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KINGSTON ONTARIO CANADA



725
Jus Populi. 18: 68

O R,

A DISCOURSE

Wherein clear satisfaction is given, as
well concerning the Right of SUBJECTS,
as the Right of PRINCES.

Shewing how both are consistent, and where they
border one upon the other.

As ALSO,

What there is Divine, and what there is Humane in both:
and whether is of more value and extent.

Claudianus ad Honorium.

*Tu Civem, Patremque geras, in consule cunctis:
Non tibi, nec tui, te moveant, sed publica damna.*

In private matters do a Brothers part;
In publick be a Father; let thy heart
Be vast as is thy fortune, and extend
Beyond thy self, unto the Common end.

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A B L E C O U R S E

of the

Jus Populi.

O R,

A DISCOURSE
Wherein clear satisfaction is given
as well concerning the right of Subjects, as
the right of Princes. &c.

THe Observator (so he is stiled at Oxford) writing against our parasiticall Court-Doctors, who think they cannot be meritorious Patrons of Royalty, without shewing themselves Anti-patriots, or destroyers of publick liberty, grounds himself upon these three main Assertions. 1 *Princes derive their power, and prerogatives from the people.* Secondly, *Princes have their investitures meerly for the peoples benefit.* Thirdly, *In all well-formed States the Laws, by which Princes claim, do declare themselves more in favour of liberty then Prerogative.*

Much art, force, and industry has been used to destroy these fundamentals, wherein though the Royalists have not been prevalent in the judgement of wise men, yet something mult further be replied, for the weaker sort of peoples sake, lest multitudes of opponents should sway them, and effect that by number, which cannot be done by weight.

Man (saies the Apostle) *was not made of the woman, but the woman of man*: and this is made an argument why the woman should pay a due subjection to man. And again, *Man* (saies the same Apostle)

was not created for the woman, but the woman for the man; this is made an other argument to inforce the same thing. There cannot be therefore any to pick rules more properly pressed then these: nay without offering some contradiction to the Spirit of God, we cannot reject the same form of arguing in the case of a people, and their Prince: especially when we do not insit onely upon the vertue of the efficient or small cause, but also upon the effect it self, and that form of Law, which was (as it were) the product of both.

Let us now then re-examine these three grounds, and seek to give further satisfaction to others, by inlarging our Discourse, where our adversaries have given a just occasion. If we can make it good that Princes were created by the people, for the peoples sake, and so limited by expresse Laws as that they might not violate the peoples liberty, it will naturally follow; that though they be *singulis majores*, yet they are *universis minores*; and this being once made good, it will remaine undeniable, that *salus Populi* is *suprema Lex*: and that *bonum Publicum* is that which must give Law, and check to all pretences, or disputes of Princes whatsoever.

To make appear thus much, let us begin with the *origo* or first production of Civill Authority.

1 The Royalists take a great deal of superfluous pains, and quote many texts of Scripture to prove that *all powers are from God: that Kings are anointed by God: and that they are to be obeyed as the viceregerents of God*. If we did oppose or denie these clear Truths, no fraud were to be suspected in those that alledge them: but when we do expresse no kind of dissent from them herein, and when they have too generall a sense, as our dispute now runs, we must conclude that there is some secret fraud wrapped up, and clouded under the very generality of these asseverations. For tis not by us questioned whether powers are from God or no; but whether they are so extraordinarily from God, as that they have no dependence upon humane consent. Neither do we raise any doubt, whether or no Kings are anointed by God; but whether that unction makes them boundlesse, and their Subjects remediless or no, in all cases whatsoever. Neither do we dispute whether Monarchs are Gods deputies, or no, and so to be observed; but whether limited Monarchs, and other conditionate, mixed Potentates may not challenge the same privilege.

ledge. To shew then more ingenuity towards our Antagonists, we will be more clear in dividing, and distinguishing, and we will decline generall expressions, as often as just occasion shall require.

In the first place therefore we desire to take notice that *εξουσία*, or *Potestas* is sometimes taken for order, sometimes for jurisdiction: and these termes alwayes are not to be confusedly used. If *Adam* had not sinned in Paradise, order had been sufficient alone without any proper jurisdiction: it may well be supposed, that government, truly so called, had been no more necessary amongst men on earth, then it is now in Heaven amongst Angels. Government is in truth that discipline or method which we exercise in promoting, enabling, rewarding persons of good desert in the State, and whereby we prevent, suppress, punish such as are contrarily affected. And as government has Laws to guide its proceedings, so it is armed, with power and commission for putting those Laws in execution. Its plain therefore wherethere is no supposition of sin, order will be prevalent enough without formall jurisdiction: for as there needs no additionall rules, besides those which creation imprinted, so there needs no additionall power to attend those Rules. If we look up to Heaven, we see that preheminance which one Angel has above another is farre different from that command which Princes obtain here on earth over their vassals: we apprehend it as an excellence, that pertakes of more honour, then power, and that power which it has appertaining is rather physicall then politicall. If we descend also to survey hell, we shall find some order observed there too, but no proper government used; for as Law is uselesse where there is no sin, so it is also improper or impossible where there is nothing but sin. Wherefore something of primitive order is retained below amongst the damned legions for the conservation of their infernall kingdome, but there is little resemblance of our policy in that cursed combination. We may then acknowledge that order is of a sublime and celestiaall extraction, such as nature in its greatest purity did own; but subjection, or rather servile subjection, such as attends humane policy amongst us, derives not it self from Nature, unlesse we mean corrupted nature. Besides in order there is nothing defective, nothing excessive, it is so universally necessary, and purely good that it has a being amongst irrational creatures,

and not onely States, but even Towns, Villages, houses depend upon it, and as it was existent before sin, so it must continue after sin; but government, as it had no being without sin, nor has no being but amongst sinfull men, so even amongst men it is not without its defects and inconveniences. We must not expect more then a mixture of good and evill in it, and if we will refuse the burden of it, we must withall deny the benefit of it. *Nulla lex satis commoda est* (saith *Cato*) *id modo queritur si majori parti et in summa prodest.* Wherefore it is now sufficiently apparent, that order does more naturally refer to God as its Author then Jurisdiction does, and that it also conveyes nothing in speciall to Kings, inasmuch as the benefit of it is generall, and extends to families, as well as States, and to popular States as well as Monarchies. As to government also we must in the next place observe three things therein very distinguishable. *The constitution of power in generall must be sever'd from the limitation of it to this or that form; and the form also must be sever'd from the designation of it to this or that person.* The constitution or ordinance of Jurisdiction we doe acknowledge to contain *θεοῦ π*, but this excludes not *ἀνθρώπων π*, it may be both respectively, and neither simply: and *St. Peter* seems to affirm as much of the humanitie, as *St. Paul* does of the divinitie of the constitution.

In Matrimony there is something divine (the Papist makes it sacramentall beyond royall inauguration) but is this any ground to infer that there is no humane consent or concurrence in it? does the divine institution of marriage take away freedome of choice before, or conclude either party under an absolute degree of subjection after the solemnization? is there not in conjugall Jurisdiction (notwithstanding the divine establishment of it) a strange kind of mixture, and coordination, and may not the Spouse plead that divine right as much for a sweet equality, as the husband does for a rigorous inequality?

*Inferior matrona suo sit blanda marito,
Non aliter fuerint femina, virq; pares.*

There may be a parity even in the disparity of the matrimoniall bond, and these two contraries are so farre from being made contrary by any plea of divine institution, that nothing else could reconcile

concile them; And if men, for whose sakes women were created, shall not lay hold upon the divine right of wedlock, to the disadvantage of women: much lesse shall Princes who were created for the peoples sake, challenge any thing from the sanctity of their offices, that may derogate from the people. Besides even government, it self in the very constitution of it is so farre from being injoynd as divine upon any persons (not before ingaged by their own, or their Ancestors consent) or from being necessitated by any precept, or president in Scripture, that we rather see an instance of the contrary in the story of *Lot* and *Abraham*. Certainly there was in nature some majority or precedence due either from *Lot* to *Abraham*, or from *Abraham* to *Lot*, (for the rules of order are no wayes failing) and yet we see this is no sufficient inforcement to subject either of these Patriarks to the others jurisdiction. When discords arose amongst their servants, they might have been qualified and represented by a friendly association, and either one or both joyntly or by course might have had the oyer, and terminer thereof. Yet so it was, that they rather resolved upon a dissociation, and this could not but have been a great sin against the divine right of Government, if any such had been originally imprinted in Nature, or delivered by command from God, as of more value then common liberty. Tis true it proved afterwards fatall to *Lot*, that he did disjoyne from *Abraham*, and it had been farre more politick and advantageous for both of them perhaps, if they had incorporated one with another: but the question is not whether it was prejudiciall, or no, to esteeme the priviledge of an Independent liberty before the many other fruits and advantages of a well framed principallitie: but whether it was sin against God, or no, and a transgression against the constitution of power, to pursue that which was most pleasing, before that which was likely to prove more commodious. I conceive that freedome being in it self good, and acceptable to Nature, was preferred before Government, which was also good, and more especially commendable, but God had left the choice indifferent, and arbitrarie, and therefore there was no scandall or trespasse in the choice. I speak not this to unsettle any form of Government already founded, and composed, nor against the constitution it self, or intention of framing associations: tis sufficient for my purpose,

if

if it be proved, that before such foundation or composition every man be left free, and not abridged of his own consent, or forced by any Law of God to depart from his freedome, and I am sure this example of *Abraham*, and *Lot* does evince thus much, unlesse we think good to charge them both as enemies to the politick constitution of power, and will needs introduce a perpetuall yoke of authority upon all men whatsoever, whether pre-obliged by consent or not, which seems to me very uncharitable. But enough of this. I passe now from the constitution it self, to the determination of power to such a line, or such a person, electively, or hereditarily: and this also is an act wherein we do not deny Gods ordinary interposition, we only deny, that the peoples freedome of choice, or consent is at all drowned thereby.

Gods chusing of *Saul* particularly, is no generall denyall of humane choice; we may rather suppose that that coronation was an act of divine providence, then of any speciall command. For as God remitted the matter to the decision of Lots, so it is undoubted, that he guided the event of those lots, as gently, as he guides all other second causes, without violenting the nature of them. So the Scepter of Judah though it was prophetically intayled upon *Dauids* posterity, yet the individuall person or line of that race was not alwayes specified by God.

The order of primogeniture was broken in *Solomon*, and there was no certain rule left as often as that order was to be altered, or inverted, to whose choice or discretion it should be left. After the Captivity there was also interruption in the lineall course of descent, and by whom the successive right was then conveyed, is uncertain, but in probabilitie either the people, or some other humane hand was the pipe of that conveyance.

We shall not need to prosecute this further, our Adversaries do grant us, that the election of Princes is not now so extraordinary, and divine as it was amongst the Jews, and the Scripture it self is clear, that even those Jewish Princes which God pointed out by Lots, or anointed by his Prophets were yet established, and invested by the people. And therefore in the first delivery of the Law by *Moses*, before any king was resolved upon by the people, God prescribed to them in this manner: *Quando statues Regem super te, &c.* when
you

you shall think fit to set or erect a King over you, you shall chuse that man whom I shall designe. And the same word *statuere* is divers times elsewhere used in Scripture, so that though God did never interpose in any other Nation so eminently about the making of Kings, as in Judea, yet even there he did commend the person, the people did chuse; or if he did chuse, the people did *statuere*, viz. give force and sanction to the same.

It remains now that we try what there is of God, and what of man in the limitations, or mixtures of authority. Tis a true and old maxime in Law, *Qui jus suum alienat, potest id jus pactis imminuere.* And hereupon *Grotius* takes a good difference betwixt *imperium* and *imperii habendi modum*, and as for the manner or qualification of rule, that he accounts *so meerly his* *me*, that if the King seek to alter it, he may be (as he acknowledges) *opposed by the people*: nay he proceeds further, and cites *Barclayes* authority, who was the violentest assertor of absolute Monarchy that ever wrote) to prove that *Kings may have but a part in the supremacy of power, and where they have but such a partiaall mixt interest they may not onely be resisted, but also deposed for forfeiture in case they invade the other interest.* The same Author also affirms, *That States may condition with Kings to have a power of resisting, and that the same is a good condition, though the Royalty be limited by no other.* If this be so, surely the founding or new erecting of authorities at first, and the circumscribing the same after by consent, is so farre from being Gods sole immediate act, that it is, as far as any act can be mans proper and intire act: for except we allow that God has left it indifferent to man to form government as he thinks most for his behoof, we must needs condemne all forms except one, as unlawfull: and if we grant indifferrence tis all one, as if we left it to second causes. But soft to call *Kings* (saies one loud Royallist) *derivatives of the people, it is to disgrace them, and to make them the basest extracts of the basest of rationall creatures, the Community.* If we fix an underived *Majestie* in the community as in it first seat, and receptacle (where there is not one of a thousand an intelligent knowing man) this is (if not blasphemy) certainly high treason against God and the King. This is Oxford Divinitie. God reproves Kings for his anointed peoples sake, these reproach the people for Kings sakes. These are the miserable Heralds of this unnaturall warre, having mouthes as black as their hands

hands are crimson : but let the man fall to his Arguments.

A world of reasons (saies he) *may be brought from Scripture to prove that Kings are independent from all, and solely dependent from God. But for brevities sake take these.*

- 1 *To whom can it be more proper to give the rule over men, then to him who is the onely King truly and properly of the whole world ?*

Answer. To none more proper : there shall be no quarrell in this; }
provided you will no more except Kings then Subjects from this }
generall subjection.

- 2 *God is the immediate Author of all rule and power amongst all his creatures above or below, why then should we seclude him from being the immediate Author of government and empire amongst men ?*

Answer. We seclude him not. We onely question whether he be so }
the immediate Author of our constitutions, as he is of primitive or- }
der, or whether or no he so extraordinarily intervene in the erect- }
ing of Governors, or limiting of governments, as to strangle second }
causes, and invalidate humane acts.

- 3 *Man in his innocence received dominion over the creatures immediate-ly from God; and shall we deny that the most noble, and excellent government over men is from God, or say it is by humane constitution ?*

Answer. God did not create so vast a distance betwixt man and }
man, as betwixt man and other irrationall creatures : and there- }
fore there was not at first the same reason of subjection amongst the }
one as the other. Yet we except nothing against order, or a milde }
subjection amongst men : we onely say that such servility as our }
Adversaries would novv fain patronize in Gods name, vvas never }
introduced by God, Nature, or any good men.

- 4 *They who exercise the judgement of God must needs have their power to judge from God; but Kings by themselves and their Deputies exercise their judgement from God. Ergo.*

Answer. The Prince of Orange, or the Duke of Venice may as }
well plead thus, as the King of Spaine, or the Emperour of Ger- }
many. Besides, according to this rule, *Quod quis per alium facit, fa-* }
cit per se : the State may as truly say, it exercises judgement by the }
King, as the King may that he exercises judgement by his inferi- }
or Courts. Lastly, if this be pressed upon supposition, that the King is }
Judge next under God without any dependence from the State, it }
begs

begs the question: if it be pressed, only to prove, that the King } ought to be so independent, 'tis vain, and frivolous.

5. *Kings are the Ministers of God, not only as to their Judiciary, but as to their Executory power, ergo, their charge is immediately from God. They are called Gods, Angells, &c. So in the Church, Preachers are the Embassadors of God, and this makes their function immediately divine.*

Answer. The judiciary, and executory power flowes from the same source, this shall breed no dispute: and as for all the glorious attributes of Majesty, and irradiations of sanctity, and divinity which the scripture frequently applies to Kings.

First, We must know they are not only appropriated to Kings } as they are absolute, and solely supream; but to all chiefe governours also though bounded by lawes, and restrained by coordinate partners.

Secondly, They are many times affixt to Kings, not *quatenus* Kings, but *quatenus* religious and just Kings; these sacred expressions applied to *Ahas* or *Jerobam*, doe not sound so tunably, as when they point at *David* or *Josiah*.

Thirdly, The people and flock of God sometimes communicate in termes of the like nature, not only Priests and Prophets were appointed as well as Kings, but the whole nation of the Jewes was called holy, and dignified with that which the ceremony of uncti- on shadowed only. Priests were not Kings, nor Kings Priests, but the children of God are both Kings and Priests: the scripture expressly calls them a royall Priesthood.

Fourthly, That sanctity, that divine grandour which is thus shed from above upon Princes for the peoples sake, in the judgement of wisemen does not so properly terminate it self in the means as in the end.

