oxford*, and at the *Middle-Temple*, of which his Father was a *Bencher*. See a full relation of the Manner of his Death, *Bacon's Works*, vol. i. p. 77—79. and its Discovery, *ibid.* p. 80.

thou, Lord, wilt bless the Righteous; with Favour wilt thou compass them as with a Shield.

The Charge being ended, the Jury, consisting of fourteen Persons, did for the Space of an Hour depart the Court into a private Room, where they received their Evidence from Mr. *Fenshaw*, his Majesty's *Coroner*, and his Highness's *Council* prepared and instructed for that purpose, with the Examinations and Confessions as well of the Prisoner himself, as of divers other Witnesses, before that time taken by the Lord Chief Justice of *England*, and others the Lords of his Majesty's Council.

In the mean time, Mr. *William Goare*, Sheriff of *London*, was commanded to fetch his Prisoner, remaining at his House, to be ready in Court for his Arraignment.

So a certain Space after, the *Grand Jury* returned to the Bar, and delivered in their Bill of Indictment, signed *Billa Vera*. Whereupon the Prisoner was set up to the Bar, and the Indictment read by Mr. *Fenshaw*, which contained in effect as followeth.

The Indictment.

THAT *Richard Weston*, being about the Age of sixty Years, not having the Fear of God before his Eyes, but infligated and seduced by the Devil, devised and contrived not only to bring upon the Body of *Sir Thomas Overbury* Kt. great Sickness and Diseases, but also to deprive him of his Life: And to bring the same to pass, 9 *May* 1613, 11 *Jacobi*, &c. at the *Tower of London*, in the Parish of *Albhalows Barking*, did obtain and get into his hands certain Poison of green and yellow Colour, called *Rosalgar*, (knowing the same to be deadly Poison) and the same did maliciously and feloniously mingle and compound in a kind of Broth poured out into a certain Dish; and the same Broth so infected and poisoned, did give and deliver to the said *Sir Thomas Overbury* as wholesome and good Broth, to the Intent therewith to kill and poison the said *Sir Thomas*, which Broth he took and did eat.

Also the said *Weston* upon the first of *July*, 11 *Jacobi*, as aforesaid, did in like manner get another Poison or Poisons compounded, called *White Arsenick*, and (knowing the same to be deadly Poison) did give unto the said *Sir Thomas Overbury*, as good and wholesome to eat, who took and did eat.

Also that *Weston*, upon the said 19th of *July* following, did get another Poison called *Mercury Sublimate*, (knowing the same to be mortal Poison) and put and mingled the same in Tarts and Jellies, and gave the same unto *Sir Thomas Overbury*, as good and wholesome to eat, which he in like manner took and did eat.

Also the said *Weston*, and another Man being an Apothecary, afterwards, upon the 14th of *September*, feloniously did get a Poison, called *Mercury Sublimate*, (knowing the same to be deadly Poison) and put the same into a Clyster mingled with the said Poison: and the said Clyster the said Apothecary, for the Reward of 20*l.* promised unto him, did put and minister (as good and wholesome) into the Guts of the said *Sir Thomas*; and that *Weston*

was present and aiding to the said Apothecary in ministering and infusing the said Clyster; and that immediately after, as well the taking of the said poisoned Meats, and ministering the said Clyster, the said *Sir Thomas* did languish, and fell into Diseases and Distempers; and from the aforesaid Times of taking and eating the said poisoned Meats, and ministering the said Clyster, he died: and so the Jury gave their Verdict, That *Weston* in this manner had killed, poisoned, and murdered the said *Sir Thomas*, against the King's Peace and Dignity.

Which Indictment being read, he was demanded if he were guilty of the Felony, Murdering, and Poisoning, as aforesaid, yea or no. To which he answered, doubling his Speech, *Lord have Mercy upon me! Lord have Mercy upon me!* But being again demanded, he answered, *Not Guilty*. And being then demanded how he would be tried, he answered, He referred himself to God, and would be tried by God; refusing to put himself and his Cause upon the Jury or Country, according to the Law or Custom.

Hereupon the Lord Chief Justice, and all other in their Order, spent the space of an Hour in persuading him to put himself upon the Trial of the Law; declaring unto him the Danger and Mischief he ran into by resisting his ordinary Course of Trial, being the Means ordained by God for his Deliverance, if he were innocent; and how by this means he would make himself the Author of his own Death, even as if he should with a Knife or Dagger kill or stab himself: exhorting him very earnestly either with Repentance to confess his Fault, or else with Humility and Duty to submit himself to his ordinary Trial. Whereupon he stubbornly answered, *Welcome by the Grace of God*; and he referred himself to God. And so when no Persuasions could prevail, the Lord Chief Justice plainly delivered his Opinion*, That he was persuaded that *Weston* had been dealt withal by some Great-Ones, guilty of the same Fact, as accessory, to stand mute, whereby they might escape their Punishment; and therefore he commanded (for Satisfaction of the World) that the Queen's Attorney there present should declare, and set forth the whole Evidence, without any Fear or Partiality: and yet notwithstanding, he once more used much Persuasion to the Prisoner to consider what Destruction he brought upon himself by his Contempt; and declaring unto him how his Offence of Contempt was, in refusing his Trial, and how the Laws of the Land had provided a sharper and more severe Punishment to such Offenders than unto those that were guilty of High Treason: and so he repeated the Form of Judgment given against such, the Extremity and Rigour whereof was expressed in these Words, *Onere, Frigore, & Fame*. For the first, he was to receive his Punishment by the Law, to be extended, and then to have Weights laid upon him, no more than he was able to bear, which were by little and little to be increased.

For the second, that he was to be exposed in an open Place, near to the Prison, in the open Air, being naked.

And lastly, That he was to be preserved with the coarsest Bread that could be got, and Water out

of

* The Chief Justice had Intelligence under-hand, that *Yelverton*, an obliged Servant to the House of the *Howards*, had advised this Counsel for *Weston*, in order to prevent the Prosecution from reaching any farther: *Yelverton* was at this time *Solicitor-General*, but does not appear to have had any share in any of the Trials for the Murder of *Sir Thomas Overbury*, tho' the Attorney and other Council of the King had their parts in them.