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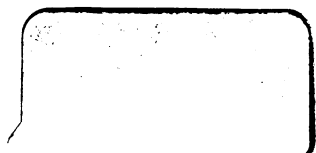
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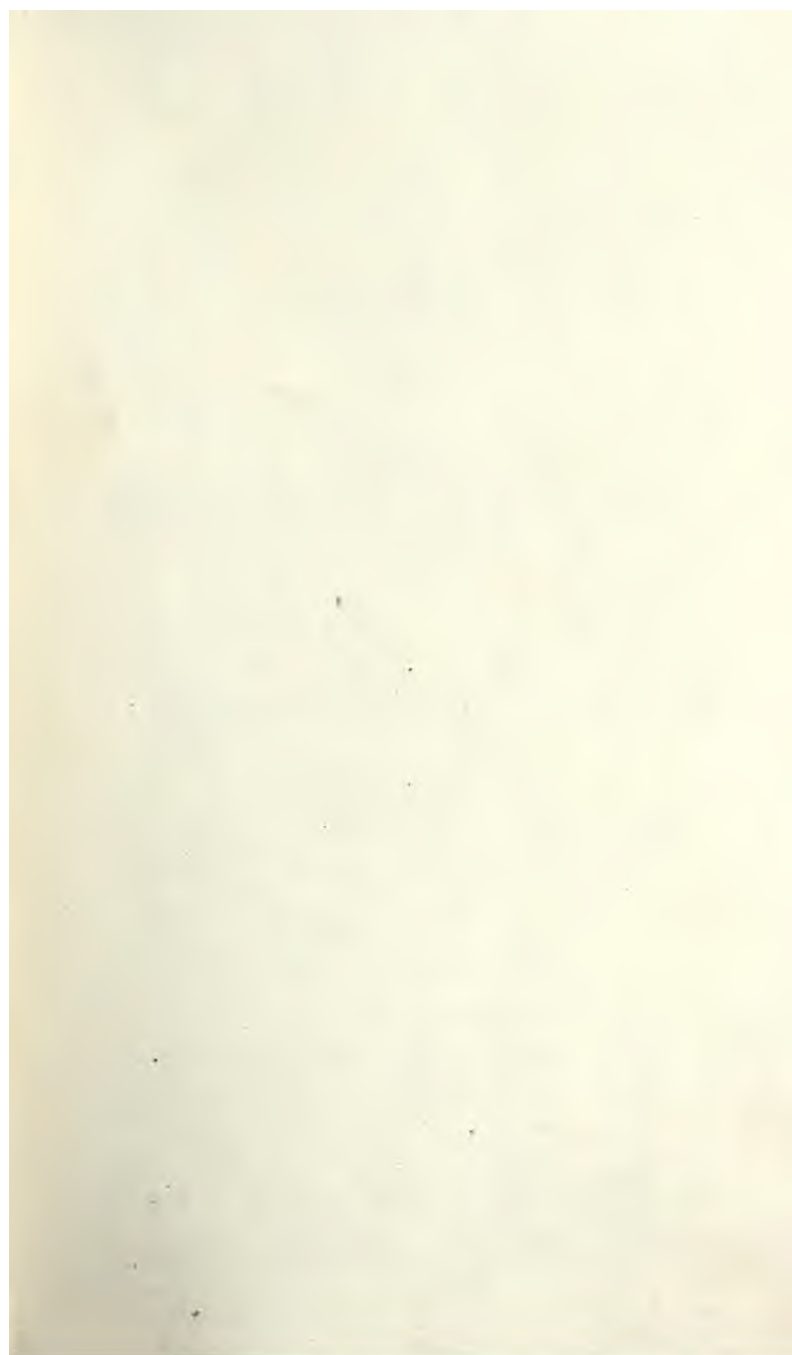
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THE
PARLIAMENTARY
OR
CONSTITUTIONAL
History of England;
Being a
FAITHFUL ACCOUNT
Of all the
Most remarkable TRANSACTIONS
In PARLIAMENT,
From the earliest TIMES,
TO THE
Restoration of King CHARLES II.

COLLECTED

From the JOURNALS of both HOUSES, the RECORDS, original MANUSCRIPTS, scarce SPEECHES, and TRACTS; all compared with the several Cotemporary Writers, and connected, throughout, with the History of the Times.

By SEVERAL HANDS.

VOL. VIII.

From the Fourth Year of King *Charles I.* to the Meeting of the Long Parliament, *Nov. 3. 1640.*

L O N D O N,

Printed; and sold by *Thomas Osborne*, in *Gray's Inn*;

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William Sandby, against *St. Dunstan's Church, Fleet-street.*

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T H E
PARLIAMENTARY HISTORY
O F
E N G L A N D.



ON the 14th of *April*, the Lords resumed the grand Debate concerning the Liberty of the Subject; when the Judges of the *King's Bench* attended, according to an Order of the 8th, to give an Account of the Reasons of their Judgment, in the Case of the Gentlemen imprisoned by the King's Order, for refusing the Loan; which the Commons had complained of.

An. 4. Charles I.
1628.

Hereupon the Chief Justice (a) stood up and said, 'That they were prepared to obey their Lordships Command; but desired to be advised by them, whether they, being sworn upon Penalty of forfeiting Body, Lands and Goods into the King's Hands, to give an Account to him, may do this without Warrant from his Majesty.'

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drawing the Duke of *Buckingham's* Answer to the Impeachment
of the Commons.

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An. 4. Charles I. 1628. ought he knoweth, he is well content therewith: But, for better Assurance, he had sent his Brother *Anglesey* to know his Majesty's Pleasure.'

The Proceedings in the King's Bench against the Gentlemen imprisoned for refusing the Loan, inquired into. To this the Earl of *Devonshire* answered, 'If a Complaint be made by a mean Man against the greatest Officer in this Place, he is to give an Account of his Doings to this House.'

The Bishop of *Lincoln* (b) said, 'This Motion proceeded from him, and he took it for clear, that there is an Appeal even from the *Chancery*, which is a higher Court than the *King's Bench*; and that Court hath ever given an Account of their Doings.'

The Lord *Saye* wondered there should be any Question made of this Business; because, in his Opinion, this being the highest Court, did admit of no Appeal.

The Lord President (c) said, 'The Judges did not do this by way of Appeal, but as the most common Way for them; this being a Matter concerning the King's Prerogative.'

To which the Lord *Saye* answered, 'If they will not declare themselves, we must take into Consideration the Point of our Privilege.'

The Duke of *Buckingham* replied, 'This was not done by the Judges, as fearing to answer; but out of Respect to the King: And now his Brother *Anglesey* was come with Answer from the King, that they might proceed (d).

Hereupon Mr. Justice WHITLOCK said,

My Lords,

The Judges give the Reasons of their Conduct therein.

WE are, by your Appointment, here ready to clear an Asperision of the House of Commons, that the Subject was greatly wounded in the Judgment

(b) Dr. *John Williams*, formerly Lord-Keeper.

(c) The Earl of *Manchester*, formerly Lord Chief Justice of the *King's Bench*.

(d) The Account of this Debate, and the Speeches of the four Judges are in the *Ephemeris Parliamentaria*. Two of them, only, are in *Rustoworth*; for which Dr. *Nalson* (in the Introduction to his *Collections*) charges him with great Partiality: Tho' there seems to be little Foundation for this Censure, but the Prejudice of Party. We have chosen to copy Sir *John Napier's* Manuscript, which is much more correct.

Of ENGLAND. 3

Judgment lately given in the *King's Bench*. If An. 4. Charles I
1625.
 such a Thing were, your Lordships, not they, have the Power to question and judge the same: But, my Lords, I say there was no Judgment given, whereby either the Prerogative might be enlarged, or the Right of the Subject trencched upon. It is true, my Lords, in *Michaëlas Term* last, five Gentlemen petitioned for a *Habeas Corpus*, which they obtained, and Counsel was assigned unto them (e). The Return was *Per specialem Mandatum Domini Regis*; which likewise was made known unto us under the Hands of eighteen Privy Counsellors.

‘ Now, my Lords, if we had delivered them presently upon this, it must have been, because the King did not shew Cause; wherein we should have judged the King had done wrong, and this is beyond our Knowledge; for he might have committed them for other Matters than we could have imagined. But they might say, They might have thus been kept in Prison all their Days. I answer, No, but we did remit them, that we might better advise of the Matter; and they the next Day might have had a new Writ, if they had pleased. But they say, We ought not to have denied Bail. I answer, If we had done so, it must needs have reflected upon the King that he had unjustly imprisoned them: And it appears in *Dyer*, 2. *Elizabeth*, that divers Gentlemen being committed, and requiring *Habeas Corpus*, some were bailed, others remitted; whereby it appears much is left to the Discretion of the Judges.

‘ For that which troubleth so much, *Remittitur quousque*, this, my Lords, was only, as I said before, to take Time what to do: And whereas they will have a Difference betwixt *remittitur*, and *remittitur quousque*, my Lords, I confess I can find none:

A 2

These

(e) Sir Thomas Darnel, Sir John Heveningham, Sir Walter Earl, Sir Edward Harpden; and Sir John Corbet.—The first named Gentleman, upon his being brought to the Bar, spake for himself. The Counsel for the other four were, Sergeant Brampton, Mr Noye, Mr. Selden, and Mr. Calverp.

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An. 4. Charles 1. 1628. These are only new Inventions to trouble old Records.

‘ Herein, my Lords, we have dealt with Knowledge and Understanding ; for had we given a Judgment, the Party must thereupon have rested ; every Judgment must come to an Issue, in Matter of Fact, or Demur in Point of Law ; here is neither ; therefore no Judgment.

‘ As for endeavouring to have a Judgment entered : It is true Mr. Attorney pressed the same for his Master’s Service ; but we, being sworn to do Right betwixt the King and his Subjects, commanded the Clerk to make no Entry, but according to the old Form ; and the Rule was given by the Chief Justice alone.

‘ I have spent my Time in this Court, and, I speak confidently, I did never see nor know, by any Record, that, upon such a Return as this, a Man was bailed ; the King not being first consulted with, in such a Case as this.

‘ The House of Commons do not know what Letters and Commands we receive ; for these remain in our Court, and were not viewed by them : And for the rest of the Matters, presented by the House of Commons, they were not in Agitation before us, *Whether the King may commit ; and how long he may detain a Man committed.* Therefore, having answered so much as concerneth us, I desire your Lordships good Construction of what hath been said.’

Mr. Justice JONES.

My Lords,

WE are here to deliver, before your Lordships, what Judgment was given by us concerning the *Habeas Corpus* ; to which I answer, No Judgment was given ; and the Matter of Fact was such as my Brother hath already delivered unto you. These Gentlemen were committed to the *Fleet*, the *Gate-House*, and to the *Marshall* of the King’s Household : Returns were made upon the



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An. 4. Charles I.
1623.

that House still which they did. I do not, now, mean to draw down God's Wrath upon my Posterity; and therefore I will neither advance the King's Prerogative, nor lessen the Liberty of the Subject, to the Danger of either King or People. This is my Profession before God and your Lordships.

Mr. Justice DODDERIDGE.

My Lords,

IT is no more fit for a Judge to decline to give an Account of his Doings, than for a Christian of his Faith. God knoweth, I have endeavoured always to keep a good Conscience; for a troubled one, who can bear? The King holds of none but God; and Judgments do not pass privately in Chambers, but publickly in Court, where every one may hear; which causeth Judgment to be given with Maturity.

Your Lordships have heard the Particulars delivered by my Brethren. How that Counsel being assigned to four of these Gentlemen, in the latter End of *Michaelmas* Term, their Cause received a Hearing; and, upon Consideration of the Statutes and Records, we found some of them to be according to the good old Law of *Magna Charta*; but we thought that they did not come so close to this Case, as that Bail should be thereupon, presently, granted.

My Lords, the *Habeas Corpus* consisteth of three Parts, the Writ; the Return upon the Writ or Schedule; and the Entry or Rule reciting the *Habeas Corpus*: And on the Return together with the Opinion of the Court, either a *Remittitur*, or *Traditur in Ballium* is granted. In this Case a *Remittitur* was granted; which we did, that we might take better Advise upon the Case: And upon the *Remittitur*, my Lords, they might have had a new Writ the next Day; and I wish they had; because, it may be, they had seen more, and we had been eased of a great Labour. And, my
Lords

Lords, when the Attorney, upon the *Remittitur*, An. 4. Charles I. pressed an Entry, we all straitly charged the Clerk that he should make no other Entry than such as our Predecessors had usually made, in like Cases: As for any Difference, my Lords, betwixt *Remittitur* and *Remittitur quousque*, I could never yet find any. 1628.

‘ I have now sat in this Court fifteen Years, and I should know something: Surely if I had gone in a Mill so long, Dust would cleave to my Cloaths. I am old, and have one Foot in the Grave, therefore I will look to the better Part as near as I can. But *omnia habere in Memoria, et in nullo errare, divinum potius est quam humanum.*

The LORD CHIEF JUSTICE.

My Lords,

I Shall not speak with Confidence, unless I might stand right in the Opinion of the House. I protest what I spake before was not said, by me, with any Purpose to trench upon the Privileges of this House; but 'out of that Respect which, by my Place, I thought I owed to the King. Concerning the Point, now to be spoken to, I shall not trouble your Lordships with Things already repeated, wherein I concurred with my Brethren. If it were true, the King might not commit, we did wrong in not presently delivering; for, my Lords, these Statutes and good Laws being all in Force, we meant not to trench upon any of them; most of them being Commentaries upon *Magna Charta*: But I know not any Statute that goeth so far, that the King may not commit. Therefore justly, we think, we delivered the Interpretation thereof to that Purpose: For, my Lords, *Lex Terræ* is not to be found in this Statute; they gave me no Example, neither was there any Cause shewed in the Return. A Precedent, my Lords, that hath run in a Storm, doth not much direct us in point of Law; and Records are the best Testimonies. These Precedents, which they brought, being read, we shewed them wherein they were mistaken. If

we

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An. 4 Charles I.
1628.

we have erred, *erravimus cum Patribus*; and they can shew no Precedent, but that our Predecessors have done as we have done; sometimes bailing, sometimes remitting, sometimes discharging. Yet we do never bail any committed by the King, or his Council, till his Pleasure be first known: And thus did the Lord Chief Justice *Coke* in *Raynard's* Case. They say, This would have been done, if the King had not written; but why then was the Letter read, and published, and kept? and why was the Town-Clerk sent carefully to inquire (because the Letter so directed) whether these Men offered for Bail were Subsidy-Men? The Letter sheweth also that *Beckwith* was committed for Suspicion of being acquainted with the Gunpowder-Treason; but, no Proof being produced, the King left him to be bailed.

The Judges having ended (e), the Lords adjourned to the 17th: On which Day the Matter was argued, very solemnly, at a Conference between the two Houses, by the Attorney General and the King's Counsel on one Side, and a select Committee of the House of Commons on the other. *Rushworth* has omitted this second Conference; but, as it is a Matter of as great Consequence as any thing yet met with in these Enquiries, we shall give it at Length, from the Authority of the *Lords Journals*.

Die Sabbati, 19. Die Aprilis, 1628.

The LORD-KEEPER'S (f) REPORT of the first Part of the CONFERENCE between the Lords and Commons, on Thursday the 17th of April, concerning the LIBERTY of the SUBJECT.

A Report of a second Conference between both Houses concerning the Liberty of the Subject.

AT this Conference Mr. Attorney declar'd, That as, by Commandment of the Lords, himself, and his Fellows of the learned Counsel, advised

(e) An Order was made that these Speeches of the Judges should not be enter'd in the *Journals*; probably, to prevent their being drawn into Precedent.

(f) *Thomas Lord Coventry.*

vised together, and by him had declared in this An. 4. Charles I.
1628. House what was conceived fitting; so, upon a new Commandment, they had again advised and conferred; shewing, at this Conference, the Effect of what was delivered in the House; which, in Substance, rested upon these Parts.

1. ' The State of the Question.
2. ' Acts of Parliament, and parliamentary Proceedings.
3. ' Precedents.
4. ' Resolutions of former Times.
5. ' Some Reasons offered to maintain this Side, and weaken the other.

' In these, by their Advice, he resolved not to pass from Point to Point; but, according to the Time and Occasion, to touch some Parts summarily, and to insist chiefly upon one, *viz.* The Precedents for the parliamentary Proceedings. He agreed, That the great Charter, upon which the Liberty of the free Subjects of this Kingdom is grounded, is in force; and that, in former Times, Occasions were often given to the Subject to press it to be confirmed; and that the Commons did fitly and worthily to maintain the Liberties and Privileges left unto them by their Ancestors.

He did also acknowledge, ' That this Charter did extend to the King, rather than the Subject; and that the subsequent Statutes, six in Number, stand in force; but the Difference and Doubt rested in the Interpretation and Application of the Statute: For the Words of *Magna Charta* are *general*; that it did not restrain the King from imprisoning a Subject; but with this Clause, *Nisi per legale Judicium Parium suorum, vel per Legem Terræ*: And how far *Lex Terræ* extends, is, and ever was the Question. Of the subsequent Statutes, some confirm *Magna Charta in totidem Verbis*; and therefore decide not the Question, but leave it as they found it; so that to ground any Arguments on them will be but *Petitio Principii*; and the others concern not the Question now in hand, but were made for Redress of Inconveniences happening to the Subjects,
by

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by the Suggestion or Information of Parties; but
1628. this he submitted to the House.

‘ In the Court of King’s Bench the Judges did not meddle with the Statutes, but did ground themselves upon Resolutions and Precedents; which he would now repeat, and leave the Difference to both Houses. We have directed the Records to be here; and if it shall seem good to your Lordships, and the Gentlemen of the Commons, we desire that we may read or open what is in the Declaration of the Commons touching each Record; and then read the Record itself, and open what we have to say therein.

‘ The first Precedent is, That *John Biddleston*, a Clergyman, by a Writ under the Great Seal, was committed to the *Tower*, with Commandment to keep him safely, *donec aiter a Nobis habueritis in Mandatis*. From the *Tower* he was brought to the *King’s Bench*, and committed to the Marshal. And the Lieutenant asked him, If he had any other Cause against him? who said, No; but the King’s Writ only: *Et quia videtur Curiae per Breve prædict. quod non est sufficiens Causa, &c. ideo* he was bailed.

To this he answered, ‘ 1st, That this Writ bears Date in *March*, 16. *Edward III.* and commands to receive *John Biddleston* from the Sheriffs of *London*, to whom he was formerly committed in the Writ: And as there is neither general nor special Cause, nor yet any Mention upon what Warrant or Command he was committed to the Sheriffs of *London*; so it is true, that *dimittitur per Manucap-tionem*: And thus far it seems to make for the other Side. But, said Mr. Attorney, it appears that this Writ was not an original Commitment; but a transferring and removing of the Prisoner from one Custody to another.

2^{dly}, ‘ It appears he lay two Years in the *Tower*, viz. from 16. *Edward III.* till 18. *Edward III.* before he came to the *King’s Bench*.

3^{dly}, ‘ It appears, in another Part of the same Record, That the Cause of Commitment was for
 Suf-

Suspicion of counterfeiting the Great Seal; and he was brought to the *King's Bench* for that Cause: For being bailed, and, at the Day, coming in upon his Bail, there came another Writ to the Justices, which Mr. Attorney read out of the Record; which recited, That the King had caused him to be brought to the *King's Bench*, for Suspicion of counterfeiting the Great Seal, *quousque per quondam Informationem plenius informemur*. And because the Informer came not, the Writ commands the Judges, that if he came not by *quind.* then *Adventuram ejus non expectare*, but proceed according to Law: So that, altho' in a Record so antient, it is difficult to find out all material Parts, yet, by this Writ, the Cause of the Commitment appears; and when the Cause appears, and is such whereupon the *King's Bench* may proceed, they must go on according to Justice.

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1628.

'It appears by this Writ, that he was committed upon the Suggestion of an Informer; and observe the Time; for it seems that about 5. *Edw. III.* and forward, these Informers began to be too frequent; and therefore Care was taken to relieve the Subject against those Inconveniences; which, growing more and more, were after complained of in Parliament.'

Here Mr. Attorney staid; and, after a little Pause, upon settling whether the Lower House would answer particularly to each Precedent, or take all together, Sir *Edward Coke* began thus:

'Your Lordships have well perceived how fairly, and with what Respect, we have dealt with your Lordships, and ever shall. We brought up unto you what we had resolved; and not only that, but the Cause and Grounds of our Resolutions, and all our Records; the like whereof was never done in Parliament: And we are to maintain what we did. The natural and the politic Body have a great Resemblance and Proportion: And as the natural Body hath Symptoms of good or evil Health, so we hold it a good Symptom for us, that Mr. Attorney was so long

An. 4. Charles 1.
4623.

long and so loth to come to it. My Lords, we will break Order, rather than defer the Business. This Conference is between the two Houses. Mr. Attorney is no Member of your House: He attends you; but his Voice is with us: Yet we are so willing to proceed, that we will take no Hold of Threads: Let him say what he can, but we will allow him no Voice here, where he ought not to speak. We have *delegatam Potestatem, tantum permissam, quantum commissam*; and therefore, for all new Matter of this Conference, we come with Ears, not with Tongues. For the Resolutions of the Judges, we are glad of them; and we are confident never a Judge in *England* will be against what we have resolved. We can say nothing to it; it is new Matter; but we will report it faithfully to our House.

‘*Quintilian*, a notable Rhetorician, (for so he was indeed, and taught the Rules best) speaks of *Simulatio*. It is a Figure of Rhetoric; and, says he, *Simulatio procedit ut quod dicendo refutare non possimus, id tanquam fastidiendo calcitemus*. Methinks Mr. Attorney has made Use of this *Simulatio*, and hath slighted the Acts of Parliament; and therefore we desire they may be read.’

Here being told by the Lord-Keeper, That the Acts of Parliament were well known, and had been all read in our House, he replied, ‘I cannot tell, *nescio quid Energiae habeat viva Vox: Alas! Litera occidit, Spiritus autem vivificat*. To slight these, is *tanquam fastidiendo calcitrare*.’ And so pressed on that the Acts of Parliament might be read and opened.

And thereupon began Mr. *Littleton*. ‘It is agreed by Mr. Attorney, and resolved by the Judges, That the Acts of Parliament are all in Force; and that the Statute of *Magna Charta* concerns the King as well as the Subject; nay, the King rather than the Subject: The Exposition makes all the Matter; and chiefly of these Words, *Legem Terræ*; which, if they bear not the Exposition which we

have

have given them, I would gladly have heard from Mr. Attorney another Exposition. I will prove our Exposition by Reason: For if those Words, *Legem Terræ*, should be extended to the general Law of the Land, then it should extend to Villains; who, by the Law of the Land, may be imprisoned by their Lords without any Cause; but so cannot Freemen. But I need not insist upon Reason, the Exposition is so clear by the ensuing Statutes. And reading the Words of the Statute of 25. *Edward III.* 'By this it appears, that what in *Magna Charta* is called *Lex Terræ*, in the Statute of 28. *Edward III.* is called *Process of the Law*. And where Mr. Attorney said the Words were general, they are as express as any Man can pen them in this Age. And where he said, That the ensuing Statutes extend to Imprisonment, upon Suggestion of Parties. It is equal whether the King do it of himself, or by Suggestion of others: But Kings seldom do those Things merely of themselves; but as Things proceeding from some Man's Suggestion.'

An. 4. Charles I
1628.

Then reading the Statute of 5. *Edward III.* he said, 'None would doubt but *Attaching* in that Statute, was attaching the Body.' And reading the Statute of 28. *Edward III.* without any special Inference upon it, he read 36. *Edward III.* *Rot. Pl. N. 9.*

The LORD-PRESIDENT'S REPORT of the second Part of the CONFERENCE.

MR. *Littleton* read divers of the Statutes, which he cited in the former Conference, which was reported here on the 8th Day of *April*, and made the same Inferences therefrom; (g) and Mr. Attorney delivered another Answer unto the same than what he had formerly made; which he left to the Judgment of the Lords.

Then Mr. Attorney made his Objections to the Precedents, alledged by Mr. *Selden* on behalf of the

(g) See Vol. VII. p. 412.

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1.4. Charles I.
1648.

the Commons; and Mr. *Selden* gave several Answers unto the same in this Manner :

To the first of the twelve Precedents, produced by the Commons, to prove their Resolutions, in the Case of *John Biddleston, Pasch. Anno 18. Edw. III. Rot. 33. Rex.*

To this Mr. Attorney *first* objected, ' That in the Return of him into the Court, it did not appear that this *Biddleston* was committed by the King's Command: And, *secondly*, That in the Record it did appear also, that he had been committed for Suspicion of counterfeiting the Great Seal; and so, by Consequence, was bailable in the Law, in regard there appeared Cause why he was committed. And he said, That this Part of the Record, by which it appeared he had been committed for this Suspicion, was not observed to the Lords in the Argument of the Commons before used. And he shewed also to the Lords that there were three several Kinds of Records, by which the full Truth of every Award or Bailing, upon a *Habeas Corpus*, is known. *1st*, The Remembrance-Roll, wherein the Award is given. *2^{dly}*, The File of the Writ, and the Return. And *3^{dly}*, The Scrute-Roll, or Scrute-File, wherein the Bail is entered; and that only the Remembrance-Roll of this Case was to be found; and that if the other two were extant, he doubted not but that it would appear also upon the Return itself, that the Cause of the Commitment had been expressed.' And so he concluded, That this proved not for the Resolution of the House of Commons, touching the Manner of Bail, where a Prisoner was committed by the King's special Command, without Cause shewed.

To these Objections Mr. *Selden* replied thus :

1st, ' That it was plain that *Biddleston* was committed by the King's express Command; for so are the very Words in the Writ to the Constable of the Tower, *quod eum teneri & custodiri facias, &c.* than which nothing can more fully express a Commitment by the King's Command.

2^{dly},

2dly, ' Howsoever it be true, that in the latter Part of the Record it does appear, That *Biddleston* had been committed for the Suspicion of Treason; yet, if the Times of the Proceedings, expressed in the Record, were observed, it would be plain, That the Objection was of no Force: For this one Ground, both in this Case, and all the rest, is infallible, and never to be doubted of in the Law, That the Justices of every Court adjudge of the Force or Strength of a Return out of the Body of itself only, and according as it therein appears to them.

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1628.

' Now in *Easter Term* 18. *Edward III.* he was returned and brought before them as committed only by that Writ, wherein no Cause is expressed; and the Lieutenant or the Constable of the Tower of *London*, that brought him into the Court says, That he had no other Warrant to detain him, *Nisi Breve prædictum*, wherein there was no Mention of any Cause; and the Court, thereupon, adjudged, that *Breve prædictum*, or, that special Command, was not sufficient Cause to detain him in Prison: And, thereupon, he is, by Judgment of the Court in *Easter Term*, let to Main-prize.

' But that Part of the Record, wherein it appears that he had indeed been committed for Suspicion of Treason, is of *Trinity Term* following; when the King, after the letting to Main-prize, sent to the Judges that they should discharge his Main-prize, because no Man prosecuted him. And at that Time it appears, but not before, that he had been in Suspicion of Treason; so that he was returned to stand committed by the King's special Command only; without Cause shewed in *Easter Term*; and then, by Judgment of the Court, let to Mainprize; which, to the present Purpose, is but the same with Bail, though otherwise it differ. And, in the Term following, upon another Occasion, the Court knew that he had been committed for Suspicion of Treason; which hath no Relation at all

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all to the letting of him to Mainprize, nor to the Judgment of the Court, before given; when they did not, nor could not possibly know any Cause for which the King had committed him.

‘ And Mr *Selden* said, in Behalf of the House of Commons, That they had not, indeed, in their Argument, expressly used this latter Part of the Record of *Biddleston’s* Case, because it being only of *Trinity Term* following, it could not concern the Reason of an Award given by the Court in *Easter Term* next before. Yet, notwithstanding, that, they had most faithfully, at the Time of their Argument, delivered in to the Lords a perfect Copy, at large, of the whole Record of this Case: As they had done also of all other Precedents whatsoever cited by them. And, as touching those three Kinds of Record, the Remembrance Roll, the Return and File of the Writs and the Scrute; Mr. *Selden* answered, that it was true that the Scrute and Return of this Case of *Biddleston* was not to be found; but that it did not lessen the Weight of the Precedent, because always in the Award or Judgment drawn up in the Remembrance Roll, the Cause, whatsoever it be, when any is shewed upon the Return, is always expressed: As it appears clearly by the constant Entries of the Court of *King’s Bench*. So that if any Cause had appeared to the Court, it must have appeared plainly in that Part of the Roll which belongs to *Easter Term*; wherein the Judgment was given. But the Return of the Commitment, by the King’s Command, without Cause shewed; and the Judgment of Court, that the Prisoner was to be let to Mainprize; appears therein only: Therefore, notwithstanding any Objection made by Mr. Attorney, Mr. *Selden* affirmed this Case to be a clear Proof, amongst many others, touching that Resolution of the House of Commons.’

To the second of these twelve, which was *Par-ker’s* Case in 22. *Henry VIII*, Rot. 37. Mr. Attorney’s

torney's Objections were two; *First*, ' That it is true, that he was returned to be committed *per Mandatum Domini Regis*; but that it appeared that this Command was certified to the Sheriffs of London by one *Robert Pecks*, Gent. And that in regard the Command came no otherwise, the Return was held insufficient: And therefore he was bailed. *Secondly*, That it appears also in the Record, that he was committed *pro Suspicionæ Feloniæ, ac per Mandatum Domini Regis*; so that in regard that, in the Expression of the Causes of this Commitment, Suspicion of Felony precedes the Command of the King: Therefore, it must be intended that the Court took the Cause, why the King committed him, to be of less Moment than Felony; and therefore bailed him. For he objected, that even the House of Commons themselves, in some Arguments used by them, touching the Interpretation of the Statute of *Westminster the first, Chapter 15.* about this Point, had confirmed that, in Enumeration of Particulars, those of greatest Nature were first mentioned; and it was supposed, that such as followed are, usually, of less Nature or Moment.

Mr. *Selden* replied to the first Objection, ' That the Addition of the certifying the King's Command, by *Robert Pecks*, altered not the Case. *First*, Because the Sheriffs, in their Return, took Notice of the Command, as what they were assured of; and then, howsoever it came to them, it was of equal Force, as if it had been mentioned without Reference. *Secondly*, That as divers Patents passed the Great Seal by Writ of Privy Seal, and are subscribed *per Breve de privato Sigillo*, so divers *per ipsum Regem*, and are so subscribed: And often-times, in the Roll of former Times, to the Words *per ipsum Regem* are added *Nunciat A. B.* So that the King's Command generally, and the King's Command, related or certified by such a Man to this Purpose, is of like Nature.

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Thirdly, In the late great Case of the *Habeas Corpus*, where the Return of the Commitment was *per speciale Mandatum Domini Regis, mihi significatum per Dominos de privato Consilio*; the Court of King's Bench did agree that it was the same, and of like Force as if *mibi significatum, &c.* had not followed: And that those Words were void. According whereunto, here also *per Mandatum Domini Regis nunciat. per Robertum Pecks*, was to be taken as if *nunciat. per Robert. Pecks* had been wholly omitted, and void.

‘ Likewise, and in Truth, in that late Case, this Case of *Parker* was cited both at the Bar and Bench: And at the Bench, it was interpreted by the Judges no otherwise than if it had been, only, *per Mandatum Domini Regis* in this Place of it.

‘ But the Objection made there was of another Kind; as now delivered in the first Argument made out of the Precedents, in Behalf of the House of Commons. Then for the second, touching the Course of Enumeration of the Causes in the Return; Mr. *Selden* said, That, howsoever, in some Acts of Parliament; and, elsewhere, in the solemn Expressions used in the Law, Things of greater Nature precede and the less follow; yet, in this Case, the contrary was most plain: For, in the Return, it appears that there were three Causes of detaining the Prisoner; Surety of the Peace; Suspicion of Felony; and the King's Command: And Surety of the Peace is first mentioned, which is plainly less than Felony. Therefore, it is as plain, (if any Force of Argument be here to be taken from this Enumeration.) that the contrary to that, which Mr. Attorney inferred, is to be concluded: That is, as Felony is a greater Cause than Surety of the Peace; so the Matter, whereupon the King's Command was grounded, was greater than Felony: But, in Truth, this Kind of Argument holds neither Way here. And whatsoever the Cause was, why the King committed him, it was impossible for the Court to know; and it might also
have

have been of very high Moment, as Matter of State, An. 4. Charles I. 1628. and yet of far less Nature than Felony: All which shews this Precedent hath it's full Force also, according as it was first used, in Argument, by the House of Commons.

To the third of these, which is *Brinites* his Case in 35. *Henry VIII. Rot. 33.* the Objection by Mr. Attorney was, 'That there was a Cause expressed *pro Suspicionē Feloniæ*; and though *pro aliis Causis illos moventibus* were added in the Return, yet, because, in the Course of Enumeration, the general Name of *alia*, coming after Particulars, includes Things of less Nature than the Particular doth: Therefore, in this Case, Suspicion of Felony being the first; the other Causes, afterwards generally mentioned, must be intended of a less Nature; for which the Prisoner was bailable; because he was bailable for the greater, which was Suspicion of Felony.'

Hereto Mr. *Selden* replied, 'That the Argument of Enumeration, in these Cases, is of no Moment, as is next before shew'd; and, that although it were of any Moment, yet the *alia Causa*, tho' less than Felony, might be of very great Consequence in Matter of State; which is pretended, usually, upon general Returns of Command, without Cause shewed: And, it is most plain that the Court could not know the Reasons why the Prisoner here was committed; and yet they bailed him, without looking further after any unknown Thing, under that Title of Matters of State; which as well might have been in this Case as in any other whatsoever.'

The Objections made by Mr. Attorney against the Fourth, Fifth, Sixth, and Seventh Precedents, alledged by the House of Commons in favour of their Resolutions, with Mr. Selden's Answers thereto, are omitted in the Journals.

To the Eighth, which is *Browning's* Case, in *P. 20. Eliz. Rot. 72*, it was said by Mr. Attorney,
B 2 'That

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To the Ninth, being *Harcourt's Case*, 40. *Eliz. Rot. 62.* the self-same Objection was made by him, but no Warrant was shewed.

To the Tenth, which is *Catesby's Case* in the Vacation, *Hillary*, 43. *Eliz.* Mr. Attorney said, ' That it was by Direction of a Privy-Seal from the Queen: And to that Purpose, he shewed the Privy-Seal of 43. *Eliz.* which is at large amongst the Transcripts of the Records, concerning Bails taken in Cases where the King or Lords of the Council assented.'

Mr. *Selden* replied, ' That the Privy-Seal was made only for some particular Gentlemen mentioned in it, and for none others; as, indeed, appears just; and then Mr. *Selden* said, That it was likely, that *Catesby* here had a Privy-Seal, in his Behalf, because those others had so.'

To the Eleventh of these, which is *Beckwith's Case*, in *Hillary* 12. *Jac. Rot. 153.* Mr. Attorney said, ' The Lords of the Council sent Letters to the Court of the King's Bench to bail him; and he produced a Letter, which could not be found when the Arguments were made at the first Conference.'

To this Mr. *Selden* replied, ' That the Letter was of no Moment, being only a Direction to the Chief Justice, and no Matter of Record, nor any Way concerning the rest of the Judges; and, besides, either the Prisoner was bailable by Law, or not bailable; if bailable by the Law, then he was to be bailed without any such Letter; if not bailable by the Law, then plainly the Judges could not have bailed

bailed him upon the Letter, without Breach of An. 4. Charles I. 1628. their Oath; which is, that they are to do Justice, according to the Law, without having Respect to any Command whatsoever. So that the Letter, in this Case, or, the like in any other Case, is, for Point of Law, to no Purpose; nor, hath any Weight at all, by way of Objection, against what the Record and Judgment of the Court shew us.

To the Twelfth and last of these, which is Sir *Thomas Mounson's* Case, in the 14. *Jac. Rot.* 147. the same Objection was made over again by him, which was moved and answered in the Argument at the first Conference; and that one Ground, which is infallible, that the Judgment, upon a Return, is to be made out, only, of what appears in the Body of the Return itself, was again insisted upon by *Mr. Selden*, in this Case; as it was also in most of the rest.

After *Mr. Attorney's* Objections to these Twelve, and the Replies given to those Objections, *Mr. Attorney* came next to those, where the Assent of the King or the Privy-Council appears to have been given to an Enlargement: And he made the same Kind of Objections as are moved and answered before: And, for so much as concerns Letters of Assent or Direction; the same was here said again, by way of Reply to him as before, touching the Letter in *Beckwith's* Case.

The Earl of HERTFORD's REPORT of the third Part of the CONFERENCE.

After *Mr. Attorney* had made his Objections, and the Gentlemen of the Commons House their Answer, to what had been said touching the twelve Precedents, brought all for express Testimonies, for the Maintenance of the Resolution of the House of Commons; and after the Gentlemen of the House of Commons had given their Answer to that which was objected, out of such Precedents as shew some Assent of the King's Attorney, or of the Lords of the Council, to the bailing of Prisoners

An. 4. Charles I. 1628. ners committed by such special Command: Mr. Attorney came to urge the eight Precedents for the other Side against that Resolution; which eight were mentioned, and Copies of them given in at the first Conference.

Of these eight, the first four were urged by Mr. Attorney, as being of one Kind; the Difference of them being only such, that, saving the Names of the Persons and Prisons, they are but one and the self-same. But whereas at the first Conference it had been said, That, in the late Case, touching this Point in the *King's Bench*, the Court had replied upon these four; he said, That there were but two of them used in that Case. The Force of these four he objected thus: 'That *Richard Everard*, for the Purpose, in the first of them, which is 5. *Henry VII. Rot. 18. Roger Cherry*, in the second of them, which is 8. *Henry VII. Rot. 12. Christopher Burton*, in the third of them, which is 9. *Henry VII. Rot. 14. and George Urswick*, in the fourth of them, which is 19. *Henry VII. Rot. 23.* were returned into the *King's Bench* upon several Writs of *Habeas Corpus*, to have been committed and detained in the several Prisons whence they came, *per Mandatum Domini Regis*; and that, upon that Return, they were committed to the Marshal of the *King's Bench*; And that however it hath been objected against these four Precedents, That this Kind of Commitment, by the Course of that Court, was always done before the bailing of the Prisoners; yet that it did not appear that they were bailed.'

Mr. *Selden's* Answer to this Objection was, 'That, by the constant Course of the Court of the *King's Bench*, whosoever came by *Habeas Corpus*, or otherwise upon any Writ, into that Court, cannot be bailed untill he be first committed to the Marshal of that Court; and that thence it was that all these four were committed to the Marshal, as appears by the Entry, *qui committitur Marejallo, &c.* which is the usual Entry in such a Case; and that all the
Clerks

Clerks of that Court acknowledge this Course of An. 4. Char:es L.
Entry to be most constant and perpetual: So that 1628.
all the Inference that can be made out of these four
is but this, That four Prisoners being brought from
several Prisons, by *Habeas Corpus*, into the *King's
Bench*, and returned to stand committed *per Man-
datum Domini Regis*, were so far from being re-
manded by the Law; that, in all these four Cases,
they were first taken from the several Prisons, where-
in they had been detained by such a general Com-
mand; which could not have been, if they had not
been adjudged, in every of these Cases to have been
bailable by the Court: And that this Commitment of
them to the Marshal of the *King's Bench*, was the first
Step towards the Bailing of them, as in all other Cases:
But that it appears not, that either they ever de-
manded to be bailed, or that they were able to find
sufficient Bail: And if they did not the one, nor
could do the other, it might follow indeed, that they
were not bailed; but this Commitment to the
King's Bench, being the first Step to the bailing of
them, (as by the constant Course it is) shews most
plainly that they were bailable by the Law; which
is the only Thing in Question.

And it was further urged by Mr. *Selden*, 'That,
altho' these four Precedents were ranked amongst
those that may seem to make against the Resolu-
tion of the Commons; which was done, both be-
cause they have this small Colour in them, for the
other Side, to any Man that is not acquainted with
the Nature and Reason of the Entries and Course
of the Court of *King's Bench*; and also because all,
or some of them, had been used in the last great
Case in the *King's Bench* as Precedents that made
against the Liberty claimed by the Subject; yet, in
Truth, all four of them do fully prove their Reso-
lution: That is, they plainly shew that the Court
of *King's Bench*, in every of them, resolved, That
the Prisoners so committed were bailable; other-
wise they had been *remanded*, not *committed*, to the
Marshal of the *King's Bench*.'

And

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And it was said by him also, 'That the Chief Clerk of the *King's Bench* did, out of his Experience, affirm to them in their own House, That, without Question, every of these four Prisoners were either bailed, or bailable: Which as fully makes for their Resolution as any Thing else whatsoever.' And this was the Answer to the Objection made by Mr. Attorney upon these four Precedents, being all of the Time of *Henry VII.*

To the fifth of these eight being *Edward Page's* Case, in 7. *Henry VIII. Rot. 23.* Mr. Attorney objected thus: He said, 'That *Edward Page* was committed to the Marshal of the Household *per mandatum Domini Regis, ibidem salvo custodiendo, &c. qui committitur Marefcallo Hospitii Domini Regis*; by which it appears, as he said, that the Court remanded him to the Prison of the *Marsbalsea* of the Household.'

And he said, 'That whereas it had been objected at the first Conference, That there was some Mistake in the Entry, he said, he conceived indeed there was a Mistake; and that the Mistake was, That the Clerk had entered *committitur* for *remittitur*; and that it should have been, *Qui remittitur Marefcallo Hospitii Domini Regis*; for whenever they remand the Prisoner, *remittitur*, and not *committitur* should be entered: And that Mistake being so rectified and understood, he conceived that it was a direct Precedent against the Resolution of the House of Commons.'

To this Mr. *Selden* answered 'That there was no Doubt indeed, but that a Mistake was in the Entry by the Clerk; but that the Mistake was quite of another Nature: The Addition of these Words, *Hospitii Domini Regis* was the Mistake; and the Entry should have been, *Qui committitur Marefcallo, &c.* on'y: That is, he was committed to the Marshal of the *King's Bench*. And so indeed the Force of this Precedent should be but just the same with the first four. But that the Ignorance of the Clerk

Clerk that entered it, and knew not how to distinguish between the Marshal of the King's Household, and the Marshal of the *King's Bench*, was the Cause of the Addition of those Words, *Hospitii Domini Regis.* An. 4. Charles I.
1628.

And to confirm fully this Kind of Interpretation of that Precedent, and of the Mistake in it, it was further observed by Mr. *Selden* ' That there is, in the Margin of the Roll, an infallible Character that justifies as much; for, by the Course of that Court, whensoever a Prisoner is committed to the Marshal of the *King's Bench*, and not remanded, the Word *Marescallo* is written by *Ma* and *r* turned up; and that it is never written there, but when the Meaning and Sense of the Entry is, that the Prisoner is committed to the Prison of the same Court.

' Now, in this Case, in the Margin, *Ma* and the *r* turn'd up is likewise written; which most clearly shews, that the Truth of the Case was, That this Page was committed to the Marshal of the *King's Bench*, and not remanded; for if he had been remanded, neither could the Entry have been *committitur*, nor should the Margin of the Roll have had *Marescallo* written in it.'

And thus he answered Mr. Attorney's Objection touching this Precedent; and concluded, ' That now, besides the first four of these eight, they had another, and therefore five more, to prove plainly, that a Prisoner committed *per Mandatum Domini Regis*, generally was bailable by the Judgment of the Court: However it appears not in these Particulars that they were bailed; which, perhaps, they were not, either because they prayed it not, or because they could not find sufficient Bail.'

To the sixth of these eight Precedents being the Case of *Thomas Cæsar*, in 8. *Jacobi Regis*, Rot. 99. Mr. Attorney objected thus: ' That *Cæsar*, being committed *per Mandatum Domini Regis* to the *Marshalsea* of the Household, was returned upon *Habeas Corpus* to be so committed, and therefore de-

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1623.

detained in Prison; and therefore the Entry is, *Qui remittitur Prisonæ Marescalli prædicti*; by which it appears clearly, that he was remanded to the same Prison from whence he came.

To this Mr. *Selden* answered, 'The usual Entry of a *Remittitur*, when it is to shew that the Court, by way of Judgment or Award, upon Resolution or Debate, remanded the Prisoner, is *remittitur quousque, &c.* which is *remittitur quousque secundum Legem deliberatus fuerit*: But when they advise, or give Day to the Keeper of the Prison to amend his Return, or the like, then the Entry is only *remittitur* generally; or *remittitur Prisonæ prædictæ*.'

Tho' it was indeed affirmed by *Keeling*, a Clerk of Experience in that Court, That the Entry of *remittitur* generally, or *remittitur Prisonæ prædictæ*, was indifferently used for the same, that is *remittitur quousque, &c.* Yet it was expressly shewed by Mr. *Selden*, That there was sometimes a Difference, and that so it might well be in this Case: For in the last of these eight Precedents, which is *Saltonstall's* Case, he observed, 'That *remittitur Prisonæ prædictæ* is often used; and, in that Case, it is plain that twice it was used only for a *Remanding*, during the Time which the Court gave to the Warden of the *Fleet* to amend his Return; which shews plainly, as it was said, that altho' sometimes *remittitur* generally, and *remittitur quousque* may mean but the same, yet sometimes also it does not mean the same: And that, in this Case of *Cæsar*, it intends but so much as it doth, twice, in *Saltonstall's* Case.'

This they proved also by a Rule of the Court, which they cited out of the Rule-Book of the *King's Bench*: By which Rule the Court expressly ordered, That, unless the Steward and Marshal of the Household did sufficiently return the Writ of *Habeas Corpus* for *Cæsar*, he should be discharged. The Words of the Rule are, as they cited it, *Nisi prædictus Senescallus & Marescallus Hospitii Domini Regis sufficienter returnaverint Breve de Habeas Cor-*

Corpus Thomæ Cæsar, Die Mercurii proximo post An. 4. Charles I.
quinden. Sancti Martini, Defendens exonerabitur. 1628.
 And this was the Opinion of the Court; which shews, as it was said, that the Court was so far from remanding him upon the Return, that they resolved, that unless some better Return was made, the Prisoner should be discharged of his first Imprisonment; though it appeared to them, out of the Body of the Return, upon which they are only to judge, that he was committed *per Mandatum Domini Regis* only. And the Rule, they said, not only shews the Opinion of the Court, then, to have been agreeable to the Resolutions of the House of Commons; but also proves that *remittitur generally, or remittitur Prisonæ prædictæ*, doth not always imply a Remanding upon a Judgment or Debate. And thus they gave Answer to this of *Cæsar's Case*; which is the sixth of this Number.

The seventh is the Case of *James Demetrius*, which was in 12. *Jacobi, Rot. 153*. Mr. Attorney objected, 'That this *Demetrius*, and divers others, being Brewers, stood committed *per Mandatum Domini Regis* to the *Marshalsea* of the Household; but that, upon the *Habeas Corpus* being so generally returned, they were remanded; and that the Entry was *immediate remittitur presat. Marescallo Hospitalii prædicti*; where he observed, That *immediate* shews that the Judges of that Time were so resolved of this Question, that they remanded him presently, as Men that well knew what the Law was therein.'

Hereto Mr. *Selden* answer'd, 1st, 'That the *Remittitur* in this Case is but as in the other of *Cæsar's*, and so proves nothing against them. 2^{dly}, That *immediate* shews plainly, that it was done without Debate, or any Argument or Consideration had of it; which makes the Authority of the Precedent to be of no Force in Point of Law: For Judgments and Awards given upon Deliberation and Debate

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An. 4. Charles 1. 1628. Debate only, are Proofs and Arguments of Weight ; and not any sudden Act of the Court, without Debate or Deliberation.'

And the Entry of *Immediate* being proposed to Mr *Keeling*, it was answered by him, That, by that Entry it appears, by their Course, that the remanding of him was the self-same Day that he was brought ; which, Mr *Selden* said, might be at the Rising of the Court, or upon Advise-ment, or the like.' And thus they gave Answer to this Precedent of the Brewers.

The last of these eight is *Saltonstall's Case*, in 12. *Jacobi Regis*, to which Mr. Attorney objected thus, ' He was committed *per Mandatum Dominorum de Privato Consilio* ; and being returned by the Warden of the *Fleet* to be so, *remitteretur Prisonæ prædictæ* : And, in 13. *Jacobi*, in the same Case, there is *remitteretur* generally in the Roll. And these two make but one Case, and are as one Precedent.'

Mr. *Selden* answered, ' It is true that the Roll hath such Entry of *remitteretur* in it generally ; but that proves nothing ; upon the Reason before used by them in *Cæsar's Case* ; but also they observed, That *Saltonstall* was committed for another Cause, besides *per Mandatum Dominorum Consilii*, viz. for a Contempt against an Order in Chancery ; and that was in the Return also. And besides, the Court, as it appears in the Record, gave several Days to the Warden of the *Fleet* to amend his Return ; which they would not have done if they had conceived it sufficient ; because that which is sufficient needs not any Amendment.'

To this Mr. Attorney replied, ' That they gave him Day to amend his Return, in respect of that Part of it that concerns the Order in Chancery ; and not in respect of that which was *per Mandatum Consilii*.'

Mr.

Mr. *Selden* said, ' This appears no where ; nor indeed is it likely at all, nor can be reasonably so understood ; because if the other Return, *per Mandatum Consilii*, had been sufficient by itself, then, doubtless, they would have remanded him upon that alone : for then they needed not to have stood at all upon the other Part of the Return in this Case. So that, out of the Record itself, it appears fully, That the Court conceived the Return to be insufficient.' An. 4. Charles I.
1628.

And so the Gentlemen of the House of Commons concluded, ' That they had a great Number of Precedents, besides the Acts of Parliament, agreeable to their Resolution, and there was not one made against them ; but that even all those brought by Mr. Attorney himself, if rightly understood, made fully for the Maintenance of their Resolution.' The Objections being thus made by Mr. Attorney, and the Answers by the Gentlemen of the House of Commons, the Consideration of this, with the rest, was left to your Lordships.

Here Mr. Attorney spake to the House of Commons about that Order that *Keeling*, by his Appointment, had drawn up (*b*) ; but it was to the same Effect that he had spoken to your Lordships in the House before.

And then, my Lord of *Devonshire* put Mr. Attorney in Mind of some Things omitted by him, which he had formerly spoken of in this House ; which occasioned the Conference next Day ; which I leave to the next two Lords, in their Order, to report.

These three Reports being ended, the Lords agreed to hear the rest, which was to be reported by the Earl of *Devonshire* and the Lord Bishop of *Lincoln* in the Afternoon ; but not to enter into Debate thereof until *Monday*.

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(*b*) See Vol. V.I. p. 385.

An. 4. Charles I.
1628.*Die Sabbati, 19. Die Aprilis, 1628. Post Meridiem.**The Earl of DEVONSHIRE's REPORT of the fourth Part of the CONFERENCE with the Commons, concerning the LIBERTY of the SUBJECT.*

THIS consisted of the Argument made use of by Mr. Attorney-General and by Mr. Serjeant *Ashley*, as of Counsel for the King herein. And first,

Mr. Attorney (*a*). ‘ My Lords, and you the Gentlemen of the Commons House, according to your Lordships Directions, Yesterday I made some Relation of Part of that, which before, upon the like Commandment, I had spoken before the Lords in their House, upon the Occasion of that Declaration, which was sent to the Lords from the Commons House.

‘ The Course I then took, as your Lordships may be pleased to remember, was this: After I had first set down the State of the Question between us, and spoken somewhat of the Statutes, which were mentioned and insisted upon, by that Declaration, to maintain the Tenet or Proposition of the Commons, concerning their personal Liberties; I came to the Precedents, which were delivered on either Side, and opened the Reasons and Applications of them one by one; and spent that Day on that Part of the Work, as being the most weighty, and that, on which my Lords, the Judges of the King’s Bench, grounded their Resolutions and Rule they gave there: That which now remains to be spoken unto, is, the Opinions and Resolutions of the Judges and Sages of the Law in former Times, touching this Question; and the Reasons, which have been given on either Side, to maintain or oppose that which hath been affirmed in this Case.

‘ I shall not, willingly, draw your Lordships back to any Thing which hath been formerly said, but for so much only as is of Necessity: For, before

(f) *Sir Robert Heath,*

fore we proceed to these Parts now to be spoken unto, it will be necessary that I do, clearly and plainly, lay down the true State of the Question; that so we may apply the Resolutions and Reasons *ad idem*. An. 4. Charles I.
1628.

‘ This, as it is delivered in Writing from the House of Commons, stands upon two separate Resolutions; but it is fit to join them together, for they make but one entire Proposition; and are so linked together, and depend one on the other, as they cannot be severed.

‘ The Words of this Proposition are these. *That no Freeman ought to be committed or detained in Prison, or otherwise restrained, by Command of the King, or the Privy-Council, or any other; unless some Cause of the Commitment, Detainer or Restraint be expressed; for which, by Law, he ought to be committed, detained, or restrained: And, afterwards, That if a Freeman be committed, or detained in Prison, or otherwise restrained, by Command of the King, Privy-Council, or any other; no Cause of such Commitment, Detainer, or Restraint being expressed; and the same be returned upon an Habeas Corpus granted for the Party; that then he ought to be delivered or bailed (k).*

‘ To maintain this as it is propounded; the Words of the Statute of *Magna Charta*, cap. 29. are laid down as a Foundation, *Nullus liber Homo imprisonetur*, (to omit the rest of the Words which are for other Purposes,) *nisi per Judicium Parium suorum, vel per Legem Terræ*; and the six subsequent Statutes have been read and enforced, as Confirmations and Explanations of that Passage in *Magna Charta*.

‘ I shall not draw your Lordships back, further, into the Consideration of these Statutes; than only to put you in Mind that the Statute of *Magna Charta* doth not contain, or express, any definitive Words of this Declaration: Nor hath it any Words in it more particular than these, *Nisi per Legem Terræ*. Therefore, the Words being general,

(k) See Vol. VII. p. 407.

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ral, they have need of some Commentaries, of Helps to expound them.

‘ It hath been said on the other Side, That these subsequent Statutes do expound these general Words; and that *per Legem Terræ* is to be understood *per debitum Legis Processum*, i. e. by Indictment, Presentment or original Writ. Surely, my Lords, this cannot be the true Meaning of these Laws: For then it must necessarily follow, That no Offender could justly and legally be committed, and restrained of his Liberty, unless he was first indicted or presented by a Jury; or that an original Writ be brought against him; which neither is, nor ever was, the Practice of this Kingdom in criminal Cases.

‘ For then could not a Constable, (which is the lowest and yet the antientest Officer of the Crown) nor a Justice of Peace, but in these Cases only where there is a precise Statute to warrant him, either apprehend or commit one to Prison; or set a Knavé in the Stocks for a just Suspicion. Nay if he was taken, he could not, according to this Doctrine, be committed, unless the Fact was first presented or found by a Jury.

My Lords and Gentlemen, for I speak to those, of whom, I am sure, the greatest Part are Persons of Authority in your Countries, I appeal to you all; Whether if this should be held for a Direction, I may not truly say, *In hoc erravimus omnes?* And whether it would not be too late, and utterly in vain, to proceed against Offenders, when they must be left at large until the Indictment was first found, or Presentment made against them? For, surely, they would then provide for themselves, and be gone when they should be proceeded against.

‘ And for a Writ original in criminal Cases, I profess I know not what it means, if it be not at the Suit of the King. Therefore, doubtless, there is some other Meaning of these Words: And that they can be no otherwise understood, but of a legal Proceeding to Judgment or Condemnation:

But

But can, in no wise, be meant of the first Commitment, or putting into safe Custody, to the End the Party accused may be sure to be forth-coming. An. 4. Charles I.
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‘ But if ye will vary the Case thus far, as to say, That, by those Laws, no Freeman ought to be committed, or imprisoned, without just Cause; this I shall agree to be good Law: And shall willingly subscribe unto it; that neither the King’s Privy Council, nor the King, nor any other, have Power, that is, have a just and warranted Power, to commit any Freeman without a just Cause.

‘ But herein stands the Difference; Whether this Cause must be always expressed upon Commitment; and whether such Cause so expressed, must always be legal and warranted by the strict Rules and Letter of the Law; or whether the Law hath not ever allowed this Latitude to the King, or his Privy-Council, which are his representative Body, and do what they do, in his Name and by his Power, in extraordinary Cases, to restrain the Persons of such Freeman; as, for Reason of State, they find necessary for a Time, without the present expressing of the Causes thereof: Which, if it should be expressed, might discover the Secret of the State in that Point, and might easily prevent the Service by that Discovery.

‘ What hath been the Use and Practice in all Ages, in these Cases, appears by the many Precedents, which have been remembered and read unto you: Of which I shall say no more unto your Lordships than this. It is not the Confidence, by which they be delivered or applied on either Side, that makes them better or worse, or more or less to the Purpose, for which they were brought: And therefore I shall recommend them to your Lordships Memories, and great Judgments and Wisdom, to weigh them and every of them.

‘ And now I come to the Authorities and Resolutions of former Times, which have been remembered.

‘ There hath been some Mention and Reliance made, for this Matter, upon the Statute of *Westminster*,
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minster 1. Chap. 15. which was made in 3. *Edward* I. and this, as I said heretofore, did explain this great Doubt: By the Gentlemen of the Commons it hath been much insisted upon, and a great deal of Pains taken to prove, that that Statute was made for Sheriffs, and such other inferior or ministerial Officers; and did not extend to the Judges, who are neither mentioned nor meant thereby.

‘ Surely, my Lords, I shall much ease that Pains; for I do agree, that that Statute was made for the Direction of Sheriffs, and such other ministerial Officers; and for their Punishment when they should offend in Cases of setting Prisoners at large by Plevin: But that which I affirm upon that Statute, to this Purpose, is, That in the Recital of that Statute, it is agreed what the Common Law was before; which is, that in those Cases there mentioned, which are four, they were not repleviable at the Common Law.

‘ If at the Common Law this was so, then it was long before the Statute of *Magna Charta*; and if it was so at the making of this Statute, then *Magna Charta* had not altered it. And observe, I pray, that this was made in the Time of the Son; not in the Time of the Father, when the Statute of *Magna Charta* was made: And this Statute of *Westminster* 1. doth not recite that these four Sorts were not repleviable by Sheriffs; but generally, that they were not repleviable at all: Amongst which four, those who are committed by the Command of the King himself, is one of those Sorts; and this is the same Exposition, which I find Mr. Justice *Stamford* makes of it, who was a reverend Judge of the Court of Common Pleas, at that Time, when he wrote the Treatise of the Pleas of the Crown; in which Treatise *Fol.* 72. after he hath recited the Statute of *Westminster*, *ad Verbum*; his own Words are thus; ‘ By this Statute it appears, that in four Cases, at the Common Law, a Man was not repleviable: And these were such as were taken for the Death of a Man; or by the
Command-

Commandment of the King; or of his Justices; An. 4. Charles I.
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or for the Forest.

‘ For the Death of a Man, he saith, he had spoken before; and as for the Commandment of the King, it was intended the Commandment of his own Mouth; or of his Council, which are incorporated with him, and speak with the Mouth of the King himself, for himself. If ye will take these Words of a Commandment generally; ye may say that every Commandment by *Capias* in a personal Action is such: For there the Words are *Præcipimus tibi, quod capias*, and yet there the Defendant is repleviable by the Common Law. And as to the Commandment of the Justices; it is intended their absolute Commandment. And, in the same Chapter, in the next Leaf, he saith, That if one be committed by the absolute Command of the Justices, he is not bailable. As if the Justice command one to Prison without shewing Cause; or for Misdemeanor before himself; or for such a Thing as lieth in the Discretion of a Justice more than his ordinary Power.’

‘ My Lords, I pray observe this Part of his Opinion also: For it makes full against the Tenet of the House of Commons: For that goes general; *That the King, nor no other, can commit without Cause shewed*; which, as here appears, the Justices of the King may do. My Lords, have the Justices this Power and this Latitude, and shall it be believed that the King himself, who is *Justiciarius Regni*, and is the Fountain of Justice, may not be trusted with that Power? And, that this is the Power of the Justices, appears also by another Authority, in our Books in 31. *Henry VI. Fol. 11.* in one *David Selbæ's* Case, (the Opinion of that reverend Judge *Fortescue*) That if the Judges do commit a Man, without shewing a Cause thereof; or without making any Record thereof, as many Times they did, it shall be intended to be lawfully and well done: And as Mr. *Stamford's* Opinion is in this Case, so it appears in the Book called *The*

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Register, which is the Book of our Writs, which are the Foundation of all our Proceedings at Law; where, in the Writ of *Homine replegiando*, it is recited, that there are some Persons, which *secundum Consuetudinem Angliæ non sunt replegiabiles*. And, in one of those Writs, it is expressly mentioned thus; *Nisi captus sit per speciale Præceptum nostrum, vel Capitalis Justitiarum nostri, &c.* And Mr. Justice *Fitzherbert*, a great and a learned Judge, in his *Natura Brevium*, (which is as a Commentary upon the Register,) holdeth the same Opinion.

‘ I shall next to this remember unto you the Record of the 21. *Edward I.* in *Parl. Rot. 2.* which is, that of the Sheriff of *Leicester* and *Warwick*, where it is twice recited, *Quod nullam faceret Gratiam*, meaning, in his letting to Plevin: So that it appears by that, and by all our Records, that letting to Bail in all Cases, not expressly directed by some Statute, is, *ex Gratia Curia*; and if *ex Gratia*, then it is not *ex Debito*; for they are Contradictions. And that is contrary to the Tenet of the Commons: For they put a Necessity upon the Judges, that they *must* deliver or bail.

‘ Next to this is the Opinion of *Newton*, in 22. *Henry VI. Fol. 52.* which is but a single Opinion, and that but obscure and dark: For he saith, That a Man, committed by the Command of the King, is irrepleviable by the Sheriff: And this is the Scope and Intention of that Book: But some other Words follow, whereof hold is taken, That the Friends of the Party may resort to the Justices, and pray a *Superfedeas*. How this is meant, and by what Means it can be done, and what *Superfedeas* is intended, is so obscure by that Book; that it will make very little to the present Purpose.

‘ Next is the Book of 33. *Henry VI. Fol. 28.* the Case of *Robert Poynings*: Where there is a Return made, That *captus* or *detentus fuit per Dominos* or *per duos* (take it either Way) *de Consilio Regis, pro Rebus Regem tangentibus*. This Book is

an

Authority in this Point, for the King: For the Return is accepted of, and allowed to be good. But I confess ingenuously, I do not much rely upon this Book neither, on this Side; because the Matter is not debated at all there; but passeth by Way of Admittance.

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The next is the Résolution of all the Judges, in 34. *Eliz.* Here Mr. Attorney read the latter Part of it, which concerneth this general Question; all the former Parts being of Commitments, made by particular Counsellors, to the Prejudice of particular Persons in their Suits; and many Times in their Executions after Judgments: But, in this latter Part, as appeareth by the Words, it doth agree, That the Courts of Justice ought not to deliver, or bail, where the Commitment is by the Command of the King or his Council. And touching the Return of the Cause, upon an *Habeas Corpus*, they agree it ought to be either generally, or specially, expressed: If then a general Expression be enough, it is agreeing with the general Return of *Per Mandatum Domini Regis*: And, if it must be special, it must be so special as that all the Circumstances must be made to appear to the Court, that they may be able to judge thereof. Therefore, that Résolution of all the Judges is, in my Understanding, very plain and clear in this Point; but I submit it to your Lordships Judgments.

Next is the Opinion of the Judges, in 13. *Jac.* in the *King's Bench*, upon the Debate of *Russel's Case*: And here, by the Way, I must be bold to observe thus much unto your Lordships, that, altho' this be the Report of a private Student and not in Print; yet it is such, and of that Nature, as all other Reports are, (being faithfully collected) whereupon we, who are Professors of the Law, do ground Opinions: And wherein Judges of succeeding Times do ground themselves, upon the Opinions of their worthy Predecessors: And such Reports, whether in Paper or in Print, are of equal Authority with us. For these which are printed, by the Labours of those worthy Men, who have

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taken Pains therein, were first collected out of such Reports in Paper. The Words of this Report I shall read to your Lordships throughly, because they confirm many Passages in these Conferences.

The Words are these: *Coke, Crooke, Dodderidge,* and *Haughton*, Justices, did hold, That a Return that one is committed *Per Mandatum privati Consilii Domini Regis*, was good enough, without returning any Cause: For it is not fit that the *Arcana Imperii* should be disclosed: And as to the Case of *Harcourt*, in 40. *Eliz.* (a Case remembered amongst the Precedents cited before) where, in the Time of *Popham*, Chief Justice, one was committed to the Tower for High Treason, and was bailed upon an *Habeas Corpus* sent for him: This was by a special Command of the Queen, or of the Privy-Council, and not otherwise: And of later Time, when one was committed to Prison for the Powder Plot, he was bailed by them upon an *Habeas Corpus*: But this was by Letters of the Privy-Council; which gave Warrant so to do: Which Letters are filed in the Crown-Office. My Lords, these are the Letters which concerned *Beckwith* and *Reyner*; and which have been read already to your Lordships.

In 34. *Eliz.* it was resolved by all the Judges of *England*, That the Cause of the Commitment should not be returned; and therefore, where Sir *Samuel Saltenstall* was returned to be committed *Per Mandatum privati Consilii Domini Regis*, the Court would not meddle with him: But held the Return sufficient enough. And Sir *Edward Coke*, being then Chief Justice of that Court, said, That if the Privy-Council commit one to Prison, he is not bailable by any Court in *England*: For where the Statute of *Westminster* 1. saith, That he, which is committed to Prison by the Commandment of the King, cannot be let to Mainprize; *Stamford* makes this Interpretation, That by the King is well intended his Privy-Council, who are the representative Body of the King. And that Sir *Edward Coke* added, He knew a Bill put in by Mr. *Morice*, Attorney

torney of the Court of Wards, into Parliament; An. 4. Charles I. 1628.
 by which it was desired that the Statute of *Magna Charta*, Chap. 29. might be explained.

‘ My Lords, by the Words of this Case thus reported, and by the Opinion of those reverend Judges, you see how many Things before cited have Authority and Life given unto them; not only in the main Point in the Question, but in the *Reason* thereof. Your Lordships see the true Reason of *Harcourt’s* Case, and of *Beckwith’s* and *Reyner’s* Case; the true Meaning of the Resolution of 34. *Eliz.* by all the Judges; (which is now endeavoured to be turned into another Sense) also the Exposition of the Statute of *Westminster* 1. and the Interpretation of *Stamford* likewise thereupon; and, lastly, that a Bill was preferred in Parliament to explain the Statute of *Magna Charta*: — And I wish, with all my Heart, that, by the Wisdom of both the Houses, a fitting Bill might be preferred to compose and to settle, well and equally, this great Question.

‘ Next I come to the Opinion delivered in the Parliament House, in 18. *Jac.* whereof I made some mention before; and now am put in Mind of it again by an Occasion offered, Yesterday, by one of my Lords in mentioning of it: It was the Words of the reverend and learned Gentleman Sir *Edward Coke*; upon whose Opinion I have much grounded myself. It was upon Occasion of a Bill, then preferred in Parliament, entitled, *An Act for the better securing the Subject from wrongful Imprisonment, contrary to Magna Charta, Chap. 29.* This Bill came to a second Reading in the House, *May* 5. 19. *Jac.* I being then a Member of that House. Upon this Occasion Sir *Edward Coke* stood up, and said thus; (*I have a Note of the very Words*;) ‘ There are divers Matters of State, which are not to be comprehended in the Warrant; for so they may be disclosed. One committed by the Body of the Council is notailable by Law. Resolved so by all the Judges in *Wray’s* Time, (that, my Lords, is the Resolution of 34. *Eliz.* when *Wray* was Chief

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Chief Justice,) upon the Commitment of the King or the Body of the Council: For this is quite out of the Statute of *Magna Charta*.’

‘ My Lords, that it may appear it was not a sudden Opinion, this being the 5th of *May*; on the 28th of the same Month this Bill was again offered to the House to be committed; and then Sir *Edward Coke* spake to it again, and said, ‘ That in 33. *Henry VI.* upon an *Habeas Corpus*, where a Party was imprisoned by two Privy Counsellors, *pro rebus Regem tangentibus*; that being the Return it was allowed:’ (This, my Lords was *Poyning’s* Case before cited) And he said further, ‘ That it was so held in Queen *Elizabeth’s* Time, by the Judges, where the Commitment is by the Privy-Council; and he thought this so reasonable, that he moved for the Bill to be recommitted; and so it was, or, rather, it was committed perpetually; for no more was done upon that Bill.’

‘ My Lords, I have now done with those Opinions and Resolutions; saving that I must crave your Patience thus far, to put you in Mind of the many Precedents your Lordships have heard: For every one of them is also a Resolution of those Judges, which gave the Rule in these several Cases.

‘ My Lords, I come now to the last Part, which are the Reasons that have been offered on either Side; wherein I shall not trouble your Lordships long. The Reasons delivered on the other Part have been many, collected and applied with a great deal of Art and Judgment. It is not my Purpose to answer every one of them, particularly; but I shall number them as I can call them to Mind; and sum them up together; and then give them an Answer: And so come to such as I shall humbly offer on the other Side.

‘ It hath been said by that learned and worthy Gentleman, who delivered those Reasons;

1. ‘ That if the King might thus commit, without Cause, the free Subjects were in the Case of Villains.

2. ‘ Nay in worse Case than Villains.

3. ‘ That

3. ' That Imprisonment is counted a civil Death ; An. 4. Charles I. 1628. and therefore a Man imprisoned is as a dead Man.

4. ' That the least corporal Punishment is greater than the greatest pecuniary : Therefore, if the King cannot inflict the less, as the assessing of a Fine, he cannot do the greater, which is the imprisoning of the Body.

5. ' That there are Diversities of Remedies against Imprisonment; therefore some Remedy must be applied for this.

6. ' That this extends to all Persons, of all Degrees, of all Qualities : Therefore it is *commune Periculum*.

7. ' That it is indefinite for Time ; and so may be a perpetual Imprisonment.

' Arguments were drawn *a Fine, ab Honore, ab Utili, a Tutâ.*

' And, lastly, two Authorities were remembered by him.

' All these Reasons I shall, with your Favour, reduce to one general Head: *The Liberty of the free Subject of this Kingdom* ; which is of great Esteem, and is the Inheritance of the Subject. I acknowledge it to be very true that which hath been said thereupon : And I am also of this Mind, That he is not worthy to enjoy his Liberty, who would not, by all just Means, endeavour to preserve and maintain it.

' I know it is a plausible Argument ; but I shall humbly desire to lay in the other Scale these Reasons, which I shall offer unto you on the other Side, why personal Liberty, in such Sort as is desired by the Resolutions of the Commons, cannot possibly be allowed of in that Latitude therein set down : But, before I come to these Reasons, I shall crave Leave to remember unto you the Case of 33. *Henry VII.* in Parliament, and the other two Authorities, which were cited by this Reverend and learned Gentleman.

' And, my Lords, as an Inference was drawn on the other Side, out of the Record, of a Petition

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tion in Parliament, 36. *Edward III. N. 9.* where the Petition is in *French*, that the Commons pray, That the Statute of *Magna Charta*, and the other Statutes, might be duly observed, *Sans Disturbance mettre, ou Arrest faire al contre*: These Words have been expounded to extend to personal Arrest of the Subject: But I conceive the Sense of these Words cannot bear that Exposition; for the true understanding of them must needs be thus, That *Magna Charta*, and the other Statutes, be put in due Execution, without any *Disturbance or Delay made, or Hinderance to the contrary*. And to these the King made a full Answer, 'That it should be done as was desired.' And I shall willingly subscribe thereto. For the Truth of this Exposition I submit myself to the Judgments of my Lords, who are much better able to judge of the true Meaning of the *French Words* than I am.

'It has been urged, That in the 28. *Henry VI. N. 16.* The Commons in Parliament desired that the Duke of *Suffolk* might be committed; the Lords and Judges answered, he ought not to be committed without a Cause shewed. — My Lords, I acknowledge this to be a very just Resolution; but give me Leave, I pray you, to observe, by the Way, that here the Commons in Parliament preferred a Request to the Lords; which, upon better Examination of the Justness of it, was denied by the Lords (being assisted by the Judges) to be yielded unto. And for the Resolution itself, it was very just and honourable: For it were not reasonable for a Court of Justice, especially so high and so great a Court as the Court of Parliament, to commit any to Prison without a just Cause. But, my Lords, whether this can be fitly applied to the Case of the King, or the Lords of the Council, who commit for some great Cause, in reason of State, until a due Examination may be had of the Cause, I humbly submit to your Judgments.

'Another Argument was out of the Acts of the Apostles, *Chap. 25.* the last Verse; where

Festus

Festus being then Viceroy, or Deputy to the Emperor, and having a Purpose to send *Paul* unto *Cæsar*, said, 'He thought it unreasonable to send him, and not to send with him the Cause of his Commitment.' My Lords, I acknowledge it to be a very discreet Resolution of *Festus*; who, altho' he was a meer moral Man, yet he held a wise and discreet Position; not to send a Prisoner to *Cæsar*, his Superior, to whom he was to give an Account, and not to send with him the Cause for which he should be tried, and of which he was accused. But, my Lords, whether this do prove any Thing in our Case in Question, I humbly refer to your Judgments; where not the Inferior to his Superior, but the Superior to his Inferior sends the Prisoner, to whom he is not bound to give that Account.

'And now, my Lords, I come to the Reasons, which I shall humbly offer on the other Side, against this Tenet of the House of Commons, in such Manner as it is laid down; wherein I must first crave Leave to lay before you what Conclusions do, necessarily, follow out of this Proposition of the Commons.

1. 'If the Cause of the Commitment must be laid down, then necessarily it must be affirmed; that this must be the true Cause, and not a false or feign'd Cause: For that were worse than to express no Cause at all.

2. 'It must be expressed at the Time of the making of the Warrant for the Commitment; which is instantly and presently; and from this there must be no varying.

3. 'It must be expressed so fully, as that the Court must be able to judge of it from itself; for if it be an uncertain Cause, or set down so lamely as not to give full Satisfaction to the Court, it is as bad as none at all.

Lastly, 'It must be a legal Cause: Such a one as, by the fundamental Rules of the Law, the Judges must judge it a good Cause of Commitment or Detainer, or else they must presently discharge

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charge or bail. Then, upon these Premises, doth this Conclusion naturally follow, That in no Case whatsoever, may any Man be committed or restrained for any Thing, never so much concerning the State; but that forthwith the Keeper of the Prison must be acquainted with the Cause so fully, as that he may, truly and without Variation, inform the Court thereof, when it shall be required; and that Cause must hold the strictest Examination and Trial of the Law: Which, if it should be admitted, your Lordships shall see what infinite Peril it might bring, not only to the Persons of private Men, (which are not to be neglected) but to the whole State; the very Fabrick and Frame of Government under which we live.

‘ But it hath been objected, That if the King, or the Council, may commit without shewing Cause, it would be infinitely full of Mischief: For as the King may commit *one*, so he may commit *any*, or *many*: As he may commit for a just Cause; so he may commit without a Cause: As he may commit for a Time; so he may commit to a perpetual Imprisonment. To this I answer, That it cannot be imagined of the King, that he will at any Time, or in any Case, do Injustice to his Subjects. It is a Maxim in our Law, *That the King can do no Wrong*: Therefore the King can give no Land by Disseisin, as in 1. *Edward V. Fol. 8.* He can give no Advowson by Usurpation, as in 32. *Henry VIII. Fol. 48.* And this is so far from being a Defect or Impotency in the King, that it is held for a Point of his Prerogative; as it is said in the Lord *Berkley’s* Case, in Mr. *Plowden’s* Commentaries. The Reason is, as the King is supreme Governor of his People, so he is *Pater Patriæ*; therefore he cannot want the Affection of a Father towards his Children.

‘ Now, my Lords, I shall instance, in some Cases of Importance, wherein, for a Time, one may and must be imprisoned, and yet the Cause of it not presently rendered; as in the Days of Queen *Elizabeth*, which many of the Lords cannot

not but call to mind. There was a great Conspiracy against the Person of the Queen : Some were laid hold on, committed, and imprisoned ; but they could not be proceeded against : Nor was it safe to reveal it, untill one *Owen*, a Priest, living then at *Brussels*, could be caught. This required a long Time (above a Year) to bring it to pass ; at last, by a Wile, he was laid hold upon, and brought over. Now, if so much as the general Cause had been published, it would have been more difficult to have gotten *Owen* ; and, happily, without him, the Plot could not have been discovered. Would any Man have thought fit that, in this Case, the others should, in the mean Time, have been set at Liberty ? I appeal to the Judgment of my Lords, whether there be not a Necessity in the Affairs of State, sometimes to give forth one Thing for a Pretence to secrete the true Intention of the Action.

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‘ I shall give you another Instance in the Troubles of *Ireland*. *O Donnell*, the Arch-Rebel was slain ; his Sons, being then Infants, were brought over into *England*, and committed to the *Tower*, and lived therein all their Lives after. Admit these were brought to the *King’s Bench* by *Habeas Corpus*, and the Cause returned, what Cause can there be which could hold in Law ? They themselves neither had done, nor could do any Offence : They were brought over in their Infancy. True ; but their Father was an Arch-Traitor. Is this a legal Cause of detaining the Son in Prison ? Yet, would any Man believe that it were safe, that it were fit, to deliver those Persons ? Yet this general Tenet admits of no Exception.

‘ Infinite other Examples might be given. How often do we see the State interpose in ordering the Government of Trades, of Companies, of private Corporations ; and with very good Success : For the Peace of these petty Governments doth preserve the Peace and Quiet of the great Frame ; and the Common Law can give no Rule in these Things.

‘ Upon this Occasion I have looked into some Acts of State in Queen *Elizabeth’s* Time ; which

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I shall be bold to offer to your Lordships Judgments. In the Times of Dearth, lest the Poor should starve and perish, the Farmer was commanded to bring forth his Corn to serve the Market, to sell at a reasonable Price: Is there any Law to order or compel this? Yet, is not this fit to be done? In Queen *Elizabeth's* Time, before any Law was made against *Jesuits* or *Seminary Priests*; before any Law was made for confining of *Papish Recusants*; the one Sort were imprisoned, the other confin'd, in Times of Danger, by the Acts of the State only: And would it have been fit to have delivered, or bailed, these upon a *Habeas Corpus*?