6. *If the grace inabling Kings for their employment be only from God, then consequently the employment it selfe, ergo.*

Answer, if God by inspiration did inable all Kings extraordinarily, and none other but Kings, this were of some force: and yet this proves not that Kings are more, or lesse inspired by God, as they are more or lesse limited by man. Howsoever wee know by woefull experience that the Major part of Kings are so farre from being the best Judges, the profoundest Statesmen, the most expert

soldiers, that when they so value themselves they prove commonly most wilfull, and fatall to themselves and others; and that they ever govern best, when they most relye upon the abilities of other good Counsellors and Ministers.

7. *Where Sovereigne power is, as in Kings there is authority and Majesty and a ray of divine glory, but this cannot be found in the people, they cannot be the subject of it either jointly, or severally considered; nor singly, for all by nature are equal: and if not singly: not jointly; for all have but the contribution of so many individuals.*

Ans. What ridiculous things are these? if Majesty and authority accompany supremacy of power, then it is residing at Geneva as well, as at Constantinople; or else we must take it for granted that there is no supremacy of power, but in Monarchies. All men will explode this: but suppose the Crowne escheated in a Monarchy, will you say because all have but the contribution of so many individuals, therefore there is no more vertue in the consent of all, then there is in the vote of one? must the wheelles of government never move againe except some miraculous ordinance from heaven come to turne, and actuate them? must such a fond dreame as this confound us in an eternall night of Anarchy, and forbid us to wind up our weights again? how poore a fallacy is this? you cannot subject me, nor I you, nor one hundred of us one hundred of other men but by consent, it follows therefore that all of us joyntly consenting cannot subject our selves to such a law, such a Prince such a condition.

8. *Potestas vitæ & necis, is only his who only gives life: ergo, Kings which only have this, can only derive this from God.*

Ans. This destroyes all government but Monarchicall, this denies all Aristocraticall or Democraticall States to bee capable of doing justice or proceeding against delinquents, what can be more erroneous or pernicious? the power of life and death in a legall sence is committed to man by God, and not to Kings only. For if the Crowne of England were escheated, the community even before a new restauration of government, during the *inter-regnum*, might joyne in putting to death murderers and capitall offenders, and perhaps this it was which Cain stood in feare of. Nay it may be thought *ex officio humani generis*, they ought to prosecute all the common disturbers of mankind. And if this without some orderly

derly tribunall were not lawfull, or possible to bee done, yet what right or power is there wanting in the people to erect such a Tribunal? *Grotius* tells us, that as man is the generall subject of the visive faculty, though the eye of man be its particular seat, so the whole body politick is the generall subject of authority, though it bee more intimately contracted sometimes into such a Chaire, such a Bench, such an Assembly: and if it be so after government settled, it is much more so before.

9. The actions of Kings as well of mercy, as justice, are owned by God, and therefore when God blesses a people, he sends good Kings; when he scourges them, he sends evil Kings.

Answer. If God be said to send evill Kings, and to harden them for our punishment in the same manner, as he sends good Kings &c. we must acknowledge the hand of God in these things, but not as over-ruling secondary causes: when the lot is cast into the lap, the event is from the Lord, but it does not alwayes so fall out from the immediate sole causality of God, so as the second cause is forced thereby, or interrupted in its ordinary operation. Wherefore if the immediate hand of God does not violent such hidden contingent effects, sure it is more gentle to more rationally and free causes: and where the effect is evill, we must not make it too causall.

10. God is stiled a King and represented on a Throne, therefore let us not make him a derivative of the people also.

Answer. Demand what security you please for this, and we will give it.

11. Kings, Priests, Prophets were anointed, but no fourth thing: and since Priests and Prophets are sacred by immediate constitution, why not Kings?

Answer. Wee have instanced in a fourth thing, upon which the unction of God hath been powred, if not visibly yet spiritually, if not in the externall ceremony, yet in the internall efficacy. We do not deny also but Kings are sacred by immediate constitution, as well as Priests: but we deny that Kings only, or absolute Kings only excluding other conditionate Princes, and Rulers are thus sacred; and as for Priests, they are not so properly a power as a function: neither doe I perfectly understand how farre they disclaime all humane dependence in their functions, nor is the dispute thereof any way pertinent in this case.

12. *Disobedience to Princes is taken as disobedience to God, and therefore God says to Moses and Aaron, they murmur not against you, but me.*

Ans. Cursed for ever bee that doctrine that countenances disobedience to Magistrates, much more such disobedience against such Magistrates in such things, as that was which God so severely chastised in the Israelites: our dispute at this present is not about obedience, but the measure of obedience; for if the Kings will be the sole rule thereof, wee cannot disobey God in obeying the King, but this we know is false: and if any other rule be either in the law of God or man, to that we will conforme in our actions, and to that we ought to be confin'd in our disputes.

13. *The last result is, Priests and Kings have their offices if not personall designations, immediately and solely from Gods donation, and both (as to their persons and functions) being lawfully invested with sacred power, are inviolable.*

Ans. We need not doubt, but this great ostentatious undertaker, and this wide, gaping promissor, was some Cathedralist within orders, he does so shuffle Priests and Princes together. He will needs have Princes as inviolable as Priests, but hee could wish much rather, I believe, that Priests were as unpunishable as Princes. He doth admit Princes to have their offices as immediately from God as Priests, but then his intent is that Priests shall claime a power too as independent as Princes, *Cæcus fert Claudum, &c.* If Kings will bee but as willing to carry Bishops as they are to guide Kings, 'tis no great matter whether any body else have legs to walk, or eyes to see. But what if we grant Ministers to have persons as inviolable as Magistrates, and Magistrates offices as sacred as Ministers: what doth this prove against limited Monarchy, how doth this devert the people of God of all right and liberty?

Thus we see he that answers one argument, answers all: for we do not deny Gods hand in the crowning of Princes, we know the scripture is expresse in it, and wee know there is a necessity of it, as there is in all other human things; and yet this is all they can say for themselves. All that we wonder at is, that since the scripture doth every where as expressly also mention the hand of man in making and chusing of Kings, and since there is no more ascribed to God for introning them then is for dethroning: That our adversaries will take

take no notice at all of the one, as well as of the other. It is plain in *Job* 12. 18. that God looseth the bond of Kings, and girdeth their loynes with a girdle: and many other proofes may bee brought, that God giveth and taketh away Scepters. Wherefore if *Jeroboam* an usurper and seducer of the people; doe as truly hold his Crowne from God, as *Rehoboam*, if *Nebuchadnezar* may as justly require subjection from the Jews under the name of Gods Vicegerents, as *Josiah*; if *Cyrus* be as truly invested from heaven as *Judas Machabeus*; if *Rich.* the third have a person and office as sacred, and inviolable by divine right, as his Nephew *Edward* the fifth whom he treacherously murdered: and if we cannot affirme that God is a more active or efficacious cause, or more overaweth, and wresteth inferiour agents in the one, then the other, it behoves us to be as cautious how we impute to God, that which is mans, as how we impute to man, that which is Gods.

Kings raigne by God, 'tis confest: but (Kings) there is used indefinitely for all supreme Commanders, as well limited as unlimited, as well those which have a greater, as those which have a lower stile than Kings, as well usurpers and such as ascend by violent means and uniuersal titles, as lawfull Princes that enter by a faire descent and election: and so likewise the word (by) is taken indistinctly, it may as well signifie that efficacy of Gods hand which is ordinary, and stands with the freedome of naturall causes, as that which is extraordinary, and excludes any humane concurrent causality: and we have given reason, why it should intimate the first; but there is no reason given why it should intend the second. But the Royalists will now object, that if power doe flow from a humane naturall principle (rather than a divine and supernaturall one) yet still this proves not that publick consent is that only principle. Nimrod was a greater hunter of men, and doubtlesse that Empire which he atcheeved, was rather by force than consent; and 'tis apparent that many other Princes have effected that by their owne toyles, which they never could have done by meer merit or morall inducements.

'Tis not to be imagined that *Nimrod* or any other by meer personall puissance without the adherence of some considerable party, could subject nations; or lay the foundations of a spreading Empire: neither was any Conquest ever yet accomplisht without some sub-

sequent consent in the party conquered, as well as precedent combination in the party conquering, or concurring in the act of Conquest.

Normandy and *England* were united by armies, but not meerly by armes, for the acquisition of *England* was compass't at first by the voluntary aydes of the *Normans*, and upheld afterwards by the voluntary compliance of the *English*.

The maintaining of dominion is altogether as difficult as the purchase, and commonly is of the same nature: if nothing else but the sword had placed *William* in the Chair, nothing else but the sword perpetually unsheathed could have secured him & his posterity therein, but it was not *Normandy* that was ingaged against *England*, it was *William* that was ingaged against *Heralt*, no sooner therefore was that personall dispute ended, but *William* was as well satisfied with the translation of *Heralts* right, as *England* was willing to transfere the same upon him. Without some rightfull claime *William* had been a Robber, not a Victor, and without the consent of this nation either declaring or making that claime rightfull, the robbery would have lasted for ever, and yet no title had ever accrued thereby. Wherefore if there must be a right of necessity to make a difference betwixt robbery, and purchase; and if that right can never bee justly determined by force without consent either precedent, subsequent, or both: nor no Prince was ever yet found so impious or foolish as to decline the same: the plea of Conquest is but a weak absurd plea, for as it is well observed by a learned Gentleman, *Conquest may be a good me me, or it may be a remote impulsive cause of royalty, but an immediate small cause it cannot be, neither can Gods ordinance be conveyed, or a peep in conscience ingaged by any other me mes then consent of the people, either by themselves, or their Ancestors.* Our adversaries to involve us in a base thraldome boast of three Conquests in this Iland, and yet neither of them all was just, or totall; or meerly forcible, without consent preceding, or following. 'Tis a law amongst swordmen (and it hath no other sanction) *Arma tenenti, omnia dat, qui justa negat.* Try us by this law, and what could either the *Saxon*, *Dane*, or *Norman* pretend against this whole nation? if the Crowne was unduly withheld, that could beget but a particular quarrell betwixt the usurper here and him that was pretender, on the

the other side. This was no Nationall injury, and yet even no such manifest desseisin can be proved against us.

Besides, if the whole Nation had transgressed, yet the whole Nation was never wholly subdued, nor scarce any part of it altered by conquest, all our conquerours themselves did rather loose themselves, and their customes, and their Laws to us, then assimilate us to themselves. *Anglia omnibus Regum & Nationum temporibus iisdem legibus, & consuetudinibus quibus nunc regitur continuo regebatur*: we know by what an authentick hand this was written. War like incursions of foraine Armies prevail no more usually upon great States, then the influxes of rivers do upon the ocean, so farre they are from making the Maine fresher, that they themselves become brackish in attempting it. We see the *Norman* here being in the full pride of his great victory, was in danger to have received a fatall check from the Inhabitants of Kent (one County of this Realme) had he not prudently betaken himself to a milde way of treatie, and composition. And if the conquered remain in such condition, what justice is that, which ingulphs not onely them but the conquering Nations also, and their posterities in the same vassalage under one insulting Lord? The natives here now are not distinguishable, nor ever were in point of freedome from those which entred by force amongst them; and shall we think, that the same hand which wrested away our liberty in favour of one man, would do it with expence of its own also?

To use more words in this pretence of violent acquisition, were to attribute too much to it, if you relye upon any agreement and condescension of this Nation, produce the same, and the true form thereof, and that shall purchase you a good title; if you relye upon meer force, the continuation thereof to this day ought not to conclude us in a plea of this nature. Tis no reason we should be now remedilessly oppressed, because our Ancestors could not defend themselves against your oppression.

Let us come now to another objection: for the Royalists will still say, *If the people be the true efficient, primary cause of sovereignty, yet the party constituting is not alwayes better then the constituted. Still the rule is deniable, Quicquid efficit tale est magis tale.* For the better ventilation of this truth, we shall distinguish betwixt natural and moral causes;

for

for in morall causes this rule does not so constantly hold, as in naturall. You will say, *that in naturall things, it does not alwayes hold; for a spark may raise farre greater flames then it self; and wine may intoxicate or work that in another, which it has not in it self.*

Answer. The spark that inflames other combustible stufte, and so dilates it self into a greater flame, works not as a cause onely, but as an occasion also; and we shall more truly imagine that it is multiplied, and that it gathers new strength from other concauses, then that it spends it self, or effects something more vigorous, and perfect then it self: So wine, it makes not drunk, as it is it self drunk; because drunkenesse proceeds not from wine immediately, but from other neerer causes. Wine heats the veines, annoyes the stomach with humors, and the brain with fumes, and these are the immediate causes of drunkenesse; the proper work of wine is heat, and so it ever has a heat as intense in it self, as that which it self causes elsewhere, and without the accession of other joynt causes, it cannot produce a greater degree of heat, in another thing then it reserves in it self. As to ethicall causes (if they may be truly called efficient) tis confest, forasmuch as they work voluntarily and freely, they may in their influences depart with more, or lesse vigor as they please.

Authoritie, laud, honour, &c. may be passed either absolutely, or conditionally, and the conditions may be more or lesse restraining as the agreement provides, according to the intent of the grantor, expressed by instrument, or otherwise. In our case then we are to inquire whether supreme signiory, or command be to be reputed amongst naturall or morall things, and I conceive it is of a mixt nature, proceeding from principles partly ethicall, and partly naturall. The honour and splendor of Monarchs (two main ingredients of dominion) are after a physicall manner derived, the more glorious and noble the people is, the more glorious and noble the chief of the people is; and this honour and glory is such as flows from the people without wasting it self, in the act of flowing. In the like manner puissance, and force, it has a naturall production from the people (and this is another principall ingredient of Empire) the more strength there is in such or such a Nation, the more strong is he who commands that Nation: and yet that puissance which

which by perpetuall consent passes into the supreme Commander, does not so passe from the people, but that it retains its ancient site, and subject of inherence.

Wherefore Honor and Power though they be so great requisites in the composition of Princes, yet we see they have a naturall efflux; and as Honor is in *Honorante* not in *Honorato*, so *Potestas* is in *Potestante* (as I may use the word) not in *Potestato*. The woman is coruscant by the rayes of her husband, borrowing resplendence like the Moon from the Suns aspect, without losse or diminution to the fountain and cause of that coruscance. In the same manner also Princes derive honour and power from their Subjects, yet drain not at all the source which derives it: *Tanti est rex, quanti est regnum*: As the people increases, or impairs, so does the Prince; and we must not expect the contrary. If then a Prince be in value or excellence superiour to that community from whence all his power and honour deduces it self (which can find but hard entertainment in our thoughts) yet tis not because the fountain has evacuated it self in that deduction; for we see the effect (even after its production, for I speak not of its former entity) is such here, that it has *Aristotles* condition in it; it does *utrique inesse*, it has a residence in both parties, it invests the grantee without divesting the grantor. To do the office of a Protector, is the most proper, and therefore the most excellent, and incommunicable prerogative of a King, yet even that power by which he is made capable of protecting, issues solely from the adherence, consent, and unity of the people; and so issues, as that the people suffer no exhaustion in the bulines. Neverthelesse, it must be granted, there is something of royalty which springs from a morall principle, but that is the Commission, or indeed that form of qualification by which one Prince differs from another in extent of Prerogative, and in respect of this principle the people does more or lesse straiten it self in point of liberty.

This of all other rayes of Majestie is most immediately streaming from the consent of the people; but if a Nation by solemn oath, or otherwise has engaged it self to submit to the will of a Prince absolutely, affirmatively reserving no priviledges, but tacitly renouncing all immunities except onely at discretion, I shall not seek to destroy such agreements. I onely say such agreements are not the

effects of Nature, and tis not easie to imagine how right reason should ever mingle with such a morall principle, as gave being to such an agreement, especially when it renders the Prince, who for honour and power has his perpetuall dependence upon the people, yet more honourable and powerfull in reputation of others then the people, and that by the expresse grant of the people.

Howsoever (not to make this any part of our quarrell) let such acts of communities be demonstrable positive, and unquestionable, as particular conveyances of lands, &c. use to be, and it shall not be denyed, but the effect in these politicall affairs may be more such, then that impoverisht cause, which emptied it self to make it such. Yet sure such acts are very rare, prescription is the great plea of Princes, and they themselves must be Judges of that plea, the Grand Signior himself has nothing but prescription to damne his Subjects (if they be to be accounted Subjects) to the base villenage, of arbitrary rule.

But you will say to such causes, as remain more vertuous then their effects, there is another condition also requisite, they must not onely *utriusque inesse*, but they must admit of degrees also, that the effect may be lesse then the cause, as the water heated is lesse hot then the fire. And you will say, *if the peoples power be not totally devolved, then they remain still, as well superior to the Parliament as to the King. And if it be, then why not inferior to the King, as well as to the Parliament?* As for degrees, there is nothing more known and assented to by all: all men must take notice, that Prerogatives of Princes differ almost in all Countreys; and since this difference flows from different commissions, which Princes do not rightly grant to themselves, it cannot but issue from the people, and from an act of the people which is graduall in it self.

For the other objection, we say tis not rightly supposed that the people and the Parliament are severall in this case: for the Parliament is indeed nothing else, but the very people it self artificially congregated, or reduced by an orderly election, and representation, into such a Senate, or proportionable body. Tis true, in my understanding, the Parliament differs many wayes from the rude bulk of the universality, but in power, in honour, in majestie, in commission, it ought not at all to be divided, or accounted different as to any

any legall purpose. And thus it is not with the King, the King does not represent the people, but onely in such and such cases: viz. in pleas of a common nature betwixt Subject and Subject. Wherein he can have no particular ends; and at such or such times, viz. when there is not a more full and neer representation by the Parliament. And hereupon the supreme reason or Judicature of this State, from whence no appeal lies, is placed in that representative convention, which either can have no interests different from the people represented, or at least very few, and those not considerable: but I shall have occasion to be more large hereafter upon this, and therefore I now supersede.

2 I come now to the finall cause of government. The Scripture is very pregnant, and satisfying; that the proper end of government was the good of the governed: and that the people was subjected to dominion for their happinesse, and tranquillity; and not that the Prince was elevated for his pomp, or magnificence. As for the Prince, the Law of God is most expresse in that, he is not to make his advancement any ground of lifting up his heart above his brethren: he is enjoyned to that comportment which suits with a brother, not a Lord: and to be so farre from lifting up his hand insultingly, as not to be inflated in his thoughts vain-gloriously. And for the people, they are called Gods flock, and the sheep of his pasture; and therefore it is said in the 78. Psalm, that God chose David to feed his people. Our adversaries therefore though they seldome speak of the people but under the notion of the ruder multitude, and seldome name the multitude, but with termes of derision, yet they will not wholly disavow this, and therefore they would fain divide with us, and have a co-ordination of ends in the businesse. They will acknowledge that power was ordained; *ut nobis bene sit*, according to Jeremy; and *ut tranquillam & quietam vitam degamus cum omni pietate, & sanctitate, atque etiam extrema honestate*; according to Timothy; and *οὐκ εἰς τὸ ἀγαθόν*, according to St. Paul: and *pro bono publico*, according to Aristotle, and all sound Philosophy: But still they say, *This end, is not the sole end, the power and honour of the Governor is an end co-ordinate withall, or at least not meerly subordinate.* This we can by no means admit, though by the word Governor be intended, the best regulated Governor that can be; much lesse if an
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arbitrary governor, or one that abuses his power be here understood.

For though government be a necessary *medium* for the preservation of man considered in a lapsed condition, yet this or that form of government, is not alwayes so much as a *medium*: arbitrary jurisdiction is so farre sometimes from being a blessing, that it is a very pest to the people of God. And if it arrive not at the efficacy of a true *medium*, how can we imagine it an end in any respect whatsoever? Neverthelesse if there were not fraud in Royalists, when they speak of the power, and honour of Princes generally, if they did not under those termes comprehend that arrogant tumor or grandour of mind which is incompatible with brotherly demeanour, and so is precisely forbidden by God, we should not so curiously distinguish at this present betwixt a mean, and a sole or meer mean. But now it behoves us to be very strict, and therefore to use the words of Cicero upon this, *Eo referenda sunt omnia, in qui præsunt aliis, ut ei qui erunt eorum in imperio sint quam beatissimi.* This seems a hard saying to our Royalists, must Princes do nothing at all but in order to publick good, and are they bound to promote such as live under their command to all possible good, *ut sint quam beatissimi*? This goes very farre; this makes the power, honour, of supreme Rulers so meerly subservient, and subordinate to the publick good, that to compasse that at any time, nay or to adde any scruple of weight unto the same, it is bound wholly to postpone or deny it self. *Vt gubernatori cursus secundus, medico salus, imperatori victoria: sic moderatori reipub. beata civium vita proposita est:* So in another place sayes the same Author, and this we may suppose he learn'd not onely out of the discourses of Aristotle, and Plato, as he was a Phylosopher, but out of his State practise, as he was a noble Senator and Magistrate in Rome. We read of multitudes of heathens, both Greeks and Romanes who had great commands, yet lived and died very poore, either by neglecting their own particular affairs, or by spending their own means upon the publick. And therefore as *Salvian* saies of some of them to our shame, *Illi pauperes Magistratus opulentam reipub. habebant, nunc autem dives potestas pauperem facit esse reipub.*

Adrian the Emperour did often say both to the people, and in the Senate of Rome, *Ita se reipub. gesturum ut sciret populi rem esse, non suam.*

And

and for this cause some Princes have deserted their thrones, others have bitterly complained against the perpetuall miseries of Sovereignty, as being sufficiently informed that to execute the imperiall office duly, was nothing else but to dye to themselves, and to live only to other men. This does absolutely destroy that opinion, which places the good of Kings in any rivalry with the good of States. For if *Antonius Pius* could truly say, *Postquam ad imperium transivimus, etiam que prius habuimus perdidimus*; how farre distant are they from truth which makes Kings gainers, and subjects losers by their inthronization? *M. Anton. Phil.* having by law, the sole, intire disposition of the publick Treasure, yet upon his expedition into *Scythia*, would not make use of the same without the Senates consent, but professed openly, *Eam pecuniam, ceteraq; omnia esse Senatus Populisque Rom. nos enim usque adeo nihil habemus proprium, ut etiam vestras habitemus ades.* How diametrically opposite is this to that which our State-Theologues doe now buzze into the Kings eares? They instead of giving the subjects a just and compleat propriety in the King, resigne the subject and all that he possesse to the meer discretion of the King, instead of restraining Princes where the lawes let them loose, they let loose Princes where the law restraines them. But our Royalists will say, this is to make the condition of a King miserable, and more abject then a private mans condition. For answer to this I must a little anatomize the State of a Prince.

For a Prince is either wise, and truly understands the end of his promotion, or not; if he be not wise, then he is like a sottish prisoner loaden and bound with golden fetters, and yet is not so much perplexed with the weight, as inammor'd with the price of them. Then does he enter upon Empire, as if he went only *ad in eam messem*, as *Stratocles*, and *Draconides* had use to make their boasting in merriment; but these vain thoughts serve onely to expose him to the traines of Flatterers, and Court-Harpyes, till having impoverished thousands to enrich some few, and gained the disaffection of good men to be abused by villaines, he never reads his error till it comes presented to his eye in the black characters of ruine. The same wholesome advertisement commonly which first encounters him (as that hand-writing did which appear'd to *Belshazzar* in his drunken,

drunken revells) lets him understand withall, that all repentance will be too late. If the Prince be wise, then does he sit amongst all his sumptuous dishes like *Damocles*, owing his life perpetually to the strength of one horse haire: and knowing that nothing else saves his head from the swords point: then must his Diadem seem to him as contemptible, or combersome as *Seleucus* his did, who confidently affirmed that no man would stoop to take it from the ground, to whom it was so perfectly knowne as it was to him. And it was no wild, but a very considerate interpellation of some other sad Prince, who being to put on the Crowne upon his owne head amongst all the triumphant attendants of that solemnity could not but break out into this passion. O thou deceitfull ornament, farre more honourable then happy; what man would stretch forth his hand to take thee out of the dust, if he did first look into the hollow of thy circle, and seriously behold the throngs of dangers, and miseries that are there lodged?

Secondly, A Prince is either good, and applies himselfe to compassse the end of his inauguration or not, if hee bee not good, then does he under the Majesticall robes of a God, act the execrable part of a Devill, then does he employ all those meanes and helps which were committed to him for saving purposes to the destruction of Gods people, and to the heaping up of such vengeance to himselfe, as scarce any private man hath ability to merit. How happy had it bin for *Tiberius*, for *Nero*, and for a hundred more, if they had wanted the fatall baites of royalty to deprave them, or the great advantages of power to satisfie them in deeds of lust, and cruelty? *Neroes* beginning, his *quinqueniū* shewes us what his disposition was as a meer man; but the latter part of his tragicall raign shewes us what the common frailty of man is being overcharged with unbounded seigniory. Amongst other things which made *Caius* appeare a monster and not a man, *Suetonius* in the first place reckons up his ayry titles of pious most great, and most good &c. his impiety made him so audacious as to prophane these sacred stiles, and these sacred stiles made his impiety the more black, and detestable. If the Prince be good, then as *Seneca* saies, *Omnium domus unius Principis vigilia defendit, omnium otium illius labor, omnium delicias illius industria, omnium vacationem illius occupatio*. And in the same Chapter hee further

ther addes, *Ex quo se Caesar orbi terrarum dedicavit, sibi eripuit, & siderum modo, que irrequieta semper cursus suos explicant, nunquam illi licet nec subsistere nec quicquam suum facere.* 'Tis true of private men (as Cicero rightly observes) *ut quisque maxime ad suam commodum refert quicquid agit, ita minime est vir bonus.* But this is much more true of publick persons, whom God and man have by more speciall obligations, confined to publick affaires only, and for that purpose raised above their own former narrow orbe. O that our Courtiers at Oxford would admit of such politicks, and blush to publish any directly contrary? then would these raging storms be soon allayed. But alas, amongst us, when the great Counsell desires that the Kings children may not be disposed of in marriage without publick privity, and consent, all our peace and religion (being nearly concerned therein) it is answered with confidence, *that private men are more free then so.* So when the election, or nomination of Judges, Commanders, and Counsellors of State is requested, 'tis answered, *that this is to mancipate the Crowne, and to subject the King to more exactness in high important affaires then common persons are in their lower interests.* Till *Ma-chiavells* dayes, such answers never durst approach the light, but now Princes have learnt a new lesson; *now they are not to look upon the people as Gods inheritance, or as the efficient, and small causes of Empire; but as wretches created for servility, as mutinous vassalls, whose safety, liberty, and prosperity is by all meanes to be opposed, and abhorred, as that which of all things in the world is the most irreconcilably adverse to Monarchy.* *Salust* a heathen complaines of his times, that instead of the ancient Roman vertues, they did entertain luxury and covetousnesse *publice egestatem, privatim opulentiam.* That which he complained of as the symptome of a declining State, we Christians cry up as a rare *arcanum imperii*: *to make the Court rich, and keep the country poor as in France, is held the most subtile art of establishing a Prince.* *Trajan* a Pagan was an enemy to his owne safety further then it could stand with the safety of the State, as *Pliny* writes; and would not indure that any thing should be wisht for to befall him, but what might bee expedient for the publick. Nay hee appeal'd to the Gods to change their favour towards him if ever hee changed his affection to the Common-wealth. Yet Clergy men now in holy orders, advise Princes not only to preferre themselves, before the people, but even to propose the peoples poverty,

poverty, as the best mean to their wealth, and the peoples imbroyling the nearest passage to their safety. Cicero out of Plato gives Princes these precepts: so to provide for the peoples commodity, as in all their actions to have relation to the same, and utterly to forget their private advantage: and in the next place to extend their care to the whole body of the Common-wealth, and every part of it. Our Divines on the contrary think they cannot speak more like themselves then by inverting this order: *making the Kings profit the sole scope of his aimes and actions, and the peoples either secondary thereunto, or which is worse inconsistent therewithall: and so farre are they from taking any consideration of the whole body, that if the major part bee not condemned to slavery, and poverty, they conceive the weale of the whole is exposed to great hazard.*

It is to be noted also, *that we Christians are not only degenerated in our politicks and become more unnaturall then Gentiles, but even we also amongst Christians which have been born under regular governments, doe more preposterously let loose the raines of Soveraignty, then those Gentiles which knew no such regulations. Seneca under the Roman Empire sayes, Non licet tibi quicquam tui arbitrio facere. His reason is, magna fortuna, magna servitus. In England this would now be treason, if not blasphemay against God and the King, we must bee so far from saying that our King (though hee pretend not to an absolute prerogative) is a servant, that we must not say he is *universis minor*: wee must bee so farre from denying him an arbitrary power in any thing, that we must allow him an arbitrary dissent even in those things which the States of Kingdoms after mature debate propose to him. Maximus the Emperour in his oration to his souldiers uses this expression: *Neque enim unius tantum hominis possessi principatur est, sed communis totius Ro: populi siquidem in illa urbe sita est imperij fortuna: nobis autem dispensatio tantum atque administratio principatus una vobiscum demandata est.* Who dares now avow at Court that the whole nation of England hath a true interest and possession of this Crowne, and that there is nothing therein committed to the King, but the office and charge to dispense, and manage the same together with the people, for the peoples best advantage? That which was true at Rome when there was neither religion, nor perfection of policy to bridle Tyranny is now false, dangerous, trayterous in England, amongst the most civill,*

vill and knowing Christians that ever were; what can be now spoken more odious in the Court of England, then this undeniable truth, that the King is a servant to the State, and though far greater, and superiour then all particulars; yet to the whole collectively taken, a meer officer or Minister? The objections of our adversaries against this truth are especially these two. First, *They say the end is not more honourable, and valuable then the means*: And, Secondly, *it cannot be so in this case, because (they say) it is contradictory in sence, and a thing impossible in nature to be both a servant, and a Lord, to the same State.* As to the first objection, whereas the example of our Saviour is produced to prove, *that some instruments may be of more dignity then those ends for which they are ordained*: we answer, our Saviour though hee did by his blood purchase our redemption, yet was in the nature of a free and voluntary agent, he was not design'd to so great a work of humiliation by any other cause then his owne eternall choice: and therefore since hee receives no ordination or designation from those whom hee came to redeem, nor had no necessary impulsion from the work it selfe of redemption, but was meerly moved thereunto by his owne intire *voluntate*, wee say he was not our mean or instrument, but his owne; and whereas *the example of the Angells is next alleadged*: we answer also, that their Ministry performed unto men is rather a thing expedient, then necessary; and it is not their sole or chiefe Ministry, neither doe they perform the same as necessarily drawne thereunto by any motive from man, as being the immediate end of their Ministry, but their service is injoynd immediately by God, and so God, not man is the true scope of their attendance. Lastly, whereas it is prest, *that the Advocate is ordained for the Client, the Physitian for the Patient, &c. yet it is frequently seen that the Advocate is better then his Client, the Physitian then his Patient, &c.* We answer, every particular Advocate or Physitian, is not to be compared with every particular Client or Patient, but it is true in generall that the skill and art of the Advocate and Physitian is directed in nature not so much for the benefit of him which possesse it, as of him which is served by it; and therefore *Aristotle* in the 2. *Phys. cap. 1.* affirnies truly that the Physitian cures himselfe by accident, as the Pilot wafts himselfe by event, it being impossible that he should waft others, if hee were absent. In all arts that

which is principally intended, is the common benefit of all, and because the Artist himselfe is one part of the whole body, consequently some part of the benefit redounds to him. So after the same manner hee that sits at the helme of a State amongst others, steers the same for his own ends, but according to *Plato*, and *Cicero* both, his maine aime, his supream law, ought to be *Salus populi*; it is a fit title for Princes to be called Ποιμένες λαῶν, and wee know in a Philosophicall understanding, the shepheard, though by kind farre more excellent then his charge, yet in quantum a shepheard, considered meerly in that notion with respect to his charge, is subordinate and bound to expose himselfe for his sheep. It is our Saviours saying, and it was crowned with our Saviours practise, *Bonus Pastor ponit vitam pro ovibus*. Besides, Advocates, Physitians, &c. as they voluntarily choose their owne professions, perhaps intend their own private profit in the first place, the publick in the second, such is the perverseness of humane nature; but as the State designs, or authorizes them, that intends publick ends in the first place.

I passe now to the second objection which maintains *Lord and Servant to be incompatible*; our Tenet is, that Kings may have supream Majesty as to all individuall subjects, yet acknowledge themselves subject to the whole State, and to that supream Majesty which flowes perpetually from that fountaine. In briefe, according to the old received maxime, the greatest Monarchs in the eye of Law, policy and nature, may be *singulis majores, universis minores*, they may obtaine a limited Empire, or *sub regno graviore regnum*. Our adversaries though they cannot disprove, yet they much dislike this doctrine, they cannot say it is impossible; for all *Democracies, Aristocracies*, mixt and limited Monarchies make it visibly true; nor can they say it is incommodious, for there are more mixt and limited States then absolute; and those which are mixt, and limited, are more civill, more religious, more happy then those which are not. These things are beyond all doubt, and debate. The question then is only, whether absolute Princes, that is, such as have no persons to share in power with them, nor no lawes to circumscribe their power for them, be not as meer servants to the State, and as much oblig'd in point of duty to pursue its publick interest, as they

they are Lords over private persons, and predominant over particular interests. Many of the authorities before cited make good the affirmative, and many more may be alleaged to the same purpose: and the rule of finall causes, makes it beyond all contradiction, that there is a certain service annexed to the office of the most independent Potentate. *Nefas est*, (sayes *Alexander Severus*) *à publico dispensatore prodigi que Provinciales dederant*. He contents himselfe with the name of a publick Steward or Treasurer, and confesses that hee cannot mispend the common stock intrusted with him, without great sinne and injustice.