But the true Answer for these, and the like Cases, is, That it is not contrary to the Laws: For as God hath trusted the King with governing the whole; so hath he therefore trusted him with ordering of the Parts: And there are many Cases, of infinite Importance to the Subject, and of undoubted Trust, reposed in the King; wherein, notwithstanding, it was never questioned by a Subject of the King, why he did thus and thus. It may be urged, If the King is trusted with the Coins and Monies of the Kingdom, he may, of his own absolute Power, abate or enhance them; he may turn our Gold or Silver Money into Brass, or base Money, and, in one Instant, undo his People thereby. — If he is to be trusted, he may make Wars; he may conclude Peace or Leagues; and these may be fatal to the whole Kingdom; to the Liberty and to the Lives of his Subjects. The Answer is, He will not do this to the Hurt of his People. — Again, it may be said, He hath Power to pardon Traitors and Felons; the good People of the Land may suffer by too great an Extent of Mercy; and the Good may be devoured of the Bad. No, the King will not do Hurt to his People thereby. — The King hath Power, without Number or Limitation, to make Strangers to be Denizens: It may be said that this lets in a Flood of Strangers to eat up the Bread of natural-born Subjects: But this receives the same Answer, The King will not break

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facio, without other Warrant, arrest and restrain a Man to prevent an Affray, or in the Time of an Affray to suppress it; and so is the Authority in 37. *Henry VIII. Brook's Abr.* So may he, after the Affray, apprehend and commit to Prison the Person that hath wounded a Man, that is in Peril of Death, and that without Warrant or Proceſs; as it is in 38. *Edward III. Fol. 6.* Also any Man, that is no Officer, may apprehend a Felon without Warrant or Writ; and pursue him as a Wolf, a common Enemy to the Common-Wealth, as the *Book* is 14. *Henry VIII. Fol. 16.* So may any Man arrest a Night-walker; because it is for the common Profit, as the Reason is given, 4. *Henry VII. Fol. 18.* and so may a Watchman, 4. *Henry VII. Fol. 2.* In like Manner the Judges, in their several Courts, may commit a Man, either for Contempts or Misdemeanors, without any other Proceſs or Warrant, than *Take him Sheriff,* or *Take him Marshal,* or *Warden of the Fleet:* And the Adversary will not deny but, if the King will alledge a Cause, he may commit a Man only by his *Mandatam*, as the Judges do, without other Proceſs or Warrant. And various are the Cases that may be instanced, where there may be lawful Commitment without Proceſs: And therefore the Words in the Statute, *per Legem Terræ*, cannot be restrained to so narrow Bounds as to Imprisonment by Proceſs: Wherefore I do positively, and with Confidence affirm, That if the Imprisonment be lawful, let it be by Proceſs, or without Proceſs, it is not prohibited by this Law.

‘ This being granted, then the Question will aptly be made, Whether the King or Council may commit to Prison *per Legem Terræ*? And, if they may, Whether of Necessity they are obliged to declare a Cause? To clear this, we must consider what is *Lex Terræ*; which is not so strictly to be taken as if *Lex Terræ* were only that Part of the Municipal Law of this Realm, which we call Common Law; for there are divers other Jurisdictions exercised in this Kingdom, which are also to be reckoned in the Law of the Land.

‘ In *Cawdrey’s* Case, in Lord Chief Justice *Coke’s* An. 4. Charles I. 5th Report, *Fol. 8.* the Ecclesiastical Law is held the Law of the Land to punish Blasphemies, Apostacies, Heresies, Schisms, Simony, Incest, and the like, for a good Reason there rendered, *viz.* That otherwise the King should not have Power to do Justice to Subjects in all Cases, nor to punish all Crimes within his Kingdom.

‘ The Admiralty’s Jurisdiction is also *Lex Terræ*, for Things done upon the Sea ; but, if they exceed this Jurisdiction, a Prohibition is awarded upon this Statute of *nullus Liber Homo*; by which it appears the Statute is in Force, as we have acknowledged.

‘ The Martial Law, likewise, tho’ not to be exercised in Times of Peace, when Recourse may be had to the King’s Courts; yet, in Time of Invasion, or other Times of Hostility, when an Army Royal is in the Field, and Offences are committed which require speedy Resolution, and cannot expect the Solemnities of legal Trials, then such Imprisonment, Execution, or other Justice done by the Law Martial, is warrantable; for it is then the Law of the Land, and is *Jus Gentium*; which ever serves for a Supply in Defect of the Common Law, when ordinary Proceedings cannot be had.

‘ And so it is also in the Case of the Law-Merchant, which is mentioned *13. Edw. IV. Fol. 9. &c.* where a Merchant-Stranger was wronged in his Goods, which he had committed to a Carrier to convey to *Southampton*, and the Carrier embezzled some of the Goods; for Remedy wherein the Merchant sued in the *Star-Chamber* for Redress. It is there said, That Merchant-Strangers have the King’s safe Conduct for coming into this Realm; therefore they shall not be compelled to attend the ordinary Trial of the Common Law; but, for Expedition, shall sue before the King’s Council or in Chancery, *de Die in Diem, & de Hora in Horam*; where the Cause shall be determined by the Law of Nations.

‘ In like Manner it is in the Law of the State; when the Necessity of the State requires it, they

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do, and may proceed according to natural Equity, as in those other Cases: Because in Cases, where the Law of the Land provides not, there the Proceedings may be by the Law of natural Equity: And infinite are the Occurrents of State unto which the Common Law extends not; and if those Proceedings of State should not also be accounted the Law of the Land, then do we fall into the same Inconveniency mentioned in *Cawdrey's Case*, That the King should not be able to do Justice in all Cases within his own Dominions.

* If then the King, or his Council, may not commit, it must needs follow, that either the King must have no Council of State; or, having such a Council, they must have no Power to make Orders or Acts of State: And, in this Case, they must be without Means to compel Obedience to those Acts: And so we shall allow them Jurisdiction, but not Coercion; which will then be as fruitless as the Philosopher's *Frustra Potentia, quæ nunquam reducitur in Actum*. Whereas the very Act of *Westminster* 1. shews plainly that the King may commit, and that his Commitment is lawful; or else that Act would never have declared a Man to be irrepleviabie, when he is committed by the Command of the King, if the Law-makers had conceived that his Commitment had been unlawful.

* And Divine Truth informs us, That Kings have their Power from God, and are representative Gods; the Psalmist calling them the *Children of the Most High*; which is in a more especial Manner understood of Kings than of other Men: For all the Sons of *Adam* are, by Creation, the Children of God; and all the Sons of *Abram* are, by Recreation, or Regeneration, the Children of the Most High: But it is said of Kings, they are the Children of the Most High, in respect of the Power that is committed unto them. Who hath also furnished them with Ornaments and Arms fit for the exercising of that Power, and given them Scepters, Swords

Swords, and Crowns; Scepters to institute, and Swords to execute Laws, and Crowns as Ensigns of that Power and Dignity with which they are invested. Shall we then conceive that our King hath so far transmitted the Power of his Sword to inferior Magistrates, that he hath not reserved so much supreme Power as to commit an Offender to Prison?

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In 10. *Hen. VI. Fol. 7.* it appears, That a Steward of a Court Leet may commit a Man to Prison: And shall not the King, from whom all inferior Power is derived, have Power to commit? We call him the Fountain of Justice; yet when those Streams and Rivulets which flow from that Fountain are fresh and full, should we so far exhaust that Fountain as to leave it dry? But they that will admit him so much Power as to commit, do require an Expressing of the Cause! I demand then, whether they will have a General Cause alledg'd, or a Special? If a General, as they have instanced, for Treason, Felony, or a Contempt?— But (to leave Fencing, and to speak plainly, as they intend it) if a Loan of Money should be required and refused, and thereupon a Commitment ensue, and the Cause is signified to be for a Contempt; this being equally far from yielding the Remedy sought for: Why then, truly, in the next Parliament, there would be required an Expressing of the particular Cause of Commitment! And how unfit it would be for a King and Council, in all Cases, to express the particular Cause, is easy to be judged; when there is no State or Policy of Government, whether it be Monarchial, or of any other Frame, which hath not some Secrets of State, not communicable to every vulgar Understanding. I will instance but one: If a King employ an Ambassador to a Foreign Country or State, with Instructions for his Negotiation, and he pursues not his Instructions; whereby Dishonour or Damage may ensue to the Kingdom, is not this Cause of Commitment? And yet the particular

An. 4. Charles 1. 1628. Instructions, and the Manner of his Miscarriage, is not fit to be declared in the Warrant to the Keeper, nor by him to be certified to the Judges, where it is to be opened and debated in the Presence of a great Audience.

‘ I therefore conclude, that for Offences against the State, in Cases of State-Government, the King or his Council hath lawful Power to punish by Imprisonment, without shewing particular Cause; where it may tend to the disclosing of the Secrets of State-Government.

‘ It is well known to many, how much I have laboured in this Law of the Subjects Liberty, very many Years before I was in the King’s Service, and had no Cause then to speak, but only examine; yet did I then maintain and publish the same Opinion which now I have declared, concerning the King’s supreme Power, in Matters of State; and therefore I cannot justly be censured for speaking it at this present, only to merit of my Master: But, if I may freely speak mine own Understanding, I conceive it to be a Question too high to be determined by any legal Decision; for it must needs be a hard Case of Contention, when the Conqueror must sit down with irreparable Loss, as in this Case: For, if the Subject prevail for Liberty, he loses the Benefit of that State-Government, without which a Monarchy may soon become an Anarchy: Or, if the State prevail, it gains absolute Sovereignty, yet loses the Subjects, not their Subjection; for Obedience we must yield, tho’ nothing be left us but Prayers and Tears; but it loses the best Part of them, which is their Affections, whereby Sovereignty is established, and the Crown firmly fixed on his Royal Head. Between two such Extremes there is no Way to moderate, but to find a Medium for Accommodation of the Difference, which is not for me to prescribe; but humbly to move your Lordships, to whom I submit it,

Mr.

Mr. Sergeant *Abley* having ended his Speech, An. 4. Charles I.
1628. the Lord President (1) said to the Gentlemen of the Commons House, ‘ That though, at this free Conference, Liberty was given, by the Lords, to the King’s Counsel to speak what they thought fit for his Majesty’s Service: Yet Mr. Sergeant *Abley* had no Authority or Direction from them, to speak in that Manner he hath now done.’

The Lord Bishop of LINCOLN’S REPORT of the fifth and last Part of the CONFERENCE.

THE Answers, which the Commons made to the Arguments of Mr. Attorney and Mr. Sergeant *Abley*, were to the following Effect.

Mr. *Littleton* began and said, ‘ This was a great Cause; and peradventure the greatest that ever was in *Christendom*: Nothing like so proper to a private Court, as to the Court of Parliament. That they brought with them sufficient Authority to justify what is said already: But if any new Matter was offered, as he conceived some Part of Mr. Sergeant’s to be, he brought no more than Ears to hear it; but yet had a Tongue to answer Objections to any Point urged in this Debate; and such as was the proper Subject of the present Discourse.

‘ And here he entered a Protestation, in the Name of the House of Commons, that their Intent was not to call in Question the Power of the King, as well to commit as to bail, but to regulate it: And for the Method of Proceeding he said, That because they were opposed so suddenly, they would collect the Heads of the Opposition, according to Law, and reply unto them. He said, They themselves were Gentlemen of the Law, the unwortheist of the House of Commons, and not the most eminent of their Calling; but yet they would clearly maintain the Resolutions of their House. For that this Controversy, which remains as yet

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(1) This noble Lord, when a Member of the Commons, in the Reign of Queen *Elizabeth*, made a very remarkable Speech in behalf of the Subjects Property. See Vol. IV. p. 448.

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An. 4. Charles I. in the Nature of a Disputation in^t this House, is
1628. already grown and improved as a full Resolution in
the other.

‘ That Mr. Attorney began with *Magna Charta*, the Subject of this Disputation; that is, some general Words in the same not rightly interpreted; and, in particular, what this *Lex Terræ* means: That Mr. Attorney assented, That this Statute concerned the King as well as the Subject; yea, the King principally: But he doth not understand by this *Lex Terræ*, the same which the Commons do, but a general Law. You, said he, will have no Man arrested but by Writ original. We never said so, replied Mr. *Littleton*; we never restrained the Process of the Law to Writs original; but by the Words *Process of the Law*, we understand the whole Proceedings of the Law; and so take in the Constables, and all those inferiour Ministers of Justice, who, notwithstanding, are never used without a Cause; as the Constable executes his Office when any Affray is done, or feared to be done. So in *Bagg’s Case*, 11. *Report*, Fol. 99. *Lex Terræ* is extended to the Jurisdictions of Courts; and so involves all Proceedings in Law. Nay, he said, the learned Gentleman near him [*Sir Edward Coke*] extended the same to a Wager in Law, in 10th of his Reports. This Process doth include an original Writ; and so goeth the Authority of 42. *Edward III.* that *due Process of Law* must be taken for original; as a Part, not as the whole Proceedings of the Cause.

‘ That Mr. Attorney’s next Objection was, That the King was not bound to express, because there may be Matters of State, Fear of revealing, &c. and added this Expression, *Must be done instantly, and must be true, unchangeable, &c.* Answer, That the Commons do not require a particular, a general Cause will serve the Turn; as Treason, Suspicion of Treason, Felony, &c. There are many *Vitia sine Nomine*; like those in *Aristotle*; every Species hath a proper Name; and what Inconveniency can there be to express one of those? —

Objection,

Objection. If the Cause be expressed, then presently, upon an *Habeas Corpus*, the Party must be delivered or bailed; Nay, indeed, delivered, if the Cause be of that Nature. *Respons.* Commitments are of a double Nature: Superiour, as from a King and Council; and here the Judges, in Discretion or Respect, are not presently to deliver, but to bail: Inferiour, and lower; and here they are to deliver him.

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That Mr. Attorney cited for his Answer, in the Law, the Statute of *Westminster* 1. Chap. 15. which, said Mr. Littleton, *Non ponit, sed supponit*; makes no Law, but declares a Law; and all that is pertinent in the same, is the Recital that a Man is not repleviabie in the Death of a Man, Matter of Forest, Command of the King, and Command of the Judges. — Here he denies repleviabie andailable to be all one: They differed in Nature and Place: In Nature, for Replevin is by Sureties, *Manuautores*; which they call Plevins. Bailing is delivering to the Hands of other Men; which still hold him in Prison if they please. Then they differ in Place. Bailing is ever in a Court of Record, and to answer Body for Body. Replevin is in a Sheriff's Turn; for this Difference he offered a *Book-Case*, 33. and 36. *Edward III. placito* 12. 13. but were they all one, yet this Statute is restraining to the Sheriffs alone; which he proved out of the first Words thereof, *And forasmuch as Sheriffs and others which have taken and kept in Prison, &c.* The Word *others* can never reach unto *Judges*. For, *dignissimum in suo Genere*; the best, by all Course, is first named: And, therefore, if a Man bring a Writ of Customs and Services, and name Rents and other Things, the general Words shall not include Homage, which is a personal Service, and of an higher Nature; but shall extend to ordinary annual Services. He quoted for this 31. *Edward I. Title, Droit. Fol. 67.* So 13. *Eliz. C. 10.* and *Others having spiritual Promotions, coming after Colleges, Deans and Chapters, shall not comprehend Bishops, that are of a higher Degree;* quoted for the Arch-

An. 4. Charles I. Archbishop of *Canterbury's* Case, 2. *Report*, Fol. 46. 4628. besides that this Word *others*, is expounded by this Statute in the Conclusion, to comprehend Under-Sheriffs, Constables, and Bailiffs; such as kept Men in Prison: Repleviabie and not repleviabie, are *Voces Artis*; a proper Language to a Sheriff: But that which receives no Answer, is this; That the Command of the Justices, who derive their Authority from the Crown, is there equalled, as to this Purpose, with the Command of the King: And therefore by all reasonable Construction, it must needs relate to Officers that are subordinate to both: Strange! Are not the Judges able to discharge their own Commands? Also, that this was meant of Sheriffs, appears by the Recital of 27. *Ed. I. Cap. 3. De Finibus levatis*, and so likewise by *Fleta*, L. 2. C. 52. in the Articles of the Charges in the Sheriff's Turn, he hath one *De Replegiabilibus injuste detentis, & Irreplegiabilibus dimissis*. And before, *Qui debent per Plegios dimitti, qui non, declarat hoc Statutum*, saith *Fleta*, speaking of this very Statute: Besides that they have an express Book of it, 22. *Henry VI. Fol. 46.* where *Newton* delivers this Opinion, It cannot be intended that the Sheriff did suffer him to go at large by Main-prize, for where one is taken by the Writ of the King, or Commandment of the King, he is irrepleviabie; but in such Cases his Friends may come to the Justices for him, &c. *Objection.* *Stamford* was a learned Judge, but speaks nothing to this Question, or against the Declaration of the House of Commons: Mr. *Littleton* bid Mr. Attorney read the Sentence entire, and then he should find that the Word *Sheriff* must reach to *all*; or *Stamford* knew not what he said. Then he read it; and concluded that the Word *Sheriff* must either relate to *all*, or else he had not express'd his Opinion. For Mr. Attorney's *Objection*, 31. *Henry VI. Fol. 11.* of *Fortescue's* Opinion, That in a Commitment, made by the Judges, we ought to presume the Cause just. *Answer*, The Commons do so presume of every one committed by the King, or Council;

Council; but the Question is, If the Cause ought not to be express'd, that it may so appear? The Place in the Register, *De Homine replegiando*, he said, was answered before, by that Record, 21. Edward I. Rot. 2. *Renis's Case*; where the Sheriff of *Warwick* and *Leicester* was censured in Parliament, for replevying a Man committed by the Earl of *Warwick*; when the King had given him a general Command to shew no Favour to any committed by that great Peer. Answer, That the Sheriff was justly punished; for the Party was not repleviable by the Sheriff, butailable by the Justices.

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‘ In 22. *Henry VI.* by the King's Mouth, whereby none can be committed, he understands also the Council, which are his Mouth; and incorporated with the King; as you heard out of *Stamford*, 33. *Henry VI.* Fol. 28, 29. (*Robert Poining's Case*: He denied it was urged for them; but relied upon by Mr. Attorney for the contrary Opinion. Yet Mr. Attorney confessed it proved nothing. The Parties, in this Case, committed *Per Dominos de Consilio*, never desired, nor were ever denied Bail or Liberty; confess'd by Mr. Attorney.

‘ Out of 34. *Eliz.* containing the Resolutions of all the Judges, he read some Part; and shewed Judge *Anderson's* Book under his own Hand; insisted upon some Words, that implied the Cause ought to be express'd; and concluded, That it was neither for their Tenet nor against it: For that Assertion, That bailing was *Ex Gratia Curiae*, he granted it true in many Cases; as where the Cause doth appear, and the Judges hold it fit to make some Stay; but not where no Cause is shewed. It may be Grace, said he, yet it is the constant Practice of the Court; and herein he appealed to those Precedents, offered unto your Lordships out of the close Rolls.

‘ The Report of the 13. *Jacobi*, which is called *Russell's Case*, taken by a young Student, is a Gallimaufrey of three or four Cases huddled together, and

An. 4. Charles 1. and put as it were into an Hotch-pot. Others interpret it for a sudden *remittitur* at the Rising of the Court. And you must note, also, That *Ruffell* was never returned to this Court again.

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‘ If a Man deliver an Opinion of a sudden, that is nothing to the Case in Hand. Judges, as Students find in their Year-Books, have changed their Opinions, and given better Reasons for their contrary Assertions. And that Passage in Parliament, 18. *Jac.* was at best but a sudden Ejaculation, grounded upon 33. *Henry VI.* which was nothing material. For that Place, 16. *Henry VI.* (*Monsieur Defaits*,) he answered, That of their Authorities some are nearer the Question, some farther off; yet all applicable.

‘ It is the Dignity and Honour of the King, *Neminem a se tristem dimittere*, to act these Severities, not by himself, nor his own Mouth, but by ministerial Officers. Kings have sitten in their Beds of Justice as *Edward IV.* in a Trial of a Rape at the *King’s Bench*: Yet did he not pronounce the Sentence, but left that to his Justices. It is the Honour of the King to command none to Prison, but leave it to his inferior Ministers of Justice. To that of 1st. *Henry VII. Fol. 4. Hussey’s* Report of *Markham*, That he told *Edward IV.* He could not command one to carry any to Prison, he said it was a Rule in Law, that the King can do no Wrong: But if he should command one to be arrested, without Cause, then he might be Author of Wrong; and, therefore, that is denied him.

‘ He touched that Place of *Fortescue, Proprius Ore nullus Regum Angliæ, &c.* And here he desired to be rightly understood, for they of the House of Commons do not exclude the Commandment of the King; for they confess all that are imprisoned, are by his Commandment; but, it must be with a Cause expressed: He said, that 36. *Edward III. N. 9.* is not in Print. He saith, That he was in *France*; and that there he read many of their Books: And he appeals to any that understands the Language, if, *ou Arrest faire*, doth not signify

signify to *arrest*, and not to delay by Commandment An. 4. Charles I. 1628.
of the King. Concerning Mr. Sergeant *Abley*, Mr. *Littleton* said, That for Matter of Law he was authorized to answer him: And for what that Gentleman had objected, That the House of Commons did think they had gained the Cause, because the King's Council had yielded the Statutes to be in Force: Alas! saith he, We do not labour for Victory but for Truth; convince our Understandings by better Reasons, and the Cause shall be yours.

‘ That Mr. Sergeant understood *per Legem Terræ*, many Laws in England; *Martial*, *Admiral*, *Ecclesiastical*, and that 9. Edward III. called, *Merchant-Law*; To this Mr. *Littleton* replied, with some Animosity, and a Challenge to any Man living to shew, That *Lex Terræ* should be spoken of any but the Common Law, in any Law-Book, Statutes, or antient Records: And so closed up his Discourse.’

Sir *Edward Coke*. ‘ As the Centre of the greatest Circle is but a little Prick, so the Matter ever lies in a little Room; but weighty Businesses are spun out to a high Length. This, he said, was more weighty than difficult: His Part was little; he would run over Mr. Attorney's Reasons briefly; and, said he, *Summa sequar Vestigia Rerum*. This Tenet of theirs was expressed shortly and significantly: It was a Wonder for him to hear the Liberty of the Subject should be thought incompatible with the Regality of the King; for *nihil tam proprium est Imperii, quam Legibus vivere*, saith *Braeton*. Nay further, *Attribuit Rex Legi quod Lex ei; Dominium enim & Imperium exercere, sine Lege, non potest*.

‘ First, he said, Mr. Attorney seem'd to intimate, that, in this *speciale Mandatum*, a Cause should be conceived to blind the Judges, when other Matter was intended. He had heard indeed of that Sentence, *Qui nescit dissimulare, nescit regnare*: But he held it no good Divinity; for *David*, in the

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119th *Pſalm*, desires a ſound Heart; that is, a Heart without Diſſimulation: *Ergo*, No King ſhould covet to diſſemble in his Mandates.

‘ Then for that Caſe of Rebellion, in *Ireland*, he ſaid, it was *bona Terra, mala Gens*. But, he ſaid, *O Donnell’s* Children loſt nothing by the Bargain; *periſſent niſi periſſet*; for they were better brought up here in the true Religion, inſtead of *Popery*. Beſides, they have loſt nothing, for their Blood was tainted. It was Charity to keep them. A ſtrange Proviſo, that a Thing happening once in a hundred Years, ſhould overthrow and marr ſo many Statutes in continual Uſe, againſt the old Rule, *Ad ea quæ frequentius accidunt, Jura adaptantur!* And he never heard of ſuch an Objection.

‘ In the next Reaſon, he ſaid, Mr. Attorney came cloſe to him, and ſaid he was glad he had awaked him. That a King is truſted in greater Things, as War, Money, Pardons, Deniſons; *ergo, &c.* — *Negatur*, ſaid he, for the Liberty of the Perſon is more than all theſe; it is *maximum omnium humanorum Bonorum*, the very Sovereign of all human Bleſſings: Yea, but the King may make Money of Braſs, (ſaith *Dionyſius Halicarnaffeus*) or other baſe Metal, as he heard Queen *Elizabeth* ſay, that her Father, King *Henry VIII.* did hope to live ſo long, till he ſaw his Face in Braſs; *i. e.* in Braſs Money. He ſaid this was a main Point: And that whatever the King’s Power was by the Common Law, yet was it qualified by Acts of Parliament. And no Man will deny but the King may limit himſelf by Acts of Parliament.

‘ He cited 9. *Edward III. Chap. 4.* 3. *Henry V. Chap. 1.* that the Money muſt be of Weight Sterling; *ergo*, it muſt, now, be of the Lay and Fineneſs of Sterling. In another Statute, *de Dimiſſione Denariorum*, it is required the Coin ſhould be *de legali Metallo*; *ergo*, not illegitimate. — Why muſt the King have the Mines of Gold in my Land, but for the Uſe of his Mint and Coining? He cited alſo a Law of King *Edgar, Chap. 8.* and of *Canutus, Chap.*

Chap. 8. That no Money should be current but of An. 4. Charles I
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For Pardons; they are also limited, in wilful Murder; as he proved out of the 4th of *Edward III.* and 25. *Edward III.* And this he said by the Way, how his Part was short, and that he had before express'd what Books and Warrants they had for their Tenet. If he be a little more earnest than seems fitting, he craves your Lordships Pardon; it concerns him near.

He takes Occasion here to say (under Reformation) his Reasons were not answered, or not fully. He touched upon his former Reason from Imprisonment (*m*); that it is a Badge of a Villain to be imprisoned without Cause; that this and *Tallier luy baut & bas sont propria quarto modo* to Villains: This he presents with all Reverence; for we, said he, speak for the future Times only: Our King is good, and the Council most gracious; but *non Nobis nati sumus*; it is for our Posterity that we desire to provide, rather than for ourselves, that they be not in worse Case than Villains; for to be imprisoned without Cause shewn, is to be imprisoned without Cause at all. *De non apparentibus & non existentibus, eadem est Ratio.*

He agreed with Mr. Attorney, he said, in the Enumeration of all the Kinds of *Habeas Corpus*; and if they two were alone, he did not doubt but they should agree in all Things. Only, he said, that for a Freeman to be Tenant at Will for his Liberty, he could never agree to it; it was a Tenure that could not be found in all *Littleton*.

Then he also touched his former Argument from Univerſality; that the Lords, the Bishops, and all are jumbled and involved in this Univerſality. Law doth privilege Noblemen from Arrests: This new Doctrine, like the little God *Terminus*, yields to none. Nay, the Judges themselves, when they should sit on the Bench, must be walking towards the *Tower*.

Then

(m) See Vol. VII. p. 420.

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Then he fell to a Protestation, that he intended no Prejudice at all to the King for Matters of State; for the Honourable must be maintain'd in Honour, or this Common-Wealth could not subsist; but the Question was, Whether they ought not to express the Cause? He repeated again *Plowden*, 4. *Eliz. Pl.* 236. The Common Law hath so admeasured the King's Prerogative, as he cannot prejudice any Man in his Inheritance. He cited also 42. *Edward III. Chap. 1.* to prove, that all Judgments given against *Magna Charta* are void.

Next he was pleased to say, He was not so well dealt with in one Particular as he expected: For a Student's Report should not have been cited against him. He desired Mr. Attorney to remember, he had not *Veritatem ex Cathedra*, or Infallibility of Spirit; that was for the *Pope*. He said, he misgrounded his Opinion upon 33. *Henry VI.* which being nothing to the Purpose, he is now assured his Opinion is as little to the Purpose.

Here he took Notice of an Objection, 'What can you arrest none without a Process or original Writ? Why, the suspected Fellow will run away?' To which he answered, That Process signifies the whole Proceedings: And cited a Rule in Law, *Quando Lex aliquod concedit, concedere videtur id, sine quo Res ipsa esse non potest.* The Law gives Process and Indictment; ergo, gives all Means conducing to the Indictment. And this answers all Mr. Attorney's Cases of Watchmen and Constables.

And here paused Sir *Edward Coke*.

Mr. *Noy* offered Answers to the Inconveniences presented by Mr. Attorney.

First, he said, where it was objected, That it was inconvenient to express the Cause, for fear of divulging *Arcana Imperii*; for hereby all may be discovered, and Abundance of Traitors never brought to Justice: To this that learned Man answered, 'That the Judges, by Intention of the Law, are the King's Council, and the Secret may safely be com-

committed to all, or some of them, who might advise whether they will bail him: And here is no Danger to King or Subject; for their Oath will not permit them to reveal the Secrets of the King; nor yet to detain the Subject long, if, by Law, he beailable.

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Secondly, For that Objection of the Children of *O Donnell*, he laid this for a Ground, That the King can do no Wrong: But, in Cases of extreme Necessity, we must yield sometimes for the Preservation of the whole State: *Ubi unius Dampnum Utilitate publica rependitur*. He said there was no trusting Children of Traitors: No Wrong done, if they did *sabescere* or *marcescere in Carcere*. It is the same Case of Necessity, as when, to avoid the burning of a Town, we are forced to pull down an honest Man's House; or to compel a Man to dwell by the Sea Side for Defence or Fortification. Yet the King cannot do wrong: For *Potentia Juris est non Injuria*; ergo, The Act the King doth, though to the Wrong of another, is, by Law, made no Wrong: As if he commands one to be kept in Prison; yet the King himself is not responsible for this Wrong. He quoted a Book 42. *Affiz. C. 5.*

Thirdly, For the Instance made of *Westminster* 1. he said, 'There was a great Difference between these three, 1. Mainprize; which is under a Pain. 2. Bail; which is Body for Body, and no Pain; for the Party is ever in Court to be declared against. 3. Replevin; which is as much as both; yet it is neither by Surety nor by Bail; for if replevied, then he is never in Court. By this Statute, saith Mr. Attorney, a Man cannot be replevied; ergo, not bailed? — *Non sequitur.*'

Fourthly, Where it is said, That Bail is *ex Gratia*, he answered, 'That if the Prisoner comes by *Habeas Corpus*, then it is not *ex Gratia*; yet the Court may advise: But mark the Words, *ad subjiciendum & recipiendum prout Curia consideraverit*. Now it is impossible that the Judges do so, if no Cause be expressed: For if they know not the Cause,

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Cause, he may bring the first, second, third, and fourth *Habeas Corpus*, and so *ad infinitum*, till he find himself a perpetual Prisoner: So that no Cause expressed is worse for the Man, than the greatest Cause or Villainy that can be imagined.' And thus far proceeded that worthy Gentleman.

Mr. *Glanville* said, 'That, by Favour of the House of Commons, he had Liberty to speak, if Opportunity were offered: He will therefore apply his Answer to one Particular of Mr. Attorney; who assigned to the King four great Trusts; 1. Of War. 2. Coin. 3. Denizens. And, 4. Pardons. It is assented unto, that the King is trusted with all these four legal Prerogatives: But the Argument followeth not, That therefore he shall imprison without Cause shewn.—Again, The King is trusted in many Prerogatives; *ergo*, saith Mr. Attorney, in this! *Non sequitur; quod non est sufficiens Enumeratio Partium.*— He said he would answer Mr. Attorney's four great Trusts with two Rules; whereof the first should wipe off the first and second; and the other, the third and fourth.

'The first Rule is this: There is no Fear of trusting the King with any Thing; but the Fear of ill Counsel against the Subject: The King may easily there be trusted, where ill Counsel doth equally engage both the King and Subject; as it doth both in Matters of War and Coin. If he miscarry in the Wars, it is not always *plectuntur Achivi*; but he smarts equally with the People. If he abuse the Coin, he loseth more than any of the People: *Ergo*, He may safely be trusted with those Flowers of the Crown, Wars and Coinage.'

The second Rule he gave was this: 'When the King is trusted to confer Grace, it is one Thing; but when he is trusted to infer an Injury, it is another Matter. The former Power cannot, by miscounselling, be brought to prejudice another; the latter may. If the King pardon a guilty Man, he punisheth not a good Subject. If he denizen never so many Strangers, it is but *Dammum sine Injuria*.

We

We allow him a Liberty to confer Grace; but not, without Cause, to infer Punishments. And indeed he cannot do Injury: For if he commanded to do a Man Wrong, the Command is void. *Aktor fit Author*, and the Actor becomes the Wrong-doer: And therefore the King may safely be trusted with War, Coins, Denizons, and Pardons; but not with a Power to imprison, without Expression of Cause or Limitation of Time; because, as the Poet tells us, *Libertas potior Auro.*

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And thus far proceeded Mr. *Glanville*.

Next Mr. *Selden* said, 'Your Lordships had heard all or most of the Arguments brought, and answered fully: That there was hardly any Thing objected that had the least Colour. This he speaks not out of any overweening Confidence as a Counsellor; but desires your Lordships to recall the several States and Conditions of those you now hear. The King's Counsel speak for the King's Advantage, as Glossers and Parties: But the Condition of the other Gentlemen is this, that as they are Members of the House of Commons, they are bound to speak Truth; so, by a strict Oath, to maintain the King's Rights and Preheminence: And therefore your Lordships had good Cause to put a Value upon them, and what they say.

'Accordingly here he fell upon the Resolution of the Judges, in 34. *Elizabeth*; which, he said, stuck with many, and was pressed by Mr. Attorney, as drawing on his Side; and was also so pres'd at the *King's Bench*.

'It is true, a fuller Perspicuity might, by Care, have been delivered therein; yet, what is in it, he said, concludes for the Resolution of the House of Commons. He instanced in one Point: They may not be delivered by any Court without Trial at Law; now, no Trial where no Cause: But in that Case the Matter is unintelligible. *Quis & quare*, are two Questions. It is one Question *who*, but another *why* they are committed. Then he said,

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There was indeed a Sort of Reply in that of 13. *Jacobi, Russel's Case*: But that it was not *Russel's Case*, but an *Omnigatherum* of three or four Cases full of Mistakes. It mentions *Harcourt, 40. Elizabeth*, to have been bailed by Command of the Queen, or Council, and not a Word thereof was true: It speaks of a Letter filed in the Crown Office; but no Letter was ever there filed: It cites the Case of 34. and 36. *Elizabeth*.—In one Word, *Quæritur*, for there was nothing found in all this imaginary Report.

‘As for the Journals of the Lower House, in 18. *Jac.* they are good Records, so far as they are Journals of Orders and Resolutions: But as for Things catch’d at by Clerks, out of the Mouths of Men, they are declared long since to be of no Authority: And the House doth generally conceive, that this Particular is a Mistake of the Clerk.’ And here ended Mr. *Selden*.

Sir *Edward Coke* put your Lordships in mind, that you had the greatest Cause in hand, that ever came into the Hall at *Westminster*, or, indeed, into any Parliament.

‘My Lords, said he, Your Noble Ancestors, whose Places you hold, were Parties to *Magna Charta*; so called for Weight and Substance (for, otherwise, many other Statutes are greater in Bulk); as *Alexander*, a little Man, called *Magnus* for his Courage.

‘And you, my Lords, the Bishops, said he, are commanded *fulminare*, to thunder out your Anathema’s against all Infringers of *Magna Charta*. (*Sententia lata super Chartas*) And all the worthy Judges, that deserv’d their Places, have ever had *Magna Charta* in great Estimation.

‘Now, as Justice hath a Sword, so it hath a Balance,

Ponderat hæc Causas, percutit ille Reos.

Put together, my Noble Lords, in one Ballance, seven

seven Acts of Parliament, Records, Precedents, An. 4. Charles I. 1628. Reasons, all that we have spoken, and that of 18. *Edward III.* whereto I found no Answer; and, in God's Name, put into the other Ballance what Mr. Attorney hath said, his Wit, Learning, and great Endowments of Nature; and, if he be weightier, let him have it; if not, then conclude with us.

'You are involved in the same Danger with us; and therefore we desire you, in the Name of the Commons of *England*, represented in us, that we might have Cause to give God and the King Thanks for your Justice, in complying with us.'

And here rested Sir *Edward Coke*.

Mr. Attorney summ'd up the Argument. He observed, That many Things, and much Matter, had been utter'd by the Gentlemen of the House of Commons: That to run over it all would spend much Time; he would therefore observe some principal Things wherein he and they did not differ.

1. 'It was agreed the King may commit. 2. It was agreed the Statutes were in force.—But how this *Lex Terræ* is to be expounded, is the main Apple of Contention. If the Cause be sufficiently expressed *generally*, then *Mandatum Domini Regis* is a sufficient Expression. To reduce this to the Judicature of the Judges, is to presuppose, not state the Question. That the King hath an unlimited Power, is not the State of the Question: For then the King might imprison perpetually, be the Cause right or wrong.

'Whether there be that Necessity of expressing the Cause, upon Commitment or no, is a great Part of the Controversy. It was granted by one, That there may be a Cause of an extraordinary Nature, as *O Donnell's*; but the Rule of the House of Commons is a new mathematical Line, that admits of no Latitude at all.—To say Subjects may be perpetually imprisoned, or without any Cause, is no Intention of the King. On the contrary Side, to tie the King's Command to the Rule of

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his Judges, and leave no Latitude or Breadth at all to turn him in, is a Variation wherein your Lordships Wisdom must appear, to smoothe and facilitate the Roughness of the Passage.

‘ He recommended all to your Wisdoms to weigh (as Sir *Edward Coke* desired) in an equal Ballance, Reasons, Precedents and Resolutions of Judges. This Manifesto of the House of Commons takes the Matter upon great Advantage, as resolved by that Body ; but this is our Comfort that are Counsel for the King, that you are all now Counsellors of the King and Kingdom. If all can be so ordered, as you shall not destroy the Rights of the King, and shall favour the Liberties of the Subject as the Cause requires, Mr. Attorney hath the utmost of his Desires.’ And here he ended.

Mr. *Noye* hereto rejoined, ‘ The King might commit for a Cause, not without : This was agreed on both Sides. But Mr. Attorney said, He was not bound to express the Cause. To which it was replied, That the Judges are to judge between him and his People: *Ergo, No Cause, no Judgment* ; and therefore the King ought not to commit for any Time ; no, not an Hour, without a Cause.— And that there was no Cause.’

Sergeant Ashley ordered into Custody, for some Words spoken at the Conference on the Liberty of the Subject,

Thus ended this long Report: One Thing wherein is very remarkable, That when Mr. Sergeant *Ashley* had done speaking at the Conference, in which he was of Counsel for the Crown, the Lord President told the Committee of the Commons, That the Sergeant had no Authority, from their Lordships, as to what he had advanced in his Argument (*n*).— But the Matter rested not here ; for the Doctrine advanced by this Gentleman seem’d so unconstitutional, that, upon the Motion of the Earl of *Warwick*, he was ordered into Custody. And,

On the 21st of *April*, a Petition of Mr. Sergeant *Ashley* was read to the Lords ; expressing his Sorrow for the Displeasure he had given their Lordships, and humbly desiring to be admitted to such Re-

(n) See before p. 53.

Recognition as their Lordships should enjoin him. AN. 4. Charles I
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Hereupon he was ordered to be brought to the Bar; where, kneeling, he made his Submission, and humbly asked Forgiveness for his Fault; and was discharged out of Custody. But is, soon after, discharged.

Afterwards the Lords went into a Committee on the Liberty of the Subject; in which the Earl of Warwick spake to this Effect (o):

My Lords,

I Will observe something out of the Laws, wherein this Liberty of the Subjects Person is founded, and something out of the Precedents which have been alledged. As to *Magna Charta*, and the rest concerning these Points, they are acknowledged by all to be now in force; that they were made to secure the Subjects from wrongful Imprisonment; and that they concern the King as much, or rather more than the Subject.— Well then, besides *Magna Charta*, and those six other Acts of Parliament, in the very Point; we know that *Magna Charta* itself, hath been at least 30 Times confirmed; so that now, at this Time, we have 36 or 37 Acts of Parliament to confirm this Liberty; altho' it was made a Matter of Derision, the other Day, in this House.

The Earl of Warwick's Speech on that Occasion.

One is that of 36. *Edward III. N. 9.* and another in the same Year, *N. 20.* not printed, but yet as good as those that are; and that of 42 *Edw. III. Cap. 3.* so express in the Point, (especially the Petition of the Commons that Year, which was read by Mr. *Littleton*, with the King's Answer, so full, and free from all Exception, to which I refer your Lordships) that I know not how any Thing in the World can be more plain.

Now therefore, if, in Parliament, we shall make any Doubt of that which is so fully confirmed by Parliament; and, in a Case so clear, go about,

E 3

by

(o) From a Manuscript of the Times, in the Harleian Library. — It is omitted in *Rushworth's Collections*: But there is an imperfect Copy of it in the *Epheemeris Parliamentaria*.

An. 4. Charles I. by new Glosses, to alter these old and good Laws; we shall not only forsake the Steps of our Ancestors; who, in Cases even of small Importance, would answer, *nolumus Leges Angliæ mutari*; but we shall yield up and betray our Right in the greatest Inheritance the Subjects of *England* have; and that is the Laws of *England*.

‘ Truly, I wonder how any Man can think that this House (tho’ no Lawyers) can admit of such a Gloss upon a plain Text, as should overthrow the very End and Design of the Law: For whereas the Law of *Magna Charta* is, ‘ That no Freeman shall be imprisoned, but by lawful Judgment of his Peers, or the Law of the Land;’ it has been insisted on by some, That by these Words, *the Law of the Land*, it is to be understood, That the King hath Power to commit without shewing any Cause; which is an Exposition, not only expressly contrary to other Acts of Parliament, and those especially before cited, but against common Sense.

‘ Mr. Attorney confesseth this Law concerns the King: Why then, where the Law saith, the King shall not commit, *but by the Law of the Land*; the Meaning must be, (as Mr. Attorney would have it) That the King must not commit, *but at his own Pleasure!* And shall we think that our Ancestors were so foolish as to hazard their Persons and Estates, and labour so much to get a Law, and to have it thirty Times confirmed, that the King might not commit his Subjects, but at his own Pleasure?—And that if he did commit any of his Subjects without a Cause shewn, that then the Party must lie in Prison during the King’s Pleasure?—Nothing can be imagined more ridiculous, or more contrary to Reason and common Sense.

‘ From the Precedents I observe, That many committed by the King or his Council, have been delivered upon *Habeas Corpus*, and that constantly. It is true that some Precedents were brought on the King’s Part, that when some of these Persons desired to be delivered by *Habeas Corpus*, the King, or his Council, signified his Majesty’s Pleasure, that they

they should be delivered; or the King's Attorney hath come into the Court and released them by the King's Command; but this seems to make for the Subject: For, it being in his Majesty's Power to deliver them, who, by his special Commandment, and without any Cause shewn, were imprisoned; may we not think that his Majesty, at that Time, would rather have staid their Deliverance by Law, than furthered it by his Letters; and so make the Prisoners rather beholden to him for his great Mercy, than to the Judges for Justice; had not his Majesty known that, at that Time, they ought to have been delivered by Law?

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‘I think no Man would imagine a wise King would have suffered his Grace and Prerogative (if any such Prerogative there were) to be so continually questioned: Or his Majesty and his Council to be so far from commanding the Judges not to proceed to deliver the Prisoners, by them committed, without Cause shewn; as that on the other Side, (which is all the Force of these Precedents) the King and Council should signify to the Judges, that they should proceed to deliver the Parties!

‘Certainly, if the King had challenged any such Prerogative, that a Person committed, without any Cause shewn, might not be delivered by the Judges without his Consent; it would have appeared, by one Precedent or other amongst all that have been produced, that his Majesty would have made some Claim to such a Prerogative: But it appears on the contrary, that, in many of these Cases, the King nor his Council did ever interpose; and where they did, it was always in Affirmation and Encouragement to that Court to proceed. And besides, the writing of Letters from the King to the Judges to do Justice to his Majesty's Subjects, may, with as great Reason be interpreted, that, without those Letters, they might not do Justice; as this, That the King signified his Willingness that such and such Persons, which were committed by him without Cause shewn, should be delivered; therefore they

An. 4. Charles I. 1622. they could not be delivered without him; which is a strange Reason.

‘ So that finding the Laws so full, so many, and so plain in the Point; and that whenever any, committed without Cause shewn, brought their *Habeas Corpus*, they were delivered; and no Command ever given to the contrary, nor no Claim made, on the King’s Part, to any such Prerogative; I may safely conclude as the House of Commons have done: And if any one Precedent or two, of late, can be shewn, that the Judges have not delivered the Prisoners so committed, I think it is their Fault, and ought to be enquired of; but, contrarily, it seems to me to be an undoubted Right of the Subject, That if he be committed without Cause, or without Cause shewn, yet he may have some speedy Course to bring himself to Trial, either to justify his own Innocency, or to receive Punishment according to his Fault: For God forbid that an innocent Man, by the Laws of *England*, should be put in worse Case than the most grievous Malefactors are; as must needs be, if, when a Cause is shewed, he may have his Trial; but, if none, he must lie and pine in Prison during the King’s Pleasure.

‘ Mr. Sergeant *Ashley*, the other Day, told your Lordships of the Emblem of a King; but, by his Leave, he made a wrong Use of it: For the King holds in one Hand the Globe, and in the other the Scepter, the Types of Sovereignty and Mercy, but his Sword of Justice is ever carried before him by a Minister of Justice; which shews that Subjects may have their Remedies for Injustice done, and that Appeals lie to higher Powers; for the Laws of *England* are so favourable to their Princes, as to declare that they themselves can do no Injustice.

‘ Therefore I will conclude, as all Disputes should do, *Magna est Veritas, & prevalebit*: And I make no Doubt, we living under so good and just a Prince as we do, when this is represented unto him, he will answer us, *Magna est Charta, & prevalebit*.

The

The House being resumed, it was agreed, as a An. 4. Charles I. 1628. general Conclusion, 'That a Commitment, by the King, or his Council, is good in point of Authority; and, if the Cause of Commitment be just, then it is good for the Matter: But these two Concessions were, no way, to prejudice the King's Authority, nor yet the Propositions of the House of Commons.'

April 22, This Debate was again resumed, how- A further Conference relating to the Liberty of the Subject. ever, nothing was then concluded on; but the Day following, it was agreed, by the Lords, to have another Conference, with the other House, on this Subject; 'That they concur with the Commons in their Desire of all just Liberties to the Subject, but they do find it fit and necessary also to preserve the just Prerogative of the King; and, to that End, that both Houses might agree therein, this Conference was desired.'

This Proposal was accepted on by the Commons, and a Conference began which lasted two Days; but nothing particular was agreed on between them. On the 25th, the Archbishop of *Canterbury*, from the Committee of Lords appointed for this Business, reported, 'That they agreed on a further Conference with the Commons, in which they intended to offer some Propositions to them, which they had Liberty to alter, add, or diminish as they thought proper: To shew them that the Lords were neither out of Love with their Propositions, nor in Love with their own.' The said Propositions were read in these Words.

I. 'That his Majesty would be pleased, graciously, to declare, That the good old Law called *Magna Charta*, and the six Statutes, conceived to be Declarations and Explanations of that Law, do still stand in Force to all Intents and Purposes. The Lords Propositions thereupon.

II. 'That his Majesty would be pleased, graciously, to declare, That, according to *Magna Charta*, and the six other Statutes aforesaid, as also according to the most antient Customs and Laws

An. 4. Charles I. 1623. Laws of this Land, every free Subject of this Realm hath a fundamental Property in his Goods, and a fundamental Liberty of his Person.

III. ' That his Majesty would be pleased, graciously, to declare, That it is his Royal Pleasure to ratify and confirm unto all, and every, his loyal and faithful Subjects all their several, antient, just Liberties, Privileges, and Rights, in as ample and beneficial Manner to all Intents and Purposes, as their Ancestors did enjoy the same under the best of his Majesty's most noble Progenitors.

IV. ' That his Majesty would be further pleased, graciously, to declare, for the good Contentment of his loyal Subjects, and for the securing them from future Fears, That, in all Cases, within the Cognizance of the Common Law, concerning the Liberties of the Subject, his Majesty would proceed according to the Common Law of this Land, and according to the Laws established in this Kingdom, and in no other manner or wise.

V. ' As touching his Majesty's Royal Prerogative, incident to his Sovereignty, and intrusted him withal from God, *ad communem totius Populi Salutem, & non ad Destructionem*, That his Majesty would resolve not to use or divert the same, to the Prejudice of any of his loyal People in the Property of their Goods, or Liberty of their Persons: And in case, for the Security of his Majesty's Royal Person, the common Safety of his People, or the peaceable Government of this Kingdom, his Majesty shall find just Cause, for Reason of State, to imprison or restrain any Man's Person; his Majesty would, graciously, declare, That, within a convenient Time, he shall and will express the Cause of the Commitment or Restraint, either general or special; and upon a Cause so expressed, will leave him immediately to be tried according to the Common Law of this Land.'

The Conference being agreed on, the Archbishop of Canterbury began it with this short Speech.

Gentlemen

Gentlemen of the House of Commons,

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THE Service of the King and Safety of the Kingdom, do call upon my Lords to give all convenient Expedition, to dispatch some of the great and weighty Busineses that are before us. For the better effecting whereof my Lords have thought fit to let you know, that they do, in general, agree with you; and doubt not but you will agree with us, to the best of your Powers, to maintain and support the fundamental Laws of the Kingdom, and the fundamental Liberties of the Subject: For the Particulars, which may hereafter fall into Debate, they have given me in charge to let you know, That what hath been presented by you unto their Lordships, they have laid nothing of it by; they are not out of Love with any Thing that you have tendered unto them; they have voted nothing, neither are they in Love with any Thing proceeding from themselves: For that which we shall say and propose, is out of Intendment to invite you to a mutual and free Conference; that you with Confidence may come to us, and we with Confidence may speak with you; so that we may come to a Conclusion of those Things which we both unanimously desire.

The Archbishop
of Canterbury's
Speech at the
Conference.

‘ We have resolved of nothing, designed nothing, nor determined nothing; but desire to take you with us, praying Help from you, as you have done from us.

‘ My Lords have thought of some Propositions, which they have ordered to be read here, and then left with you in Writing; That if it seem good to you, we may uniformly concur for the Substante; and, if you differ, That you would be pleased to put out, add, alter, or diminish, as you shall think fit; that so we may come the better to this End, which we do both so desirously embrace.’

The foregoing Propositions were then read to the Commons, and, afterwards, the Archbishop told them, what had been before agreed on about adding

An. 4. Charles I. ing, or diminishing of them; to which, one of
1628. the Committee, Sir *Dudley Diggs*, made this Re-
ply.

My Lords,

Sir *Dudley Diggs*'s
Reply.

IT hath pleased God, many Ways, to bleſs the
Knights, Citizens, and Burgeſſes, now aſ-
ſembled in Parliament, with great Comfort and
ſtrong Hopes, That this will prove as happy a
Parliament as ever was in *England*. And, in their
Conſultations for the Service of his Maſteſty, and
the Safety of this Kingdom, theſe ſpecial Comforts
and ſtrong Hopes have riſen from the continued
good Reſpect, which your Lordſhips, ſo nobly,
from Time to Time, have been pleaſed to ſhew
unto them; particularly at this preſent, in your
fo honourable Profeſſions to agree with them in ge-
neral; and deſiring to maintain and ſupport the
fundamental Laws and Liberties of *England*.

‘ The Commons have commanded me, in like
Sort, to aſſure your Lordſhips they have been, are,
and will be, as ready to propugn the juſt Pre-
rogative of his Maſteſty; of which, in all their Ar-
guments, Searches of Records, and Reſolutions, they
have been moſt careful; according to that which
formerly was, and now again is, proteſted by
them.

‘ Another noble Argument of your honourable
Diſpoſition towards them is expreſſed in this; That
you are pleaſed to expect no preſent Answer
from them, who are, as your Lordſhips, in your
great Wiſdoms, no Doubt, have conſidered, a
great Body that muſt adviſe upon all new Pro-
poſitions; and reſolve upon them, before they can
give Answer, according to the antient Order of
their Houſe. But, it is manifeſt, in general, (God
be thanked for it) there is a great Concurrence of
Affection to the ſame End in both Houſes; and
ſuch good Harmony, that I intreat your Lordſhips
Leave to borrow a Compariſon from Nature, or
Natural Philoſophy: As two Lutes, well ſtrung
and tuned, brought together; if one be played on,
little

little Straws or Sticks will stir upon the other, tho' it lye still; so though we have no Power to reply, yet these Things, said and propounded, cannot but work in our Hearts; and we will faithfully report these Passages to our House, from whence, in due Time, we hope, your Lordships shall receive a contentful Answer.

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However, the Commons were not satisfied with these Propositions, which were conceived to choak the Petition of Right, then under Consideration; but demurred upon them.

This great Affair stood thus, between the two Houses, till April the 28th, when the King came to the House of Lords, and, sending for the Speaker, with the Commons to attend him, he said, 'My Lords, I have given Commandment to my Lord-Keeper to speak somewhat unto you, in my Name; trusting to his Voice rather than my own.'

The Lord-Keeper, having first conferred with his Majesty, spake as follows.

My Lords, and ye the Knights, Citizens, and Burgeffes of the House of Commons,

YE cannot but remember the great and important Affairs, concerning the Safety both of State and Religion, declared first from his Majesty's own Mouth, to be the Causes of the assembling of this Parliament: The Sense whereof, as it doth daily increase with his Majesty, so it ought to do (and his Majesty doubts not, but it doth so) with you; since the Danger increaseth every Day, both by Effluxion of Time, and Preparations of the Enemy.

Yet his Majesty doth well weigh, that this Expence of Time hath been occasioned by the Debate, which hath arisen in both Houses, touching the Liberty of the Subject; in which, as his Majesty takes in good part the Purpose and Intent of the Houses, so clearly and frequently professed, that they would not diminish or blemish

The King's
Speech by the
Lord Keeper, de-
siring the Parlia-
ment to rely on
his Royal Word
for their Liber-
ties.

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' miff his juft Prerogative; fo he prefumes, that
 ' ye will all confefs it a Point of extraordinary
 ' Grace and Juftice in him, to fuffer it to reft fo
 ' long in Difpute without Interruption. But now
 ' his Majefty, confidering the Length of Time
 ' which it hath already taken; and fearing nothing
 ' fo much, as any future Lofs of that whereof every
 ' Hour and Minute is fo precious; and fore-
 ' feeing that the ordinary Way of Debate, though
 ' never fo carefully hufbanded, yet, in regard of
 ' the Form of both Houfes, neceffarily takes more
 ' Time than the Affairs of *Chriftendom* can per-
 ' mit: His Majefty, out of his great and princely
 ' Care, hath thought of this Expedient to fhorten
 ' the Buſinefs, by declaring the Clearnefs of his
 ' own Heart and Intention: And therefore hath
 ' commanded me to let you know, *That he hold-
 ' eth the Statute of Magna Charta, and the other
 ' Six Statutes infifted upon for the Subjects Liberty,
 ' to be all in Force; and affures you, that he will
 ' maintain all his Subjects in the juft Freedom of their
 ' Perfons, and Safety of their Eſtates; and that he
 ' will govern according to the Laws and Statutes of
 ' this Realm; and that you ſhall find as much Secu-
 ' rity in his Majeſty's Royal Word and Promise, as
 ' in the Strength of any Law ye can make; fo that
 ' hereafter ye ſhall never have Cauſe to complain.*
 ' The Conclusion is, That his Majeſty prayeth
 ' God, who hath hitherto bleſſed this Kingdom,
 ' and put it into his Heart to come to you this Day,
 ' to make the Succeſs happy both to King and Peo-
 ' ple: And therefore he deſires, that no Doubt or
 ' Diſtruſt may poſſeſs any Man, but that ye will
 ' all proceed unanimoſly to his Buſinefs.'

This ſhort Speech being ended, his Majeſty de-
 parted; and the Lord-Keeper ordered, that a Co-
 py of it ſhould be ſent to the Commons.

Debate thereon,
 in the Commons.

After the Return of that Body to their own
 Houſe, *Ruſhworth* informs us that Mr. Secretary
Cloak made a Speech, in order to perſuade them to
 comply with the King's Deſires. But there is no-
 thing

thing of it in their *Journals*, nor of the ensuing An. 4 Charles I.
 Debate upon it. 1628.

The Secretary said. ' His Majesty puts us in Mind of the great and important Affairs of the State, and of his Sense thereof, that by Effluxion of Time increaseth in him; and he doubts not but that it doth increase in us. Ye see his Majesty's Moderation in the Interpretation of all our Actions; he saith, That he hopes we have the same Sense he hath of the Expence of Time, that grew from the Debates in both Houses. We see how indulgent he is, that however the Affairs of *Christendom* are great, yet he omits not this; nay, he takes in good Part our Proceedings, and our Declarations that we will not impeach the Prerogative: Also his Majesty presumes that we will confess, that he hath used extraordinary Grace, in that he hath endured Dispute so long; yet he acknowledgeth it Justice to stand as we have done.

However, out of a princely Regard to the Public, he is careful no more Time be lost; and (because he sees some extraordinary Course must be taken) to satisfy us, he observes, that in the Form of the Debate, such a Length is required, as the urgent Nature of his Business will not possibly endure. It is to be presumed, that his Government will be according to the Laws: We cannot but remember what his Father said, *He is no King, but a Tyrant, that governs not by Law*; but this Kingdom is to be governed by the Common Law, and his Majesty assures us so much; the Interpretation is left to the Judges, and to his great Council, and all is to be regulated by the Common Law: I mean not *Magna Charta* only, for that *Magna Charta* was Part of the Common Law, and the antient Law of this Kingdom; all our Difference is in the Application of this Law; and how this Law, with Difference, is derived into every Court. I conceive there are two Rules, the one of Brass, that is rigid, and will not bend, and that is the Law of the *King's Bench*; this Law will not bend; and when it lights on Subjects fitting, if it do not bend,

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1628.

it is unjust: And there comes in the Law of Chancery and Equity; this is Application of Law in private Men's Causes, when it comes to *Meum & Tuum*. And thus the general Government of Cases, with relation to the common State of the Kingdom, is from the Council-Board; and there they may vary from the Law of the Kingdom: Suppose it be in Time of Dearth, any Man's Goods may, in that Time, be forced, and be brought to the Market: We saw the Experience of it in Coals in *London*, when the Council-Board caused them to be brought forth and sold. In a Time of Pestilence Men may be restrained: If a Schism be like to grow in a Church, the State will inquire after the Favourers of it: If there be fear of Invasion, and it be encouraged by Hope of a Party amongst us, it is in the Power of Government to restrain Men to their Houses.

* In the Composure of these Things, there is great Difference: What Differences have been between the Courts of Chancery and *King's Bench*? It is hard to put true Difference between the King's Prerogative and our Liberties. His Majesty saw Expence of Time would be prejudicial. It pleased God to move his Majesty, by a Divine Hand, to shew us a Way to clear all our Difficulties; let us attend to all the Parts of it; there be five Degrees; and there is more Assurance than we could have by any Law whatsoever. His Majesty declares, That *Magna Charta* and the other Statutes are in Force. This is not the first Time that the Liberty of the Subject was infringed, or was in Debate and confirmed. All Times thought it safe, that when they came to a Negative of Power, it was hard to keep Government and Liberty together: Yet his Majesty stopped not there; but, according to the Sense of these Laws, That he will govern his Subjects in their just Liberties; he assures us our Liberties are just; they are not of Grace, but of Right; nay, he assures us, he will govern us according to the Laws of the Realm, and that we shall find as much Security in his Majesty's Promise

mise, as in any Law we can make; and whatsoever Law we shall make, it must come to his Majesty's Allowance; and if his Majesty find Cause in his Government, he need not put Life to it: We daily see all Laws are broken, and all Laws will be broken for the Public Good; and the King may pardon all Offenders; his Majesty did see, that the best Way to settle all at Unity, is to express his own Heart: The King's Heart is the best Guider of his own Promise, his Promise is bound with his own Heart. What Prince can express more Care and Wisdom?

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‘ Lastly, he saith, That hereafter ye shall never have the like Cause to complain: May we not think the Breach is made up? Is not his Majesty engaged in his Royal Word?’

‘ The Conclusion is full of Weight: And he prays God, that as God hath blessed this Kingdom, and put it into his Heart to come amongst us, so to make this Day successful. *The Wrath of a King is like the Roaring of a Lion*, and all Laws, with his Wrath, are of no Effect; but *The King's Favour is like the Dew upon the Grass*, there all will prosper; and may God make him the Instrument to unite all our Hearts.

‘ His Majesty having thus discharged himself, he prays us to proceed to the Business that so much concerns him. As his Majesty hath now shewed himself the best of Kings, let us acknowledge his Majesty's Goodness, and return to that Union which we all desired.’

To this Motion Sir Benjamin Rudyard replied (q).

Mr. Speaker,

WE are now upon a Business of great Importance, and the Manner of handling it may be as great as even the Business itself. Liberty is a precious Thing, for every Man may set his
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(q) From a Manuscript in the *Harleian Library*. There is an incorrect Copy of it in the *Ephemera*: It is also in *Russett's*, but some Paragraphs are there omitted.

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Price upon it; and he that doth not value it, deserves to be valued accordingly.

‘ For my own Part, I am clear without Scruple, that, what we have resolved is according to Law; and if any Judge in *England* were of a contrary Opinion, I am sure we should have heard of him before now. Out of all Question the very Point, the Scope and Drift, of *Magna Charta* was, to reduce the Regal to a Legal Power in Matters of Imprisonment; or else it had not been worth so much contending for.

‘ But there have been Precedents brought to prove the Practice and Interpretation of the Law. I confess I have heard many Precedents of Utility and Respect, but none at all of Truth, or of Law: Certainly there is no Court of Justice in *England*, that will discharge a Prisoner committed by the King, *Rege inconsulto*, i. e. without acquainting the King; yet this good Manners was never made, or mentioned, as a legal Part of the Delivery.

‘ It is objected, that the King ought to have a Trust left and reposed in him; God forbid, but he should: And I hope it is impossible to take it from him; for it lies not in the Wit of Man to devise such a Law, as shall be able to comprehend all Particulars, all Accidents, but that extraordinary Cases must happen; which when they come, if they be conducted for the common Good, there will be no Law against them; yet must the Law be general, for otherwise Admissions and Exceptions will fret and eat out the Law to nothing. God himself hath constituted a general Law of Nature to govern the ordinary Course of Things; but he hath made no Laws for Miracles: Yet there is this Observation of them, that they are rather *præter Naturam* than *contra Naturam*, and always *propter bonos Fines*; so likewise the King’s Prerogatives are rather beside the Law than against it; and when they are directed to right Ends for the public Good, they are not only concurring Laws, but even Laws of Singularity and Excellency.

‘ But

But to come nearer, Mr. Speaker, let us consider where we are now; and what Steps we have gone and gained: The King's learned Counsel have acknowledged all the Laws to be still in Force; the Judges have disallowed any Judgment against these Laws; the Lords also have confessed that the Laws are in full Strength; they have further retained our Resolutions entire, and without Prejudice: All this, hitherto, is for our Advantage; but above all, his Majesty himself, being publickly present, hath this Day declared, by the Mouth of my Lord-Keeper, before both Houses, That *Magna Charta*, and the other six Statutes are yet in Force; that he will maintain his Subjects in the Liberty of their Persons, and the Property of their Goods; and that he will govern according to the Laws of this Kingdom. This is a solemn and binding Satisfaction, expressing his gracious Readiness to comply with his People in all their reasonable and just Desires.

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The King is a good Man, and it is no Diminution to him to be called so; for, whosoever is a good Man, shall be greater than a King that is not so.

The King, certainly, is exceeding tender of his present Honour and of his Fame hereafter; he will think it hard to have a worse Mark set upon him, and his Government, than any of his Ancestors by extraordinary Restraints: His Majesty hath already intimated unto us, by a Message, That he doth willingly give Way to have the Abuse of Power reformed; by which, I do verily believe, that he doth very well understand what a miserable Power it is, which hath produced so much Weakness to himself and to the Kingdom; and it is our Happiness that he is so forward to redress it.

For my own Part, I shall be very glad to see that good, old, decrepid Law of *Magna Charta*, which hath been so long kept in and lain bed-rid as it were; I should be glad, I say, to see it walk abroad again, with new Vigour and Lustre, attended

An. 4. Charles I. by the other six Statutes. For, unquestionless, it will be a general Heartning to all.

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‘ I doubt not, but, by a free Conference with the Lords, we shall happily fall upon a fair and fit Accommodation, concerning the Liberty of our Persons and Property of our Goods.

‘ I hope we shall have a Bill to agree in the Point against Imprisonment for Loans, or Privy-Seals; but as for intrinsecal Power, and Reasons of State, they are Matters in the Clouds; where I desire we may leave them, and not meddle in them at all; least, by way of Admittance, we may loose somewhat of that which is our Own already. Yet this, by the Way, I will say of Reason of State, that, in the Latitude it is used, it hath eaten out almost not only all the Laws, but all the Religion of *Christendom*. Now, Mr. Speaker, I will only remember you of one Precept, and that of the wisest Man; *Be not over-wise, be not over-just*; and he cited his Reason, *For why wilt thou be desolate*. Sir, if Justice and Wisdom may be stretched to Desolation, let us thereby learn, that Moderation is the Virtue of Virtues, and the Wisdom of Wisdoms.

‘ Let it be our Masterpiece so to carry our Business, as we may keep Parliaments on Foot; for, as long as they are frequent, there will be no irregular Power; which, though it cannot be broken at once, yet, in a short time, will be made weaker and moulder away. There can be no total and final Loss of Liberty, but by Loss of Parliaments; for as long as they last, what we cannot get at one Time, we may get at another.

‘ Let no Man think that what I have said is the Language of a private End. My Aim is only for the good Success of the Whole; for, I thank God, my Mind stands above any Fortune that is to be gotten by base or unworthy Means.

‘ No Man is bound to be rich, or great; no, nor to be wise: But every Man is bound to be honest. — Out of my Heart I have spoken.’

Upon

Upon this Debate it was ordered, That a Committee of Lawyers do draw a Bill, containing the Substance of *Magna Charta*, and the other Statutes that do concern the Liberty of the Subject: Which Business took up two whole Days.

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A Bill ordered in
for securing the
Liberty of the
Subject.

Of the Speeches in this Debate we meet with only the two following, viz. Mr. *Hackwell's* and Mr. *Mason's*, both of *Lincoln's-Inn* (r). Mr. *Hackwell* spoke as follows.

Debate thereon.

Mr. *Speaker*,

I chose rather to discover my Weakness by Speaking, than to betray my Conscience by Silence: My Opinion is, That we shall do well totally to omit our Resolutions out of this Bill (s), and rely only upon a Confirmation of the Laws.

The Objections made against this Opinion are two.

The *First* is, That we shall thereby recede from our own Resolutions.

The *Second*, That, by a bare Confirmation of the old Laws, without the inserting of our Resolutions, by way of Explanation, we shall be but in the same Case as before.

For the *First*, That though we desire only a Confirmation, without adding of our Resolutions, we do not thereby recede from our Resolutions; I reason thus:

Our Resolutions were drawn out of the Sense of those Laws, which are now desired to be confirmed; so that no Question can be made by any of us, that have thus declared ourselves, but that our Resolutions are virtually contained in those Laws; if that be so, How can our Acceptance of a Confirmation of those Laws be a Departure from our Resolutions?

Nay, rather, I think the contrary is true: He, who doubts, that, by Confirmation of these Laws, our Resolutions are not hereby confirmed, doubts whether we have justly deduced our Resolutions

F 3

out

(r.) Not in *Rushworth's*. Taken from the *Ephemeris*, compared and corrected by the Manuscripts.

(s) See Vol. VII. p. 407.

An. 4. Charles I. 1628. out of those Laws; and so calls our Resolutions into Question.

‘ This Argument alone, is, in my Opinion, a full Answer to that first Objection, that, in desiring of a bare Confirmation of those Laws, we depart from our Resolutions.

‘ The second Objection is, That, if we have nothing but a Confirmation, we are in no better Case than we were before these late Violations of the Law.

‘ This I deny; and do confidently affirm, That, although we have no more than a Confirmation of those Laws, which are recited in the Bill that is now before us, we shall depart hence in far better Case than we came; and that in divers Respects.

‘ *First*, Some of the Laws recited in this Bill, and desired to be confirmed, are not printed Laws; they are known to few Professors of the Law, and much less to others; and yet they are Laws of as great Consequence to the Liberty of the Subject, if not of greater, than any that are printed; as namely, 25. *Edward III. N. 1.* That Loans, against the Will of the Lender, are against Reason and the Freedom of the Realm; and 36. *Edw. III. N. 9.* By which Imprisonments by special Commandment, without due Process, are forbidden. These two are not printed.

‘ That excellent Law, *De Tallagio non concedendo*, in Print, hath, in a public Court, been said by a great Counsellor to be but a Charter, and no Law.

‘ The Statute, 1. *Rich. III.* against Benevolences is, by some Opinions in Print, an absolute Law, If we can get all these good Laws, besides those six others, which are Expositions of *Magna Charta* in the Point of the Freedom of our Persons, to be confirmed, and put in one Law to the easy View of all Men, is not our Case far better than when we came hither?

‘ *Secondly*, Will not the Occasion of the making of this Law of Confirmation, so notoriously known,

be

be transmitted to all Posterity? Certainly it will never be forgotten, That the Occasion thereof was the Imprisonment of those worthy Gentlemen for not lending; and the Resolution in the Court of *King's Bench* of denying to bail them: And is not the Occasion of the making of a Law a good Rule to expound it? If so, then, by giving a Confirmation, upon this Occasion, we have bettered our Case very much.

Thirdly, Have not the Judges in the *King's Bench*, in open Parliament, upon our Complaint, disclaimed to have given any Judgment in the Point? Which, generally before, by the Parliament was otherwise conceived; for now they say, It was but an Award and no Judgment (t): Will such a notorious Act, upon so important an Occasion, and in so public a Place, be quickly forgotten? Nay, Will not the Memory of it for ever remain upon Record? Is not our Case then much better than when we came hither.

Fourthly, Will not the Resolution of this House, and all our Arguments and Reasons against Imprisonment without a Cause expressed, (which, no Doubt, by the Course we have taken, will be transferred to Posterity,) be a great Means to stay any Judge hereafter from declaring any Judgment to the contrary; and especially if there be a Likelihood of the Meeting of a Parliament? Is not our Case in this very much amended?

Lastly, Have not we received Propositions from the Lords, wherein, amongst other Things, they declared, That they are not out of Love with our Proceedings? Is not this a great Strengthening to it? But, after so long Debate amongst them about it, they cannot take any just Exception to it: And doth not this also much amend our Case?

From all these Reasons, I conclude, That the second Objection, that by a Confirmation we are in no better Case than when we came together, is also a weak Objection.

Now

(t) See before, p. 3.

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‘ Now, for Reasons to move us to proceed in this Course of accepting a Confirmation; *First*, We have his Majesty’s gracious Promise to yield to a Confirmation of the old Laws, from which we may rest most assured he will not depart: If we tender him, withall, our Resolutions to be enacted, we have Cause to doubt that we shall lose both the one and the other. And,

‘ *Secondly*, We are no less assured of the Lords joining with us; for, in their Propositions sent to us, they have delivered themselves to that Purpose: This is then a secure Way of getting somewhat of great Advantage to us, as we have great Hopes, and, in a Manner, Assurance on this Side: So, on the other Side, we have great Doubts and Fears, that by offering our Resolutions to be enacted, we shall lose all.

‘ For, *First*, We have had already Experience of the Lords, that they are not very forward to join with us in a Declaration of our Resolutions to be Law. If they stumble at a Declaration, much more will they in yielding to make a Law in the same Point.

‘ And, have we not much more Cause to doubt that his Majesty will not yield unto it, seeing it toucheth him so near? Is it not the Notice of his Pleasure that hath wrought thus with the Lords?

‘ If we should clog the Bill with our Resolutions, and it should be rejected by the Lords, or by the King, are not our Resolutions much weakened by it? And are we not then in far worse Case than before we made them? And if they resolve to reject our Resolutions, will it not tend to a Justification of all that hath been done against us in this great Point of our Liberty?

‘ Let us then, like wise Men, conform our Desires to our Hopes, and guide our Hopes by Probabilities; for other Desires, and other Hopes are but vain.

‘ This is my poor Opinion in this weighty Business.

Then

Then Mr. *Mason* stood up and spoke as follows: An. 4. Charles I.
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Mr. Speaker,

I Am of Opinion, that in our Proceedings in the Matter now in Debate, we should make Use of the Title of a Statute, called *Circumspecte agatis*; for it concerns the Liberty of our Persons, without which we do not enjoy our Lives.

The Question is, Whether in this Bill, for the Explanation of *Magna Charta*, and the rest of the Statutes, we shall provide that the Cause of the Commitment must be expressed upon the Commitment, or upon the Return of the *Habeas Corpus*?

Before I speak to the Question itself, I shall propose some Observations, in my Conceit, necessarily conducing to the Debate of the Matter.

1. That we ought to take Care to provide for Posterity, as our Predecessors have done for us; and that this provident Care cannot be expounded to be any Distrust of the Performance of his Majesty's gracious Declaration; this Act providing for Perpetuity, to which his Highness's Promise, unless it were by Act of Parliament, cannot extend.

2. That we having long debated, and solemnly resolved, our Rights and Privileges by virtue of these Statutes; if we, now, shall reduce those Declarations and those Resolutions into one Act, we must ever hereafter expect to be confined within the Bounds of that Act; it being made, at our Suit, to be the Limits of the Prerogative in that respect; and it being an Act of Explanation, which shall receive no further Explanation than itself contains.

3. That by this Act we must provide a Remedy against the Persons which detain us in Prison, for as to the Commander there can be nothing certain.

Concerning the Question itself: It hath been solemnly and clearly resolved by the House, That the Commitment of a Freeman, without expressing the Cause at the Time of the Commitment,

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is against the Law. If, by this Act of Explanation, we shall provide only that the Cause ought to be expressed upon the Return of the *Habeas Corpus*; then, out of the Words of the Statute, it will necessarily be inferred, that before the Return of the *Habeas Corpus* the Cause need not to be expressed, because the Statute hath appointed the Time of the Expression of the Cause; and it will be construed, that if the Makers of the Statutes had intended that the Cause should have been sooner shewn, they would have provided for it by the Act; and then the Act, which we term an Act of Explanation, would be an Act for the abridging of *Magna Charta* and the rest of the Statutes: Or, if this Act do not make the Commitment without expressing the Cause to be lawful, yet it will clearly amount to a Toleration of the Commitment, without expressing the Cause untill the Return of the *Habeas Corpus*; or be a general or perpetual Dispensation, beginning with, and continuing as long as the Law itself. And, in my Understanding, the Words of this intended Law, (that no Freeman ought to be committed without Cause) can noways advantage us, or satisfy this Objection; for, till the Return of the *Habeas Corpus*, he that commits is Judge of the Cause, or at least hath a License, by this Law, till that Time to conceal the Cause; and the Goaler is not subject to any Action for the detaining of the Prisoner upon such Command; for if the Prisoner demand the Cause of his Commitment of the Goaler, it will be a safe Answer for him to say, that he detains the Prisoner by Warrant, and that it belongs not unto him to desire those who commit the Prisoner to shew the Cause, untill he returns the *Habeas Corpus*; and if the Prisoner be a Suitor to know the Cause from those that committed him, it will be a sufficient Answer for them to say, they will express the Cause at the Return of the *Habeas Corpus*. In this Case there will be a Wrong, because the Commitment is without Cause expressed; and one that suffers that Wrong, *viz.* the Party
im-

imprisoned; and yet no such Wrong-doer but may excuse, if not justify himself, by this Law. An. 4. Charles I.
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In making of Laws we must consider the Inconveniences which may ensue, and provide for the Prevention of them, *Lex caveat de futuris*. I have taken into my Thoughts some few Inconveniences, which I shall expose to your Considerations; not imagining that these can happen in the Time of our present gracious Sovereign; but, in Acts of Parliament, we must provide for the Prevention of all Inconveniences in future Times.

1. If a Man be in Danger to be imprisoned in the Beginning of a long Vacation, for refusing to pay some small Sum of Money; and knows that, by this Act, he can have no Enlargement till the Return of the *Habeas Corpus* in the Term; and that the Charge of his being in Prison, and of his Enlargement by *Habeas Corpus*, will amount to more than the Sum, he will part with Money to prevent his Imprisonment, or to redeem himself thence; because he cannot say any Man doth him Wrong, untill the Return of the *Habeas Corpus*; and the Law resolves a Man will pay a Fine rather than be imprisoned; for the Judgment which is given when one is fined, is *ideo capiatur*, and the highest Execution for Debt is a *Capias ad satisfaciendum*, the Law presuming any Man will part with his Money to gain his Liberty: And if the Prisoner procure an *Habeas Corpus*, and be brought into the *King's Bench* by virtue of it, yet the Cause need not to be then expressed; the Provision of this Law being, that if no Cause be then expressed, he shall be bailed: And no Cause being shewn upon the Return of the *Habeas Corpus*, yet it may be pretended, that, at the Time of his Commitment, there were strong Presumptions of some great Offence; but, upon farther Examination, they are cleared: Or it may be said, that the Offence was of that Nature, that the Time of his Imprisonment, before the Return of the *Habeas Corpus*, was a sufficient Punishment: So we may be frequently

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1628.

quently imprisoned in this Manner, and never understand the Cause; and have often such Punishments, and have no Means to justify ourselves: And for all these Proceedings this very Law will be the Justification, or Colour.

2. ' If by this Act there be a Toleration of Imprisonment, without shewing Cause until the Return of the *Habeas Corpus*; yet it is possible to accompany that Imprisonment with such Circumstances of close Restraint, and others which I forbear to express, as may make an Imprisonment, for that short Time, as great a Punishment, as a perpetual Imprisonment in the ordinary Manner.

3. ' The Party may be imprisoned a long Time before he shall come to be delivered by this Law; the Place of his Imprisonment may be in the furthest Parts of this Kingdom; the Judges always make the Return of the *Habeas Corpus* answerable to the Distance of the Prison from *Westminster*; the Goaler may neglect the Return of the first Process, and then the Party must procure an *alias*; the Goaler may be then in some other Employment for the King, and excuse the not returning the Body upon that Process; and this may make the Imprisonment for a Year; and, in the End, no Cause being returned, the Party may be discharged: But in the mean time he shall have suffered Imprisonment; he shall never know the Cause; he shall have no Remedy for it; nor be able to question any for Injustice, which have not a Justification, or Excuse by this Law.

4. ' The Party may be imprisoned during his Life, and yet there shall be no Cause ever shewn. I will instance in this Manner. A Man may be committed to the farthest Part of the Kingdom Westward; he obtains an *Habeas Corpus*; before the Goaler receives the *Habeas Corpus*, or before he returns it, the Prisoner by Warrant is removed from that Prison to another, it may be the furthest Northern Part of the Realm; the first Goaler returns the special Matter, which will be sufficient

to free himself; and, in like Manner the Prisoner may be translated from one Prison to another, and his whole Life shall be a Peregrination, or way-fairing from one Goal to another; yet he shall never know the Cause, nor be able to complain of any who cannot defend their Actions by this Bill.

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5. If the Prisoner be brought into the Court by *Habeas Corpus*, and no Cause expressed, and thereupon he be enlarged, he may be presently committed again; and then his Enlargement shall only make Way for his Commitment, and this may continue during his Life, and he shall never know the Cause; and this not remedied, but rather permitted by this Act.

6. And there are also many Things to be considered in this Matter; the Expence of the Party in Prison; his Fees to the Goaler; his Costs in obtaining and prosecuting an *Habeas Corpus*; and his Charges in removing himself, attended with such as have the Charge of his Conduct; and all this the Prisoner must sustain without any Satisfaction, or knowing the Cause.

7. The only Reason given by those of the other Opinion, (That it is requisite the King and Council should have Power to command the Detainer of a Man in Prison for some Time, without expressing the Cause) is, because it is supposed that the Manifestation of the Cause, at first, may prevent the Discovery of a Treason. The Reason is answered by the Remedy proposed by this Act; it being proposed, that it shall be provided by this Bill, that upon our Commitment, we may have instantly Recourse to the Chancery for an *Habeas Corpus* returnable in that Court, which is always open, that presently upon the Receipt thereof, the Writ must be returned, and the Cause thereupon expressed. If then this Remedy be really intended, the Cause of Commitment must presently appear; which contradicts the former Reason of State.

8. And, in my Opinion, we ought not only to take Care that the Subject should be delivered out of Prison, but to prevent his Imprisonment; the

Sta-

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Statute of *Magna Charta*, and the rest of the Acts, providing that no Man should be imprisoned but by the Law of the Land. And altho' the King or Council, as it hath been objected, by Might, may commit us without Cause, notwithstanding any Laws we can make; yet I am sure, without such an Act of Parliament, such Commitment can have no legal Colour; and I would be loth we should make a Law to endanger ourselves: For which Reasons I conceive, that, there being so many Ways to evade this Act, we shall be in worse Case by it than without it; since it provides no Remedy to prevent our Imprisonment without expressing the Cause to be lawful; and administers Excuses for continuing us in Prison, as I have before declared; and thus, by providing for one Particular, out of Reason of State, which possibly may fall out in an Age or two, we shall spring a Leak which may sink all our Liberties; and open a Gap, thro' which *Magna Charta*, and the rest of the Statutes, may issue out and vanish.

' I therefore conclude, that, in my poor Understanding, (which I submit to better Judgment) I had rather depend upon our former Resolutions, and the King's gracious Declarations, than to pass an Act in such Manner as hath been proposed.'

May 1. Mr. Secretary *Cook* delivered to the House the following Message from the King.

Mr. Speaker,

The King's
Message to the
Commons to rely
on his Word.

' I Have a very short Message to deliver from his
' Majesty, that shews both his Royal Care to
' be rightly understood of this House, and no less
' Care to understand us in the best Part; and, to
' shew clearly it shall not be his Fault if this be not
' a happy Parliament, his Majesty hath command-
' ed me to desire this House clearly to let him know,
' Whether they will rest upon his Royal Word and
' Promise, made at several Times, and especially
' by my Lord-Keeper's Speech made in his own
' Pre-

‘ Presence; which, if they do, he doth assure you, An. 4. Charles
1625.
‘ that it shall be really and royally performed.’

Upon this there was a Silence for some Time. Then Mr. Secretary *Cook* proceeded thus:

‘ This Silence invites me to a further Speech, and further to address myself. Now we see we must grow towards an Issue: For my Part, how confident I have been of the good Issue of this Parliament, I have certified in this Place, and elsewhere; and I am still confident therein. I know his Majesty is resolved to do as much as ever King did for his Subjects: All this Debate hath grown out of a Sense of our Sufferings, and a Desire to make up again those Breaches that have been made.

‘ Since this Parliament begun, hath there been any Dispende made like that which hath formerly been? When Means were denied his Majesty, being a young King, and newly come to the Crown, which he found engaged in a War, what could we expect in such Necessities? His Majesty has called this Parliament to make up the Breach: His Majesty assures us we shall not have the like Cause to complain: He assures us the Law shall be established: What can we desire more? All is, that we provide for Posterity, and that we do prevent the like Suffering for the future. Were not the same Means provided by them before us? Can we do more? We are come to the Liberty of the Subjects, and Prerogative of the King; I hope we shall not add any Thing to ourselves, to depress him. I will not divine; yet I think we shall find Difficulty herein with the King, nay perhaps with the Lords: I shall not deliver my Opinion as Counsellor to his Majesty, which I will not justify and say here, or at the Council-Board. Will we, in this Necessity, strive to bring ourselves into a better Condition, and greater Liberty, than our Fathers had, and the Crown into a worse than ever? I dare not advise his Majesty to admit of that. If this that we now desire to be, be no Innovation, it is all contain’d in those Acts and Statutes; and whatsoever else we

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1628.

will add more, is a Diminution to the King's Power, and an Addition to our own. We deal with a wise and valiant Prince, that hath a Sword in his Hand for our Good; and this Good is supported by Power. Do not think that, by Cases of Law and Debate, we can make that to be no Law; which, in Experience, we every Day find necessary, make what Law you will. Government is a solid Thing, and must be supported for our Good.

'(u) Give me Leave freely to tell you, that I know by Experience, that, by the Place I hold under his Majesty, if I will discharge the Duty of my Place, and the Oath I have taken to his Majesty, I must commit; and neither express the Cause to the Goaler, nor to the Judges, nor to any Counsellor in *England*, but to the King himself; yet do not think I go without Ground or Reason, or take this Power committed to me to be unlimited: Yea, to me, it is rather a Charge, Burden, and Danger; for if I, by this Power, shall commit the poorest Porter, if it appear I do it not upon a just Cause, the Burden will fall upon me heavier than the Law can inflict; for I shall lose my Credit with his Majesty, and also my Place. And I beseech you consider, whether those that have been in the same Place have not committed freely; and not any Doubt made of it, nor any Complaint made by the Subject.'

Debate thereon.

Sir *Robert Philips* said, 'If the Words of Kings strike Impressions in the Hearts of Subjects, then do these Words, upon this Occasion, strike an Impression into the Hearts of us all: To speak in a plain Language, we are now come to the End of our Journey; and the well disposing of an Answer to this Message, will give Happiness or Misery to this Kingdom. Let us set the Common-Wealth of *England* before the Eyes of his Majesty, that we may justify ourselves, that we have demeaned ourselves dutifully to his Majesty.'

The

(u) This Paragraph is omitted by *Rustworth*; but supplied from the *Epitome of Parliamentaria*.

The Day following the Commons debated further upon this Matter, in a grand Committee; Mr. *Herbert* in the Chair. An. 4. Charles I.
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Some said, 'The Subject has suffered more, in the Violation of antient Liberties, within these few Years, than in 300 Years before; and therefore Care ought to be taken for the Time to come.'

Sir Edward Coke said, 'That that *Royal Word* had Reference to some Message formerly sent: His Majesty's Word was, That they may secure themselves any Way, by Bill, or otherwise, and he promised to give Way to it: And to the end that this might not touch his Majesty's Honour, it was proposed, that the Bill come not from this House, but from the King: *We will and grant, for Us and Our Successors, that We and Our Successors will do thus and thus*: And it is to the King's Honour, that he cannot speak but by Record.'

Others desired the House to consider, when and where the late Promise was made: Was it not in the Face of both Houses? Cruel Kings have been careful to perform their Promises; yea, tho' they have been unlawful, as *Herod*: Therefore, if we rest upon his Majesty's Promise, we may assure ourselves of the Performance of it. Besides, we bind his Majesty by relying on his Word. We have Laws enough; it is the Execution of them that is our Life; and it is the King that gives Life and Execution.

Sir Thomas Wentworth concluded the Debate, saying, 'That never House of Parliament trusted more in the Goodness of their King, so far as regarded themselves only, than the present; but we are ambitious that his Majesty's Goodness may remain to Posterity, and we are accountable to a public Trust: And therefore, seeing there hath been a public Violation of the Laws by his Ministers, nothing can satisfy them but a public Amends. And our Desire to vindicate the Subjects Right by Bill, are no more than are laid down in former Laws, with some modest Provision for Instruction, Performance, and Execution.'

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This Motion so well agreed with the Sense of the House, that they made it the Subject of a Representation to be delivered by the Speaker to his Majesty.

Amidst these Deliberations, another Message was delivered from his Majesty by Mr. Secretary *Cook*, as follows:

Mr. Speaker,

Another Message
from the King.

‘ **H**OWsoever we proceed in this Business we have in Hand, which his Majesty will not doubt but to be according to our constant Profession, and so as he may have Cause to give us Thanks; yet his Resolution is, that both his Royal Care, and hearty and tender Affection towards us his loving Subjects, shall appear to the whole Kingdom, and all the World, that he will govern us according to the Laws and Customs of this Realm; that he will maintain us in the Liberties of our Persons, and Properties of our Goods, so as we may enjoy as much Happiness as our Forefathers in their best Times; and that he will rectify what hath been, or may be found amiss among us, so that hereafter there may be no just Cause to complain: Wherein, as his Majesty will rank himself amongst the best of Kings, and shew he hath no Intention to invade or impeach our lawful Liberties or just Rights, so he will have us to match ourselves with the best of Subjects; not by incroaching upon that Sovereignty or Prerogative, which God hath put into his Hands for our Good; but by containing ourselves within the Bounds and Laws of our Forefathers, without straining them, or enlarging them by new Explanations, or Additions in any Sort; which, he telleth us, he will not give Way unto.

‘ That the Weight of the Affairs of the Kingdom, and of *Christendom*, do press him more and more; and that the Time is now grown to that Point of Maturity, that it cannot endure long Debate or Delay, so as this Session of Parliament



liament must continue no longer than *Tuesday* An. 4. Charles I. Ep.
 come Seven-night at the furthest; in which
 Time his Majesty, for his Part, will be ready to
 perform what he hath promised; and if the
 House be not as ready to do what is fit for them-
 selves, it shall be their own Faults.

Lastly, upon Assurance of our good Dispatch
 and Correspondence, his Majesty declareth, That
 his Royal Intention is to have another Session of
 Parliament at *Michaelmas* next, for the perfect-
 ing of such Things as cannot now be done.

This Message was debated the next Day, being ^{Debate thereon.}
Saturday, May 3. whereupon Sir *John Elliot* spake
 to this Effect:

The King saith, He will rank himself with the
 best of Kings; and therefore he would have us to
 rank ourselves with the best of Subjects; and that
 we must not inroach upon that Sovereignty that
 God hath put into his Hands: This makes me fear
 his Majesty is misinformed in what we go about;
 let us make some Enlargement, and put it before
 him, that we will not make any Thing new: As
 for the Time of this Session, it is but short; and
 look, how many Messages we have; and so many
 Interruptions, Misreports, and Misrepresentations
 to his Majesty produce these Messages.

Sir *Miles Fleetwood* continued the Debate, and
 said, That this Business is of great Importance,
 and we are to accommodate it. The Breach of
 this Parliament will be the greatest Misery that ever
 befell us: The Eyes of *Christendom* are upon this
 Parliament; the State of all our Protestant Friends
 are ready to be swallowed up by the Emperor's
 Forces, and our own Kingdom is in a miserable
 Strait, for the Defence of our Religion that is in-
 vaded by the Romish Catholics, by the Colour of
 a Commission, which is intolerable; the Defence
 of our Realm by Shipping is decayed; the King's
 Revenue is sold and gone; where shall the Relief
 be obtained but in Parliament? Now we are in the

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Way, let us proceed by way of Bill, in pursuance of the King's Message, to establish the fundamental Laws of Property in our Goods, and Liberty of our Persons. It was declared to us, that Courses by Loan and Imprisonment were not lawful; let us touch them in our Bill, and that all Precedents and Judgments seeming to the contrary, be made void; that all Commitments against the Law be remedied, and that we be protected against the Fear of Commitments.

In conclusion, the Commons agreed to an Answer to all the preceding Messages, to be presented to the King, by the Mouth of their Speaker.

The SPEAKER'S SPEECH to the KING, the 5th of May, in Answer to several MESSAGES (x).

Most Gracious and Dread Sovereign,

The Commons
Answer to the
King's several
Messages.

‘ **Y**OUR loyal and obedient Subjects, the Commons now assembled in Parliament, by
‘ several Messages from your Majesty, and especially
‘ by that your Royal Declaration, delivered by
‘ the Lord Keeper before both Houses, have, to
‘ their exceeding Joy and Comfort, received many
‘ ample Expressions of your princely Care and
‘ tender Affections towards them; with a gracious
‘ Promise and Assurance, that your Majesty will
‘ govern according to the Laws and Statutes of
‘ this Realm; and so maintain all your Subjects in
‘ the just Freedom of their Persons, and Safety of
‘ their Estates, that all their Rights and Liberties
‘ may be by them enjoyed with as much Freedom
‘ and Security in your Time, as in any Age heretofore by their Ancestors, under the best of your
‘ Progenitors: For this so great a Favour, enlarged
‘ by a comfortable Intimation of your Majesty's
‘ Confidence in the Proceedings of this House, they
‘ do, by me their Speaker, make a full Return of
‘ most hearty Thanks to your Majesty, with all
‘ du-

(x) From *Rushworth*, corrected by the *Manuscripts*.

‘ dutiful Acknowledgment of your Grace and Goodness herein. An. 4. Charles I.
1623.

‘ And whereas in one of these Messages delivered from your Majesty, there was an Expression of your Desire to know, Whether this House would rest upon your Royal Word and Promise; assuring them, that if they would, it should be royally and really performed: As they again present their humble Thanks for the seconding and strengthening of your former Royal Expressions; so, in all Humbleness, they assure your Majesty, that their greatest Confidence is, and ever must be in your Grace and Goodness; without which, they well know, nothing that they can frame or desire will be of Safety or Avail to them; therefore they are all humble Suitors to your Majesty, that your Royal Heart will graciously accept and believe the Truth of theirs; which they humbly present, as full of Trust and Confidence in your Royal Word and Promise, as ever House of Commons reposed in any of their best Kings.

‘ True it is, they cannot but remember the public Trust, for which they are accountable to present and future Times; and their Desires are, That your Majesty’s Goodness might, in future Memory, be the Blessing and Joy of Posterity.

‘ But finding also, that of late there hath been public Violation of the Laws and the Subjects’ Liberties, by some of your Majesty’s Ministers; they thereupon conceive, that no less than a public Remedy will raise the dejected Hearts of your loving Subjects to a chearful Supply of your Majesty, or make them receive Content in the Proceedings of this House.

‘ From these Considerations, they most humbly beg your Majesty’s Leave to lay hold of that gracious Offer of yours, which gave them Assurance that if they thought fit to secure themselves in their Rights and Liberties, by way of Bill, or otherwise, so it might be provided for with due Respect to your Honour, and the Public Good,

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1628.

‘ you would be graciously pleased to give Way
 ‘ unto it. Far from their Intentions is it, any Way,
 ‘ to inroach upon your Sovereignty or Preroga-
 ‘ tive; nor have they the least Thought of strain-
 ‘ ing or enlarging the former Laws in any Sort,
 ‘ by any new Interpretations or Additions; the
 ‘ Bounds of their Desires extend no further, than
 ‘ to some necessary Explanation of that which is
 ‘ truly comprehended within the just Sense and
 ‘ Meaning of those Laws, with some moderate Pro-
 ‘ vision for Execution and Performance, as in
 ‘ Times past, upon like Occasion, hath been used.
 ‘ The Way how to accomplish these their just
 ‘ Desires, is now under serious Consideration with
 ‘ them; wherein they humbly assure your Maje-
 ‘ sty, they will neither lose Time, nor seek any
 ‘ Thing of your Majesty, but what they hope
 ‘ may be fit for dutiful and loyal Subjects to ask,
 ‘ and for a gracious and just King to grant.’

*His MAJESTY'S ANSWER as delivered by the
 LORD-KEEPER.*

*Mr. Speaker, and you Gentlemen of the House of
 Commons,*

His Majesty's
Reply.

‘ **H**IS Majesty hath commanded me to tell
 ‘ you, that he expected an Answer by your
 ‘ Actions, and not Delay by your Discourse. Ye
 ‘ acknowledge his Trust and Confidence in your
 ‘ Proceedings; but his Majesty sees not how you do
 ‘ requite him by your Confidence in his Words
 ‘ and Actions: For what need Explanations, if ye
 ‘ doubted not the Performance of the true Mean-
 ‘ ing? For Explanations will hazard an Inroach-
 ‘ ment upon his Prerogative. And it may well
 ‘ be said, What need a new Law to confirm an
 ‘ old, if you repose Confidence in the Declara-
 ‘ tion his Majesty made by me to both Houses?
 ‘ And yourselves acknowledge, that your greatest
 ‘ Trust and Confidence must be in his Majesty's
 ‘ Grace and Goodness, without which nothing ye
 ‘ can frame will be of Safety or Avail to you:
 ‘ Yet,

‘ Yet, to shew clearly the Sincerity of his Majesty’s Intentions, he is content that a Bill be drawn for a Confirmation of *Magna Charta*, and the other six Statutes insisted upon, for the Subjects Liberties, if ye shall chuse that as the best Way; but so as it may be without Additions, Paraphrases, or Explanations.

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‘ Thus, if you please, you may be secured from your needless Fears, and this Parliament may have the happy wished-for End: Whereas, on the contrary, if ye seek to tye your King by new, and indeed impossible, Bonds, you must be accountable to God and the Country for the ill Success of this Meeting. His Majesty hath given his Royal Word, that ye shall have no Cause to complain hereafter: Less than which hath been enough to reconcile great Princes, and therefore ought much more to prevail between a King and his Subjects.

‘ Lastly, I am commanded to tell you that his Majesty’s Pleasure is, That, without further Replies or Messages, or other unnecessary Delays, ye do what ye mean to do speedily; remembering the last Message that Secretary *Cook* brought you, in point of Time; his Majesty always intending to perform his Promise to his People.’

Notwithstanding this Intimation of his Majesty’s good Pleasure for a Bill, yet, the very next Day, Mr. Secretary *Cook* again pressed the House to rely upon the King’s Word, saying, ‘ That he had rather follow others than himself begin this Business: Loss of Time hath been the greatest Complaint: The Matter fallen now into Consideration, is what Way to take, whether to rely on his Majesty’s Word, or on a Bill. If we will consider the Advantage we have in taking his Majesty’s Word, it will be of the largest Extent, and we shall chuse that which hath most Assurance; an Act of Parliament is by the Consent of the King and Parliament, but this Assurance, by Word, is, that he will govern us by
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Debate thereon.

An. 4. Charles I.
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the Laws: The King promises that, and also that they shall be so executed, that we shall enjoy as much Freedom as ever: This contains many Laws, and a Grant of all good Laws; nay, it contains a Confirmation of those very Laws; an Assurance, which binds the King further than the Law can: First, it binds his Affection, which is the greatest Bond between King and Subject; and that binds his Judgment also, nay, his Honour, and that not at home only, but abroad. The Royal Word of a King is the Ground of all Treaty; nay, it binds his Conscience. This Confirmation between both Houses is in Nature of a Vow: For my Part, I think it is the greatest Advantage to rely on his Majesty's Word.' He further added, 'This Debate was fitter to be done before the House, and not before the Committee; and that it was a new Course to go into a Committee of the whole House.'

Whereunto it was replied by Sir *John Elliot*, 'That the proceeding in a Committee is more honourable and advantageous both to the King and the House; for that Way leads most to Truth, as it is a more open Way, where every Man may add his Reasons, and make Answer upon the hearing of other Men's Reasons and Arguments.'

This being the general Sense, the House was turned into a Committee, to take into Consideration what was delivered to the King by the Speaker, and what was delivered to them by the Lord Keeper, and all other Messages; and the Committee was not to be bounded by any former Order. The Key was brought up, and none were to go out without Leave first asked.

In the Debate of this Business at the Committee, some were for letting the Bill rest; but Sir *Edward Coke's* Reasons prevailed to the contrary. 'Was it ever known, said he, that general Words were a sufficient Satisfaction to particular Grievances? Was ever a verbal Declaration of the King, *Verbum Regis*? When Grievances be, the Parliament

ment is to redress them. Did ever Parliament rely on Messages? They put up Petitions of their Grievances, and the King ever answered them. The King's Answer is very gracious; but what is the Law of the Realm, that is the Question. I put no Diffidence in his Majesty; but the King must speak by Record, and in Particulars; and not in general. Did you ever know the King's Message come into a Bill of Subsidies? All succeeding Kings will say, Ye must trust me as well as ye did my Predecessors, and trust my Messages; but Messages of Love never came into a Parliament. Let us put up a Petition of Right: Not that I distrust the King; but that I cannot take his Trust but in a Parliamentary Way.

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1628.

The Lords had been, for some Time, taken up with reading Bills, and other Affairs of less Moment, till this Day, (May 6.) when the Earl *Marshal* made a Report from their Committee of Privileges, &c. concerning four Things which had been referred by the House to their Consideration. Which were these.

I. Whether a Peer of Parliament is to answer upon Oath, or upon his Honour only (y)?

Proceedings of the Lords on Matters of Privilege.

II. Whether a Peer, having done his Homage once to the King at his Coronation, may be compelled to pay, in respect of Homage, for Lands held of the King *in Capite*?

III. Whether the Goods of a privileged Person, taken in Execution, (during the Privilege of Parliament,) ought not to be delivered to the Party by the said Privilege?

IV. To consider of a Bill for the Releasement of such privileged Persons, as should be arrested after the Parliament ended, but during the Privilege thereof.

His Lordship further reported, That the Committee finding the first of these References to be general, they considered only of the Answers of Peers

(y) See the Proceedings of the Lords, relating to this Point of Privilege, in our 5th Vol. p. 341.

An. 4. Charles I. 1628. Peers as Defendants in Courts. And that they had

perused all the Precedents, which were, either for their Answers in this Kind, upon Protestation of Honour only, or upon common Oath; and, after mature Consideration, they all agreed, *una Voce*, That the Nobility of this Kingdom, and Lords of the Upper House of Parliament, were, by antient Right, to answer in all Courts, as Defendants, upon Protestation of Honour only, and not upon common Oath.

As touching the second, in respect of Homage, the Attorney-General desired to have Time to consider thereof, and they agreed that he should be heard in the House as soon as he was ready.

To the third, they had all agreed, That the Goods of a privileged Person, taken in Execution, ought to be redelivered, and freed, as well as the Person.

Concerning the Bill for setting at Liberty such privileged Persons, as should be arrested after the Parliament ended, and during the Privilege thereof, they had heard it read, and appointed Mr. Attorney to draw a new Bill.

This Report being ended, the House went into a Committee for a free Debate upon the first Question. And, after many Arguments, they came at last to a general Agreement; *That the Nobility of this Kingdom, as Lords of the Upper House of Parliament, are, of antient Right, to answer in all Courts as Defendants, upon Protestation of Honour only, and not upon the common Oath.*

Two Days after this Order, the Attorney-General delivered in his Opinion to the House concerning Homage; ' That he had advised with the Barons of the Exchequer therein, and had perused Records, and finds that Homage once done, for Lands held of the King, the Party is to do it no more. But, as touching Homage done at the Coronation, he found no Allowance, for these 300 Years past, for Discharge of Homage afterwards. He found also, That Homage once done, was to
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be certified out of Chancery into the Exchequer; and he found no Certificate of any Coronation Homage: That he sent to the Heralds for a Copy of the said Homage, wherein he noted, That there were no Words for any Land held of the King, as required by Law.' This Opinion was referred back to the Committee of Privileges; and the Archbishop of *Canterbury* acquainting the House, That he had a true Copy of the Homage done by the Lords at the Coronation, he was desired to shew it the next Day.—But to get done with this Affair, to come to Matters of much greater Moment.—The next Day the Archbishop produced his Copy of Homage made by the Peers, which, for the Archbishops and Bishops kneeling, was in these Words.

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1628.

I, A, will be faithful, and bear true Faith and Troth unto you, my Sovereign Lord, and to your Heirs, Kings of England; and I shall do, and truly acknowledge the Service of the Lands which I claim to hold of you, as in Right of the Church, as God shall help me. Then kissed the King's left Cheek.

For the Lay-Lords, thus: *I, N, become your Liegeman of Life and Limb, and of all earthly Worship; and Faith and Troth I shall bear unto you, to live and die against all Manner of Folks. So God help me.* This Homage being ended, they put forth their Hands and touch the Crown by way of Ceremony, as promising to support it with all their Power.

After this, the Question about Respect of Homage was again referred to the Committee for Privileges, &c.

About this Time also, the Commons having, under their Consideration, a Point of Privilege, Sir *Thomas Wentworth* spoke as follows (z).

Mr. Speaker,

TOO many Instigations importune the Sequel of my Words. *First*, The Equity of your Proceedings. *Secondly*, The Honesty of my Request.

(z) From a Pamphlet printed in this Session, in the Collection of Sir *John Goodricke* beforementioned.

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1628.

quest. For I behold in all your Intendments, a Singularity grounded upon Discretion and Goodness: And your Consultations steered as well by Charity, as Extremity of Justice.

‘ This Order and Method, I say, of your Proceedings, together with the Opportunity offered, of the Subject in Hand, have emboldened me to solicit an Extention of the late granted Protections in general. The Lawfulness and Honesty of the Propositions depends upon these two Particulars.

‘ I. The present Troubles of the Parties protected, have run them into a further, and almost irrecoverable Hazard; by presuming upon, and feeding themselves with, the Hopes of a long continuing Parliament.

‘ II. The second will have this; That which is prejudicial to most, ought to minister Matter of Advantage to the rest; since then our Interpellations and Disturbances amongst ourselves are displeasing almost to all; if any Benefit may be collected, let it fall upon those Parties aforesaid; for I think the Breach of our Session can befriend none but such; nor such neither, but by Means of the Grant before hand. And because it is probable, that his Majesty may cause a Re-meeting this next *Michaelmas*; let thither also reach their prescribed Time for Liberty: And that, till then, let their Protections remain in as full Virtue and Authority, as if the Parliament were actually sitting.’

A Conference concerning the Petition of Right.

May 8. The Lords received a Message from the Commons, importing, That they desired a further Conference with their Lordships in Pursuance of former Conferences had of late. It seems the Commons had now finished their *Petition of Right*, and a Clause, relating to Martial Law, was added to it. The Lords agreed to the Proposal; and a Conference, by Committees of both Houses, was held in the *Painted Chamber* at two that Afternoon.

The Report of this Conference was made the next Day, by the Lord Keeper, who said, ‘ That Sir
Edward

Edward Coke, after making an Excuse for his long Stay, expressed the great Joy of the Commons for the good Concurrence between the Lords and them in this Business. That, at the first Conference, the Commons shewed unto their Lordships what Evidences they had of their Liberties. Since which Time, they received five Propositions, penned, by a grave and reverend Prelate, from their Lordships; and it is fit they should give them a Reason, why they have heard no sooner from them concerning the same. And said, That after some Debate among themselves, concerning those Propositions, they received from his Majesty five gracious Messages.

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1628.

‘ I. That he would maintain all his Subjects in their just Liberties of their Persons and Goods.

‘ II. That he would govern according to the Laws and Statutes of this Kingdom.

‘ III. That we should find as much Security in his Majesty’s Word as in any Law or Statute whatsoever.

‘ IV. That we should enjoy all our Freedoms, in as just and ample Manner, as our Ancestors did in the Time of any of his best Predecessors.

‘ V. That for the securing of this, the House of Commons might, if they thought fit, proceed by Bill or otherwise.

‘ Then he said, That these Messages of the King’s being categorical, and their Lordships Propositions but hypothetical, the Commons had laid the latter aside; *Quia in Potentia majoris cessat Potestas minoris; & hæc sunt Causæ*, said the Knight, why their Lordships heard from the Commons no sooner about their Propositions.

‘ He next said, That, according to the King’s Message, the Commons had thought good to proceed in a parliamentary Way; *Periculosum enim est, proborum Virorum Exemplo non comprobare*; and, if their Lordships would please to concur herein, they doubt not but the Success will be happy. That they had drawn up a *Petition of Right*, according to antient Precedents, and left Space for the

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An. 4. Charles 1.
1628.

the Lords to join therein with them. And he affirmed, That this Manner of Proceeding, by Petition, was the antient Way, until the unhappy Divisions between the Houses of *York* and *Lancaster*.'²

After this Report was ended, the said Petition was twice read, and afterwards referred to a select Committee of Lords, who were to meet that Afternoon, and inform themselves of Precedents of this Kind.

The next Day the Lord-Keeper reported, That the Committee had considered of the Change of some Words, in the Petition, without Alteration of the Substance thereof. Then the said Changes were read, which are not necessary here to insert, since they will fall apter, when they come to be debated, between the two Houses, afterwards.

May the 12th, the Duke of *Buckingham* delivered a Letter from the King, sealed with the Royal Signet, which was read first by the Lord-Keeper, and then by the Clerk, as follows.

To our Right Trusty and Right Well-beloved, the
LORDS SPIRITUAL and TEMPORAL of the
Higher House of PARLIAMENT (a).

CHARLES R.

The King's Letter to the Lords on that Subject.

WE, being desirous of nothing more than the Advancement of the Good and Prosperity of our People, have given Leave to free Debate upon the highest Points of our Prerogative Royal; which, in the Time of our Predecessors, Kings and Queens of this Realm, were ever restrained as Matters that they would not have disputed; and in other Things we have been willing so far to descend to the Desires of our good Subjects, as might fully satisfy all moderate Minds, and free them from all just Fears and Jealousies; which, those Messoges, we have hitherto sent to the Commons House, will well demonstrate unto the World: Yet we find it still insisted upon, that,
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(a) From *Russetworth* corrected by the *Lords Journals*.

in no Case whatsoever, should it ever so nearly concern Matters of State or Government, neither we, nor our Privy-Council, have Power to commit any Man without the Cause shewed; whereas it often happens, that, should the Cause be shewed, the Service itself would thereby be destroyed and defeated; and the Cause alledged must be such as may be determined by our Judges of our Courts of Westminster, in a legal and ordinary Way of Justice; whereas the Causes may be such, as those Judges have not Capacity of Judicature, nor Rules of Law to direct and guide their Judgment in Cases of so transcendent a Nature; which happening so often, the very Intermitting of that constant Rule of Government, practised for so many Ages, within this Kingdom, would soon dissolve the Foundation and Frame of our Monarchy.

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1628.

*Wherefore as, to our Commons, we made fair Propositions, which might equally preserve the just Liberty of the Subject: So, my Lords, we have thought good to let you know, that, without the Overthrow of our Sovereignty, we cannot suffer this Power to be impeached: Notwithstanding, to clear our Conscience and just Intentions, this we publish, That it is not in our Heart,; nor will we ever extend our Royal Power, lent unto us from God, beyond the just Rule of Moderation, in any Thing which shall be contrary to our Laws and Customs; wherein the Safety of our People shall be our only Aim. And we do hereby declare our Royal Pleasure and Resolution to be, which, God willing, we shall ever constantly continue and maintain, That neither we, nor our Privy-Council, shall or will, at any Time hereafter, commit or command to Prison, or otherwise restrain, the Person of any Man for not lending Money to us; nor for any other Cause, which, in our Conscience, doth not concern the public Good and Safety of us and our People: We will not be drawn to pretend any Cause, wherein our Judgment and Conscience are not satisfied; which base Thought, we hope, no Man can imagine, will fall into our Royal Breast: And, in all Cases of this Nature, which shall hereafter happen, we shall, upon
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the humble Petition of the Party, or Address of our Judges unto us, readily and really express the true Cause of their Commitment or Restraint; so soon as, with Conveniency and Safety, the same is fit to be disclosed and expressed: And that in all Causes criminal, of ordinary Jurisdiction, our Judges shall proceed to the Deliverance or Bailment of the Prisoner, according to the known and ordinary Rules of the Laws of this Land, and according to the Statutes of Magna Charta, and those other six Statutes insisted upon; which we do take Knowledge stand in full Force, and which we intend not to abrogate or weaken against the true Intention thereof,

This we have thought fit to signify, the rather to shorten any long Debate upon this great Question; the Season of the Year being so far advanced, and our great Occasions of State not lending many more Days for longer Continuance of this Session of Parliament.

Given under our Signet, at our Palace at Westminster, 12th of May, in the fourth Year of our Reign.

The King's Letter being read, a Message was immediately sent to the Commons, for a present Conference between both Houses in the *Painted Chamber*. Which being agreed to, and the Lords returned from it, the Lord-Keeper declared, 'That, according to the Direction of the House, he informed the Commons of their Lordships Desire to continue a good Correspondence with them. That they desired this Conference to shew their Proceedings on the *Petition of Right*, presented to their Lordships by the Commons; which, after much Debate in the House, was referred to a select Committee to be considered, 'Whether any Thing, not altering the Sense of the Petition, might be vary'd therein, so as it might be fit to receive from his Majesty a gracious Answer:' That the Committee returned to the House these Alterations, which are now offered to the Commons, only narratively; and that they left one great Point,

Who thereupon
desire a present
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in the said Petition, concerning Imprisonment without a Cause expressed, to be debated by their House; but, before the Lords had entered into it, they received a gracious Letter from the King, this Morning, which offers Satisfaction to both Houses therein; and before their Lordships would proceed any further, they thought fit to acquaint them therewith.

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That this being spoken, he, the Lord-Keeper, delivered unto the Commons the said *Petition of Right*, and the Alterations thereof in Paper; and that he, likewise, did deliver unto them a Copy of the King's Letter, and read the original thereof, they acknowledging the said Copy to agree therewith *verbatim*; and then his Lordship desired the Commons to expedite this Business, unto which they answered, 'They came with Ears only.'

The Report being ended, the Lords referred the further Consideration of this Business to the Afternoon. At which Time, it was put to the Question and agreed, That touching the Point of Imprisonment, in the Petition, that House should move the Commons, That the Petition may be reduced, in the aforesaid Point, within the Compass of what his Majesty had offered by his gracious Letter.

The same Day when the King's Letter was communicated to the House of Commons, they laid it aside: And Sir *Thomas Wentworth* said, 'It was a Letter of Grace; but the People will only like of that which is done in a Parliamentary Way; besides, the Debate of it would spend much Time, neither was it directed to the House of Commons; and the *Petition of Right* would clear all Mistakes: For, said he, some give it out, as if the House went about to pinch the King's Prerogative.'

May 14th, both Houses met at a Conference; after which, the Lord-Keeper reported the Effect thereof to the Lords, *viz.*

First, His Lordship repeated the Heads of what he spake, according to the Directions of the House,

The Report thereof by the Lord Keeper.

An. 4. Charles I. this Morning in the Entrance of the said Confer-
1628. ence, on this Manner.

‘ That at the last Meeting, the Lords made to the Commons a Proposition, of some Alterations to be made in the Petition; and doubt not but the Commons have considered of them, and come prepared to confer.

‘ That, at the same Time, the Commons were made acquainted with his Majesty’s Letter; and had a Copy delivered them to consider of it, as the Lords also promised to do.

‘ That the Lords have done accordingly; and taken into their Thoughts, *First*, The Propositions or Tenets of the Commons concerning the Subject’s Liberty. *Secondly*, That Part of the Petition which concerns it. And, *Lastly*, His Majesty’s Letter.

‘ That, upon all these, they have not proceeded to any Resolution exclusive or conclusive; not to exclude the Right or Liberty of the Subject, nor the Proposition or Petition concerning the same; nor yet to exclude the Prerogative, or Right of the King; nor to conclude themselves from more mature Resolutions.

‘ But upon Consideration of the Letter, they find gracious Intentions in the King, and divers royal and good Offers touching the Liberty and Freedom of the People.

‘ That they have considered of the present Affairs, That our Coasts are infested by Enemies, and likely to be more so, if there be no present Preparations against them.

‘ That the State of the Reformed Religion abroad is miserable and distressed; and expects and depends on the Success of this Parliament. And, therefore, their Lordships wish such a Course to be taken as may best beget a right Understanding between the King and his People. And, therefore, they have thought fit that the Commons be moved, that the Petition concerning that Point, for this Time and Session, be reduced into such a Form as
may

may be most agreeable to that, which, by this Letter, we may expect to have from the King.' An. 4. Charles 1.
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The Lord-Keeper further reported, That he having said thus much, Sir *Edward Coke*, one of the Commons House, answered and expressed their great Joy, for that the Lords held so good Correspondence with them, which they would endeavour to continue; and proceeded to speak to their Petition; and of their Lordships proposed Alterations and Amendments; and of the King's Letter; and said, That they had voted their Petition, and expected Reasons from the Lords for those Alterations: And that the Letter is no Answer in a Parliamentary Way, to their Petition, &c. That it will take up much Time fully to consider thereof; and he offered to satisfy their Lordships in the other Part of the Petition.

The Lord-Keeper also further reported, That Sir *Dudley Diggs*, one of the Commons, desired to have Leave to resort to their House, and they would return suddenly to the Conference again.

After some small Stay, the Commons returned to the Conference: And the Lords having Notice thereof the House was adjourned during Pleasure.

Their Lordships being returned, the House was resumed: And

The Lord-Keeper reported that the Commons said, That they had related unto their House what their Lordships had said concerning the King's Letter; and that their House had resolved, Not to enter into Consideration thereof, for that it is no Parliamentary Course. And they explained what Sir *Edward Coke* had said, touching their voting of the Petition, *viz.* That they had voted it at a Committee, not in their House; for, otherwise, they could not alter any Part thereof.

This Report ended, the Lords considered what should be more said unto the Commons; who attended in the *Painted Chamber*. And, after some small Debate, it was agreed to return to the said Conference; and the Lord-Keeper to let them

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That it is not the Intent of the Lords to rest only upon the King's Letter, for an Answer to the Petition; but to move the Commons to frame the Petition, so as it may be best accommodated for the King's Answer; and then to proceed in a Parliamentary Way. Their Desire is not to change the Substance of the *Petition*, (by those Alterations propounded,) but only to alter some Phrases, which may, haply, be displeasing unto his Majesty. And that the Lords desire, that the Point of Imprisonment may have Precedency, before they debate any other Point of the *Petition*.

Then the House was again adjourned during Pleasure: And the Lords went to the Conference.

Being returned, and the House resumed,

The Lord-Keeper reported the Commons Answer, to be, that they conceive the Lords propounded not unto them, That they should wholly rely on the King's Letter, for an Answer to the *Petition*: Yet, notwithstanding, they cannot proceed upon the said Letter: it not being a Parliamentary Way. That if the Lords will be pleased to propound the Alterations of the *Petition*, they will confer thereon.

This Report ended, the Lords began to debate amongst themselves an Accommodation, touching the Point of Imprisonment. And the House being put into a Committee, and having agreed not to be concluded by any Proposition of Accommodation, it was resumed again.

Agreed upon the Question, That To-morrow Morning the House shall proceed to the Accommodation of this Point in the *Petition*.

The Lords debated this Matter yet some Days longer, till, on the 17th, their Committee brought in an *Addition* to the *Petition of Right*; which was read in these Words:

The Lords Addition to the *Petition of Right*.

We humbly present this Petition to your Majesty, not only with a Care of preserving our own Liberties, but with due Regard to leave entire that sovereign Power

Power, wherewith your Majesty is trusted, for the Protection, Safety, and Happiness of your People. An. 4. Charles I.
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The said Committee declared, That this was offered to be considered of, for an Accommodation only; not that it should conclude their Lordships in their Opinion, nor exclude the *Petition of Right* presented to them by the Commons.

The Lords agreed to these Proposals of their Committee, and resolved to have another Conference with the Commons, both about this Addition, and some other Alterations, formerly proposed, to their *Petition of Right*: In which, *inter alia*, the Lord Keeper was to tell them, That the Lords did desire a good Correspondency with them, which would tend to a happy Success of this Parliament.

This Conference was held in the Afternoon of that Day; when the Lord Keeper opened it in the Manner following:

THAT whereas at the last Conference of both Houses, there were some Things propounded that came from their Lordships, out of a Desire the *Petition* might have the easier Passage with his Majesty, not intending to violate, in any Manner, the Substance of the *Petition*; but it was then thought, that there was another Part of the *Petition* of as great Importance and Weight: The Lords, since the Time of that Conference, have employed themselves wholly to reduce the *Petition* to such a Frame and Order, that they may give both to you and them Hope of Acceptance.

And, after many Deliberations, and much Advice taken, my Lords have resolved to represent unto you something which they have thought upon, yet not as a Thing conclusive to them or you; and, according to their Desires (having mentioned it in the Beginning) have held it fit to conclude of nothing, till that you be made acquainted with it; and that there may be a mature Advisement between you and them, so that there may be the happier Conclusion in all this Business.

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‘ This being the Determination of the Lords, That nothing that is now offered unto you should be conclusive; yet they thought it convenient to present it unto you.

‘ This Alteration, (yet not Alteration but Addition) which they shall propound unto you, to be advised and conferred upon, which is no Breach of the Frame; they think meet, if it shall stand with your Liking, to be put in the Conclusion of the *Petition*, which I shall now read unto you.

We humbly present this Petition to your Majesty, not only with a Care of preserving our own Liberties, but with due Regard to leave entire that Sovereign Power wherewith your Majesty is trusted for the Protection, Safety, and Happiness of your People.

‘ This is the Thing the Lords do present unto you as the Subject of this Conference, concerning the adding of this in the Conclusion of the *Petition*: And as they know this is new, and that you cannot presently give an Answer to it, therefore they desire that you do, with some Speed, consider of it; and their Lordships will be ready this Afternoon.’

The Commons being returned to their House, and the *Addition* being debated, it produced several Speeches (*b*).

Debate thereon
in the Commons.

Mr. *Alford*. ‘ Let us look into the Records, and see what they are; what is *Sovereign Power*? *Bodin* saith, That it is free from any Conditions. By this we shall acknowledge a regal as well as a legal Power. Let us give that to the King the Law gives him, and no more.’

Mr. *Pimpe*. ‘ I am not able to speak to this Question, for I know not what it is. All our *Petition* is for the Laws of *England*; and this Power seems to be another distinct Power from the Power of the Law. I know how to add Sovereign to the King’s Person, but not to his Power: And we cannot leave to him a *Sovereign Power*; for we never were possessed of it.’

Mr.

(*b*) For all these we are obliged to Mr. *Rushworth*, our Manuscripts being silent on this Subject.

Mr. *Hackwell*. 'We cannot admit of these Words with Safety: They are applicable to all the Parts of our *Petition*: It is in the Nature of a *Saving*, and by it we shall imply as if we had in-croached on his Prerogative. All the Laws we cite are without a *Saving*; and yet now, after the Violation of them, must we add a *Saving*? I have seen divers *Petitions* where the Subject claimed a Right, yet there I never saw a *Saving* of this Nature.'

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Sir *Edward Coke*. 'This is *magnum in parvo*. This is propounded to be a Conclusion of our *Petition*. It is a Matter of great Weight; and, to speak plainly, it will overthrow all our *Petition*; it trenches to all Parts of it; it flies at Loans, at the Oath, at Imprisonment, and at billeting of Soldiers: This turns all about again. Look into all the *Petitions* of former Times; they never petitioned wherein there was a *Saving* of the King's Sovereignty. I know that Prerogative is Part of the Law, but *Sovereign Power* is no parliamentary Word. In my Opinion it weakens *Magna Charta*, and all the Statutes; for they are absolute, without any *Saving* of *Sovereign Power*; and should we now add it, we shall weaken the Foundation of Law, and then the Building must needs fall. Take we heed what we yield unto: *Magna Charta* is such a Fellow, that he will have no *Sovereign*. I wonder this *Sovereign* was not in *Magna Charta*, or in the Confirmations of it. If we grant this, by Implication we give a *Sovereign Power* above all Laws. Power in Law, is taken for a Power with Force: The Sheriff shall take the Power of the County; what it means here, God only knows. It is repugnant to our *Petition*; that is, a *Petition of Right*, grounded on Acts of Parliament. Our Predecessors could never endure a *Salvo Jure suo*, no more than the Kings of old could endure for the Church, *Salvo Honore Dei & Ecclesiæ*. We must not admit of it; and to qualify it is impossible. Let us hold our Privileges according to the Law: That Power that is above this, is not fit for the King
and

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and People to have it disputed further. I had rather, for my Part, have the Prerogative acted, and I myself to lye under it, than to have it disputed.'

Sir *Thomas Wentworth*. 'If we do admit of this *Addition*, we shall leave the Subject worse than we found him; and we shall have little Thanks for our Labour when we come home. Let us leave all Power to his Majesty to punish Malefactors; but these Laws are not acquainted with *Sovereign Power*. We desire no new Thing; nor do we offer to trench on his Majesty's Prerogative: We may not recede from this *Petition*, either in Part or in Whole.'

Mr. *Noye*. 'To add a *Saving* is not safe: Doubtful Words may beget ill Construction; and the Words are not only doubtful Words, but Words unknown to us, and never used in any Act or *Petition* before.'

Mr. *Selden*. 'Let us not go too hastily to the Question: If there be any Objections, let any propound them, and let others answer them as they think good. If it hath no Reference to our *Petition*, what doth it here? I am sure all others will say it hath Reference, and so must we. It doth far exceed all Examples of former Times. What Man can shew me the like? I have made that Search that fully satisfies me, and I find not another besides 28. *Elizabeth*. We have a great many *Petitions* and Bills of Parliament in all Ages, in all which we are sure no such Thing is added. That Clause of 28. *Edward I.* was not in the *Petition*, but in the King's Answer.

'In *Magna Charta* there were no such Clauses. The Articles themselves are to be seen in a Library at *Lambeth*, in a Book of that Time, upon which the Law was made. There was none in the Articles in King *John's* Time, for these I have seen; and there is no *Saving*. In the Statutes of *Confirmatio Chartarum*, is a *Saving*, *les Antients Aids*; that is, *pur Fille maryer*, & *pur faire Fitz Chivalier*, and for Ransom. And in the Articles of King *John* in the original Charter (which I can shew) there
those

those three Aids were named therein, and they were all known. In the 25th of *Edward III.* there is a Petition against Loans, there is no *Saving*; and so in others. As for that Addition in the 28th of *Edward I.* do but observe the Petitions after *Magna Charta*; as 5. *Edward III.* they put up a Petition; whereas, in *Magna Charta*, it is contained, That none be imprisoned, but by due Process of Law; those Words are not in *Magna Charta*, and yet there is no *Saving*: And so in the 28th of *Edward III.* and 36. 37. and 42 of *Edward III.* all which pass by Petition, and yet there is no *Saving* in them: And there are in them other Words that are not in *Magna Charta*, and yet no *Saving*.

As to what we declared, by the Mouth of our Speaker, this Parliament, That it was far from our Heart to inroach on the King's Prerogative; we then spake of the King's Prerogative by itself, and we are bound to say so: But speaking of our own Rights, shall we say, We are not to be imprisoned, *saving* but by the King's *Sovereign Power*? Say, my Lands (without any Title) be seized in the King's Hands, and I bring a Petition of Right; and I go to the King and say, 'I do by no Means seek your Majesty's Right and Title;' and, after that, I bring a Petition, or *Monstrance de Droit*, setting forth my own Right and Title; and, withall set down a *Saving*, that I leave entire his Majesty's Right; it would be improper. It was objected, That in the 28th of *Edward I.* in the End of *Articuli super Chartas*, which was a Confirmation of *Magna Charta*, and *Charta de Foresta*, in the End there was a Clause, *Savant le Droit & Signiory*; the Words are in that Roll that is now extant, but the original Roll is not extant.

In the 25th of *Edward III.* there was a Confirmation of the Charter. In the 27th of *Edw. III.* the Parliament was called, and much Stir there was about the Charter, and renewing the Articles; but then little was done. In 28. *Edward I.* the Commons, by Petition or Bill, did obtain the Liberties and Articles at the End of the Parliament; they were

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were extracted out of the Roll, and proclaimed abroad. The Addition was added in the Proclamation; but in the Bill there was no *Savant*, yet afterwards it was put in; and to prove this, tho' it is true there is no Parliament-Roll of that Year; yet we have Histories of that Time: In the Library at *Oxford*, there is a Journal of a Parliament of that very Year which mentions so much; as also in the public Library at *Cambridge*, there is in a Manuscript that belonged to an Abbey: It was of the same Year, 28, *Edward I.* and it mentions the Parliament and the Petitions, and *Articulos quos petierunt sic confirmavit Rex, ut in Fine adderet, salvo Jure Coronæ Regis*, and they came in by Proclamation. But, in *London*, when the People heard of this Clause being added in the End, they fell into Execration for that Addition; and the great Earls, that went away, satisfied, from the Parliament, hearing of this, went to the King; and afterwards it was cleared at the next Parliament. Now, there is no Parliament-Roll of this, of that Time; only in the End of *Edw. III.* there is one Roll that recites it.

Reasons given by
the Lords for
their Addition.

The Lords, afterwards, at a Conference, tendered Reasons to fortify their *Addition*; which were briefly reported to the Commons that the Lord Keeper said, 'That the Lords were all agreed to defend and maintain the just Liberties of the Subject, and of the Crown; and that the Word *leave* was debated amongst them; and thereby they meant to give the King nothing new, but what was his before: As to the Words, *Sovereign Power*, as he is a King he is a Sovereign, and must have Power; and he said the Words were easier than the Word *Prerogative*. As for the Word *that*, it is a Relative, and referred to that Power, that is for the Safety of the People; and this, said he, can never grieve any Man; being thus published, it is not *Sovereign Power in general*. But now, in Confutation of our Reasons, he said, *Magna Charta* was not with a *Saving*; but, said he, you pursue
not

not the Words of *Magna Charta*, and therefore it An. 4. Charles
1628. needs an *Addition*.

‘As for the 28th of *Edward I.* he said there was a *Saving*, and an ill Exposition cannot be made of this; and both Houses have agreed it in Substance already; that the Commons did it in a Speech delivered by the Speaker; and that we say we have not a Thought to incroach on the King’s Sovereignty; and why may we not add it in our *Petition*?’

Upon this Report Mr. *Mafon* spake as follows (c):

Mr. Speaker,

IN our *Petition of Right* to the King’s Majesty, Mr. Mafon’s
Speech in An-
swer thereto. we mention the Laws and Statutes; by which it appeareth, That no Tax, Loan, or the like, ought to be levied by the King, but by common Assent in Parliament: That no Freeman ought to be imprisoned but by the Law of the Land: And that no Freeman ought to be compelled to suffer Soldiers in his House.

‘In the *Petition* we have expressed the Breach of these Laws, and desire we may not suffer the like; all which we pray as our Rights and Liberties.

‘The Lords have proposed an *Addition* to this *Petition*, in these Words:

We humbly present this Petition to your Majesty, not only with a Care of preserving our own Liberties, but with due Regard to leave entire that Sovereign Power, wherewith your Majesty is trusted, for the Protection, Safety, and Happiness of your People.

‘Whether we shall consent to this *Addition*, is the Subject of this Day’s Discourse: And because my Lord Keeper, at the Conference, declared their Lordships had taken the Words of the *Petition* apart, I shall do so too.

‘The Word *Leave*, in a *Petition*, is of the same Nature as *Saving* in a Grant or Act of Parliament: When a Man grants but Part of a Thing he saves the rest;

(c) From Sir *John Napier*’s Manuscript, it being more correct than the Copy in *Rushworth*.

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rest ; when he petitions to be restored but to Part, he leaveth the rest : Then, in the End of our *Petition*, the Word *Leave* will imply, that something is to be left of that, or at least with a Reference to what we desire.

‘ The Word *Entire* is very considerable. A Conqueror is bound by no Law, but hath Power *dare Leges* ; his Will is a Law : And altho’ *William the Conqueror*, at first, to make his Way to the Crown of *England* the more easy, and the Possession of it more sure, claimed it by Title ; yet afterwards, when there were no powerful Pretenders to the Crown, the Title of Conquest (to introduce that absolute Power of a Conqueror) was claimed ; and the Statute of *Magna Charta*, and other Statutes mentioned in our *Petition*, do principally limit that Power. I hope it is as lawful for me to cite a *Jesuit*, as it is for Dr. *Manwaring* to falsify him ; *Suarez*, in his first Book, *de Legibus*, Cap. 17. delivereth his Opinion in these Words, *Amplitudo & Restrictio Potestatis Regum, circa ea quæ per se mala vel injusta non sunt, pendent ex Arbitrio hominum, & ex ambigua Conventione, vel Pacto, inter Reges & Regnum*. And he farther expresseth his Opinion, That the King of *Spain* was so absolute a Monarch, that he might impose Tribute without Consent of his People, untill about 200 Years since ; when it was concluded, between him and his People, that without Consent of his People by Proxies, he should not impose any Tribute. And *Suarez’s* Opinion is, That, by that Agreement, the Kings of *Spain* are bound to impose no Tribute without Consent.

‘ And this Agreement that Author calls a restraining of that *Sovereign Power*. The Statutes then, mentioned in our *Petition*, restraining that absolute Power of the Conqueror ; if we recite those Statutes, and say, we *leave entire that Sovereign Power*, we do take away that Restraint, which is the Virtue and Strength of those Statutes ; and do hereby set at Liberty this Claim of Sovereign Power of a Conqueror, which then will be limited

ted and restrained by no Laws: This may be the Danger of the Word *Entire*. An. 4. Charles I.
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‘ The next Word delivered by the Lords as observable, is the Particle *that*. And it was said, That all Sovereign Power is not mentioned to be left, but only that with which the King is trusted for our Protection, Safety, and Happiness: But I conceive this to be an Exception of all *Sovereign Power*; for all *Sovereign Power* in a King, is for the Protection, Safety, and Happiness of his People. If all *Sovereign Power* be excepted, you may easily judge the Consequence; all Loans and Taxes being imposed by Colour of that *Sovereign Power*.

‘ The next Word is *trusted*, which is very ambiguous; whether it be meant trusted by God only, as a Conqueror; or by the People also, as a King, who is to govern also according to Laws, *ex Pacto*. In this Point, I will not presume to adventure further; only I like it not, by reason of the doubtful Exposition it admits.

‘ I have likewise considered the Proposition itself, and therein I have fallen upon a Dilemma, That this *Addition* shall be construed, either to refer unto the *Petition*, or not: If it do not refer unto the *Petition*, it is merely useless and unnecessary, and unbecoming the Judgment of this grave and great Assembly to add to a *Petition* of this Weight. If it hath Reference unto it, then it destroys not only the Virtue and Strength of our *Petition of Right*, but our Rights themselves: For the *Addition*, being referred to each Part of the *Petition*, will necessarily receive this Construction, *viz.*

‘ That none ought to be compelled to make any Gift, Loan, or such like Charge, without common Consent, or Act of Parliament; unless it be by the *Sovereign Power*, with which the King is trusted for the Protection, Safety, and Happiness of his People:—That none ought to be compelled to sojourn or billet Soldiers, unless by the same *Sovereign Power*:—And so of the rest of the Rights contained in the *Petition*.

‘ Then

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‘ Then the most favourable Construction will be, That the King hath an ordinary Prerogative, and by that he cannot impose Taxes, or imprison; that is, he cannot impose Taxes at his Will, or employ them as he pleaseth: But that he hath an extraordinary and transcendent *Sovereign Power*, for the Protection and Happiness of his People; and for such Purpose he may impose Taxes, or billet Soldiers as he pleaseth. And we may assure ourselves, that hereafter all Loans, Taxes, or Billeting of Soldiers, will be said to be for the Protection, Safety, and Happiness of the People: Certainly, hereafter, it will be conceived, that an House of Parliament would not have made an unnecessary *Addition* to this *Petition of Right*; and therefore it will be resolved, That the *Addition* hath Relation to the *Petition*, which will have such Operation as I have formerly declared: And I the rather fear it, because the late Loan and Billeting have been declared to have been by *Sovereign Power*, for the Good of ourselves; and if it be doubtful whether this Proposition hath Reference to the *Petition* or not, I know who are to judge whether Loans or Imprisonments hereafter be by that *Sovereign Power*, or not?

‘ A Parliament, which is a Body made up of several Wits, and may be dissolved by one Commission, cannot be certain to decide this Question: We cannot resolve that. If the Judges shall determine the Words of the King’s Letter read in this House, reciting, *That the Cause of Commitment may be such, that the Judges themselves have not Capacity of Judicature, nor Rules of Law to direct and guide their Judgments in Cases of that transcendent Nature*; why then the Judges, and the Judgments may be easily conjectured. It hath been confessed by the King’s Counsel, that the Statute of *Magna Charta* binds the King, then it binds his *Sovereign Power*, and here is an *Addition of Saving* the King’s *Sovereign Power*.

‘ I shall next endeavour to give some Answer to the Reasons given by the Lords.

‘ The

“ The *First* is, That it is the Intention of both Houses, to maintain the just Liberty of the Subject, and not to diminish the just Power of the King; and therefore the Expression of that Intention in this *Petition*, cannot prejudice us. To which I answer:

“ *First*, That our Intention was, and is, as we then professed; and no Man can assign any Particular in which we have done to the contrary; neither have we any Way transgressed, in that Kind, in this *Petition*: And if we make this *Addition* to the *Petition*, it would give some Intimation, that we have given Cause or Colour of Offence therein; which we deny, and which if any Man conceive so, let him assign the Particular, that we may give Answer thereunto.

“ By our *Petition*, we only desire our particular Rights and Liberties to be confirmed to us; and, therefore, it is not proper for us to mention therein *Sovereign Power* in general, it being altogether impertinent to the Matter of the *Petition*.

“ There is a great Difference between the Words of the *Addition*, and the Words proposed therein as the Reason thereof, *viz.* between just Power, which may be conceived to be limited by Laws; and *Sovereign Power*, which is supposed to be transcendent and boundless.

“ The second Reason, delivered by their Lordships, was, That the King is Sovereign; that as he is Sovereign, he must have Power, and that this *Sovereign Power* is to be left: For my Part, I would so leave it, as not to mention it; but if it should be expressed to be left in this *Petition*, as it is proposed, it must admit something to be left in the King of what we pray, or at least admit some *Sovereign Power* in his Majesty, in these Privileges which we claim to be our Right; which would frustrate our *Petition* and destroy our Right, as I have formerly shewed.

“ The third Reason given for this *Addition*, was, That in the Statute of *Articuli super Chartas*, there is a *Saving* of the *Seigniory* of the Crown.

“ To which I give this Answer, That *Magna Charta* was confirmed above thirty Times; and a general

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general Saving was in none of these Acts of Confirmation, but in this only; and I see no Cause we should follow one ill, and not thirty good Precedents; and the rather, because that Saving produced ill Effects, that are well known.

‘ That Saving was by Act of Parliament; the Conclusion of which Act is, That in all those Cases the King did well, and all those that were at the making of that Ordinance did intend, that the Right and *Seignior*y of the Crown should be saved: By which it appears, that the Saving was not in the *Petition* of the Commons, but added by the King; for in the *Petition*, the King’s Will is not expressed.

‘ In that Act the King did grant, and part with, to his People, divers Rights belonging to his Prerogative; as, in the first Chapter, he granted, That the People might chuse three Men, which might have Power to hear and determine Complaints made against those that offended in any Point of *Magna Charta*; though they were the King’s Officers, and to fine and ransom them: And in the 8, 12, and 19 Chapters of that Statute, the King parted with other Prerogatives; and therefore there might be some Reason of the adding of, *That Sovereign Power*, by the King’s Council: But, in this *Petition*, we desire nothing of the King’s Prerogative; but pray the enjoying of our proper and undoubted Rights and Privileges; therefore there is no Cause to add any Words, which may imply a *Saving* of that which concerns not the Matter in the *Petition*.

‘ The fourth Reason given by their Lordships, was, That by the Mouth of our Speaker, we have, in this Parliament, declared, That it was far from our Intention, to inroach upon his Majesty’s Prerogative; and that, therefore, it could not prejudice us, to mention the same Resolution in an *Addition* to this *Petition*.

‘ To which I answer, That that Declaration was a general Answer to a Message from his Majesty to us, by which his Majesty expressed, That he would not have his Prerogative straitened by any

new Explanation of *Magna Charta*, or the rest of Am. 4. Charles I. 1628. the Statutes: And, therefore, that Expression of our Speaker's was then proper, to make it have Reference to this *Petition*; there being nothing therein contained but particular Rights of the Subject, and nothing at all concerning his Majesty's Prerogative.

' *Secondly*, That Answer was to give his Majesty Satisfaction of all our Proceedings in general; and no Man can assign any Particular, in which we have broken it; and this *Petition* justifies itself, that in it we have not offended against our Protestation: And I know no Reason why this Declaration should not be added to all the Laws we shall agree on, in this Parliament, as well as to this *Petition*.

' The last Reason given, was, 'That we have varied in our *Petition* from the Words of *Magna Charta*; and therefore it was very necessary, that a *Saving* should be added to the *Petition*.

' I answer, That in the Statutes of 5. 25. and 28. *Edward III.* and other Statutes, by which *Magna Charta* is confirmed, the Words of the Statutes of Explanation differ, from the Words of *Magna Charta* itself; the Words of some of the Statutes of Explanation being, That no Man ought to be apprehended, unless by Indictment, or due Process of Law; and the other Statutes differing from the Words of *Magna Charta* in many Particulars; and yet there is no *Saving* in those Statutes, much less should there be any in a *Petition of Right*.

' These are the Answers I have conceived to the Reasons of their Lordships; and the Exposition, I apprehend, which must be made of the proposed Words, if added to our *Petition*. And, therefore, I conclude, that, in my Opinion, we may not consent to this *Addition*, which yet I submit to better Judgments.'

On the 19th the Commons received a Message from the King, importing, only, ' That it was not his Intent to interrupt them with his Mes-

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AN. 4. Charles I. 1628. ' fages; but, being obliged to go to *Portsmouth*, in
 ' a Day or two, on pressing Occasions, he desired
 ' they would proceed with the Business, they
 ' were upon, with all Expedition.'

Farther Proceedings of both Houses, relating to the Petition of Right. This Message was no sooner delivered, than they agreed to send to the Lords, to have a free and a mutual Conference with them, about the *Exceptions* their Lordships had taken to their *Petition*, as well as the *Additional Clause*, proposed at the last Conference; to which, they said, They were urged by a gracious Message from his Majesty.

This Conference was held the same Day, and the several Alterations again debated between them; but no Conclusion was made of the Business, for that Time; nor at another Conference, the next Day, on the same Affair.

May 21st, the Lord-Keeper delivered a Message to the Lords, from the King to this Purpose.

' That his Majesty had commanded him to let them know, That he discerned all his Affairs depended upon the Resolution of that House touching the *Petition*: That his Wants were great and pressing, and himself to go shortly to *Portsmouth*; therefore, he desired, before his going, to see his Business in Forwardness; and expected, that they would resolve, that Day, whether they would join with the House of Commons or not.'

The Lords, having taken this Message into Consideration, returned for Answer, by the Duke of *Buckingham*, That they had sent to the Commons to require an immediate Conference about it; and their Answer was, That they could not, conveniently, meet 'till the next Morning.

But it was not till *May 23d* that this Conference was held; and in the Afternoon of that Day, the Lord-Keeper was ordered to report one Part of the Conference, and the Lord-President the other. It is to be observed, That the Lords had given up all their Alterations of the *Petition*, and now stuck to the *Additional Clause*, only, before-mentioned.

The

The Lord-Keeper began and reported his Part An. 4. Charles I.
of the Conference, delivered in a Speech from Mr. 1628.
Glanville, to this Purpose.

My Lords,

I Am commanded by the House of Commons, The Lord Keeper's Report of Mr. Glanville's Speech against the Addition made by the Lords. to deliver unto your Lordships their Reasons, why they cannot admit of the *Addition* tendered unto them by your Lordships.

‘ But for an Introduction to the Business, please you to remember, That a *Petition of Right* was shewed to your Lordships, wherein we desired you would join with us; a *Petition*, my Lords, fitting for these Times, grounded upon Law, and seeking no more than the Subjects just Liberty.

‘ This *Petition* consisteth of four Parts: The first, touching Loans, Aids, and Taxes: The second, touching Imprisonment of Men's Persons: The third, touching Billeting of Soldiers: The fourth, touching Commissions issued for martial Law, and put in Execution upon several Persons.

‘ Groaning under the Burthen of these, we desire Remedy, and wish your Lordships would join with us; which you having taken into Consideration, we must confess have dealt nobly and freely with us, not to conclude any thing till you hear our just Reasons; for which we thank your Lordships, and hope you will value those Reasons, which we shall now offer.

‘ The Work of this Day will make a happy Issue, if your Lordships please to relinquish this, as we formerly, upon Conference with your Lordships, have done some other things: For the Proposition, my Lords, we have debated it thoroughly in our House; and I am commanded to deliver unto you the Reasons, why we cannot insert this Clause. Neither your Lordships, nor we, desire to extend Liberty beyond its due Bounds, nor to inroach upon the King's Prerogative.

‘ The first Reason I am to lay down is touching *Sovereign Power*, which I beseech you not to accept as mine own, being but a weak Member of
I 2 that

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that strong Body ; but, as the Reasons of the whole House, upon great and grave Considerations.

‘ First, my Lords, the Words *Sovereign Power*, hath either Reference or no Reference to the Petition : If no Reference, then superfluous ; if a Reference, dangerous, and operative upon the *Petition* : And we think your Lordships Purpose is not to offer unto us any thing that may be vain, or to the Hinderance of any thing wherein you have already joined with us. The *Petition* declareth the Right of the Subject, which yet may be broken by the Words *Sovereign Power*, and so the Virtue of the *Petition* taken away : The End of the *Petition* is not to enlarge the Bounds of Law ; but, their Liberties being infringed, to reduce them to their ancient Bounds : And shall we, by admitting of these Words, *Sovereign Power*, instead of curing the Wound, launch it, and cut it the deeper ?

‘ The next Point is the Word *intrusted* ; a Word of large Latitude and deep Sense. We know there is a Trust vested in the King, but regulated by Law ; we acknowledge that in penal Statutes, the King may grant another Power to dispense with the Law : But *Magna Charta*, inflicting no Penalty, leaveth no Trust ; but claimeth its own Right ; therefore the Word *intrusted*, would confound this Distinction.

‘ Our next Reason is, We think it absolutely repugnant to any Course of Parliament, to put a *Saving* to the *Petition* : In former Times, the Course of petitioning the King was this.—The Lords and the Speaker, either by Words or Writing, preferred their Petition to the King ; this then was called the Bill of the Commons, which being received by the King, Part he rejected and put out, other Part he ratified ; and as it came from him it was drawn into a Law : But this Course, in the second of *Henry V.* was found prejudicial to the Subject ; and since, in such Cases, they have petitioned by *Petition of Right*, as we now do, who come to declare what we demand of the King ; for if we should tell him what we should

not

not demand, we should then not proceed in a par-
 liamentary Course. Now for that which is alledg-
 ed by your Lordships, *De Articulis super Chartas*,
 That, my Lords, is not like this, which is a *Saving*
 upon *Particulars*; but this *Petition*, consisting of
 Particulars, would be destroyed by a *general Saving*.
 The *saving de Articulis super Chartas*, are of three
 Aids; for ransoming the King's Person, for
 knighting the King's eldest Son, and once for
 marrying the King's eldest Daughter. These, by
 the Form of the Petition, shew, that they came
 in upon the King's Answer, and not upon the
 Petition; first then followed the Savings, which
 (under Favour) we think are no Reasons to make
 us accept of this *Saving*, being not pertinent to
 the *Petition*.

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‘ The Statute of 28. *Edward I.* (which confirm-
 ed *Magna Charta* with a *Saving*) was, in Fact,
 set aside by the 34th of the same King, which re-
 stored *Magna Charta* to its first Purity: And if the
 said Statute of the 28th, did lay some Blemish upon
 it, shall we now make the Subject in worse Case, by
 laying more Weight upon it? God forbid!

‘ In the next Place, your Lordships reason thus,
 ‘ That this which you wish we would admit of, is
 no more than what we formerly did profess by our
 Speaker, when we sent the King word, We had
 no Purpose at all to trench upon his Prerogatives:’
 It is true, my Lords, we did so; but this was not
 annexed to any Petition, for, in that manner, we
 should never have done it.

‘ And here I am commanded (with your Fa-
 vours) to deliver unto your Lordships what a learned
 Member of our House delivered there, touching this
 Point (*d*). ‘ The King (saith he) and the Subject
 have two Liberties, two Mannors joining one up-
 on another: The King is informed the Subject
 hath intruded upon him, but upon Trial it appear-
 eth not to be so; were it fitting think you, that the
 Subject should give Security, that he should not
 encroach or intrude on that Mannor, because the

(d) Mr. Selden. See before. p. 121.

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King had been informed he did so? I think you will be of another Mind.'

'Wherefore I am commanded (seeing we cannot admit of this *Addition*) to desire your Lordships, to join with us in the *Petition*; which being granted, and the Hearts of the King and People knit together, I doubt not, but his Majesty will be safe at Home, and feared Abroad.'

The Lord-Keeper having finished his Report of Mr. *Glanville's* Speech at the Conference, the Lord-President proceeded to the other, which was spoken by Sir *Henry Martyn*; and which his Lordship reported as follows (e).

My Lords,

The Lord President's Report of Sir Henry Martyn's Speech on the same Occasion.

THE Work of this Day, wherein the House of Commons have employed the Gentleman who spake last and myself, is to reply to the Answer, which it hath pleased the Lord-Keeper to make to those Reasons, which the Commons offered to your Lordships Consideration, in Justification of their Refusal, to admit, into their *Petition*, the *Addition* recommended by your Lordships; which Reasons of the Commons, since they have not given such Satisfaction to your Lordships as they desired, and well hoped, (as by the Lord-Keeper's Answer appeared) it is thought fit, for their better Order and Method in replying, to divide the Lord-Keeper's Answer into two Parts; a Legal, and a Rational. The Reply to the Legal Part your Lordships have now heard. Myself come instructed to reply to the Rational; which, also, consisteth of two Branches: The First deduced from the whole Context of the *Additional Clause*; the Second enforced out of some special Words of it.

'In the former are these Reasons why the same deserved to be accepted of by the Commons. *First*,
Because

(e) Both these Speeches are taken from a Copy (printed *Anno* 1628, *Quarto*) in our Collection of Pamphlets, and examined by the *Lords Journals*. They are given in *Russworths* (*inter* p. 568 and 584.) in a very different Manner,

Because it would afford good Satisfaction to the King. *Secondly*, To your Lordships. *Thirdly*, It was agreeable to what the Commons themselves had often protested, and expressed by the Mouth of their Speaker.

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‘ To avoid all Misunderstandings and Misconceit herein, which, otherwise, might be taken against the House of Commons, upon the Refusal of the propounded *Addition*; I will first state the Question, and open the true Point of Difference between your Lordships and us; which, indeed, is not, as is conceived, touching the Truth of this *Addition*, in the Quality of a Proposition: For, so considered, we, as well and as heartily as your Lordships possibly can do, agree it to be a true Proposition.

‘ Wherefore, give me Leave to rehearse that Oath, which every Member of the House of Commons hath taken this Session; and doth take every Parliament, *viz.*

‘ I, A B, do utterly testify and declare in my Conscience, That the King’s Highness is the supreme Governor of this Realm in all Causes, &c. and to my Power will assist and defend all Jurisdictions, Privileges, Pre-eminences, and Authorities, granted or belonging to the King’s Highness, or united or annexed to the imperial Crown of this Realm.

‘ So that your Lordships need not to borrow, from our Protestations, any Exhortations to us to entertain a Writing in Assistance of the King’s Sovereign Power: Since we stand obliged, by the most sacred Bond of a solemn Oath, to assist and defend the same, if Cause or Occasion be required.

‘ The only Question and Difference, between your Lordships and us, is this; whether this *Addition* shall be received into our *Petition*, as any Part thereof; which to do, your Lordships Reasons have not persuaded us; because, so to admit it, were to overthrow the very Fabric and Substance of our *Petition of Right*. For these Words being added to our *Petition*, *viz.* *We humbly present this Petition to your Majesty, &c. with due Regard to leave*
entire

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entire *that Sovereign Power, &c.* do imply manifestly an Exception to our *Petition*. And such an Exception, as being of the Nature of the Thing whereunto it is an Exception, (*Exceptio est de Regula*) must, of Necessity, destroy the *Petition*; so far as to the Case excepted. *Exceptio firmat Regulam in Casibus non exceptis, in Casibus exceptis destruit Regulam.*

Then this *Addition*, being join'd to our *Petition*, must produce this Construction, *viz.* ' We pray that no Freeman may be compelled, by Imprisonment, to lend Money to his Majesty without his Assent in Parliament; nor be imprisoned without a Cause expressed; nor receive Soldiers into his House against his Will; nor undergo a Commission of Martial Law for Life and Member, in Time of Peace, &c. except his Majesty be pleased to require our Monies, and imprison us without Cause shewed, and put Soldiers into our Houses, and execute Martial Law upon us in Time of Peace, by Virtue of his *Sovereign Power.*' By which Construction, (necessarily following, upon this *Addition*) our Right in the Premises is annihilated; and the Effect of the *Petition* frustrated.

Neither may it seem strange, that this *Addition*, (which of itself, in Quality of a Proposition, we confess to be most certain and true,) being added to our *Petition*, (which also is true) should overthrow the very Frame and Fabrique of it: Seeing the Logicians take Knowledge of such a Fallacy, called by them, *Fallacia, a bene divisis, ad male conjuncta.*

The second Part of my Lord-Keeper's Rational Part, was infered out of the last Words of this *Addition*; by which his Lordship said, That they did not *leave entire* all *Sovereign Power*, but that, only, wherewith his Majesty is trusted for the Protection, Safety, and Happiness of his People. As if his Lordship would infer, *that Sovereign Power wherewith, &c.* in this Place to be *Terminus diminuentem*; and in that Consideration would induce us to accept it; but under his Lordship's Correction, we cannot so interpret it: For *First,*

We

We are assured that there is no such Distinction of *Sovereign Power*; as if some *Sovereign Power* was for the Happiness and Protection of the People, and some otherwise; for all *Sovereign Power*, whether trusted by God or by Man, is only *ad Salutem & pro Bons Populi Regi commissa*. Secondly, In this Place, these Words *Sovereign Power*, wherewith his Majesty is trusted for the Happiness of the People, are so far from having the Force of *Termini diminuentis*, that is, of Words of Qualification or Limitation; that, in Truth, they are Terms of important Advantage against our *Petition*; obliging us, whensoever his Majesty's *Sovereign Power* shall be exercised upon us, in all or any the Particulars mentioned in this *Petition*, to submit thereunto without further Inquiry; as taking it *pro Confesso*, that it conduced to our Protection, Safety, and Happiness.

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Having spoken this, in Reply to the Rational Part, whereby the Lord-Keeper laboured to persuade us to entertain this *Addition*; the House of Commons, desirous to gain your Lordships absolute Conjunction with them in presenting this *Petition* unto his Majesty, hath commanded me to deliver these Reasons or Arguments also unto your Lordships.

The first drawn from the Persons of the Petitioners, the House of Commons; whose moderate and temperate Carriage in this Parliament, be it spoken without Vanity and yet in much Modesty, may seem to deserve your Lordships Assistance in this *Petition*, *ex congruo & condigno*: Especially if your Lordships would be pleased to consider the Discontents, Pressures and Grievances, under which themselves in great Number, and the Parts for which they serve, lamentably groaned, when they first arrived here: And which was daily represented unto them by frequent Packets and Advertisements, out of their several Counties: All which, notwithstanding, have not been able to prevail upon our Moderation; or, to cause our Passion to over rule
our

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our Discretions: And the same yet continueth in our Hearts, in our Hands, and in our Tongues; as appeareth in the Mould of this *Petition*; wherein we crave no more, but that we may be better treated hereafter.

‘ My Lords, we are not ignorant in what Language our Predecessors were wont to express themselves upon much lighter Provocation; and in what Stile they framed their *Petitions*: No less Amends could serve their Turn than severe Commissions to enquire upon the Violaters of their Liberties; Banishments of some, Executions of other Offenders; more Liberties, new Oaths of Magistrates, Judges and Officers; with many other Provisions, written in Blood: Yet, from us, there hath been heard no angry Words in this *Petition*; no Man’s Person is named: We say no more than what a Worm trodden upon would say, (if he could speak,) *I pray tread upon me no more!*

‘ The second Argument, to move your Lordships not to urge this *Addition* to be inserted into our *Petition*, is taken a *Circumstantia Temporis*. *There is a Time for all Things*, saith the *Wise Man*; and a *Word spoken in due Season is like Apples of Gold in Pictures of Silver*; and unseasonably spoken as ungracious.

‘ This Time is not seasonable for the said *Addition*; because *Sovereign Power nunc male auditur*. Some late Influences have made the Aspect thereof not to seem so comfortable and gracious, as heretofore it hath been; and as it may, by God’s Grace, hereafter be again. In the mean time, since angry Men say, That *Sovereign Power* hath been abused, and moderate Men wish it had not been so used; the express Reservation thereof in our *Petition*, as this *Addition* would have it, cannot possibly be seasonable.

‘ The third Argument is a *Circumstantia Loci*. Of all Places the *Petition* is the worst to settle this *Addition* in; which leaveth *Sovereign Power* entire: For the *Petition*, being a Thing that concerneth every

every Man so nearly, it will run through every Man's Hands; and every Man will be reading of it. In perusing whereof, when they shall fall upon this *Additional Clause*, of the King's *Sovereign Power*, presently they will run Descant upon these Words, *Sovereign Power*, What is the Nature of it? What the Extent? Where the Bounds and Limits? Whence the original? What is the Use? With many such other captious and curious Questions, which will yield no real Advantage or Advancement to *Sovereign Power*. For it was ever held that *Sovereign Power* then fareth best, when it is had in an awful and tacit Veneration; not when it is under vulgar Dispute, or popular Examination.

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'The fourth and last Argument is, the Loyalty and dutiful Care of the House of Commons; who conceive the Entertainment of this *Addition* unto their *Petition*, might prove a Disservice to his Majesty, to say no more; and do therefore refuse it.

'It is true, that, join'd with your Lordships, we make the great Council of the King and Kingdom. And, albeit your Lordships may know other Things better than we, yet your Lordships will give us Leave to think, and say, That the State and Consideration of the several Parts for which we serve; their Dispositions and Inclinations; their Apprehensions; their Fears and Jealousies, are best known unto us. The chiefest Scope and End of all our Endeavours, in this Parliament, is, to make up all Rents and Breaches between the King and his Subjects; to draw them and knit them together, from that Distance, whereof the World abroad takes too much Notice; and so to work a perfect Union and Reconciliation between them.

'To this Purpose, altho' we right well understand how the Generality of the Kingdom hath been impoverished, and their Substance exhausted, with late Loans and Contributions, and other extraordinary Charges: Yet we have not forbore to express our Willingness to grant *Five entire Subsidies*; which is to take, as it were, five Ounces of good Blood more from them; thereby to make a real

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real Demonstration, to his Majesty, of the true Hearts and Zeal of his People to supply and support him in an ample Measure, even out of their weak Estates and decayed Means : And thereby to recover and regain his Majesty's former good Opinion and Affection unto them.

‘ On the other Side, we have made choice of four epidemical Diseases, which especially infect and annoy the Body of this Common Wealth, to be presented unto his Majesty in this *Petition* : The very View and Relation whereof cannot (as we assure ourselves) but make such an Impression on his Majesty's Royal Heart, as will easily move Compassion ; and, with Compassion, a ready Assent in his Majesty to ease and free his good Subjects from all Sense of the present, and Fear of the like Evils hereafter : And consequently beget in the Subjects, so eased and freed, a reciprocal and mutual Proportion of Love and Thankfulness.