Maximus also (as was before recited) challenged no more in the Empire then a kind of Commission to dispense, and administer (they are his owne very words) the affaires of the Empire with the State. And therefore *Seneca* gives this admonition, that the Emperour should make his account, *non suam esse Rempub. sed se Reipub.* And this was that service (the very word it selfe is *servitus*) which *Tiberius* complained to be layed on his shoulders so miserable and burthenous, as *Sueton.* writes in the life of *Tiberius*. It was recorded in commendation also of *Nasica*, that hee preferred his countrey before his owne family, and did account no private thing his owne, or worthy of his thoughts in comparifon of those things, which were publickly advantageous; *ut enim tutela, sic procuratio Reipub. ad utilitatem eorum, quibus commissi sunt, non ad eorum quibus commissa est, gerenda est*: here the office of a Magistrate is a procuration, he is taken as a Guardian in *Socage*, and the end of his office is the utility of those which are committed to his trust, not his owne. To conclude the lawes of the Empire were very full, and cleer in this, and many more histories might bee brought forth to give more light and strength in the case, but there is no need of any. If any honest Patriot neverthelesse think fitter to use the name of father then servant, I shall not wholly gainsay therein. My wish is, that subjects may alwayes understand their right, but not too rigorously insitt upon it; neither would I have them in private matters look too much upon their publick capacity: Princes also may without indignity to themselves, at some times condescend to such acknowledgements of the peoples due, as is not so fit to be heard from any mouth, but their owne.

Happy is that King which anticipates his subjects in submitting his own titles, and happy are those subjects which anticipate their King in submitting their owne rights, and happy are both, when both thus comply at the same time.

Neverthelesse, if it may be ever seasonable tourge a verity with strictnesse, Princes are not to be called Fathers of their Subjects, except taken *divisim*: but are meer servants to the people taken *collektivim*. How erroneous then are they, and how opposite to the end of government, which are so far from making Kings servants to the people, that they make the people servants to Kings; whereas the Lord doth not rule for the profit of his servant, but by the profit of his servant compasses his own.

Servile power is tolerated, because it tends to the safety and good of him that is subject to it; but as *Aristotle* holds, 3. *Pol. c. 4.* the master in protecting his servant does not look upon his servants ends herein, but his own, because the losse of his servant, would be a losse to his family. Therefore this kind of Authority is not to be indured in a State, because it is incompetent with liberty, provided onely for slaves, and such as have no true direct interest in the State: whereas *fixis iusti imperii* (as *Ammianus* writes) and as has been confirm'd by many other proofs: *Vilitas obedientium estimatur, & salus.* But you will say, *It is more reasonable that Subjects should remain under the condition of servants, then he which has authority over those Subjects, and is in place far above them.*

Answer: That end to which Princes are destin'd, *viz.* the Common good, or *βίον δίκαιον*, as one calls, or *ἀλλότριον αγαθόν*, as another calls it, or *cura salutis aliena*, as another calls it, is so excellent, and noble, that without the inconvenience of servility, they may be servile to it. The truth is, all things that are in the nature of means and instruments are then most perfect, and intire, when they are most fit, and conducive to accomplish the end for which they are prepared. So *Aristot.* delivers in the 5. *Metaphys.* and so *Averroes*, and *Thomas* thereupon. Tis to quarrell against God, and Nature, to except against that true and proper end which God and Nature hath design'd to any person or thing. The *Greeks* called excellence *τελεια* from *τέλος*; and the *Romanes* called it *perfectio*, because that is perfect, or consummate which approaches nearest to its end. Tis not onely

onely therefore to be said, that that is a perfect, or intire State, wherein the Governor executes all things in order to the Common good, but he also is a perfect, and intire Governor, which bends all his actions to that purpose. For if we look up to Almighty God, we must needs acknowledge that he is most truly represented and personated by such a Deputy as refers all things to publick Good. For God is goodnesse it self, and there is nothing more essential to goodnesse, then to be diffusive, and God has no end of addition or profit to himself in making Heaven, or Earth, Angels or men.

Next if we look upon Nations, they ever retribute most honour, and repay most dutie, love, and gratitude to such Princes as are most free from particular aymes. That Reigne which supports it self by terror is accompanied with hatred, and danger: but that which found it self upon love, is truly majesticall, safe, and durable. For in part the Princes happinesse is involved in his Subjects, and he does more partake in their flourishing condition, then they in his private advantages. If *Cicero* can say, *Nisrum dicamus esse, quicquid bono principi nascatur*: the Prince may say as truly, *Principis est quicquid est omnium*. Therefore does *Aristot.* 8. *Ethic.* c. 10. maintain, that Kings do not regard their own particulars, but the community of their Subjects; because there is a self-sufficiencie, and perfection in good Kings whilest they cannot be said to want that, which their Subjects have. *Queen Elizab.* by her publick actions doubted not to win her Subjects hearts, and being possessed of her Subjects hearts, she doubted not but to command both their hands and purses, and what else could she want to make her truly great and glorious?

Next, if we look upon Princes themselves, they have gallant, capacious, and heavenly souls, which know no bounds in their affections but the Community it self, over which God hath placed them: but they are ever narrow of heart, poore of spirit, and weak in judgement, that prefer themselves, and their own profit, or rather a shadow of profit, before the whole flock of God, and that which is indeed reall, and substantiall glory. *Plato* supposes that Nature in the composition of common people used the courstest metall in the composition of Souldiers, and the middle rank silver; but in the production of chief Commanders, the purest sort of gold. His

meaning is, the infused higher and better principles, where she confin'd to greater and nobler ends.

Lastly, if we look upon the nature of the end it self, we shall see there is not that servility in it as is supposed, it differs *toto genere* from that preposterous end, which would make whole Nations servile. For if it be slavish, and base, to have the true good or prosperity of millions postponed to the false good and prosperity of one man, sure it is directly the contrary, for one man to abdicate that which has but the shew of his single benefit in comparison of that which apparently is the true benefit of millions. Servility and slavery (if it be rightly defined) is that odious and unnaturall condition, which subjects and necessitates a man to a false end, or to such an end, as God and Nature in his creation never did intend him for. Now this definition does not agree with that condition of a Prince, which subjects, and necessitates him to publick ends. Let then all Princes from hence learn to renounce *Machiavils* ignoble, sordid principles, and let them industriously aspire to the true excellence and perfection of that publick divine end, for which they were ordained. Let them think it more glorious, and better befitting imperiall dignity, to be accounted the love, and delights of Mankind, as *Titus* was; then the seducers of Israel, as *Jeroboam* was. Let them zealously imitate *Augustus*, who found Rome built of brick, but left it all beautified with marble; rather than *Nero* who consumed both brick and marble with fire, and reduced all to ashes.

Let them follow that Prince, who preferred the saving of one Subjects life, before the slaughtering of a thousand enemies; rather than such Princes, as usually value the life of one Traytor, before the peace and safety of divers Kingdoms.

To conclude, let the publick good of their Subjects, (being the true end of their Royaltie assign'd both by God and Man) be the measure of their actions, the touchstone of their Politicks, the perfection of their Laws, the determination of their doubts, and the pacification of all their differences.

We have now seen who is the Architect, and what the true intent is of the Architect. Let us in the third place take view of some frames and erections to gain more light from the parts, and fashions thereof. And first let us take notice of such Politicks as Scripture affords

affords from *Adam to Moses*; and next from the introduction of the Law till the Incarnation of our Saviour: then let us inform our selves of that Empire under which Christianity began first to spread; and lastly, let us draw down to our owne times, and survey our owne fabrick.

The first species of *Power*, which had a being in the world (for the word *Power* is applyed diversly) was *Mirital*: and this we conceive to be something more then meer order, but not so much as Jurisdiction; for these reasons.

First, the Scripture saies, *the man, and the woman were made one flesh*, or one person; and they were so conjoynd in their interests, that the love of son and father was not so strong, as this conjugall tye.

This makes a coercive power improper, *when man is to use it upon his own members*: for man is not said justly to have any jurisdiction over his own parts, or members; tis a kind of solæcisme in nature. *Ubi tu Caius, ibi ego Caius*, so said the old Roman law, and God in the fifth Commandement allows the same degree of honour to the mother as to the father.

Secondly, If the Husband have such a coercive power, it is so arbitrary that he may proceed to what degree of rigour he pleases, even to death it selfe; for as hee hath no law to bound him, so hee hath no equallito controll him: nay, he is not Judge only, but informer, witnesse, and executioner also: and nothing can bee more extreame, and rigid then this.

Thirdly, The wife (*admitting such a Jurisdiction of the husband*) *is in all cases remediless and destitute of appeal*; though there bee more bonds of duty, and awe, to restraine her from being injurious, disobedient and unnaturall to her husband, then to withhold her husband from abusing his authority, (and this ought rather to exempt her, then him) yet in this case, *for him there is no controll, and for her there is no redresse*.

Fourthly, There is no mention precept or precedent in Scripture, to countenance any coercion of this nature, unlesse we will call that of divorce and repudiation so; and that also seemes discontinued by our Saviour, except in case of Adultery.

Fifthly, We see in all nations the power of Husbands is regulated by the publick civill power; *which if it were from nature, before Civill*

Civill power it could not justly be repealed, nor merito bee altered. Contra jus naturale, non valet dispositio humana.

When *Vashti* the Emperesse would not submit to the command of him who was both her Husband and Prince, a law was made to punish that contempt, and the like offences, and till that law was made, it was not thought fit that the Jurisdiction either of husband or Prince should be exercised against her.

Tis sufficient therefore that Nature teaches wives to look upon their husbands interests, as their own, and their persons as themselves; and to acknowledge them their Lords, as God has indued them with more majestie, strength, and noble parts: and to be submisse as they were created of and for men: and if then Nature prevails not, recourse must be had to an impartiall Judicature, where either party may be indifferently heard: for there is no more justice intended to the one, then to the other, nor can injustice be more feared from the one, then the other. So much concerning *Maritall power*, and to shew that nothing can be rightly extracted out of it, for the liconsing of arbitrary rule in the State. Wherefore I passe to *Paternal power*.

The second *species of Power* which succeeded in the world, was that which Parents have over their children: and this also we conceive to exceed meer Order, but not to equall Jurisdiction, or at least absolute Jurisdiction; for these reasons:

First, because tis apparent, that in the family the power of the Mother does participate with the power of the Father, and by its mixture and co-ordination cannot but be some qualification to its rigour.

Secondly, take children before they are of maturity, and there needs no other Scepter, but a twig to awe them; and take them to be of full age, and then they spread into families themselves, and rise to the same command in their own houses, as they were subject to in their fathers.

It were unjust also that Parents should claime any Jurisdiction to hold their children from marriage, or to usurp so over them after marriage, as they may not command in the same manner, as they are, or were themselves commanded.

Thirdly, Nature with a very strong instinct breaks the force of
Paternal

Paternall empire, by turning the current of affection rather from the father to the son, than from the son to the father: it rather makes the father, which is the root, convey sap to the son, which is the branch, than on the contrary: and therefore the naturall end of the father, is not his own good only, but his whole families, (according to *Aristotle*) whereas, take him in the notion of a Master, and so he regards his own good in the first place, and his servants in the second, only as it conduces to his.

Fourthly, If Parents had an absolute jurisdiction over their Children, even to life and death; then Children, which in the eye of Policie, are sometimes many in number, and of more publike value than their Parents, might be oppressed without all meanes of remedie: and this may prove mischievous and unequal, and not fit to be referred to Natures intention.

Fifthly, In all Civill Countries, where Government is established, there are Lawes to over-rule Parents as well as Children, and to provide for the safetie of Children as well as Parents: And where no Government is yet established, there is no president of such jurisdiction.

Upon the murder of *Abel*, if the right of a Father had intitled *Adam* to the same power, as the right of a Prince useth to doe, *Adam* ought to have arraigned *Cain* at his Bar, and to have required blood for blood. But we do not find that *Adam* did claim any such power; or sin, in not claiming it: We find rather that the whole stock of Mankind then living, were the Judges that *Cain* feared: and there is reason why they should be more competent for such a tryall than the Father himselfe. When there were no Kings, no Judges in *Israel*, the People by common consent did rise up to vindicate common trespasses; and God so required it at their hands. But if judgement should be left to Parents only, much injustice might be expected from them, which is not so much to be feared from the People not yet associated: For the offence of the Son is either against the Father, or some other: If against the Father, then is he Judge in his own case; and that is dangerous; the Father may be partiall to himselfe: If against another, then the Father is a stranger to the Plaintiffe, not to the Defendant: and that is more dangerous, in regard that partialitie is more to be feared.

The Paternal right of *Adam* might better qualifie him for rule, whilst he lived only amongst his own descendants, than any other pretence could any other particular person amongst his descendants: but it did only qualifie, not actually constitute: and since *Adams* death, none but *Noah* could pretend to the same qualification.

The right of Fathers is now in all Fathers equall; and if we doe not grant, that it is now emerged or made subordinate in all great associated Bodies, by that common authoritie which extends over all, we must make it incompatible with Common Authoritie. 'Tis true, *Bodin* is very zealous for Paternall empire; and he conceives, that the publique Courts of Justice would not be so full of suites, if this Domesticall jurisdiction were not too far eclipsed thereby. But 'tis well answered, That *Bodin*, in this, doth not aime at the totall cure of Contention in the State: his only ambition is, to ease the publique Courts, and to fill private houses with more vexations and unnaturall contestations.

The Romane Law was very rigid against Children; and *Bodin* supposes that Law was grounded upon the Law of Nature: but we know it never was received in all Nations, neither is it now in force almost in any Nation: And whereas *Bodin* appeales to Gods law; *Deut. 21.* we desire no better determination; for the very words of the Law there, give the definitive sentence to the Elders, and the execution to the whole City: the Parent hath no part, but that of the Witnessse, left to him; neither indeed can any man be thought more unfit either to judge, or to execute, nay, or to be a spectator of the rebellious executed Son, than the Father himselfe. Civilitie hath now so far prevailed even in the Imperiall Law it selfe, that Parents may not causelsly abdicate or dis-inherit Children; nor is that held a good Testament, wherein the Sons name is totally omitted; Nor if ingratitude, or disobedience, or any other cause be alleadged against the Son, is the Father left solely to his own judgement in that cause.

We doe allow, that Parents are gods to their Children, and may challenge great pietie from them; and that, in nature, their offices of kindnesse are of grace, and not of duty; whereas no office of the child is of grace, but of meere duty: Yet this destroys not Law, or the interposition of Publique Authoritie. The Fathers right in the Son, is not

not so great as is the Countries. *Cicero* saith very well, *Patria una omnium charitates complectitur.* The Father therefore must not use his inferior right to the prejudice of a higher. Nay, the Father is not only restrained by Law from acts of injustice, the same being in him more to be detested than in a stranger : but he is of duty to perform all such pious offices also, as the infirme condition of Children stand in continuall need of.

And this duty, though the Child cannot challenge as proportionable to any merit in him, yet the State shall injoyne as necessary, and righteous, and altogether indispenfable. Nay, suppose our Crown escheated, or suppose any body of men not yet associated ; yet still we maintain, the Father (not as *animal sociatum*, but only as *animal sociale*) owes a preservation of his Issue, for the common good of Mankinde ; and cannot deny payment of the same, without great injustice to humane nature. We may conclude then, that this Paternall rule being so far divided and limited in point of losse of life, libertie, or other properties, wherein there is a rivaltie or concurrence of a common interest : and so far clogged with pious duties, and tender respects, will be very unapt to lend any testimonie for rigorous, boysterous prerogatives in Princes.