‘ Now if, instead of such a clear Resolution from his Majesty, for their present Relief and future Security ; the People shall observe, in the Conclusion of this *Petition*, such a Reservation of *Sovereign Power*, as will not only revive the Memory of past Sufferings, but also minister just Suspicion, that in Time to come, when it shall please the King to make Use of his like *Sovereign Power*, they may undergo the like Calamities again : We appeal to your Lordships Wisdom, whether the *Petition* be likely to produce the good Ends which we desire and propound unto ourselves ? Nay, I will beseech your Lordships to give us Leave to use the Figure called *Reticentia* ; that is, to insinuate and intimate unto your Lordships more Mischiefs and greater Inconveniences, that might arise out of the Interpretation of this *Addition*, than is safe or fit for us to utter.

‘ Wherefore, since the Admittance of your Lordships *Addition* unto our *Petition*, is incoherent and incompatible with the Body of the same : Since there is no necessary Use of it, for the saving of the King's Prerogative : Since the Moderation of

our *Petition* deserves your Lordships chearful Con-
 junction with us: Since this *Addition* is unseason-
 able for the Time, and improper in respect of the
 Place where your Lordships will have it inserted:
 And, lastly, since it is neither agreeable to those for
 whom we act, nor answerable to that Love and
 Duty which we owe to his Majesty, to hazard a
 Matter of such unspeakable Consequence, (as we
 aim at) by admitting this *Addition* into our *Petition*;
 I must conclude with a most hearty and affec-
 tionate Prayer unto your Lordships, that you
 would be pleased to join with the House of Com-
 mons, in presenting their *Petition* unto his Most
 Sacred Majesty, as it is by them conceived, without
 this *Addition*.

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These two Reports being ended, the Lords deferred
 the Debate on the Reasons contained in them, to ano-
 ther Time: But as the Lord President had reported,
 That the Commons would not have misliked such
 a Proposition as the *Addition* is by itself, and sepa-
 rated from the *Petition*, to which it was no Way
 to relate; the House was therefore moved to treat
 with them again, to consider of any other Way,
 either by Manifestation, Declaration, or Protest.
 Another Conference was hereupon desired, to pro-
 pose this; the Result and Report of which, the
 next Day, (*May 24.*) was,

That the Commons denied to treat of the Ac-
 commodation by a Committee of both Houses, as
 was proposed by the Lords, for these Reasons:

I. ' That the Business was of so great Weight,
 as appears by the long Deliberation thereof, both in
 their House, and in the Lords; and their Strength
 consisted in their whole Body, like a Sheaf of Ar-
 rows.

II. ' Their House was confident, that the *Peti-
 tion*, rightly taken, needed no Accommodation.

III. ' Their great Desire to give Satisfaction to
 his Majesty, and to his pressing Occasions, with all
 possible Speed; which would be deferred by this
 Treaty of Accommodation: Wherefore they de-
 fired

An. 4. Charles I. fired their Lordships to consider this, and also the
1623. Clearness of their *Petition*?

After this a long Debate ensued on the Business; but nothing was concluded on that Day.

May 26. being Monday, the Lords went again on this tedious Affair; when their Committee for Accommodation was ordered to withdraw, and consider of somewhat, at least, to clear themselves from any Design to restrain the just Prerogative of the Crown. Some little Time after they returned, and brought in a Form of a Declaration which they had agreed upon; which was read in these Words:

May it please your Most Excellent Majesty,

WE the Lords Spiritual and Temporal, in your High Court of Parliament assembled, do humbly and unanimously declare unto your Majesty, that our Intention is not to lessen or impeach any Thing, which, by the Oath of Supremacy, we have sworn to assist and defend.

The Lords at length give up their Addition.

This Declaration was read three Times, put to the Question, and assented to, *Nemine dissentiente*. The Lords also agreed, now, to join with the Commons, in their *Petition of Right*, with only two small Alterations, which the latter had before admitted of. Another Conference was then required; in which the Lord Keeper delivered himself as follows:

Gentlemen,

The Lord Keeper's Speech to the Commons thereupon.

YE that are Knights, Citizens, and Burgessees of the House of Commons, I have many Times, in this Parliament, by Command from my Lords, declared the great Zeal and Affection, which my Lords have to maintain and nourish the good Concurrence and Correspondency, which hath hitherto continued between both Houses; that there might be a happy Issue in this great Business, for the common Good of the King and Kingdom. Now, that

that which I have to say this Day from my Lords, An. 4. Charles 3.
1628. is to let you know, this fair Proceeding is not a Profession of Words only ; but really and indeed, concerning the *Petition*, which hath been long in Agitation, as the Weight of the Cause required.

‘ Since the last Conference, my Lords have taken it into their serious and instant Consideration ; and at length are fallen upon a Resolution, which I am to acquaint you with.

‘ The Lords have unanimously agreed with you *in omnibus*, and have voted, that they will join with you in your *Petition*, with the only Alteration of the Word *Means*, to be put instead of the Word *Pretext* ; and for the Word *unlawful* to be put out, before these Words, *not swarrantable by the Laws and Statutes of this Realm*: Which two Alterations yourselves consented unto (*f*).

‘ So that concerning this Business there remains nothing now, but that, having the *Petition* in your Hands, ye will, if ye have not already, vote it as they have done, and so prepare it for his Majesty ; and my Lords will take Order, that the King be moved for a speedy Access to present the same to his Majesty.

After some Pause, he said, ‘ There rests one Thing which my Lords have commanded me to add, That, in regard this *Petition* toucheth upon certain Charges raised by the Lords Lieutenants, and other Persons, many Times for good Use, for the Service and Safety of the Kingdom ; ye take it into your Care and Consideration, and provide a Law for assessing of such Charges, as the Occasion of the Time shall require.’

But before this Conference was held, the Lords sent the Duke of *Buskingham* to the King, to know when his Majesty would be pleased to admit their House to deliver the Declaration unto him ; who, soon returning, his Grace said, ‘ That this was so welcome a Thing to his Majesty, that he had appointed the Lords to come presently.’ Which, we
sup-

(*f*) See the second Paragraph of the *Petition of Right*, p. 147.

An. 4. Charles I. 1628. suppose was done; but nothing more is entered in the *Journals* about it.

The next Day (*May 27.*) The Commons sent a Message to the Lords, by Sir *Edward Coke*, and others, 'To render them their most hearty Thanks, for their noble and happy Concurrence with them all this Parliament: And they acknowledged that their Lordships had not only dealt nobly with them in Words, but also in Deeds.'

'That this *Petition*, which they were now to deliver, contained the true Liberties of the Subjects of *England*, and a true Exposition of the *Great Charter*; not great for the Words thereof, but in respect of the Weight of the Matter contained therein, the Liberties of the People: That their Lordships concurring with the Commons, had crown'd the Work; and therefore they doubted not, but as the first Parliament of King *James* was called *felix Parliamentum*, so this might be justly stiled *Parliamentum benedictum*. Sir *Edward* concluded with the humble Desire of the Commons, that the Lords would join with them to beseech his Majesty, for the more Strength of this *Petition*, and the Comfort of his loving Subjects, to give a gracious Answer to the same in full Parliament.' This said, he delivered the *Petition of Right*, fairly engrossed; and then they withdrew into the *Painted Chamber*.

The *Petition* was read once, and afterwards, the Messengers being called in again, the Lord Keeper told them, 'That the Lords had taken their Message into Consideration; and, as they had concurred in the Substance, so likewise they desired to do in Circumstance: But, because they think it will be somewhat long to debate the Manner of delivering this *Petition* to the King; and the last Desire of the Commons was to avoid all Delays, they said they would send to them by Messengers of their own.' And, the same Day, the Lords sent to acquaint the other House, That they had read the *Petition* three Times, and had voted it with one unanimous Consent.

The *Petition of Right* agreed to by both Houses.

May

May 28. The Lords sent a Deputation of some An. 4. Charles I. 1628. of their Members to wait upon the King, to know the Time when his Majesty would please to be waited on by both Houses, with their *Petition*; who appointed Three of the Clock that Afternoon for that Purpose. Then it was agreed, That the Lord Keeper should only say, on the Delivery, 'That he was commanded, by one unanimous Consent of both Houses of Parliament, now assembled, to present unto his Majesty an humble *Petition of Right*; that he was not to trouble him with any additional Preface, but only desire Leave to read it: And that it was also the Desire of both Houses, in respect of the great Weight of the Business, for the strengthening of it, and for the more Comfort of his loving People, that his Majesty would please to give his Assent in full Parliament.'

May 29. This Day the Lord Keeper acquainted And delivered to the King. the Lords with the Delivery of the *Petition* to the King; and also reported a Message to them, from his Majesty, to this Effect: 'That the King, having now received the *Petition* of both Houses, had commanded him to signify to the Lords, that he had resolved to give an Answer thereto with Speed, having a Desire to finish this Session as soon as might be: Therefore it was the King's Pleasure to have no Receis at *Whitsuntide*, but to sit on and dispatch Business; which he thought to tell them now, before any were gone in Expectation of a Receis.'

June 2. The King came to the House of Lords, and, being seated on the Throne, the Commons attending, his Majesty made the following short Speech to both Houses.

Gentlemen,

I Am come hither to perform my Promise (g). I think His Majesty's Speech upon that Occasion. no Man can think it long, since I have not taken so many Days in answering the *Petition*, as ye have

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K

spent

(g) In *Rushworth* it is called *Dst*. There are several other Variants, as, *justin*.

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An. 4. Charles I. *spent Weeks in framing it: And I am come hither to*
 1628. *shew you, that, as well in formal Things as essential,*
I desire to give you as much Content as in me lies.

After this the Lord Keeper spake as followeth:
My Lords, and ye the Knights, Citizens, and Bur-
gesses of the House of Commons,

And the Lord
 Keeper's.

‘ HIS Majesty hath commanded me to say un-
 to you, that he takes in good Part, that in
 ‘ considering how to settle your own Liberties, ye
 ‘ have generally professed in both Houses, that ye
 ‘ have no Intention to lessen or diminish his Ma-
 ‘ jesty's Prerogative; wherein as you have declared
 ‘ and cleared your own Intentions, so now his Ma-
 ‘ jesty comes to clear his; and to strike a firm
 ‘ League with his People, which is then most
 ‘ likely to be constant and perpetual, when the
 ‘ Conditions are equal, and known to be so.

‘ These cannot be in a more happy Estate, than
 ‘ when your Liberties shall be an Ornament and a
 ‘ Strength to his Majesty's Prerogative, and his Pre-
 ‘ rogative a Defence of your Liberties; in which
 ‘ his Majesty doubts not, but both he and you shall
 ‘ take a mutual Comfort hereafter; and, for his
 ‘ Part, he is resolved to give an Example, and so
 ‘ to use his Power, that, hereafter, ye shall have
 ‘ no Cause to complain.

‘ This is the Sum of that which I am to say to
 ‘ you from his Majesty: And that which farther
 ‘ remains, is, that you hear your own Petition
 ‘ read, and his Majesty's gracious Answer.’

The Petition of
 Right.

THE PETITION exhibited to his MAJESTY by
 the LORDS SPIRITUAL and TEMPORAL, and
 COMMONS in this present Parliament assembled,
 concerning divers RIGHTS and LIBERTIES
 of the SUBJECT, with the King's ROYAL
 ANSWER thereunto in full Parliament.

To the KING's Most Excellent MAJESTY.

*H*umbly shew unto our Sovereign Lord the King,
the Lords Spiritual and Temporal, and Com-
mons, in Parliament assembled, that whereas it is
De-

Declared and Enacted, by a Statute made in the An. 4. Charles I. 1623.
Reign of King Edward I. commonly called Statutum de Tallagio non concedendo, That no Tallage or Aid shall be laid or levied, by the King or his Heirs, in this Realm, without the Good-will and Assent of the Archbishops, Bishops, Earls, Barons, Knights, Burgeses, and other the Freemen of the Commonalty of this Realm: And by Authority of Parliament, holden in the 25th Year of King Edw. III. it is Declared and Enacted, That from thenceforth no Person shall be compelled to make any Loans to the King against his Will, because such Loans were against Reason and the Franchises of the Land. And, by other Laws of this Realm, it is provided, That none should be charged, by any Charge or Imposition called a Benevolence, nor by such like Charge; by which the Statutes before-mentioned, and the other the good Laws and Statutes of this Realm, your Subjects have inherited this Freedom, That they should not be compelled to contribute to any Tax, Tallage, Aid, or other like Charge, not set by common Consent in Parliament:

Yet nevertheless, of late, divers Commissions, directed to sundry Commissioners in several Counties, with Instructions, have issued, by [Pretext] Means whereof, your People have been in divers Places assembled, and required to lend certain Sums of Money unto your Majesty, and many of them, upon their Refusal so to do, have had an [unlawful] Oath administered unto them, not warrantable by the Laws and Statutes of this Realm, and have been constrained to become bound to make Appearance, and give Attendance before your Privy Council, and in other Places; and others of them have therefore been imprisoned, confined, and sundry other Ways molested and disquieted: And divers other Charges have been laid and levied upon your People, in several Counties, by Lords Lieutenants, Deputy Lieutenants, Commissioners for Musters, Justices of Peace, and others, by Command or Direction from your Majesty, or your Privy Council, against the Laws and free Customs of this Realm (h).

K 2

And

(h) The Words, in Croicets, were altered by the Lords. See before, p. 143.

An. 4. Charles 1.
1628.

And whereas also, by the Statute called, The great Charter of the Liberties of England, it is Declared and Enacted, That no Freeman may be taken or imprisoned, or be disseized of his Freeholds or Liberties, or his free Customs, or be outlawed or exiled, or in any Manner destroyed, but by the lawful Judgment of his Peers, or by the Law of the Land (i):

And in the 28th Year of the Reign of King Edward III. it was Declared and Enacted by Authority of Parliament, That no Man, of what Estate or Condition that he be, should be put out of his Lands or Tenements, nor taken, nor imprisoned, nor disberited, nor put to Death, without being brought to answer by due Process of Law:

Nevertheless, against the Tenor of the said Statutes, and other the good Laws and Statutes of your Realm, to that End provided (k), divers of your Subjects have of late been imprisoned, without any Cause shewed; and when, for their Deliverance, they were brought before your Justices, by your Majesty's Writs of Habeas Corpus, there to undergo and receive as the Court should order, and their Keepers commanded to certify the Causes of their Detainer, no Cause was certified, but that they were detained by your Majesty's special Command, signified by the Lords of your Privy Council; and yet were returned back to several Prisons, without being charged with any Thing, to which they might make Answer by due Process of Law.

And whereas of late, great Companies of Soldiers and Mariners have been dispersed into divers Counties of the Realm, and the Inhabitants, against their Wills, have been compelled to receive them into their Houses, and there to suffer them to sojourn, against the Laws and Customs of this Realm, and to the great Grievance and Vexation of the People:

And whereas, also, by Authority of Parliament, in the twenty-fifth Year of the Reign of King Edward III. it is declared and enacted, That no Man shall be fore-judged of Life or Limb against the Form

of

(i) 9. Henry III. Cap. 29.

(k) 37. Edward III. Cap. 18.—38. Cap. 9.—42. Cap. 3.—17. Richard II, Cap. 6.

*of the Great Charter, and other the Laws and Sta- An. 4. Charles I.
tutes of this Realm: And by the said Great Charter, 1628.*
*and other the Laws and Statutes of this your Realm,
no Man ought to be adjudged to Death, but by the
Laws established in this your Realm, either by the
Customs of the same Realm, or by Acts of Parliam-
ent (1): And, whereas, no Offender of what Kind
soever, is exempted from the Proceedings to be used, and
Punishments to be inflicted by the Laws and Statutes
of this your Realm: Nevertheless, of late, divers
Commissions, under your Majesty's Great Seal, have
issued forth, by which, certain Persons have been as-
signed and appointed Commissioners with Power and
Authority to proceed, within the Land, according to
the Justice of Martial Law against such Soldiers and
Mariners, or other dissolute Persons joining with them,
as should commit any Murder, Robbery, Felony, Mu-
tiny, or other Outrage or Misdemeanor whatsoever;
and by such summary Course and Order, as is agree-
able to Martial Law, and is used in Armies in Time
of War, to proceed to the Trial and Condemnation of
such Offenders, and them to cause to be executed and
put to Death, according to the Martial Law:*

*By Pretext whereof, some of your Majesty's Sub-
jects have been, by some of the said Commissioners, put
to Death; when and where, if by the Laws and Sta-
tutes of the Land they had deserved Death, by the
same Laws and Statutes also they might, and by no
other ought to have been adjudged and executed:*

*And, also, sundry grievous Offenders by Colour
thereof, claiming an Exemption, have escaped the
Punishment due to them by the Laws and Statutes of
this your Realm, by Reason that divers of your Offi-
cers and Ministers of Justice have unjustly refused,
or serborn to proceed against such Offenders, according
to the same Laws and Statutes, upon Pretence that
the said Offenders were punishable only by Martial
Law, and by Authority of such Commissions as afore-
said; which Commissions, and all others of like Na-
ture, are wholly and directly contrary to the said Laws
and Statutes of this your Realm:*

K 3

They

(1) 25. Edward III. Cap. 4.—28. Cap. 3.

An. 4. Charles I.
1623.

They do therefore, humbly, pray your most excellent Majesty, That no Man hereafter be compelled to make, or yield, any Gift, Loan, Benevolence, Tax, or such like Charge, without common Consent by Act of Parliament; and that none be called to make Answer, or take such Oath, or to give Attendance, or be confined, or otherwise molested or disquieted concerning the same, or for Refusal thereof: And that no Freeman, in any such Manner as is before-mentioned, be imprisoned or detained: And that your Majesty will be pleased to remove the said Soldiers and Mariners; and that your People may not be so burden'd in Time to come: And that the aforesaid Commissions for proceeding by Martial Law, may be revoked and annulled; and that hereafter no Commissions of like Nature may issue forth to any Person or Persons whatsoever, to be executed as aforesaid, lest, by Colour of them, any of your Majesty's Subjects be destroyed or put to Death, contrary to the Laws and Franchise of the Land.

All which they most humbly pray of your most excellent Majesty, as their Rights and Liberties, according to the Laws and Statutes of this Realm: And that your Majesty would also vouchsafe to declare, That the Awards, Doings and Proceedings, to the Prejudice of your People, in any of the Premisses, shall not be drawn hereafter into Consequence or Example: And that your Majesty would be also, graciously, pleased, for the further Comfort and Safety of your People, to declare your Royal Will and Pleasure, that, in the Things aforesaid, all your Officers and Ministers shall serve you, according to the Laws and Statutes of this Realm, as they tender the Honour of your Majesty, and the Prosperity of this Kingdom.

Which Petition being read, June 2, 1628, the King's Answer was thus delivered unto it.

The King's Answer.

The King willeth, that Right be done according to the Laws and Customs of the Realm; and that the Statutes be put in due Execution, that his Subjects may have no Cause to complain of any Wrong or Oppressions, contrary to their just Rights and Liberties, to the Preservation

servation whereof, he holds himself, in Conscience, as An. 4. Charles I. well obliged, as of his own Prerogative. 1628.

Before we proceed to give an Account how the Commons relished the King's Answer to their *Petition of Right*, it is necessary, here, to insert an Affair, which happened about this Time; and which proved of some Consequence in the Sequel.

June 3, Mr. *Rouse*, a Member of the House of Commons, brought in a Charge, to that House, against one Dr. *Roger Manwaring*, which some Days after was seconded with a Declaration, which he delivered in this Manner (m).

Mr. Speaker,

I Am to deliver, from the Committee, a Charge Mr. Rouse's Charge against Dr. Manwaring. against Mr. *Manwaring*, a Preacher and Doctor of Divinity; but a Man so criminous, that he hath turned his Titles into Accusation; for the better they are, the worse is he that dishonours them.

' Here is a great Charge that lies upon him, it is great in itself, and great because it hath many great Charges in it; *Serpens qui Serpentem devorat fit Draco*; his Charge, having digested many Charges into it, becomes a Monster of Charges.

' The main and great one is this: A Plot and Practice, to alter and subvert the Frame and Fabrick of this Estate and Common-Wealth.

' This is the great one, and it hath others in it that give it more Weight. To this End,

' I. He labours to infuse into the Conscience of his Majesty, the Persuasion of a Power not bounding itself with Laws, which King *James* of famous Memory, calls, in his Speech to the Parliament, Tyranny, yea, Tyranny accompanied with Perjury.

' II. He endeavours to persuade the Conscience of the Subjects, that they are bound to obey Commands illegal; yea, he damns them for not obeying them.

' III.

(m) From Sir *John Napier's* Manuscript, the Copy in *Russetworth's* being very imperfect and incorrect.

An. 4. Charles I.
1628.

‘ III. He robs the Subjects of the Property of their Goods.

‘ IV. He brands them that will not lose this Property, with most scandalous Speech and odious Titles; to make them both hateful to Prince and People; so to set a Division between the Head and the Members, and between the Members themselves.

‘ V. To the same End, not much unlike to *Faux* and his Fellows, he seeks to blow up Parliaments and Parliamentary Powers.

‘ These five, being duly viewed, will appear to be so many Charges; and they make up, altogether, the great and main Charge; a mischievous Plot to alter and subvert the Frame and Government of this State and Common-Wealth.

‘ And now, though you may be sure, that Mr. *Manwaring* leaves us no Property in our Goods; yet, that he hath an absolute Property in this Charge, *Audite ipsam Belluam.*—Hear himself making up his own Charge.’

Here Mr. *Rouse* read several Passages out of his Book, and then proceeded, ‘ You have heard his Charge made up by his own Words, and withal I doubt not but you seem to hear the Voice of that wicked one, *Quid dabitis?* What will you give me, and I will betray this State, Kingdom, and Common-Wealth?’

‘ But there are two Observations (I might add a third, which is like unto *A three-fold Cord which cannot easily be broken*) will draw the Charge more violently upon him.

‘ The first is of the Time when this Doctrine of Destruction was set forth; it was preached in the Heat of the Loan, and of those Imprisonments which accompanied the Loan; and it was printed in the Beginning of that Term, which ended in a *Remittitur*: So that you might guess there might be a double Plot, both by Law and Conscience, to set on Fire the Frame and Estate of this Common-Wealth: And one of these entailed Foxes was Mr. *Manwaring*.

‘ Another

‘ Another Note may be taken of the Time, that An. 4. Charles I. 1623. is, the Unseasonableness of it; for this Doctrine of the Loan, in case of Necessity, was the Year after an Assent, in Parliament, to *Four Subsidies* and *Three Fifteens*; which might have served for a sufficient Stopple for the Doctor’s Mouth, to keep in his Doctrine of Necessity.

‘ A second Observation may be of the Means, by which he seeks to destroy this Common-Wealth; his Means are Divinity, yea, by his Divinity, he would destroy both King and Kingdom.

‘ I. The King: For can there be a greater Mischief to a Prince, than to put the Opinion of Deity into his Ears? For, if from his Ears it should pass to his Heart, it might be mortal: You know how *Herod* perished. Now this Man gives a Participation of divine Omnipotence to Kings; and though a Part may seem to qualify, yet all doth seem again to fill up that Qualification; and very dangerously, if we remember what God saith of himself, *I am a jealous God.*

‘ II. He goes about to destroy the Kingdom and Common-Wealth by his Divinity; but do we ever find in Scripture such a destroying Divinity? Surely I find there, That *God is a God of Order, and not of Confusion.*: And that *The Son of God came to save, and not to destroy.* By which it seems he hath not his Divinity from God, nor from the Son of God: But, from the Scriptures, I find there is one in Hell called *the Destroyer.* And that we may know he went to Hell for his Divinity, he names sundry Jesuits and Friars, with whom he consulted and traded for his Divinity. But, not to bely even Hell itself, the Jesuits are honestest than he; for if he had not brought more Hell unto them than he found in them, he had never found this Divinity which he hath brought forth; yea, in his Quotations he hath used those Shifts and Falshoods, for which Boys are whipt in Schools, and yet by them he thinks to carry the Cause of a Kingdom.

‘ But, for a Conclusion, to give the true Character of this Man, whom I never saw, I will shew

An. 4. Charles I.
1628.

it you by one whom I know to be contrary to him: *Samuel* we know all to be a true Prophet; now we read of *Samuel*, That he writ the Law of the Kingdom in a Book, and laid it up before the Lord. And this he did, as one of Mr. *Manwaring's* own Authors affirms, that the King may know what to command, and the People what to obey: But Mr. *Manwaring*, finding the Law of this Kingdom written in Books, tears it in pieces, and that in the Presence of the Lord in a Pulpit; that the King may not know what to command, nor the People what to obey.

‘ Thus Mr. *Manwaring*, being contrary to a true Prophet, must needs be a false one; and the Judgment of a false Prophet belongs to him.

‘ I have shewed you an evil Tree, that bringeth forth evil Fruit; and now it rests with you to determine, whether the following Sentence shall follow, *Cut it down, and cast it into the Fire.*’

Mr. *Sanderfon* (*n*) informs us, That this Dr. *Manwaring* preached two bold Sermons, one before the King, and the other at his Parish Church. In the first he asserted, ‘ That the King’s Royal Command, imposing Taxes and Loans, without Consent of Parliament, did so far bind the Conscience of the Subjects of this Kingdom, that they could not refuse the Payment without Peril of Damnation.’ The other was on this Topic, ‘ That the Authority of Parliament was not necessary for the raising *Aids* and *Subsidies.*’ This Author adds, He well remembers what the King said when he was afterwards censured for it; *He that will preach more than he can prove, let him suffer for it; I give him no Thanks for giving me my Due.* So that this being, entirely, the Business of Parliament, he was left, both by the King and Church, to their Sentence; which will follow in the Sequel.

Mr. *Rushworth* tells us, That on the 3d of June the King’s Answer to the *Petition of Right*, was read

(n) *Sanderfon's* Life of King Charles I. p. 115.

read in the House of Commons, and seemed too scant, in regard to so much Expend of Time and Labour, as had been employed in contriving it. An. 4. Charles I. 1628.
 And, that thereupon, Sir *John Elliot* stood up, and made a long Speech, wherein he gave forth so full and lively a Representation of all Grievances, both general and particular, as if they had never before been mentioned. — There is only a short Abstract of it in the *Collections*, but the following Copy of it at large, is taken from Sir *John Napier's Manuscript* (e). The King's Answer to the Petition of Right not agreeable to the Commons;

Mr. Speaker,

WE sit here as the great Council of the King; and, in that Capacity, it is our Duty to take into Consideration the State and Affairs of the Kingdom; and, where there is Occasion, to give them a true Representation by way of Counsel and Advice, with what we conceive necessary or expedient for them. Whereupon Sir John Elliot recapitulates all their Grievances.

‘ In this Consideration, I confess, many a sad Thought hath affrighted me; and that not only in respect of our Dangers from abroad, which yet I know are great, as they have been often in this Place prest and dilated to us, but in respect of our Disorders here at home, which do inforce those Dangers, and by which they are occasioned: For, I believe, I shall make it clear unto you, that both, at first, the Cause of these Dangers were our Disorders, and our Disorders now are yet our greatest Dangers; and not so much the Potency of our Enemies, as the Weakness of ourselves do threaten us; and that Saying of the Father may be assumed by us, *Non tam Potentia sua quam Negligentia nostra.* Our Want of true Devotion to Heaven, our Insincerity and Doubling in Religion, our Want of Councils, our precipitate Actions, the Insufficiency or Unfaithfulness of our Generals abroad, the Ignorance or Corruptions of our Ministers at home, the Impoverishing of the Sovereign, the Oppressi-

on

(e) There is also an incorrect Copy in the *Ephemeris Parliamentaria*.

An. 4. Charles I.
1628.

on and Depression of the Subject, the exhausting of our Treasures, the Waste of our Provisions, Consumption of our Ships, Destruction of our Men. — These make the Advantage to our Enemies, not the Reputation of their Arms. And if in these there be not Reformation, we need no Foes abroad; Time itself will ruin us.'

'To shew this more fully, I believe, you will all hold it necessary, that they seem not an Aspersion on the State, or Imputation on the Government, as I have known such Motions misinterpreted; but far is this from me to propose, who have none but clear Thoughts of the Excellency of the King, nor can have other Ends but the Advancement of his Majesty's Glory:—I shall desire a little of your Patience extraordinary to open the Particulars; which I shall do with what Brevity I may, answerable to the Importance of the Cause and the Necessity now upon us; yet with such Respect and Observation to the Time, as I hope it shall not be thought troublesome.'

'For the first then, our Insincerity and Doubling in Religion is the greatest and most dangerous Disorder of all others; this hath never been unpunished, and of this we have many strong Examples of all States, and in all Times, to awe us. What Testimony doth it want? Will you have Authority of Books? Look on the Collections of the Committee for Religion, there is too clear an Evidence. See then the Commission procured for Composition with the *Papists* in the *North*: Mark the Proceedings thereupon; and you will find them to little less amounting than a Toleration in effect: The slight Payments, and the easiness in them, will likewise shew the Favour that is intended. Will you have Proofs of Men, witness the Hopes, witness the Presumptions, witness the Reports of all the *Papists* generally: Observe the Dispositions of Commanders, the Trust of Officers, the Confidence in Secretaries to Employments in this Kingdom, in *Ireland*, and elsewhere: These all will shew it hath too great a Certainty; and to this add but the in-
contro-

controvertible Evidence of that all-powerful Hand, An. 4. Charles I. 1628. which we have felt so sorely that gave it full Assurance; for as the Heavens oppose themselves to us for our Impiety, so it is we that first opposed the Heavens.

‘ For the second, our Want of Councils, that great Disorder in a State, with which there cannot be Stability. If Effects may shew their Causes, as they are often a perfect Demonstration of them, our Misfortunes, our Disasters serve to prove it; and the Consequences they draw with them. If Reason be allowed in this dark Age, the Judgment of Dependencies and Foresight of Contingencies in Affairs do confirm it. For if we view ourselves at home, are we in Strength, are we in Reputation equal to our Ancestors? If we view ourselves abroad, are our Friends as many; are our Enemies no more? Do our Friends retain their Safety and Possessions? Do not our Enemies enlarge themselves, and gain from them and us? To what Counsel owe we the Loss of the *Palatinate*, where we sacrificed both our Honour, and our Men sent thither; stopping those greater Powers appointed for that Service, by which it might have been defensible. What Counsel gave Direction to the late Action, whose Wounds are yet bleeding, I mean the Expedition to *Rhee*, of which there is yet so sad a Memory in all Men? What Design for us, or Advantage to our State could that import? You know the Wisdom of our Ancestors, and the Practice of their Times, how they preserved their Safeties. We all know, and have as much Cause to doubt as they had, the Greatness and Ambition of that Kingdom, which the old World could not satisfy. Against this Greatness and Ambition, we likewise know the Proceedings of that Princess, that never-to-be-forgotten, excellent Queen, *Elizabeth*; whose Name, without Admiration, falls not into Mention even with her Enemies. You know how she advanced herself, and how she advanced this Nation in Glory and in State; how she depressed her Enemies, and how she upheld her Friends; how

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how she enjoyed a full Security, and made them then our Scorn, whom now are made our Terror!

‘Some of the Principles she built on were these; and, if I mistake, let Reason and our Statesmen contradict me.

‘First to maintain, in what she might, an Unity in *France*, that that Kingdom, being at Peace within itself, might be a Bulwark to keep back the Power of *Spain* by Land.’

‘Next to preserve an Amity and League between that State and us, that so we might come in Aid of the *Low-Countries*, and by that Means receive their Ships and help them by Sea.

‘This treble Cord, so working between *France*, the *States*, and *England*, might enable us, as Occasion should require, to give Assistance unto others; and, by this Means, the Experience of that Time doth tell us that we were not only free from those Fears that now possess and trouble us, but then our Names were fearful to our Enemies. See now what Correspondency our Actions had with this; square them by these Rules. It did induce, as a necessary Consequence, a Division in *France* between the Protestants and their King, of which there is too woful and lamentable Experience. It hath made an absolute Breach between that State and us; and so entertains us against *France*, and *France* in Preparation against us, that we have nothing to promise to our Neighbours, nay hardly to ourselves. Nay, observe the Time, in which it was attempted, and you shall find it not only varying from those Principles, but directly contrary and opposite *ex D ametro* to those Ends; and such, as from the Issue and Success, rather might be thought a Conception of *Spain*, than begotten here with us.’

Here there was an Interruption made by Sir *Humphrey May* [*Chancellor of the Duchy, and one of the Privy-Council*] expressing a Dislike, but the House ordered Sir *John Elliot* to go on: Whereupon he proceeded thus:

Mr.

Mr. Speaker, ' I am sorry for this Interruption, An. 4. Charles I. 1628. but much more sorry if there hath been Occasion; wherein, as I shall submit myself wholly to your Judgment to receive what Censure you should give me, if I have offended: So, in the Integrity of my Intentions and Clearness of my Thoughts, I must still retain this Confidence, that no Greatness shall deter me from the Duties which I owe to the Service of my King and Country; but that with a true *English* Heart, I shall discharge myself as faithfully and as really, to the Extent of my poor Power, as any Man, whose Honours, or whose Offices, most strictly oblige him.

' You know the Dangers *Denmark* is in, and how much they concerned us; what in respect of our Alliance and the Country; what in the Importance of the *Sound*; what an Advantage to our Enemies the Gain thereof would be? What Loss, What Prejudice to us, by this Disunion; we breaking upon *France*, *France* enraged by us, and the *Netherlands* at Amazement between both? Neither could we intend to aid that luckless King, whose Loss is our Disaster?

' Can those now, that express their Troubles at the Hearing of these Things, and have so often told us, in this Place, of their Knowledge in the Conjunctions and Disjunctions of Affairs, say, they advised in this? Was this an Act of Council, *Mr. Speaker*? I have more Charity than to think it; and, unless they make a Confession of themselves, I can not believe it.

' For the next, the Insufficiency and Unfaithfulness of our Generals, (that great Disorder abroad,) What shall I say? I wish there were not Cause to mention it; and, but out of the Apprehension of the Danger that is to come, if the like Choice hereafter be not prevented, I could willingly be silent: But my Duty to my Sovereign, my Service to this House, and the Safety and Honour of my Country, are above all Respects: And what, so nearly, trenches to the Prejudice of this, must not, shall not, be forborn.

' At

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‘ At *Cadiz* then, in that first Expedition we made, when we arrived and found a Conquest ready, the *Spanish* Ships I mean fit for the Satisfaction of a Voyage; and of which some of the chiefeft, then there themselves, have since assured me that the Satisfaction would have been sufficient, either in Point of Honour, or in Point of Profit: Why was it neglected? Why was it not achieved, it being of all Hands granted, how feisable it was?

‘ After, when with the Destruction of some of our Men, and with the Exposition of some others, (who though their Fortune since have not been such,) by chance came off: When, I say, with the Loss of our serviceable Men, that unserviceable Fort was gained, and the whole Army landed; Why was there nothing done? Why was there nothing attempted? If nothing was intended, wherefore did they land? If there was a Service, wherefore were they ship’d again?

‘ Mr. Speaker, it satisfies me too much in this, when I think of their dry and hungry March into that drunken Quarter, (for so the Soldiers term’d it.) where was the Period of their Journey; that divers of our Men, being left as a Sacrifice to the Enemy, that Labour was at an End.

‘ For the next Undertaking, at *Rhee*, I will not trouble you much; only this in short: Was not that whole Action carried against the Judgment, and Opinion of those Officers, that were of the Council? Was not the first, was not the last, was not all, in the landing, in the intrenching, in the Continuance there, in the Assault, in the Retreat, without their Assent? Did any Advice take Place of such as were of the Council? If there should be made a particular Inquisition thereof, these Things will be manifest, and more. — I will not instance the Manifesto that was made for the Reason of these Arms; nor by whom, nor in what Manner, nor on what Grounds it was published; nor what Effects it hath wrought, drawing, as it were; almost the whole World into League against us: — Nor will I mention the Leaving of the Wines, the
Leaving

Leaving of the Salt which were in our Possession; An. 4. Charles I. 1628. and of a Value, as 'tis said, to answer much of our Expence; nor that great Wonder which no *Alexander* or *Cæsar* ever did, the enriching of the Enemy by Courtesies when our Soldiers wanted Help; nor the private Intercourses and Parlies with the Fort, which continually were held: What they intended may be read in the Success, and upon due Examination thereof they would not want their Proofs.

' For the last Voyage to *Rochelle*, there needs no Observations; it is so fresh in Memory: Nor will I make an Inference or Corollary on all. Your own Knowledge shall judge what Truth, or what Sufficiency they express. For the next, the Ignorance and Corruption of our Ministers, where can you mis of Instances? If you survey the Court, if you survey the Country; if the Church, if the City be examined; if you observe the Bar, if the Bench; if the Ports, if the Shipping; if the Land, if the Seas: All these will render you Variety of Proofs, and that, in such Measure and Proportion, as shews the Greatness of our Disease to be such, that, if there be not some speedy Application for Remedy, our Case is almost desperate.

' Mr. Speaker, I fear I have been too long in these Particulars that are past, and am unwilling to offend you; therefore in the rest I shall be shorter: And in that which concerns the impoverishing of the King, no other Arguments will I use, than such as all Men grant.

' The Exchequer, you know, is empty, and the Reputation thereof gone; the antient Lands are sold; the Jewels pawned; the Plate engaged; the Debts still great; almost all Charges, both ordinary and extraordinary, borne up by Projects: What Poverty can be greater? What Necessity so great? What perfect *English* Heart is not almost dissolved into Sorrow for this Truth?

' For the Oppression of the Subject, which, as I remember, is the next Particular I proposed, it needs no Demonstration; the whole Kingdom is a Proof; and for the exhausting of our Treasures,

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that very Oppression speaks it. What Waste of our Provisions, what Consumption of our Ships, what Destruction of our Men have been; witness that Journey to *Argiers*.—Witness that with *Mansfield*.—Witness that to *Cadiz*.—Witness the next.—Witness that to *Rhees*.—Witness the last. (I pray God we may never have more such Witnesses.) Witness likewise the *Palatinate*.—Witness *Denmark*.—Witness the *Turks*.—Witness the *Dunkirkers*.—Witness all.—What Losses we have sustained, how we are impaired in Munition, in Ships, in Men!

‘ It is beyond Contradiction, that we were never so much weakened, nor ever had less Hope how to be restored.

‘ These, Mr. Speaker, are our Dangers; these are they which do threaten us; and these are like the *Trojan Horse* brought in cunningly to surprize us: In these do lurk the strongest of our Enemies, ready to issue on us; and if we do not speedily expel them, these are the Signs, these the Invitations to others:—These will so prepare their Entrance, that we shall have no Means left of Refuge or Defence: For if we have these Enemies at Home, how can we strive with those that are Abroad? If we be free from these, no other can impeach us? Our antient *English* Virtue, like the old *Spartan* Valour, cleared from these Disorders; our being in Sincerity of Religion and once made Friends with Heaven; having Maturity of Councils, Sufficiency of Generals, Incorruption of Officers, Opulency in the King, Liberty in the People, Repletion in Treasure, Plenty of Provisions, Reparation of Ships, Preservation of Men:—Our antient *English* Virtue, I say, thus rectified, will secure us; and, unless there be a speedy Reformation in these, I know not what Hopes or Expectations we can have.

‘ These are the Things, Sir, I shall desire to have taken into Consideration, that as we are the great Council of the Kingdom, and have the Apprehension of these Dangers, we may truly represent them unto the King; whereto, I conceive, we are bound
by

by a treble Obligation, of Duty to God, of Duty An. 4. Charles L. 1628. to his Majesty, and of Duty to our Country.

‘ And therefore I wish it may so stand with the Wisdom and Judgment of the House, that they may be drawn into the Body of a Remonstrance, and in all Humility expressed; with a Prayer unto his Majesty, That, for the Safety of himself, for the Safety of the Kingdom, and for the Safety of Religion, he will be pleased to give us Time to make perfect Inquisition thereof; or to take them into his own Wisdom, and there give them such timely Reformation as the Necessity and Justice of the Case doth import.

‘ And thus, Sir, with a large Affection and Loyalty to his Majesty, and with a firm Duty and Service to my Country, I have suddenly (and it may be with some Disorder) expressed the weak Apprehensions I have; wherein, if I have erred, I humbly crave your Pardon, and so submit myself to the Censure of the House.’

Mr. *Rushworth* observes, ‘ That many of the Members thought it not suitable to the Wisdom of the House, in that Conjunction, to begin to recapitulate those Misfortunes which were now obvious to all; accounting it more Discretion not to look back, but forward; and, since the King was so near to meet them, that the Happiness they expected might not be lost: And these were for petitioning his Majesty for a fuller Answer.’

It was intimated by Sir *Henry Martin*, ‘ That this Speech of Sir *John Elliot* was suggested from Disaffection to his Majesty.’ And there wanted not some who said, ‘ It was made out of Dislike to his Majesty’s Answer to their Petition: But Sir *John Elliot* protested the contrary; and that himself and others had a Resolution to open these last mentioned Grievances, to satisfy his Majesty therein, only they staid for an Opportunity: Which Averment of Sir *John Elliot* was attested by Sir *Thomas Wentworth* and Sir *Robert Philips*.

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The Commons
voted a Remon-
strance to the
King.

In this Debate Sir *Edward Coke* propounded, 'That an humble Remonstrance be presented to his Majesty, touching the present Dangers, and the Means of Safety both for the King and Kingdom; which was agreed to by the House; and thereupon the Committee for the Bill of Subsidies was ordered to expedite the said Remonstrance.'—In all, or most of these Debates, the Sergeant was ordered to attend on the Outside of the Door of the House, and no Man was to offer to go out, upon Penalty of being sent to the *Tower*.

A short Digression to another Subject may, perhaps, relieve the Reader.—About this Time a Committee (of which Mr. *Pym* was Chairman) being appointed to consider of a Bill for the better Maintenance of the inferior Clergy, Sir *Benjamin Rudyard* made the following Speech (p):

Mr. Pym,

Sir Benjamin
Rudyard's Speech
for better Main-
tenance of the in-
ferior Clergy.

I Did not think to have spoken to this Bill, because I was willing to believe that the Forwardness of this Committee would have prevented me; but now I hold myself bound to speak, and to speak in earnest.

'In the first Year of the King, and the second Convention, I first moved for the Increase and Inlargement of poor Ministers Livings: I shewed how necessary it was, tho' it had been neglected; this was also commended to the House by his Majesty. There being then, as now, many Accusations on foot against scandalous Ministers, I was bold to tell the House, that there were also scandalous Livings, which were much the Cause of the other; Livings of five Pounds, nay even five Marks a Year; that Men of Worth and Parts would not be musled up to such Pittances; that there were some such Places in *England*, as were scarce in all *Giriflendon* beside, where God was little better known than amongst the *Indians*. I exampled it in

(p) Not in *Rushworth*.—Taken from the *Ephemera Parliamentaria*, and compared by the *Manuscripts*.

in the utmost Skirts of the *North*, where the Prayers of the common People are more like Spells and Charms than Devotions; the same Blindness and Ignorance is in divers Parts of *Wales*, which many in that Country do both know and lament.

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‘ I also declared, That to plant good Ministers was the strongest and surest Means to establish true Religion; that it would prevail more against *Papistry*, than the making of new Laws, or executing of old; that it would counter-work Court-Conivance and luke-warm Accommodation; that tho’ the Calling of Ministers be never so glorious within, the outward Poverty will bring Contempt upon them; especially among those, who measure them by the Ounce, and weigh them by the Pound, which indeed is the greatest Part of Men.

‘ Mr. *Pym*, I cannot but testify how, being in *Germany*, I was exceedingly scandalized to see the poor stipendiary Ministers of the Reformed Churches there, despised and neglected by reason of their Poverty, being otherwise very grave and learned Men. I am afraid this is a Part of the Burthen of *Germany*, which ought to be a Warning to us.

‘ I have heard many Objections and Difficulties, even to Impossibilities, against this Bill. To him that is unwilling to go, there is ever a Bear or a Lion in the Way. First let us make ourselves willing, then will the Way be easy and safe enough.

‘ I have observed, that we are always very eager and fierce against *Papistry*, against scandalous Ministers, and against Things which are not so much in our Power. I should be glad to see that we did delight as well in rewarding as in punishing, and in undertaking Matters within our Reach, as this is absolutely within our Power: Our own Duties are next us, other Men’s further off. I do not speak this, that I do dislike the destroying and pulling down of that which is ill; but then let us be as earnest to plant and build up that which is good in the Room of it; for why should we be desolate? The best and the greatest Way to dispell Darkness, and the Deeds thereof, is to let in Light: We say

An. 4. Charles I. 1628. that Day breaks, but no Man can ever hear the Noise of it; God comes in the still Voice: Let us quickly mend our Candlesticks, and we cannot want Lights.

‘ I am afraid this Backwardness of ours will give the Adversary Occasion to say, That we chuse our Religion because it is the cheaper of the two, and that we would willingly serve God with somewhat that costs us nought. Believe it, Mr. *Pym*, he that thinks to save any Thing by his Religion, but his Soul, will be a terrible Loser in the End: We sow so sparingly, and that is the Reason we reap so sparingly, and have no more Fruit. Methinks whosoever hates *Papistry*, should, by the same Rule, hate Covetousness; for that is Idolatry too. I never liked hot Professions and cold Actions, such a Heat is rather the Heat of a Distemper and Disease, than of Life and saving Health.

‘ For scandalous Ministers, there is no Man shall be more forward to have them severely punished than I will be; when Salt has lost its Savour, fit it is to be cast on that unfavoury Place, the Dunghill. But, Sir, let us deal with them as God hath dealt with us: God, before he made Man, made the World, a handsome Place for him to dwell in; so let us provide them convenient Livings, and then punish them in God’s Name; but, till then, scandalous Livings cannot but have scandalous Ministers. It shall ever be a Rule to me, that where the Church and Common-Wealth are both of one Religion, it is comely and decent that the outward Splendor of the Church should hold a Proportion, and participate with the Prosperity of the temporal State; for why should we dwell in Houses of Cedar, and suffer God to dwell in Tin? It was a glorious and religious Work of King *James*, and I speak it to his unspeakable Honour, and to the Praise of that Nation; who (tho’ that Country be not so rich as ours, yet are they richer in their Affections to Religion) within the Space of one Year caused Churches to be planted thro’ all *Scotland*, the *Highlands* and *Borders*, worth 30 l.

a Year a-piece, with a House and some Glebe belonging to them; which 30 l. a Year, considering the Cheapness of the Country, and the modest Fashion of Ministers living there, is worth double as much as any where within a hundred Miles of London. The printed Act and Commission, whereby it may be executed, I have here in my Hand, delivered unto me by a Noble Gentleman of that Nation, and a worthy Member of this House, Sir Francis Stuart.

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‘ To conclude. Altho’ Christianity and Religion be established generally throughout this Kingdom, yet, untill it be planted more particularly, I shall scarce think this a Christian Common-Wealth; seeing it hath been moved and stirred in Parliament, it will lie heavy upon Parliaments, untill it be effected.

‘ Let us do something for God, here, of our own; and no Doubt God will blefs our Proceedings in this Place the better for ever hereafter: And, for my own Part, I will never give over solliciting this Cause, as long as Parliaments and I shall live together.’

We now return to the Lords.

On the fourth Day of *June* the Lord Keeper delivered a Message to them, from the King, to this Effect: ‘ That his Majesty, upon many pressing and urgent Occasions, had resolved to hasten an End to this Session, and prorogue the Parliament to a further Time; and had appointed *Wednesday*, the 11th of *June*, for that Purpose: ‘ That he had commanded this to be signified to both Houses, in order that those Businesses, which were before them of greater Consequence, might be expedit.

The King’s Message to both Houses to entertain no new Business.

The same Day a Message from the King was delivered to the Commons, by their Speaker, to this Purport:

‘ That his Majesty having, upon the *Petition* exhibited by both Houses, given an Answer full of

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of Justice and Grace, for which we and our Posterity have just Cause to bless him, it is now Time to grow to a Conclusion of the Session; and therefore his Majesty thinks fit to let you know, That as he doth resolve to abide by that Answer, without further Change or Alteration, so he will royally and really perform unto you what he hath thereby promised. And further, That he resolves to end this Session upon *Wednesday* the 11th of this Month; and therefore wisheth, that the House would seriously attend those Businesses, which may best bring the Session to a happy Conclusion, without entertaining new Matters; and so husband the Time, that his Majesty may, with the more Comfort, bring us speedily together again: At which Time, if there be any further Grievances, not contained or expressed in the *Petition*, they may be more maturely considered than the Time will now permit.

After the reading of this Message, the House, instead of taking any Notice of it, proceeded with a Declaration against Dr. *Manwaring*; which was, the same Day, presented to the Lords at a Conference, betwixt the Committees of both Houses of Parliament: And Mr. *Pym* was appointed by the House of Commons to manage that Conference.

*The DECLARATION of the COMMONS against
ROGER MANWARING, Clerk, Doctor in Divinity.*

The Commons
Declaration a-
gainst Dr. Man-
waring.

FOR the more effectual Prevention of the apparent Ruin and Destruction of this Kingdom, which must necessarily ensue, if the good and fundamental Laws and Customs, therein established, should be brought into Contempt and violated; and that Form of Government thereby altered, by which it hath been so long maintain'd in Peace and Happiness; and to the Honour of our Sovereign Lord the King, and for the Preservation of his Crown and Dignity; the Commons in this present Parliament assembled, do,
by

by this their Bill, shew and declare against *Roger Manwaring*, Clerk, Doctor in Divinity, That whereas, by the Laws and Statutes of this Realm, the free Subjects of *England* do undoubtedly inherit this Right and Liberty, not to be compelled to contribute any Tax, Tallage, or Aid; or to make any Loans, not set or imposed, by common Consent, by Act of Parliament: And whereas divers of his Majesty's loving Subjects, relying upon the said Laws and Customs, did, in all Humility, refuse to lend such Sums of Money, without Authority of Parliament, as were lately required of them: Nevertheless he, the said *Roger Manwaring*, in Contempt, and contrary to the Laws of this Realm, hath lately preached in his Majesty's Presence, two several Sermons: That is to say, the 4th Day of *July* last, one of the said Sermons; and, upon the 29th of the same Month, the other of the said Sermons; both which Sermons he has since published in Print, in a Book intituled, *Religion and Allegiance*; and, with a wicked and malicious Intention, to seduce and misguide the Conscience of the King's Most Excellent Majesty, touching the Observation of the Laws and Customs of this Kingdom, and of the Rights and Liberties of the Subjects; to incense his Royal Displeasure against his good Subjects so refusing; to scandalize, subvert, and impeach the good Laws and Government of this Realm, and the Authority of the High Court of Parliament; to alienate the King's Heart from his People, and to cause Jealousies, Sedition, and Division in the Kingdom; he, the said *Roger Manwaring*, doth, in the said Sermons and Book, persuade the King's Most Excellent Majesty, as follows:

First, That his Majesty is not bound to keep and observe the good Laws and Customs of this Realm, concerning the Rights and Liberties of the Subjects aforementioned: And that his Royal Will and Command in imposing Loans, Taxes, and

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‘ and other Aids upon his People, without common Consent in Parliament, doth so far bind the Consciences of the Subjects of this Kingdom, that they cannot refuse the same, without Peril of eternal Damnation !

‘ *Secondly*, That those of his Majesty’s loving Subjects, who refused the Loan aforementioned, in such Manner as is before cited, did therein offend against the Law of God, and against his Majesty’s supreme Authority ; and, by so doing, became guilty of Impiety, Disloyalty, Rebellion, and Disobedience, and liable to many other Censures ; which he, in the severall Parts of his Book, doth most falsely and maliciously lay upon them.

‘ *Thirdly*, That the Authority of Parliament is not necessary for the raising of Aids and Subsidies ; that the slow Proceedings of such Assemblies are not fit for the Supply of the urgent Necessities of the State, but rather apt to produce sundry Impediments to the just Designs of Princes, and to give them Occasion of Displeasure and Discontent.

‘ All which the Commons are ready to prove, not only by the general Scope of the same Sermons and Book, but likewise by severall Clauses, Assertions, and Sentences therein contained ; and that he, the said *Roger Manwaring*, by preaching and publishing the Sermons and Book aforementioned, did most unlawfully abuse his holy Function, instituted by God in his Church, for the guiding of the Consciences of all his Servants, and chiefly of sovereign Princes and Magistrates ; and for the Maintenance of the Peace and Concord betwixt all Men, especially betwixt the King and his People ; and hath thereby most grievously offended against the Crown and Dignity of his Majesty, and against the Prosperity and good Government of this State and Common-Wealth.

‘ And the said Commons, by Protestation, saving to themselves the Liberty of exhibiting, at any Time hereafter, on any other Occasion, any

Im-

‘ Impeachment against the said *Roger Manwaring* ; An. 4. Charles 1.
 ‘ and also of replying to the Answers, which the 1628.
 ‘ said *Roger Manwaring* shall make unto any of
 ‘ the Matters contained in this present Bill of Com-
 ‘ plaint ; and of offering further Proof of the Pre-
 ‘ misses, or any of them, as the Cause, according to
 ‘ the Course of Parliament, shall require, do pray,
 ‘ that the said *Roger Manwaring* may be put to an-
 ‘ swer to all and every the Premisses ; and that such
 ‘ Proceeding, Examination, Trial, Judgment, and
 ‘ exemplary Punishment may be thereupon had and
 ‘ executed, as is agreeable to Law and Justice.’

This Declaration, ingross’d in Parchment, being read, Mr. *Pym* address’d himself to the Lords in this Manner :

THAT he should speak to this Cause with more Confidence, because he saw nothing to discourage him : If he consider’d the Matter, the Offences were of a high Nature, and of easy Proof ; if he consider’d their Lordships, who were the Judges, their own Interest, their own Honour, the Example of their Ancestors, the Care of their Posterity, would all be Advocates with him, in this Cause, on the Behalf of the Common-Wealth ; if he consider’d the King our Sovereign, (the Pre- tence of whose Service and Prerogative might, per- chance, be sought unto as a Defence and Shelter for this Delinquent) he could not but remember that Part of the King’s Answer to the *Petition of Right* of both Houses *That his Majesty held himself bound, in Conscience, to preserve their Liberties,* which this Man would persuade him to impeach.’ He farther said, ‘ That he could not but remember his Majesty’s Love to Piety and Justice, manifested upon all Occasions ; and he knew Love to be the Root and Spring of all other Passions and Affections. A Man therefore hates, because he sees somewhat, in that which he hates, contrary to that which he loves ; a Man therefore is angry, because he sees somewhat in that, wherewith he is angry, that gives

Mr. Pym’s
Speech in Support
thereof.

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gives Impediment and Interruption to the Accomplishment of that which he loves.

‘ If this be so, by the same Act of Apprehension, by which he believes his Majesty’s Love to Piety and Justice, he must needs believe his Hate and Detestation of this Man, who went about to withdraw him from the Exercise of both.’

Then he proceeded to that which, he said, was the Task enjoyn’d him, ‘ To make good every Clause of that which had been read unto them ; which, that he might the more clearly perform, he propos’d to observe that Order of Parts, into which the said Declaration was naturally dissolved.

1. ‘ Of the Preamble.

2. ‘ The Body of the Charge.

3. ‘ The Conclusion, or Prayer of the Commons.

‘ The Preamble consisted altogether of Recital ; *first*, of the Inducements upon which the Commons undertook this Complaint.

‘ The *second*, of those Laws and Liberties, against which the Offence was committed.

‘ The *third*, of the Violation of those Laws which have relation to that Offence.

‘ From the Connection of all these Recitals, he said, there did result three Positions, which he was to maintain as the Ground-work and Foundation of the whole Cause.

‘ The *first*, That the Form of Government, in any State, could not be altered without apparent Danger of Ruin to that State.

‘ The *second*, The Law of *England*, whereby the Subject is exempted from Taxes and Loans, not granted by common Consent of Parliament, was not introduced by any Statute, or by any Charter or Sanction of Princes ; but was the ancient and fundamental Law, issuing from the first Frame and Constitution of the Kingdom.

‘ The *third*, That this Liberty of the Subject is not only most convenient and profitable for the People, but most honourable and most necessary for

for the King; yea, in that Point of Supply, for which it was endeavoured to be broken. An. 4. Charles L.
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‘ As for the *first* Position, The best Form of Government is that, which doth actuate and dispose every Part and Member of a State to the Common-good; and as those Parts give Strength and Ornament to the whole, so they receive from it again Strength and Protection in their several Stations and Degrees.

‘ If this mutual Relation and Intercourse be broken, the whole Frame will quickly be dissolved, and fall in Pieces; and, instead of this Concord and Interchange of Support, whilst one Part seeks to uphold the old Form of Government, and the other Part to introduce a new, they will miserably consume and devour one another. Histories are full of the Calamities of whole States and Nations in such Cases. It is true, that Time must needs bring about some Alterations, and every Alteration is a Step and Degree towards a Dissolution; those Things only are eternal which are constant and uniform: Therefore it is observed by the best Writers on this Subject, that those Common-Wealths have been most durable and perpetual, which have often reformed and recomposed themselves according to their first Institution and Ordinance; for, by this Means, they repair the Breaches, and counterwork the ordinary and natural Effects of Time.

‘ The *second* is as manifest. There are plain Footsteps of those Laws in the Government of the *Saxons*; they were of that Vigour and Force, as to over-live the Conquest; nay, to give Bounds and Limits to the Conqueror, whose Victory gave him first Hope; but the Assurance and Possession of the Crown he obtained by Composition; in which he bound himself to observe these, and the other antient Laws and Liberties of the Kingdom, which afterwards he likewise confirmed by Oath at his Coronation; and from him the said Obligation descended to his Successors. It is true they have been often broken, but they have been often confirmed by Charters of Kings, and by Acts of Parliaments.

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liaments : But the Petitions of the Subjects, upon which those Charters and Acts were founded, were ever *Petitions of Right*, demanding their antient and due Liberties, not suing for any new.

‘ To clear the *third* Position may seem to some Men more a Paradox, That those Liberties of the Subject should be so convenient and profitable to the People, and yet most necessary for the Supply of his Majesty. It hath been, upon another Occasion, declared, that if those Liberties were taken away, there would remain no more Industry, no more Justice, no more Courage ; for who will contend, who will endanger himself, for that which is not his own ?

‘ But, he said, he would not insist upon any of those Points, nor upon others equally important ; but only observe, that if those Liberties were taken away, there would remain no Means for the Subjects, by any Act of Bounty or Benevolence, to ingratiate themselves with their Sovereign.

‘ And he desired their Lordships to remember what profitable Prerogatives the Laws had appointed for the Support of Sovereignty ; as Wardships, Treasures-trove, Felons Goods, Fines, Amercements, and other Issues of Courts, Wrecks, Escheats, and many more, too long to be enumerated ; which, for the most part, are now, by Charters and Grants of several Princes, dispersed into the Hands of several private Persons ; and that besides the antient Demefnes of the Crown of *England*, *William the Conqueror* did annex, for the better Maintenance of his Estate, great Proportions of those Lands, which were confiscate from those *English* which persisted to withstand him ; but of these, very few remain at this Day in the King’s Possession ; yet, since that Time, the Revenue of the Crown hath been supplied and augmented by Attainders, and other Casualties ; and, in the Age of our Fathers, by the Dissolution of Monasteries and Chantries, near a third Part of the whole Land came into the King’s Possession. He remembered further, that constant and profitable Grant of the Subjects in the Act of Ton-

nage and Poundage. Notwithstanding all these, he said, they were so alienated, anticipated, or overcharged with Annuities and Assignments; that no Means were left, for the pressing and important Occasions of this Time, but the voluntary and free Gift of the Subjects in Parliament.

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1628.

‘ The Hearts of the People, and their Bounty in Parliament, is the only constant Treasure and Revenue of the Crown; which cannot be exhausted, alienated, anticipated, or otherwise charged and incumbred.’

In his Entrance into the Second Part, he propounded these Steps, by which he meant to proceed.

1. ‘ To shew the State of the Case, as it stood both in the Charge and in the Proof, that so their Lordships might the better compare them both together.

2. ‘ To take away the Pretensions of Mitigations and Limitations of his Opinions, which the Doctor had provided for his own Defence.

3. ‘ To observe those Circumstances of Aggravation, which might properly be annexed to his Charge.

4. ‘ To propound some Precedents of former Times; wherein, tho’ he could not match the Offence now in question; (for he thought the like before had never been committed) yet he should produce such as should sufficiently declare, how forward our Ancestors would have been in the Prosecution and Condemning of such Offences, if they had been then committed.

‘ The Offence was described in a double Manner; first, by the general Scope and Intention, and by the Matter and Particulars of the Fact, whereby that Intention was expressed.’

In the Description of the Intention he observed six Points; every one of which was a Character of extreme Malice and Wickedness.

1. ‘ His Attempt to misguide and seduce the Conscience of the King.

2. ‘ To incense his Royal Displeasure against his Subjects.

3. ‘ To

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3. ' To scandalize, impeach, and subvert the good Laws and Government of the Kingdom, and Authority of Parliaments.

4. ' To avert his Majesty's Mind from calling of Parliaments.

5. ' To alienate his Royal Heart from his People.

6. ' To cause Jealousies, Sedition, and Division in the Kingdom.

' Of these Particulars, he said, he would forbear to speak further, till he should come to those Parts of the Fact, to which they were most properly to be applied.'

The Materials of the Charge were contrived into three distinct Articles; the first of these comprehended two Clauses.

1. ' That his Majesty is not bound to keep and observe the good Laws and Customs of the Realm, concerning the Right and Liberty of the Subject to be exempted from all Loans, Taxes, and other Aids laid upon them, without common Consent in Parliament.

2. ' That his Majesty's Will and Command, in imposing any Charges upon his Subjects without such Consent, doth so far bind them in their Consciences, that they cannot refuse the same without Peril of eternal Damnation !'

Two Kinds of Proof were produced upon this Article.

The first was from some Assertions of the Doctor's, concerning the Power of Kings in general; but, by necessary Consequence, to be applied to the Kings of *England*.

The next Kind of Proof was from his Censures and Determinations upon the particular Case of the late Loan; which, by Necessity and Parity of Reason, were likewise applicable to all Cases of the like Nature. And lest, by Frailty of Nature, he might mistake the Words, or invert the Sense, he desired Leave to resort to his Paper, wherein the Places were carefully extracted out of the Book itself.

self. And then he read each particular Clause by An. 4. Charles I.
1628. itself, pointing to the Page for Proof.

Then he proceeded and said, 'That from this Evidence of the Fact doth issue a clear Evidence of his wicked Intention to misguide and seduce the King's Conscience, touching the Observation of the Laws and Liberties of the Kingdom; to scandalize and impeach the good Laws and Government of the Realm, and the Authority of Parliaments; which are two of those Characters of Malice which he formerly noted, and now enforced thus. — If to give the King ill Counsel, in one particular Action, hath heretofore been heavily punished in this High Court; how much more heinous must it needs be thought, to pervert and seduce, by ill Counsel, his Majesty's Conscience; which is the sovereign Principle of all moral Actions, from which they are to receive Warrant for their Direction before they be acted, and Judgment for their Reformation afterwards? If *Scandalum Magnatum*, Slander and Infamy, cast upon great Lords and Officers of the Kingdom, have been always most severely censured; how much more tender ought we to be of that Slander and Infamy, which is here cast upon the Laws and Government, from whence is derived all the Honour and Reverence due to those great Lords and Magistrates?

'All Men, and so the greatest and highest Magistrates, are subject to Passions and Partialities; whereby they may be transported into over-hard injurious Crosses: which Considerations may sometimes excuse, though never justify, the Railing and evil Speeches of Men, who have been so provoked; it being a true Rule, That whatsoever gives Strength and Inforcement to the Temptation in any Sin, doth necessarily imply an Abatement and Diminution of Guilt in that Sin. But to slander and disgrace the Laws and Government, is without Possibility of any such Excuse; it being a simple Act of a malignant Will, not induced nor excited by any

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outward Provocation; for the Laws carrying an equal and constant Respe^ct to all, ought to be revered equally by all.' And thus he derived the Proofs and Inforcements, upon the first Article of the Charge.

The second Article he said contained three Clauses:

1. 'That these Refusers had offended against the Law of God.

2. 'Against the supreme Authority.

3. 'By so doing, were become guilty of Impiety, Disloyalty, Rebellion, Disobedience, and liable to many other Censures.

'For Proof of all these, he needed no other Evidence, than what might be easily drawn from those Places which he had read already: For what Impiety can be greater, than to contemn the Law of God, and to prefer human Laws before it? What greater Disloyalty, Rebellion, and Disobedience, than to depreis Supreme Authority, to tye the Hands and clip the Wings of Sovereign Princes? Yet he desired their Lordships Patience in hearing some few other Places, wherein the Stains and Taint, which the Doctor endeavoured to lay upon the Refusers, might appear by the Odioufness of those Comparisons, in which he doth labour to rank them.

'The first Comparison is with *Popish Recusants*; yet he makes them the worst of the two, and for the better Resemblance, gives them a new Name of *Temporal Recusants*.'

For this Mr. *Pym* alledged the first Sermon, (Pages 31, 32.) and Part of the Doctor's fifth Consideration, by which he would perswade them to yield to this Loan, thus;

5thly, *If they would consider what Advantage this their Recusancy, in Temporals, gives to the common Adversary, who, for Disobedience in Spirituals, have hitherto alone inherited that Name; for that which we ourselves condemn in them for so doing; and profess to hate that Religion which teacheth them so to do; that is, to refuse Subjection unto Princes in Spirituals;*

yet

yet the same, if not worse, some of our Side now, if An. 4. Charles I. 1628.
 ours they be, dare to practise.

It must needs argue less Conscience, and more Ingratitude, both to God and the King, if in Temporal Things we obey not: They in Spirituals deny Subjection, wherein they may perhaps frame unto themselves some Reasons of Probability, that the Offence is not so heinous; but if we in Temporals shall be so refractory, what Colour of Reason can we possibly find to make our Defence withal; without the utter flaming of ourselves, and laying a Stain, which cannot easily be washed out, upon that Religion which his Majesty doth so graciously maintain, and ourselves profess?

The second Comparison is with Turks and Jews, in the second Sermon, (p. 47.) *What a Paradox is this? What a Turk will do for a Christian, and a Christian for a Turk, and a Jew for both, &c. much less should Christian Men deny the same to a Christian King.*

The third Comparison is with Corah, Dathan, and Abiram, Theudas, and Judas, which is taken out of the second Sermon, (p. 49.) where he labours to deprive of all Merit in Christ's Sufferings those who refused this Loan.

Corah, Dathan, and Abiram, whom, for their Murmurings, God suddenly sunk into Hell Fire, might as well alledge their Sufferings had some Resemblance with that of the three Children in the Babylonian Furnace; and Theudas and Judas, the two Incendiaries of the People, in the Days of Cæsar's Tribute, might as well pretend their Cause to be like the Maccabees.

Thus Mr. Pym ended the second Article of the Charge, upon which, he said, 'Were imprinted other two of these six Characters of Malice, formerly vented; i. e. A wicked Intention to increase his Majesty's Displeasure against his good Subjects so refusing, and to alienate his Heart from the rest of his People: Both which were Points so odious, that he needed not to add any further Inforcement or Illustration.

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The third Article contained three Clauses.

1. ' That the Authority of Parliament is not necessary for the raising of *Aids* and *Subsidies*.

2. ' That the slow Proceedings of such *Assemblies*, are not fit to supply the urgent Necessity of the State.

3. ' That Parliaments are apt to produce sundry Impediments to the just Designs of Princes, and give them Occasion of Displeasure and Discontent.'

For Proof of all these Positions Mr. *Pym* alledged two Places, containing the two first of those six Considerations, which are propounded by the Doctor, to induce the Refusers to yield to the Loan, in his first Sermon, (p. 26, 27.)

First, *If they would please to consider, that though such Assemblies, as are the highest and greatest Representations of a Kingdom, be most sacred and honourable, and necessary also to those Ends to which they were at first instituted; yet know we must, that they were not ordained to this End, to contribute any Right to Kings, whereby to challenge tributary Aids and subsidiary Helps; but for the more equal imposing, and more easy exacting, of that which unto Kings doth appertain by natural and original Law and Justice, as their proper Inheritance annexed to their imperial Crowns from their Birth. And therefore, if, by a Magistrate that is supreme, upon Necessity extreme and urgent, such subsidiary Helps be required, a Proportion being held respectively to the Ability of the Persons charged; and the Sum and Quantity so required surmount not, too remarkably, the Use and Charge for which it was levied; very hard would it be for any Man in the World, that should not accordingly satisfy such Demands, to defend his Conscience from that heavy Prejudice of resisting the Ordinance of God, and receiving to himself Damnation; though every of those Circumstances be not observed, which, by the Municipal Law, is required.*

Secondly, *If they would consider the Importunities that often may be urgent, and pressing Necessities of State that cannot stay without certain and apparent Danger, for the Motion and Revolution of so great and*

and vast a Body, as such Assemblies are; nor yet abide their long and pausing Deliberation when they are assembled, nor stand upon the answering of those jealous and over-wary Cautions and Objections made by some; who, wedded over-much to the Love of epidemical and popular Errors, and bent to cross the most just and lawful Designs of their wise and gracious Sovereign, (and that under the plausible Shews of singular Liberty and Freedom) would, if their Conscience might speak, appear nothing more than the satisfying either of private Humours, Passions, or Purposes.

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Here Mr. Pym observed, 'He needed not draw any Argument or Conclusions from these Places; the Substance of the Charge appearing sufficiently in the Words themselves: And to this third Article he fixed two other of these six Characters of Malice, *viz.* That it is his wicked Intention to avert his Majesty's Mind from calling of Parliaments, and to cause jealousies, Seditions and Divisions in the Kingdom; which he enforced thus: — If Parliaments, saith he, be taken away, Mischiefs and Disorders must needs abound, without any Possibility of good Laws to reform them; Grievances will daily increase, without Opportunities or Means to redress them: And what readier Way can there be to raise Distractions betwixt the King and People; and to create Tumults and Distempers in the State, than this?'

And so he concluded this third Article of the Charge.

Next, the Limitations, the Doctor had provided to justify, or at least to excuse, himself, were propounded to be three.

1. 'That he did not attribute to the King any such absolute Power, as might be exercised at all Times, or upon all Occasions, according to his own Pleasure; but only upon Necessity extreme and urgent.

2. 'That the Sum required, must be proportionable to the Ability of the Party, and to the Use and Occasion.

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3. 'That he did not say, That the Substance of the Municipal or National Laws might be omitted or neglected; but the Circumstances only.'

To these were offered three Answers, the first General, the other two Particular. The general Answer was this, 'That it is all one to leave the Power absolute, and to leave the Judgment arbitrary when to execute that Power; for, although these Limitations should be admitted, yet it is left to the King alone to determine what is an urgent and pressing Necessity; and what is a just Proportion, both in respect of the Ability, and of the Use and Occasion; and what shall be said to be a Circumstance, and what the Substance, of the Law. Thus the Subject is left without Remedy; and, the legal Bounds being taken away, no private Person shall be allowed to oppose his own particular Opinion, in any of these Points, to the King's Resolution; so that all these Limitations, though specious in Shew, are in Effect fruitless and vain.'

The first particular Answer applied to that Limitation of urgent Necessity, was taken from the Case of *Normandy*; as it appears in the Commentaries of *Guilliam Jeremie*, upon the customary Laws of that Duchy: They having been oppress'd with some Grievances, contrary to their Franchise, made their Complaint to *Lewis X.* who, by his Charter, in the Year 1314, acknowledging the Right and Custom of the Country, and that they had been unjustly grieved, did grant and provide, 'That, from thence-forward, they should be free from all Subsidies and Exactions, to be imposed by him and his Successors; yet with this Clause, *Si Necessitas grande ne le requirer*; which small Exception hath devoured all these Immunities: For though these States meet every Year, yet they have little or no Power left, but to agree to such Levies as the King will please to make upon them.'

The second particular Answer applied to the Limitation and Diminution of this Power, which may be pretended to be made by this Word, *Circumstance*, (as if he did acknowledge the King to

be bound to the Substance of the Law, and free only in regard of the Manner) was this, That, if the Places be observed, it will appear, that he intends, by that Word, *The Assembly of Parliaments, and Assent of the People* for such Contribution, which is the very Substance of the Right and Liberty now in Question.

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The Circumstances of Aggravation, observed to be annexed to this Cause, were these.

The *first* from the Place where these Sermons were preached; the Court, the King's own Family, where such Doctrine was before so well believed that no Man needed to be converted. Of this there could be no End, but either simoniacal, by Flattery and Soothing to make Way for his own Preferment; or else extremely malicious, to add new Afflictions to those who lay under his Majesty's Wrath, disgraced and imprisoned; and to enlarge the Wound, which had been given to the Laws and Liberties of the Kingdom.

The *second* was from the Consideration of his holy Function: He is a Preacher of God's Word; and yet he had endeavoured to make that, which was the only Rule of Justice and Goodness, to be the Warrant for Violence and Oppression. He is a Messenger of Peace, but he had endeavoured to sow Strife and Dissension, not only amongst private Persons, but even betwixt the King and his People, to the Disturbance and Danger of the whole State: He is a spiritual Father, but like that evil Father in the Gospel, he hath given his Children Stones instead of Bread; instead of Flesh he hath given them Scorpions. Lastly, he is a Minister of the Church of England, but he hath acted the Part of a *Romish Jesuit*; they labour our Destruction, by dissolving the Oath of Allegiance taken by the People; he doth the same Work, by dissolving the Oath of Protection and Justice taken by the King.

A third Point of Aggravation was drawn from the Quality of those Authors, upon whose Authority he doth principally rely, being for the most part

Friars

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Eriars and Jesuits; and from his Fraud and Shifting, in citing even those Authors to Purposes quite different from their own Meanings.

Touching which it was presumed, that most of his Places are such as were intended, by the Authors, concerning absolute Monarchies, not regulated by Laws or Contracts betwixt the King and his People: And, in Answer to all Authorities of this Kind, were alledged certain Passages of a Speech from our late Sovereign King *James*, to the Lords and Commons at *Whitehall*, 1609, *viz.*

‘ In these our Times, we are to distinguish betwixt the State of Kings in their first original; and between the State of settled Kings and Monarchs, that do at this Time govern in civil Kingdoms, &c.

‘ Every just King, in a settled Kingdom, is bound to observe the Paction made to his People by his Laws, in framing his Government agreeable thereunto, &c.

‘ All Kings, that are not Tyrants or perjured, will be glad to bound themselves within the Limits of their Laws; and they that persuade them to the contrary are Vipers and Pests, both against them and the Common-Wealth.’

‘ It was *secondly* observed, that (in the 27th Page of his first Sermon) he cites these Words, *Suarez de Legibus, Lib. v. Cap. 17. Acceptationem Populi non esse Conditionem necessariam, ex vi Juris naturalis aut Gentium, neque ex Jure communi.* The Jesuit adds, *Neque ex antiquo Jure Hispaniæ*; which Words are left out by the Doctor, lest the Reader might be invited to enquire what was *Antiquum Jus Hispaniæ*; though it might have been learned, from the same Author, in another Place of that Work, That about two hundred Years since, this Liberty was granted to the People by one of the Kings, That no Tribute should be imposed without their Consent. And this Author adds further, That, after the Law introduced and confirmed by Custom, the King is bound to observe it.’ From this Place Mr. *Pym* took Occasion to make this short Digression, ‘ That the Kings of *Spain*, being
powerful

powerful and wise Princes, would never have part-
 ed with such a Mark of absolute Royalty, if they
 had not found in this Course more Advantage than
 in the other; and the Success and Prosperity of that
 Kingdom, through the Valour and Industry of the
 Spanish Nation, so much advanced since that Time,
 do manifest the Wisdom of that Change.

The third Observation of Fraud, in perverting
 his Authors, was this, 'The Doctor cites (in the
 20th Page of his first Sermon) these Words out of
 the same Suarez, *de Legibus, Lib. v. Cap. 15. Fol.*
300. Tributa esse maxime naturalia, & præ se fer-
re Jusitiam, quia exiguntur de Rebus propriis; this
 he produceth in Proof of the just Right of Kings to
 pay Tributes. And no Man, that reads it, doubts,
 but that, in the Opinion of Suarez, the King's
 Interest and Property in the Goods of his Subjects,
 is the Ground of that Justice; but the Truth is,
 That Suarez, in that Chapter, had distributed Tri-
 butes into divers Kinds, of which he calls one Sort;
Tributum reale, and describes it thus, *Solent ea vocari*
Pensiones quædam, quæ penduntur Regibus & Prin-
cipibus ex Terris & Agris, quæ a Principio, ad Susten-
tationem illarum applicata fuerunt; ipsi vero in Feodum
in aliis ea donarunt sub certa Pensione annua, quæ,
Jure civili, Canon appellari solet, quia certa Regula
& Lege præscripta erat: So that the Issue is, That
 this, which Suarez affirms for Justification of one
 Kind of Tribute, which is no more than a Fee-
 Farm, or Rent, due by Reservation in the Grant of
 the King's own Lands, the Doctor herein, worse
 than a Jesuit, doth wrest to the Justification of all
 Kinds of Tribute exacted by Imposition upon the
 Goods of the Subjects, wherein the King had no
 Interest or Property at all.

The last Aggravation was drawn from his Beha-
 viour since these Sermons preached, whereby he did
 continue still to multiply and increase his Offence;
 yea, even since the sitting of the Parliament, and
 his being questioned in Parliament; upon the 4th
 of May last he was so bold, as to publish the same
 Doctrine

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Doctrine in his own Parish Church of *St. Giles*; the Points of which Sermons are these.

‘ That the King had Right to order all, as to him should seem good, without any Man’s Consent.

‘ That the King might require, in Time of Necessity, Aid; and if the Subjects did not supply, the King might justly avenge it.

‘ That the Property of Estates and Goods was ordinarily in the Subject; but extraordinarily, that is, in case of the King’s Need, the King hath Right to dispose them.’

‘ These Assertions in that Sermon, he said, would be proved by very good Testimony; and therefore he desired the Lords, That it might be carefully examined; because the Commons held it to be a great Contempt offered to the Parliament, for him to maintain that so publickly, which was here questioned.

‘ They held it a great Presumption for a private Divine to debate the Right and Power of the King; which is a Matter of such a Nature, as to be handled only in this High Court, and that with Moderation and Tenderness. And so he concluded that Point of Aggravation.

‘ Lastly, He produced some such Precedents as might testify what the Opinion of our Ancestors would have been, if this Case had fallen out in their Time; and herein, he said, He would confine himself to the Reigns of the first three *Edwards*, two of them Princes of great Glory: He began with the eldest, *West. I. Cap. 34.*

‘ By this Statute, 3. *Edward I.* Provision was made against those who should tell any false News or Device, by which any Discord or Scandal may arise betwixt the King, his People, and great Men of the Kingdom.

‘ By 27. *Edward I. Rot. Parl. N. 20.* it was declared by the King’s Proclamation, sent into all the Counties of *England*, That they, that reported that he would not observe the Great Charter, were

were malicious People, who desired to put Trou- An. 4. Charles I.
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ble and Debate betwixt the King and his Subjects,
and to disturb the Peace and good Estate of the King,
the People, and the Realm.

‘ In 5. *Edward II. Inter novas Ordinationes*,
Henry de Beaumont, for giving the King ill Counsel
against his Oath, was put from the Council, and
restrained from coming into the Presence of the King
under Pain of Confiscation and Banishment.

‘ By 19. *Edward II. Clause, Mem. 26. in Dorset*.
Commissions were granted to inquire upon the Sta-
tute of *West. I.* touching the Spreading of News,
whereby Discord and Scandal might grow betwixt
the King and his People.

‘ In 10. *Edward III. Clause, M. 26.* Procla-
mation went out to arrest all them who had pre-
sumed to report, That the King would lay upon
the Wools certain Sums, besides the antient and
due Customs; where the King calls these Reports,
*Exquisita Mendacia, &c. quæ non tantum in publi-
cam Lætionem, sed in nostrum cedunt Damnum, &
Dedecus manifestum.*

‘ In 12. *Edward III. Rot. Almania.* The
King writes to the Archbishop of *Canterbury*, ex-
cusing himself for some Impositions which he had
laid, professing his great Sorrow for it; desires the
Archbishop, by Indulgences and other Ways, to
stir up the People to pray for him, hoping that God
would enable him, by some satisfactory Benefit, to
make Amends, and comfort his Subjects for those
Pressures.

‘ To these temporal Precedents of antient Times
which were alledged, he added an Ecclesiastical
Precedent out of a Book called *Pupilla Oculi*, be-
ing published for the Instruction of Confessors, in
the Title *De Participantibus cum Excommunicatis*,
Fol. 59. All the Articles of *Magna Charta* are in-
serted with this Direction, *Hos Articulos ignorare
non debent, quibus incumbit Confessiones audire, infra
Provinciam Cantuariensem.*

‘ He likewise remembered the Proclamation,
8. *Jacobi*, for the calling in and burning of Doctor
Cowel’s

An. 4. Charles 1. *Cowel's* Book, for which these Reasons are given,
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‘ For mistaking the true State of the Parliament of the Kingdom, and fundamental Constitution and Privileges thereof: For speaking irreverently of the Common Law, it being a Thing utterly unlawful for any Subject to speak or write against that Law under which he liveth, and to which we are sworn, and resolve to maintain (g).’

‘ From these Precedents he collected, that if former Parliaments were so careful of false Rumours and News, they would have been much more tender of such Doctrines as these, which might produce great Occasions of Discord betwixt the King and his People.

‘ If those, who reported the King would lay Impositions, and break his Laws, were thought such heinous Offenders; how much more should the Man be condemned, who persuaded the King he is not bound to keep those Laws? If that great King was so far from challenging any Right in this Kind, that he professed his own Sorrow and Repentance for grieving his Subjects, with unlawful Charges? If Confessors were enjoined to frame the Consciences of the People to the Observances of these Laws, certainly such Doctrine, and such a Preacher as this, would have been held most strange and abominable in all those Times?’

The third general Part was the Conclusion or Prayer of the Commons, which consisted of three Clauses.

‘ *First*, They reserved to themselves Liberty of any other Accusation; and for this, he said, There was great Reason, that as the Doctor multiplied his Offences, so they may renew their Accusations.

‘ *Secondly*, They save to themselves Liberty of replying to his Answer; for they had great Cause to think that he, who would shift so much in offending, would shift much more in answering.

‘ *Thirdly*, They desire he might be brought to Examination and Judgment; this they thought would

(g) See Vol. V. p. 227. et seq.

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would be very important for the Comfort of the present Age, and for the Security of the future against such wicked and malicious Practices.' And so Mr. Pym concluded, 'That seeing the Cause had Strength enough to maintain itself, his humble Suit to their Lordships was, That they would not observe his Infirmities and Defects; to the Diminution or Prejudice of that Strength.'

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The Conclusion of this Affair will fall in the Sequel; but we shall now, again, proceed with the more material Business of this Session, which was the consequential Part of the *Petition of Right*.

It may well be imagined, that the King was no Ways pleased with the Slight the Commons put upon his last Message to them; and this Day, *June 5.* when the Lords were met, his Majesty sent to require the Lord-Keeper to come to him immediately. Who, after some Time, being returned, his Lordship signified, 'That it was the King's Pleasure that the House, and all Committees, should be adjourned to the next Day.'

The King's Message requiring the Lords to adjourn.

After the Delivery of this Message, the Lords, doubting that there would be a sudden Dissolution of this Parliament, fell into Debate and Consideration of the weak Estate of the Kingdom, and of the Friends and Allies to it abroad; together with the great Strength of the House of *Austria*, the King of *Spain's* ambitious Aspiring to Monarchy; and, at this Time, his great Preparations for War. This being freely debated, the House was moved to name a select Committee to present the same to his Majesty, and the Danger likely to ensue to this Kingdom, if the Parliament should be now dissolved, without any happy Conclusion towards resisting the impending Evil. But the House being informed, by several Lords of the Privy Council then present, That there was no Cause to apprehend or fear any sudden Dissolution of this Parliament, the naming of the Committee was deferred for that Time.

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The same Day the Commons received another Message from the King, which the Speaker delivered in these Words.

His Message to
the Commons
forbidding them
to meddle with
Affairs of State.

His Majesty wished them to remember the Message he last sent them, by which he set a Day for the End of this Session; and he commanded the Speaker to let them know, That he will certainly hold that Day prefixed without Alteration; and because that cannot be, if the House entertain more Business of Length, he requires them, That they enter not into, or proceed with any new Business, which may spend greater Time, or which may lay any Scandal or Aspersions upon the State-Government, or Ministers thereof.

On which Message ensued the following Debate (r).

Which occasions
great Debate.

Sir *Robert Philips* expressed himself thus: 'I perceive, That towards God, and towards Man, there is little Hope, after our humble and careful Endeavours, seeing our Sins are many and so great: I consider my own Infirmities; and if ever my Passions were wrought upon, it is now. This Message stirs me up; especially when I remember with what Moderation we have proceeded. I cannot but wonder to see the miserable Strait we are now in: What have we not done to have merited? Former Times have given Wounds enough to the People's Liberty: We came hither full of Wounds, and we have cured what we could: Yet what is the Return of all, but Misery and Desolation? What did we aim at, but to have served his Majesty, and to have done that which would have made him great and glorious? If this be a Fault, then we are all criminous: What shall we do, since our humble Purposes are thus prevented, which were not to have laid any Aspersions on the Government, for they tended to no other End, but to give his Majesty true Information of his and our Danger?'

(r) From *Rushworth*, except the several Speeches, and Parts of Speeches, distinguished by an Asterisk, which are supplied from a Manuscript out of the *Harleian Library*.

Danger? And to this we are enforced out of a necessary Duty to the King, our Country, and to Posterity; but we being stopped, and stopped in such Manner as we are now enjoined, must leave to be a Council. I hear this with that Grief, as the saddest Message of the greatest Loss in the World. But let us still be wise, be humble, let us make a fair Declaration to the King.

* Let us presently inform his Majesty, That our firm Intents were to shew him in what Danger the Common-Wealth and State of *Christendom* stands; and therefore, since our Counsels are no better acceptable, let us beg his Majesty's Leave, every Man, to depart Home; and pray to God to divert those Judgments and Dangers, which, too fearfully and imminently, hang over our Heads.

Sir *John Elliot*. ' Our Sins are so exceeding great, that unless we speedily turn to God, God will remove himself further from us; ye know with what Affection and Integrity we have proceeded hitherto, to have gained his Majesty's Heart; and, out of the Necessity of our Duty, were brought to that Course we were in: I doubt, a Misrepresentation to his Majesty hath drawn this Mark of his Displeasure upon us: I observe in the Message, amongst other sad Particulars, it is conceived, That we were about to lay some Aspersions on the Government; — Give me Leave to protest, That so clear were our Intentions, that we desire only to vindicate those Dishonours to our King and Country. — It is said also, as if we cast some Aspersions on his Majesty's Ministers: I am confident no Minister, how dear soever, can —

Here the Speaker started up from the Chair, and, apprehending Sir *John Elliot* intended to fall upon the Duke, &c. said (s), *There is a Command laid upon me, To interrupt any that should go about to lay an Asperion on the Ministers of State.*

Upon this Sir *John Elliot* sat down: And Sir *Dudley Diggs* said, * ' That unless we may speak of these

(s) The Manuscript adds, *With Tears in his Eyes.*

An. 4. Charles 1.
1628.

these Things in Parliament, let us arise and be gone, or sit still and do nothing.'

Hereupon there was a deep Silence in the House for a while, which was broken by Sir *Nathaniel Rich* in these Words:

' We must now speak, or for ever hold our Peace; for us to be silent, when King and Kingdom are in this Calamity, is not fit. The Question is, Whether we shall secure ourselves by Silence, yea or no? I know it is more for our own Security, but it is not for the Security of those for whom we serve; let us think on them: Some Instruments desire a Change, we fear his Majesty's Safety, and the Safety of the Kingdom; I do not say we now see it; and shall we now sit still and do nothing, and so be scattered? Let us go to the Lords, and shew our Dangers, that we may then go to the King together, with our Representation thereof.'

Others said, ' That the Speech, lately spoken by Sir *John Elliot*, had given Offence, as they feared, to his Majesty.'

Hereupon the House declared, ' That every Member of the House is free from any undutiful Speech, from the Beginning of the Parliament to that Day; and Ordered, That the House be turned into a Committee, to consider what is fit to be done for the Safety of the Kingdom; and that no Man go out upon Pain of being sent to the *Tower*.' But before the Speaker left the Chair, he desired Leave to go forth for half an Hour; and the House ordered that he might go forth, if he pleas'd.

Then the House was turned into a Grand Committee, Mr. *Whitby* in the Chair.

Immediately after the Speaker was withdrawn, Mr *Kirton* said, * ' The King is as good a Prince as ever reigned; 'tis the Enemies to the Commonwealth that have so prevailed with him, therefore let us aim now to discover them; and I doubt not, but God will send us Hearts, Hands, and Swords to cut all his and our Enemies Throats.' And added, ' That for the Speaker to desire to leave the
House

House in such a Manner was never heard of before; An. 4. Charles I.
and he feared would be ominous.' 1628.

Mr. *Wandesford*. 'I am as full of Grief as others: Let us recollect our *English* Hearts, and not sit still, but do our Duties: Two ways are propounded, To go to the Lords, or to the King. I think it is fit we go to the King, for this doth concern our Liberties, and let us not fear to make a Remonstrance of our Rights: We are his Counsellors. There are some Men which call evil good, and good evil, and bitter sweet. Justice is now call'd Popularity and Faction.'

Sir *Edward Coke*. 'We have dealt with that Duty and Moderation that never was the like, *Rebus sic stantibus*, after such a violation of the Liberties of the Subject: Let us take this to heart.

'In the 30th of *Edward III.* were they then in doubt in Parliament to name Men that misled the King? They accused *John de Gaunt*, the King's Son, the Lord *Latimer*, and Lord *Nevil*, for misadvising the King, and they went to the *Tower* for it. Now, when there is such a Downfall of the State, shall we hold our Tongues? How shall we answer our Duties to God and Men?

'In the 7th of *Henry IV.* *Parl. Rot. N. 31.* and 32. and the 11th of *Henry IV.* *N. 13.* there the Council are complain'd of, and removed from the King, because they mew'd him up, and dissuaded him from the common Good: And why are we now to be tied from that Way we were in? And why may we not name those that are the Cause of all our Evils?

'In the 4th of *Henry III.* and the 27th of *Edward III.* and in the 13th of *Richard II.* the Parliament moderated the King's Prerogative; and nothing grows to Abuse, but this House hath Power to treat of it. What shall we do? Let us palliate no longer; if we do, God will not prosper us.

'I think the Duke of *Buckingham* is the Cause of all our Miseries; and till the King be informed thereof, we shall never go out with Honour, or

An. 4. Charles I.
1628.

fit with Honour here : That Man is the Grievance of Grievances : Let us set down the Causes of all our Disasters, and they will all reflect upon him. As for going to the Lords, that is not *Via Regia* ; our Liberties are now impeached ; we are deeply concerned : It is not *Via Regia*, for the Lords are not participant with our Liberties.

* * It is not the King but the Duke (t) that saith, *We require you not to meddle with State Government, or the Ministers thereof.* Did not his Majesty, when Prince, attend the Upper House, in our Prosecution of Lord Chancellor Bacon and the Lord Treasurer *Middlesex* ?

* Mr. Kirton. * The Duke is not only Admiral by Sea, and hath undone all the Shipping ; but is also Admiral by Land, and hath ruined, by Oppression and Violence at home, and Connivance abroad, the whole State of this Kingdom ; and his Treachery, 'tis like, will overthrow his Majesty, being that he will not suffer the King to hear Truth ; for he that speaks Truth to his Majesty is ruined by the Duke.

* Mr. Sherland. * Are there not Persons in the Court, of the greatest Quality, that are *Papish*, and are favoured there ? Are there not in our late Armies and Shipping *Papish* Commanders, that have had the greatest and chiefest Trust ? Is it probable there can be any Good intended, when those that use the King's Power seek an utter Subversion of our Religion ; and therefore let such be voted, at this Committee, the common Enemies of the Kingdom.

* Mr. Knightly. * The Duke of Buckingham is not only an Enemy to this State, but to all *Chri-stendom* ; and, I pray, let that be put to Question.

* Mr. Ashburnham. * I cannot be silent and hear that Man spoken of ; and I pray God that, whilst you are speaking of him, we do not overthrow ourselves, *Commune Periculum petit commune Auxilium.*

* Mr.

(t) The Manuscript observes, * That when Sir Edward Coke spoke these Words ; there was a great Outcry in the House, 'Tis he, 'Tis he,

* Mr. *Prynne*. 'It is not the Duke of *Buckingham*, alone, that is the Cause of these Evils, but there are some other great Persons worthy of Blame: — But he could not be drawn to name them.' An. 4. Charles I.
1628.

* Sir *Archer Croft*. 'Take away the Great One, and the Rest will vanish.'

* Sir *Robert Philips*. 'His Majesty, to our great Misfortunes, is still drawn to give an Answer to our Requests, contrary to his good Intentions; and to answer us by dark Oracles; and it is not King *Charles* counselling himself, but ill Counsel followed that is given him by ill Counsellors. If we have named my Lord of *Buckingham* to be the only Man of Guilt, he must thank himself, and his ill Advices to the King, that force Men to lay him open.'

* Mr. *Whitaker*. 'There is a Common-Wealth of Papists, Nobility, Gentry, Clergy, and Commonalty that serve the Duke constantly: In *Drury-Lane* there are three Families of Papists, there residing, for one of Protestants; insomuch as it may well be called *Little Rome*. He added, 'That one *Morley*, a Divine, informed him, That Sir *Allen Apsley* (a Retainer of the Duke's) had poisoned 4000 Men at the Isle of *Rhee*, by furnishing ill Victuals.'

Mr. *Selden*. 'Let a Declaration be drawn under four Heads. 1. To express the House's dutiful Carriage towards his Majesty. 2. To tender our Liberties that are violated. 3. To present what the Purpose of the House was to have dealt in. 4. That that great Person, (the Duke,) fearing himself to be questioned, doth interpose and cause this Distraction.'

'All this Time we have cast a Mantle on what was done last Parliament; but now, being driven again to look on that Man, let us proceed with that which was then well begun; and let the Charge be renewed that was made last Parliament against him, to which he made an Answer; but the Particulars thereof were so insufficient, that we might demand Judgment on that very Answer only.'

An. 4. Charles I.
1623.

In Conclusion, the House agreed upon several Heads concerning Innovation in Religion, the Safety of the King and Kingdom, Misgovernment, Misfortune of our late Designs, with the Causes of them: And whilst it was moving to be put to the Question, That the Duke of *Buckingham* shall be intiauced to be the chief and principal Cause of all those Evils; the Speaker, who, when he had Leave to go out, went privately to the King, brought this Message, *That his Majesty commands, for the present, they adjourn the House till To-morrow Morning, and that all Committers cease in the mean time.*

And the House was accordingly adjourned.

June 6. the Lord-Keeper delivered a Message from the King to the Lords, in these Words, viz.

The King's Message to the Lords.

His Majesty takes Notice, to your great Advantage, of the Proceedings of this House, upon hearing of his Message Yesterday; and he accounts it as a fair Respect, that you would neither agree of any Committee, nor send any Message to him, tho' it was in your Hearts; but yielded yourselves to his Majesty's Message, and deferred your own Resolutions, until you should meet again, at the Time by him appointed. Yet his Majesty takes it in extream good part to hear what you intended; especially, that you were so sensible of the Inconveniences, that might ensue on the Breach of this Parliament; which, if it had happened, or should, hereafter, happen, his Majesty assures himself that he shall stand clear, before God and Man, of the Occasion. But his Majesty saith, you had just Reason to be sensible of the Danger, considering how the State of *Christendom* standeth, in respect of the Multitude and Strength of our Enemies, and Weakness of our Party; all which his Majesty knows very exactly, and, in respect thereof, called this Parliament. The Particulars his Majesty holds it needless to recite, especially to your Lordships, since they are apparent to all Men; neither will it be needful to iterate them to his Majesty, whose Cares are most intentive upon them and the best

Remedies

Remedies that can be thought of, for them, if his Subjects will do their Parts. Therefore his Majesty gives your Lordships hearty Thanks, and bids me tell you, That nothing hath been more acceptable to him; all the Time of this Parliament, than the dutiful and direct Proceedings of this House; which he professeth hath been the chief Motive to his Majesty, to suspend those Intentions which were in him, not far from a Resolution.

An. 4. Charles I.
1628.

The same Day, the Speaker of the House of Commons brought a Message from the King, which he delivered to that House, as follows;

‘ In my Service to this House I have had many undeserved Favours from you, which I shall ever, with all Humbleness, acknowledge; but none can be greater than that Testimony of your Confidence, Yesterday shewed unto me, whereby I hope I have done nothing, or made any Representation to his Majesty, but what is for the Honour and Service of this House; and may my Tongue cleave to the Roof of my Mouth, before I will speak to the Disadvantage of any Member thereof: I have now a Message to deliver unto you.

Another to the
Commons by
their Speaker.

‘ Whereas his Majesty doth understand, that ye did conceive his last Message to restrain you in your just Privileges: These are to declare his Intentions, That he had no Meaning of barring you from what hath been your Right, but only to avoid all Scandals on his Counsel and Actions past; and that his Ministers might not be, nor himself, under their Names, taxed for their Counsel unto his Majesty; and that no such Particulars should be taken in hand, as would ask a longer Time of Consideration than what he hath prescribed, and still resolves to hold; that so, for this Time, all Christendom might take Notice of a sweet Parting between him and his People: Which if it fall out, his Majesty will not be long from another Meeting; when such Grievances, if there be any, at their Leisure and Convenience may be considered.

Mr. Speaker proceeded. ‘ I will observe somewhat out of this Message; Ye may observe a very good

An. 4. Charles 1. 1628. Inclination in his Majesty towards this House. I was bold to take Notice of that Liberty ye gave me,

Yesterday, to go to his Majesty; I know there are none here but did imagine whither I went; and but that I knew ye were desirous and content that I should leave you, I would not have desired it. Give me Leave to say, This Message bars you not of your Right in Matter, nay, not in Manner; but it reacheth to his Counsels past, and for giving him Counsel in those Things which he commanded. It is not his Majesty's Intentions to protect any A-bettor of *Spain*. The End of this was, that we might meet again sweetly and happily.

Sir *Robert Philips*, upon this Message being delivered by the Speaker, said.

I rise up with a Disposition, somewhat in more Hope of Comfort than Yesterday; yet, in regard of the Uncertainty of Councils, I shall not change much: In the first Place I must be bold, without flatering, a Thing not incident to me, to tell you, Mr. Speaker, you have not only, at all Times, discharged the Duty of a good Speaker, but of a good Man; for which I render you many Thanks.

Another Respect touching his Majesty's Answer to our *Petition*; *First*, If that Answer fall out to be short, I free his Majesty; and I believe his Resolution was, To give that which we all expected: But in that, as in others, we have suffered, by reason of interposed Persons between his Majesty and us; but this Day is, by intervenient Accidents, diverted from that, but so as in Time we go to his Majesty: Therefore let us remove those Jealousies in his Majesty of our Proceedings, that by some Men, overgrown, have been misrepresented: We have proceeded with Temper, in Confidence of his Majesty's Goodness to us and our Fidelity to him: And if any have construed that what we have done hath been done out of Fear, let him know, we came hither Freemen, and will ever resolve to ensure the worst; and they are poor Men that make
such

such Interpretations of Parliaments; in this Way and Method we proceeded; and if any Thing fall out unhappily, it is not King *Charles* that advised himself, but King *Charles* misadvised by others, and misled by misordered Counsel; it becomes us to consider what we were doing, and now to advise what is fit to be done. We were taking Consideration of the State of the Kingdom, and to present to his Majesty the Danger he and we are in. If since, any Man hath been named in particular (tho' I love to speak of my Betters with Humility) let him thank himself and his Councils, but those necessary Jealousies give us Occasion to name him; I assure myself we shall proceed with Temper, and give his Majesty Satisfaction, if we proceed in that Way. His Majesty's Message is now explanatory in Point of our Liberties, that he intends not to bar us of our Rights, and that he would not have any Aspersions cast on the Counsels past; let us present to his Majesty, shortly and faithfully, and declare our Intentions, that we intend not to lay any Aspersions upon him; but out of Necessity to prevent the imminent Dangers we are surrounded with, only to present to him the Affairs at Home and Abroad; and to desire his Majesty, that no Interposition or Misinformation of Men in Fault may prevail, but to expect the Issue that shall be full of Duty and Loyalty.

An. 4. Charles I.
1628.

The Commons Journals inform us, That Notice being taken of Mr. *Kirton's* Speech, 'That he hoped, they had all Hearts, Hands, and Swords to cut the Throats of the Enemies to the King and State.' That Expression, being this Day called in Question, it was resolved, 'That therein he had said nothing beyond the Bounds of Duty and Allegiance; and that they all concurred with him therein.'

Farther Debate
on Grievances.

June 7th, Information was given to the Commons by Mr. *Kirton* (u), * 'That at this present there

(u) From the last mentioned Manuscript.

An. 4. Charles I.
1628.

there are thirty-two Pieces of Ordnance ready ship'd for to be sent to *Rotterdam*; and yet the Town of *Weymouth*, having Ordnance assigned, cannot be suffered to be possessed of them though it be for the Defence of this Kingdom.' He also certified, 'That there were Commissions now granted to four *Londoners* to go and trade with the *Dunkirkers*; whose Information to our Enemies of our Designs, and which Way our Shipping are bent, may be of dangerous Consequence to our State.'

* Mr. *Kirton* added, 'That there was a Commission in the Crown-Office for enjoying of Excises upon this Kingdom: That *Burlemachi* had a Warrant of Privy-Seal in Form, and, as he confessed before the Committee, to disburse 30,000*l.* for buying of *German Horse*, in which *Dalbier* was employed; that 1000 of them are already levied, and Arms provided for them in *Holland*; but that he had heard they were lately countermanded. That my Lord Duke wrote into *Germany* the last Day of *May*, in which he said, That the thousand Horse and Arms, which were to come for *England*, should be stayed, but they were all then ready to come for *Emden*.'

* Hereupon, Mr. *Parker* said, 'That the Intent of bringing over those *German Horse* were to cut our Throats, or else to keep us at their Obedience.'

* Mr. *Windham* said, 'That there were, Yesterday, twelve *German Commanders* of those Horse come to Town, and some of them in *Paul's Church*, and those that procured them were Sir *William Balfour* and Mr. *Dalbier*; and that two Ships of *England* were enforced to bring over those Horse, to the Loss of their own Voyage elsewhere; and there be Books of Precedents come over, where the Manner of the *Holland Excise* is repeated and recited.'

* Sir *John Maynard*, ' *Dalbier* was the only Cause of the Overthrow of our Army at the Isle of *Rhees*, he being an Engineer; and boasted that it was his Doing that got the *French* so cheap a Victory

Story over the *English*; and that they might thank him for it; therefore this Fellow, being a Stranger and a Jugler, is deemed an unfit Man to be a Commander in our Kingdom. And that it was confess'd by *Williamson*, Clerk of the Crown, That the Business of the Excise is, at this present, in my Lord-Keeper's Hand, and under the Broad Seal.

An. 4. Charles I.
1623.

The Question was then put and agreed to, 'That if any Member of the House knew any Thing touching the Excise, that should be set upon native Commodities in this Realm, and did hold his Peace, he should be voted an Enemy to the State, and no true *Englishman*.'

The same Day a Motion was made in the House of Lords, to have a Conference with the Commons about the King's Answer to their *Petition of Right*; which being held, this Day, both Houses agreed to address the King, 'That he would please to give a clear and satisfactory Answer, in full Parliament, to the said *Petition*.' The Lords sent a Committee of their House, to attend the King with this Message; who, after some Time, being returned, they said, 'That his Majesty would come to the House, that Day, at four in the Afternoon, and there receive the said Request and give an Answer.'

In the mean time, another Committee was appointed to put down in Writing what the Lord-Keeper should say to the King; it was, likewise, agreed that he should stand in his Place, as a Peer, and there deliver this Request of both Houses to his Majesty, and afterwards go to his Place of State.

Things being thus adjusted, at the Time appointed, the King came to the House of Lords; and being in his Robes, placed on the Throne, the Commons with their Speaker attending, the King commanded the Clerk of Parliament to cut out his former Answer which was entered in the *Journal*, under the *Petition of Right*; and, at the same Time,

The King cancels his first Answer to the *Petition of Right*,

gave

An. 4. Charles I. gave unto the said Clerk his present Answer. This
1628. being done, the Lord-Keeper stood up in his Place,
as a Peer, and spoke as follows.

May it please your Most Excellent Majesty,

THE Lords Spiritual and Temporal, and
Commons in Parliament assembled, taking
into Consideration that the good Intelligence, be-
tween your Majesty and your People, doth much
depend upon your Majesty's Answer unto their
Petition of Right formerly presented: With una-
nimous Consent, do now become most humble
Suitors unto your Majesty, That you would be
pleased to give a clear and satisfactory Answer
thereunto in full Parliament.

Whereunto the King replied,

THE Answer I have already given you was made
with so good Deliberation, and approved by the
Judgments of so many wise Men, that I could not have
imagined but it should have given you full Satisfaction:
But to avoid all ambiguous Interpretations, and to
shew you there is no Doubtfulness in my Meaning, I am
willing to pleasure you as well in Words as in Sub-
stance. Read your *Petition*, and you shall have an
Answer that, I am sure, will please you.

And gives a more
explicit one;

The *Petition* was read, and then the Clerk read
this Answer, *Soit Droit fait comme il est désiré.*

*This I am sure, said the King, is full, yet no more than
I granted you in my first Answer; for the Meaning
of that was to confirm all your Liberties, knowing ac-
cording to your own Protestations, that you neither
mean nor can hurt my Prerogative. And I assure
you, my Maxim is, that the Peoples Liberties strength-
en the King's Prerogative, and the King's Preroga-
tive is to defend the Peoples Liberties.*

*You see now how ready I have shewed myself to sa-
tisfy your Demands, so that I have done my Part;
Wherefore*

Wherefore, if this Parliament hath not a happy Conclusion, the Sin is yours; I am free from it.

An. 4. Charles I.
1628.

There is a *Memorandum* entered in the Lords *Journal*, 'That at the End of the King's first Speech, at the Answer to the *Petition*, and on the Conclusion of the whole, the Commons gave a great and joyful Applause.'

Rushworth informs us, That the Commons returned to their own House with unspeakable Joy; and resolved so to proceed as to express their Thankfulness; and now frequent Mention was made of Proceeding with the Bill of *Subsidies*; of sending the Bills, which were ready, to the Lords, and of perfecting the Bill of Tunnage and Poundage. Sir *John Strangeways* also expressed his Joy at the Answer; and further added, 'Let us perfect our Remonstrance: King *James* was wont to say, He knew that by Parliaments which otherwise he could never have known.'

Which occasions
great Joy.

June 10th, the King sent the following Message to the Commons by Sir *Humphrey May*.

His Majesty is well pleased that your Petition of Right and his Answer, be not only recorded in both Houses of Parliament, but also in all the Courts of Westminster: And his Pleasure is that it be put in Print, for his Honour, and the Content and Satisfaction of his People; and that you proceed cheerfully to settle Businesses for the Good and Reformation of the Common-Wealth.

June 12. The Commons read a third Time, and passed, the Bill for granting *Five Subsidies* to the King; and ordered that it should be carried up to the Lords. Sir *Edward Coke* went with it, and almost the whole House attending him.

Bill of five Sub-
sidies pass'd.

To return to the Lords, who, for several Days, had been employed in the Charge of the Commons against Dr. *Manwaring*.—On the 9th of *June*, the Lord-Keeper having reported the Decla-

ration

An. 4. Charles I.
1628.

ration beforementioned, and the Substance of Mr. Pym's Speech on the Delivery of it; the Lords ordered that the said *Manwaring* should be taken into Custody, and brought to answer the Charge, exhibited against him, the next Morning.

June 10. The Lords sent to desire the King to grant some longer Time to this Session; to which his Majesty returned for Answer, 'That so as the great Business of the Nation, which was intended to go Hand in Hand with the *Petition of Right*, might receive no Delay; he was contented to enlarge the Time of this Session, some few Days, to dispatch the Business of both Houses.' This Answer was also sent to the Commons.

The Lords examined several Witnesses in Dr. *Manwaring's* Cause: The Proceedings wherein we shall give, *de Die in Diem*, from their *Journals*.

Proceedings a-
gainst Dr. Man-
waring before the
Lords.

June 11th, Roger *Manwaring*, Doctor in Divinity, being this Day brought to the Bar, the Declaration of the Commons against him was read.

Then Mr. Sergeant Crew and Mr. Attorney-General did charge him with the Offences contained in the said Declaration: And opened the Proofs of the said Offences out of the several Places of his two Sermons, which he preached before the King's Majesty in *July* last. And they, the said Mr. Sergeant Crew and Mr. Attorney-General, did further charge the said *Roger Manwaring*, for preaching a third Sermon 4th of *May* last, (sitting the Parliament) in his own Parish Church of *St. Giles in the Fields*; wherein he delivered three Articles to this Effect, *viz.*

1. 'That in Matters of Supplies, in Cases of Necessity, the King had Right to order all, as seemed good to him, without Consent of his People.
2. 'That the King might require Loans of his People, and avenge on such as should deny.
3. 'That the Subject hath Property of his Goods, in Ordinary; but, in Extraordinaries, the Property was in the King.'

And

And they charged the said *Manwaring* with great An. 4. Charles I.
 Presumption, to dispute the Right of the King and Liberty of the Subject; and the Right of the Parliaments, in his Ordinary Sermons. 1628.

The Charge being ended, the Lord-Keeper demanded of Dr. *Manwaring*, Whether he did acknowledge the three Tenets to be preached by him in his Sermons 4th of *May*: This he absolutely denied. Whereupon the Clerk read the Examination of *Hammond Clayton*, Esq; and Sir *Daniel Norton*, Knt. who had affirmed some Parts thereof upon their Oaths.

Then Dr. *Manwaring*, being admitted to speak for himself, protested before God, upon his Salvation, ' That he never had any Meaning to persuade the King to alter the fundamental Laws of the Kingdom: His only Ends were to do his Majesty Service; and to persuade a Supply in Cases of extreme Necessity: He desired Favour and Justice to explain himself; and, because his Book consists of many Conclusions, that the Spiritual Lords might be Judges of the Inferences and logical Deductions therein.

He further humbly besought their Lordships to allow him Counsel to speak for him, in Point of Law; Time to answer the Particulars; a Copy of the Charge in Writing; and Recourse to his Books at Home, upon Caution to attend again, when their Lordships shall appoint.

The Prisoner being withdrawn, and, after some Debate on his Requests, brought to the Bar again, the Lord-Keeper, by Direction of the House, blamed him for that he divided his Judges; by requiring a Part of his Charge against him to be referred to the Lords the Bishops; whereas the whole Matter belongs to all the Lords jointly.

Then his Lordship told him, That the House had considered of his other Requests, and granted him these, *viz.*

1. ' To have a Copy of his Charge.
2. ' To have Time till *Friday* Morning to make his Answer.

3. ' To

An. 4. Charles I.
1623.

3. 'To have Leave to go to his own Houſe, and to abide there with a Keeper.'

And his Lordſhip further told him, That if, upon recollecting himſelf, he ſhall deſire Acceſs to their Lordſhips To-morrow Morning, it ſhall be granted him.

June 12th, a Meſſage from the Commons, by Sir *Edward Coke* and others.

The Meſſage conſiſted of two Parts:—The *firſt* concerning the *Petition of Right* exhibited to his Maſteſty by both Houſes; That his Maſteſty's Anſwer thereunto had cauſed an Expreſſion of exceeding great Joy throughout the whole Kingdom: And, that this Joy might be made perpetual, to the Honour of the King and Comfort of his People, the Commons were in Conſultation amongſt themſelves, to move their Lordſhips, That the ſaid *Petition*, with the *Anſwer*, might be entered in both Houſes: That it might be enrolled in all the Courts of Juſtice in *Weſtmiſter Hall*, for a Mirror to the Judges: And that it might be printed amongſt the Statutes of this Seſſion. But that, before they could come to move their Lordſhips to join with them in deſiring the King that all this might accordingly be done, they were prevented by his Maſteſty's gracious Meſſage to the ſame Effect; of which they have already made an Entry in their Houſe. The Commons, therefore, deſire that the ſame Meſſage may be entered here alſo; and then all the reſt will neceſſarily follow.

The *ſecond* Part of their Meſſage was concerning *Dr. Manwaring's Book*: They ſaid they found his Maſteſty's Command ſet upon the firſt Leaf, to warrant the Printing of that Book; but that this they had Cauſe to ſuſpect, becauſe, tho' they found thoſe Words ſtruck out in the Original, they ſtill ſtood in the printed Book. And, as they conceive the Printer durſt not do it without Warrant, they therefore deſired their Lordſhips to examine by what Means this ſpecial Command was derived, from his Maſteſty, to the Printer? And when

when their Lordships have found the Party, or Parties, who gave the Warrant, the Commons demand to have him or them punished, with as much Severity or more, as *Manwaring* himself.

An. 4. Charles 2.
1663.

Answer. The Lords do, unanimously, agree, That his Majesty's said Message for the Entering, Enrolling, and Printing of the said *Petition* and *Answer* shall be enter'd here, as is desired: And, as concerning the Examination who gave the Warrant for Printing of Dr. *Manwaring's* Book, their Lordships will take it into Consideration; and do that therein, which shall be fit.

The same Day, upon another Message of the Commons to the Upper House, it was ordered by their Lordships, That *Richard Badger*, who printed Dr. *Manwaring's* Book, be presently brought before their Lordships; who, being brought to the Bar, sworn and examined, answered, That Dr. *Manwaring*, himself, delivered him his two Sermons to be printed, with the Bishop of London's Signification to that Effect, under his Lordship's Hand: And that when the Book was fully printed, Dr. *Manwaring* brought the Title of his said Book, written with his own Hand, as it's now printed.

Hereupon the said Printer was dismissed at this Time; and the Earl of *Essex* and the Lord Bishop of *Lincoln* were sent, from the House, to the Bishop of *London*, to understand, from his Lordship, what Authority he had for signifying his Majesty's special Command for the Printing of Dr. *Manwaring's* Book.

June 13th, Dr. *Manwaring*, being this Day brought to the Bar before the Lords, and admitted to speak for himself unto the Charge of the Commons against him, answered in Effect as followeth,

First, He shewed that he was under a great Burthen of Sorrow and Weakness here, to present himself unto their Lordships: And then rendered their
Lord-

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Lordships humble Thanks, for giving him Leave and Time to recollect himself before he made his Answer: And craved a favourable Interpretation of what he was now to speak.

As touching his two Sermons complained of by the Commons, he said, 'That he was induced to preach them by a public Remonstrance of the Necessities of the State at that Time: And that he printed them at his Majesty's special Command. That the Grounds of his Positions, in those two Sermons, are in the Holy Scriptures, and in the Interpreters of the Scriptures; and are not complained of by the Commons, but the Inferences only, drawn from those Grounds, are questioned by them.'

He craved Leave to explain himself in two of those Positions: The *first* where he says, 'That Kings partake of Omnipotence with God, he said, That he meant no more by this than is meant by the Holy Scriptures, and by the Laws of the Land: For the *Psalms* say, *Dii estis*; and Mr. Calvin saith, *Reges a Deo Imperium habere, & divinam Potestatem in Regibus residere*: Wherefore to offend against Kings he thought it Sacrilege; and, by the Laws of the Kingdom, a great Image of God is in the King. The *other* Position, which he desired to explain, was touching the King's Justice; where he says, in his second Sermon, (p. 25.) 'That Justice intercedes not between God and Man, nor between the Prince, being a Father, and the People, as Children.'

He said, 'That he meant thereby, that as Man cannot requite God, nor the Child the Father; so the King, being Dispenser of God's Power, cannot be required: But his Meaning was not, that the King should not have Laws.'

'And touching those Inferences, made by the Commons out of his two Sermons complained of, which they impute either to Sedition or Malice, or to the destroying of the Municipal Laws of the Land, or slighting of Parliaments: He protested, before God and his holy Angels, That they were never

never in his Thoughts. He only thought to persuade those honourable Gentlemen, who refused to conform themselves, to yield a Supply unto the present and imminent Necessities of the State. And, in the Conclusion of his Speech, he expressed his great Sorrow to be thus accused; and begg'd Pardon and Mercy of their Lordships, and of the Commons, even for God's Sake; for the King's Sake, whom they so much honoured; for Religion's Sake; and for his Calling's Sake; humbly beseeching them to accept of this Submission.

This being spoken by Dr. *Manwaring*, and he willed to withdraw; the Lord Archbishop of *Canterbury* (x) called to him to stay: And having desired Leave of the House that he might say somewhat unto him, which was granted; his Grace then told him, 'That he might have made some better Use of the great Favour which they did him, in giving him Time to recollect himself before his Answer.' But he saw in him (as St. *Bernard* saith) 'That there are some Men who are *miseri sed non miserandi*: And that he was sorry to hear such an Answer to the Accusation of the Commons.' But, God be thanked, the King had now wiped away what was intended by his two Sermons; which Sermons, his Grace said, he both misliked and abhorred, and was sorry that he came only to extenuate his Fault: Touching the Participation, which Dr. *Manwaring* gave the King with God, his Grace told him, 'That it was *very Blasphemy*; and that those Words in the Psalms, *Dii estis*, do warrant no such Matter.' And touching his other Assertion, that there is no Justice but between Equals, and not between God and Man; the Parent and his Children; nor between the King and his People; his Grace told him, 'It was impious and false; and that he had thereby drawn an Infamy upon us and our Religion; and had given an Occasion to the *Jesuits* to traduce us.' And shewed him, 'That the Scriptures do plainly declare and prove a Justice from God to Man, from a Parent to his

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1628.
The Archbishop of Canterbury's Admonition to him.

An. 4. Charles I. 1628. Children, and from a King to his People: And further, 'That, by the Laws of God and Man, there was ever a communitive Justice between the King and his People, for Matter of Coins: And a distributive Justice for Government.' Then putting him in Mind of *Anafarchis*, the Philosopher, whom the King of *Cyprus* caused to be brayed in a brazen Mortar for his base Flattery (as a just Reward for all Flatterers of Princes) he blamed him much for citing of *Suarez*, and other *Jesuits*, in his Sermons: And willed him to read the Fathers, the antient Interpreters of the Scriptures.

The Lord Archbishop having ended his grave Admonition; Dr. *Manwaring* made a short Reply touching his said two Assertions: And said, 'That he denied not Justice and Law to be between King and People; but affirmed that the King's Justice could not be requited: And excused himself for citing of *Suarez*, for in those Places he spake for the King.'

The Prisoner being withdrawn, the Lords considered of their Censure against him; and their Lordships thought him worthy of severe Punishment: For attributing unto the King a Participation of God's Omnipotence; and an absolute Power of Government: For his scandalous Assertions against Parliaments: And for branding those Gentlemen, who refused the late Loans, with Damnation: But, for that he so deeply protested that he had no Intention to seduce the King's Conscience; nor to sow Sedition between his Majesty and his People; nor to incense his Majesty against Parliaments; nor to abrogate the Municipal Laws, as was objected by the Commons; and in regard that the King himself had protested (as was affirmed by some Lords of the Privy Council) that he understood him not in that Sense; and for that his Majesty's gracious *Answer* unto the *Petition of Right*, exhibited this Parliament, hath removed those Jealousies, which otherwise the Subjects might justly have feared, by the Assertions in those Sermons:

Sermons; And also for that he, the said Dr. Manwaring, had shewed himself very penitent and sorry for the same; their Lordships agreed of a milder Sentence against him than otherwise they would.

This Sentence, being first argued by Paris, was afterwards read and assented unto by the general and unanimous Vote of the whole House.

June 14. A Message was sent to the Commons by Mr. Sergeant Crew and Mr. Attorney General, That the Lords were ready to proceed to Judgment against Dr. Manwaring; if they, with their Speaker, will come to demand the same.

Answer, 'They will come presently.'

The Lords being in their Robes, Roger Manwaring, Doctor in Divinity, was brought to the Bar, by the Serjeant at Arms; and the Commons with their Speaker being come, Mr. Speaker said,

My Lords,

THE Knights, Citizens, and Burgeses, of the Commons House of Parliament, have impeached before your Lordships Roger Manwaring, Clerk, Doctor in Divinity, of divers enormous Crimes; for which your Lordships have convened him before you, and examined the said Offences: And now, the Commons have commanded me, their Speaker, to demand Judgment against him for the same.

Then the Lord Keeper pronounced the Judgment against him in these Words, viz.

Whereas Roger Manwaring, Doctor in Divinity, hath been impeached by the House of Commons for Misdemeanours of a high Nature; in preaching Two Sermons before his Majesty in Summer last; which are since published in Print, in a Book intituled, Religion and Allegiance; and in a Third Sermon, preached in the Parish Church of St. Giles in the Fields, the 4th of May last; and their Lordships have considered of the said Dr. Manwaring's

The Lord Keeper pronounces Judgment against Dr. Manwaring.

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Answer thereunto, expressed with Tears and Grief for his Offence, most humbly craving Pardon therefore of the Lords and Commons: Yet nevertheless, for that This can be no Satisfaction for the great Offences wherewith he is charged by the said Declaration, which do evidently appear in the very Words of the said Two Sermons; their Lordships have proceeded to Judgment against him; and therefore this high Court doth adjudge,

1. *That Roger Manwaring, Doctor in Divinity, shall be imprisoned during the Pleasure of the House.*
2. *That he shall be fined at 1000*l.* to the King.*
3. *That he shall make such Submission and Acknowledgment of his Offences, as shall be set down by a Committee, in Writing, both here at the Bar, and in the House of Commons.*
4. *That he shall be suspended, for the Term of three Years, from the exercising of the Ministry, and, in the mean time, a sufficient preaching Minister shall be provided out of the Profits of his Living to serve the Cure: This Suspension, and this Provision of a preaching Minister, shall be done by the Ecclesiastical Jurisdiction.*
5. *That he shall be disabled for ever to preach at the Court hereafter.*
6. *That he shall be for ever disabled to have any Ecclesiastical Dignity or Secular Office.*
7. *That the said Book is worthy to be burnt: And that for the better effecting of this, his Majesty may be moved to grant a Proclamation to call in the said Books, that they may be all burnt accordingly, in London, and in both the Universities; and for the inhibiting the printing thereof, hereafter, upon a great Penalty.*

And this is the Judgment of the Lords.

Then the Commons departed, and Dr. Manwaring was sent Prisoner to the Fleet.

After this the Bishop of Lincoln (y) reported the Answer of the Lord Bishop of London, unto the
Message

(y) Dr. John Williams.

Message sent him by the House the 12th of *June*, An. 4. Charles I. 1628.
to this Effect, *viz.*

That the Lord Bishop of *London* (z) answered, 'That he received a Letter from the Bishop of *Bath and Wells* (a) the last Summer, for the printing and publishing of Dr. *Manwaring's* two Sermons, by his Majesty's Command: And thereupon his Lordship did give Way for the Printing thereof, without further Examination: And caused these Words, *Published by his Majesty's Special Command*, to be put on the Front of the said Book; that it might appear to be printed by his Majesty's Authority, and not by his Lordship's Approbation.'

Hereupon the said Lord Bishop of *Bath and Wells*, being present, said, 'He could give no sudden Answer unto this Report; but acknowledged that he wrote the said Letter unto the Bishop of *London*, by his Majesty's express Commandment, that the said two Sermons should be printed; which Letter, he said, he wrote last Summer from *Woodstock*, when his Majesty was there.'

And the Earl of *Montgomery* affirmed, upon his Honour, 'That he was then present at *Woodstock*, and heard his Majesty command the Bishop of *Bath and Wells* to cause the said Book to be printed; and that the said Bishop desired his Majesty to think better of it, for there were many Things therein which would be very distasteful to the People.'

The Duke of *Buckingham* also, and the Earls of *Suffolk* and *Dorset*, protested, on their Honours, 'That they have since heard his Majesty affirm as much.'

June 16th, The Lord-Keeper reported to the Commons, the Effect of a Conference, which had been desired by the Commons, touching a Commission, dated *ultimo Februarii*, last past, and granted to several Lords and others, to advise the King how to raise Money, by Impositions, or other Ways, in the Nature of *Excise*. After a short Preamble, his Lordship commanded the Clerk to read the said

O 3

Cam-

(z) Dr. George Mountaigne.

(a) Dr. William Laud.

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Commission, which being done, he shewed the many Inconveniences which the Commons observed therein. What they chiefly stood upon, was, That to raise Money by Impositions, without Consent of Parliament, is directly against the Liberty of the Subject, and trencheth upon the Property of their Goods; contrary to the Judgment lately given this Parliament, that is, to his Majesty's gracious *Answer* to the *Petition of Right*. And that the Commons did demand that this Patent might be damned and cancelled, the Enrolment of it vacated, and the Warrant also for the Great Seal to be cancelled: Likewise, the Commons did further demand, That the Projectors and Procurers of this Commission might be discovered and proceeded against.

This Report being ended, the Lords fell into a long Debate on the Subject of it; and, at last, appointed a special Committee to draw up a Message to the King, from their House, for cancelling the said *Commission*.

The *Collector* informs us, That, after granting the *Petition of Right*, the Commons ordered that the Grand Committees for Religion, Trade, Grievances, and Courts of Justice, should sit no longer. But, at the same Time, that House thought proper to proceed in Consideration of Grievances of most moment. And, *first*, they fell upon the Commission for *Excise*, and sent to the Lord Keeper for it; who returned Answer, 'That he received the Warrant at the Council Table, for the Sealing thereof, and when the Commission was sealed, he returned it back to the said Table.' However, the Commission was sent and read in the House, *in hæc Verba*;

A Copy thereof
laid before the
Commons.

CHARLES, by the Grace of God, King of England, Scotland, France, and Ireland, Defender of the Faith, &c. To Sir Thomas Coventry, Knt. Lord Keeper of the Great Seal of England; To James Earl of Malburgh, Lord High Treasurer of England; Henry Earl of Manchester, Lord Pre-
sident

*John of our Council; Edward Earl of Worcester, An. 4. Charles I.
 Lord-Keeper of our Privy-Stat; George Duke of 1628.
 Buckingham, Lord High Admiral of England;
 William Earl of Pembroke, Lord-Steward of our
 Household; Philip Earl of Montgomery, Lord-Chamberlain
 of our Household; Theophilus Earl of Suffolke; &c. &c. Greeting. Whereas the present Con-
 juncture of the general Affairs of Christendom; and
 our own particular Interest, in giving Assistance unto
 our oppressed Allies, and for providing for the Defence
 and Safety of our own Dominions and People, do call
 upon us to neglect nothing that may conduce to those
 good Ends: And because Monies (the principal Si-
 gnets of War, and one of the first and chiefest Movers
 in all great Preparations and Actions) are necessary
 to be provided in the first Place; and we are careful
 the same may be raised by such Ways as may best stand
 with the State of our Kingdoms and Subjects; and yet
 may answer the pressing Occasions of the present Times:
 We; therefore, out of the Experience we have had;
 and for the Trust we repose in your Wisdoms, Fidelity,
 and dutiful Care of our Service; and for the Ex-
 perience you have of all great Causes concerning us and
 our State, both as they have Relation to foreign Parts
 abroad; and as to our Common-Wealth, and People
 at home: (ye being Persons called by us to be of our
 Privy-Council) have thought fit, amongst those great
 and important Matters, which so much concern us, in
 the first and chiefest Place, to recommend this to your
 special Care and Diligence.*

*And we do hereby authorize and appoint, and strict-
 ly will and require you, that, speedily and seriously,
 you enter into Consideration of all the best and speedi-
 est Ways and Means ye can, for raising of Monies for
 the most important Occasions aforesaid; which, with-
 out extremest Hazard to us, our Dominions, and Peo-
 ple; and to our Friends, and Allies, can admit of no
 long Delay: The same to be done by Impositions, or o-
 therwise, as in your Wisdoms and best Judgments ye
 shall find to be most convenient in a Case of this inevi-
 table Necessity; wherein Form and Circumstance must
 be dispensed with, rather than the Substance be lost.*

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or hazarded. And herein, our Will and Pleasure is, That you, or as many of you, from Time to Time, as can be spared from Attendance upon our Person, or other our necessary Services, do use all Diligence by your frequent Meetings, and serious Consultations. And when ye have brought any Thing to Maturity, ye make Report thereof unto us, and advertise us of those Things ye shall either resolve upon, or think fit to represent unto us for the Advancement of this great Service; which, with the greatest Affection we can, we recommend to your best Care and Judgment; wherefore ye must not fail, as ye tender our Honour, and the Safety of our Dominions and People: And for doing hereof, these Presents shall be to you, and every of you, a sufficient Warrant and Discharge in that Behalfe: In Witness whereof we have caused these our Letters to be made patent.

Witness ourself, at Westminster, the last Day of February, in the third Year of our Reign.

Per ipsum Regem.

To proceed futher with the Commons, — Mr. *Rushworth* tells us, That the House, having well nigh finished the several Particulars of Grievances of most moment, resumed the former Motion: To declare who was the Cause of all those Evils, which, in a Committee of the whole House, was mentioned before.

The Debate relating to the Duke of Buckingham renewed.

This Debate was as hot as ever; and the Crimes, so frequently objected against the Duke, were brought in afresh, as if they had never been proposed in the House. One made a Distinction that the Duke was *the Cause* of some, and a *Cause* of other Grievances. For the *first*, he instanced in the Disaster of the Armies, the Decay of Ports, Trade, Ships, and Mariners. For the *second*, he instanced in Religion. *First*, His Mother was a *Recusant*, and a *Fosterer of Recusants*. *Secondly*, He honours Papists by Employments, and Papist Captains are placed by him. And as for *Arminians*, *York House* (b) is a Place of Consultation for Mon-

(b) Then the Duke's Residence.

ogue and others, from whence is like to follow An. 4. Charles I.
Innovation in Government. 1643.

Another (in Pursuit of the Argument, That Pa-
pists were employed by the Duke) named *Dalbier*,
as the Man who betrayed our Men at the Isle of
Rhee; where all was carried by the Advice of pri-
vate Men, and some ill-affected in Religion; that
in an Assault before they came away, five hundred
Men were lost; and in the Retreat *Dalbier* was to
make a Bridge, which did so intangle them, as they
could make no Defence: And all contrary to the
Advice of the rest of the Commanders.

Sir Robert Phibps was of Opinion to have the
Declaration run thus, *We conceive the Greatness and
Power of the Duke of Buckingham is the chief Cause
of all these Evils. We are not in a Way of Charge,
but of a Remonstrance.*

Sir John Elliot, *Sir Edward Coke*, and *Mr. Sel-
den* were positive to name the Duke as the Cause
of our Evils; for so, said they, 'He has been already
declared in the last Parliament; since when, the
Causes are multiplied, and he hath deserved nothing
better of the Common-Wealth.'

In this Debate there wanted not Mediators, who
did desire the House, for their own Ends and Hap-
piness, to be sparing in that Kind. *Sir Humphrey
May* put them again in Mind of the King's Desire,
'That all personal Aspersions might be forbore; that
his Majesty will take it as an Argument of their
Moderation and Judgment, if they forbear in this.'

Sir Henry Martin advised, 'That the Remon-
strance be so framed, as to make it passable to his
Majesty's Judgment and Affection: Let him be
persuaded that it comes from a public Sense, and
not from private Ends.' And he vindicated the
Duke in Point of Religion. 'Tis true, said he,
his Mother is a *Recusant*, but never any Thing
more grieved him; and never did a Son use more
Means than he to convert her, and he hath no Power
over her; and for his own Lady, whom he found
not firm in his Religion, he hath used Means to
confirm her. As for *Arminians*, I have often heard
him

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him protest, and vow against their Opinions. It is true, many that have Skill therein, may have some Credit with him, and make Use of his noble Nature for their own Ends. One Particular I know well, That some Gentlemen and Preachers of great Esteem were questioned for a Matter, wherein there was some Error in the Manner, of which they were presented; I told him of them and that they were questioned, and he answered me, He would do the best he could for to countenance them.

Sir *Benjamin Rudyard* gave his Judgment, 'That if the Matter be urged home, it will proclaim the Man louder than we can in Words. If we name Excess of Power, and Abuse of Power, it will reach to the Duke, and all others in future Times; and to a Gentleman of Honour, nothing is so dear as Sense of Honour. I am Witness, and do know that he did many great and good Offices to this House. If the Forfeiture of my Life could breed an Opinion, that ye should have no Occasion to complain at your next Meeting, I would pawn it to you. Nor let any Man say, It is Fear makes us desist, we have shewed already what we dare do.'

And because the Employment of *Dalbier* had given much Offence, Sir *Thomas Jermin* stood up in his Defence, and said, 'He had given great Evidence of his Trust and Fidelity. When the Count *Palatine* retired himself, and the Council agreed to send a Party under Count *Mansfield* to make a head; and the King sent Word to the *Palatine* to be present in Person, *Dalbier* went along with him, with one more; and being in a Village in *Germany*, a Troop of fifty Horse met them; and *Dalbier* went to the Captain and said, We are in a Strait, I will give you so many Crowns to conduct us, which was done, and *Dalbier* went along with him.'

In Conclusion, June 13th, it was agreed upon the Question, That the excessive Power of the Duke of *Buckingham*, is the Cause of the Evils and Dangers to the King and Kingdom; and that this be added to the Remonstrance. — But this Circumstance

stance is not mentioned in the *Journal* of this Day; though there is somewhat, the next Day, to that Purpose. An. 4. Charles 1.
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The Commons about this Time voted, That Dr. Neile, Bishop of Winchester (c), and Dr. Laud, Bishop of Bath and Wells, be named to be those near about the King who are suspected to be *Arminians*; and that they are justly reputed to be un-

found in their Opinions: that Way. The House being turned again into a Committee concerning the Remonstrance, Mr. Selden proposed, That to the excessive Power of the Duke should be added, *The Abuse of that Power*: And since that Abuse is the Cause of these Evils, that it be presented to his Majesty to consider whether it be safe for the King and Common-Wealth, that a Man of his Power should be so near his Majesty. This was ordered accordingly; and all the Parts of the Remonstrance being agreed unto, it was perfected to be presented to the King, as follows:

Most Dread Sovereign,

AS with all humble Thankfulness we your dutiful Commons, now assembled in Parliament, do acknowledge the great Comfort which we have in your Majesty's pious and gracious Disposition; so we think it a meet and most necessary Duty, being called by your Majesty to consult and advise of the great and urgent Affairs of this Church and Common-wealth, finding them at this Time in apparent Danger of Ruin and Destruction, faithfully and dutifully to inform your Majesty thereof; and with bleeding Hearts and bended Knees, to crave such speedy Redress therein, as to your own Wisdom (unto which we most humbly submit ourselves and our Desires) shall seem most meet and convenient. What the Multitude and Potency of your Majesty's Enemies are Abroad? What be their malicious and ambitious Ends? And how

The Commons Remonstrance against him, as being the Cause of all Grievances.

(c) See the Proceedings against this Prelate, when Bishop of Lincoln, upon a Complaint of the Commons, *Ann. 12. Jac. 1.* in our 5th Volume p. 290, &c.

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how vigilant and constantly industrious they are in pursuing the same, is well known to your Majesty? Together with the imminent Dangers threatened thereby to your sacred Person and your Kingdoms, and the Calamities which have already fallen, and do daily increase, upon your Friends and Allies; of which, we are well assured, your Majesty is most sensible, and will accordingly, in your great Wisdom, and with the gravest and most mature Council, according to the Exigency of the Times and Occasions, provide, by all good Means, to prevent and help the same.

To which End we most humbly intreat your Majesty, first and especially, to cast your Eyes upon the miserable Condition of this your own Kingdom; of late so strangely impoverished and dishonoured, that unless, through your Majesty's most gracious Wisdom, Goodness, and Justice, it be speedily raised to a better Condition, it is in no little Danger to become a sudden Prey to the Enemies thereof; and from being the most happy and flourishing, to be the most miserable and contemptible Nation in the World. In the Discoveries of which Dangers, Mischiefs, and Inconveniencies lying upon us, we do freely protest that it is far from our Thoughts to lay the least Aspersions upon your sacred Person, or the least Scandal upon your Government; for we do, in all Sincerity of our Hearts, not only for ourselves, but in the Name of all the Commons of the Realm (whom we represent) ascribe as much Honour, as a most loyal and affectionate People can do, unto the best King: For so you are, and so have been pleased abundantly to express yourself, this present Parliament, by your Majesty's clear and satisfactory Answer to our Petition of Right; for which both ourselves, and our Posterity, shall bless God for you; and ever preserve a thankful Memory of your great Goodness and Justice therein.—And we do also verily believe, that all, or most of these Things, which we shall now present unto your Majesty, are either unknown unto you,

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you, or else by some of your Majesty's Ministers
 offered under such specious Pretences as may hide
 their own bad Intentions, and ill Consequences of
 them, from your Majesty. But we assure our-
 selves, according to the good Example of your
 Majesty's Predecessors, nothing can make your
 Majesty (being a wise and judicious Prince, and
 about all Things desirous of the Welfare of your
 People) more in love with Parliaments than this;
 which is one of the principal Ends of calling
 them: That therein your Majesty may be truly
 informed of the State of all the several Parts of
 your Kingdom, and how your Officers do behave
 themselves in Discharge of the Trust reposed in
 them by your Majesty, which is scarce possible to
 be made known to you, but in Parliament; as
 was declared by your blessed Father, when he was
 pleased to put the Commons in Parliament assem-
 bled in Mind, *That it would be the greatest Un-
 faithfulness, and Breach of Duty to his Majesty, and
 of the Trust committed to them by the Country that
 could be, if in setting forth the Grievances of the
 People, and the Condition of all the Parts of this
 Kingdom from whence they come, they did not deal
 clearly with him, without sparing any how near and
 dear soever they were unto him, if they were hurt-
 ful or dangerous to the Common-wealth.*

In Confidence therefore of your Majesty's gra-
 cious Acceptation in a Matter of so high Impor-
 tance, and in faithful Discharge of our Duties;
 We do, first of all, most humbly beseech your
 Majesty to take Notice that howsoever we know
 your Majesty doth, with your Soul abhor, that
 any such Thing should be imagined or attempt-
 ed; yet there is a general Fear in your People
 of some secret Working and Combination, to in-
 troduce into your Kingdom some Innovation and
 Change of our holy Religion, more precious unto
 us than our Lives and whatever this World can
 afford. And our Fears and Jealousies herein are
 not meely conjectural, but arising out of such
 certain and visible Effects, as may demonstrate a
 true

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true and real Cause; for notwithstanding the
 many good and wholesome Laws, and the Pro-
 visions made to prevent the Increase of Popery
 within this Kingdom; and notwithstanding your
 Majesty's most gracious and satisfactory Answer
 to the Petition of both Houses in that Behalf,
 presented to your Majesty at *Oxford*; (d) we
 find there hath followed no good Execution nor
 Effect: But on the contrary (at which your
 Majesty out of the quick Sense of your own reli-
 gious Heart cannot but be in the highest Measure
 displeas'd) those of that Religion do find extraor-
 dinary Favours and Respect at Court, from Persons
 of great Quality and Power there, whom they
 continually resort unto, and in particular to the
 Countess of *Buckingham*; who, herself, openly
 professing that Religion, is a known Favourer and
 Supporter of them that do the same; which we
 well hoped, upon your Majesty's Answer to the
 aforesaid Petition at *Oxford*, should not have
 been permitted; nor that any of your Majesty's
 Subjects of that Religion, or justly to be suspected,
 should be entertained in the Service of your Ma-
 jesty, or your Royal Consort the Queen. Some
 likewise of that Religion have had Honours, Of-
 fices, and Places of Command and Authority
 lately confer'd upon them. But that which
 striketh the greatest Terror into the Hearts of
 your Loyal Subjects concerning this, is, that Let-
 ters of Stay of legal Proceedings against them have
 been procur'd from your Majesty, by what in-
 direct Means we know not: And Commissions
 under the Great Seal, granted and executed for
 Composition to be made with Popish Recufants,
 with Inhibitions and Restraint both to the Eccle-
 siastical and Temporal Courts and Officers, to in-
 termeddle with them; which is conceived to a-
 mount to no less than a Toleration, odious to
 God, full of Dishonour and extreme Disprofit to
 your Majesty, of extreme Scandal and Grief to
 your good People, and of apparent Danger to the
 present

(d) See Vol. 6. p. 378.

present State of your Majesty, and of this Kingdom; their Numbers, Power, and Insolency daily increasing in all Parts of your Kingdom, and especially about *London* and the Suburbs thereof; where exceeding many Families do make their Abode, publickly frequent *Mas* at *Denmark-House*, and other Places; and by their often Meetings and Conferences, have Opportunities of combining their Counsels and Strength together, to the Hazard of your Majesty's Safety and the State, and most especially in these doubtful and calamitous Times.

And as our Fear, concerning Change or Subversion of Religion, is grounded upon the daily Increase of Papists, the open and professed Enemies thereof, for the Reasons formerly mentioned: So are the Hearts of your good Subjects no less perplexed, when with Sorrow they behold a daily growth and spreading of the Faction of the *Arminians*, that being, as your Majesty well knows, but a cunning Way to bring in Popery; and the Professors of those Opinions, the common Disturbers of the Protestant Churches, and Incendiaries in those States wherein they have gotten any Head, being Protestants in Shew, but Jesuits in Opinion and Practice; which caused your Royal Father, with so much pious Wisdom, and ardent Zeal, to endeavour the suppressing of them, as well at Home as in the neighbour Countries.

And your gracious Majesty, imitating his most worthy Example, hath openly, and by your Proclamation declared your Mistrust of those Persons, and of their Opinions; who notwithstanding are much favoured and advanced, not wanting Friends even of the Clergy, near to your Majesty; namely, *Dr. Neile* Bishop of *Winchester*, and *Dr. Laud* Bishop of *Bath and Wells*, who are justly suspected to be unsound in their Opinions that Way. And, it being now generally held the Way to Preferment and Promotion in the Church, many Scholars do bend the Course of

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their Studies to maintain those Errors; their Books and Opinions are suffered to be printed and published; and on the other Side, the Imprinting of such as are written against them, and in Defence of the orthodox Religion, are hinder'd and prohibited; and (which is a Boldness almost incredible) this Restraint of orthodox Books, is made under Colour of your Majesty's formerly mentioned Proclamation, the Intent and Meaning whereof, we know, was quite contrary.

And further, to increase our Fears concerning Innovation of Religion, we find, that there hath been no small Labouring to remove that which is the most powerful Means to strengthen and increase our own Religion, and to oppose the contrary, which is the diligent Teaching and Instruction of the People in the true Knowledge and Worship of Almighty God. And therefore Means hath been sought out to depress and discountenance pious, painful, and orthodox Preachers; and how conformable soever, and peaceable in their Disposition and Carriage they be, yet the Preferment of such is opposed; and, instead of being encouraged, they are molested with vexatious Courses and Pursuits, and hardly permitted to lecture, even in those Places where are no constant Preaching Ministers; whereby many of your good People (whose Souls, in this Case, we beseech your Majesty to commiserate) are kept in Ignorance, and are apt to be easily seduced to Error and Superstition.

It doth not a little also increase our Dangers and Fears this Way, to understand the miserable Condition of your Kingdom of *Ireland*; where, without Controul, the Popish Religion is openly professed, and practised in every Part thereof: Popish Jurisdictions being there generally exercised and avowed; Monasteries, Nunneries, and other superstitious Houses newly erected, re-edified, and replenished with Men and Women of several Orders, and in a plentiful Manner maintained at

Dublin;

‘ *Dublin*, and most of the great Towns, and divers
 ‘ other Places of the Kingdom; which, of what
 ‘ ill Consequence it may prove, if not seasonably
 ‘ repressed, we leave to your Majesty’s Wisdom
 ‘ to judge: But most humbly beseech you (as we
 ‘ assure ourselves you will) to lay the serious Con-
 ‘ sideration thereof to your Royal and Pious Heart,
 ‘ and that some speedy Course may be taken for
 ‘ Redress therein.

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‘ And if now, to all these, your Majesty will be
 ‘ pleased to add the Consideration of the Circum-
 ‘ stances of Time, wherein these Courses, tend-
 ‘ ing to the Destruction of true Religion, with-
 ‘ in these your Kingdoms, have been taken here;
 ‘ even then when the same is, with open Force and
 ‘ Violence, prosecuted in other Countries, and all
 ‘ the Reformed Churches in *Christendom*, either de-
 ‘ pressed, or miserably distressed: We do humbly
 ‘ appeal unto your Majesty’s Princely Judgment,
 ‘ whether there be not just Ground of Fear that
 ‘ there is some secret and strong Co-operating here
 ‘ with the Enemies of our Religion abroad, for the
 ‘ utter Extirpation thereof: And whether, if those
 ‘ Courses be not speedily redressed, and the Profes-
 ‘ sion of true Religion more encouraged, we can
 ‘ expect any other but Misery and Ruin speedily
 ‘ to fall upon us; especially if, besides the visible
 ‘ and apparent Dangers wherewith we are com-
 ‘ pted about, you would be pleased to remember
 ‘ the Displeasure of Almighty God, always bent
 ‘ against the Neglect of his holy Religion, the
 ‘ Strokes of whose Divine Justice we have already
 ‘ felt, and do still feel, with Smart and Sorrow,
 ‘ in great Measure.

‘ And besides this Fear of Innovation in Reli-
 ‘ gion, we do, in like faithful Discharge of our
 ‘ Duties, most humbly declare to your Majesty,
 ‘ that the Hearts of your People are full of Fear
 ‘ of Innovation and Change of Government, and
 ‘ accordingly possessed with extreme Grief and
 ‘ Sorrow; yet, in this Point, by your Majesty’s
 ‘ late Answer to our *Petition of Right*, touching
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our Liberties, much comforted, and railed again
out of that Sadness and Discontent, which they
generally had conceived throughout the whole
Kingdom, for undue Courses which were the last
Year taken for raising of Monies by Loans; than
which (whatever your Majesty hath been informed
to the contrary) there were never any Monies
demanded nor paid with greater Grief, and general
Dislike of all your faithful Subjects; though
many, partly out of Fear, and partly out of other
Respects, yet most unwillingly, were drawn
to yield to what was required.

The Billeting of Soldiers did much augment
both their Fears and Grief; wherein likewise
they find much Comfort upon your gracious
Answer to our *Petition of Right*, and to what we
presented to your Majesty concerning this Particular.
Yet we most humbly beseech your Majesty,
that we may inform you, that the yet Continuance,
and late Re-inforcing of those Soldiers; the
Conditions of their Persons, many of them
not being Natives of this Kingdom, nor of the
same but of an opposite Religion; the placing
them upon the Sea-Coast, where making Head
among themselves, they may unite with the
Popish Party at Home, if Occasion serve, and join
with an invading Enemy to do extreme Mischief;
and that they are not yet dismissed; do both
still minister Cause of Jealousy in your loving
Subjects; for that the Soldiers cannot be continued
without exceeding great Danger of the Peace
and Safety of your Kingdom.

The Report of the strange and dangerous Purpose
of bringing in *German* Horse and Riders, would
have turned our Doubts into Despair, and our
Fears into a Certainty of Confusion, had not your
Majesty's gracious Message (for which we humbly
give you Thanks) comforted us, by the Assurance
of your Royal Word, that they neither are,
nor were intended by your Majesty, for any Service
in *England*; but that they were designed
for some other foreign Employment: Yet the
Sight

Sight of the Privy Seal (e), by which, it seemeth, As. 4. Charles I. 1623.
 they were to be levied; the great Sum of Money, which, upon Examinations, we found to be paid for that Purpose, gave us just Cause of Fear; 1623 Addy much about the same Time, there was a Commission under the Great Seal granted unto the Lords and others of the Privy Council, to consider of other Ways for raising Monies, so particularly by Impositions; which gave us just Cause to suspect, that whatsoever was your Majesty's gracious Intentions, yet there wanted not those, that, under some colourable Pretence, might secretly by this, as by other Ways, contrive to change the Frame both of Religion and Government, and thereby undermine the Safety of your Majesty and your Kingdoms.

These Men could not be ignorant, that the bringing in of Strangers for Aid hath been pernicious to most States, where they have been admitted, but to *England* fatal. We do bless God that hath given your Majesty a wise understanding Heart to discern of those Courses, and that such Power produceth nothing but Weakness and Calamity. And we beseech your Majesty to pardon the Vehemency of our Expression, if, in the loyal and zealous Affections we bear to your Majesty and your Service, we are hold to declare to your Majesty and the whole World, That we hold it far beneath the Heart of any free *Englishman* to think, that this victorious Nation should now stand in need of *German* Soldiers to defend their own King and the Kingdom.

But when we consider the Course formerly mentioned, and these Things tending to an apparent Change of Government; the often Breaches of Parliament, whereby your Majesty hath been deprived of the faithful Counsel, and

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free

(e) It appears by the Copy thereof in *Rushworth*, (Vol. I. p. 612.) That 30,000*l.* was paid to *Philip Barlemachi* of *London*, Merchant, viz. for the levying and transporting of 7000 Horses, 15,000*l.* For 5000 Muskets, 5000 Corsets, and 5000 Pikes, 10,500*l.* And for 7000 Curasets compleat, 200 Corsets and Carbines, 4500*l.* to be brought over into this Kingdom.

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‘ free Aids of your People; the taking of Tonnage
 ‘ and Poundage, without Grant thereof by Act of
 ‘ Parliament, ever since the Beginning of your Ma-
 ‘ jesty’s Reign to this present; the standing Com-
 ‘ mission, granted to the Duke of *Buckingham*, to
 ‘ be General of an Army in the Land, in the time
 ‘ of Peace; the discharging of faithful and suffici-
 ‘ ent Officers and Ministers, some from judicial
 ‘ Places, and others from the Offices and Authori-
 ‘ ties which they formerly held in the Common
 ‘ Wealth: We cannot but, at the Sight of such an
 ‘ apparent Desolation as must necessarily follow
 ‘ these Courses, out of the Depth of Sorrow, lift up
 ‘ our Cries to Heaven for Help; and next, under
 ‘ God, apply ourselves unto your sacred Majesty;
 ‘ who, if you could hear so many Thousands speak-
 ‘ ing together, do jointly implore speedy Help and
 ‘ Reformation.

‘ And if your Majesty would be pleased to take
 ‘ a further View of the present State of your Realm,
 ‘ we do humbly pray you to consider, whether the
 ‘ miserable Disasters, and ill Success that hath ac-
 ‘ companied all your late Designs and Actions,
 ‘ particularly those of *Cadix*, and the Isle of *Rhee*,
 ‘ and the last Expedition to *Rochel*, have not ex-
 ‘ tremely wasted that Stock of Honour that was
 ‘ left unto this Kingdom, sometimes terrible to all
 ‘ all other Nations, and now declining into Con-
 ‘ tempt beneath the meanest.

‘ Together with our Honour, we there lost
 ‘ those (and that not a few) who, had they lived,
 ‘ we might have had some better Hope of recover-
 ‘ ing it again; our valiant and expert Colonels,
 ‘ Captains and Commanders; and many thousand
 ‘ common Soldiers and Mariners: Though we
 ‘ have some cause to think, that your Majesty is
 ‘ not as yet rightly informed thereof; and that of
 ‘ six or seven thousand of your Subjects lost at the
 ‘ Isle of *Rhee*, your Majesty received Information
 ‘ but of a few hundreds. And this Dishonour and
 ‘ Loss hath been purchased with the Consumption
 ‘ of above a Million of Treasure.

‘ Many

‘ Many of the Forts are exceeding weak and An. 4. Charles I.
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 ‘ decayed, and want both Men and Munition.
 ‘ And here we cannot but with Grief consider and
 ‘ complain of a strange Improvidence (we think
 ‘ your Majesty will rather call it Treachery) that
 ‘ your Store of Powder, which, by Order of your
 ‘ Privy Council, dated the tenth of *December*, 1626,
 ‘ should be constantly three hundred Lafts, besides
 ‘ a continual Supply of twenty Lafts a Month for
 ‘ ordinary Expences, and were now fit (as we con-
 ‘ ceive) to be double the Proportion, is at this Time
 ‘ in the *Tower* (the present Warrants being served)
 ‘ but nine Lafts and forty-eight Pounds in all ;
 ‘ which we tremble to think of. And that, not-
 ‘ withstanding this extreme Scarcity of Powder,
 ‘ great Quantities have been permitted to be sold
 ‘ out of your Majesty’s Store, to particular Persons,
 ‘ for private Gain ; whereof we have seen a Cer-
 ‘ tificate of six Lafts sold since the fourteenth of
 ‘ *January* last, and your Majesty’s Store yet un-
 ‘ furnished of Powder ; which, by a Contract made
 ‘ with Mr. *Evelyn*, by Advice of your Lords in
 ‘ Parliament, ought to be supplied monthly with
 ‘ twenty Lafts, at the Rate of 3 l. 10 s. 10 d. a Bar-
 ‘ rel ; yet your Majesty hath been forced to pay a-
 ‘ bove 7 l. a Barrel for Powder, to be brought in
 ‘ from beyond Seas ; for which Purpose, 12,400 l.
 ‘ was impressed to Mr. *Burlemachi* the last Year ;
 ‘ and that Powder not so good as what, by Con-
 ‘ tract, your Majesty should have, by one third
 ‘ Part : All which are most fearful and dangerous
 ‘ Abuses.

‘ But what the Poverty, Weakness, and Misery
 ‘ of our Kingdom is now grown unto by Decay of
 ‘ Trade, and Destruction and Loss of Ships and
 ‘ Mariners, within these three Years, we are al-
 ‘ most afraid to declare : And could we, by any o-
 ‘ ther Means, have been sure, that your Majesty
 ‘ should any other Way have had a true Informa-
 ‘ tion thereof, we should have been doubtful to
 ‘ have made our Weakness, and Extremity of Mis-
 ‘ fortune, in this Kind, to appear : But the impor-

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fortunate and most pitiful Complaints from all Parts
of the Kingdom adjoining to the Sea, in this Kind,
would rend, as we think, the stonyest Heart in the
World with Sorrow; and the Sense we have of the
miserable Condition your Kingdom is in by reason
thereof, especially, for that we see no possible
Means (being now shortly to end this Session)
how to help the same, adds such a Weight of
Grief unto our sad Thoughts, as we have not
Words to express it: But for your Majesty's
more exact Information therein, we beseech you
be pleased to peruse the Kalendar of Particulars,
which, with the Remonstrance, we most humbly
present unto your Majesty.

One Reason, amongst many, of this Decay
of Trade, and Loss of Ships and Mariners, is,
The not guarding of the narrow Seas; the Regality
whereof your Majesty hath now in a Manner wholly
lost, being that wherein a principal Part of the
Honour and Safety of this Kingdom heretofore
consisted; and now having absolutely neglected it,
the Town of *Dunkirk* doth so continually rob and
spoil your Subjects, that we can assure your
Majesty, if some present and effectual Remedy be
not forthwith provided, the whole Trade of this
Kingdom, the Shipping, Mariners, and all belonging
thereunto, will be utterly lost and consumed. The
principal Cause of which Evils and Dangers we
conceive to be the excessive Power of the Duke of
Buckingham, and the Abuse of that Power: And we
humbly submit unto your Majesty's excellent
Wisdom, whether it be safe for yourself, or your
Kingdoms, that so great Power as rests in him
by Sea and Land, should be in the Hands of any
one Subject whatsoever.

And as it is not safe, so sure we are, it cannot
be for your Service; it being impossible for one
Man to manage so many and weighty Affairs of
the Kingdom as he hath undertaken, besides the
ordinary Duties of those Offices which he holds;
some of which, well performed, would require
the Time and Industry of the ablest Men both in
Counse

Counsel and Action, that your whole Kingdom will afford, especially in these Times of common Danger.

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And our humble Desire is further, That your most Excellent Majesty will be pleased to take into your most Princely Consideration, Whether, in respect the said Duke hath so abused his Power, it be safe for your Majesty and your Kingdom, to continue him either in his great Offices, or in his Place of Nearness and Counsel about your Sacred Person.

And thus, in all Humility, aiming at nothing but the Honour of Almighty God, and the Maintenance of his true Religion, the Safety and Happiness of your most Excellent Majesty, and the Preservation and Prosperity of this Church and Common-Wealth, we have endeavoured, with faithful Hearts and Intentions, and in discharge of the Duty we owe to your Majesty and our Country, to give your Majesty a true Representation of our present Danger and pressing Calamities; which we humbly beseech your Majesty, graciously, to accept, and to take the same to Heart; accounting the Safety and Prosperity of your People, your greatest Happiness, and their Love, your richest Treasure. A rueful and lamentable Spectacle, we confess, it must needs be, to behold those Ruins in so fair an House; so many Diseases, and almost every one of them deadly, in so strong and well-tempered a Body as this Kingdom lately was: But yet we will not doubt, but that God hath reserved this Honour for your Majesty, to restore the Safety and Happiness thereof, as a Work worthy so excellent a Prince; for whose long Life and true Felicity we daily pray, and that your Fame and never-dying Glory may be continued to all succeeding Generations.

Then a Message was sent to his Majesty, desiring Access to his Person with this Remonstrance, and the Speaker was appointed to deliver it; who much

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much desired to be excused, but the House would not give way thereunto. Soon after the King sends a Message by Sir *Humphey May*, That he means to end this Session on the 26th of *June*: Whereupon the Commons resolved to proceed immediately with the Bill of Tunnage and Poundage.