The next kind of Power visible in the World, was *Fraternall* : for the Father being dead, the eldest Son is supposed by some to have inherited his dominion, or at least to have attained to some superiority over his younger brethren. Much might be said to prove, that Fathers did not transmit all their power to their eldest Sons ; for so there had remained but one Monarch in the World : and the story of *Abraham* and *Lot* sufficiently disproves this fond dreame. But take it for granted, and yet the same Answers which make conditionate the power of the Father, must in the same manner be applied to the power of the Brother. Philosophie tells, that the cement betwixt brother and brother, is in some respects more knitting than any other whatsoever : for the cement of love betwixt Husband and Wife, is equall, but not naturall ; the cement betwixt Father and Son is naturall, yet not equall ; but the obliging power of amitie betwixt Brother and Brother, is both equall and naturall : and this is no sure preparation for superiority. *Majestas & Amor non bene conveniunt.* And therefore 'twill be superfluous to answer any

farther to this point.

Our next transition then will be from Fraternal power to that of Masters or Lords, which from the Greek we terme *Despotically*, from the Latine, *Herile*. This power gives the Lord an absolute, arbitrarie interest in the slave; and it cannot be called Jurisdiction, because it propofeth no ends of Justice in it selfe. A slave (according to *Aristotle*) is he, who is so wholly his Lords, as that he hath no proprietie remaining in himselfe: he only lives, or hath a being to his Lord; but is as dead, nay nothing to himself. Whatsoever may be acquired by him, whatsoever may accrue any other way to him, it rests immediately in his Lord: and his person, his life, all that Nature hath endowed him withall, is so his Lords, that at discretion he may be beaten, tortured, killed, or libidinously used, &c. His very Lord is not called his, as he is called his Lords: for he is his Lords absolute possession, as a horse, or any reall or personall chattell is: but his Lord is his, only *secundum quid*, as he beares rule over him: in all other things the Lord retaines his own state, person, libertie and right; neither doth he refer to the slave, but in a limited respect.

Hereupon it is much controverted, whether Servitude be agreeable to Nature, or no? And as Naturalists doe generally hold it affirmative; so our Civilians are strong for the Negative. Wherefore for the stating of this, we must know, that Servitude is largely taken by *Aristotle*, and not distinguished from order in Nature, or that power which Man hath over sensitive and vegetable things, or that Jurisdiction which intends Publique good, and the distributing to every man that which is his own. This caused that error. We must understand also, that when Lawyers maintaine all men to have been equall by Nature, and free; their meaning is, that no violent, noxious, unvoluntarie inequalitye, or restraint, had its introduction from Nature.

So the true Question is but this; Whether that power of a Lord, which is unlimited, over his slave, be in any kind profitable for the Slave, good for the State, or expedient for Mankinde, or no? If it be, it may have a foundation in Nature; If not, it is otherwise. And whereas *Aristotle* presupposes, that there are some men so servile by nature, and so nearely approaching to brut beasts, that they cannot governe themselves, nor live but by the soules of other men;

we may not reject this, yet wholly reject Dominicall-power notwithstanding.

For first, That Dominicall-power which we oppose, is unnatural; it is such, as has no eye at all upon the good or conservation of the slave, or at least, none but secondary; the very definition of it leaves the slave utterly disinherited of himself, and subject to his masters sole ends: Now that which tends not to the preservation, is not natural, but violent, and consequently, to be abhorred.

Secondly, there can be no condition of man so servile or brutish, as to require an Arbitrary subjection: Nature has not exposed infants to this rigour, no nor beasts, and therefore much lesse any that have a larger use of reason: This condition does make Government absolutely necessary; but absolute Government it does not prove so much as expedient.

Thirdly, if this condition did justifie Dominicall-Rule as to that respect, yet this justifies it not generally, and as the world has ever hitherto used it, and as it is commonly understood: No generous minde, no knowing man, no Polititian ought to be mancipated by this ground; and yet we know well, Slavery hitherto has observed no such distinction in the world.

Fourthly, Servile Government does not onely shew it self injurious and violent in devesting the propriety of those which are subjected to it; but also the more publike and sublime propriety; which the Common-wealth, the Society of Mankind, nay God himself has in the parties enslaved. If the lord may destroy his slave at pleasure, then he may destroy that, which in part is belonging to another: then the condition of a slave is worse than of a beast, or any inanimate Cattels; and this is most unnatural, and publikely detrimentall. *Sic utere tuo, ne noceas alieno: sic utere privato, ne noceas publico.* These are Maximes that restrain men from the abuse of any other things; nay, by these Rules, no man may abuse himself: yet these restrain not from abusing slaves; these deny not, but a lord may have a more confined power over his slave, than he has over himself. *Seneca* would not admit, that the masters right in the slave should derogate from the right of himself in himself, much lesse of others; therefore doth he most admirably expostulate, thus: *Servi sunt? imò homines. Servi sunt? imò consubernales. Servi sunt? imò*

humiles amici. Servi sunt? imò conservi. His Conclusion is, *Cum in servum omnia liceant, est aliquid quod in hominem licere communius velit.* Here is a difference observed between the nature of the servant and the nature of the man: If thou may'st tyrannize over him as he is thy servant, yet thou may'st not as he is man: If the misery of one capacity have exposed him to thy cruelty, the privilege of the other capacity ought to recommend him to thy favour: If the more base relation of servant entitle thee to domineer, yet the more noble relation of man checks the insolence of that title.

Fifthly, Arbitrary Government does not only rob slaves of that naturall interest which they have in themselves, and States of their publike Interests which they have both above lords and slaves; but it is often a very strong Incentive to cause an abuse of that usurped Interest.

The Story of *Vedius Pollio* may make this good, and suffice instead of thousands that might be produced. *This Pollio had a Pond stored With Lampries; and as he kept the Lampries for his own food, so his wicked use was to cast the bodies of men into the Pond, to feed the Lampries.* Augustus the Emperour came by chance as a guest to his house; and, during the entertainment, a Crystal-Glasse was broken by one of his slaves that attended. The slave knowing his lords cruelty, and fearing to be thrown into the Lamprie-pool, and so made to die an unnaturall prey to fishes, fell at the feet of Augustus, not supplicating for life, but some other manner of death, lesse to be abominated. The Emperour, moved with compassion, became an interceder for his pardon; and not prevailing, in abhorrence of that bloody Monster, commanded the slave to be dismissed, the Pond to be filled up with earth, and all the rest of Pollio's Crystal-Glasses to be broken instantly, for prevention of the like disasters.

There was much grace in this; but there had been far more, if he had dismissed all the slaves in Rome for the same reason, or so curbed the power of the lords, that they might not have been any longer incited thereby to such prodigious degrees of inhumanity. By the same reason also, as this unbridled License make lords more insulting, it makes those that are insulted over the more vindicatives, false, and dangerous. Many horrid Stories might be produced, to prove, that the cruelty of lords has always been retaliated with infidelity, hatred

hatred and desperate revenge of slaves.

But some will say, *Slaves have been very usefull to some States ; and there are experiments, that slavery itself has been beneficiall to thousands of slaves themselves : and it is known to all, that in the first dilatation of Christianity, when slaves were every where discharged for the honour of Religion, the world became full of beggars : and though Hospitals and Alms-houses exceedingly increased, yet it was too little to keep many from starving, and begging up and down. Hereupon, the Emperour Valens was compelled, by his Edict, to recall into slavery again all such as had begged from door to door, and for want of industry or ingenuity could not provide for their own sustenance, and so declared themselves incapable of the benefit of liberty.*

To this I make answer thus : First, Slaves in all Countreys and in all Ages have not been treated alike : and it is manifest, that in such Countreys and times, wherein they have been protected against extremity of rigour by courteous Laws, they have been of some private use : But when they have been too numerous, and when they have been governed with cruelty, they have been publicly fatall, for the most part. Let *Bodin* speak to this Point.

Secondly, Where slaves are under the protection of other Laws than their lords wills, and where they are truly parts and members of the State, and so regarded ; they cease to be slaves, according to our aforesaid Definition.

Thirdly, A confused enlarging of slaves at the same instant of time, and dismission from all domesticall rule, might be prejudiciall in the infancy of Religion ; but the altering of domestick rule, or changing the same from arbitrary to legall, from despotick to paternall, and that for some certain space of time, could have bred no inconvenience : For if the meer restoring of men to a right in themselves, and a common and reciprocall right in the State, could make them incapable of subsisting, this would extend to all Nations and Times ; whereas we know, we see, we daily try the contrary every where.

But it will be further said, *If Nature itself has no ways recommended this Arbitrary power over slaves ; yet the Laws of Nations, or Municipall Laws do justly permit the same.* This, if it be granted, does nothing at all invalidate any thing by me undertaken : Yet, for further

ther satisfaction herein also, it is to be observed,

First, That God, by his Law against murther, oppression, &c. excepts not slaves more then freemen : That he equally hates sin in freemen, and rewards vertue in slaves : That he has care of slaves equally as of freemen ; and extends the price of Christs Blood equally to both : and in *Levit. 25.* his law is peremptorily to the Jews, That none of that Nation shall be in Bondage, or serve *instar Mancipii ; sed ut Mercenarius, aut hospes* : Nay, even mercenary servants were to be set free, and to return to their kinred, and liberty with all their goods and family, *vertente Jubileo* : Nay, the *Canaanites* and Heathens, whom God had designed to extirpation, yet might not remain in slavery, after they did embrace the true Religion ; then there was the same Law to the Jew and to the Profelyte : the Apostle is clear in this, *Omnes unum sunt in Christo*. Whether they be Jews or Greeks, bond or free, &c. And if Saint Paul does persuade servants, not to withdraw themselves from their masters after conversion to Christianity ; but remain under the yoke, and to honour and obey their masters : *Ne nomen Dei, & doctrina male propter ipsorum iniquam pertinaciam audeat*. This commends not at all the condition of slaves ; it onely tolerates it so far, as that where it is established by publike authority, it may not be repealed by private persons. Yet we read of no slavery, till it was denounced to *Chams* posterity, as a curse by God ; neither may we impute the sin of that slavery which ensued upon that curse, to God, as the proper and immediate cause thereof.

Secondly, as there is no difference of slaves and freemen before God, so neither is there in nature : Slaves are men as much as their lords ; they have the same endowments of minde, the same ability of body ; they are born with the same danger, and exposed to the same miseries.

Thirdly, In the State, if liberty be a benefit, and may be publike-ly more usefull then bondage, the liberty of the servant ought to be as precious, and is of as much publike importance as the Lords : nay, it often happens, that the servant has more naturall ingenuity then the master.

Fourthly, If we have respect to meer usage, and the custom of Nations, we shall finde, that the extreme rigour of arbitrary servitude

(was scarce ever entertained by any, but barbarous people; nay amongst Barbarians, scarce any would inflave natives, or such as they thought of the true Religion, or such as had not some way merited death by the Law: Scarce any but had *Asylum*, or some other means of refuge for slaves oppressed, and brought almost to desperation: and where too much rigor was used, scarce any but found the desperation of slaves pernicious.

Tacitus says of the *Germans* , that they were so indulgent to slaves, that they were scarce to be called slaves there. And amongst the *Rossians*, none but the Prince could take away the life of his slave. The *Athenians* allowed by Law, that the complaints and suites of slaves should be publickly heard: nay, they provided for plowing Oxen, by Law, that they should not be abused. *Cadmus* at *Thebes*, and *Theseus* at *Athens*, erected an Altar of Mercy, for protection of Slaves. At *Rome*, the statue of *Romulus*; at *Ephesus*, the Temple of *Diana* served for such mercifull uses; And almost all Nations had the like places for recourse of oppressed Captives.

The Law *Aquilia* and *Petronia* were passed in favour of slaves, and to restrain all cruelty beyond scourging. And *Augustus*, as also many Emperors after him, when Civilitie began to be illighted by Christianitie, began to break the arbitrarie power of Lords, and to set bounds to it, as a thing fit to be antiquated for many equitable reasons. As soon as Christianitie was established, by Law, provision was presently made to free all Christians from slavery. And 'tis now 400 years, and more, since all slavery amongst Christians hath been wholly expulsed, so that there is scarce any name or memory thereof remaining. And this cannot but be attributed partly to piety, partly to equity, and partly to naturall respects.

Fifthly, If we have respect to Law, either we must acknowledge that the Commonwealth hath an interest in slaves, or not. If it hath not, what a maim, what a loss is this? If it hath, how can such mis-improvement thereof be answered to God, or justified in Politic? If it be said, that slavery may be inflicted as a due punishment not unsuitable to naturall reason, or exchanged for death. I answer: My scope is not to prove, that Arbitrarie servilitie is at some times, and to some spirits, worse than death: Nor doe I wholly bend my selfe against it, as it is inflicted upon any that really deserved death.

only thus argue: Either condemnation, and sentence of death passed upon the guilty, doth really put the Delinquent into a worse condition than death, or not. If it doth, then it is unjust and excessive. If not, then it reserves something to the delinquent, wherein neither the right of the Delinquent, nor the right of the State is wholly lost and relinquished; And if the Delinquent be dead to himselfe, and yet not to others; then not to the State, more than to the Lord; for how can the State, which hath an interest in the Lord, chuse but have an interest in that, which is the interest of the Lord?

So much of this kind of Power. Now we orderly arrive at that Power, which is the only intended subject of our discourse; and that we shall properly call Jurisdiction. We have already searched the Schooles for the causes of Power, both finall and efficient; We have also ransacked the bosome of Nature for all other species of Power; and yet we can find no grounds for absolute Rule. We shall now therefore make enquiry for precedents or patternes, such as all ages may furnish us withall. And who now hath any competent share of reason, can suppose, that if God and Nature have been so carefull to provide for libertie in Families, and in particulars; that Man would introduce, or ought to indure slavery, when it is introduced upon whole States and Generalities. Every thing intends its own good and preservation, and therefore when Communities fancied to themselves the formes of Jurisdiction, we must beleve that they did not wholly depart from the originals of God and Nature, but rather copy out of those formes whatsoever was best and most soveraigne in each. Howsoever 'tis granted on all sides, that Princes and supreme Commanders, in all Ages and Countries, have differed in the latitude of Jurisdiction; some have been more absolute, others lesse. Now since this did proceed from divers reasons, and hath produced divers effects; let this be the subject of our discussion.

The nature of Man being depraved by the fall of *Adam*, miseries of all sorts broke in upon us in throngs, together with sin; insomuch that no creature is now so uncivill and untame, or so unfit either to live with, or without societie, as Man. Wolves and Beares can better live without Wolves and Beares, than Man can without Man; yet

yet neither are Wolves nor Beares so fell, so hostile, and so destructive to their own kinde, as Man is to his. In some respects, Man is more estranged from Politicall union than Devils are: for by reason of naturall disparitie, the reprobate Angels continue without dissolution of order, and shun that confusion amongst themselves, which they endeavour to promote amongst Men. But amongst Men, nothing but cursed enmitie is to be seen. When *Aristotle* sayes, that *Men doe associate by instinct of Nature, for ends of honestie, as they are communicative creatures, as well as necessitie and safetie*: He rather intimates, what we should be, than what we are; and tells us what we were created, rather than what we are being now lapsed.

We must insilt upon Necessitie therefore, as the main ground and end of Policie; And besides Order, and the Lawes of God and Nature, we must finde out some more particular constitutions, to cement us, and to hold us fast bound together. Though the times of *Adam* were not uncouth, as ours now are, yet even then the common consent of Mankinde (that which we now call, *Jus Gentium*) was too slack and loose a bond, to keep the World from dissipation.

Whilst the Universe was but one intire House, united under one common Father, in whom all tyrannous thoughts were contrary to the worst suggestions of Nature; whilst the neare relation of blood was fresh, and unobliterated; whilst the spacious surface of the Earth (not yet thronged with plantations) afforded few baites of avarice, or objects of ambition, or grounds of difference betwixt brother and brother; whilst so many umpires of equall distance in blood, were at hand to interpose, in case any difference did unhappily arise; The raines of Government might hang more loose and easie upon the necks of Men. Yet even the infancie of the World, we see, required something more than the rod to over-awe it, and some other severer hand than a Fathers, to shake that rod: Nay, if *Abel* fall by the bloody hand of a Murtherer, (who hath no other provocation given him, but the pietie and devotion of his nearest allie) little expiation or justice is to be expected from the common assembly of the whole body.

How long it was before Families did incorporate, and grow up into Cities, and Cities into States; and how long it was before Ci-

ties and States did frame Laws, and settle Magistrates to enforce those Laws, is dimly and obscurely set forth, either in the Book of God, or other Authors: but we may very well guess, by the many small petty Principalities that we read of in all ancient Chronicles, either divine or profane. That Regiment in the first ages of the world was rather too milde and linewisse, than too violent and rigorous: Where the Territories are narrower, the managery of affairs is the easier; and where the Scepter is more easie to be twayed by the Prince, it is more gentle to be born by the people. Were it not for fear of forreign infestations, smaller Seignories were best constituted and disposed, for peace and duration: And because they require no large Prerogatives, but rest satisfied with little more than Paternall power, the people are lesse jealous of their lord, and they, consequently, have the lesse occasion to be harsh to the people.