These Affairs being transacted in the House of Commons, we now return back to the Lords:

On the same Day, with the Date above mentioned, (*June 16.*) the Duke of *Buckingham* signified to that House, That he was informed a Member of the House of Commons had affirmed his Grace did speak these Words at his own Table, *viz. Tush, it makes no Matter what the Commons or Parliament doth; for, without my Leave and Authority, they shall not be able to touch the Hair of a Dog.*

The Duke of Buckingham complains of an Aspersion cast upon him.

The Duke desired Leave of the Lords, That he might make his Protestation in the House of Commons concerning that Speech; and to move that he who spoke it of him might be commanded to justify it, and his Grace heard to clear himself.

The Lords, considering of this Complaint, ordered, ‘ That the Duke should be left to himself, to do therein as he thought proper.’ His Grace gave them Thanks; and protested, upon his Honour, That he never had these Words so much as in his Thoughts: Which Protestation the Lords ordered to be entered in their *Journal*, that the Duke might make use of them as need should be.

In the Afternoon, the Committee of Lords, appointed to consider of the Commission of Excise, brought in a Draught of a Message to be sent to the King about vacating it; which was read as follows:

May it please your Most Excellent Majesty,

The Lords desire
the King to cancell
the Commission
of Excise,

Whereas there was transmitted unto us, from the House of Commons, a certain Patent, under the Great Seal, bearing Date the last of *February*, authorizing thirty-three of your Majesty’s Counsellors, to consult and advise your
Majesty

‘ Majesty of some Ways to raise Money, by Im-
 ‘ position, or otherwise. And altho’ we have re-
 ‘ ceived Satisfaction, from some of your Majesty’s
 ‘ Council, that this was no more than a Com-
 ‘ mission, or Warrant, to advise only ; yet, to free
 ‘ your Subjects of all Jealousies, and because this
 ‘ way of requiring Advice, under the Great Seal,
 ‘ does seem unusual, we do humbly beseech your
 ‘ Majesty to cancel the said Commission ; and, if
 ‘ it be enrolled, to vacate the same also, with the
 ‘ Warrant ; and to give the Lord Keeper Orders
 ‘ to effect this with all convenient Speed.’

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The same Committee delivered in another Mes-
 sage, drawn by them, to the King, against Dr.
Manwaring’s Books; desiring his Majesty to put
 out his Proclamation to call in the said Books,
 that they might be all burnt in *London* and *West-*
minster, and at both the Universities. Also to in-
 hibit the reprinting of it under very severe Pen-
 alties, &c. Both these Messages were approved of
 by the Lords, and ordered to be delivered to his
 Majesty by the Lord Keeper, in the Name of the
 whole House.

And to issue a
 Proclamation a-
 gainst Dr. Man-
 waring’s Book.

June 17. The Commons had now sent up their Bill
 of *Subsidies* to the Lords, who had read it twice ; but
 finding some Exception, for naming the Commons,
 only, in the Grant, they agreed to have a Confe-
 rence with them about it. Accordingly a Message
 was sent to the Lower House, to desire a Confe-
 rence on certain Matters, tending to the Preserva-
 tion of the good Correspondency between both
 Houses. *Answered*, ‘ They would attend pre-
 sently.’

The Lords Excep-
 tions to the Form
 of the Subsidy
 Bill.

It was then agreed, ‘ That the Lord Keeper
 should signify to the Commons, at this Conference,
 the great Care the Lords have had, all this Parlia-
 ment, to continue a right Understanding between
 both Houses ; which was best done when no-
 thing is intrenched upon by either House. To shew
 them

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them, that, in the Front of the Bill of *Subsidies*, which they lately sent up, only the Commons are named; whereas in many Precedents, even in the last Parliament, it is, *We your Majesty's most humble and loyal Subjects, in your High Court of Parliament, &c.* neither naming the Lords nor yet the Commons. That the Lords conceive this might happen, rather by some Slip, than done of set Purpose. To move them, that the Word *Commons* may be struck out; for as the Commons give their *Subsidies* for themselves, and for the representative Body of the Kingdom, so, likewise, the Lords have the Disposition of their own.

This being delivered to the Commons, at the Conference, their Committee said, 'They must make known this Proposition of the Lords to their whole House; and hoped speedily to return to give them an Answer.' But, on their coming back, they only said, 'That there was nothing more desired than the good Correspondency between the Lords and them; which they esteemed an earthly Paradise: That they had taken their Lordship's Proposition, for altering the Bill, into Consideration, and they find it a Matter of more Moment than to be suddenly resolved on: But the next Morning they would consider farther of it, and return an Answer with all convenient Speed.'

June 18. A Message was brought by Sir *Edward Coke*, and others, 'That the Commons had considered of their Lordships Proposal, about the *Subsidy Bill*; and as they had always endeavoured to keep up a good Correspondency between the two Houses; knowing well that it is the very Heart-String of the Common-Wealth; so they should be ever as zealous of their Lordships Privileges as of their own Rights.'

This ambiguous Answer was all the Commons sent; but yet the Lords were content with it, and expressed great Joy and Comfort, as it is termed in the Message. There was also another Conference

held the same Day, concerning a proper Title to be given to their *Petition of Right*, and the enrolling and printing of the same.

This Day the Lord Keeper reported the King's Answer to the two Messages he was ordered to deliver to him, concerning the cancelling the Commission of Excise, and about Dr. *Manwaring's* Book, 'That their Lordships had Reason to be satisfied with what was truly and rightly told them by the Lords of the Council, That this Commission was no more than a Warrant of Advice, which his Majesty knew would be agreeable to that Time, and to the manifold Occasions then in hand: But now, having a Supply from the Love of his People, he esteems that Commission useles; and therefore, tho' he knows no Cause why any Jealousies should have risen thereby, yet, at their Desires, he is content that it be cancelled; and hath commanded to bring both the Commission and Warrant to him, to be cancelled in his Presence.'

As to Dr. *Manwaring*, his Majesty said, 'That he was well pleased with their Request, and would order the Attorney General to prepare a Proclamation accordingly.'

June 19. The Lord President of the Council acquainted the Lords, 'That his Majesty had caused the Commission so much complained of by the Commons, with the Warrant for putting the Seal to the same, to be cancelled in his Presence.' His Lordship openly shewed them so cancelled to the House; on which a Message was sent to the Commons, along with those Instruments; but with Orders to bring them back again, when shewn to that House.

June 20. The Title to the *Petition* was agreed on by the Lords and Commons, and approved by the King: It run in these Words, *The Petition exhibited to his Majesty, by the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, concerning divers Rights and Liberties of the Subjects;*
with

An. 4. Charles I. with the King's most Royal Answer thereunto, in full Parliament. Agreed, also, 'That the King's Answer, in *French*, should be printed in *English*, for the better Satisfaction of the Vulgar.'

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Then Dr. *Manwaring* was brought to the Bar, in order to read and subscribe the following Submission, which a Committee of Lords had drawn up for that Purpose.

May it please this Honourable House,

Dr. Manwaring's Submission.

I Do here, in all Sorrow of Heart, and true Repentance, acknowledge the many Errors and Indiscretions which I have committed, in preaching and publishing those two Sermons of mine, which I called Religion and Allegiance; and my great Fault in falling upon this Theme again, and handling the same rashly and unadvisedly, in my own Parish Church of St. Giles in the Fields, the fourth of May last past. I do fully acknowledge those three Sermons of mine, to have been full of many dangerous Passages, Inferences, and scandalous Aspersions in most Parts of the same: And I do humbly acknowledge the Justice of this Honourable House, in that Judgment and Sentence passed upon me for my great Offence: And I do, from the Bottom of my Heart, crave Pardon of God, the King, and this Honourable House; the Church, and this Commonwealth in general; and those worthy Persons adjudged to be reflected upon by me, in particular, for these great Errors and Offences.

ROGER MANWARING.

After this, the Doctor was led into the House of Commons by the Warden of the *Fleet* Prison, where he made the same Submission, on his Knees, at their Bar.

Debate, in the Commons, on the Bill for Tunnage and Poundage.

The Commons had now resumed their Debate on the Bill for Tunnage and Poundage; in which Mr *Seldon's* Arguments, chiefly, turned on these Points: 'That whereas the King's Counsel objected, that 1, *Elizabeth* saith, It was granted Time out of Mind to the King; he fear'd his Majesty is told so, and some Body doth ascertain him so: But we may clear

clear that ; for not only 1. *Eliz.* but also in the Statute of 1. *Jac.* the Words *Time out of Mind* is, That whereas King *Henry VII.* and other his Majesty's Progenitors, have had some *Subsidy* for the guarding of the Seas ; and there was never a King but had some *Subsidy* ; in that Sense, it is, indeed, *Time out of Mind* ; yet is it a Matter of free Gift : For public Bills, the King saith, *Le Roy le veult* ; for *Petitions of Right*, *Soit Droit fait comme il est desiré.*

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‘ For the Bill of *Subsidies*, it is thus, *The King heartily thanketh the Subjects for their good Wills* ; In all the Bills of *Tunnage* and *Poundage* is the very same Answer, save one, which was 1. *Eliz.* and but for that only Mistake of the Clerk, it hath ever the same Assent as the Bill of *Subsidy*.’

Upon this Debate it was ordered, ‘ That a Committee be appointed to draw up a Remonstrance to his Majesty of the People's Rights, and of the undue taking of *Tunnage* and *Poundage*, and *Impositions*, without Act of Parliament ; and to shew the Reasons, why the House cannot, in so short a Time, prepare that Bill.’

The Remonstrance was as followeth.

Most gracious Sovereign,

‘ YOUR Majesty's most loyal and dutiful
 ‘ Subjects, the Commons in this present
 ‘ Parliament assembled, being in nothing more
 ‘ careful, than of the Honour and Prosperity of
 ‘ your Majesty, and the Kingdom ; which they
 ‘ know do much depend upon that happy Union
 ‘ and Relation betwixt your Majesty and your People ; do with much Sorrow, apprehend, that (by
 ‘ Reason of the Uncertainty of their Continuance
 ‘ together, the unexpected Interruptions which have
 ‘ been cast upon them, and the Shortness of Time
 ‘ in which your Majesty hath determined to end
 ‘ this Session) they cannot bring to Maturity and
 ‘ Perfection, divers Busineses of Weight, which
 ‘ they have taken into their Consideration and Resolu-
 ‘ tion,

Their Remon-
strance to the
King on that
Subject.

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tion, as most important for the common Good :
 Amongst other Things, they have taken into special Care the Preparing of a Bill, for the granting of your Majesty such a Subsidy of Tunnage and Poundage, as might uphold your Profit and Revenue in as ample a Manner, as their just Care and Respect of Trade (wherein not only the Prosperity, but even the Life of the Kingdom do consist) would permit : But being a Work which will require much Time and Preparation, by Conference with your Majesty's Officers, and with the Merchents, not only of London, but of other remote Parts ; they find it not possible to be accomplished at this Time : Wherefore, considering it will be much more prejudicial to the Right of the Subject, if your Majesty should continue to receive the same, without Authority of Law, after the Determination of a Session, than if there had been a Recess by Adjournment only ; in which Case, that intended Grant would have related to the first Day of the Parliament : And assuring themselves, that your Majesty is resolved to observe your Royal Answer, which you have lately made to the *Petition of Right* of both Houses of Parliament ; yet doubting lest your Majesty may be misinformed concerning this particular Case, as if you might continue to take those Subsidies of Tonnage and Poundage, and other Impositions upon Merchants, without breaking that Answer ; they are forced, by that Duty which they owe to your Majesty, and to those whom they represent, to declare, *That there ought not any Imposition to be laid upon the Goods of Merchants, exported or imported, without common Consent by Act of Parliament ; which is the Right and Inheritance of your Subjects, founded not only upon the most antient and original Constitutions of this Kingdom, but often confirmed and declared in divers Statute Laws.*

And for the better Manifestation thereof may it please your Majesty to understand, That although

though your Royal Predecessors, the Kings of An. 4. Charles I. 1629.
 this Realm, have often had such Subsidies and
 Impositions granted unto them, upon divers Oc-
 casions, especially for the Guarding of the Seas,
 and Safeguard of Merchants: Yet the Subjects
 have been ever careful to use such Cautions and
 Limitations in those Grants, as might prevent
 any Claim to be made, as if such Subsidies did
 proceed from Duty, and not from the free Gift
 of the Subjects: And that they have heretofore
 used to limit a Time in such Grants, and for the
 most Part but short, as for a Year or two; and
 if it were continued longer, they have some times
 directed a certain Space of Cessation; or Inter-
 mission, that so the Right of the Subject might
 be more evident: At other Times it hath been
 granted upon Occasion of War, for a certain
 Number of Years, with *Proviso*, That if the
 War was ended in the mean Time, then the
 Grant should cease: And of Course it hath been
 sequestred into the Hands of some Subjects, to be
 employed for the Guarding of the Sea-Coasts.

It is acknowledged by the ordinary Answers of
 your Majesty's Predecessors, in their Assent to the
 Bills of Tonnage and Poundage, that it is of
 the Nature of other Subsidies, proceeding
 from the Good-will of the Subject: Very few
 of your Predecessors had it for Life, untill the
 Reign of *Henry VII.* who was so far from
 conceiving he had any Right thereunto, that, al-
 though he granted Commissions for collecting
 certain Duties and Customs due by Law, yet
 he made no Commissions for receiving the Sub-
 sidy of Tonnage and Poundage, untill the same
 was granted unto him in Parliament. Since his
 Time, all the Kings and Queens of this Realm
 have had the like Grants for Life, by the free
 Love and Good-will of the Subject. And when-
 soever the People have been grieved, by laying
 any Impositions or other Charges upon their
 Goods and Merchandizes, without Authority of
 Law

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Law (which hath been very seldom); yet, upon Complaint in Parliament, they have been forthwith relieved; saving in the Time of your Royal Father, who having, through ill Counsel, raised the Rates and Charges upon Merchandizes to that Height at which they now are; yet he was pleased so far for to yield to the Complaint of his People, as to offer, That if the Value of those Impositions, which he had set, might be made good unto him, he would bind himself and his Heirs, by Act of Parliament, never to lay any other: Which Offer the Commons at that Time, in regard of the great Burden, did not think fit to yield unto (*f*). Nevertheless, your loyal Commons in this Parliament, out of their especial Zeal to your Service, and especial Regard of your pressing Occasions, have taken into their Consideration, so to frame a Grant of Subsidy of Tonnage and Poundage to your Majesty, that your Majesty might be the better enabled for the Defence of your Realm; and your Subjects, by being secure from all undue Charges, be the more encouraged cheerfully to proceed in their Course of Trade; by the Increase whereof, your Majesty's Profit, and likewise the Strength of the Kingdom, would be very much augmented.

But not being now able to accomplish this their Desire, there is no Course left unto them, without manifest Breach of their Duty, both to your Majesty and their Country, save only to make this humble Declaration, *That the receiving of Tonnage and Poundage, and other Impositions, not granted by Parliament, is a Breach of the Fundamental Liberties of this Kingdom; and contrary to your Majesty's Royal Answer to our late Petition of Right: And therefore they do most humbly beseech your Majesty, to forbear any further receiving of the same; and not to take*

(*f*) For the Particulars of this Negotiation, as it may in some Sort be call'd, between King *James* and the Commons in Parliament, see our 5th Vol. p. 220, *et seq.*

- ' take it in ill Part from those of your Majesty's An. 4. Charles I.
 ' loving Subjects, who shall refuse to make Pay- 1628.
 ' ment of any such Charges, without Warrant of
 ' Law demanded.
 ' And as by this Forbearance, your most Ex-
 ' cellent Majesty shall manifest unto the World
 ' your Royal Justice, in the Observation of your
 ' Laws; so they doubt not, but, hereafter, at the
 ' Time appointed for their Coming together again,
 ' they shall have Occasion to express their great
 ' Desire to advance your Majesty's Honour and
 ' Profit.'

The King being informed of these Proceedings,
 thought proper to put a Stop to them. Accord-
 ingly, (*June 26.*) the Day appointed for the Proroga-
 tion, the Speaker was sent for to Court in the Whereupon the
King prorogues
the Parliament in
great Disguist.
 Morning; so that, as *Rushworth* says, he came not
 into the House till about nine o'Clock. And, af-
 ter Prayers, whilst their new Remonstrance, con-
 cerning Tunnage and Poundage, being engrossed,
 was reading, the King sent for the Speaker and the
 whole House to attend him in the House of Peers.
 His Majesty had come, unexpectedly, into that
 House, (for the Afternoon had been appointed) and
 neither the King nor the Lords were in their Robes:
 However, the Commons, with their Speaker, being
 come up, his Majesty, from the Throne, made
 the following Speech to both Houses.

My Lords and Gentlemen,

I may seem strange that I come so suddenly to end
 this Session; therefore, before I give my Assent to
 the Bills, I will tell you the Cause; tho' I must avow,
 That I owe the Account of my Actions to God alone.
 It is known to every one, that, a while ago, the House
 of Commons gave me a Remonstrance, how acceptable
 every Man may judge; and for the Merit of it, I
 will not call that in question, for I am sure no wise
 Man can justify it.

Now since I am well informed, that a second Re-
 monstrance is preparing for me, to take away the Pra-

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fit of my Tunnage and Poundage, one of the chief Maintenances of my Crown, by alledging, That I have given away my Right thereto by my Answer to your Petition: This is so prejudicial unto me, that I am forced to end this Session some few Hours before I meant; being not willing to receive any more Remonstrances, to which I must give a harsh Answer. And since I see, that the House of Commons begin already to make false Constructions of what I granted in your Petition; lest it be worse interpreted in the Country, I will now make a Declaration concerning the true Intent thereof.

The Profession of both Houses, in the Time of hammering this Petition, was no Way to trench upon my Prerogative; saying, 'They had neither Intention or Power to hurt it: Therefore it must needs be conceived, that I have granted no new, but only confirmed the antient Liberties of my Subjects. Yet to shew the Clearness of my Intentions, that I neither repent, nor mean to recede from any Thing I have promised you, I do here declare myself, That those Things which have been done, whereby many have had some Cause to suspect the Liberties of the Subjects to be trenched upon, (which indeed was the first and true Ground of the Petition) shall not hereafter be drawn into Example to your Prejudice; and, in Time to come, on the Word of a King, ye shall not have the like Cause to complain. But as for Tunnage and Poundage, it is a Thing I cannot want; and was never intended by you to ask, nor meant by me, I am sure, to grant.

To conclude: I command you all that are here to take Notice of what I have spoken at this Time, to be the true Intent and Meaning of what I granted you in your Petition; but especially you, my Lords, the Judges, for to you only, under me, belongs the Interpretation of the Laws; for none of the Houses of Parliament, either joint or separate, (what new Doctrine sever may be raised) have any Power either to make, or declare, a Law without my Consent.

After this Speech was ended, which, by his Majesty's special Command, was ordered to be entered

In the *Journals* of the Commons, the Bill of *Subsidy* An. 4. Charles I. 1628. was presented by the Speaker, standing at the Bar, who made a short Speech, and shewed, 'That it was the greatest Gift that ever was given in so short a Time.' And so craving Pardon for the Errors of the House, and his own (g), he desired the King to give his Royal Assent.

Then were read the Titles of other Bills, which were all assented to, as follows:

The Petition exhibited to his Majesty, by the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, concerning divers Rights and Privileges of the Subject, with the King's Assent thereunto in full Parliament. Acts passed this Session.

An Act for further Reformation of sundry Abuses committed on the Lord's Day, called Sunday.

An Act for repressing of all unlicensed Ale-Houses.

An Act to restrain the sending over of any to be possibly bred beyond the Seas.

An Act for five entire Subsidies granted by the Clergy.

A Declaration of the Commons against Dr. Manwaring.

An Act for the Establishing of Sutton's Hospital. And to several private Acts.

After which the Lord-Keeper, by the King's Command, prorogued this Parliament to the 20th of October next.

The most remarkable Occurrences, which happened in the Interval between these two Sessions of this Parliament, were, That the King, first, set about answering the Desires of his Subjects, in suppressing, by Proclamation, all Dr. *Manwaring's* Sermons. By another Proclamation, Directions were given to Commissioners to compound with *Papish Recusants* for two Parts in three of their Estates; but these, *Rusworth* insinuates, came off upon very easy Terms. Another Proclamation, on the back of the last, commanded, That all Priests, Jesuits, and others, who had taken Orders; by

Several Proclamations issued.

(g) Mr. *Rusworth* adds, *Which he know to be very many.*

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by Authority of the See of *Rome*, should be diligently sought for, apprehended, and committed to the Goal of that County where they should be found, &c. On this some Jesuits were taken in *London* and put into *Newgate*; but, though the Attorney-General was ordered to proceed against them, only one, our Author says, was convicted; which Affair was questioned in the ensuing Session of Parliament.

Preferments and
Pardons.

About this Time Sir *Richard Weston*, Chancellor of the Exchequer, was made a Peer of the Realm, and Lord High Treasurer of *England*: Dr. *Laud* was translated from *St. David's* to the Bishoprick of *London*: And Sir *Thomas Wentworth* created Baron *Wentworth* of *Wentworth Woodhouse*; all three Persons greatly concerned in the Sequel of these Enquiries.—Dr. *Montagu* and Dr. *Manwaring*, both of whom had been censured by Parliament, were pardoned by the King: The former was also preferred to the Bishoprick of *Chichester*; and the latter presented to the Rectory of *Stanford Rivers* in *Essex*, and had a Dispensation to hold it with his Rectory of *St. Giles's in the Fields*.

The Murder of
the Duke of
Buckingham;

It was about this Time, also, that another Expedition was designed to relieve *Rochelle*, then straitly besieged by the *French*; and a Fleet being prepared for that Purpose to go under the Conduct of the Duke of *Buckingham*, that Nobleman was stabb'd, suddenly, to the Heart by a determined enthusiastic Villain, just as he was about to ship off on the Enterprize. The Circumstances of this Murder are too well known to need any Repetition here: The Actor of it is averr'd to say (*b*), That it was the Parliament's late Remonstrance against the Duke, that made him resolve to take him off, as a public Enemy of his Country.—Happy would it have been for the Nation, if this Minister's Blood had atoned for, and cemented the Differences then between Prince and People.

This

This last Expedition to *Rochelle*, after the Duke's Death, was put under the Care of the Earl of *Lindsey*; but ended as unfortunately as the former: So that *Protestant Town*, after it had held out to the last Extremity, was obliged to surrender to the French King, and to the Catholic Power. *Lewis XIII.* entered it the 18th of *October* this Year; and, on their humble Submission, shewed Mercy to all the Inhabitants that were left alive; for not above 4000 remained of about 22,000 Souls.

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1628.

And Surrender of
Rochelle.

The 1st Day of *October* a Proclamation came out to prorogue the Parliament, from the 20th of that Month, to the 20th Day of *January* following. And nothing else intervening, historical enough for our Purpose, we shall pass on to that Period.

The Parliament
meet again.

The first Thing the Commons did, after their Meeting, *January* the 20th, was to order a Revival of all Committees, on public Affairs; as, for Privileges, Religion, Courts of Justice, Grievances, and for Trade. A Call of the House was, likewise, ordered, on the 27th.

They next proceeded to take into Consideration what Things the Liberty of the Subject had been invaded in, against their *Petition of Right*, since the End of the last Session of Parliament.

It was further ordered, that Day, That Mr. *Selden*, and others, should see, if the *Petition of Right* and his Majesty's *Answer* thereunto, were inroll'd in the Parliament Rolls and Courts at *Westminster*, as his Majesty sent them Word, the last Session, they should be (*i*); and also in what Manner they were entered: Which was done accordingly. And, soon after, Mr. *Selden* reported to the House, 'That his Majesty's Speech, made the last Day of the last Session in the Upper House, was entered, along with the *Petition* and *Answer*, by his Majesty's Command.'

The Commons
Inquiry relating
to the Petition
of Right.

Mr. *Pym* moved, 'That the Debate hereof should be deferr'd till *Tuesday* next, by reason of

Q 3

the

(i) See the Message for that Purpose p. 203.

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An. 4. Charles I. the Fewness of the House, many being not then
1628, come up.

Sir *John Elliot*. ' Since this Matter is now raised, it concerns the Honour of the House, and the Liberties of the Kingdom: It is true, it deserves to be deferr'd till a fuller House; but it is good to prepare Things, for I find this to be a Point of great Consequence. I desire therefore that a select Committee may both enter into Consideration of this, and also how other Liberties of this Kingdom are invaded.

' I find, in the Country, the *Petition of Right* printed indeed, but with an Answer that never gave any Satisfaction. I desire a Committee may consider thereof, and present it to the House; and that the Printer may be sent for to be examined about it, and to declare by what Warrant it was printed: which was so ordered.

Mr. *Selden*. ' For this *Petition of Right*, it is known how lately it hath been violated since our last Meeting. Our Liberties for Life, Person, and Freehold, how have they been invaded? Have not some been committed contrary to that *Petition*? Now we know this Invasion, we must take Notice of it. For Liberties in Estate, we know of an Order made in the Exchequer, That a Sheriff was commanded not to execute a Replevin: And Men's Goods are taken away, and must not be restor'd: And also, no Man ought to lose Life or Limb, but by the Law; and hath not one lately lost his Ears? (Meaning he that was censured in the *Star-Chamber* by an arbitrary Judgment and Sentence (i).) Next they will take away our Arms, and then our Legs, and so our Lives. Let all see we are sensible of this; Customs creep on us: Let us make a just Representation thereof to his Majesty.'

The King's Printer being sent for, to know by what Authority he suppressed the first Edition of the *Petition of Right*, and printed another with an Addition. He answered, ' He was sure he had a Warrant

(i) Our Manuscript Account of this Parliament says, *Savage*.

Warrant for it; but remembered not, whether it came immediately from the King, or from the Lords. Upon which Mr. Selden, and four other Members, were ordered to go Home with the Printer, and inform themselves of the Warrant; to take a Copy of it, and report the same to the House the next Morning. Accordingly,

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Next Day, Mr. Selden reported, 'That they had examined Mr. Norton and Mr. Bill, the King's Printers, and found that the Clerk of the House of Lords had sent to them the *original Petition of Right*, with the King's *second Answer* to it (*k*). That, during the Sitting of the Parliament, they had printed about fifteen hundred; of which few were divulged. That the Day after the Session was ended, Mr. Attorney sent for Mr. Bill to his Chambers, and told him, as by his Majesty's own Command, That these should not be published; and that the Lord Privy-Seal (*l*) told him as much. That soon after he was sent for to Court, where Mr. Attorney told him, He must print the *Petition of Right* with the *first Answer* (*m*) to it and his Majesty's *last Speech*. These were given in several Papers, strongly fastened together, and upon the last a Warrant.'

Then a Question arising, Whether these Papers should be sent for? It was carried in the Affirmative; and that the Printers should bring them, along with the Warrant, the next Morning. But this Affair was put off, the next Day, to another Time; and from thence we hear no more of it.

Another, but severer, Scrutiny was made by the Commons, on the Complaint of Mr. Rolles, a Merchant and a Member of that House, 'That his Goods were seized by the Officers of the Customs, for refusing to pay the Rates by them demanded; altho' he told them, what was adjudged to be due by Law he would pay them.'

The further Proceedings on this Affair, and other Matters which happened in this short Session of Parliament,

(k) See before p. 202.

(l) The Earl of Worcester.

(m) See before, p. 150.

An. 4. Charles I. Parliament, were published above 40 Years ago (n),
 1623. from an Account taken and collected by Sir *Thomas*
Crew, Knt. Father to *John* Lord *Crew*. This
 Gentleman had been Speaker of the last Parlia-
 ment of King *James*, and the first of King *Charles*,
 was a Sergeant at Law, and a Person very eminent
 in his Profession. His Account, being much fuller
 than is represented in *Rushworth*, or any other
 Writer, we shall chiefly follow; compared with
 the *Journals* of the *Commons*, the *Historical Collec-*
tions, and, what are still more curious, two *Manu-*
scripts, of an equal Date with these Times.—In the
 Preface to Sir *Thomas Crew's Collection* it is said to
 be offered to the Perusal of the Publick without
 any Diminution, Addition, Remarks or Applica-
 tion, (marginal References excepted) by his
 Grandson, *John Parkhurst*, Esq; But upon
 comparing it with the above-mentioned *Manu-*
scripts, it appears that several Speeches and mate-
 rial Passages are omitted: Such are properly dis-
 tinguished in their Order.—From all these Au-
 thorities we may be able to give an exact and au-
 thentic Account of this Session, more remarkable
 than any which hath yet happened in the whole
 Course of these Enquiries.

But before we go on to this, it will be necessary
 to look a little into the Proceedings of the *Lords*
 for this Session. We find their *Journals* very bar-
 ren of Matter for this Purpose, except what is also
 given in the subsequent Account of the *Commons*:
 Appeals from Chancery, and some Breaches of
 Privilege employing their Time most part of this
 Session. In the latter Affair, the most remarkable
 was this: A Motion was made in the House, (*Fe-*
bruary 9.) that Whereas divers *Englishmen* having
 obtained Degrees of Honour; as of Earls, Viscounts,
 and Barons, within the Kingdoms of *Scotland* and
Ireland, and thereby do pretend to have Place and
 Precedency, in all Commissions and Meetings, a-
 bove the Peers of this Realm: The House was to
 consider how this Wrong might be redressed, either
 by

The Lords relent
 the conferring of
 Scots and Irish
 Honours upon
 English Gentle-
 men;

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(by an Act of Parliament to be passed by both Houses; or by an humble Petition from them to the King; or by a joint Protestation of the House against it.)

A Committee being appointed to take this Affair immediately into Consideration, they agreed on the following Proposition: We conceive that no foreign Nobility have any Right of Precedency, within the Realm of England, before any Peer of this Kingdom: Yet, notwithstanding, by Courtesy, Precedency hath been allowed to Noblemen of foreign Kingdoms, according to their Ranks, which it is no way our Intention to alter. But in regard that, of late, many *Englisomen*, both by Birth, Estates, and Abodes, and the more considerable because of their great Number, have had several Honours in the Kingdoms of *Scotland* and *Ireland*, conceived to be very disserviceable to his Majesty, and prejudicial to the Peers: That which the Committee do, in Humility, offer unto the House, is to consider what Course is the fittest to be taken for applying to his Majesty for remedying and redressing of this Inconveniency. Agreed unto by the whole House.

Accordingly the following Petition was presented to the King for that Purpose.

A PETITION by the LORDS concerning the Precedency of the late created BARONS, VISCOUNTS, and EARLS of *Scotland* and *Ireland*.

To the KING's Most Excellent Majesty,

IN all Humility, shew unto your Most Excellent Majesty, your ever loyal Subjects, the Lords Spiritual and Temporal now in Parliament assembled, That whereas the Peers and Nobility of this your Realm of *England*, have heretofore used, in Courtesy, to afford Precedency, according to the several Ranks and Degrees, to such of the Nobility of *Scotland* and *Ireland*, as being in Titles of Honour above them, have, upon Occasion,

Their Petition to
the King against

referred

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referred hither, or remained here in your Majesty's Service; which we are most willing should be still observed, as a Civility tending to the great Honour of our Nation:

Now, divers of the natural-born Subjects of this Kingdom, who, both themselves and their Families, do reside and have their chief Estates and Possessions amongst us, having of late been created; some Barons, some Viscounts, and some Earls, within these your Kingdoms of *Scotland* and *Ireland*, do, by reason thereof, claim, as of Right, to take Place, and to have Precedency of the Peers and Nobility of *England*, and their Children; within this Realm; which we conceive doth not belong unto them by any Grant from your Majesty; and tends both to the Disservice and Prejudice of your Majesty and your Realms, and to the great Disparagement of your *English* Nobility, as by the Reasons hereto annexed may appear.

We, therefore, beseech your Most Excellent Majesty, of whose tender Care to preserve the antient Honour and Dignity of your Nobility we are thoroughly persuaded; that, your Majesty's Wisdom and Goodness being so extraordinary, you will be pleased, according to the Example of the best of Princes and Times, upon the Consideration of the manifold Inconveniences, which Practice and Observation of Circumstances have brought to Light, being represented unto your Majesty by the nearest Body of Honour unto you, and nearest concerned in this, and offered with as much Faith and Humility as they can devise; for the avoiding of all Debate and Contention, which, upon this Occasion, may arise either for the present or future, that some Course and Order may be timely settled therein by your princely Wisdom, as that thereby the Inconvenience of your Majesty's Service may be prevented; and that the Prejudice and Disparagement of the Peers and Nobility of this Kingdom may be redressed.

The

The REASONS alledged by the LORDS.

First, ' We hold it to be new, and not warranted by any antient Precedents, that Subjects of this Kingdom, whose Habitations, Estates, and Possessions are principally within this your Majesty's Realm, should have Titles of Honour in other Kingdoms, where they have small or no Estates, and do not abide.

Secondly, ' That it may be Cause of great Discontentment to your Majesty's Subjects in Ireland, that so great a Number of those, who have no Estates to oblige them to the Defence of that Kingdom, should give Voices in Parliament, there to make Laws. As also it may be great Danger to that Country, if Times of Hazard should come. Which weighty Considerations have wrought so far with your Majesty's Royal Predecessors and the whole Estate, that an Act of Parliament was pass'd, which took away great Estates of Land in Ireland from some of the noblest Families in this Kingdom, only in Contemplation that their Want of Residence there upon their Lands might endanger that Kingdom.

Thirdly, ' That it is a great Diservice to your Majesty and this Country, that those who live amongst us, should, by foreign Titles, exempt themselves from those Services of Trust and Charge, which others of as good Birth and Estate here undergo daily; whereby it happeneth often, that either Persons of good Quality are more frequently burden'd, or the Charge falls upon them of meaner Condition and less Ability; not without Prejudice to the Service, and Discontentment to the Persons that undergo it, as also of Loss to your Majesty, and Grief to your Subjects in those Places where the Honours are given. That altho' they draw to your Majesty Creation-Money; yet they do not help nor assist there to any necessary Charge or Contribution.

Fourthly, ' That it is conceived to be contrary to the fundamental Laws of these Kingdoms,
that

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that any should be invested with an hereditary Honour, where he hath not an Estate both to oblige him and his to the Care and Defence of that Kingdom; and make himself, by that, responsible to the Justice of that Place where his Person is privileged; and of great Grief to your faithful Nobility of this Realm, (who have yielded, out of Civility and Courtesy, to Strangers) that they should be disturbed in those Ranks and Degrees, which the Grace of Princes, grounded upon Merits, long Time have settled them in, by others of their own Nation of meener Quality; in whom no other Cause appears but Ambition to precede others, without Ground of Merits or Estate to warrant it in these Places, where they have sought Title; it being a great Diminution to your Nobility and their Children, and the antient Gentry of this Kingdom.

Fifthly, That Honour, both in the Nature of itself, and Practice of former Times, being achieved, principally, by Virtue and Desert; and it being one of the chiefest Marks by which the best of Princes made Impression thereof to descend, hereditarily, in the most deserving Families, which was, by generous Spirits, esteemed above all other Rewards: We leave it unto your Majesty's prudent Consideration of how great Inconveniency it is to alter or lessen the Value of that Reward; which was of so much Honour, and no Charge unto your Majesty; and of so great Contentment and Ease unto your People: Which may be demonstrated in many Particulars too long now to rehearse.

Further, we hold it in no small Degree derogatory to the very Foundation of Nobility itself, which is the Stop and Circle that compasseth the Royal Throne, that those who bear a Title, and claim its Precedency before many of us, should fall so low in the People's Eyes and Esteem, as to be daily subject to Arrests of their Persons, and all other Circumstances of Disrespect, which the
meant it

meanest Subjects undergo, being in the Eye of the Law but Commoners. An. 4. Charles I. 1628.

To conclude. This our Cause of Grief, being, in our Opinion, as to the Practice of it new and unusual; in the Consequence not without Danger and Discontentment to your Realm, and Subjects of all Degrees; in the Nature of it contrary to the Foundation of the Grounds of Honour laid in this Kingdom; and the whole Courte of it breeding ill Effects to the Service of your Majesty and the Public; Disvalue and Contempt to Nobility itself, which is the Degree interpos'd immediately betwixt your Majesty and your People:

We can no where so justly appeal as to your Majesty, the Fountain of Honour, for a timely Remedy against this great and growing Inconveniency for the present and future. And as your Majesty's Honour is equally concerned in this with the Interest of your Kingdoms and Subjects; so we doubt not, but it shall appear to the World, that your Majesty's gracious Care is to reduce and maintain your Nobility in their antient Lustre; which shall equally tend to your Majesty's Service and Happiness, and to our own Contentment.

February 19. The Lord Keeper reported his Majesty's Answer to the above Petition, to this Effect:

That the Matter was of weighty Consequence; and as their Lordships had sat some Days to prepare the same, so he would take some Time to consider of an Answer to it. That the Form of the Petition and Manner of delivering of it was such, as he could not but interpret well of their Lordships Proceedings; yet he may say that it is easier to prevent an Inconveniency, than redress it when it has happened. His Majesty's Answer.

It is probable that the Disagreement then arising between the King and the House of Commons, which occasioned the sudden Dissolution of this Parliament, was also the Reason why no further Answer

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An. 4. Charles I. 1628. Answer was given to this Petition; for we meet with no more about it. And,

Nothing else of any Consequence happening in the *Upper House* this Session, we shall pass on to the Transactions of the *Lower*.

The aforesaid Complaint, about seizing Mr. *Rolles's* Goods, having been made to the House, Sir *Robert Philips* got up and said,

Complaint of the
seizing the Goods
of a Member for
refusing to pay
Tonnage.

‘ By this Information you see the Misfortunes of these Times, and how full Time it was for this Assembly to meet to serve his Majesty, and preserve ourselves; and I am confident we came hither to do both; and may all we shall do conduce to an happy End and Conclusion, to the King’s Honour and our own Safety! Great and weighty Things wound deep; cast your Eyes which way you please, you may see Violations upon all Sides: Look on the Liberty of the Subject; look on the Privilege of this House; let any say, if ever he read or saw the like Violations by inferior Ministers that overdo their Commands. They knew the Party was a Parliament-Man: Nay, they said, If all the Parliament was in him, this they would do and justify, meaning the Denial of the Replevin. If we suffer the Liberty of the House to wither, out of Fear or Complement, we shall give a Wound to the Happiness of this Kingdom.

‘ Here the Course of Justice was interrupted: Order was made in the Exchequer for the Stay of the Goods; and since there is a Seizure, upon the Approach of Parliament, of Goods amounting unto 5000 l. for pretended Duties of 200 l.

‘ In the first of King *James*, by reason of the Sickness, that then was, the Parliament was prorog’d; and then there was some Boldness to take Tonnage and Poundage; yet, after, we question’d the Men that demanded it, for there was no Right to demand it. Let us proceed with Perseverance in our Duties to make up Breaches: Let a Committee be appointed to consider of these Duties.’

Mr.

Mr. Littleton. ' We have had good Admoni-^{An. 4. Charles I.} tions, and we have followed them. We have ^{1628.} had Moderation preach'd to us in Parliament, and we follow it. I would others did the like out of Parliament. Let the Parties be sent for that violated the Liberties of Parliament, that they may have their Doom.'

This Speech was occasion'd by Secretary Cooke, who had desir'd Moderation might be used.

Sir John Elliot. ' I see by this Relation what Cause we have to be tender of the Liberty of the Kingdom, [and of this House] (a) and yet withall to retain that Moderation, as to give Satisfaction to the World that our Hearts are fixed to serve his Majesty, and to free us from all Jealousy.

Three Things are involved in this Complaint.

1. ' The Right of the particular Gentleman.
2. ' The Right of the Subject.
3. ' The Right and Privilege of the House.

' Let the Committee consider of the two former; and for the Violation of the Liberties of this House, let us not do less than our Forefathers. Was ever the Information of a Member committed to a Committee? Let us send for the Parties: Is there not here a flat Denial of the Restitution of the Goods? Was it not also said, That if all the Parliament were contained in him, they would do as they did? Let them be sent for.'

It was heretupon ordered that the Officers of the Custom-House be sent for.

Then Mr. Selden reported from the Committee concerning the Printing of the *Petition of Right*, ' That there were fifteen hundred Copies printed without any Addition at all, which were published in the Time of the last Parliament; other Copies have been printed since with Additions, the former suppressed, and made waste Paper; which the Printer did, as he said, by the Command of Mr. Attorney,

(a) The Passages in Crotchets [] are supplied from the *Manuscripts* before mentioned. There are also several Corrections *passim*, too minute to be particularized.

1628.

ney, which he received from his Majesty. And the Printer further said, That Mr. Attorney was with the Lord Privy-Seal at *Whitehall*, and there the said Lord delivered to the Printer Papers with divers Hands to them; and on the Backside were indors'd these Words, *We Will and Command you that these Copies be printed.*

Jan. 23. A Message by Secretary *Cooke*, from the King, to the Lower House.

'Whereas there hath been Debate, in this House, concerning the Seizure of Merchants Goods by his Majesty Officers and Ministers: His Majesty willeth that any further Debate or Proceedings, in that Case, may be forborn 'till To-morrow at two of the Clock in the Afternoon; when his Majesty is resolv'd to speak with both Houses in the *Banqueting-House*, at *Whitehall*; and hereof we are to take Notice.'

The King's Speech was as follows:

My Lords and Gentlemen;

The King's
Speech on that
Occasion.

THE Care I have to remove all Obstacles that may hinder the good Correspondency, or cause a Misunderstanding, betwixt me and this Parliament, made me call you hither at this Time, the particular Occasion being a Complaint lately mov'd in the Lower House.

And as for you, my Lords of the Higher House, I am glad to take this, and all other Occasions, whereby you may clearly understand both my Words and Actions; for as you are nearer in Degree, so you are the fittest Witnesses for Kings.

The Complaint I speak of, is for Staying of Men's Goods that deny Tonnage and Poundage. This may have an easy and short Conclusion, if my Words and Actions be rightly understood: For, by passing the Bill as my Ancestors have had it, my past Actions will be concluded, and my future Proceedings authorized; which certainly would not have been stricken upon, if Men had not imagin'd, that I had taken those Duties as appertaining unto my hereditary Prerogative, in which

which they are much deceived: For it ever was, An. 4. Charles I. 1623. and still is my Meaning, by the Gift of my People to enjoy it; and my Intention, in my Speech at the End of the last Session, was not to challenge Tonnage and Poundage as of Right, but de bene esse; shewing you the Necessity, not the Right, by which I was to take it, untill you had granted it unto me: Assuring myself, according to your general Professions, that you wanted Time, and not Good-Will, to give it me.

Wherefore, having now Opportunity, I expect that, without Loss of Time, you make good your former Professions; and so, by passing the Bill, to put an End to all Questions arising from this Subject; especially, since I have removed the only Scruple that can trouble you in this Business.

To conclude. Let us not be jealous one of another's Actions: For if I had been easily mov'd at every Occasion, the Order made in the Lower House, on Wednesday Night last, might have made me startle; there being some Shew to suspect, that you had given yourselves the Liberty to be Inquirers after Complaints, the Words of your Order being somewhat largely penn'd: But, looking into your Actions, I find you only hear Complainants, and not seek Complaints; for I am certain you neither intend nor desire to be Inquisitors after Men's Actions before particular Complaint be made.

This I have spoken to shew you how slow I am to believe harshly of your Proceedings; likewise to assure you, that the House's Resolutions, not particular Men's Speeches, shall make me judge well or ill, not doubting but, according to my Example, you will be deaf to all ill Reports or Rumours concerning me, untill my Words and Actions speak for themselves: So that this Session beginning with a mutual Confidence one of another, it may end in a perfect and good Correspondency between us; which Almighty God grant. Amen.

Jan. 26. Mr. Waller inform'd the House of divers Ships laden with Corn for Spain and other

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Enemies Countries : Whereupon a Committee was appointed about the Trading into *Spain* and other Enemies Countries, and concerning the transporting Corn and Munition thither. It was thereupon order'd, that some of the Privy-Council should move the King about the Stay of the said Ships.

Secretary *Cooke* mov'd, 'That the Bill of *Tonnage* and *Poundage* might be read: But, after some Debate, it was diverted; and then they fell upon Point of Religion'.

Debate on Grievances in Religion.

Mr. *Sherland* said, 'We have a Religion that is worth the loving with all our Hearts. It was sealed with the Blood of Martyrs, and kept by Miracles; and now to have our Noses wip'd of this would grieve any Heart; much more to see our Religion quite taken away; Designs daily made on it; and *Arminianism* still to increase as it doth, it maketh me not a little to admire. I am persuaded that the greater Part of the Nobility, Clergy, and Gentry are firm; but it is the Desires of some few that labour to bring in a new Faction of their own; and so they drop into Ears of his Majesty, that those that oppose them, oppose his Majesty, putting him upon Designs that stand not with publick Liberty; and tell him, that he may command what he listeth, and do as he pleaseth with our Goods, Lives and Religion; whereby they have involv'd all good true-hearted *Englishmen* and Christians under the Name of *Puritans*, and make their Quarrels to be his Majesty's; which is Treason in the highest Degree and Quality.'

Mr. *Rouse*. 'We have of late enter'd into Consideration of the *Petition of Right*, and the Violation of it, and upon good Reasons; for it concerns our Goods, Liberties and Lives; but there is a Right of an higher Nature that preserves us far greater Things, even the Eternal Life, our Souls, yea our God himself; a Right of Religion deriv'd to us from the King of Kings, confirmed

to us by the Kings of this Kingdom, and enacted by An. 4 Charles I.
1628. Laws in this Place, streaming down to us in the

Blood of the Martyrs, and witness'd from Heaven by Miracles, even miraculous Deliverances: And this Right, in the Name of this Nation, I this Day claim; and desire that there may be a deep and serious Consideration of the Violations of it. I desire, first, it may be consider'd what new Paintings are laid on the old Face of the Whore of *Babylon*, to make her more lovely, and to draw more Suitors to her. I desire that it may be consider'd how the See of *Rome* doth eat into our Religion, and fret into the Banks and Walls of it, I mean the Laws and Statutes of this Realm; especially since those Laws have been made, in a Manner by themselves, even by their own Treasons and bloody Designs; and since their Popery is a confus'd Mass of Errors; casting down Kings before Popes; the Precepts of God before Men's Traditions; and living and reasonable Men before dead and senseless Stocks and Stones.

I desire that we may consider the Increase of *Arminianism*, an Error that maketh the Grace of God lackey it after the Will of Man; that maketh Sheep to keep the Shepherd, and makes mortal Seed of an immortal God. I desire that we may look into the very Belly and Bowels of this *Trojan Horse*, to see if there be not in it Men ready to open the Gates to *Romish* Tyranny and *Spanish* Monarchy: For an *Arminian* is the Spawn of a *Papist*; and if there come the Warmth of Court-Favour upon him, you shall see him turn'd into one of those Frogs that arise out of the bottomless Pit.

And, if ye mark it well, you shall see an *Arminian* reaching out his Hand to a *Papist*; a *Papist* to a *Jesuit*; a *Jesuit* gives one Hand to the Pope, and the other Hand to the King of *Spain*: And these Men having kindled Fire in our Neighbour's Country, have now brought over some of it hither to set on Flame this Kingdom also.

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Yet let us further search and consider the Men that broke in upon the Goods and Liberties of this Kingdom; for by this Means they make Way for the taking away of our Religion.

It was an old Trick of the Devil, when he meant to take away *Job's* Religion; he begins at his Goods, *Lay thy Hand on all he hath, and he will curse thee to thy Fate.* Either they think hereby to set a Distaste between Prince and People; or to find some other Way of Supply to avoid or break off Parliaments, that so they may break in upon our Religion, and bring in their own Errors.

But let us do as *Job* did; he held fast his Religion, and then his Goods were restor'd to him with Advantage: And if we hold fast our Religion, these Things shall be added unto us. Let us consider the Time past, how we flourish'd in Honours and Abundance, when Religion flourish'd amongst us; but as Religion decayed, so the Honour and Strength of our Nation decayed: When the Soul of the Common-Wealth is dead, the Body cannot long over-live it.

If a Man meet a Dog alone, the Dog is fearful, tho' never so fierce by Nature: But if the Dog have his Master with him, he will set upon that Man, from whom he fled before.

This shews that lower Natures, being back'd by higher, increase in Courage and Strength; and certainly Man, being back'd with Omnipotency, is a Kind of Omnipotent Creature. All Things are possible to him that believeth; and where all Things are possible, there is a Kind of Omnipotency.

Wherefore, let it be now the unanimous Consent and Resolution of us all, to make a Vow and Covenant, from henceforth to hold fast our God, and our Religion; and then shall we from henceforth certainly expect Prosperity in this Kingdom and Nation: And to this Covenant let every one say, *Amen.*

Mr. *Kirton.* This Buisness that we have in hand concerning our Religion is of dangerous Consequence, if it be not strictly look'd into. I think

no Man that sits here but is sensible in what Danger An. 4. Charles I. 1628.
 it now stands, if this Honourable House doth not find some present Remedy for it. It is apparent to every Man, that new Opinions are brought in by some of our Churchmen, to disturb the Peace that our Church was formerly in; the Meaning of it can be no other than to bring in the *Romish* Religion amongst us; for it hath been ever a Jesuitical Policy, first to work a Disturbance, then afterwards a Change. — We must seek the Cause; I shall freely speak my Opinion, That this proceeds from the Ambition of some of the Clergy that are nigh his Majesty: For it is well known, that the Church of *Rome* at first, and that which we now profess, were all one; and then the Ambition of the Clergy begot and brought in all those Differences that are now amongst us. The highest Dignity that they can attain unto here in *England* is an Archbishop; but a Cardinal's Cap is not here to be had. I believe some of them affect that too well, and in some we see the Effects; how they change their Opinions for Advancement, and they will turn White into Black, and Black into White.

This being so, our Endeavours must be to take away the Root, and then the Branches will decay of themselves. It is not the calling in of the *Appeals to Cæsar* that will do it; (p) for if they can get Bishopricks by writing such Books, we shall have many more that will write Books in that Kind. It behoves us all, every Man, according to his Ability, to employ himself for the Search of these Things, that we may find out the Matter and the Men; that we may present them, and the Dangers that this Kingdom stands in by them, to his Majesty; and, for my part, I, as God shall enable me, will do my best herein.

The next Day the Debate was resum'd; when Mr. Pym spoke as follows:

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(p) Alluding to a Book, call'd, *Appelle Cæsarem*, wrote by Dr. Montagu, who about this very Time was made Bishop of *Chichester*. See Vol. VI. p. 482.

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‘ The Hinderances of Religion are to be enquir’d after, and Redress to be therein taken.

‘ There are two Diseases, the one old, the other new.

‘ The old, *Popery*. The new, *Arminianism*.

‘ There are three Things to be enquir’d after concerning *Popery*.

‘ The *First*, Of the Cessation of the Execution of the Laws against *Popery*.

‘ The *Second*, How the *Papists* have been employ’d and countenanced.

‘ *Thirdly*, The late bringing in of superstitious Rites and Ceremonies amongst us.

‘ For *Arminianism*, be advis’d,

‘ *First*, That a Way may be open’d for the Truth.

‘ *Secondly*, That by the Articles set forth in 1552; and by the Catechism set forth in King *Edward VI*’s Days; and by the Writings of *Peter Martyr*, *Martin Buter*, *Wickliffe*, and others; and by the constant Profession seal’d by the Blood of so many Martyrs, as *Cranmer*, *Ridley*, and others; and by the 39 Articles set forth in Queen *Elizabeth*’s Time; and by the Articles set forth at *Lambeth*, as the Doctrine of the Church of *England*; which King *James* sent to *Dort* and to *Ireland*, as the Truth profess’d here.

‘ *Lastly*, By his Majesty’s Declaration and Proclamation to maintain Unity in the settled Religion, as appears by his Proclamation, and other Courses tending that Way; which are perverted and abus’d, to the Ruin and Subversion of Religion, which breed a Fear of Innovation: As also by the Preferments which such have receiv’d since the last Parliament, who have heretofore taught contrary to the Truth. Then consider again for what Overt-Act those Men have been countenanced and advanced, what Pardons they have had for false Doctrines, what Manner of Preaching hath been lately before the King’s Majesty, what Suppression of Books that have been written against their Doctrines, and what Permitting of such Books as have been written for them.

‘ The

‘ The Ways propounded for Remedy, it is the Duty of the Parliament in general, and of each Christian in particular, to follow: And howsoever it is alledg’d, that the Parliament are not Judges in Matters of Faith, yet ought they to know the establish’d and fundamental Truths, and the contrary to them; for Parliaments have confirm’d Acts of General Councils, which have not been receiv’d, untill they have been so authoriz’d; and Parliaments have enacted Laws for Trial of Heretics by Juries.

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‘ The Parliament punish’d the Earl of *Essex* for countenancing of Heretics; and there is no Court can meet with these Mischiefs, but the Court of Parliament.

‘ The Convocation cannot; because it is but a Provincial Synod, only of the Jurisdiction of *Canterbury*; and the Power thereof is not adequate to the whole Kingdom; and the Convocation of *York* may, perhaps, not agree with that of *Canterbury*.

‘ The High Commission cannot; for it hath its Authority deriv’d from Parliament, and the Derivative cannot prejudice the Original; the Judgment of the Parliament being the Judgment of the King and of the three Estates of the Kingdom.’

Sir Francis Seymour. ‘ If Religion be not a Rule to all our Actions, what Policy can we have? If God fight not for us, and in our Battles, the Help of Man is in vain. The Cause of our Defeats is our Defects in Religion, and the Sins of Idolatry and Popery. Papiſts increase more now than ever, neither do they want their Priests and Masses: Nay, his Majesty’s Name is us’d to stop Proceedings against Papiſts, and that since the last Parliament; contrary to his Majesty’s Goodness and publick Professions; nay, to his own Proclamations and Instructions to the Judges; and whatſoever is done in the Country is undone above.’

Sir Robert Philips. ‘ I hold myself much bound to those Gentlemen that first set this on foot; if any Man be so zealously transported in this, it is for his Religion; let that excuse him.

‘ Two

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Two Sects are damnably crept in to undermine King and Kingdom, if not now prevented; the one ancient, *Poperie*; the other new, *Arminianism*. What Misery befell the *Jews* when they broke their Peace with God? What hath blasted our Designs since these Heresies crept in? Have we not still turn'd the Back upon our Enemies? I am afraid that God sitteth in the Council of our Enemies against us. Doth not God plague us with Enemies abroad, and Destruction at home? We are become the most contemptible Nation in the World: Are not our Miseries and our Crosses daily increas'd? With Grief do I express that fatal perishing of the late hopeful Prince of *Bohemia*; let us humble ourselves before God, by Fasting and Prayer, that we may bring him again into *England* to go before our Armies, and that God may crown our Actions and bless our Counsels.

The same Day a Petition was exhibited against one *Lewis*, that, about the 25th of *December* last, said, *The Devil take the Parliament*; which was a-vow'd by two Witnesses: And tho' it was spoken out of Parliament; yet it was resolv'd to be an Offence unto the Parliament, and it was order'd he should be sent for.

Sir *Nathaniel Rich* tendered a Petition concerning the Fast; whereupon it was order'd, That a Conference should be desir'd with the Lords about the Petition for a Fast, who desir'd to join with the Lower House; and thereupon it was preferr'd to the King accordingly, by the Archbishop of *York*, in the Name of both Houses, in these Words following, *viz.*

Most Gracious Sovereign,

The Petition of
both Houses for
a Fast.

IT is the hearty and earnest Desire of us your most dutiful Subjects, the Lords Spiritual and Temporal, and Commons in this present Parliament now assembled; that this our Meeting may be abundantly bless'd with all Happiness in the great Affairs of Church and State, upon which we are to consult; and that by a clear Understanding

standing, both of your Majesty's Goodness to us, An. 4. Charles I.
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 and our faithful and loyal Hearts to your Person and Service (all Jealousies and Distractions, which are apparent Signs of God's Displeasure, and of ensuing Mischief, being laid aside and remov'd) there may, in this Session, and for ever, be a perfect and most happy Union and Agreement between your Majesty, and all the Estates of this your Realm: But humbly acknowledging, that neither this, nor any other Blessing can be expected without the special Favour of Almighty God; and having (upon the Observation of the continu'd and increasing Miseries of the Reform'd Churches abroad, whose Cases with bleeding Hearts we do commiserate; as likewise of the Punishments already inflicted, and which are likely in great measure to fall upon ourselves) just Cause to conceive, that the Divine Majesty is, for our Sins, exceedingly offended with us: We do in this, and other pious Respects, most dear Sovereign, humbly beseech your Most Excellent Majesty, That by your Royal Command, not only ourselves, but also all the People of this your Kingdom may be speedily enjoyn'd, upon some certain Day, or Days, by your Majesty to be prefix'd, by publick Fasting and Prayer, to seek Reconciliation at the merciful Hands of Almighty God; so as the Prayers of your whole Kingdom, join'd with your Majesty's Princely Care, and the faithful and hearty Endeavours of this great Council now assembled, may procure Glory to Almighty God in the Preservation of his true Religion, much Honour to your Majesty, Prosperity to your People, and Comfort to all your Majesty's Friends and Allies.

To this the King gave the following Answer:

My Lords and Gentlemen,

THE chiefest Motive of your Petition, being the The King's An-
 deplorable Estate of the Reform'd Churches a-
 broad, is but too true; and our Duty, so much as in
swer.

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us lieth, is to give them all possible Help: yet certainly Fighting will do them more Good than Fasting. Tho' I do not wholly disallow the latter, yet I must tell you, that the Custom of Fasting every Session is but lately begun; and, I confess, I am not fully satisfied with the Necessity of it at this Time; yet to shew you how smoothly I desire your Business to go on, eschewing as much as I can Questions or Jealousies, I do willingly grant your Requests herein; but with this Note, That I expect that this shall not hereafter be brought into a Precedent for frequent Fasts, except upon great Occasions; and, for the Form and Time, I will advise with my Lords the Bishops, and then send a particular Answer to both Houses.

Mr. Pym came from the Committee for Religion, and made a Motion about the Remonstrance of last Session, concerning that Part which toucheth Religion. And the Clerk of the House answer'd, That, by Command from the King, he deliver'd it to the Lord Privy-Seal. And so the Committee proceeded no further therein.

The King's Message to hasten the Bill of Tunnage & Poundage.
Secretary *Cooke* deliver'd a Message from the King, 'That his Majesty, understanding that the Remonstrance was call'd for, to take away all Questions, commanded him to deliver it to the House: But hopeth you will proceed with Tunnage and Poundage, and give Precedency to that Business, to give an End to further Dispute between him and some of his Subjects; or else he shall think his Speech, that was with good Applause accepted, had not that good Effect he expected.'

But the Commons proceed with religious Grievances.

Here Sir *Walter Earle* made a Speech upon the Occasion of Mr Secretary *Cooke's* declaring, 'That his Majesty expected that the House should give his Business the Precedency,' as followeth:

'I am of the Number of those, that, at our last Meeting, thought the Time best spent in vindicating those Rights and Liberties of the Subject, which

which had formerly been impeach'd, and were then in most imminent Danger; and in that respect thought it not amiss to postpone, for a while, the Business of Religion, as a Thing that rather concern'd the Well-being, than the Being itself of this Kingdom and Commonwealth; Religion, without the Commonwealth, being as an Accident without a Subject, or a Soul without a Body. Now give me Leave to tell you, that Religion offers itself to your first Consideration at this Time, challenging to herself the Right of Precedency, and the Employment of our best Endeavours; that as it was then, *Ubi Dolor ibi Digitus*, it may be now, *Ubi Amor ibi Oculus*. But let no Man mistake me, as if I were less sensible of the Violations of the Subjects Liberties (even since the last Session) than any Man else that sits here, whosoever he be. No, Mr. Speaker, I know full well, that the Cause of Justice is God's Cause, as well as the Cause of Religion: But what Good will those Rights and Liberties do me, or any Man else, that resolves to live and die a Protestant? Nay, what Good will they do any Man, of what Religion soever he be, that resolves to live and die a Freeman and not a Slave; if *Papery* and *Arminianism*, joining Hand in Hand as they do, be a Means, together with the *Romish* Hierarchy, to bring in a *Spanish* Tyranny amongst us; under which those Laws and Liberties must of Necessity cease?

' In the Point of Religion, you see what hath been done since the last Session; what Declarations have been made; what Persons advanced; what Truths established; nay, Laws confirm'd by Synods, National and Provincial, have been called in question, and that in such a Manner, as the like before hath scarce been heard of. Well, how others stand affected, I know not; but, for my own Part, that which for an undoubted Truth I have from the Church of *England* heretofore received, that will I stand to; and forego my Estate, my Liberty, yea my Life itself, rather than forego it.

' As

An. 4. Chap. 1.
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1628.

‘As for passing of Bills, settling Revenues, and the like, without settling Religion, I must confess I have no Heart to it: Take away my Religion, you take away my Life; and not only mine, but the Life of the whole State and Kingdom. For I dare boldly say, Never was there, in the Point of Substantance, a more near Conjunction between Matter of Religion, and Matter of State, in any Kingdom in the World, than there is in this Kingdom at this Day. Therefore let this that I say sink a little into your Consideration; and let me put you in Mind of a Saying worthy to be consider’d, That *Humana Consilia castigantur, ubi Cælestibus se præferunt*; when Human Counsels thrust themselves in before Divine, a thousand to one but they are severely punished. But, if we hold ourselves to this Method by me now propos’d unto you, doubtless that God which, beyond our Expectations, brought us thro’ those main Difficulties the last Session, will not be wanting to us in this Particular, that so much concerns his own Glory: However, let us do our Endeavours, and leave the Success to him. The Sum of all that I have said unto you is this; of all the Busineses that are now before you, whatsoever they be, let Religion have the Precedency.’

Mr. *Coriton*. ‘Let us not do God’s Business negligently: We receive his Majesty’s Message with all Duty; for our Proceedings, let us so proceed, as may soonest conduce unto his Majesty’s Desires. Religion concerneth the King as well as us. The Unity of this House is sweet, especially in God’s Cause. Let us try, and try again for this: Let us be resolv’d into a Committee, and presently debate thereof.’

Sir *John Elliot*. ‘Sir, I have always observed in the Proceedings of this House, our best Advantage is in Order; and I was glad when that Noble Gentleman, my Countryman, gave Occasion to stay our Proceedings; for I fear’d it would have carried us into a Sea of Confusion and Disorder. And now having Occasion to present my Thoughts

to you in this great and weighty Business of Religion, An. 4. Charles I.
1628. I shall be bold to give a short Expression of my own Affection; and in that Order that, I hope, will conduce best to the effecting of that Work, and direct our Labour to an End. To enter, Sir, into a particular Disquisition of the Writings and Opinions of Divines, I fear it will involve us in a Labyrinth that we shall hardly get out of; and perchance hinder that Way, and darken that Path in which we must tread. Before we know what other Men have declared, it is necessary that we should presently lay down what is Truth. And, as I presume, we came not hither to dispute of Religion, far be that from the Thoughts of that Church that hath so long Time confes'd it, now to dispute it. Shall Posterity think we have enjoyed our Religion four-score Years almost, and are we now doubtful of the Defence? God forbid. It may be, Sir, and out of some Things lately delivered I have not unnecessarily collected, that there is a Jealousy conceived, as if we meant so to deal with Matters of Faith, that did not perhaps belong unto us, as to dispute of Matters of Faith. It is our Profession; this is not to be disputed, neither will that Truth be receded from this long Time held: Nor is that Truth decayed; it is confirmed by Parliament, because it was Truth. And this, Sir, before I come to deliver myself more particularly, give me Leave, that have not yet spoken in this great Cause, to give some Apprehension I have of Fear; for it is not in the Parliament to make a new Religion, neither, I hope, shall it be in any to alter the Body of that Truth which we now profess. I must confess, Sir, amongst all those Fears we have contracted, there ariseth to me not one of the least Dangers in the Declaration, which is made and published in his Majesty's Name; and yet, Sir, this Conclusion, exclusively let me say, that I may not be mistaken, whatever in this, or other Things, shall appear to make Mention of his Majesty, we have not the least Suspicion or Jealousy of him. We have that Comfort in his Piety and Goodness, as if there be any
Mis-

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1628.

Misprision or Error, I hope it is by those Ministers about him; which not only he, but all Princes are subject unto.

And to clear this, that Princes are subject to Misinformation, and many Actions may be justified in their Names, when there is no Suspicion of it to be done by themselves; give me Leave to look back into Precedents of other Times, and what I find written in those Stories may be useful in this. *Antiochus, of Asia*, sent his Letters missive to his Provinces, &c. that if they received any Dispatches in his Name not agreeable to Justice, *Ignoto se literas esse scriptas, ideoque eis non parerent*; as I find by *Plutarch* of the *Great Antiochus of Asia*, who saith, That Princes are obnoxious to Abuses of Ministers, and it could not at all Times be prevented; and therefore he sent Messengers and Letters to all his Provinces, that if there were any Letters or Dispatches sent out in his Name, that came to them, that were not warrantable by Law, and agreeable to Justice, it should not be conceived to be done by him; and therefore they should not give way to it. Sir, I find it in another Book, and I beseech you let it be rightly apprehended, for I hope I shall be clear from Misprisions; *Gratian* did not only note and confess the same, but added the Reasons also; which the Masters of the Civil Law can testify from their Books, wherein it is thus expressed, [*Quid, in verecunda Potentium Instigatione, Principes sæpe trahuntur ut non concedenda concedant*]. ‘Be-
‘ cause that many Times, with the Impertunity
‘ of Ministers and those about them, Princes are
‘ drawn to grant Things not fit to be granted by
‘ them.’ As it was in that, so it may be in this. I speak it to this end, to draw it to this Conclusion, That if there be any Thing that carrieth the Title of his Majesty, it may be the Fault of his Ministers; far be it from me to have Suspicion of him. And now to that Particular, in that Declaration; wherein, I confess, with me, is an Apprehension of more Fear than I have of all the rest; for in the last Particulars we heard what is said of *Poperie* and *Arminianism*.

nianism. It is true our Faith and Religion is in Danger; but it is by Degrees. Here, Sir, like an Inundation, it doth break in at once, that we are in Danger to be ruined and overwhelmed; for, I beseech you mark, the Ground of our Religion is contained in these Articles. If there be any Difference of Opinions, concerning the Sense and Interpretation of them, the Bishops and Clergy, in Convocation, have a Power admitted to them to do any Thing which shall concern the Continuance and Maintenance of the Truth professed; which Truth being contain'd in these Articles, and these Articles being different in the Sense, if there be any Dispute about that, it is in them to order which Way they please: And for ought I know, *Papery* and *Arminianism* may be a Sense introduced by them, and then it must be received. Is this a slight Thing, that the Power of Religion must be drawn to the Persons of those Men? I honour their Profession, and honour their Persons; but give me Leave to say, the Truth we profess is not Men's, but God's; and God forbid that Men should be made to judge of that Truth. Look upon the Conclusion they have made, and from thence I draw their Argument. I remember a Character I have seen in a Diary of *Edward VI.* that young Prince of famous Memory, wherein he doth express the Condition of the Bishops and Clergy in his Time, and saith, under his own Hand-Writing, 'That some for Sloth, some for Ignorance, some for Luxury, and some for Popery, are unfit for Discipline and Government.' Sir, I hope, it is not so with us: Nay, give me Leave to vindicate the Honour of those Men, that openly shew their Hearts to the Truth. There are amongst our Bishops such as are fit to be made Examples to all Ages; who shine in Virtue, like those two faithful Witnesses in Heaven, of whom we may use that Eulogy which *Seneca* did of *Caius*; That to their Memories and Merits, *Nec hoc quidem obste: quod nostris Temporibus nati sunt*; and to whole Memory and Merit I may use
the

An. 4. Charles I.
1628.

the Saying, That the others Faults are no Prejudice to their Virtues; who are so industrious in their Works, that I hope Posterity shall know there are Men that are firm for the Truth. But, Sir, that all now are not so free, sound and orthodox in Religion as they should be, witness the Men complain'd of; and you know what Power they have: Witness those Men nominated lately, Mr. *Montague*, &c. I reverence the Order, I honour not the Man: Others may be named as bad. I apprehend such Fear, that should it be in their Power, we may be in Danger to have our whole Religion overthrown. But I give this for Testimony, and thus far do express myself against all the Power and Opposition of these Men; or whensoever any Opposition shall be, I trust we shall maintain the Religion we profess, for in that we have been born and bred; nay, Sir, if Cause be, in that I hope to die. Some of these, Sir, you know are Masters of Ceremonies, and they labour to introduce new Ceremonies in the Church. Some Ceremonies are useful: Give me Leave to join in one that I hold necessary and commendable, That at the Repetition of the Creed we should stand up, to testify the Resolution of our Hearts, that we would defend that Religion we profess; and in some Churches it is added, that they did not only stand upright with their Bodies, but with their Swords drawn: And if Cause were, I hope, to defend our Prince, Country, and Religion, we should draw our Swords against all Opposers.

¶ This I speak out of the Care I have to maintain the Honour of our King against those, who, I fear, by these Innovations of Religion, may have sought to undermine it. But, to come to the Manner and Method of our Proceedings, having made this Excursion, (wherein, if I have transgress'd the Rule propounded, I crave Pardon) I desire, to the End we may avoid Confusion and Distractions, that we may go presently to the Ground of our Religion, and lay that down as a Rule on which all may rest: That when that is done,

it

it will be Time to take into our Consideration the Breakers and Offenders against this Rule. But before we have laid down that, our Work will be in vain: Therefore, first, let us lay down the Proposition, wherein we differ from the *Arminians*, and in that I shall be ready to deliver my Opinion; and this is my humble Motion.

Ann. 4. Charles II.
1668.

Jan. 28. Secretary *Cooke* brought a second Message from the King.

‘ His Majesty upon an Occasion of Dispute in this honourable House, about Tunnage and Poundage, was pleased to make a gracious Declaration, wherein he commended unto us the speedy finishing thereof, and to give a Precedency thereto. And his Majesty expects rather Thanks than a Remonstrance; yet his Majesty doth not interrupt you, so that you trench not on that which belongs not to you. But his Majesty still commands me to tell you, that he expects Precedency of Tunnage and Poundage; assuring himself, that he hath given no Occasion to put it back, and so hopeth you will not put it off.’

Secretary *Cook*'s
second Message.

Mr. *Long*. ‘ I cannot but with much Sorrow speak, seeing that we are still pressed to this Point. I hoped those near the Chair would have truly informed his Majesty of our good Intentions: But we see how unhappy we are, for some about his Majesty make him diffident of us.’

Sir *Thomas Edmunds* (a). ‘ I am sorry this House hath given Occasion of so many Messages about Tunnage and Poundage, after his Majesty hath given us so much Satisfaction; you may perceive his Majesty is sensible of the Neglect of his Business: We that know this, should not discharge our Duties, did we not persuade you to that Course which should procure his Majesty's good Opinion of you. Yourselves are Witnesses how industrious his Majesty was to procure you gracious Laws in his Father's

(a) Treasurer of the Household.

An. 4. Charles I.
1628.

Days; and since that what Enlargement he hath made of our Liberties; and still we give him Cause to repent him of the Good he hath done. Consider how dangerous it is to alien his Majesty's Heart from Parliaments.'

Mr. *Carison*. 'When Men speak here of Neglect of Duty towards his Majesty, let them know we know no such Thing, nor what they mean. I see not how we neglect the same, I see it is all our Hearts Desire to expedite the Bill of Tunnage and Poundage in due Time; our Business is still put back by their Messages, and the Business in hand is God's; and his Majesty's Things are certainly amiss, and every one sees it; but woe be unto us if we present not the same to his Majesty.'

Sir *John Elliot* spoke to the same Effect.

Wherefore it was ordered, That a Committee should be appointed to pen an Answer unto his Majesty's Messages, and it is their Resolution to give him all Expedition in his Service; and that they held it not only fit to give him Thanks, but farther to shew what Peril we are in; and that Tunnage is their own Gift, and that is to arise from themselves, and that they intend not to enter into any Thing that belongs not to them.'

Jan. 29. The former Part of this Day was spent in debating of transporting of Corn and Victuals into *Spain*; and it was ordered, that a Message should be sent unto his Majesty, that it is now evident, that divers Ships are bound for *Spain*, and to desire a stay of them.

His Majesty answered, 'That touching the said Ships he would consider of it, and send them an Answer in due Time.'

After long Debate at the Committee for Religion, it was resolved by the whole House, to declare their Resolution in these Words following, *viz.*

'We the Commons, now in Parliament assembled, do claim, profess, and avow for Truth the Sense of the Articles of Religion, which were established

established in Parliament in the Reign of our late Queen Elizabeth, which by publick Act of the Church of England, and by the general and con- current Exposition of the Writers of our Church, have been delivered to us; and we do reject the sense of the Jesuits and Arminians, wherein they differ from us.

An. 4. Charles I.
1628.

The Commons APOLOGY for not passing their Bill of Tunnage and Poundage, and their Desire to proceed with Religion.

Most Gracious Sovereign,

WE have within these three Days received from your Majesty two Messages, putting us in Mind of our present entering upon the Consideration of a Grant of Tunnage and Poundage; but the Manner of possessing the House therewith being disagreeable to our Orders and Privileges, so that we could not proceed therein; and finding ourselves, in your Majesty's Name, pressed in that Business, and that we should give Precedency thereunto; we cannot but express some sense of Sorrow, fearing lest the most hearty and forward Affections, wherewith we desire to serve your Majesty, are not clearly represented unto you. Besides, such is the sollicitous Care we have of preserving ourselves in your Majesty's most gracious and good Opinion, that it cannot but breed much trouble in us, whenever we find ourselves (as now we are) enforced to spend that Time in making our humble Apologies (from whence usually do arise long Debates) which we conceive might be very profitably employed in the greater Services of your Majesty and the Commonwealth, which we did with all Diligence apply ourselves unto; and finding the extreme Dangers wherewith our Religion is threatned, clearly presenting themselves to our Thoughts and Considerations, we thought, and do think, we cannot without Impiety to God, Disloyalty to your Majesty, and Unfaithfulness to those for whom we are put in

Commons Apology about Tunnage and Poundage.

An. 4. Charles I.
1628.

Trust, retard our Proceedings, until something
be done to secure us in this main point, which we
prefer even above our Lives, and all earthly Things
whatsoever.

And here we do with all humble Thankfulness
acknowledge your Majesty's most pious Care and
princely Intentions to suppress both Popery and
Arminianism; the Professors of the one being open
Enemies, and the Maintainers of the other the
subtle and more dangerous Underminers, of the
true Religion of Almighty God, established within
your Realms and Dominions; the Truth of which
our Holy Religion, or any part thereof, as being
sufficiently known, and generally received of all
the Members of our Church (except of some Schis-
matical Persons, who have of late Years taken the
boldness to broach their contrary and corrupt Opi-
nions) we desire should not be called into doubt or
question. But howsoever it hath pleased your Ma-
jesty (to our exceeding great Comfort) by many
Testimonies, to declare your own constant Reso-
lution to maintain the said Religion; yet how your
gracious Purposes are therein crossed, and to what
a miserable Condition your whole Kingdom is like-
ly by that means to be reduced, we shall earnestly
endeavour (as that which doth most nearly concern
the Safety and Prosperity of your Majesty and Peo-
ple) in such sort to discover, that the Ruin thereby
threatned unto both, may by God's Blessing be pre-
vented, being most heartily sorry, that those Occa-
sions are offered which do thus hinder our Proceed-
ings: And therefore as well for the Dignity and Ne-
cessity of the Matter, as for that we conceive it to
be the most speedy and effectual way, by uniting of
all our Hearts and Endeavours, to dispatch all other
Businesses of Importance (particularly those which
seem more immediately to respect your Majesty's
Profit;) We pray that our Resolutions of preferring
this Business before all others may be acceptable to
your Majesty, to whom in both the Matter and
Manner of our Proceedings we desire to give all pos-
sible Satisfaction.

Secretary

Secretary *Cooke* reported, ' That himself, and the rest of the Committee, attended his Majesty upon *Monday*; and he said, For my part I have used all Diligence to do all the Commands of my Master and of this House, and yet I find some Exceptions have been taken at some Words by me used, when I delivered the Bill of Tunnage and Poundage. Indeed I used many Arguments in speaking of his Majesty: I said it much concerned him, and that his Majesty much desires it; but this was mistaken, as if his Majesty had commanded it, and I required it in his Name, which I did not intend but to avoid Dispute; and I said not, this was an ordinary Revenue. but that this Tunnage was the means to enable his Majesty to set a Fleet to Sea.

An. 4. Charles I.
1628.

After he had made his own Apology, he read his Majesty's Answer to the Commons Declaration, in these Words following, viz.

Gentlemen,

This Apology being somewhat long, may by reason thereof require some Time to reply unto it, since (as most of you cannot but judge) that this giveth me no Satisfaction; therefore I shall give you some short Notes upon it.

The King's Answer.

I cannot think that, where as you alledge that the Bill of Tunnage and Poundage was brought in against the Privileges of your House, that you will offer to take so much Privilege from every one of your Members, not to allow them the Liberty to bring in any Bill whatsoever, tho' it be in your Power, when it is brought in, to do with it what you think good. And I cannot imagine your coming together, only by my Power, and to treat of things that I propound unto you, can deny me that Prerogative to recommend or offer any Bill unto you; tho', in this particular, I must profess, that this Bill was not to have been offered unto you in my Name, as that Member of your House can bear me witness.

As for the Cause of Delay of my Business, being Religion, there is none of you shall have a greater Care for the true Preservation of it than myself; which since it is confessed by your Answer, you must either think I want Power (which cannot be) or that

An. 4. Charles I.
1628.

I am very ill counselled, if it be in so much Danger as you affirm.

Tho' I may say much of this Point, I will say no more, that for all this I shall not stop my Ears to you upon this Subject, so that in Form and Matter you transgress not your Limits.

As for Tunnage and Poundage, I do not so much as desire it of Greediness of the Thing, being persuaded that you will make no great stop in it, when you once take it in Hand, as out of a Desire to put an End to those Questions that do daily arise between me and some of my Subjects; thinking it a strange thing, if you should give Ear to those Complaints, and not to take the sure and speedy way to decide them

Besides, I must think it strange, that this Business of Religion should be only a Hindrance of my Affairs; whereas I am certainly informed, that all other Things according to their ordinary Course.

Therefore I must still be instant with you, that you proceed with this Business of Tunnage and Poundage with Diligence, not looking to be denied in so just a Desire; and you must not think it strange that if I find you slack, I give you such further Quickning as I shall find Cause.

Hereupon Sir John Elliot stood up and said (*d*),
Mr. Speaker, I confess, this hath given great Satisfaction for present Desires and future Hopes; and howsoever I find the Misinterpretation of some, and the Danger of Religion; yet I find his Majesty's Ears open, and if these Things be thus as we see, that then he is not rightly counselled. I am confident we shall render his Majesty an Account of what he expecteth: But, Sir, I apprehend a Difference between his Majesty's Expression, and those of his Ministers.