Nimrod is registred with the title of a great Hunter; but whether he had that addition given him for enlarging the confines of his Dominion, or for acquiring a more unbounded Prerogative, or for exercising his power more insolently, is not declared: Besides, it is left utterly uncertain, whether *Nimrod* laid his foundation upon force, or consent; whether he did by his tongue or his sword drive and hunt men out of Woods and wilde Recesses into Towns and Cities: for that force by which he did prevail, can hardly be supposed to be it self wholly forced. It is left also as dubious to conjecture, how far consent was left by Nature; for if order, and right of succession, did give the rule according to primogeniture, then all mankind must have been subjected to one Crown; whereas, if Primogeniture were wholly neglected, and every father or brother left independent in his own family, to associate or not at his pleasure, then Rule would have been crumbled into Atomes.

To avoid therefore surmises, and the dark Labyrinths of our primitive-Records before the Flood, and immediately following, let us fall lower, upon the Story of *Abraham*, *Moses*, *David*, and such as succeeded them. The people of God, at severall times, were under either severall forms, or severall degrees of power and jurisdiction: That Sovereignty which *Abraham* and the Patriarchs had, was not the same as that which *Moses* and the Judges had; neither had *Moses* and the Judges the same as *Saul* and the Kings; nor yet had *Saul* and the

the Kings the same as *Cyrus*, and the Persian Emperours.

It is disputed much by some, *Whether the Patriarchs and Judges before Sauls days had Regal-power or no*: Some say, *Their power was Regal*; others say, *It was but Aristocraticall*: and others (more judiciously, in my opinion) say, *It was mixt of both*. One says, *That, after the Flood, till Nimrods usurpation, men lived under the Empire of single Commanders, who neverthelesse did not govern as Kings, but as Fathers*: Now since this is but the patern which all Kings ought to follow, therefore what other meaning can this bear, but that Governours in those days, having small Territories, did claim but moderate Prerogatives, though they were as solely supreme in the State, as Fathers are in the Families? As for *Moses*, and the Judges also, it is truly said, They were no other then Gods Vice-Roys, in regard they did go forth to Battel by immediate Commission, and transact many other great affairs by direction from Gods own mouth: Neverthelesse, this alters the case little or nothing, as to the latitude of their Prerogatives; this rather added than took honour, grandour, or jurisdiction from them; this left them as sole a Sovereignty, and as unbounded over the people, as other Princes have who are Gods ordinary Vice-gerents.

It must needs be, therefore, That that ease and freedom which the people then found under Gods immediate Substitutes, was not procured by any further Right or Law, or from any other indifferent composition of Government which they had belowe, from other Monarchies; but from a Regulation above; because it was impossible for their chief lord to oppress, or do injustice, or to direct his thought to particular ends, contrary to theirs.

This shews how impious and stupid a Frenzie that was in the Israelites, which made them weary of Gods Headship; for indeed, they did not so properly create to themselves a new Government, as a new Governour. We cannot think that *Saul*, being invested with Style and State of an ordinary King, and discharged of such an immediate extraordinary dependence upon God, as *Samuel* acknowledged, had thereby any new Right granted him, to do wrong, or be oppressive to his Subjects: his Diadem did not absolve him from the true end of Diadems, nor did his meer Instalment (so much against Gods will and advertisement) cancell the Law of God,

which forbids Kings to amasse treasure into their private Coffers, or to encrease their Cavalries, or to provide extraordinary Magazines of Arms and Munition, or to lift up their hearts above their brethren; much more to employ their Treasure, Horses or Arms against their Subjects.

Barclay, and our Royallists, offer apparant violence to Scripture, when they will make God to call the usuall rapine and insolence of Kings, *Jus Regis*; whereas indeed, the word in the Original signifieth nothing but *Mos Regis*, as is plain to all that will look into the same.

Howsoever, let the Prerogative of the Jewish Kings be taken in its utmost extent, and take the restraint of Gods Morall Law not to be of any Politicall efficacie; yet we shall still perceive, that the very composition of that Monarchy was not without qualifications of mixture, and other Limitations.

The Crown, it was setled upon *Judah*, and more particularly, upon the House of *David*; yet the Peoples election was not thereby wholly drowned: for still, before every Coronation, they might assemble to give their Votes, and were not necessitated to choose any individuall person in the House of *David*. It appears also by the Story of *Rehoboam*, that the people might capitulate for just Munities, and require some Oobligation for assurance of the same: and in case that was not granted, it was esteemed, and properly it might be said, That the King did reject the people, and deny protection; not that the People did reject the King, and deny subjection.

Next, there was a great Colledge and Councill of Elders, called, The Sanhedrin, consisting of 71 Princes, who had the hearing and determining of all weighty and intricate Suits, unto whom the last appeal lay from inferiour Courts; and the King, without tyranny, could not interrupt or impeach the proceedings of this Sanhedrin. If *Saul* will charge *David* with Treason, and, without all legall Processe, take Arms against him, untried and uncondemned, *David* may leavie Forces of Voluntiers against the followers of *Saul*, and stand upon his justification, *cum moderamine inculpatæ tutelæ*. Wicked *Abab* stood in so much awe of such kinde of trialls, in the corrupted State of *Israel*, that when he coveted *Naboths* Vineyard, he durst not attempt to wrest it away by force, nor did he obrude upon
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the Court what Sentence he pleased; he was driven to hire perjured villains, and so by fraud to procure an erroneous judgement. It is worthy of notice also, that these 71 Elders, or Princes of the Tribes, who had the supremacie of judgement, were not eligible by the King, and so the more obnoxious to his Commands; but did inherite this dignity; and for that cause were extirpated by *Herod*, as the main obstacle to his Tyrannie.

Besides, though the children of *Israel* had abandoned God for their chief Ruler, yet God, out of his unspeakable grace, did not utterly cast them out of his protection; but oftentimes did extraordinarily interpose by his Prophets, as he had done by Princes before, for relief of his Inheritance. In behalf of *Uriah*, *Nathan* was sent with a vindicative-Message, to bridle *David's* cruelty: In behalf of the whole Nation, groning under *Solomons* ponderous hand, another menacing Prophet was dispatched, to repress his impotent pride: And in the behalf of the ten Tribes, recoyling from the same pressures under his son *Rehoboam*, a third Prophet was sent, to put a hook into his nostrils.

Lastly, though the Jewish Kings, by having the *Militia* put into their hands more arbitrarily then the Judges had before, obtained greater opportunity, and not right of oppressing their subjects: Yet that *Militia* did not consist of strangers or mercenaries, or such Souldiers as had no other profession or right in the State; nor were there constant Armies and Garisons kept in pay, like those of the Romane *Prætorians*, or Turkish *Janizaries*.

And hence it is, that if *Saul*, in a brutish unnaturall fury, will attempt against the life of his son *Jonathan*, or seek to compass any other thing subversive to the State, he cannot finde instruments barbarous enough amongst all his Sword-men for his black purposes, but he shall presently meet with opposition, and forcible resistance.

Thus far then, we finde in the world no prints or footsteps of Tyrannie, or of absolute Royalty, nay, nor of Royalty it self, till the peoples cursed ingratitude and folly introduced it: We must go beyond God and Natures Workmanship and impressions, before we can discover any thing but Parentall Majestic, or gentle Aristocracie, or compounded or mixed Monarchie.

Since therefore it so fared with Gods people in point of liberty
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and safety, out of Gods unspeakable favour, under Patriarks, Judges and Kings. Now let us enquire how it fared with them under those forraigne Emperours, by whom they were subjugated, and made tributary. *Judea* being seated neere the centre of the World, became obnoxious to all the great vicissitudes of change which happened to the foure vast over-ruling Monarchies. The Babylonian or Assyrian first, and the Persian next, from the East, spread victorious armes almost over all *Asia*. After, from the West successively, both the Grecian and Roman made irruptions; and in all these general periods of Empire, the State of the Jewes had its sence and share of the calamitie.

As for the two first Monarchies, there is little in particular recorded, and left to posteritie in writing, concerning their true formes and compositions; as there can no Lawes be produced, by which the Subjects had resigned all right of liberty and safety; so neither can there be any produced, by which they had precisely compounded for the same. Some instances only we find mentioned, that the lawes of the Medes and Persians were unalterable by the Prince and by this it seemes, that the prime ensigne of Majestie, which consists in making and abrogating of Lawes, was not residing in the Emperour alone, without the great Councell of his Sages. For if the King could not alter Law at his own pleasure, there was some other extrinsecall power circumscribed that pleasure; and that power must be no other, then the same which made Law; for the true legislative power it selfe can never put fetters or manicles upon it selfe; howsoever *Aristotle* fancies to himselfe a kind of Monarchie which he calls Lordly; and this he placeth betwixt Royaltie and Tyrannie, making it more unbounded than that of Kings, but not so violent as that of Tyrants. And this Dominicall rule he ascribes to the Barbarians rather than unto the Grecians; and amongst Barbarians, rather to those of *Asia*, than to the *Europeans*. *Asia* (it seemes) being more rich and fertile, bred a people more effeminate and disposed to luxurie, and so by consequence more ignoble, and prone to servilitie.

Hereupon the *Asiaticks* were ever extreemly despicable in the eyes of more magnanimous Nations, especially the Greeks, for adoring and prostrating themselves with so much devotion before their Prince.

Princes. *Plutarch*, speaking of divers unmanly slavish Customs amongst the Persians, refers that Empire to the kinde of such as are absolute, and equall to tyrannicall. *Plato* calls it, *Despoticall*; and *Aristotle* says, It was then very neer approaching to tyrannicall Institution. We may well then imagine, That God, in bringing such a yoke upon the necks of his chosen Inheritance, did it for their chastisement, and out of his indignation; not for their advantage, and out of his wonted loving kindnesse. As for the Grecian Empire, we know, *Alexander* becoming inflated with successe, and tainted with the luxury of *Persia*, soon began to degenerate from the moderation of his own native Countrey, and those Politicall Rudiments which his Tutour *Aristotle* had seasoned him withall: and we read how exceeding fatall it proved: he and his Empire both perhaps had been longer liv'd, if he had not rendred himself odious, first to *Callisthenes*, by his insolence; and to all other men afterwards, for his cruelty to *Callisthenes*. This justly administers here an occasion to us, to insist a little upon great Monarchies, in that Notion onely as they are great.

Alexander King of *Persia*, had no more right added to be insolent, than had *Alexander* King of *Macedonia*; but greatnesse of Dominion did alter him for the worse: and since it doth so usually other Princes, we cannot but take notice how this comes to passe; For either the largeness of Dominion doth require a proportionable Prerogative, and so enable Princes to do greater mischief, and after by accident becomes a temptation and provocation to abuse that ability; or else we must not confesse that there is any difference, in this respect, betwixt a large and narrow Dominion. Now that there is a great difference, is so clear, that I will not undertake any proof of it. The Scripture ever, speaking of the great Monarchies of the world, pensils them under the lineaments of Lions, Bears, Eagles, &c. armed for rapine with Iron-teeth, Brazen-talons, and sharp horns, &c. and the wofull experience of all Ages seconds Scripture therein, testifying them to be monstrous excessives in Nature, and the perpetuall plagues of mankind. Yet let not me be taxed to condemn all excessive Monarchies, as utterly unlawfull: for, though I doubt much, whether ever any one of them were at first justly purchased, or after by any one man rightly administred, without Tyranny; yet

I conceive neither of these things totally impossible ; and so I will passe no judgement thereupon. Howsoever, Nature seems to have chalked out the just dimensions of a compleat Monarchie, by Mountains, Seas, or other lines : *Spain, Italy, France, &c.* seems to be cut out as proportionable Paterns : and few Nations have ever prospered, when their pride had transported them beyond their native Barricado's. *Hannibal*, after seventeen yeers War waged with the Romanes for the Mastery of the world, at last sought a Composition, in humble terms, from *Scipio* ; and blamed that dangerous fond competition, which had either engaged the *Carthaginians* beyond the Coasts of *Affrica*, or the *Romanes* beyond the Coasts of *Italy* : But alas, it is ill successe that opens the eyes of *Hannibal*. *Hanno* was before held his bitter enemy, and disaffected to his Countreys prosperity, for seeking an honourable Peace with the *Romanes*, and preventing the mischiefs of an over-swelling Empire : Yet by the way note, in the mean time *Carthage* is lost, by an unpolitike and uncertain indifferency, whilst it will neither wholly desist from attempting against forreign-States, nor yet wholly concur with such courageous Generals as it entrusted with those attempts : Either *Hanno* ought to have been silenced, or *Hannibal* recalled : The Victories of *Hannibal* are too glorious, to admit of a strained Commission : things are now come to that passe, that, if *Hannibal* be not enabled to scale the Walls of *Rome*, *Scipio* is to be expected at the Gates of *Carthage*. Great Bodies cannot be moved, but with great Engines ; nor can extensive Monarchies be erected or conserved, without extensive Prerogatives : Gravity and Policie both, do in this keep a just correspondency. A moliminous vast Frame, can by no means rise into a decent symmetricall Pile, except there be an orderly proportion kept between the Basis, the Conus and the Pyramis : If the Basis be excessive, What is it but a deformed heap ? If the bottom be too narrow for the Spire, How unstable is the Fabrick likely to be. The Egyptian Pyramids had, perhaps, intention to expresse Hieroglyphicall Politikes to us, and to let us know, that though small States may be molded almost into any form ; yet great Heights cannot be arrived at, but by orderly graduall ascents. At *Athens, Sparta, Thebes, Pella*, where the Precincts are narrow, the Government is easie ; decencie requires that it be as lowly : But in

the magnificent Court of *Persia*, where the Crown is more glorious, the Scepter must be more ponderous : where the Spire is more lofty, the proportion of the Conus and Basis must answer thereto : where Rule is more difficult, the Ruler must be more majesticall. This lets us see how inconsiderate that great Dispute is, amongst Politicians, about the comparisions of this and that Form of Government, *viz.* Whether Monarchie, or Democracie, or Aristocracie, be to be preferred amongst men : For, without doubt, the difference is not so much to be seen in the Forms themselves, as in the States, which make choice of those Forms.

But you will say, *Mighty Sovereigns may be enabled, as to all that is good; yet restrained by Law, from all that is evil : or, if the Law of man cannot, externally; yet the Law of God, internally, may check them in matters Wicked and pernicious.*

We answer; Bounds are fet, by God and Nature, to the greatest and most absolute Monarchs, as well as to the least, and most conditionate : but those Bounds seem but as imaginary Lines, or as meer stones, not reall Trenches, or Fortifications : They serve onely to discover to the Subject what his Right is, but they have no strength at all to protect him from wrong. Those slaves that are sold, and forfeited to the worst of Bondages, as we have proved before, have a Divine and Naturall claim to safety, and freedom from abuses, as other Subjects have; yet want of some Politicall remedy, exposeth them to miseries far worse then death, and detruces them often into a condition below beasts. The same slaves also are equally intituled to their lords courtesie, as the best of Subjects are : there is no safety nor freedom from abuse which depends upon meer will, as an Arbitrary power, but the poorest slave is as capable of it as the freest Subject.

Nay, it hath been often a glory to weak Princes, to attribute that to slaves, which they would not to men ingenuously born : For, who had Offices of great Command ? who had chief Honours ? who had the communication of secret State-affairs ? who had the prime sway in Court amongst the Romane Emperours, but slaves infranchised ? What Senatour, what Officer in *Rome* had riches equall to *Narcissus*, or *Pallas* ? Who could more powerfully sway in the Palace, or better patronize Cities and Nations, than Eunuchs,

Grooms and Libertines ? If there be any difference then betwixt the most ingenuously-born subject and the lowest-purchased caitiff, it is onely in this, That the one hath a stronger circumvallation of humane Policy to secure him, than the other ; and that he is not left so meerly to divine, naturall and discretionary pretences, as is the other. But in wide expansive Seignories, no Law, no Policie can sufficiently intrench or immure it self : For, if the Prince be bad, he hath the more opportunity to do mischief ; if he be good, he hath yet the lesse power to govern well.

It is almost a miracle, to see a great Monarch good : and if he be, it is more miraculous, to see him upon the receipt of Appeals, and other Addresses (as often as occasion shall require) from remote parts, to distinguish truth and falsehood, or to sift the Bran from the Flour so neerly as it ought to be. Mark how *Solomon* begs wisdom of God, that he may be able to go in and out before the Nation of the Jews : Mark how great a Charge he makes that little inconsiderable State to be. It was more than naturall, that *Augustus* (though a Pagan-Plœnix) should ever know what Peace was, over all his Dominions : That little space of *Halcyonian* tranquility which the world enjoy'd during some part of his Reign, is in verity more to be ascribed to the Cradle of Christ, than to his Throne.

Change then the Scene, and see how the face of things varies : As soon as *Tiberius* enters, see how the Head of so many severall Legions, of so many severall Nations, of so many severall Parties in Religion and Opinion, of so many severall disagreeing Magistrates and Commanders, can be reduced to Order, or forced to do reason, by any one Faction framed out of all these.

More need not be said : Where many States are subjugated to one Seignior, War can never be absent ; where War is, Military rule must needs predominate ; where Military rule is, Law must needs give place to Discretion ; and what that bloody fatall Train is, which ever attends War and a Military arbitrary Empire, is sufficiently known to all. What gain then is it to our Adversaries, to alleadge, That *Alexander*, or any of the Eastern Emperours did what they pleased, and ruled always uncontrolled ? This is no more but to alleadge, That the *Persians* were first conquered by the *Grecians*, and that after the *Grecians* were poised by the *Persians*, and that the division and enmity

enmity which remained betwixt both, served the Prince as a fit means to enthrall both.

This is no just proof in Law, that the *Macedonians* were to undergo thralldome and servitude, because they had over-run the East; or that the East was to stoop to the like endurance, because it could not withstand *Grecia*: Nor if *Alexander* did *de facto* tyrannize, cutting the Diamond (as it were) by the powder of the Diamond, is this any stronger Argument for the legality of tyrannizing, than dethroning or murdering of him had been for the justification of the same in his subjects: *A facto adjus non datur consequentia*. When meer force lays the foundation of Sovereignty, and where meer force raises up the Structure, meer force may with the same equality and reason effect the demolition of the same.

It is true, *Zedekiah* being bound by oath to the *Babylonian* Conquerour to remain a true vassal, and being forbidden to make defection, by an expresse from heaven; and undertaking the same at an unseasonable time, by improbable means, commits the sin of Rebellion: But we see one of the Successours of *Alexander*, acting the bloody part of a Tyrant in *Judea*, is not onely resisted by *Judas Maccabeus*, but quite expelled: And we see that right which the sword of a stranger had acquired, was more honourably rescinded by the sword of a native.

Neither doth God not seem onely to countenance that revolt in the Jews, but to reward also the principall agent therein, by transferring the Diadem from the *Grecian* Race, to him and his posterity.

The Story of *Eglon* also may serve for an instance of the same truth: And who can now look upon all those goodly Provinces and Kingdoms which the grand Seigniors Scepter hath for so many Ages converted into Theatres of Slavery, Beggery, Barbarism and Desolation, and yet hold that they are no ways redeemable from that Scepter? Who can say, that all those wofull Nations, or rather, the starved Skeletons of Nations, if opportunity were offered, might not by consent abjure their ferat sanguinary Oppressour, and choose to themselves severall Protectours out of their own native Territories? But the strength of Custom and Prescription, is still by some magnified, and in the worst of Empires made the Ordinance of God, and as valid as any other divine Rights or Title. I have seen a whole Volume written to

that purpose, yet the answer thereof may lye (in my opinion) in a very narrow room; for if custome may make that necessary which was indifferent, yet it cannot make that just which was unjust, if it may change the Mode, or externall forme of some things, it cannot change the Nature or internall forme of all things. For example, if the *Grecian* Line have raigned in *Persia* for so many generations, prescription may have vigour enough to confirme that raigne: but if the *Macedonians* have raigned tyrannically; to the dis-inheriting and despoiling the *Persians* of their due freedome, meere usage can give no ratification at all to this Tyrannicall raigne. But soft of this enough: I descend now to the *Roman* story, and to the times of Christs Nativity, and such as are successive thereunto.

Hitherto our inquisition hath met with no sufficient rule, precedent, or authority, for arbitrary power; neither Nature nor History from the Creation to the Redemption afford us any *vestigia* of it.

Wheresoever God had a Church whosoever were the Governours of it, whether Patriarks, Judges, Kings, Emperours, we have made a strict survey, and as yet discover no Empire so uncircumscribed, and absolved from Laws, as our Adversaries contend for, and as for those Nations which were meere Pagan, their Chronicles are very uncertaine, and scarce worth turning over: I know our Royalists will now challenge us to prove by what particular Lawes, Liberty was secured, and the hands of Princes bound up in all ages, but we must reply, that this is more than reason or equity will require at our hands; if they will maintaine, *That the part is better than the whole*: if they will maintaine, *That the effect is more potent then the efficiens*: if they will maintaine, *That the meanes is more valuable than the end*: their proofes ought to be Positive, and full against us, we are on the Defensive part onely, and do convince, if we are not convinced.

Tis not sufficient for them to say, Such a Nation was slavishly treated *de facto*, they must prove, that there was cleer Law for that Treatance: nay they must produce such a cleer Law as extends to all Nations. Tis not sufficient for them to say; Such a Nation submitted themselves to Monarchy, without any precise conditions made for liberty, and much lesse without any such now remaining extant upon record.

They must prove there was cleer Law for abjuring liberty, and that the force of the same is universall, and agreeable to that of God and Nature: but the main snell-Anchor of our Adversaries is that of the Apostle in his 13. Chap. to the *Romans*, there all resistance to the higher power is forbidden, and pronounced all damnable, *And vis absque* (they say) *to be irresistable, and to be absolute.* Now I beleieve all that is in the book of God and Nature to be expressed for the right of Princes, is there compendiously infolded. Since then this was written in the infancy of the Gospell, and during the Raigne of *Cesar*, and was directed to the *Romans*, not without particular respect (as Doctor *Fern* conceives) that the government, which was supereminent, or supream at *Rome*; We will take it into more speciall consideration.

The Primate of *Ireland* in his Sermon upon this Text, preached at *Oxford*, *March 3. 1643.* delivers it for a sure doctrine, (and there is scarce any other divinity known now there) *That no Subject may upon any occasion take Armes, or use violence against the Supream power, no not in defence of Religion:* Now this doth much scandalize us for divers Reasons. For first, when he speaks of the supream power, he doth not define that which he meanes it to be; he takes no notice, how supremacy of power may vest in one man, as to one purpose; in another, as to another: how it may vest in the people, as to some affaires, in the Prince as to others. The body is not so the Subject of the seeing faculty as the eye is, yet it cannot be denied to be so in some sense.

The Prince of *Orange* is supream in Military commands especially in reference to all individuall persons: but he is not so in all other expedients, nor in matters of the *Militia* neither, if you compare him with the whole State. *Grotius* affirms supream power to be such: *Cujus actus alterius juri non subsunt, ita ut alterius voluntati humana arbitrio irriti possent reddi;* If then *Cesar* was that supream power at *Rome*, which the Primate intended, he ought to have portrayed him according to this definition; he ought to have Armed him with power beyond all the Lawes and Rights of *Rome*; such as could not, or ought not to be frustrated by any other right or power of the Senate and people of *Rome* in any case whatsoever.

Secondly, when he speaks of the supream Power, he doth not at all discriminate the person of the Sovereigne Prince, from the persons

sons of those which are employed onely as instruments under the Sovereaign Prince. Now we conceive, if there had been true candor and ingenuity in this learned Prelate, he would have shewed a little learning in this, which we hold to be exceedingly necessary to be distinguished, and he knows we insist much upon.

Thirdly, when he speaks of Subjects he doth not take notice of any difference amongst them, neither in freedoms and immunities, he doth not declare the *Roman* Subjects and the *English*, or the *English* and the *Venetian*, to be a like obnoxious to the will of an absolute Lord, neither doth he declare the contrary. Now since he thus Preaches at this time, we must needs condemn him, either of great Hypocrisy, or of great folly; for if he did intend that the whole people and Senate of *Rome*, had no Title to assemble, nor right to defend themselves, and therefore that the Parliament of *England* had no more Title then the *Romans*, we say he did manifestly offer violence to his Text, if he did not intend so: yet since he was no more carefull at such a time, and before such an assembly to interpret himself for the avoyding of dangerous misprisions, we say he had not such circumspection as he ought.

Fourthly, when he speaks of the occasions of taking up Armes and using resistance against powers, he seemes to allow of no degrees at all: if Religion be to be subverted, if the ruine of the Prince himself, or of his whole kingdome be attempted, if the attemptors proceed *ad infinitum*, yet in all cases (for ought he distinguishes) resistance is alike unlawfull, and altogether as damnable, as if the mischiefe were not publicly considerable. This tenet seemes to us horrid, unnatural, and against the light of all mens reason: for hereby it is plainly averred, that either government was erected for subversive ends, or else that generall subversion may conduce to salutiferous ends.

In cases of obedience a difference of command is to be observed: all commands are not alike binding and Potestative, but in case of resistance all acts of the Prince are taken to be equally authoritative. If *Saul* command *Doeg* to kill the Priests of the Lord; *Doeg* may receive that as a void command; but if *Doeg* do wickedly draw his sword upon the Priests, this violence proceeds from so unquestionable a *Warrant*, that it may not be repulsed with violence.

Our adversaries sometimes when we dispute rationally, will acknowledge our grounds to be very plausible, (this is very Dr. Ferri himselfe) but say they; *Scripture is clearly against all limits of Monarchy, and scripture is to be adhered to rather then reason.*

Neverthelesse when wee submit our selves to the ballance of the Sanctuary, and when they see the letter and immediate sence thereof does not come home to our particular differences, then they are faine to retreat to reason. But their greatest subterfuge is to lurke between scripture and reason, and to remain in a kind of transcendent posture, as that they may be confined neither to the one, nor to the other, nor yet to both. If our controversies were *in credendis*, or about things that did exceed the compasse of humane understanding, scripture might justly be opposed to policy: but when wee are treating of worldly affaires, wee ought to bee very tender how we seek to reconcile that to Gods law, which we cannot reconcile to mans equity: or how we make God the author of that constitution which man reaps inconvenience from.

But for the present on both sides, we are agreed to adresse our selves to the Roman story. Rome for the space of two hundred and forty yeares was subject to Kings: and some say those Kings were absolute: others say with *Halycarnassensium*: *Populum Rom: principio formam Reipub: habuisse mixtam ex potestate Regia, & optimatum dominatum fuisse constitutum: ultimo verum. Regum Tarquinio regnum in Tyrannidem vertere capiente, optimatum dominatum fuisse constitutum.*

Questionlesse, written lawes were wanting at first (as they are, and ever were to all new foundations) and in this respect the Kings might be said to be more loose from restraints: but this amounts to nothing; for as the Kings by defect of lawes were lesse obliged to the people, so the people by the same defect were lesse obliged to Kings: and forasmuch as the people where they were more contracted, and so might more easily correspond, hold intelligence, consult together, (as in all infant small States they might) were better able to oppresse the King, then the King was to oppresse them, the meer want of written lawes was no more prejudiciall to the people, then to the King: great moderation therefore was used towards the people by all the Kings, only *Romulus* was too harsh to the Nobility, and so fell by their hands, and *Tarquin* grew intol-

rably inſolent towards all, and ſo occaſioned the expulſion of himſelfe, together with the extirpation of Kingly government.

The word *Tyrannus* had been made odious all over *Greece* long before, and now the word *Rex* is aſmuch abominated, and abjured amongit the *Romans*: ſo inſufferable in all ages were the cruelties, and exceſſes of lawleſſe Monarchy. After Kings thus driven out, all the rights of Maieſty were devolved in equity to the whole people of *Rome*, diſtinguiſht then into *Patritians* and *Plebeians*: but the *Patritians* affecting an Ariſtocraticall form, and ſeeking totally to exclude the *Plebeians* from communion in government, they imbroyled the whole State in continuall warres, and conteſtations for many ages together: and not being able to ſupport their own weaker, and leſſer ſide loſt all by degrees, and brought upon themſelves the worſt inconveniences of corrupted Democracie. For the *Plebeians* having long remained contemptible under the indurance of many indignities by force at firſt obtained the defence of Tribunes, and after ſo increaſed the ſame power, that at laſt Cenſors, Conſuls, Dictators, all the chief Magiſtrates of *Rome* became ſubject to their check and ſway. And whereas thoſe aſſemblies managed by the Senate which were called *Curiata Comitia*, or *Centuriata* had the predominance hitherto, now the *Tributa Comitia* managed only by the *Plebeians* draw all power of chuſing Magiſtrates, and paſſing lawes to themſelves. *Quintius* therefore blaming the Tribunes for not reſting ſatiſfied with what they had already gained from the Senate, makes this ſad complaint. You deſired Tribunes, (ſayes he) we granted them; you would have a Decemvirate created, we permitted it. You grew weary of thoſe ten Commiſſioners, we deposed them. Your anger was not ſo pacified againſt their perſons, though moſt Noble, and Honourable: we purſued them with death, or baniſhment. You would againe create new Tribunes, they were created. You would have the Conſulſhip communicated to your party, as a free gift; it was conferred upon you, though wee knew that gift was very unequal to our Order. You would have the Tribune power enlarged, you would have an appeal lye from the Senate to you, you would have your *Plebeian* acts binding to the Senate, under pretence of dividing power with you, we have indured, and doe yet indure that all our right and ſhare be uſurped. It was
alleged

alleged also, that even the Kings themselves had never attempted to violate the Majesty of that supreme Order, and that the whole Common wealth of Rome did consist of something else, besides the meer Comminality, but all will not prevaile: that which was due being once denied, more then is due must be now restored by way of expiation. Aristocracy standing in competition with Democracy can say no more for it selfe (nor perhaps so much) then Monarchy can: the Senate it self therefore having been accessory in subverting Monarchy, had implicitly pronounced the same judgment against Aristocracy. The truth is, both Monarchy, and Aristocracy, are derivative formes, and owe a dependance upon Democracy, which though it be not the best, and most exact forme for all nations and Empires at all times, yet it is ever the most naturall, and primarily authentick; and for some times, and places the most beneficiall. Howsoever the Romans never knew the benefit of Democracy, so wisely and exactly regulated, as it ought to be; for their *Tributa Comitia*, were too adverse to the *Patritian* Order, and very ill composed in themselves for order and decency. The whole State had not any just influence of consent in them by right of election or representation, nor was that body of *Plebeians* themselves, which did therein concur to the nomination of Magistrates, and sanction of Lawes, any thing else commonly but a vast, rude, confused, indigested heap of the vulgar.

This the Senators might at first have amended, and better disposed, had they undertaken the same, whilst they had superioritie, or equality of power in the State: but in policie tis, as in Logick: *Uno dno absurdo sequuntur mille*: Little neglects in fundamentall Institutions may draw on great mischiefs in the consequence. This time made evident amongst the Romanes, for after many and very bloody disputes betwixt the Optimacy, and populacy for sundrie ages, at length the bulke of the Empire growing too spacious for the rule of the multitude (especially so tumultuously, and disorderly assembled) a contrary change begins to be better relished. Sylla now observing such a conjuncture of affaires, takes courage to reform this seditious, turbulent Ochlocraty (notwithstanding that many gallant spirited men had perisht before in the enterprife) and though he pretend for Aristocracy, yet his thoughts towre as high

as Monarchy. *Florus* saies true of him: *Susceptâ dictaturâ rebus novis Reipub. statim confirmavit, Tribunicumque plebis potestatem minuit, & omne jus legum ferendum ademit.* Nevertheless neither was *Sylla*, nor his Favorite *Pompey* so certain and true to his own lordly principles, as he ought to have been: for though they were both more daring then private men, yet they were not so confident as the Lords of *Rome* should be: and therefore tis hard to say whether they did oppress liberty, or not settle the Principality with the greater expence of blood. Well might *Cæsar* deride *Sylla* as a man not skild in letters, nor able to dictate, when he would make no other use of the Dictature, but onely to inure *Rome* to the snaffle, and break the Senate to the muffle, that an other might the readilier mount into the saddle. The body of *Rome* was now grown too grosse for a popular form, and the populacy also of *Rome* had such errors, and defects in the composition of it, that according to the judgement of *Tacitus*, *Non aliud discordantis patrie remedium fuit, quam ut ab uno regeretur.* Tis strange, that *Augustus* should so solemnly take advise of *Mæcenas*, and *Agrippa* about the quitting of the Empire, after that he had expos'd himself to farre more danger in the winning of it, then possibly could attend the holding of it. For without the advertisement of *Mæcenas*, his own easie accessse to the Imperiall Chaire by the sword might have sufficiently informed him; *Quod multorum imperium magnitudo rerum ferre non poterat.* It had been farre more reasonable (in my opinion) if *Augustus* had entred into debate about the manner of government, and had propos'd rather, whether a regall prerogative, or something more, or some thing lesse had been fittest for that adjustment of time, and other circumstances.