First, Sir, that Bill was here tendered in his Majesty's Name, and now we find his Majesty disavows it, that he did it not. What wrong is this done to his Majesty and to this House, to press Things in his Sovereign's Name, to the Prejudice and Distraction of us all? I think him not worthy to sit in this House. Mr.

(*d*) The first four Speeches in this Debate are omitted in *Crew*.

Mr. *Speaker*. 'This honourable Person did explain himself, that he did not press it in his Majesty's Name, but only did commend it to your Considerations.' An. 4. Charles 1.
1628.

Secretary *Cooke*. 'I said, that in regard of the Difference between his Majesty and his Subjects, my Desire was to accommodate it.'

Sir *Humphrey May*. 'If ye be too quick to except against the Ministers of his Majesty, that serve his Majesty and this House, it will discourage and stop our Mouths, whose Service ye daily commend.'

Feb. 3. Mr. *Kirton*. 'The two great (b) Bishops named, are the main and great Roots of all those Evils, which are come upon us and our Religion; let us inquire what Men they have preferred of the Clergy, and how.'

Mr. *Coriton*. 'The Declaration now read came from his Majesty, but it is by the Advice of the Clergy; and sure they have not advised him the right Way, that there must be no Dispute of Preaching, one Way or other; this is to suppress the Truth: And yet the contrary Professors are preferred in the Church, to the Grief of all good Men.'

Sir *Walter Earle*. 'Mountague is a principal Disturber of the Church: He was a Batchelor of Divinity, I desire to know how he came to be a Bishop. Two Men are named in the last Remonstrance that are Privy Counsellors, and it is very probable, that those Ecclesiastical Officers did give that Advice to the King.'

Sir *Humphrey May*. 'I will tell you what I am privy unto in this Point: True it is, these two Men were named in the said Remonstrance, and this Point was before the King and his Council, and the King did utterly dislike such Novelties; and then these two Bishops being present, with Tears in their Eyes, protested they hated the Opinions and Questions, and upon their Confession, on their Knees, they renounced them.'

(b) Mountague and Laud.

An. 4. Charles I.
1628.

Sir *James Perrott*. 'It is said that these two Bishops were before the Council on their Knees, and with Tears, did disclaim the Opinions: But we see their Facts, Doctor *Laud*, Bishop of *London*, entertained for his household Chaplain one ———, that did dispute the *Arminian* Points, who said, 'What the *Arminians* hold and write, he would maintain and believe.' And this Sir *James* offered to justify upon Oath.

It was ordered, that the Complaint against *Mountague* should be taken into Consideration, and that a Committee should make search after Pardons granted to the Clergy.

Feb. 4. A Petition was, at the first Sitting, preferred against Dr. *Cosins*.

Mr. *Sherland* made Report from the Committee about the Search for Pardons, that they had found four Pardons sealed: First, to *Mountague*, the Second to Dr. *Cosins*, the Third to Dr. *Sibthorpe*, and the Fourth to Dr. *Manwaring*.

Sir *Robert Philips*. 'If ever there came here a Business of the like Consequence, I have lost my Memory: If ever King of *England* was abused in his Mercy, it is our King. What Persons are pardoned? even the greatest Enemies to the Church and State, that were standing under the Judgment of the Parliament, and they are pardoned between Parliaments: If every Man be not warned to search this into the Bottom, I would they were; if we neglect this, we regard nothing. You see Offenders complained of, and instead of Punishment, Grace; the Goodness of our King is thus abused. Let a select Committee consider of it, and let the Attorney certify what is done herein, and by whom, and I hope we shall find those original Instruments which have misled his Majesty.'

A Sub-Committee about Pardons.

It was ordered that a Sub-Committee shall have Power to send for the Records and Privy Seal, and other Incidents belonging to the Pardons, and to send to the Parties, and to Mr. Attorney about his knowledge herein, and by whose Instigation the

the Pardons were obtained; which was done accordingly. An Act Charles I. 1628.

Sir Robert Philips made Report, That he went to Mr. Attorney, and found him in the Star Chamber, and acquainted him with the Message: Who answered, That he received a Command from his Majesty in the last long Vacation, presently after the End of the last Sessions, to draw a Pardon; which he delaying till Michaelmas Term following, he met with the Bishop of Chichester, who intimated unto him his Majesty's Pleasure, and required him to draw up the Pardon.

Sir Robert Philips's Report thereupon.

And Mr. Attorney desired him to advise, whether it would be any Advantage to him or no.

And afterwards Mr. Attorney told him, he met with a Great Lord, a Privy Counsellor (the Earl of Dorset) who asked him if the Pardon for the Bishop of Chichester were drawn, and desired him to dispatch it.

After this Mr. Attorney said, ' The Lord Charlton sent unto him a Warrant, under the King's Hand, to command him to draw the Pardon, which he did; and after it was drawn, the Bishop of Winchester sent to see it, and interlined it: And whereas Mr. Attorney had drawn the Pardon but for one, Mountague put four in it, viz. himself, Cosins, Sibthorpe, and Mahwaring.

Feb. 5. Secretary Cooke brought the King's Answer concerning the Fast, viz.

That it was his Majesty's Pleasure, that the Fast The King's Answer about the Fast. Day of this Instant February, and for the whole Kingdom the Twentieth of March next.

Feb. 6. The House being informed by Petition Information against Witherington, for' aspersing the Protestant Religion. against one Witherington, who had formerly been examined before the Lords of the Council for depraving of our Religion; and had since called the Protestants, Hereticks, wishing a hundred of their throats cut; and to one that had been a Papist, and was lately turned to our Religion, he said, He would be

An. 4. Charles I. be hanged, and otherwise disgraced him.
1628.

Whereupon it was ordered he should be sent for.

The House was likewise informed, that Doctor *Cosins*, (a little before he had obtained his Pardon) was accused to Mr. *Attorney* by two Witnesses for speaking Words against the King: Whereupon it was ordered, that Mr. *Attorney* should be sent to about it; which was done accordingly.

Sir *Robert Philips* returned Mr. *Attorney's* Answer, as followeth:

Sir *Robert Philips* reports Mr. *Attorney's* Answer concerning *Cosins*.

Sir *Robert Philips*. ' My Part is to give you an Account about the Affidavits against *Cosins*. Mr. *Attorney* saith, that one Mr. *Heath* of *Grays-Inn* came to him about *Michaelmas* Term last, and affirmed, that *Cosins* in a publick Meeting said, that the King had nothing to do to be Head of the Church, and that he had no more Power for to excommunicate any, than his Servants that rubb'd his Horses Heels.'

' The *Attorney* acquainted his Majesty herewith, which his Majesty was very unwilling to believe, that he or any Man durst say so much; but conceived that the said Complaint did arise from Malice: Yet he charged the *Attorney* to make a careful Inquisition thereof, and if it were strongly probable, then he should repair to his Majesty. After this Mr. *Attorney* did diligently enquire about the same, and told Mr. *Heath*, that the Matter was found very improbable, and there was certainly some Mistake in it. Whereupon there were two Affidavits made, which did swear it point blank.

' Nevertheless Mr. *Attorney* sent his Letters to Mr. *Deane* and others that were present when the Words were spoken, to require them to certify, whether such Words were spoken or no.

' Upon their Certificate he found Variance about these Words, and thereby the Business was lessened. And being demanded, if he had any Directions to desist from the Suit intended in the Starchamber against *Cosins*; He answered, No: But said, that he casually meeting with the Bishop of *Winchester*, told him of the said Business. To which the Bishop answered, it will

will be nothing; for *King*, one of them that made the Affidavit, is a Baggage-Fellow.' An. 4. Charles I.
1628.

Sir *John Elliot*. 'It is our Honour and Duty, not to pass over these things too slightly. I find the King's Honour and Right too is in question, that Right which we are sworn to maintain: If I mistake not it is High-Treason, and this was given upon Oath, presented by the Attorney to his Majesty, who gave him Command to examine it, and then to certify his Majesty of it.

'In ordinary Felonies the Law doth not allow an Oath contrary to the Proceedings of the King; but here against two Affidavits a Letter must dash them all. The Attorney acquaints the Bishop of *Winchester* with it, who takes it to be but a Matter of Malice. I desire the Persons that made the Affidavits may be sent for, and examined, and that Mr. Attorney may answer the Matter why he passed it over so slightly, considering the Person of the Man in question, who was not only suspected, but charged as criminous, and one that is so obnoxious.'

Whereupon it was ordered, that the Witnesses should be sent for.

But for Mr. Attorney it was made questionable, whether they could send for him or no, because he did attend by Writ in the Upper House. Whereupon it was ordered, that Intimation should be given to Mr. Attorney to be there on *Monday* next, to give Satisfaction to the House for his not Proceeding against *Cosins*, having so good a ground for it.

Feb. 7. Sir *Daniel Norton* informed the House, that one Dr. *Moore* attending the Bishop of *Winchester* upon an Occasion, the Bishop told him, that he had oftentimes preached before King *James* against Popery, which was well liked of then, but now you must not do so. Whereupon the Doctor answered, if occasion served, he would not spare to do the like still. To which the Bishop replied, that the Times were not the same, and therefore you must not do so now.

Sir *Robert Philips* said, 'By this you may guess that

An. 4. Charles I. that this Bishop had a Hand in setting up those Ceremonies in *Durham*, and that he still bears good Will towards them, labouring to make *Durham* and *Winchester* synonymous.

1628.

‘ This reflects upon his Majesty, as if his Majesty should dislike that Ministers, in their Preaching, should refuse and repel Popery.’

Sir *John Elliot* replied, ‘ In this *Laud* is contracted all the Danger we fear; for he that procured those Pardons may be the Author of those new Opinions: And I doubt not but that his Majesty being informed hereof, will leave him to the Justice of this House; and I hope those Exhalations will not raise any Jealousy betwixt his Majesty and us. Let the Doctor be sent for to justify it; which was done accordingly.

Feb. 9. A Petition was delivered in against the Customers Patent of *London*, which was referred to a Committee.

Mr. *Speaker* delivered from Mr. *Attorney* a Narration of his Proceedings in *Cosins’s* Business.

Report from the Committee relating to the Sheriff of *London*.

Sir *John Elliot* reported from the Committee for Examination of the Merchants Business, how they had found Sheriff *Acton* in Variation and Contradiction in his Examination; which being conceived a Contempt to the House, he desired he should be sent for, to answer the same at the Bar.

Mr. *Goodwin*. ‘ The Sheriff acknowledgeth his Error, and humbly desired that he might once again be recalled before the Committee; and if he did not then give them full Contentment by his Answer, he would refer himself to the Wisdom and Justice of the House.’

This Motion was strongly seconded by Secretary *Cooke*, the Chancellor of the Duchy, Alderman *Monson*, Mr. *Waller* and others; but in regard his Abuse appeared to be so gross, and that he had so many times Liberty given him to recollect his Memory, and he being so great an Officer in so great a City, he had all the Favour that could be, and yet rejected the same, and carried himself in a very scornful manner.

Where-

Wherefore it was ordered that he should be sent for as a Delinquent, to answer at the Bar the next Morning. An. 4. Charles I.
1628.

Jones the Printer and his Counsel were called in, to argue the Business of *Mountague's* Episcopal Confirmation.

The Questions were two :

‘ First, Whether the Exceptions be legal ?

‘ Secondly, Whether the Confirmation be good ?

Dr. Mountague's
Confirmation
argued.

The last of these is the Point touching which the House enjoined the Counsel to speak.

The Counsel proposed a Third Question, What would be the Fruit and Effect thereof, if in Law the Confirmation should prove void ? In which the Counsel said it would not extend to make him no Bishop upon the point of Election, but upon the point of Confirmation only, which makes him punishable, if he execute any thing concerning the Bishoprick.

Sir Henry Martin said, ‘ That the Exception making void the Confirmation, doth in Law work also upon the Election, and likewise make that void.

Dr. Steward said, ‘ The Point of setting to the Advocate's Hand is but Matter of Form of Court, but no Matter of Law.’

Sir Henry Martin said, ‘ That he would endeavour to give the House full Satisfaction ; and will speak with Relation to the King's Right and Laws of the Realm.

‘ The Proclamation at Common Law should not be at *Bow-Church*, but the Cathedral Church of the Diocess, where the Bishop is to be elected, and the Dean and Chapter and Clergy of the Diocess are to except, and not every one that will.

‘ The Arguments that might fall thereupon are endless, and to alter a Course so long settled needless ; and I conceive it is plain, that the King and the Law have Power to deprive him of his Bishoprick, if he deserve the same : Therefore it were good to decline this Dispute for the present, and to seek to remove him.’ Which was allowed of.

Feb. 10: A Bill was preferred for the ordering of the

An. 4. Charles I.
1628.

Complaint relating to Tonnage.

the Government of the *Summer-Islands*. And another Bill was preferred to restrain Abuses in Ministers and Magistrates.

Mr. *Rolls* complaineth, 'That since the last Complaint of the Breach of the Liberties of this House, his Warehouse was locked up by one *Maffey* a Pursuivant. And that Yesterday he was called forth from the Committee in the Exchequer Chamber, and served with a Subpœna to appear in the Starchamber. And since he received a Letter from Mr. *Attorney* that it was a Mistake; the Subpœna was read, but the Letter was not suffered to be read.'

Sir *Robert Philips* said, 'You see we are made the Subject of Scorn and Contempt. I conceive this to be a Bone thrown in by them that seek to draw a Cloud over our Religion, to divert or interrupt us in the Preservation of it. I desire the Messenger may be sent for, and examined by whose Procurement this Subpœna was taken forth: If those that throw these Scorns upon us may go unquestioned, it is in vain to sit here.'

Sir *Humphry May*. 'This proceeds from some great Error, for I will assure you this never proceeded from King or Council. I therefore desire it may be searched to the Bottom, for be it considered that neither King nor Council have cast in this as above said.'

Mr. *Selden* said, 'This is not to be reckoned as an Error; for questionless this is purposely to affront us, and our own Lenity is the Cause of this.'

An Order, that *Skemington*, the Messenger that served the Subpœna, be presently sent for, to the House; a Committee of six are appointed to see the Information in the Starchamber, and to examine the same, and by whom the same was put in; and they shall have Power to send for Persons or Records that may inform them.

[A general Order agreed on, That all the Committees that have Power to send for Parties, shall have Power to command any of them as they shall think fit, to attend the House at such Times as they think fit.

The

The Privilege of the Merchants that are Planters here, may be taken into Consideration by this Committee, concerning the Information in Starchamber. An. 4. Charles I.
1628.

Sheriff *Alton* called to the Bar, as a Delinquent, upon his Knees, saith, 'If he hath erred, it is through want of Memory and Ignorance; for he intended not the least Dislike, or Distaste to any Member of the House.'

Mr. *Long* moved he might be sent to the Tower.

Sir *Francis Seymour*. 'That he may now be referred back to the Committee to be re-examined; if then he deal not clearly, this House may proceed to further Punishment.'](c)

Mr. *Selden*. 'I cannot remember when we did commit a Sheriff of *London*, but I remember when this House committed both the Sheriffs of *London* to the *Tower*, for an Abuse of less nature; only for countenancing of a Serjeant in an Arrest on a Member of Parliament, though they did acknowledge their Faults at the Bar, which this Man hath not yet done. The Serjeant was sent to *Little-Ease*; the Party, at whose Suit he was arrested, was committed to the *Fleet*, and both the Sheriffs to the *Tower*.'

Mr. *Kirton*. 'I came into this House with as good a Heart to this Man as any Man; for I was spoken to stand for him as I came in. I promised to do what favour I could; but if he were my Brother, he should go to the *Tower*.'

Mr. *Littleton*. You see the Affronts, by Books, by Preaching, by Rumours, by being daily served with Process that are put upon us, that we are become but a mere Scarecrow: the Neglect of our Duty is the Cause of this: It is high Time to remedy this, or it is in vain to sit here.'

[The Sheriff was again called to the Bar and was, on his Knees, ordered to the *Tower*.] The Sheriff of
London committed
to the *Tower*.

It is ordered, that *Worsman*, *Dawes*, and *Car-marthen* are to be at the Bar upon *Friday* next.

Feb. 11. Mr. *Selden* reported concerning the Process of the Merchants, that Mr. *Attorney* gave Order for the Process, and that Mr. *Attorney's* Man took Mr *Selden's* Re-
port, relating to
Tonnage

(c) The Passages in Crotchets are omitted in Crew.

An. 4. Charles I.
1623.

forth the same for the Bill; it is for these Things, which depend in Parliament, complained of here by the Merchants. The Copy of the Bill brought in and read, That the Merchants did plot, practise, and combine against the Peace of the Kingdom.

This being a Business incident to Tunnage and Poundage, is ordered to be deferred until the Morrow Morning.

Also, that Report be made then of the Examination of the Complaints of the Merchants: And that the Information in the Exchequer Chamber may also be brought, which was likewise ordered, that in respect the Term ends To-morrow, and the Assizes to follow, and divers Members, that are Lawyers, of this House may be gone; it is ordered that none shall go forth of Town, without the Leave of the House.

Ordered also, that the Speaker's Letter shall be sent for Sir *Edward Coke*.

Proceedings of
the Committee
for Religion.

Mr. *Waller*, at the Committee for Religion, delivered a Petition of the Bookellers and Printers written against Popery and Arminianism, and the contrary allowed of by the means of the Bishop of *London*; and that divers of them had been persecuted for printing Orthodox Books; and that licensing of Books, is now only restrained to the Bishop of *London* and his Chaplains.

One of the Printers said, He tendered divers Books; one called, *The Golden Spur to the Celestial Race*; and that *Turner*, one of the Bishop of *London*'s Chaplains, said, That if he would put out the Point, that a Man may be certain of his Salvation, he would license the same; and notwithstanding he put out that Point, yet he could not get the same licensed; whereupon,

Mr. *Selden* took Notice, ' That the refusing of licensing Books is no Crime, but the licensing of bad Books is a Crime; or the refusing to license Books, because they are written against Popery or Arminianism, is a Crime. There is no Law to prevent the printing of any Book in *England*, only a Decree in the Star-chamber: Therefore that a Man shall be

fin'd

fin'd and imprifoned, and his Goods taken from him, is a great Invaſion on the Liberty of the Subject. An. 4. Charles I.
1623.

Thereupon he mov'd a Law may be made in this: This is referred to a ſelect Committee to be examined.

Sir *Benjamin Rudyard*. ' There be divers Recantations, Submiſſions, and Sentences remaining on Record, in both Univerſities, againſt *Arminianiſm*, which may conduce to our end: That the Speaker's Letter may be ſent to the Chancellor for thoſe Records,' which was order'd.

Mr. *Sherland* reported concerning the Pardons, Debate concern-
ing Pardons
granted. that they have examin'd Dr. *Sibthorp's* and *Cofins's* Pardons; *Sibthorpe* ſolicit'd his own Pardon, and ſaid, he would give it to the Biſhop of *Wincheſter* to get the King's Hand to it. It is evident that the Biſhop of *Wincheſter* got the King's Hand to *Sibthorp's* and *Cofins's* Pardons, and alſo *Mountague's* Pardon was promiſed by him: That Dr. *Manwaring* ſolicit'd his own Pardon, and the Biſhop of *Wincheſter* got the King's Hand to his Pardon. It is likewiſe ſaid that the Pardons were all drawn by Mr. *Attorney*, before there was any Warrant.

Mr. *Oliver Cromwell* ſaid, ' That he heard by relation from one Dr. *Beard*, that Dr. *Alablaſter* had preach'd flat Popery at *St. Paul's Croſs*; and that the Biſhop of *Wincheſter* (Dr. *Neile*) commanded him, as he was his Dioceſan, he ſhould preach nothing to the contrary. [He ſaid, That *Manwaring*, ſo juſtly cenſured for his Sermons, in this Houſe, was, by this Biſhop's Means, preferred to a rich Living. If theſe are Steps to Church Preferments, adds he, what may we not expect?'] — This is the firſt Time this extraordinary Perſon makes any Appearance on our Stage of Action.

Sir *Robert Phillips* ſaid, ' One Dr. *Marſhal* will relate as much ſaid to him by the Biſhop of *Wincheſter*, as the Biſhop ſaid to Dr. *Alablaſter*.'

Mr. *Kirton*. ' That Dr. *Marſhal* and Dr. *Beard* may be ſent for.' And further ſaid, ' This Biſhop, though he hath leaped through many Biſhop-
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An. 4. Charles I.

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Bishopricks (*a*), yet he hath left Popery behind him. That *Cosins* frequenting the Printing-house, hath caused the Books of Common Prayer to be newly printed, and hath changed the word *Minister* into the word *Priest*, and hath put out in another Place the Word *Elect*. Thus *Cosins* and his Lord go hand in hand.*

Sir *Miles Fleetwood*. 'We are to give *Mountague* his Charge, and, by his Book, charge him with, First, Schism in Error of Doctrine.

Secondly, Faction in point of State.

Thirdly, Matter of Aggravation.

Sir *Walter Earle* said,

Qui color albus erat nunc est contrarius albo.

Dr. *White* hath sold his Orthodox Books, and bought Jesuits Books, therefore let *White* go Arm in Arm with *Mountague*.

Sir *John Elliot* made Report from the Committee, in the Examination of the Complaint of the Merchants; and delivered in the Orders and Injunctions in the Exchequer; and said, 'That the Merchants are not only kept from their Goods by the Customers, but by pretended Justice in a Court of Justice, the Exchequer. I conceive, if the Judges of that Court had their Understanding inlightened of their Error by this House, they would reform the same, and the Merchants thereby suddenly come by their Goods.

Ordered, a select Committee to be named to digest these Things that have been already agitated, concerning Innovation of Religion, the Cause of the Innovation, and the Remedy.

Feb. 12. The Sheriff of *London*, upon his Submission at the Bar, is released from his Imprisonment in the *Tower*.

At a Grand Committee for Tunnage and Poundage, Mr. *Sherland* in the Chair, Mr. *Waller* delivered a Petition from *Chambers*, *Foulkes*, and *Gilbourne*, in Complaint of an Information against them in the Starchamber about Tunnage and Poundage;

(*a*) *Rockesfer*, *Lichfield* and *Coventry*, *Lincoln*, and *Durbam*. See Vol. V, p. 291.

and

Debate on a Complaint concerning Tunnage and Poundage.

and that, by the Restraint of their Goods, they are likely to be undone. An. 4. Charles I.
1623.

Mr. *Wandesford* conceiveth this to be a difficult Way for us to go in.

Mr. *Coriton*. Let it be done which way the House shall think fit: But I conceive it fit the Merchants should have their Goods, before we can think of the Bill. Kings ought not, by the Law of God, thus to oppress their Subjects. I know we have a good King, and this is the Advice of his wicked Ministers; but there is nothing can be more dishonourable unto him.

Mr. *Strowde*. That it may be voted that the Merchants may have their Goods, before we enter on the Bill.

Sir *Humphrey May* (b). 'I shall speak my Opinion, because I know not whether I shall have Liberty to speak, or you to hear any more. All the Proceedings of the King and his Ministers was to keep the Question safe, until this House should meet, and you shall find the Proceeding of the Exchequer very legal; and thus much, not knowing whether I shall attain Liberty to speak here again.'

Sir *Thomas Edmunds* (c). 'There is none here but would think it a hard Thing that a Possession should be taken from us, without any Order for Sequestration; that therefore it was not to be suffered, that these few Men should so unjustly disturb the Government of the State: Desires that there may be no Interruption; but we may proceed to settle the Tunnage.'

Mr. *Coriton*. 'I hope we may speak here, as we may speak in Heaven; and do our Duties, and let not Fear divert us.'

Mr. *Waller*. 'It is not so few as five hundred Merchants are threatned in this.'

Sir *Robert Philips* moveth, 'That we may go to the King, and satisfy him of these Interruptions.'

Mr. *Nes*. 'We cannot safely give, unless we be in Possession; and the Proceeding in the Exchequer nullified, also the Informations in the Starchamber,

(b) Chancellor of the Duchy. (c) Treasurer of the Household.

An. 4. Charles 1.
1623.

and the Annexations to the Petition of Right. I will not give my Voice, neither will I give, unless these Interruptions be declared in the Bill, *That the King hath no Right, but our free Gift.* If it will not be accepted, as it is fit for us to give it, we cannot help it: If it be the King's already, as by their new Records it seemeth to be, we need not give it.

Mr. *Selden* seconds the Motion of sending a Message to the Exchequer; declareth a Precedent of a Message sent into the Chancery, for stay of Proceedings in a Cause; and it was obeyed. And what Answer soever the Judges return, it cannot prejudice us: The Law speaks by the Records; and if these Records remain, it will, to Posterity, explain the Law.

Mr. *Littleton.* For the Point of Right, there is no Lawyer so ignorant to conceive it, nor Judge of the Land to affirm it; is against giving to the King, or going on with the Bill. In this Case, by the Law, a Man cannot be put to a Petition of Right, but shall recover without Petition.

A Message sent
to the Exchequer
thereupon.

Ordered, a Message shall be sent to the Court of Exchequer, That whereas certain Goods of the Merchants have been stayed by Injunction from that Court, by a false Affidavit; and that, upon Examination, the Customers that made the Affidavit have confessed, that the Goods were only stayed for Duties contained in the Book of Rates; that therefore that Court would make void the Orders and Affidavits in this Business.

Petition against
Burges for Mis-
demeanors.

Feb. 13. A Petition against one *Burges*, a Priest, who was here complained of the last Session, containing some new Articles against him, viz. That he reported that he could not get a Copy of his Articles out of the House, until he had gotten one to counterfeit himself a Puritan to get the same, and other new Misdemeanors. He is ordered to be sent for.

The Motion of Sir *John Elliot* concerning the Privilege of Merchants.

Order

Order is, that a Man having a Plaint depending here, shall be privileged in his Person, not freed from Suits.

An. 4. Charles J.
1628.

A Committee is to consider, what Privilege is to be allowed any Man that hath any Cause depending here. In the mean time, Intimation shall be given to the Lord Keeper, that no Attachment shall go forth against the Merchants.

Sir *Humphry May* reported the Message to the Exchequer Court, 'That the Treasurer and Barons will forthwith take the same into Consideration, and return an Answer.'

Ordered, that Secretary *Cooke* shall take Care, that Intimation be given to the City about the Fast.

Dr. *Moore* called in, saith, 'That he was referred to the Bishop of *Winchester*, to be censured for a Sermon preached by him. The Bishop said, 'That he had heard him deliver many pretty Passages against the Papists, which pleased King *James* well, but he must not do so now: That he had a Brother that preached against bowing at the Name of *Jesus*, and bowing at the High Altar, which he liked not; and that the Communion-Table stood as in an Ale-house, but he would have them to be set as High Altars. Dr. *Moore* is to deliver these Things, in Writing, To-morrow Morning

At the Committee for Religion, Mr. *Pym* in the Chair, Sir *Walter Earle* said, 'If we speak not now, we may for ever hold our Peace; when, besides the Queen's Mass, there are two other Masses daily in the Queen's Court; so that it is grown common with the out-facing Jesuits, and common in Discourse, Will you go to Mass, or have you been at Mass at *Somerfet-house*? there coming five hundred at a Time from Mass. Desires it may be known by what Warrant, the Jesuits, lately in *Newgate*, were released.

Mr. *Coriton* said, 'He doubts not but his Majesty's Intention was good, in the Declaration lately published; but he conceiveth it will be made use of only to our Disadvantage. He desireth therefore the Declaration may be taken into serious Consideration.

An. 4. Charles I.
1625.
Report of Pro-
ceedings in the
Committee of
Religion.

Sir *Richard Grosvenor* reports the Proceedings of this House against Popery, the last Session, and what Fruits have follow'd thereof since, as follows:

¶ In this great Business concerning Religion, and the stay of Execution of the Laws against Recusants, it will much conduce to our Purpose, and forward our Resolutions, to cast back our Eyes to what was done the last Session. You may remember, that amongst other Businesses of Weight, we then took to Heart the Decay of Religion; we sought after the Preservation thereof, and how to maintain it in its own Purity.

¶ We find that, of late Years, it had been much wounded by heartening of Papists, by conferring Offices upon Recusants,

¶ We summon'd our Judgments, and employ'd our best Cares and Pains for stopping the Current of Popery; which by such Means, like a Deluge, came flowing in upon us.

¶ And well did it besit the Piety of this House to be so zealous for the Prosperity of that, which ought to be so precious to every good Man's Soul, and so dear in their Eyes.

¶ This we attempted by these and the like Steps.

¶ *First*, By that Religious Petition, wherein it pleased the Lords so readily to join with us.

¶ *Secondly*, By framing a Bill against Recusants, which passed both Houses; whereby his Majesty had been much enriched, better enabled to compass his Dues from them, and to avoid their Deceits in defrauding him thereof.

¶ *Thirdly*, By informing him of the Numbers and Particulars; and by petitioning him to remove all Papists and Popishly affected People from the Court, from Places of Trust, and from Places of Power.

¶ *Fourthly*, By examining the Dangers and Inconveniencies of these late Commissions and Instructions granted forth, for the compounding with Recusants for their Estates and Forfeitures.

¶ *Fifthly*, By framing a Charge to usher up Mr. *Mountague* to the Lords; not to his Seat amongst
the

the Reverend Society of Bishops, but to the Bar, as an Offender against that House, this House, and the whole Church of God.

But what Good hath our Zeal brought to Religion, what Profit to the Church? We all know, and with Thankfulness acknowledge, that his Majesty gave a most pious and gracious Answer to our Petition, and to some Particulars, as fully as we could desire; which raised our Hopes to the Expectation of much Good, and some hath follow'd.

For it is true that the promised Proclamation to command Judges, and other Ministers of Justice, to put the Laws in Execution against Recusants, their Priests and Jesuits, is now extant; which yet seems, to me, to have been long kept by some back-Friends to Religion; and I am induc'd to think thus for these Reasons, *viz.*

My first Reason I draw from common Fame: It being generally reported, that instead of Life and Motion to the Laws in force against Recusants, the Judges had in Charge, before the last Circuit, to deal sparingly with them.

My second Reason I draw from the Time when this Proclamation came forth; which was five Weeks after the End of the Session, when some of the Circuits were ended, or so near a Conclusion, that the Judges could take little or no Notice thereof.

And, Thirdly, from Consideration of a former Proclamation, dated the 7th of July, which tho' it pass'd not the Seal, yet it did the Press; and, in my poor Opinion, would never have gone so far (knowing the Resolution of Council to be more certain) had not some Men hop'd to prevent the latter by procurement of the former as Satisfaction; which falls short of his Majesty's pious Intentions, expressed in that his Religious Answer: And, if with reverence, I may speak my humble Thoughts, they do both of them, in the Conclusion, too much encourage the worst of Subjects to hope for his Majesty's best Favour; too fairly inviting them to compound for their Forfeitures; which Course this House was bold to stile little less than a Toleration.

An. Charles I.
1628.

Again, Is the Concourse of Recufants as yet restrained from the Court? Nay, do they not since our Recess frequent it with more Confidence and greater Alacrity? Do not their Hopes daily increase, and themselves grow more insolent? Their Feats are ended with the Session,

Fourthly, Is the promised Watch as yet appointed to keep them from Ambassadors Houses? Had the Judges in Charge to inform themselves in their last Circuits, and, after their Return, to certify his Majesty of all such Papists and Popishly-affected Persons as they should find to be in Authority? I have not heard it, and to me those are all the known Effects of that Religious Petition,

Fifthly, Next take we Notice of the Abortion of that necessary Bill against Recufants; which, when we hoped it would have received Life and Perfection by the Royal Assent, perished in Embryo, suddenly vanished, as being too cruel and too unmerciful.

Sixthly, and lastly, Considering what Fruit we have reaped from that Petition and Information, whereby we let his Majesty know the Particulars of such Papists and Popishly-affected, as were in each County in Commission of the Peace, of Lieutenantcy, &c. Are any of them since removed? No, it is well if their Numbers be not increased.

Oh! Mr. Pym, this breaks the Hearts of all; for if God be God, let us follow him; and if Baal be God, let us follow him; and no longer halt between two Opinions: For whilst we are thus careless in standing for God, that we dare scarce acknowledge our own Religion, is it any marvel that God estrangeth himself from us, and will not own us, as by too woful Experience we have Cause to suspect? Since, we find, he goeth not forth with our Armies, since so ill Success attends all our Actions, and we have not yet made our Peace with him.

And to these Grievs and Discouragements, I find an Addition of that Nature, that threatens the very Ruin and Desolation of us, if not Dissolution of Religion in this Land, if God himself take not his

own

town Cause into his Hand: And that is the countenancing and preferring of a plotting, undermining, and dangerous Sect of upstart Divines; when *Arminians* shall be graced and preferred before honest Men; when such desperate Divines, as have tired a part of *Christendom*, almost ruined our Neighbours, kindled their Firebrands, and cast their dangerous Sparks abroad in our Church, shall be encouraged to go on in planting their damnable Doctrines and Propositions; which, already, have taken deep footing in our Universities, and many other Parts of this Land.

You remember, Sir, what Care and Pains this House took (as a Matter of great Consequence) to frame a Charge against *Mountague*; which was ready, with the first Opportunity, to have transmitted him to the Lords; but these many Interruptions we have had, have given backing to that, as well as to many other Businesses of Weight: Yet was this Man, shortly after the ending of the Session, dignified with the sacred Title of a Bishop; and Bishop of that See, wherein his Predecessor (a grave and orthodox Prelate) had labour'd both by his Pen and Doctrine to strangle those Errors, and to confute Mr. *Mountague*; as if the very ready Way to obtain a Bishoprick now, were to undermine Religion, and to set the Church in Combustion.

Another also of his own Profession, little better than himself, I mean Time-pleasing *Manwaring*, hath also tasted extraordinary Favour: This Man attempted to make his Holy Function a Means to seduce the King's Conscience, to misguide his Judgement, to disjoint his Affection from his People, to avert his Mind from calling of Parliaments; the Particulars of his damned Doctrines are yet fresh in our Memory: What could a Man have done worse? For thereby he did, as much as in him lay, violently to break in pieces that Cord, to wrest in sunder that Chain, which links, ties, and unites the Hearts and Affections of the Prince and People together: Verily, they that shall go about thus to seduce or corrupt a Prince, deserve to be hated of all Men.

An. 4. Charles I.
1625.

Men; as much as those that attempt to poison a publick Spring or Fountain whereof all drink. For which Offence of his, he received a just, but moderate Censure. One Particular was, that he should be disabled for ever holding any Ecclesiastical Dignity in the Church: And altho' it be confessed, that the Doctor justly brought upon himself the Censure of Parliament; yet was this Man also, immediately after our Rising, released from his Imprisonment; reported to have the Honour to kiss the King's Hand; obtained his Pardon in Folio; was prefer'd to a rich Living; and (if some say true) cherisheth assured Hopes of Dignity in the Church.

‘ If these be Steps to Church Preferments, God be merciful to those Churches, which shall fall under the Government and Feeding of such a Clergy.

‘ Thus, Mr. *Pym*, you see the Issue of our good Endeavours vanish into Smoak: What should be the Reasons, I know not; but I may well guess it comes by the like Practices that were used in King *James's* Time; for then we had the like gracious Answers to Petitions of Religion, the like Proclamations, the like Declarations, the like Command to put Laws in Execution against Recusants, and yet little done; being prevented by the secret Directions and Commands of some eminent Ministers of State, which I am able to justify by a Letter under their Hands, which I have now about me; and I wish that all such as have Notice of any such private Letters, as have been sent for the stay of Execution of those Laws, would give this House Notice thereof.’

Sir Robert Philips. ‘ If ever there were a Necessity of dealing plainly and freely, now is the Time; there is an Admission of Papists and Jesuits, as if it were in *Spain* and *France*.

This Increase of Papists is by Connivance of Persons that be in Authority; nine hundred and forty Persons in Houses of Religion being Papists, of *English*, *Scots*, and *Irish* in the *Netherlands*, maintained by the Papists of *England*: And of this I shall deliver the Particulars, that we may frame a Remonstrance to the King, that unless there be some bet-

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ter Performance of his Majesty's so many Answers An. 4. Charles I. 1628.
to our Petitions, our Religion will be past Recovery.

Mr. *Cariton*. 'That these Papists, by Laws or Acts of State, may be removed from their Offices, which we have just Cause to suspect.'

Mr. *Selden* moveth, 'That these Things may be debated in Order; and first, for releasing the Jesuits that were arraigned at *Newgate*, whereof one was condemned: They were ten in Number, which were Priests, who had a College here in *London* about *Clerkenwell*: and those Men could not attempt these Acts of Boldness, but that they have great Countenance.'

Secretary *Cooke* replied, 'That a Minister of State had Notice of those Ten, and this College intended to be kept at *Clerkenwell*; that it is plain there was a Place appointed for this College, and Orders and Relicks prepared.'

'The Minister made the King acquainted with it; and I should not do my Duty, if I did not declare how much his Majesty was affected with it. His Majesty referred it to the special Care of the Lords of the Council; who examining the same, sent those ten Persons to *Newgate*, and gave Order to Mr. *Attorney* to prosecute the Laws against them: That this College was first at *Edmonton*, removed thence to *Camberwell*, and from thence to *Clerkenwell*.'

An Order, That all the Knights and Burgesses of this House should, to-morrow Morning, declare their Knowledge, what Letts or Hindrances have been to stay the Proceedings against Recusants.

Mr. *Long*, a Justice of Peace, who is said to understand much in this Business of the College of Jesuits, sent for and examined, saith, 'That, by the appointment of Mr. Secretary *Cooke*, he apprehended these Persons, and took their Examinations; and saith further, That he heard they were delivered out of *Newgate*, by Order from Mr. *Attorney*.'

'That Mr. *Middlemore*, a general Solicitor for Papists, hired this House for the Lord *Shrewsbury* a
Papist;

An. 4. Charles I.
1628.

Papist; and that there were divers Books of Accounts, of Receipts and Disbursements to the Value of 300*l.* per Ann. with divers Recufants Names, who allowed towards the Maintenance of this College; and these Books and Papers are in the Hands of Mr. Secretary *Cooke*.

Secretary *Cooke* saith, 'He cannot so amply declare the Truth of the Proceeding herein, until he have leave from his Majesty.

Cross, a Pursuivant, was examined in this, who saith likewise, he can discover many and divers Stoppages of the Execution of the Laws against Recufants.

Complaint a-
gainst Lord
Lambert.

Feb. 14. A Complaint was made against the Lord *Lambert*, a Baron of *Ireland*, and a Member of this House, who being a Colonel of Soldiers in *Middlesex*, hath imposed Four-pence upon every Soldier towards his Officers Charges; and the Petitioner refusing to pay, was first set in the Stocks, and after, by the Lord *Lambert*, committed to a publick Prison.

Ordered, that the Lord *Lambert* shall be sent for, to answer this.

Debate on a
Commoner's ap-
pearing to an-
swer before the
Lords.

Sir *John Ipsley* desireth leave to answer a Complaint against him in the Higher House.

Mr. *Selden* hereupon, 'That the Use was, and citeth Precedents, That no Commoner should be called to the Higher House, but it will trench upon, and disadvantage the Privilege of this House; and, until the 18th of King *James*, there was never a Precedent to the contrary; that this therefore may be considered of by a select Committee.

Ordered, that Sir *John Ipsley* should not have leave to answer to the Lords House.

Mr. *Chancellor* of the *Duchy* stily seconded the Motion of Mr. *Selden*.

Secretary *Cooke* said, 'I am as careful to maintain a good Correspondency with the Lords, as any Man; but Connivancy in this kind may overthrow the fundamental Rights and Liberties of this House: Let it, therefore, be seriously considered of, for this

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not only concerneth the Right of this House, but the Liberty of the whole Commonwealth. An Act. Chas. II. 1656.

Ordered, that a special select Committee shall be appointed to confer of this.

Mr. Chancellor of the Duchy delivereth an Answer, in Writing, from the Lord Treasurer, Chancellor, and Barons of the Exchequer, to the Message sent them by the House of Commons:

WHEREAS the Honourable House of Commons, by Order of the 12th of this Instant Februry, have appointed that Notice should be given to the Lord Treasurer, Chancellor, and Barons of the Exchequer, of a Declaration made by Sir John Wolstenholme, Abraham Dawes, and Richard Carmarthen, in the said House of Commons, of the Goods that the Merchants brought into the King's Storehouse, and laid up there for his Majesty's Use, were detained, as they conceive, only for the Duty of Tunnage and Poundage, and other Sums comprised in the Book of Rates; which Notice was given, to the End the said Court of Exchequer might further proceed therein, as to Justice should appertain:

The Answer of the Barons, &c. of the Exchequer, concerning Tunnage and Poundage.

Now, the Lord Treasurer, Chancellor, and Barons, out of their due Respect to that Honourable House, and for their Satisfaction, do signify, that by the Orders and Injunctions of the said Court of Exchequer, they did not determine, nor any ways trench upon the Right of Tunnage and Poundage; and so they declared openly, in the Court at the making of those Orders: Neither did they, by the said Orders and Injunctions, bar the Owners of these Goods to sue for the same in a lawful Course. But whereas the said Owners endeavoured to take those Goods out of the King's actual Possession, by Writs or Plaints of Replevin, which was no lawful Action or Course in the King's Cause, nor agreeable to his Prerogative: Therefore, the said Court of Exchequer, being the Court for ordering of the King's Revenue, did by these Orders and Injunctions stay those Suits; and did fully declare, by the said Orders, That the Owners, if they conceived themselves

wrong,

... might take such Remedy as the Law allows

Signed, *...*
 RICH. WESTON Treasurer, or next to
 LO. NEWBURGH Chancellor, *...*
 JO. WALTER Chief Baron, *...*
 JOHN DENHAM, *...*
 THO. TREVOR, } Barons.
 GEO. VERNON, } *...*

This being read, Mr. Kirton said, 'We looked for Satisfaction, but now we see a Justification of their Actions. I therefore desire we may proceed to consider of their Proceedings, and whether ever the Court of Exchequer held this Course before for staying of Replevins, and whether this hath been done by the Regal Prerogative of the King, or the Court of Exchequer.'

Ordered, That a Select Committee of the Lawyers, Exchequer-Men, shall take this into their Consideration.

Mr. Selden said, 'We have delayed the Proceedings with the Customers, expecting some good Success from the Exchequer; but finding it otherwise, I desire the Customers may be called to the Bar on Monday next; which was ordered.'

Sir Thomas Hobby's Report, relating to Popish Priests.

Sir Thomas Hobby reported, 'That he and the rest that were appointed for the Service concerning the Priests, had examined the Keeper of *Newgate*; who confessed, the First of *December* he received ten Prisoners, suspected to be Priests; and said, That at the Sessions the Third of *December* last, three of them were indicted for Priests; and one of them condemned, that was afterwards reprieved; and the Night before the Execution, Mr. *Recorder* sent a Warrant to stay Execution, which was seconded by a Warrant from the Lord Chief Justice *Hylle*. All the rest did refuse the Oath of Allegiance, and it was ordered, that they should be kept till the next Sessions.'

The

The Earl of *Dorset* sent Word to the Keeper, *Am. 4. Charles,*
That his Majesty's Pleasure was, they should be de-
livered; and a Warrant came from Mr. *Attorney,*
 to bring the Priests before him, who took Sureties
 of them to appear twenty Days after Notice at the
 Council-board; and so they were discharged.

Hereupon Sir *Nathaniel Rich* said, 'I am confident
 the Grace of the King hath been abused in this; that
 therefore the Privy Counsellors of the House must
 know, whether it was by his Majesty's Directions,
 or not. And

It was moved, That Secretary *Cooke* may, first,
 declare his Knowledge in this.

Secretary *Cooke*, thereupon, made a long Decla-
 ration to the House concerning those Priests, and
 the Discovery of them; and produced the Papers
 that were found in the House amongst them upon
 search; and he said, that it did appear that they
 were Jesuits and Priests, by the Inventory of their
 Goods: They had their Chapel and Library re-
 plenished, a common Kitchin, Buttery, and Cel-
 lar, their Household-stuff is all marked with *J + S.*
 there is a monthly Book of their daily Expences,
 and a contracted annual Account in Latin, under
 the Rector's Hand. It appeareth that they had pur-
 chased 200 *l.* Lands *per Annum*, and 60 *l.* in Money
 did remain over and above their Expences. There
 were also divers Letters, Directions, and Orders
 from a Popish Father from *Rome*, and all Parts be-
 yond the Seas. They had appointed a Time of Meet-
 ing, which was *St. Joseph's Day*, and then they
 should have said Mass. All their Papers were de-
 livered to Mr. *Attorney*, who recommended them
 to Mr. *Long*.

Sir *John Elliot* said, 'In all this I see his Maje-
 sty's Goodness is clear, and we shall still retain the
 Comfort of it. You see here is a Ground laid for
 a new Religion, and a Foundation for the under-
 mining of the State; and, when they should be
 brought to Trial, then I see the over-officiousness of
 Ministers of State to interpose themselves to preserve
 these Men, to all our Ruins: These [Men were in
 Subjec-

Ann. 4. Charles I.
1628.

Subjection to a foreign Power, and disclaim our Sovereign. What could be their Purpose that labour'd to find out a Way to free them, but to seek our Ruin? For I fear the drawing of their Indictment was maliciously done for that Purpose.

‘ The Person that I look at first is the *Attorney*, whom we still find faulty in this Matter of Religion; when he saw the Importance of the Cause, and had Directions from the King and Council; and yet, in a Cause that so much concerns the King, the People, Religion and all, he must take his own Hand away, and put it to another; this Negligence renders him inexcusable.

‘ The next is that Great Lord, the Earl of *Dorset*; I find him to interpose himself herein. Let us fix it upon his Person, and know by what Warrant he did that which was done.

‘ I observe another Person faulty also; I heard the Priest was condemned, and Mr. *Recorder* made a Reprieve: No Man could vent his Malice more to this Kingdom, than in the Preservation of these Men.’

Sir *Francis Seymour*, with Vehemency, taxed both Mr. *Attorney*'s Affection and Judgment herein; and declared that continual Letters were sent, from Mr. *Attorney*, in stay of Proceedings against Recusants. You see how slightly Mr. *Attorney* hath put over a Business of this Weight to Mr. *Long*.’

Mr. *Cross*, the Pursuivant, being examined, said, ‘ That there were Eleven Men in the New Prison; and the Keeper of the Prison saith, they were delivered by Warrant from the Council-Board.’

It was ordered, That Mr. *Recorder* shall be, rather, sent unto to be examined, than to be sent for as a Delinquent; in regard he hath, formerly, had the Honour to sit in the Chair here.

Secretary *Cooke* said, ‘ That herein we shall find, that the King being merciful in case of Blood, gave Directions for the relieving of the condemned Priests.’

Sir *John Elliot* answered, ‘ I doubt not but, when we shall declare the Depth of this to his Majesty,

he will render them to Judgment that gave him such Advice. An. 4. Charles I.
1628.

Sir Nathaniel Rich. 'These Jesuits are bound, by Sureties to answer further at the Council-board. I wish their Bonds were produced, that, by Examination of them, we might find out the whole Pack of their Benefactors and Maintainers.

Mr. Long being called, said, 'That he offering, at the Sessions, the Evidence against them, by Order from *Mr. Attorney*; the Lord Chief Justice *Richardson*, interrupted him, and told him, *He must speak to the Point in Issue, whether Priests or no Priests*; and thereupon the Judges consulted amongst themselves, and so arose.

Mr. Selden declared, 'That he was present at the Sessions, and plain Treason was proved, and nothing done in it.

The further Examination of this was referred to a Select Committee.

Feb. 16. [A Petition of Complaint was presented against *Sir Henry Martin*, for disposing of the Goods of one *Brown*, who died intestate, to his own private Use.

Hereupon *Sir Henry Martin* stood up, and said, 'If I prove not my self as clear of this as *St. John Baptist*, let me be reckoned a Jew.'

Referred to the Committee for Courts of Justice,

The same Day, at the Committee for Religion, *Mr. Stroud* moved, 'That the Lord Chief Justice may be called to give an Account of his stay of Justice, in the Execution of the condemned Priests; which he ought not to have done, though his Majesty signified his Pleasure to the contrary.

The *Chancellor* of the Duchy said, 'That this was a thing ordinary for a Chief Justice to do, in *Queen Elizabeth's* and *King James's* Times; as also a Declaration in the Star-chamber, that all condemned Priests should be sent to the Castle of *Witch*; and from hence (though the King had given no Order for the Réprieve) he might have taken Warrant for his Proceedings.

An. 4. Charles I.
1628.

Mr. *Selden* made a Report from the Committee, for the further Examination of Mr. *Long*, concerning the Proceedings at *Newgate* against the *Jesuits*; whereby it plainly appeared, that the Evidence, tendered in the Court at *Newgate*, did clearly testify these Men to be Priests; yet the Lord Chief Justice, *Richardson*, did reject the same, against the Sense of the rest of the Judges and Justices present; whereby it is plain he dealt underhand with some of the *Jesuits*.

Ordered, That two Members shall be sent to each Judge, that were present at the Sessions at *Newgate*; who were said to be the Lord Chief Justice of the *King's Bench*, and the Lord Chief Justice of the *Common Pleas*, Justice *Whitlock*, Justice *Jones*, and Justice *Crooke*.] (a)

Sir *Henry Martin* made Report, 'That he, with others, went to the Recorder of *London*, to know by what Warrant he made stay of Execution of the Priest. He denied that he gave any Order or Direction for the stay. Whereupon *James*, the Clerk of *Newgate*, being there present, came to him, and said, He was sorry that he had named Mr. *Recorder*, for Mr. *Recorder* gave no Directions; but the Warrant came from the Lord Chief Justice *Hyde*.'

Whereupon he, the said Sir *Henry Martin*, with the rest of the Committee, went to the said Lord Chief Justice *Hyde*, who told them, 'That he gave his said Warrant by Command from his Majesty.'

Sir Francis Seymour's Report.

Sir *Francis Seymour* made Report to the House, 'That he and others came to Mr. *Attorney's* Chamber; but not finding him there, they went to Mr. *Long*, who shewed them a Letter from Mr. *Attorney* directed to him the said Mr. *Long*, which was all the Instructions he had to prosecute the Priests, and none else: But, for the other Men, he was to take them into a private Room, and offer them the Oath of Allegiance; which if they refused, then to proceed to *Præmunire*. After this we went to Mr. *Attorney*, and desired him to give

(a) All the foregoing Paragraphs in Crochets are supplied from a Manuscript.

was an Answer to every particular Question. Whereupon he set down the Answer with his own Hands, but seemed oftentimes loth to deliver it unto us; yet at last he did deliver it, which was as followeth: *I received Order from the Council, to proceed against the Priests; and I did, accordingly, proceed against them; and I gave Directions to have them brought before me; and took their Examinations and the Informations; and I sent for Mr. Long, and desired him to take special Order therein. I know not, nor ever heard, of any Land conveyed to the College, but only in general; and I gave Directions to intitle the King to the Goods. I understood an Indictment was preferred against three of them for Treason, and the rest of Præmunire; and I receiving Command from his Majesty for their Bailment, supposed themailable.*

An. 4. Charles I.
1628.

Hereupon it was Ordered, That such Priests as are not convicted and condemned, should be proceeded against.

Feb. 17. Mr. Selden reported, ' That he, and some others, examined Mr. Long, who said, That Mr. Cross the Pursuivant coming from Mr. Attorney with Direction, desired a Warrant in Writing, and so Mr. Attorney sent him a Letter before-mentioned; and so he indicted them all as Priests. And the same Day they were to be tried, he told the Lord Chief Justice Hyde, that he had divers Papers that did conduce to prove them Priests or Jesuits, and he said he was ready to read them; and thereupon the Lord Richardson said, *We are upon a Point, whether Priests or no Priests, and they must have Right done them.*

Report of the
Judges Answers
concerning stay of
Execution of Popish
Priests.

Another Judge said, *We came to do Right to all.* And the Lord Richardson asked him, If he had any other Evidence. He said, He had no other but those Papers, which he thought would give clear Satisfaction. The Lord Richardson said, *All that was but Discourse:* He said, *What say you to the Point, Priests or no Priests? To which Mr. Long answered, ' I saw not these Men made Priests; but he*

An. 4. Charles I.
1628.

said, In the House where they were taken, were found Copes and Vestments for Priests: And that he said to the Lord *Richardson*, 'I am ready to open all this, if you please, or to answer any Questions, which you shall ask concerning such Things as I have ready in the Papers.

'The Papers contained divers Examinations, and yet none were suffered to be read but one; and that not being conceived a full Proof, the rest were refused.'

Sir *Robert Philips*. 'Never was the like Example or Precedent: If the Judges give us not better Satisfaction, they themselves will be Parties.'

Mr. *Chambers* preferred another Petition, in Complaint of a Warrant newly proceeding from the Council-Table, for stay of the Merchants Goods, unless they pay those Duties that were due in King *James's* Time.

Sir *John Elliot*. 'You see, by the Merchants last Petition, and the Answer from the Exchequer, that the Merchants were bound, within the Court, to sue for their own; and are now debarr'd of all Means by coming to their own.'

It was ordered, That the Customers shall attend the House on *Thursday* next; in the mean time it was referred to the former Committee. Also it was ordered, That a Committee of Six shall collect and take all the Names at the Fast, and to meet at Church by Eight of the Clock in the Morning.

It was also ordered, That a Committee shall consider of the speediest Way to put the Merchants in Possession of their Goods, without which it is conceiv'd we sit here in vain.

Sir *Thomas Hobby* reported from the Lord Chief Justice *Hyde*, That he doth not remember any Papers tendered by Mr. Long were rejected; or that he affirmed they were dangerous Persons, and a College of Jesuits; but howsoever, Mr. Long tendered nothing to prove them so, but that he held divers Papers in his Hand.

Mr. *Wandesford* reported from the Lord Chief Justice *Richardson*, who said, Mr. Long did discourse
of

of the Place and House, but did not press the reading of the Papers; neither knew he what was in the Papers, nor doth he know of any thing to prove the Persons Priests. An. 4. Charles I.
1628.

Sir Thomas Barrington delivered the Answer of Justice Jones, who saith, *That some Papers were offered by Mr. Long, but he knew not the Contents thereof, nor the Reason why they were refused; but he came late for want of his Health, and the second Day was not there at all.*

Sir Miles Fleetwood delivered the Answer of Justice Whitlock, who said, *He came late, and therefore understood not the Business, and the second Day was not there at all.*

Sir William Constable delivered the like Answer from Justice Crooke.

Sir Thomas Barrington saith, *'That altho' Mr. Justice Jones did not write the Name of my Lord Richardson, yet in Discourse he named him to be the Man that did say, The Point in Proof is, whether Priests or no Priests.*

Sir Nathanael Rich, *'Here is a Charge of an high Nature on the Judges by Mr. Long; that now Mr. Long make good his Charge, or suffer for it; for there were Witnesses enough in the Court.'*

Ordered Mr. Long to be here on *Thursday*.

Ordered also, That the Justices, about the Town, shall be required to deliver in all the Names of the Recufants remaining about the Town, their Conditions and of what Country they be.

Ordered also, That the Gentlemen of the Inns of Court and Chancery, shall give in their Knowledge what Recufants are there.

Sir John Stanhope. *'That the Court may give in the Names of the Recufants there, and likewise by what Warrant they are about the Town; and what publick Charge of Office any of those Persons have. Also what Priests and Jesuits are in Prison in London, for they are at liberty sometimes to go five Miles to say Mass.'*

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1628.

On *Wednesday* the 18th of *February*, a publick Fast was kept by the House at *Westminster*, where were three Sermons.

Debate on the
Seizing of a
Member's Goods
for Tonnage.

Feb. 19. Mr. *Daws*, one of the Customers, being called in to answer the Point of Privilege in taking Mr. *Rolls's* Goods, being a Member of the House, saith, 'He took Mr. *Rolls's* Goods by Virtue of a Commission under the Great Seal, and other Warrants remaining in the Hands of Sir *John Elliot*: That he knew Mr. *Rolls* to be a Parliament-man, and that Mr. *Rolls* demanded his Privilege; but he did understand that this Privilege extended only to his Person, and not to his Goods.' Mr. *Daws* further saith, 'That he took those Goods for such Duties as were due in King *James's* Time; and that the King sent for him on *Sunday* last, and commanded him to make no further Answer.'

Mr. *Carmarthen*, another Customer, called in, saith, 'That he knew Mr. *Rolls* to be a Parliament-man, and, that he told Mr. *Rolls*, he did not find any Parliament-man exempted in their said Commission; and if all the Body of this House were in him, he would not deliver the Goods; if he said he would not, it was because he could not.'

Mr. *Wandesford* moved, 'That the Delinquency of these Men may be declined for the present; and that we may, first, go to the King by way of Remonstrance, considering the Matter from whence this doth arise; if there were a single Privilege, it were easily determined.'

Mr. *Selden* said, 'If there be any near the King that misinterpret our Actions, let the Curse light on them, and not on us: I believe it is high Time to right ourselves; and, untill we vindicate ourselves in this, it will be in vain for us to sit here.'

Sir *Nathanael Rieb* moveth, 'Not to proceed in this, until it be, by a select Committee, considered of; in respect the King himself gave Order to stay those Goods, tho' the Goods of a Parliament-man.'

Sir

Sir *John Elliot*. 'The Heart-Blood of the Common-Wealth receiveth Life from the Privilege of this House. An. 4. Charles I.
1628.

'It was resolved by Question that this shall be presently taken into Consideration; and being conceived a Business of great Consequence, it is ordered, that the House shall be resolved into a Committee for the more Freedom of Debate.'

Feb. 20. Mr. *Herbert* in the Chair. A Petition of Complaint of a Conspiracy against a Man's Life was preferred against the Lord Deputy of *Ireland*, and others, to get the Estate of the Petitioner unto their own Use; which was referred to the Committee for Courts of Justice.

Sir *John Wolstenholme*, another of the Customers, called in, saith, 'That he was commanded, from the King, to say, that the Goods were taken for Duties, and no more; that he sought not to farm the Customs, and told the King, being sent for to his Majesty, that he was not willing to deal therein, until the Parliament had granted the same.'

Hereupon the Warrant, from the King to the Customers, was read *in hæc verba*.

CAROLUS, *Dei Gratia, Angliæ, Scotiæ, Franciæ, & Hiberniæ Rex, Fidei Defensor, &c.* To the Lord Treasurer, Chancellor, and Barons of our Exchequer, and to the Customers of our Ports.

WHEREAS the Lords of our Council, taking into Consideration our Revenue, and finding that Tunnage and Poundage is a principal Revenue of our Crown, and hath been continued many Ages; have therefore ordered, that all those Duties of Subsidies, Customs and Imposts, as they were in the One and twentieth Year of King James our late Royal Father, and as they shall be appointed by us under our Seal, be levied:

Know ye, That we, by the Advice of the Lords of our Council, do declare our Will hereby, That all those Duties be levied and collected as they

An. 4. Charles I.
1628.

were in the Time of our said Father, and in such Manner as we shall appoint. And if any Person refuse to pay, then our Will is, that the Lords of the Council and the Treasurer shall commit to Prison such so refusing, until they conform themselves. And we give full Power to all our Officers to receive, levy, and collect: And we command our Barons and Officers, from Time to Time, to give all Assistance to the Farmers of the same, as fully as when they were collected by Authority of Parliament.

Sir *Humphry May*. ‘The King and Council took Notice, that this Gentleman was a Parliament-man; and it is the first Time that, for the King’s Revenue and for Duties, Parliament-Privileges ever held.’

Sir *Peter Hayman* replied, ‘Our Mouths are stopped, if this be the King’s Revenue.’

‘Mr. *Selden* saith, ‘That he conceiveth the Case of the three Customers, to differ in the Degrees of their Offences.

‘First, For Sir *John Wolstenholme*, whatever he saith here, he hath often confessed the Goods were taken for Tunnage and Poundage; so that, as he broke the Privilege in taking the Goods, so likewise in his swearing one thing, and the Contrary plainly appearing upon Proof and his own Confession, he plainly deserves Punishment.

Secondly, Mr. *Daws*’s Case differeth only, in that Sir *John Wolstenholme* is a Patentee, and Mr. *Daws* only a Sharer.

‘Thirdly, Mr. *Carmarthen*’s Case differeth in saying, ‘If all the Parliament were in him, he would not deliver the Goods.’

Hereupon it was ordered, That *Wolstenholme*’s Case shall be first decided; and the Point is, Whether by the Lease, Sir *John Wolstenholme* having seized the Goods, hath Interest or not.

Mr. *Glanville*. ‘Here is a Sum of Money advanced, a Lease granted for certain Years, and certain Rent reserved; and though there be a Covenant

nant

nant to those Men, that if there be Loss, it shall be abated, yet that cannot take away their Interest.' An. 4. Charles I.
1628.

'The Substance of the Affidavit made by the Customers in the Exchequer, is, that the Goods of the Merchants seized by them, and remaining in the King's Storehouse, were seized only for Duties to the King, mentioned in a Commission under the King's Signet; and that themselves, the Customers, had no Interest, nor Pretence of Interest therein.

Feb. 21. A Petition was delivered by Mr. *Thomas Symons*, in further Complaint against the Customers; and that the Two Shillings and Six-pence of the Currants, granted to the Earl of *Arundel*, be referred to the Committee for Merchants.

Sir *Robert Pye* saith, 'That the Earl of *Arundel* hath delivered in his Patent to the King, two Months since.'

At the Committee on the Complaint of the Merchants, Mr. *Littleton* argued, 'Whether a Member of the House hath his Goods privileged upon a Prerogation, being seized for the King? All Privileges are allowed for the Benefit of the Commonwealth; the Parliament's Privilege is above any other, and the Parliament, only, can decide Privilege of Parliament, not any other Judge or Court.

'That a Man may not distrain for Rent in Parliament Time, but for all Arrearages after the Parliament he may distrain: He is not to be impleaded in any Action Personal, or his Goods seized in the Exchequer. Both by Record and Act of Parliament, he is in the King's Royal Protection; that it might be High-Treason to kill a Parliament-man; and the King answered it accordingly, which made it a Law.

'For the Judges to determine Privilege of Parliament, were to supersede and make void the Law: And as to the Proclamation, the Privilege stands good until the Day of Prorogation.

'The King is never so high in point of State, as
in

An. 4. Charles I. in the Parliament; cited in the Case of Sir *Robert Howard*, in the High Commission.
1623.

‘ And all Privilege is good, unless in Cases of High-Treason, Felony, or Breach of the Peace.’

Sir *Robert Philips*. ‘ Thus you see how fast the Prerogative of the King doth intrench on the Liberty of the Subject, and how hardly it is recovered: He then cited many Precedents, wherein the Goods of a Member of Parliament were privileged from Seizure, in the Exchequer. In 12 *Eliz.* it was resolved in Parliament, That twenty Days before, and twenty Days after, was the Time of Privileges.’

Sir *Humphrey May* desired, ‘ That, in this Debate, we may tie our selves to point of Law and Authority, and not to point of Reason; and conceiveth that no Privilege lieth against the King, in point of his Duties and Customs.’

Sir *Francis Seymour*. ‘ I desire it may be the first Debate, whether this Case doth concern the King or not; for I conceive these Customers have not made good that there is any Right: Here is Art used only to intitle the King.’

‘ I conceive it is an high Offence, for any Man to lay the Scandal of every Project upon the King.’

Mr. *Glanvile*. ‘ Here is a cunning Affidavit in the Exchequer, to intitle the King; a mere cunning Project, and an Offence of high Nature, to shelter their Projects under the Command of the Crown.’

Secretary *Cooke*. ‘ The Point in Question is, not the Right of the Subjects, but the Right of the Parliament’s Privilege, and that in the Case of Mr. *Rolls*; and this is only now in Question.’

Sir *John Strangeways*. ‘ I know no Reason, why we should draw a Question upon ourselves, which we need not, especially between the King and us. I conceive it, plainly, that these Customers took these Goods in their own Right, not in the King’s; in this the Privilege is plainly broken, which is easily determined.’

Mr. *Banks*. ‘ In this Case there is no interposing of the King’s Right; and the King, by his Proclamation, hath declared so much.

‘ That

‘ That the Courts, at *Westminster*, do grant twelve Days Privilege to any Man, to inform his Counsel; much more the Courts of Parliament are to have their Privilege. An. 4. Charles I.
1628.

‘ The King’s Command cannot authorize any Man to break the Privilege; no more than it will warrant an Entry upon a Man’s Land, without Process of Law.’

‘ Mr. *Solicitor*. If he have no Right, how can he make a Lease? Then this pretended Right of the Customers must needs be void: And therefore the Goods must be taken, not in their own, but in the Right of the King.’

‘ Mr. *Selden*. ‘ If there were any Right, the pretended Right is in the Subject.

‘ First, Whether Privilege in Goods?

‘ Secondly, Whether the Right were in the Customers only?

‘ Thirdly, Whether Privilege against the King?

‘ Fourthly, If the Lords have no Privilege in Parliament for their Goods, they have then no Privilege at all; for they are privileged in their Persons out of Parliament.

‘ For the Point of Interest, it is plain, no Kind of Covenant can alter the Interest; and, questionless, had the Case in the Exchequer appeared to the Barons, as it doth to us, they would never have proceeded as they did.

‘ If our Goods may be seized into the Exchequer, be it right or wrong, we had as good have none.

‘ Sir *Nathanael Rich* said, ‘ It was recorded, the last Session, in the Lords House; and he cited other Precedents in this House, That the Servant of a Member of Parliament ought to have Privilege in his Goods: The Question being thus decided, certainly a Parliament-man ought to have Privilege in his Goods.’

‘ Mr. *Noy* saith, ‘ That these Customers had neither Commission, nor Command, to seize; therefore, without doubt, we may proceed safely to the other Question, That the Privilege is broken by the Customers,

An. 4. Charles I. 1628. Customers, without relation to any Commission or Command of the King.

Secretary *Cooke* saith, 'That it is in the Commission to seize'—But the Commission being read, it was not found to be there.

Sir *Humphrey May* saith, 'Mr. *Daws* mentioned that he seized these Goods, by Virtue of a Commission and other Warrants, remaining in the Hands of Sir *John Elliot*; that therefore the Warrants may be seen, whether there be Command to seize these Goods or not.'

Sir *Nathanael Rich*. 'This Day's Debate much rejoiceth me, especially the Motion made by Mr. *Noy*; whereby it is plain we have a Way open to go to this Question, without relation to the King's Commission or Command; and I desire, in respect there appeareth nothing before us that doth incumber us, we may go to the Question.

Sir *Humphry May*, again, desireth these Warrants may be looked into, before we go to the Question.

Mr. *Kirton* moved, 'That in respect this Honourable Gentleman presseth this so far, the Warrants may be read, that it may appear with what Judgment this House hath proceeded.

Mr. *Glanville*. 'I consent these Warrants be sent for and read; but withal, if any Thing arise that may produce any thing of ill Consequence, let it be considered from whom it doth come. The Privy-Counsellors here are content with this Motion.'

The Warrants being sent for and read, no Commission to seize appeared therein.

Mr. *Kirton* said, 'If there be any Thing of Doubt, I desire these honourable Persons may make their Objections.'

Sir *Humphry May* said, 'I rejoice when I can go to Court able to justify your Proceedings: I confess I see nothing now, but that we may proceed, safely, to the Question.'

Secretary

Secretary *Cook* said as much.

An. 4. Charles I.
1628.

Mr. *Hackwell* argued against Privilege, in the Time of Prorogation.

Mr. *Noy* saith, 'He made no Doubt but Privilege was in force in Time of Prorogation, until he heard this Argument of Mr. *Hackwell*; and saith, He hath heard nothing from him yet that doth alter his Opinion; and cited a Case, where the Lords House hath this very Prorogation adjudged to be the Privilege thereof.

Mr. *Hackwell* answered, 'He is glad to hear it is so, and he is now of the same Opinion.' Then it was resolved, upon Question, That Mr. *Rolls* ought to have Privilege of Parliament, for his Goods seized 30 *October*, 5 *Jacobi*, and all since.

The Committee was adjourned till *Monday*, and the Customers to attend.

Accordingly, on that Day, Sir *Humphry May* said, 'I will never cease to give you the best Advice I can. We all agree a Wound is given. We have Wine and Oil before us: If we go to punish Delinquency, there is Vinegar in the Wound; therefore think on some Course to have Restitution.'

Sir *John Elliot*. 'The Question is, whether we shall first go to the Restitution, or to the Point of Delinquency; but some now raise up Difficulties, in Opposition to the Point of Delinquency, and talk of Breach of Parliaments; and other Fears I meet with, both in this and elsewhere.

'Take heed you fall not on a Rock: I am confident this would be somewhat difficult, were it not for the Goodness and Justice of the King. Let us do that which is just, and his Goodness will be so clear, that we need not mistrust.

'Let those Terrors, that are threatened us, light on them that make them; why should we fear the Justice of a King, when we do that which is just? Let there be no more Memory or Fear of Breaches, and
let

An. 4. Charles I.
1628.with A. Maxwell
with J. W.

let us now go to the Delinquency of these Men ; and that is the only Way to procure Satisfaction.'

Secretary *Cooke* answered, ' That we laboured, the last Day, to bring to our End ; now we fall to this Issue, to proceed to the Delinquency of these Men ; our Ground is, because they had no Command from his Majesty. I must speak plain ; his Majesty took Notice of our Labour, and that we endeavoured to sever the Act of the Customers from his Majesty's Command.

' His Majesty commanded me to tell you, that it concerns him in high Degree of Justice and Honour, that Truth be not concealed ; which is, that what they did, was by his own direct Orders and Command, or by Order of the Council-Board, his Majesty himself being present ; and, therefore, would not have it divided from his Act.'

Report concern-
ing Privilege.

Report was made from the Grand Committee, that they took into their Consideration the Violation of the Liberties of the House by the Customers ; and at last they resolved, That a Member of the House ought to have Privilege of Person and Goods ; and that the Command of his Majesty is so great, that they leave it to the House.

Secretary *Cooke* saith, ' That howsoever this House labours to sever the King's Interest, his Majesty thinks this Distinction will not clear his Honour : He is the Fountain of Honour, and he will not be drawn to do that which may touch him, tho' others may make Distinctions.'

Sir *Robert Philips*. ' I had rather pray to God to direct us than give any Direction. The King's Honour, Justice and Government are now presented unto us, and also the essential Liberty of this House ; and we are now fit for Debate or Counsel, in the greatest Concernments ; our best [Thoughts and Wits] are summoned what to do.'

Hereupon the House was adjourned to the 25th ; and, upon that Day, the following Heads of Articles for Religion, being presented to the House, were read.

HEADS

HEADS or ARTICLES to be insisted on, and agreed upon, at a Sub-Committee for RELIGION. An. 4. Charles 1623.

‘ I. THAT we call to Mind, how that, in the last Session of this Parliament, we presented to his Majesty an humble Declaration of the great Danger threatened to this Church and State, by divers Courses and Practices tending to the Change and Innovation of Religion.

‘ II. That what we then feared, we do now sensibly feel; and, therefore, have just Cause to renew our former Complaints herein.

‘ III. That, yet nevertheless, we do, with all Thankfulness, acknowledge the great Blessing we have received from Almighty God, in setting a King over us, of whose Constancy in the Profession and Practice of the true Religion here established, we rest full assured; as likewise of his most pious Zeal and careful Endeavour for the Maintenance and Propagation thereof; being so far from having the least Doubt of his Majesty’s Remissness therein, that we, next under God, ascribe unto his own Princely Wisdom and Goodness, that our Holy Religion hath yet any Countenance at all amongst us.

‘ IV. And for that the pious Intention and Endeavours, even of the best and wisest Princes, are often frustrated thro’ the Unfaithfulness and Carelessness of their Ministers; and that we find a great Unhappiness to have befallen his Majesty this way; we think, that being now assembled in Parliament to advise of the weighty and important Affairs concerning Church and State; we cannot do a Work more acceptable, than, in the first Place, according to the Dignity of the Matter, and Necessity of the present Occasions, faithfully and freely to make known, what we conceive may conduce to the Preservation of God’s Religion, in great Peril now to be lost; and, therewithal, the Safety and Tranquility of his Majesty and his Kingdoms now threatened with certain Dangers. For the clearer Proceedings therein, we shall declare,

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‘ 1. What those Dangers and Inconveniencies
‘ are.

‘ 2. Whence they arise.

‘ 3. In some Sort, how they may be redressed.

‘ The Dangers may appear, partly, from the
‘ Consideration of the State of Religion abroad ;
‘ and, partly, from the Condition thereof within
‘ his Majesty’s own Dominions, and especially with-
‘ in this Kingdom of *England*.

‘ From abroad we make these Observations.

‘ 1. By the mighty and prevalent Party, by which
‘ true Religion is actually opposed, and the contrary
‘ maintained.

‘ 2. Their combined Counsels, Forces, At-
‘ tempts, and Practices, together with a most dili-
‘ gent Pursuit of their Designs, aiming at the Sub-
‘ version of all the *Protestant Churches in Christen-*
‘ *dom*.

‘ 3. The weak Resistance that is made against
‘ them.

‘ 4. Their victorious and successful Enterprizes,
‘ whereby the Churches of *Germany, France*, and
‘ other Places, are in a great Part already ruined, and
‘ the rest in the most weak and miserable Condition.

‘ In his Majesty’s own Dominions, these :

‘ 1. In *Scotland*, the Stirs lately raised and Inso-
‘ lencies committed by the *Papish* Party, have
‘ already not a little disquieted that famous Church ;
‘ of which, with Comfort we take Notice, his Ma-
‘ jesty hath expressed himself exceeding sensible ;
‘ and hath, accordingly, given most Royal and
‘ Prudent Directions therein.

‘ 2. *Ireland* is now almost wholly overspread
‘ with *Popery*, swarming with Friars, Priests, and
‘ Jesuits, and other superstitious Persons of all Sorts ;
‘ whose Practice is, daily, to seduce his Majesty’s
‘ Subjects from their Allegiance, and to cause them
‘ to adhere to his Enemies.

‘ That even in the City of *Dublin*, in the view
‘ of the State, where not many Years since, as we
‘ have been credibly informed, there were few or

none that refused to come to Church, there are An. 4. Charles II. 1648.
 lately restored and erected for Friars, Jesuits, and
 idolatrous Mass-Priests, thirteen Houses, being
 more in Number than the Parish Churches within
 that City; besides many more, likewise, erected
 in the best Parts of the Kingdom; and the People,
 almost wholly, revolted from our Religion, to the
 open Exercise of *Popish* Superstition.

The Danger from hence is further increased,
 by Reason of the Intercourse which the Subjects,
 of all Sorts, in that Kingdom have into *Spain*,
 and the *Arch-Duchess's* Country; and that, of
 late, divers principal Persons being *Papists* are
 trusted with the Command of Soldiers; and great
 Numbers of the *Irish* are acquainted with the
 Exercise of Arms and Martial Discipline; which,
 heretofore, hath not been permitted, even in
 Times of greatest Security.

Lastly, Here in *England* we observe an extra-
 ordinary Growth of *Popery*, insomuch that in some
 Counties, where in *Queen Elizabeth's* Time there
 were few or none known *Recusants*, now there
 are above 2000, and all the rest generally apt to
 revolt.

A bold and open Allowance of their Religion,
 by frequent and publick Resort to Mass, in Mul-
 titudes, without Controul, and that even to the
 Queen's Court; to the great Scandal of his Ma-
 jesty's Government.

Their extraordinary Insolence; for Instance,
 the late Erecting of a College of Jesuits in *Clerk-*
ewell, and the strange Proceedings, thereupon
 us'd, in favour of them.

The subtle and pernicious spreading of the
Arminian Faction; whereby they have kindled
 such a Fire of Division in the very Bowels of the
 State, as if not speedily extinguish'd, it is of itself
 sufficient to ruin our Religion; by dividing us
 from the *Reformed Churches* Abroad, and separat-
 ing amongst ourselves at Home, by casting Doubts
 upon the Religion professed and established;
 which, if faulty or questionable in three or four

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Articles, will be rendered suspicious to unstable Minds, in all the rest; and incline them to *Popery*, to which those Tenets, in their own Nature, do prepare the Way: So that if our Religion be suppressed and destroyed Abroad, disturbed in *Scotland*, lost in *Ireland*, undermined and almost outdared in *England*, it is manifest that our Danger is very great and imminent.

The Causes of which Danger here, amongst divers others, we conceive to be chiefly these instanced in.

1. The Suspension or Negligence in Execution of the Laws against *Popery*.

2. The late Proceedings against the College of *Jesuits*.

3. Divers Letters sent by Sir *Robert Heath*, his Majesty's Attorney, into the Country, for stay of Proceedings against *Recusants*.

4. The publishing and defending Points of *Popery* in Sermons and Books, without Punishment; instance Bishop *Mountague's* three Books, viz. *The Gagg, Invocation of Saints*, and his *Appeal*; also Dr. *Cofins's* Horary, and the Bishop of *Gloucester's* Sermons.

5. The bold and unwarranted introducing, practising, and defending of sundry new Ceremonies, and laying of Injunctions upon Men by Governors of the Church and others, without Authority, in Conformity to the Church of *Rome*; as for Example, in some Places erecting of Altars, in others changing the usual and prescribed Manner of placing the Communion-Table, and setting it at the upper End of the Chancel, North and South, in imitation of the High Altar; by which they, also, call it, and adorn it with Candlesticks, which, by the Injunctions, *Anno 10 Eliz.* were to be taken away; and do also make Obeisance by bowing thereunto, commanding Men to stand up at *Gloria Patri*; bringing Men to Question and Trouble for not obeying that Command for, which there is no Authority; injoining that no Woman be church'd without

a Veil;

of a Well; setting up of Pictures, Lights and Images in Churches; praying towards the East, crossing *ad omnem motum & gestum*.

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6. The false and countesseit Conformity of *Papists*; whereby they do not only evade the Law, but obtain Places of Trust and Authority; instance Mr. *Browne* of *Oxford*, and his Treatise written to that Purpose; the Bishop of *Gloucester*; and the now Bishop of *Durham*.

7. The Suppressing and Restraint of the Orthodox Doctrine, contained in the Articles of Religion, confirmed in Parliament, 13 *Eliz.* according to the Sense which hath been received publicly; and taught as the Doctrine of the Church of *England* in those Points, wherein the *Arminians* differ from us, and other the *Reformed Churches*; wherein the Essence of our Articles, in those controverted Points, is known and proved.

8. The publishing of Books, and preaching of Sermons, contrary to the former Orthodox Doctrine; and suppressing Books written in Defence thereof; instance Bishop *Mountague's Gagg* and *Appeal*, Mr. *Jackson's* Book of the Essence and Attributes of God, Dr. *White's* two Sermons preached at Court, one upon the 5th of *November*, the other on *Christmas-Day* last: And for Orthodox Books suppressed, instance in all that have been written against Bishop *Mountague* and *Cosins*, yea even Bishop *Carleton's* Book.