The Romans had been sworn by *Brutus* upon the ejection of *Tarquin* never to suffer any man to reigne, or to admit of regall power at *Rome*, and perhaps a vain superstition might so farre prevail, as to make the word *reigne*, and yet not the thing detestable. What then is to be done? is all supremacy of one man abjured, or onely such a supremacy as *Tarquin* challenged? And if the intent of *Brutus* be dubious, who shall determine that, but such as have the same authority now, as *Brutus* then had? and may bind now, where he did loose; or loose now, where he did then bind? But soft; three things especially touching the Imperiall Prerogative at *Rome* are now pro-

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per for our inquiry: First what power did the *Cæsars* use, and assume *de facti*? *B. diu* gives just satisfaction to this: For *Augustus* (sayes he) though he did craftily dissemble, and seem to settle a colour, and shew of a Princely, and not Kingly regiment by pretending onely to be Captain Generall of the Military Forces, and Tribune for the Comminalties safetie; yet having disposed of fourty Legions all over the Provinces, and reserved three Legions about his own person for his own guard: and having placed garrisons in all Forts, and places of importance, he did exercise Kingly authority though without a Scepter, or Diadem. His successors also addicted themselves to most cruell tyranny, every one transcending his predecessor in acts of inhumanity, except onely some few of them.

2 The next *quere*, then is about the right of this absolute jurisdiction, and upon what Law, or Commission it was grounded. The *Lex Regia*, or the Law of Majesty (as *Crenutius* calls it) did absolve the Emperors *ab omni legum coactione*, as *Dion* expresses it; the principall vigor of it did consist in this, that it did transerre Dictatorian power without limits of time upon them: and the Dictature, we know, was *Legum nexu exoluta*.

Now this is the occasion of some dispute amongst Civilians, for they all grant, That no Law, or Commission could discharge the *Cæsars* from the bonds which God, and Nature had imposed; nor from that main dutie which Government it self inforces them to. No priviledge can free any Magistrate from the obligation of rendring to every one that which is his due; nor can those primitive rules be annulled which proportion to every one his due; especially those which proportion to States more then to particulars, and attribute to ends, more then to Meanes. It seems therefore to some Lawyers, That the force of this Royall Law is to be restrained onely to forms, and solemnities of such humane constitutions, as might perhaps interpose, and impede the *Cæsars* in the execution of their main charge. And though other Lawyers do not allow this restriction, yet I conceive it very rational, for even the Dictators themselves when they were acquitted of all Laws, yet had this Law affixed to that very Commission which did therefore acquit them, that they should take more care, and might be the better inabled to provide, *Ne quid detrimenti caperet Respub.* All things which stood in direct order to that end, for which they had Dictatorian power

put into their hands, (*viz.* the suppressing of such a sedition at home, or the finishing of such a warre abroad, or some other designe) might lawfully be done, any opposition of particular Laws, or formalities notwithstanding. But if the Dictator himself did walk excentrically, or contrary to this end, he was not exempted from resistance during his terme of command, nor from giving an account after the expiration of the same.

The last thing inquirable into is the date, or commencement of this Royall Law: and this also is not agreed upon of all sides. *Arrianius* will needs referre the time of this Law to *Augustus* his reigne: but his reason is exceeding weak: *Alias enim (saies he) injusti possessores fuissent tam Augustus, quam Tiberius, & ceteri regnatricis domus successeurs, nec leges ferre novas jure potuissent.*

I shall not stand to answer this, I shall rather herein follow *Bodin*, for that he was not onely a grave Statesman, but a learned Lawyer also. Now in his judgement, and if we may credit his reading, this royall Law was first passed in *Vespasians* dayes, and he gives some proofs, and quotes Authorities for confirmation of the same. Besides others, he cites *Suetonius*, censuring thus of *Caligula*: *Parum absuit quin diadema sumeret, ac speciem Principatus in regnum converteret.* Also of *Tiberius*, he censures thus: *F. edissima servitute Kemp. oppressu.* He calls his reigne meer tyranny, and oppression. *Bodin* therefore having defined Princely government to be either a State of Optimacy, or Populacy wherein some one has preeminence above all other particular persons, and is called *Princeps*, that is, *Primus*: He concludes that the Common-wealth of Rome from *Augustus* and his immediate successors, *Vsque ad Flavium Vespasianum Principatus dicebatur*: and he closes all with this, that from the battell of *Actium*, the State of Rome was neither popular, nor Aristocraticall, nor regall, but mixt of all. By all this we see, that our great Irish Prelate, when he sends us for St. Pauls meaning to the Romane Empire before *Vespasians* dayes, there to find out what soveraigne power is irresistible: He sends us not to regall power, more then to Aristocraticall, or Democraticall. I will therefore put the case stronger against my self: and make it my *quare*, what irresistibility is due to *Domitian* after his Fathers, and Brothers death. And here first, I may except against the Royall Law it self passed in *Vespasians* time, as not being the compleat

compleat voluntary lawfull act both of Patritians, and Plebeians. For besides that the Senate had been now long over-awed, and corrupted many wayes by the acts of the Court; we know the *Tributa Comitia* are also totally depraved, and evirtuated by being called out of the field into the palace, insomuch that all liberty of choice and suffrage is lost, to that great convention, and it is now turned into a ridiculous solemnity.

Wherefore when *Nero* was to be deposed, and all his barbarous acts of inhumanity to be accounted for, no *plebisitum* could be obtained, an act of the Senate only was past to declare him an enemy of mankind. But I shall not insist upon this, I shall grant the royall law to be a good law, and enacted in a full assembly of both the States, yet still I shall maintaine, that the law-makers did not passe any thing to *Vespasian*, or his successors, but only in order to the publick good, and safety: nor did they grant away their owne original right, and power in themselves, by granting a *fiduciary use* and administration of that right, and power to the Emperors. The whole body of the law will furnish testimonies to this purpose, that the Emperour is not proprietary of his subjects, or hath any interest at all in them to his own use meerey.

Give me leave to frame a case upon supposition. Conceive that the major part of the *Patritians*, and *Plebeians* all over the Roman Empire are converted to the faith of Christ: conceive that *Domitian* (whose claime is by the law past to his Father) hates Christianity, and being incited by his South-saying Priests, his Concubines, and paralyticall Libertines to eradicate true Religion, and enrich himselfe by the great spoyle of the professors thereof, sets up such an idol, and makes such an edict for the generall adoration thereof, as the *Persian* Monarch once did. Conceive that the Christians, both *Senators* and *Plebeians* petition for their lives, but are rejected, and seeing a number of Assassins armed ready to rush upon them, be-take themselves to their defence, and rely upon forcible resistance. Conceive further that they first acquaint *Domitian* with their resolutions, and thus publish the justice thereof.

May it please your sacred imperiall Majesty, the peaceable and gentle principles of our pure Religion teach us rather to suffer moderate wrongs from private hands, then to offer the least injurious violence to Princes. Et

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Nevertheless since (after all our vain supplications) wee see our selves remorsefully designed to a generall massacre, for not obeying you against God: and since you expect, that we should tamely surrender not only our estates, and such other rights as are in our arbitrary disposition, but our lives also, and the Gospell it selfe (of neither whereof wee are masters, at discretion) forasmuch also, as we being the major part of the State, and virtually that whole Community from which you derive your Commission, and for whose behoofe alone you are bound to pursue that Commission, and not to decline from the maine intendment of it: and whereas further wee have not so totally devested our selves by intrusting you with power, but that we are to give some account to God, and the law if wee oppose not generall subversion when wee may, especially we being now farther intituled to defence by the extraordinary law of generall necessity (of the benefit of which iron law, particular men are not wholly abridged) we are compelled hereby to protest, and remonstrate to all the world, that we take now up these our just arms only for defence to secure our Lives, Liberties, and Religion, against the bloody emissaries, which indeed from your undue warrant can derive no authority; and not to bridle any just authority of yours, or to attempt any thing against that idolatrous devotion which hath been hitherto established by law. And because we impute to the wretched falsities and artifices of calumniators that your Majesty is incensed against us, and our Religion, and misinformed of our intentions: wee crave leave farther to declare, that we though we are free-men, and not slaves, and have some share in Empire it selfe, and are not meer subjects, will yet continue in the same obedience, as our Ancestors payd you for peace sake, if we may not be driven to extremities. And as for our Religion, it is no other then a holy blessed law revealed from heaven, prescribed for the good of all immortal, ratioll creatures, more beneficiall to Princes then Paganisme, and such as without diminution of power you may submit to, and cast down your Crowne before. In the like manner also it will concern your imperiall office rather to protectt us then those that seek our subversion, as being the greater, and nobler part of the Empire, and better devoted to your person, and Crowne then they are. Neither is it distrust in our owne numbers, forces, or advantages that drawes these lowly, loyall expressions from us, nor is it any doubt in our cause: for Christianity does as much lift up the heart in a just war, as it does weaken the hands in unjust enterprises; and the world shall see it is as far from transforming us into ashes, as into wolvcs. Prefer your sacred eares therefore, we pray you, from the suggestions of our enemies, and

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the abusers, who may render us in your thoughts either absolutely dist-yall, or bestially servile, and doe usually traduce our Religion as being utterly inconsistent either with duty, or magnanimity. Let it bee a confutation to them at this present, that we doe neither derogate in this case from your Majesties prerogative, nor utterly renounce our owne interests: and yet that we doe rather fore-judge our selves, inasmuch as though we doe not disclaim, yet we forbear to claime a right of establishing true Religion, and abolishing idolatry; as also of bringing your seducers to condigne punishment. And thus far wee condescend in all humility for our blessed Religions sake, that th it may be liable to no aspersions, as if it had any causality in this war, and that you may receive in the better apprehension, and relish of the profession from the humble comportment of the professors. It is not in us to set an end to these broyles because we have no prevalence with you to guine just satisfaction from you, but it is in you without all impediment to quiet our party, in regard that we fight not now for a well being, but a meer being: not that Paganisme may be subverted, but that Christianity may subsist: all our conditions are intirely in your owne hands, and they speake no more but this, let us have hopes to remaine safe, and you shall have assurances to remaine Casr.

If his Grace of Armagh like not this Remonstrance, let him frame an answer to it, & in so doing he shall appear a profounder Scholer, a more judicious Statesman, a more peaceable Patriot, a more godly Preacher then his last Sermon upon the 13. Rom. did shew him. I am sure there is no man that lives in these dayes, can say I have fained an impossible case, especially when He sees two Parliaments of two Protestant Kingdomes driven to petition for their lives to a Prince that does acknowledge the truth of the Protestant Religion, and the priviledges of both Parliaments: and the liberties of both Kingdomes, and yet brings a third Popish Kingdome against them; though traiterously besmeard in the blood of thousands of Protestants, and proclaimed against by the King himselfe, as the most execrable monsters of men. But perhaps our Primate will say that the Roman law of royalty did extend farther, and that the people thereby did conferre to, and upon the Emperour, *omne summ imperium & potestatem*, and thereupon it was said, *Omnia poterat imperator*, and *Quicquid Principi placebat Legis habebat vigorem*. I take these to be no parts of the royall Law, but only severall glosses, and interpretations of Jurists thereupon, yet all these extend no farther

then to a perpetuall dictature. For the people could conferre no more on the Emperour, then what it had in it selfe; and no man will say, that the people had any power to destroy it selfe: and what end could the people have (if that Law might bee said to bee the peoples act) in enslaving themselves, or giving away the propriety of themselves? where the Princes pleasure is entertained for Law, it is intended that that pleasure of the Prince shall bee naturall, and prudentiall, and that it shall be first regulated by Law if not in its formalities, yet in its essentials. *Grotius* tells us of the *Campanians* how they did resigne themselves, and all that they posselt in *ditionem Romanorum*: and hee conceives, that by this resignation, they did make the Romans their proprietaries. By the favour of *Grotius*, I think there is stronger reason, that no Nation yet ever did voluntarily or compulsorily embrace servitude, or intend submission to it: it is more agreeable to nature and sense to expound this word *ditio* in a mild sense, and to suppose that the *Campanians* did intend to incorporate themselves with the *Romans*, and to live under the same government or dition, and no other; and not only reason, but the true story makes this good: and evidence of fact, the strongest of proofes puts it out of doubt, that the *Campanians* were not at all differenced in freedome from the Citizens of Rome themselves. In brieve we may rely upon these assertions.

First, there is no certainty of any Nations, that ever they so formally did resigne themselves in Terms, as the *Romans*, and *Campanians* did here: scarce any story can parallell such particular grants of Sovereignty.

Secondly, if these be expounded mildly, and in favour of publick liberty as they ought, they can create no prejudice at all to those Nations which enacted them, or any other.

Thirdly, if they be expounded in a tortious, unnaturall sense, they are to be damned, and rejected by all people, and they remain no way vigorous, or obligatory in any country whatsoever. If the Primate have now recourse to the practise of the Christians in the first ages, and urge, that because, they used no arms but tears, and prayers when they were oppressed, wee ought to doe the like: we answer,

First, The Christians till *Constantines* time in probability were not

not equall in numbers, and forces, with the Pagans, whatsoever *Tertullian* might conceive.

Secondly, if they were, they wanted other advantages of arms, commands, and other opportunities to free themselves. *Aug. Caesar* by forty Legions, and the strength of Cittadels, and other places of strength yoked and intralld forty times as many in number as those Legions; and so did but purchase fear for fear, making himself as formidable to the people, as the people was to him.

Thirdly, if they wanted no power, nor advantage, they might want policie to infranchise Religion, perhaps they might be tainted with *Tertullians* opinion, who thought it not onely unlawfull to resist tyranny, but also to flie from it.

Fourthly, Hiltory is clear, that in *Constantines* dayes, they did adhere to him being a Christian, and fight against *Licinius* being a Pagan, and their Enemy. And in the reigne of *Theodosius*, such Christians as lived in *Persia*, and were there tyrannically and cruelly treated, did incite the Romane Emperour to undertake their defence against their own naturall Lord.

Let this be sufficient for the Romane storie, and for the phanning out of our way such advantages, as the Pimate, and his fellow Royalists may seem there to lay hold of in expounding this text of the 13. of *Rom.* to our prejudice: our method now hands us to our own Laws, and Chronicles, let us follow our Preacher thither. If *St. Paul* teach us that the supream power is not to be resisted by any persons meerly inferior, and subordinate: but leaves us no certain rule, whereby to discern what that supreme power is in all Countreys: our Preacher should do well to let us know what he utters out of his meer Text, and what he utters out of his own imagination. *Barclay, Grocius, Arnissius*, all our Royalists besides are so ingenuous, as to acknowledge, that a Prince in an Aristocracy, or compounded Democracie is not so irresistable, as an absolute Monarch: nay in Monarchy they do acknowledge degrees also. What shall we think then of this Prelate, who without proving *Caesar* an absolute Monarch, or reducing England to the pattern of Rome, or stepping at all out of his Text, where neither Rome, nor England is mentioned, yet will out of his Text condemne both Rome and England, and by consequence all other States to the remediless servitude

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 servitude of non-resistance? The Emperour of Germany is now *Cæsars* successor, and not denyed to be the supreme Magistrate in that country, in diverse respects: yet the Electors, and other Princes are in some respect supreme also in their severall territories, and may use resistance against the Emperour in some cases. Now if our Preacher may, except *Germany* out of his Text, why not *England*, unless He will appeale to something beyond his Text? and if *England*, why not others? and if hee except, nor *Germany*, nor *England*, nor any: nor will refer himselfe to any other authority but his Text, which mentions no particulars: let Him enlarge his Serimon, and be a little more ingenious, and vouchsafe us some account why He is induced thus to confound all formes of government, and to recede from the judgement of all Politicians. But soft, what have we to doe with a meer Divine? let the Monarchy of *England* speak for it selfe, let Divinity, and Law, and Policy be admitted into this Junto, for that which is to be the subject of this consultation is, to be reckoned *inter agenda*, and not *inter credenda*.

FINIS.

Errata.

Pag. 3. l. 4. r. desire them. p. 21. l. 30. r. *Dramiclidus*. p. 37. l. 7. dele the. p.
 38. l. 3. r. *commune jus veter.* p. 42. l. 1. for death r. slavery.