9. That these Persons who have published and maintained such *Papistical*, *Arminian*, and superstitious Opinions and Practices, who are known to be unground in Religion, are countenanced, favoured, and preferred: Instance Mr. *Mountague* made Bishop of *Chichester*; also the late Bishop of *Carlisle*, since his last *Arminian* Sermon preached at Court, advanced to the Bishoprick of *Norwich*; a known *Arminian* made Bishop of *Ely*; the Bishop of *Oxford*, a long-suspected *Papist*, advanced to the Bishoprick of *Durham*; Mr. *Cosins*, advanced to Dignity and a great Living; Dr. *Wren*,

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Wren, made Dean of *Windsor*, and one of the High Commission Court.

10. That some Prelates near the King, having gotten the chief Administration of Ecclesiastical Affairs under his Majesty, discountenance and hinder the Preferment of those that are Orthodox, and favour such as are contrary; instance, the Bishops of *Winchester* and *London*, in divers Particulars.

The Points wherein the *Arminians* differ from us, and other the *Reformed Churches*, in the Sense of the Articles confirmed in Parliament, 13 *Eliz.* may be known and proved in these controverted Points, viz.

1. By the Common-Prayer, established in Parliament.

2. By the Book of Homilies, confirmed by the Acts of Religion.

3. By the Catechism concerning the Points printed in the Bible, and read in Churches, and divers other Impressions published by Authority.

4. By Bishop *Jewel's* Works, commanded to be kept in all Churches, that every Parish may have one of them.

5. The publick Determination of Divinity-Professors, published by Authority.

6. The publick Determination of Divines in both the Universities.

7. The Resolution of the Archbishop of *Canterbury*, and other Reverend Bishops and Divines assembled at *Lambeth*, for this very Purpose, to declare their Opinions concerning those Points, Anno 1595, unto which the Archbishop of *York* and all his Province did likewise agree.

8. The Articles of *Ireland*, tho' framed by the Convocation there, yet allowed by the Clergy and State here.

9. The Suffrage of the *British* Divines, sent by our late Sovereign King *James*, to the Synod of *Dort*.

10. The uniform Consent of our Writers published by Authority.

11. The

11. The Censures, Recantations, Punishments and Submissions, made, enjoined, and inflicted upon those that taught contrary thereunto, as *Barrow* and *Barrett* in *Cambridge*, and *Bridges* in *Oxford*.

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The Remedy of which Abuses we conceive may be these.

1. Due Execution of Laws against *Papists*.

2. Exemplary Punishment to be inflicted upon Teachers, Publishers, and Maintainers of *Papish* Opinions, and practising of superstitious Ceremonies, and some stricter Laws in that Case to be provided.

3. The Orthodox Doctrine of our Church, in these now controverted Points by the *Arminian* Sect, may be established and freely taught; according as it hath been hitherto, generally, received, without any Alteration or Innovation; and severe Punishment, by the same Laws, to be provided against such as shall, either by Word or Writing, publish any thing contrary thereunto.

4. That the said Books of *Bishop Mountague* and *Cosins* may be burned.

5. That such as have been Authors, or Abettors, of those *Papish* and *Arminian* Innovations in Doctrine, may be condignly punished.

6. That some good Order may be taken for licensing Books hereafter.

7. That his Majesty would be graciously pleased to confer *Bishopricks*, and other Ecclesiastical Preferments, with Advice of his Privy-Council, upon learned, pious, and orthodox Men.

8. That *Bishops* and Clergymen being well chosen, may reside upon their Charge, and with Diligence and Fidelity perform their several Duties, and that accordingly they may be countenanced and preferred.

9. That some Course may, in this Parliament, be considered of, for providing competent Means to maintain a godly, able, Minister in every Parish-Church of this Kingdom.

10. That

An. 2. Charles I. 1628. That his Majesty would be graciously pleased to make a special Choice of such Persons, for the Execution of his Ecclesiastical Commissions, as are approved for Integrity of Life and Soundness of Doctrine.

Immediately after the reading the above Articles, the King sent to command both Houses to adjourn to *Monday* the 2d of *March*: On which Day, Sir *John Elliot*, after Prayers were ended, and the House set, stood up and said, 'God knows I speak now with all Duty to the King. It is true, the Misfortunes we suffer are many; we know what Discoveries have been made here in these Articles, and how *Arminianism* creeps in and undermines us, and how *Papery* comes in upon us. They mask not in strange Disguises, but expose themselves to the View of the World: In the Search of these, we have fixed our Eyes, not on the Actors, the Jesuits and Priests, but upon their Masters, those that are in Authority; thence it cometh we suffer; the Fear of them makes those Interruptions. You have some Prelates that are their Abettors; the great Bishop of *Winchester*, we know what he hath done to favour them. This Fear extends to some others, that contract a Fear of being discovered; that is, the *Lord Treasurer*, in whose Person all Evil is contracted, both for the Innovation of Religion, and Invasion of our Liberties; he being the great Enemy of the Common-Wealth. I have traced him in all his Actions, and I find him building on those Grounds laid by his Master the Great Duke; he, secretly, is moving for this Interruption; and from this Fear they go about to break Parliaments, lest Parliaments should break them. I find him the Head of all that Party, the *Papists*; and all the *Jesuits* and *Priests* derive from him their Shelter and Protection. And I protest, as I am a Gentleman, if my Fortune be ever again to meet in this Honourable Assembly, where I now leave, I will begin again.'

The Speaker, being set in the Chair, delivered a ^{An. 4. Charles II} ^{1628.} Message from his Majesty, commanding him, ^{The Speaker de-} ^{livers the King's} *To adjourn the House, until Tuesday come. Sevennight following.* ^{Message for a} ^{further Adjourn-} ^{ment;}

To this severall Members objected, ' That it was not the Office of the Speaker, to deliver any such Command unto them; for the Adjournment of the House did properly belong unto themselves: And after they had fettled some Things, they thought convenient to be spoken of, they would satisfy the King.'

Which is not regarded by the House.

Sir *John Elliot* said, ' That in the great Business of Tunnage and Poundage, the Instruments thereof were moved at the *Lord Treasurer's* Command; who dismayed the Merchants, invited Strangers to come in to drive out our Trade, and all to serve his own Turn:.' And thereupon offered a Remonstrance, which, being refused to be read both by the Speaker and Clerk, was restored to him again; and, by him, read in these Words following.

Most Gracious Sovereign,

YOUR most loyal and dutiful Subjects, the ^{Sir John Elliot} ^{offers a Remon-} ^{strance concern-} ^{ing Tunnage and} ^{Poundage.} Commons in this present Parliament assembled, being in nothing more careful than of the Honour and Prosperity of your Majesty and the Kingdom; which depend upon that happy Union and Relation betwixt your Majesty and your People, do with much Sorrow apprehend, that by reason of the Uncertainty of their Continuance together, the unexpected Interruptions which have been cast upon them, and the Shortness of Time in which your Majesty hath determined to end this Session, they cannot bring to Maturity and Perfection divers Businessses of Weight, which they have taken into their Consideration and Resolution, as most important for the Common good.

' Amongst other things they have taken into their especial Care the preparing a Bill for the granting to your Majesty such a Subsidy of Tunnage and Poundage, as might uphold your Profit and Revenue, in as ample manner, as their just Care

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and Respect for Trade (wherein not only the Prof-
 perity, but even the Life of the Kingdom doth
 consist) would permit; but being a Work, which
 will require much Time and Preparation by Con-
 ference with your Majesty's Officers, and with
 the Merchants, not only of *London*, but of other
 remote Parts, they find it not possible to be ac-
 complished at this Time. Wherefore, consider-
 ing it will be much more prejudicial to the Right
 of the Subjects, if your Majesty should continue
 to receive the same without Authority of Law,
 after the Determination of a Session, than if there
 had been a Recess by Adjournment only; (in which
 Case that intended Grant would have related to
 the first Day of the Parliament) and assuring them-
 selves, that your Majesty is resolved to observe
 that your Royal Answer, which, you lately made
 to the Petition of both Houses of Parliament: Yet
 doubting lest your Majesty may be misinformed
 concerning this particular Case, as if you might
 continue to take the Subsidies of Tunnage and
 Poundage, and other Impositions upon Mer-
 chants, without breaking that Answer; they are
 forced, by that Duty which they owe to your
 Majesty and to those whom they represent, to de-
 clare, *That there ought not any Imposition to be laid
 upon the Goods of Merchants exported or imported,
 without common Consent by Act of Parliament;
 which is the Right and Inheritance of your Sub-
 jects, grounded not only, upon the most antient and
 original Constitution of this Kingdom, but often con-
 firmed and declared in divers Statutes and Laws.*
 And, for the better Manifestation thereof, may
 it please your Majesty to understand, That al-
 though your Royal Predecessors, the Kings of this
 Realm, have often had such Subsidies and Im-
 positions granted unto them upon divers Occasions,
 especially for the guarding of the Seas, and Safe-
 guard of Merchants; yet the Subjects have been
 ever careful to use such Cautions and Limitations
 in those Grants, as might prevent any Claim to
 be made that such Subsidies do proceed from Duty,
 and

and not from the free Gift of the Subject ; and An. 4. Charles I.
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 that they have, heretofore, used to limit a Time
 in such Grants, and for the most Part but short,
 as for a Year or two. And, if it were continued
 longer, they have sometimes directed a certain
 Space of Cessation or Intermission ; that so the
 Right of the Subject might be more evident at all
 other Times. It hath been granted, upon Occa-
 sions of War, for a certain Number of Years ;
 with Proviso, that if the War ended in the
 mean time, then the Grant should cease ; and, of
 course, it hath been sequestred into the Hands of
 some Subjects, to be employed for the guarding
 of the Coasts and Narrow Seas. And it is ac-
 knowledged, by the ordinary Answers of your
 Majesty's Predecessors in their Assents to the Bills
 of Subsidies, proceeding from the Good-will of
 the Subjects : Very few of your Predecessors had
 it for Life, until the Reign of *Henry* the Seventh ;
 who was so far from conceiving that he had any
 Right thereunto, that although he granted Com-
 missions for the collecting of certain Duties and
 Customs due by Law, yet he made no Commis-
 sions for receiving of the Subsidies of Tunnage and
 Poundage, until the same was granted unto him in
 Parliament.

Since his Time, all the Kings and Queens of
 this Realm have had the like Grants for Life, by
 the free Love and good Will of the Subject ; and
 whensoever the People have been grieved by lay-
 ing any Impositions or other Charges upon their
 Goods or Merchandizes, without Authority of
 Law ; (which hath been very seldom) yet upon
 Complaint in Parliament, they have been forth-
 with relieved ; saving in the Time of your Royal
 Father, who (having, through ill Advice, raised
 the Rates and Charges upon Merchandizes to that
 Height, at which they now are) was yet pleased
 so far to yield to the Complaint of his People, as to
 offer, That if the Value of those Impositions which
 he had set might be made good unto him, he would
 bind himself and his Heirs by Act of Parliament
 never

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never to lay any other; which Offer the Commons
 at that Time, in regard of the great Burden, did
 not think fit to yield unto (d). Nevertheless your Loyal Commons in this Par-
 liament, out of their especial Zeal to your Ser-
 vice, and special Regard of your pressing Occa-
 sions, have taken into their Considerations, so to
 frame a Grant of Subsidy of Tunnage and Pound-
 age to your Majesty, that you might have
 been the better enabled for the Defence of your
 Realm; and your Subjects, by being secured from
 all undue Charges, be the more encouraged, chear-
 fully to proceed in their Course of Trade; by the
 Increase whereof your Majesty's Profit, and like-
 wise the Strength of the Kingdom would be very
 much augmented: But not being, now, able to
 accomplish this their Desire, there is no Course
 left unto them, without manifest Breach of their
 Duty both to your Majesty and their Country,
 save only to make this humble Declaration, *That*
the Receiving of Tunnage and Poundage, and other
Impositions, not granted by Parliament, is a Breach
of the Fundamental Liberties of this Kingdom; and
contrary to your Majesty's Royal Answer to the
Petition of Right. And, therefore, they most
 humbly beseech your Majesty, to forbear any fur-
 ther receiving of the same; and not to take it in
 ill Part from those of your Majesty's loving Sub-
 jects, who shall refuse to make Payment of any
 such Charges, without Warrant of Law demand-
 ed. And as, by this Forbearance, your most
 Excellent Majesty shall manifest unto the World
 your Royal Justice in the Observation of your
 Laws; so they doubt not but hereafter, at the
 Time appointed for their coming again, they shall
 have Occasion to express their great Desire to ad-
 vance your Majesty's Honour and Profit.

the Speaker re-
 lies to put the
 question there-
 upon,

This was again offered to be put to Question; but
 the Speaker said, *He was commanded otherwise by*
the King.

(d) See the Proceedings upon this Offer of King James in our 5th
 Volume.

To this Mr. Selden answered, Mr. Speaker, 'If you will not put the Question, which we command you, we must sit still; and so we shall never be able to do any thing. We sit here by Command from the King, under the Great Seal; and as for you, you are, by his Majesty, sitting in his Royal Chair before both Houses, appointed our Speaker: And do you now refuse to be a Speaker?' An. 4. Charles I.
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The Speaker replied, *He had an express Command from the King, so soon as he had delivered his Message, to rise.* And, thereupon, he rose and left the Chair; but was drawn to it again, by Mr. Holles, Son to the Earl of Clare, Mr. Valentine, and other Members. And offering to leave the House, is held down in the Chair.

Mr. Holles (notwithstanding Sir Thomas Edmunds, and other Privy Counsellors, endeavoured to free the Speaker) swore, *God's Wounds,* 'He should sit still, till it pleased them to rise.'

Then the Speaker, with abundance of Tears, answered, *I will not say, I will not, but I dare not;* desiring that they would not command his Ruin therein, in regard he had been their faithful Servant, and would sacrifice his Life for the Good of his Country; but he durst not sin against the express Command of his Sovereign.

Mr. Selden replied, 'That he ever loved his Person well, but he could not choose but much blame him now: That he, being the Servant of the House, should refuse their Command, under any Colour; and that his Obstinacy would be a Precedent to Posterity, if it should go unpunished: For that hereafter, if we should meet with a dishonest Speaker (as we cannot promise ourselves to the Contrary) he might, under Pretence of the King's Command, refuse to propose the Business and Intendment of the House: And therefore wished him to proceed; which he, still, refused with Extremity of Weeping and supplicatory Orations.'

Sir Peter Hayman, a Gentleman of his own Country (e), told him, 'He was sorry he was his Kinsman, for that he was the Disgrace of his Country,

(e) Kent.

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and a Blot of a noble Family; and that all the Inconveniences that should follow (yea their Destruction) should be derived to Posterity, as the Issue of his Baseness, by whom he should be remembered with Scorn and Disdain; and that he, for his Part, since he would not be persuaded to do his Duty, thought it fit he should be called to the Bar, and a new Speaker chosen.

In the mean time, since neither Advice nor Threats could prevail, Mr. *Holles* was required to read certain Articles as the Protestations of the House; which, jointly as they were read, were allowed with a loud Voice by the House: The Effect of which Articles are as followeth, *viz.*

A Protestation of
the Commons,
being read,

‘ First, Whoever shall bring in Innovation in Religion, or by favour seek to extend or introduce *Poperie* or *Arminianism*, or other Opinions disagreeing from the true and orthodox Church, shall be reputed a capital Enemy to this Kingdom and Commonwealth.

‘ Secondly, Whosoever shall counsel, or advise, the taking and levying of the Subsidies of Tunnage and Poundage, not being granted by Parliament; or shall be an Actor or Instrument therein, shall be likewise reputed an Innovator in the Government, and a capital Enemy to this Kingdom and Commonwealth.

‘ Thirdly, If any Merchant or other Person whatsoever, shall voluntarily yield or pay the said Subsidies of Tunnage and Poundage, not being granted by Parliament; he shall, likewise, be reputed a Betrayer of the Liberty of *England*, and an Enemy to the same.’

The King sends
for the Serjeant.

These being read and allowed of, the House rose up, after they had sitten down two Hours; and in the mean time, the King hearing that the House continued to sit, notwithstanding his Command for the adjourning the House, sent a Messenger for the Serjeant with his Mace; which being taken from the Table, there can be no further Proceedings: But the Serjeant was, by the House, stay’d; and the

the Key of the Door taken from him, and given to An. 4. Charles I.
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a Member of the House to keep.

The King sent Mr. *Maxwell* for the Dissolution of the Parliament with his Black Rod; but being informed, that neither he, nor his Message, would be received by the House, he grew into much Rage; and sent for the Captain of the Pensioners, and Guard to force the Door; but the Rising of the House, which was adjourned to the Tenth of *March*, prevented the Inconveniences and Mischiefs [Bloodshed] that thereon might have ensued.

On the 10th Day of *March*, his Majesty came to the House of Lords, the Peers being in their Robes, and many of the Commons being at the Bar of that House; and spake as followeth;

MY LORDS,

I Never came here upon so unpleasing an Occasion, The King's
Speech at the
Dissolution of the
Parliament.
it being for the Dissolution of the Parliament; therefore many may wonder, why I did not rather choose to do this by Commission; it being a general Maxim of Kings, to lay harsh Commands by their Ministers, themselves only executing pleasing Things. But considering that Justice is as well answered in commending and rewarding of Virtue, as punishing of Vice, I thought it necessary to come here this Day; to declare to you, my Lords, and all the World, that it was only the disobedient Carriage of the Lower-House that hath caused this Dissolution at this Time; and that you, my Lords, are so far from being Causers of it, that I have as much Comfort in your Lordships Carriage towards me, as I have Cause to distaste their Proceedings. Yet, that I may be clearly understood, I must needs say, that they do mistake me wonderfully, that think I lay the Fault equally upon all the Lower-House; for as I know there are many as dutiful and loyal Subjects as any are in the World; so I know that it was only some Vipers amongst them, that had cast this Mist of Difference before their Eyes; although there were some amongst them, that would not be infected with this Contagion; insomuch, that some by their speaking (which indeed was the general Fault of the
House

n. 4. Charles I.
1628.

good to set down thus much by way of Declaration, that We may appear to the World in the Truth and Sincerity of Our Actions, and not in those Colours in which we know some turbulent and ill-affected Spirits (to masque and disguise their wicked Intentions, dangerous to the State) would represent Us to the publick View.

We assembled Our Parliament the 17th Day of *March*, in the third Year of Our Reign, for the Safety of Religion, for securing Our Kingdoms and Subjects at Home, and Our Friends and Allies Abroad. And therefore at the first Sitting down of it, We declared the miserable afflicted Estate of those of the Reformed Religion in *Germany*, *France*, and other Parts of Christendom; the distressed Extremities of Our dearest Uncle, the King of *Denmark*, chased out of a great Part of his Dominions; the Strength of that Party which was united against Us; That (besides the *Pope* and the House of *Austria*, and their ancient Confederates) the *French* King professed the rooting out of the Protestant Religion; That, of the Princes and States of Our Party, some were over-run, others diverted, and some disabled to give Assistance. For which, and other important Motives, We propounded a speedy Supply of Treasure, answerable to the Necessity of the Cause.

These Things, in the Beginning, were well represented by the House of Commons, and with so much Alacrity and Readiness, that they agreed to grant a liberal Aid: But before it was brought to any Perfection, they were diverted by a Multitude of Questions, raised amongst them, touching their Liberties and Priviledges, and by other long Disputes, that the Bill did not pass in a long Time; and by that Delay, Our Affairs were put into a far worse Case than at the first; Our foreign Actions then in hand, being thereby disgraced and ruined, for want of timely Help.

In this, as We are not willing to derogate from the Merit and good Intentions of those wise and moderate Men of that House (to whose Forward-

ness

nels We attribute it, that it was propounded and
 resolved so soon) so We must needs say, that the
 Delay of passing it when it was resolved, oc-
 casioned by causeless Jealousies, stirred up by Men
 of another Temper, did much lessen both the Re-
 putation and Reality of that Supply. And their
 Spirit, infused into many of the Commissioners
 and Assessors in the Country, hath returned up
 the Subsidies in such a scanty Proportion, as is in-
 finitely short, not only of Our great Occasions,
 but of the Precedents of former Subsidies, and of
 the Intentions of all well-affected Men in that
 House.

In those large Disputes, as We permitted many
 of Our high Prerogatives to be debated, which in
 the best Times of Our Predecessors had never been
 questioned, without Punishment or sharp Reproof;
 so We did endeavour to have shortned those De-
 bates, for winning of Time, which would have
 much advantaged Our great Affairs, both at home
 and abroad. And therefore, both by Speeches and
 Messages, We did often declare Our gracious and
 clear Resolution, to maintain not only the Parlia-
 ment, but all Our People, in their antient and
 just Liberties, without either Violation or Dimi-
 nution; and in the End, for their full Satisfaction
 and Security, did, by an Answer, framed in the
 Form by themselves desired, to their Parliamen-
 tary Petition, confirm their antient and just Li-
 berties and Rights, which We resolve, with all
 Constancy and Justice to maintain.

This Parliament, howsoever, besides the settling
 Our necessary Supply, and their own Liberties,
 wasted much Time in such Proceedings (blast-
 ing Our Government, as We are unwilling to re-
 member) yet We suffered them to sit, until them-
 selves desired Us to appoint a Time for their Recess,
 not naming either Adjournment or Prorogation.

Whereupon by Advice of Our Council, We re-
 solved to prorogue and make a Session; and to that
 End prefixed a Day, by which they might (as
 was meet in so long a Sitting) finish some profit-

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1628.

' good to set down thus much by way of Decla-
 ' ration, that We may appear to the World in the
 ' Truth and Sincerity of Our Actions, and not
 ' in those Colours in which we know some turbu-
 ' lent and ill-affected Spirits (to masque and dis-
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 ' *March*, in the third Year of Our Reign, for the
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 ' and Subjects at Home, and Our Friends and Al-
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 ' down of it, We declared the miserable afflicted
 ' Estate of those of the Reformed Religion in *Ger-
 ' many, France*, and other Parts of Christendom;
 ' the distressed Extremities of Our dearest Uncle,
 ' the King of *Denmark*, chased out of a great Part of
 ' his Dominions; the Strength of that Party which
 ' was united against Us; That (besides the *Pope*
 ' and the House of *Austria*, and their ancient Con-
 ' federates) the *French* King professed the rooting
 ' out of the Protestant Religion; That, of the Prin-
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 ' others diverted, and some disabled to give Assis-
 ' tance. For which, and other important Motives,
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 ' a liberal Aid: But before it was brought to any Per-
 ' fection, they were diverted by a Multitude of
 ' Questions, raised amongst them, touching their
 ' Liberties and Priviledges, and by other long Dis-
 ' putes, that the Bill did not pass in a long Time;
 ' and by that Delay, Our Affairs were put into a
 ' far worse Case than at the first; Our foreign Acti-
 ' ons then in hand, being thereby disgraced and ruin-
 ' ed, for want of timely Help.

' In this, as We are not willing to derogate from
 ' the Merit and good Intentions of those wise and
 ' moderate Men of that House (to whose Forward-
 ' nese

To this Mr. *Selden* answered, Mr. *Speaker*, ' If you will not put the Question, which we command you, we must sit still ; and so we shall never be able to do any thing. We sit here by Command from the King, under the Great Seal ; and as for you, you are, by his Majesty, sitting in his Royal Chair before both Houses, appointed our Speaker : And do you now refuse to be a Speaker ?' An. 4. Charles I
1623.

The Speaker replied, *He had an express Command from the King, so soon as he had delivered his Message, to rise.* And, thereupon, he rose and left the Chair ; but was drawn to it again, by Mr. *Holles*, Son to the Earl of *Clare*, Mr. *Valentine*, and other Members.

And offering to leave the House is held down in the Chair.

Mr. *Holles* (notwithstanding Sir *Thomas Edmunds*, and other Privy Counsellors, endeavoured to free the Speaker) swore, *God's Wounds*, ' He should sit still, till it pleased them to rise.'

Then the Speaker, with abundance of Tears, answered, *I will not say, I will not, but I dare not* ; desiring that they would not command his Ruin therein, in regard he had been their faithful Servant, and would sacrifice his Life for the Good of his Country ; but he durst not sin against the express Command of his Sovereign.

Mr. *Selden* replied, ' That he ever loved his Person well, but he could not choose but much blame him now : That he, being the Servant of the House, should refuse their Command, under any Colour ; and that his Obstinacy would be a Precedent to Posterity, if it should go unpunished : For that hereafter, if we should meet with a dishonest Speaker (as we cannot promise ourselves to the Contrary) he might, under Pretence of the King's Command, refuse to propose the Business and Intendment of the House : And therefore wished him to proceed ; which he, still, refused with Extremity of Weeping and supplicatory Orations.'

Sir *Peter Hayman*, a Gentleman of his own Country (*e*), told him, ' He was sorry he was his Kinsman, for that he was the Disgrace of his Country,

(*e*) *Kant*.

and

An. 4. Charles I.
1623.

able and good Laws; and withal gave Order for
 a gracious Pardon to all Our Subjects; which, ac-
 cording to the Use of former Parliaments, passed
 the Higher House, and was sent down to the Com-
 mons. All which being graciously intended by
 Us, was ill entertained by some disaffected Per-
 sons of that House, who by their Artifices, in a
 short Time, raised so much Heat and Distemper in
 the House, for no other visible Cause, but because
 We had declared Our Resolution to prorogue, as
 Our Council advised, and not to adjourn, as some
 of that House (after Our Resolution declared, and
 not before) did manifest themselves to affect; that
 seldom hath greater Passion been seen in that
 House upon the greatest Occasions. And some
 Glances in the House, but upon open Rumours
 abroad, were spread, That by the Answer to the
 Petition, We had given away, not only Our Im-
 positions upon Goods exported and imported, but
 the Tunnage and Poundage; whereas in the De-
 bate and Hammering of that Petition, there was
 no Speech or Mention in either House concerning
 those Impositions, but concerning Taxes and other
 Charges within the Land; much less was there any
 Thought thereby to debar Us of Tunnage and
 Poundage, which, both before and after the An-
 swer to that Petition, the House of Commons, in
 all their Speeches and Treaties, did profess they
 were willing to grant. And at the same Time,
 many other Misinterpretations were raised of that
 Petition and Answer, by Men not well distinguish-
 ing between well-ordered Liberty, and Licenti-
 ousness; as if by Our Answer to that Petition,
 We had let loose the Reins of Our Government.
 And in this Distemper the House of Commons,
 laying aside the Pardon, (a Thing never done in
 any former Parliament) and other Business fit to
 have been concluded in that Session, some of them
 went about to frame and contrive a Remonstrance
 against Our receiving of Tunnage and Poundage;
 which was so far proceeded in, the Night before
 the prefixed Time for concluding the Session, and

so hastned by the Contrivers thereof, that they
 meant to have put it to the Vote of the House the
 next Morning, before We should prorogue that
 Session. And therefore finding Our gracious Fa-
 vours in the Session, afforded to Our People, so
 ill required, and such sinister Strains made upon
 Our Answer to that Petition, to the Diminution of
 Our Profit, and (which was more) to the Danger
 of Our Government; We resolved to prevent the
 finishing of that Remonstrance, and other danger-
 ous Intentions of some ill-affected Persons; by end-
 ing the Session the next Morning, some few Hours
 sooner than was expected; and by Our own
 Mouth to declare to both Houses the Cause there-
 of; and for hindring the spreading of those sinister
 Interpretations of that Petition and Answer, to
 give some necessary Directions for settling and
 quieting Our Government, until another Meet-
 ing; which We performed, accordingly, the Six
 and twentieth of *June* last.

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 1629.

The Session thus ended, and the Parliament
 risen, that intended Remonstrance gave Us Occa-
 sion to look into the Business of Tunnage and
 Poundage. And therefore, though Our Necessi-
 ties pleaded strongly for Us, yet We were not
 apt to strain that Point too far, but resolved to
 guide Ourself by the Practice of former Ages, and
 Examples of Our most noble Predecessors; think-
 ing those Counsels best warranted, which the Wis-
 dom of former Ages, concurring with the present
 Occasions, did approve; and therefore gave Order
 for a diligent Search of Records: Upon which it
 was found, That although in the Parliament holden
 in the first Year of the Reign of King *Edward*
 the Fourth, the Subsidy of Tunnage and Pound-
 age was not granted unto that King, but was first
 granted unto him by Parliament in the third Year
 of his Reign; yet the same was accounted and an-
 swered to that King, from the first Day of his
 Reign, all the first and second Years of his Reign,
 and, until it was granted by Parliament. And that
 in the succeeding Times of King *Richard* the

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1628.

Third, King *Henry* the Seventh, King *Henry* the Eighth, King *Edward* the Sixth, Queen *Mary*, and Queen *Elizabeth*, the Subsidy of Tunnage and Poundage was not only enjoyed by every of those Kings and Queens, from the Death of each of them deceasing, until it was granted by Parliament unto the Successor; but in all those Times, being for the most part peaceable; and not burdened with like Charges and Necessities, as these modern Times) the Parliament did most readily and cheerfully, in the Beginning of every of those Reigns, grant the same, as a thing most necessary for the guarding of the Seas, the Safety, and Defence of the Realm, and the Support of the Royal Dignity. And in the Time of Our Royal Father of blessed Memory, he enjoyed the same a full Year, wanting very few Days, before his Parliament began; and above a Year before the Act of Parliament for the Grant of it was passed. And yet when the Parliament was assembled, it was granted without Difficulty. And in Our own Time, We quietly received the same three Years and more, expecting with Patience, in several Parliaments, the like Grant thereof, as had been made to so many of Our Predecessors; the House of Commons still professing, That Multitude of other Businesses, and not want of Willingness on their Part, had caused the settling thereof to be so long deferred. And therefore finding so much Reason and Necessity, for the receiving of the ordinary Duties in the Custom-house, to concur with the Practice of such a Succession of Kings and Queens, famous for Wisdom, Justice, and Government; and nothing to the Contrary, but that intended Remonstrance, hatched out of the passionate Brains of a few particular Persons; We thought it was so far from the Wisdom and Duty of a House of Parliament, as we could not think, that any moderate and discreet Man, (upon composed Thoughts, setting aside Passion and Distemper) could be against receiving of Tunnage and Poundage; especially since We do, and still must pursue those Ends, and undergo

that Charge, for which it was first granted to the Ann. Charles I. 1628.
 Crown. It having been so long and constantly
 continued to our Predecessors, as that, in four se-
 veral Acts of Parliament for the granting thereof
 to King *Edward* the Sixth, *Queen Mary*, *Queen*
Elizabeth, and Our blessed *Father*; it is, in ex-
 press Terms, mentioned to have been had and
 enjoyed by the several Kings, named in those Acts,
 Time out of Mind, by Authority of Parliament.
 And therefore upon these Reasons, We held it
 agreeable to Our Kingly Honour, and necessary
 for the Safety and Good of Our Kingdom, to con-
 tinue the Receipt thereof, as so many of Our Pre-
 decessors had done. Wherefore when a few Mer-
 chants (being at first but one or two) fomented,
 as it is well known, by those evil Spirits, that would
 have hatched that undutiful Remonstrance, began
 to oppose the Payment of Our accustomed Duties
 in the Custom House, We gave Order to the Of-
 ficers of Our Customs to go on, notwithstanding
 that Opposition, in the receiving of the usual Du-
 ties; and caused those, that refused, to be warned
 to attend at the Council Board; that, by the Wis-
 dom and Authority of Our Council, they might
 be reduced to Obedience and Duty; where some
 of them, without Reverence or Respect to the
 Honour and Dignity of that Presence, behaved
 themselves with so much Boldness and Insolency of
 Speech, as was not to be endured by a far meaner
 Assembly; much less to be countenanced by a
 House of Parliament, against the Body of our Privy
 Council.
 And as in this We did, what in Reason and Ho-
 nour was fit for the present, so Our Thoughts
 were daily intentive upon the re-assembling of Our
 Parliament; with full Intention, on Our Part, to
 take away all ill Understanding between Us and
 Our People; whose Love, as We desired to con-
 tinue and preserve, so We used Our best Endeavours
 to prepare and facilitate the Way to it. And
 to this End, having taken a strict and exact Sur-
 vey of Our Government, both in the Church and

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1628.

Common-Wealth, and what Things were most fit
 and necessary to be reformed: We found, in the
 first Place, that much Exception had been taken
 at a Book, entituled *Appello Casarem*, or, *An Ap-
 peal to Casar*; and published in the Year 1625,
 by *Richard Montagus*, then Bachelor of Divinity,
 and now Bishop of *Chichester*; and because it did
 open the Way to those Schisms and Divisions,
 which have since ensued in the Church. We did,
 for Remedy and Redress thereof, and for the Sa-
 tisfaction of the Consciences of Our good Peo-
 ple, not only by Our publick Proclamation; call
 in that Book, which ministered Matter of Offence;
 but to prevent the like Dangers hereafter, re-
 printed the Articles of Religion, established in the
 Time of Queen *Elizabeth* of famous Memory;
 and by a Declaration before those Articles, We did
 tie and restrain all Opinions to the Sense of those
 Articles, that Nothing might be left for private
 Fancies and Innovations. For, we call God to
 Record, before whom We stand, that it is, and
 always hath been, Our Hearts Desire to be found
 worthy of that Title, which We account the most
 glorious in all Our Crown, *Defender of the Faith*.
 Neither shall We ever give way to the authorising
 of any Thing, whereby any Innovation may steal or
 creep into the Church; but to preserve that Unity
 of Doctrine and Discipline, established in the Time
 of Queen *Elizabeth*, whereby the Church of *Eng-
 land* hath stood and flourished ever since.

And as We were careful to make up all Breaches
 and Rents in Religion at Home, so did We, by
 Our Proclamation and Commandment, for the
 Execution of Laws against Priests, and Romish
 Recusants, fortifie all Ways and Approaches
 against that foreign Enemy; which if it have not
 succeeded according to Our Intention, We must
 lay the Fault where it is, in the subordinate Of-
 ficers, and Ministers in the Country, by whose
 Remissness, Jesuits and Priests escape without
 Apprehension; and Recusants, from those Con-
 victions and Penalties; which the Law and Our
 Command-

And therefore, on the five-and twentieth Day of February last, by the uniform Advice of Our Privy Council, We caused both Houses to be adjourned until this present Day; hoping, in the mean time, that a better and more right Understanding might be begotten between Us and the Members of that House; whereby this Parliament might have a happy End and Issue.

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1628.

And, for the same Intent, We did again, this Day, command the like Adjournment to be made, until the tenth Day of this Month: Yet it hath so happened, by the disobedient and seditious Carriage of those said ill-affected Persons of the House of Commons, that We and Our regal Authority and Commandment have been so highly contemned, as Our kingly Office cannot bear, nor any former Age can paralel. And therefore it is Our full and absolute Resolution to dissolve the said Parliament, whereof We thought good to give Notice unto all the Lords Spiritual and Temporal, and to the Knights, Citizens, and Burgeses of this present Parliament, and to all others whom it may concern; that they may depart about their needful Affairs, without attending any longer here. Nevertheless, We will that they, and all others shall take Notice, that We do, and ever will distinguish between those, who have shewed good Affection to Religion and Government, and those that have given themselves over to Faction, and to work Disturbance to the Peace and good Order of Our Kingdom.

Given at Our Court at Whitehall, this second Day of March, in the fourth Year of Our Reign of Great Britain, France, and Ireland.

Soon after the Dissolution of the Parliament came out, also, the following Declaration:

HIS MAJESTY'S DECLARATION to all his loving Subjects, of the Causes which moved him to dissolve the last Parliament, March 10. 1628.

‘ **H**OWsoever Princes are not bound to give The King's Declaration of the Causes of that Dissolution.
 ‘ Account of their Actions, but to God alone;
 ‘ yet, for the Satisfaction of the Minds and Affections of Our loving Subjects, We have thought
 ‘ good

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good to set down thus much by way of Declaration, that We may appear to the World in the Truth and Sincerity of Our Actions, and not in those Colours in which we know some turbulent and ill-affected Spirits (to masque and disguise their wicked Intentions, dangerous to the State) would represent Us to the publick View.

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In this, as We are not willing to derogate from the Merit and good Intentions of those wise and moderate Men of that House (to whose Forwardness

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1628.
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 ' of another Temper, did much lessen both the Re-
 ' putation and Reality of that Supply. And their
 ' Spirit, infused into many of the Commissioners
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 ' questioned, without Punishment or sharp Reproof;
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 ' bates, for winning of Time, which would have
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 ' Messages, We did often declare Our gracious and
 ' clear Resolution, to maintain not only the Parlia-
 ' ment, but all Our People, in their antient and
 ' just Liberties, without either Violation or Dimi-
 ' nution; and in the End, for their full Satisfaction
 ' and Security, did, by an Answer, framed in the
 ' Form by themselves desired, to their Parliamen-
 ' tary Petition, confirm their antient and just Li-
 ' berties and Rights, which We resolve, with all
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 ' Our necessary Supply, and their own Liberties,
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 ' Our Government, as We are unwilling to re-
 ' member) yet We suffered them to sit, until them-
 ' selves desired Us to appoint a Time for their Recefs,
 ' not naming either Adjournment or Prorogation.

' Whereupon by Advice of Our Council, We re-
 ' solved to prorogue and make a Session; and to that
 ' End prefixed a Day, by which they might (as
 ' was meet in so long a Sitting) finish some profit-

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to be restored, which, upon Commandment from Us, or Our Council, were stayed by Our Officers, until those Duties were paid; and consequently should put Ourselves out of the Possession of Tunnage and Poundage, before they were granted; for else, it was pretended, the Subject stood not in fit Case to grant it. A Fancy and Cavil raised of Purpose to trouble the Business; it being evident, that all the Kings before-named did receive that Duty, and were in actual Possession of it, before, and at the very Time, when it was granted to them by Parliament. And although We, to remove all Difficulties, did from Our own Mouth, in those clear and open Terms that might have satisfied any moderate and well-disposed Minds, declare, That it was Our Meaning, by the Gift of Our People, to enjoy it; and that We did not challenge it of Right, but took it *de bene esse*, shewing thereby, not the Right but the Necessity by which We were to take it, (wherein We descended, for their Satisfaction, so far beneath Ourselves, as We are confident, never any of Our Predecessors did the like, nor was the like ever required or expected from them. Yet for all this, the Bill of Tunnage and Poundage was laid aside, upon Pretence they must first clear the Right of the Subject therein; under Colour whereof, they entertain the Complaints, not only of *John Rolles*, a Member of their House, but also of *Richard Chambers*, *John Fowkes*, and *Bartholomew Gilman*, against the Officers of Our Customs, for detaining their Goods, upon Refusal to pay the ordinary Duty, accustomed to be paid for the same. And upon these Complaints, they send for the Officers of the Customs, enforcing them to attend, Day after Day, by the Space of a Month together; they cause them to produce their Letters Patent under Our Great Seal, and the Warrants made by Our Privy Council, for levying of those Duties. They examine the Officers upon what Questions they please, thereby to entrap them for doing Our Service and Commandment.

In

In these and other their Proceedings, because We An. 4. Charles I. 1628.
 would not give the least Shew of Interruption,
 We endured long, with much Patience, both these,
 and sundry other strange and exorbitant Inroach-
 ments and Ufurpations, such as were never before
 attempted in that House.

We are not ignorant how much that House
 hath, of late Years, endeavoured to extend their
 Privileges, by setting up general Committees for
 Religion, for Courts of Justice, for Trade, and
 the like; a Course never heard of until of
 late: So as, where in former Times, the Knights
 and Burgeses were wont to communicate to the
 House such Business as they brought from their
 Countries; now there are so many Chairs erect-
 ed, to make Enquiry upon all Sorts of Men, where
 Complaints of all Sorts are entertained, to the un-
 sufferable Disturbance and Scandal of Justice and
 Government; which having been tolerated a
 while by Our Father and Ourselves, hath daily
 grown to more and more Height; insomuch that
 young Lawyers sitting there, take upon them to
 decry the Opinions of the Judges; and some have
 not doubted to maintain, That the Resolutions of
 that House must bind the Judges, a Thing never
 heard of in Ages past. But, in this last Assembly
 of Parliament, they have taken on them much
 more than ever before.

They sent Messengers to examine Our Attor-
 ney General, (who is an Officer of Trust and Se-
 crecy) touching the Execution of some Com-
 mandments of Ours, of which, without Our
 Leave first obtained, he was not to give Account
 to any but Ourselves. They sent a captious and
 directory Message to the Lord Treasurer, Chan-
 cellor, and Barons of the Exchequer, touching
 some judicial Proceedings of theirs in Our Court
 of Exchequer.

They sent Messengers to examine upon sundry
 Questions, Our two Chief Justices, and three
 other of Our Judges, touching their judicial Pro-
 ceedings at the Goal-Delivery at *Newgate*, for
 which,

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which, they are not accountable to the House of
 Commons.
 And whereas Suits were commenced in Our
 Court of *Star-Chamber*, against *Richard Chambers*,
John Fowkes, *Bartholomew Gilman*, and *Richard*
Philips, by Our Attorney General, for great Mis-
 demeanors; they resolved, that they were to have
 Privilege of Parliament against Us for their Per-
 sons, for no other Cause, but because they had
 Petitions depending in that House; and (which
 is more strange) they resolved, That a Significati-
 on should be made from that House, by a Letter,
 to issue under the Hand of their Speaker, unto the
 Lord Keeper of Our Great Seal, that no Attach-
 ments should be granted out against the said
Chambers, *Fowkes*, *Gilman*, or *Philips*, during
 their said Privilege of Parliament. Whereas it is
 far above the Power of that House, to give Di-
 rection to any of Our Courts at *Westminster*, to
 stop Attachments against any Man, though never
 so strongly privileged; the Breach of Privilege
 being not in the Court that grants, but in the
 Party or Minister that puts in Execution such At-
 tachments. And therefore, if any such Letter
 had come to the Lord Keeper, as it did not, he
 should have highly offended Us if he had obeyed
 it. Nay, they went so far, as they spared not the
 Honour of Our Council Board; but examined
 their Proceedings in the Case of Our Customers,
 interrogating what this or that Man of Our Coun-
 cil said, in Direction of them in the Business com-
 mitted to their Charge. And when one of the Mem-
 bers of that House, speaking of Our Counsellors,
 said, *We had wicked Counsel*; and another said, *That*
the Council and Judges sought to trample under Feet
the Liberty of the Subject; and a third traduced
 Our Court of *Star-Chamber*, for the Sentence gi-
 ven against *Savage*, they passed without Check or
 Censure by the House. By which may appear,
 how far the Members of that House have of late
 swollen beyond the Rules of Moderation, and the
 Modesty of former Times; and this under Pre-
 tence

tenor of Privilege and Freedom of Speech, where-
by they take Liberty to declare against all Au-
thority of Council and Courts, at their Pleasurè.

They sent for Our Sheriff of London to examine
him in a Cause, whereof they had no Jurisdiction;
Their true and ancient Jurisdiction extending only
to their own Members, and to the Conservation
of their Priviledges; and not to the Cause of For-
eign Persons and Causes, which have no Relati-
on to their Priviledges, the same being but a late
Innovation: And yet upon an enforced Strain of
Contempt, for not answering to their Satisfac-
tion; they commit him to the Tower of London;
making that outward Pretext for a Cause of com-
mitting him, the true and inward Cause being,
for that he had shewed himself dutiful to Us and
Our Commandment, in the Matter concerning
Our Customs.

In these Innovations (which we will never per-
mit again) they pretended indeed Our Service;
but their Drift was, to break, by this Means,
through all Respects and Ligaments of Govern-
ment; and to erect an universal over-swaying
Power to themselves, which belongs only to Us,
and not to them.

Lastly, In their Proceedings against Our Cus-
tomers, they went about to censure them as De-
linquents, and to punish them, for staying some
Goods of some factious Merchants, in Our Store-
house, for not paying those Duties which them-
selves had formerly paid; and which the Customers,
without Interruption, had received of all other
Merchants, many Years before; and to which
they were authorised, both by Our Great Seal,
and by several Directions and Comandments
from Us and Our Privy Council.

To give some Colour to their Proceedings here-
in, they went about to create a new Priviledge,
(which We will never admit) That a Parliament-
man hath Priviledge for his Goods against the
King; the Consequence whereof would be, That

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1625.

he may not be constrained to pay any Duties to the King, during the Time of Privilege of Parliament. It is true, they would have this Case to have been between the Merchants, and Our Farmers of Our Customs, and have severed them from Our Interest and Commandment, thereby the rather to make them liable to the Censure and Punishment of that House. But on the other Side, We holding it both unjust and dishonourable, to withdraw Ourself from Our Officers, in any Thing they did by Our Commandment; or to disavow any Thing that We had enjoined to be done; upon *Monday* the 23d of *February*, We sent a Message unto them by Secretary *Cooke*, thanking them for the Respect they had shewed, in severing the Interest of Our Farmers from Our own Interest and Commandment: But that, nevertheless We were bound, in Honour, to acknowledge a Truth, that what was done by them, was done by Our express Commandment and Direction; and if for doing thereof Our Farmers should suffer, it would highly concern Us in Honour. Which Message was no sooner delivered unto them, but in a tumultuous and discontented Manner, they called, *Adjourn, Adjourn*. And thereupon, without any Cause given on Our Part, in a very unusual Manner, adjourned until the *Wednesday* following,

On which Day, by the uniform Wisdom of Our Privy Council, We caused both Houses to be adjourned until the second Day of *March*; hoping that in the mean Time, a better and more right Understanding might be begotten between Us and Members of that House; whereby the Parliament might come to an happy Issue.

But understanding, by good Advertisement, that their Discontent did not in that Time digest and pass away; We resolved to make a second Adjournment, until the Tenth of *March*; which was done, as well to take Time to Our self, to think of some Means to accommodate those Difficulties, as to give

6 give them Time to advise better; and accordingly, An. 4. Charles I.
1628.
 6 We gave Commandment for a second Adjourn-
 6 ment in both Houses, and for Cessation of all Busi-
 6 ness till the Day appointed; which was very duti-
 6 fully obeyed in the Higher House, no Man con-
 6 tradicting or questioning it. But when the same
 6 Commandment was delivered in the House of
 6 Commons by their Speaker, it was straitways
 6 contradicted; and although the Speaker declared
 6 unto them, It was an absolute Right and Power
 6 in Us to adjourn, as well as to prorogue or dis-
 6 solve; and declared and read unto them divers
 6 Precedents of that House, to warrant the same;
 6 yet Our Commandment was most contemptuously
 6 disobeyed; and some rising up to speak, said, *They*
 6 *had Business to do before the House should be ad-*
 6 *journald (f).*

6 Whilst the Duke of Buckingham lived, he was
 6 charged with all the Distempers and ill Events of
 6 former Parliaments; and therefore much Endeav-
 6 our was used to demolish him, as the only Wall
 6 of Separation between Us and Our People. But
 6 now he is dead, no Alteration was found amongst
 6 those envenomed Spirits, which troubled, then, the
 6 blessed Harmony between Us and Our Subjects,
 6 and continue still to trouble it. For, now, under the
 6 Pretence of public Care of the Common-Wealth,
 6 they suggest new and causeless Fears, which in
 6 their own Hearts they know to be false; and de-
 6 vise new Engines of Mischief, so to cast a Blind-
 6 ness upon the good Affections of Our People, that
 6 they may not see the Truth and Largeness of Our
 6 Hearts towards them. So that now it is manifest,
 6 the Duke was not alone the Mark these Men shot
 6 at, but was only as a near Minister of Ours, taken
 6 up, on the by, and in their Passage to their more
 6 secret Designs; which were only to cast Our Af-

(f) Here are the Passages concerning the Members Deportment
 in the House, which we forbear to repeat, in regard the same are
 at large expressed in the Information in the *Star-Chamber*, which
 follows hereafter.

An. 4. Charles 1
1628.

‘ fairs into a desperate Condition, to abate the
‘ Powers of Our Crown, and to bring Our Govern-
‘ ment into Obloquy; that, in the End, all things
‘ may be overwhelmed with Anarchy and Confu-
‘ sion.

‘ We do not impute these Disasters to the whole
‘ House of Commons, knowing that there were
‘ amongst them many religious, grave, and well-
‘ minded Men; but the sincerer and better Part of
‘ the House was over-borne by the Practices and
‘ Clamours of the other, who, careless of their Du-
‘ ties, and taking Advantage of the Times, and
‘ Our Necessities, have enforced Us to break off
‘ this Meeting; which, had it been answered with
‘ like Duty on their Parts, as it was invited and be-
‘ gun with Love on Ours, might have proved happy
‘ and glorious, both to Us and this whole Nation.

‘ We have thus declared the manifold Causes We
‘ had, to dissolve this Parliament, whereby all the
‘ World may see, How much they have forgot-
‘ ten their former Engagements at the Entry into
‘ the War, themselves being Persuaders to it;
‘ promising to make Us feared by Our Enemies,
‘ and esteemed by Our Friends: And how they
‘ turned the Necessities grown by that War, to en-
‘ force Us to yield to Conditions incompatible with
‘ Monarchy.

‘ And now that Our People may discern, that
‘ these Provocations of evil Men (whose Punish-
‘ ments We reserve to a due Time) have not chang-
‘ ed Our good Intentions to Our Subjects, We do
‘ here profess to maintain the true Religion and
‘ Doctrine, established in the Church of *England*,
‘ without admitting or conniving at any back-
‘ sliding, either to Popery or Schism. We do al-
‘ so declare, That We will maintain the antient
‘ and just Rights and Liberties of Our Subjects,
‘ with so much Constancy and Justice, that they
‘ shall have Cause to acknowledge, That under
‘ Our Government and gracious Protection, they
‘ live in a more happy and free State, than any
‘ Subjects

Subjects in the Chriffian World. Yet let no Man An. 4. Charles I.
1628.
 hereby take the Boldness to abuse that Liberty,
 turning it to Licentiousness; nor misinterpret the
 Petition, by perverting it to a lawless Liberty,
 wantonly or frowardly, under that or any other
 Colour, to resist lawful and necessary Authority.
 For as We will maintain Our Subjects in their just
 Liberties, so We do and will expect, that they
 yield as much Submission and Duty to Our Royal
 Prerogatives, and as ready Obedience to our Au-
 thority and Commandments, as hath been per-
 formed to the greatest of Our Predecessors.

And for Our Ministers, We will not that they
 be terrified by those harsh Proceedings, that have
 been strained against some of them. For, as we
 will not command any thing unjust or dishonour-
 able, but shall use Our Authority and Prerogatives for
 the Good of Our People; so We will expect, that
 Our Ministers obey Us, and they shall assure them-
 selves We will protect them.

As for Our Merchants, We let them know,
 We shall always endeavour to cherish and enlarge
 the Trade of such as be dutiful, without burthening
 them beyond what is fitting: But the Duty of five
 in the Hundred, for guarding of the Seas, and
 Defence of the Realm, to which We hold Our-
 selves still obliged, (and which Duty hath con-
 tinued without Interruption so many Succession of
 Ages) We hold no good or dutiful Subject will
 deny, it being so necessary for the Good of the
 whole Kingdom. And if any factious Merchant
 will affront Us, in a thing so reasonable, and
 wherein We require no more, nor in no other
 Manner, than so many of Our Predecessors have
 done, and have been dutifully obeyed: Let them
 not deceive themselves, but be assured, that We
 shall find honourable and just Means to support
 Our Estate, vindicate Our Sovereignty, and pre-
 serve the Authority which God hath put into Our
 Hands.

And now having laid down the Truth and Clear-
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‘ness of Our Proceedings, all wise and discreet
 ‘Men may easily judge of those Rumours and
 ‘jealous Fears, that are maliciously and wickedly
 ‘bruted Abroad; and may discern, by Examination
 ‘of their own Hearts, whether (in respect of the
 ‘free Passage of the Gospel, indifferent and equal
 ‘Administration of Justice, Freedom from Op-
 ‘pression, and the great Peace and Quietness which
 ‘every Man enjoyeth under his own Vine and Fig-
 ‘Tree) the Happiness of this Nation can be paral-
 ‘leled, by any of our Neighbour-Countries; and
 ‘if not, then to acknowledge their own Blessedness,
 ‘and for the same be thankful to God, the Author
 ‘of all Goodness.’

Mr. Holles, Sir
 J. Elliot, and
 other Members,
 examined before
 the Privy-Coun-
 cil.

March 4. Two Days after the Date of the fore-
 going Proclamation, (tho’ *Rushworth* says it was
 not published till the 10th) Warrants were directed
 from the Privy Council to *Denzil Holles, Esq;* Sir
Miles Hobart, Sir John Elliot, Sir Peter Hayman,
John Selden, William Coriton, Walter Long, Wil-
liam Stroud, and Benjamin Valentine, Esqrs. com-
 manding their personal Appearance the next Day.
 Mr. *Holles, Sir John Elliot, Sir Miles Hobart,* and
 Sir *Peter Hayman* appearing, Mr. *Holles* was ques-
 tioned, ‘Wherefore he, contrary to his former Use,
 did, that Morning that the Tumult was in the
 Lower House of Parliament, place himself above
 divers of the Privy Counsellors, by the Chair.’

He answered, ‘That he at some other Times,
 as well as then, seated himself in that Place; and
 as for his Sitting above the Privy Counsellors, he
 took it to be his Due in any Place wheresoever, un-
 less at the Council-board. And as for his Part, he
 came into the House with as great Zeal to do his
 Majesty Service as any one whatsoever. And yet
 nevertheless, finding his Majesty was now offended
 with him, he humbly desired, that he might rather
 be the Subject of his Mercy than of his Power.’

To which the Lord Treasurer answered, ‘You
 mean rather of his Majesty’s Mercy than of his
 Justice.’

Mr.

Mr. *Holles* replied, ‘ I say of his Majesty’s Power, my Lord.’ An. 4. Charles I.
1628.

Sir *John Elliot* was next called in.

He was questioned, ‘ Whether he had not spoken such and such Words, in the Lower House of Parliament, and shewed unto the said House such and such a Paper?’

He answered, ‘ That whatsoever was said or done by him in that Place, and at that Time, was performed by him as a Public Man, and a Member of that House; and that he was, and always will be, ready to give an Account of his Sayings and Doings in that Place, whensoever he should be called unto it by that House; where, as he taketh it, it is only to be questioned: And, in the mean time, being now but a Private Man, he would not trouble himself to remember what he had either spoken or done, in that Place as a Public Man.’

Sir *Miles Hobart*, being questioned about his Dememeanor in the Lower House of Parliament, the same Day, and for shutting the Door;

He answered, ‘ That he desired to know, by what Warrant he was examined to give an Account of his Actions in Parliament, when he was a Member of that House.’ And he said, ‘ He believed that this was a Course without Precedent, and no Council nor Commission could take Notice of any thing done in Parliament, but a Parliament itself. Nevertheless he would not stick to confess, that it was he that shut the Door that Day; and when he had locked the Door, put the Key in his Pocket, [and he did it because the House demanded it.]’

Sir *Peter Hayman* was questioned, ‘ Wherefore he reproved the Speaker so sharply, that Day, in the Lower House of Parliament?’

He answered, ‘ Because he was the Speaker, and so the Servant of the House; and one that ought to have applied himself to the Command of the House; and he did it with the more Freedom and Detestation, because he was his Countryman; but yet should also have done it to any other Man, that,

An. 4. Charles I. in the same Kind, should have deserved it as he did.
1623.

And being farther demanded (g), 'What he himself would have done, if he had been Speaker, and commanded by the King to deliver such a Message from his Majesty to the House? He answered, 'He would have thrown himself at his Majesty's Feet, and having given his Majesty to understand that, in respect he was the Speaker, he was the most improper and unfit Person of any to deliver such a Message; and would therefore have most humbly supplicated his Majesty, to have elected some other to have performed that Part.'

And committed
close Prisoners.

Upon these Answers, the four last-named Gentlemen were committed close Prisoners to the *Tower*; the Studies of Mr. *Holles*, Mr. *Selden*, and Sir *John Elliot* were sealed up; and Mr. *Long* and Mr. *Stroud*, not appearing, a Proclamation was issued out for apprehending them; and not long after they were taken and committed to the *King's Bench* Prison.

Questions proposed to the Judges, by the Attorney General, relating to them.

The King, being resolved to proceed against these Members of the House of Commons, in the *Star-Chamber*, ordered all the Judges to be summoned; who being accordingly met at *Serjeants-Inn*, on the 25th of *April*, one Question was proposed by Mr. *Attorney*, and resolved, *viz.* 'That the Statute of 4 *Henry VIII.* intituled, *An Act concerning Richard Strode*, was a particular Act of Parliament, and extended only to *Richard Strode*, and to those Persons that had joined with him to prefer a Bill to the House of Commons concerning *Tinners*; and altho' the Act be private, and extendeth to them alone, yet it was no more than all other Parliament-Men, by Privilege of the House, ought to have, *viz.* Freedom of Speech concerning those Matters debated in Parliament, by a parliamentary Course.'

The rest of the Questions Mr. *Attorney* wished to set down in Writing against another Day.

Upon *Monday* following all the Judges met again, and then Mr. *Attorney* proposed these Questions.

(g) This Paragraph and the foregoing Passages in Crotchets are omitted in Sir *Thomas Crewe's* Collections, but supplied from the Manuscripts beforementioned.

1. *Whether if any Subject hath received probable Information of any Treason or treacherous Attempt, or Intention against the King or State, that Subject ought not to make known to the King, or his Majesty's Commissioners, when thereunto he shall be required, what Information he hath received, and the Grounds thereof; to the End the King, being truly informed, may prevent the Danger? And if the said Subject, in such Case, shall refuse to be examined, or to answer the Questions which shall be demanded of him for further Inquiry and Discovery of the Truth, Whether it be not a high Contempt in him, punishable in the Star-chamber, as an Offence against the general Justice and Government of the Kingdom?*

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Sol. The Resolution and Answer of all the Justices, is, 'That it is an Offence punishable as aforesaid, so that this do not concern himself, but another, nor draw him to Danger of Treason or Contempt, by his Answer.'

And their Answers.

2. *Whether it be a good Answer or Excuse, being thus interrogated, and refusing to answer, to say, 'That he was a Parliament-Man when he received this Information, and that he spake thereof in the Parliament-House; and therefore the Parliament being now ended, he refused to answer to any such Questions but in the Parliament-House, and not in any other Place?'*

Sol. To this the Judges, by Advice privately to Mr. Attorney, gave this Answer, 'That this Excuse being in nature of a Plea, and an Error in Judgment, was not punishable, until he were over-ruled in an orderly Manner, to make another Answer; and whether the Party were brought in *Ore tenus*, or by Information, for this Plea he was not to be punished.'

3. *Whether a Parliament-Man, committing an Offence against the King or Council, not in a Parliament way, might, after the Parliament ended, be punished, or not?*

Sol. All the Judges, *una voce*, answered, 'He might, if he be not punished for it in Parliament; for the Parliament shall not give Privilege to any

An. 4. Charles J. 1628. 'any *contra morem Parliamentarium*, to exceed
 'the Bounds and Limits of his Place and Duty.'

And all agreed, 'That, regularly, he cannot be
 'compelled, out of Parliament, to answer Things
 'done in Parliament, in a Parliamentary Course ;
 'but it is otherwise where Things are done exor-
 'bitantly, for those are not the Acts of a Court.'

4. *Whether if one Parliament-Man alone shall re-
 solve, or two or three shall covertly conspire, to raise
 false Slanders and Rumours against the Lords of the
 Council and Judges ; not with Intent to question them
 in a legal Course, or in a Parliamentary way, but to
 blast them, and to bring them to Hatred of the Peo-
 ple, and the Government in Contempt ; be punishable
 in the Star-chamber after the Parliament is ended ?*

Sol. The Judges resolve, 'That the same is
 'punishable out of Parliament, as an Offence ex-
 'orbitant committed in Parliament, beyond the Of-
 'fice, and beside the Duty of a Parliament Man.'

There was another Question put by Mr. *Attor-
 ney, viz.*

5. *Whether if a Man in Parliament, by way of
 Digression, and not upon any Occasion arising con-
 cerning the same in Parliament, shall say, 'The
 'Lords of the Council, and the Judges had agreed
 'to trample upon the Liberty of the Subject, and
 'the Privileges of Parliament, he were punishable or
 'not ?'*

The Judges desired to be spared to make any An-
 swer thereunto, because it concerned themselves in
 particular.

The next Day, Mr. *Attorney* put to the Judges
 another Case.

6. *It is demanded of a Parliament-Man, being
 called Ore tenus, before the Court of Star-chamber,
 and being charged, That he did not submit himself to
 Examination for such things as did concern the
 King and the Government of the State, and were af-
 firmed to be done by a third Person, and not by him-
 self ; if he confesses his Hand to that Refusal, and make
 his Excuse, and plead only that he had Privilege of
 Parliament ; Whether the Court will not over-rule
 this*

his Plea as erroneus, and that he ought to make a further Answer? An. 4. Charles I.
1628.

Sol. 'Tis the justest Way for the King and the Party not to proceed *Ore tenus*; because, it being a Point in Law, it is fit to hear Counsel before it be overruled; and upon an *Ore tenus*, by the Rules of *Star-Chamber*, Counsel ought not to be admitted; and it would not be for the Honour of the King, nor the Safety of the Subject, to proceed in that Manner.

On these Answers from the Judges, the King's Attorney General next proceeded to exhibit an Information, against the Gentlemen, in the Court of *Star Chamber*; which, tho' not strictly Parliamentary, yet, as it refers to what had been done and said in Parliament, deserves our Notice; as well as all the rest of the Proceedings against them, as they are collected in *Rushworth*, to the End of this Business.

Jovis 7mo. Die Maii, Anno 5to. Car. R.

To the KING'S Most Excellent Majesty.

' **H**Umblly sheweth and informeth unto your
' Most Excellent Majesty, Sir *Robert Heath*,
' Knight, your Majesty's Attorney General, for
' and on your Majesty's Behalf, That whereas, by
' the antient and fundamental Laws of this King-
' dom, the High Court of Parliament consisteth of
' the Lords Spiritual and Temporal in the Lords
' House, and of the Knights, Citizens, and Burges-
' ses in the Commons House of Parliament; and
' those two Houses, thus composed, do together
' make up that great and honourable Body, where-
' of your most Excellent Majesty, as the Supreme
' Sovereign, is the Head: And whereas the Power
' of Summoning and Assembling of Parliaments,
' and of Continuing, Proroguing, Adjourning, and
' Dissolving thereof within this Realm at your good
' Pleasure, is the undoubted Right of your Maje-
' sty; and the Liberty and Freedom of Speech,
' which the Members of the said Houses of Par-
' liament have, according to the Privileges of those

An Information
in the *Star-
Chamber* against
Mr. Hollis, Sir
John Elliot, &c.

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several Houses, to debate, consult, and determine of those Things which are propounded amongst them, is, and ever hath been, and ought to be, limited and regulated within the Bounds of Moderation and Modesty, and of that Duty which Subjects owe to their Sovereign: And whereas your Majesty, for many weighty Causes, and for the general Good and Defence of the Church and State of this your Kingdom, lately summoned a Parliament to be holden at your City of *Westminster*, the 17th Day of *March*, in the 3d Year of your Majesty's Reign, which continued from thence by Prorogation until the 20th Day of *January* last; from which Day, until the 25th Day of *February* following, the said Houses continued sitting. And although the greater Part of the House of Commons, being zealous of the Common Good, did endeavour to have effected those good Things for which they were called thither; yet between the said 20th Day of *January*, and the said 25th Day of *February*, by the malevolent Disposition of some ill-affected Members of the said House, sundry Diversions and Interruptions were there made, and many Jealousies there unjustly raised and nourished; to the Disturbance of those orderly and Parliamentary Proceedings, which ought to have been in so grave a Council. During which Time of the said last Meeting in Parliament, as aforesaid, so it is, may it please your most Excellent Majesty, that Sir *John Elliot* Knight, then and all the Time of the said Parliament, being one of the Members of the said Commons House, wickedly and maliciously intending, under a feigned Colour and Pretence of debating the necessary Affairs of the present Estate, to lay a Scandal and unjust Aspersions upon the Right Honourable the Lords, and others of your Majesty's most Honourable Privy-Council, and upon the Reverend Judges, and your Counsel learned; and as much as in him lay, to bring them into the Hatred and ill Opinion of the People; after the said 20th Day of *January*, and before the said

25th

25th Day of *February* last, did openly and publick-ly in the said House of Commons, falsely and maliciously affirm, *That your Majesty's Privy-Council, all your Judges, and your Counsel learned, had conspired together to trample under their Feet the Liberties of the said Subjects of this Realm, and the Privileges of that House.*

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And further, so it is, may it please your most Excellent Majesty, that when your Majesty, upon the 25th Day of *February*, had, by Sir *John Finch*, Knight, then Speaker of the said House of Commons, signified your Royal Pleasure to the said House, that the said House of Commons should be instantly adjourned until the 2d Day of *March* then following, he the said Sir *John Elliot*, and *Denzil Holles*, Esq; *Benjamin Valentine*, Gent. *Walter Long*, Esq; *William Coriton*, Esq; *William Strode*, Esq; *John Selden*, Esq; Sir *Miles Hobart*, and Sir *Peter Hayman*, Knights, all Members at that Time of the said Commons House, conceiving with themselves, that your Majesty, being justly provoked thereto, would speedily dissolve that Parliament; they the said Sir *John Elliot*, *Denzil Holles*, *Benjamin Valentine*, *Walter Long*, *William Coriton*, *William Strode*, *John Selden*, Sir *Miles Hobart*, and Sir *Peter Hayman*, and every of them, by unlawful Confederacy and Combination between them in that Behalf before had, did maliciously resolve, agree, and conspire, how and by what Means, before that Parliament should be dissolved, they might raise such false and scandalous Rumours against your Majesty's Government, and your Counsellors of Estate attending your Person, that thereby as much as in them lieth, they might disturb the happy Government of this Kingdom, by and under your Majesty; interrupt the Course of Traffick and Trade; discourage your Merchants, and raise Jealousies and Suspicions in the Hearts of your People, that the Sincerity of the true Religion professed and established in this Kingdom,

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Kingdom, was neglected: And in Pursuance of this their Resolution and Confidence aforesaid, the said Sir *John Elliot*, with the Privy and Consent of the said *Denzil Holles*, and all other the said Confederates, did prepare a Paper or Writing, wherein he had written, or caused to be written, divers false and scandalous Assertions, touching your Majesty's Government, and touching the Persons of divers of your Privy-Council; which he and they resolved, and conspired, and agreed, should be delivered into the said House of Commons, and there publickly read; to the wicked and seditious Intents and Purposes aforesaid, and not with any Purpose or Opinion, that those Things that were therein contained, if they, or any of them had been true, as indeed they were not, should, or could be at that Time entertained, or pursued in any Legal or Parliamentary Way; but meerly and only to express, and vent his and their own Malice and Disaffection to your Majesty and your happy Government.

And your Majesty, upon the said Second Day of *March* now last past, having signified your Royal Pleasure unto the said Sir *John Finch*, then the Speaker of that House, That the said House should then be presently adjourned until the tenth Day of the said Month of *March*, without any further Speech or Proceedings at that Time; and the said Speaker then delivered your Majesty's Pleasure and Commandment to the said House accordingly, and declared unto them your Majesty's express Charge and Command unto him, That if any should, notwithstanding, disobey your Majesty's Command, that he must forthwith leave the Charge, and wait upon your Majesty: Unto which Commandment of your Majesty, and Signification of your Royal Pleasure in that Behalf, for a present Adjournment of the House, the greatest Number of the Members of that House, in their Duty and Allegiance unto your Majesty, were willing to have given a ready Obedience; as
the

the Lords Spiritual and Temporal of the Lords An. 4. Charles I.
 House, upon the very same Day, upon the like 1628.
 Signification, made unto them of your Majesty's
 Pleasure, by your Lord Keeper of your great Seal
 of *England*, the Speaker of that House, had done:
 Yet so it is, may it please your most Excellent
 Majesty, that the said Sir *John Elliot*, for the sa-
 tisfying of his own Malice and disloyal Affections
 to your Majesty, and by the Confederacy and
 Agreement aforesaid, and in a high Contempt and
 Difobedience unto your Majesty's Command,
 aforesaid, and with set Purpose to oppose your
 Majesty's said Command, did stand up, and se-
 veral Times offered to speak: Whereupon the
 said Speaker, in Obedience to your Majesty's said
 Command, endeavouring to have gone out of the
 Chair, the said *Denzil Holles* and *Benjamin Valentine*,
 being then next the Speaker's Chair, and the one
 of them on the one Hand, and the other of them
 on the other Hand of the Speaker (where they so
 placed themselves of Purpose on that Day) out of
 their Difobedience to your Majesty, and by the
 Confederacy and Agreement aforesaid; violently,
 forcibly, and unlawfully, and with Purpose to raise
 a Tumult in the said House, kept and held the said
 Speaker in the said Chair, against his Will: And
 the said Speaker again endeavouring to leave the
 Chair, and having then gotten out of the Chair,
 the said *Denzil Holles* and *Benjamin Va-*
lentine, laid violent Hands upon the said Speaker,
 forcibly, and unlawfully, and by strong Hand,
 thrust him into his Chair again; and then the said
 Sir *John Elliot* again stood up, and used these
 Speeches; *We have prepared a short Declaration*
of our Intentions, which I hope shall agree with
the Honour of the House, and the Justice of the
King. And with that, he threw down a Paper in-
 to the Floor of the said House, desiring it might
 be read: And the said *Denzil Holles*, *Benjamin*
Valentine, and all other the Confederates afore-
 said, in Difobedience and high Contempt of your
 Majesty's

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Majesty's said Command, called and cried out to
 have the same Paper read. But some others of the
 House spake to the Contrary, that it might not be
 read; and the House thereupon, by Reason of the
 disorderly Behaviour of the said Confederates, was
 much troubled; many pressing violently and tu-
 multuously to have the said Paper read, and others
 dutifully and diligently urging the Contrary, to the
 great Disquiet and Discomfort of many well-af-
 fected Members of that House. And the said
William Coriton, in this Distemper, demeaned
 himself so passionately and violently; that he then,
 and there violently, forcibly, and unlawfully as-
 faulted and struck — *Winterton*, Gent. then
 being a Member of the said House: And divers
 of the Members of the said House, being then de-
 sirous, and endeavouring to have gone out of the
 said House, the said Sir *Miles Hobart* did, of his
 own Head, lock the Door of the said House, and
 kept the Key thereof; and imprisoned the Mem-
 bers of the said House, being then in the said
 House, against their Wills, so that none of them
 could go out. And the said *William Strode*, for
 the further expressing of his Malignity and Un-
 dutifulness towards your Majesty, and in Pursu-
 ance of the Agreement and Confederacy aforesaid,
 openly moved, and with much Earnestness urged,
 That the said Paper or Declaration might be first
 read, *To the End, that* (as he then, in great
 Contempt of your Royal Majesty, said) *We*
 (meaning the Members of the House) *may not be*
turned off like scattered Sheep, and sent home as we
were last Sessions, with a Scorn put upon us in
Print; meaning thereby the Words which your
 Majesty, in your own Person, spake at the end-
 ing of the last Session, and caused the same to be
 printed: And the said *Stroud*, in a very disorderly
 Manner; further moved, That all those who would
 have the said Paper read, should stand up; which
 divers of them thereupon did accordingly, and he,

the said *Stroud*, amongst others did stand up; and in this Heat of Contention, and Height of Disobedience, by the Confederacy aforesaid, to have the said Paper read; the said Sir *Peter Hayman*, with rough and reproachful Words, reproved the said Speaker, for being constant and resolute in his Obedience to your Majesty, in not putting the Reading of the said Paper to the Question; as by all the said Confederates, with many Reasons and Arguments he was urged to do: And the said Sir *Peter Hayman* then further said, *The said Speaker was made an Instrument to cut up the Liberty of the Subjects by the Roots.* But when, by no means, the said Speaker would be drawn to transgress your Majesty's Royal Command aforesaid; then, lest the said Paper should not be read, the said *John Selden* moved, That the Clerk of the said House might read the same: And when the said Sir *John Elliot* found, that he and his Confederates aforesaid, could not procure the said Paper to be read; he, the said Sir *John Elliot*, to the End he might not lose that Opportunity, to vent and publish those malicious and seditious Resolutions; which he and his Confederates had collected, and prepared as aforesaid, took back the said Paper again; and then immediately, in the said House, said, *I shall now express that by Tongue, which this Paper should have done;* and then spake these Words: *The miserable Condition we are in, both in Matters of Religion and Policy, makes me look with a tender Eye both to the Person of the King, and to the Subjects.* And then speaking of them whom he intended to be ill Instruments in this State, at whom he principally aimed, he said, *There are amongst them some Prelates of the Church, the great Bishop of Winchester, and his Fellows; it is apparent what they have done, to cast an Aspersion upon the Honour, and Piety, and Goodness of the King: These are not all; but it is extended to some others, who, I fear, in guilt of Conscience of their own Desert, do join their Power with that Bishop and the*

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rest,

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rest, to draw his Majesty into a Jealousy of the Parliament; amongst whom, I shall not fear to name the great Lord Treasurer, in whose Person, I fear, is contracted all that which we suffer. If we look into Religion or Policy, I find him building upon the Ground laid by the Duke of Buckingham, his great Master; from him, I fear, came those ill Counsels, which contracted the unhappy Conclusion of the last Session of Parliament. I find, that not only in the Affections of his Heart, but also [by his whole Behaviour, he is the Head of the Papists,] and I doubt not to fix it indubitably upon him; and so from the Power and Greatness of him comes the Danger of our Religion. For Policy, in that great Question of Tunnage and Poundage, the Interest, which is pretended to be the King's, is but the Interest of that one Person, to undermine the Policy of this Government, and thereby to weaken the Kingdom; while he invites Strangers to come into drive away our Trade, or at least our Merchants to trade in Strangers Bottoms, which is as dangerous. Therefore it is fit to be declared by us, that all that we suffer, is the Effect of new Counsels, to the Ruin of the Government of the State; and to make a Protestation against all those Men, whether greater or subordinate, that they shall all be declared as capital Enemies to the King and Kingdom, that will persuade the King to take Tunnage and Poundage without Grant of Parliament; and that if any Merchants shall willingly pay those Duties, without Consent of Parliament, they shall be declared as Accessaries to the Rest. Which Words of the said Sir John Elliot, were by him uttered as aforesaid, falsely, maliciously, and seditiously, out of the Wickedness of his own Affections towards your Majesty, and your gracious and religious Government; and by the Confederacy, Agreement, and Privity of the said other Confederates, and to lay a Slander and Scandal thereupon; and not with a Purpose, or in a Way to rectify any thing which he conceived to be amiss, but to traduce and blast those Persons against whom he
 had

had conceived Malice; for so himself the same Day in that House said, and laid down as a Ground for what he intended to say, *That no Man was ever blasted in that House, but a Curse fell upon him.*

And further, so it is, may it please your most Excellent Majesty, That when the said Sir *John Elliot* had thus vented that Malice and Wickedness which lay in his Heart; and, as appeareth by his own Words, were expressed in the said Paper, which was prepared as aforesaid; the said *Walter Long*, out of his inveterate Malice to your Majesty, and to your Affairs, and by the Confederacy aforesaid, then and there said, *That Man who shall give away my Liberty and Inheritance (I speak of the Merchants) I note them for capital Enemies, to the Kingdom.* And lest the Hearers should forget these wicked desperate Positions laid down as aforesaid, and to the End the same might have the deeper Impression, and be the more divulged Abroad to the Prejudice of your Majesty, and of your great Affairs, and to the Scandal of your Government; the said *Denzil Holles* collected, into several Heads, what the said Sir *John Elliot* had before delivered out of that Paper, and then said, *Whosoever shall counsel the taking up of Tunnage and Poundage, without an Act of Parliament, let him be accounted a capital Enemy to the King and Kingdom.* And further, *What Merchants soever shall pay Tunnage and Poundage, without an Act of Parliament, let him be accounted a Betrayer of the Liberty of the Subject, and a capital Enemy to the King and Kingdom.*

Which Positions thus laid, the said *Denzil Holles*, neither being Speaker, nor sitting in the Chair as in a Committee by Direction of the House; but in an irregular Way, and contrary to all Course of orderly Proceedings in Parliament, offered to put these Things so delivered by him as aforesaid, to the Question; and drew from his
Con-

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Confederates aforesaid an Applause and Assent, as if these Things had been voted by the House.

And further, so it is, may it please your most Excellent Majesty, That the Disobedience of the said Confederates was then grown to that Height, that when *Edward Grimston*, the Serjeant at Arms then attending the Speaker of that House, was sent for by your Majesty, personally to attend your Highness; and the same was made known in the said House; the said Confederates notwithstanding, at that Time, forcibly and unlawfully kept the said *Edward Grimston* locked up in the said House, and would not suffer him to go out of the House to attend your Majesty: And when also on the same Day, *James Maxwell*, Esq; the Gentleman-Usher of the Black-Rod, was sent from your Majesty to the said Commons House, with a Message immediatly from your Majesty's own Person, they the said Confederates utterly refused to open the Door of the House, and to admit the said *James Maxwell* to go to deliver his Message. After all which, the said House was then adjourned until the said 10th Day of *March* then following; and on the said 10th Day of *March* the said Parliament was dissolved and ended.

In Consideration of all which Premises, and forasmuch as the Contempt and Disobedience of the said Sir *John Elliot*, and other the Confederates aforesaid, were so great, and so many, and unwarranted by the Privilege and due Proceedings of Parliament; were also committed with so high a Hand, and are of so ill Example, and so dangerous Consequence, and remain all unpardoned: Therefore he the said Attorney General, prayed a Procces against them, to answer their Contempts in the High Court of *Star-Chamber*.

The rest of the judicial Proceedings against these Gentlemen, are divided in *Rushworth*, but we shall connect them together in this Manner:

Paseb.

Pasch, 5. CAROLI, Banco Regis.

UPON a *Habeas Corpus* of this Court to bring the Body of *William Stroud, Esq;* with the Cause of his Imprisonment, to the Marshal of the *King's Bench*; it was returned in this Manner, 'That
' *Mr. William Stroud* was committed into my Mr. Stroud and
' Custody, by Virtue of a certain Warrant under Mr. Long
' the Hands of twelve of the Lords of the Privy- brought, upon
' Council of the King.' The Tenor of which a Habeas Corpus,
Warrant followeth in these Words: be fore the Court
of King's Bench.

YOU are to take Knowledge, That it is his Majesty's Pleasure and Commandment, that you take into your Custody the Body of *William Stroud, Esq;* and keep him close Prisoner till you shall receive other Order, either from his Majesty, or this Board; for so doing, this shall be your Warrant.

Dated the 2d of April, 1629.

And the Direction of the Warrant was, *To the Marshal of the King's Bench, or his Deputy.*

He is also detained in Prison, by Virtue of a Warrant under his Majesty's Hand; the Tenor of which Warrant followeth in these Words.

C. R.

WHEREAS you have in your Custody, the Body of *William Stroud, Esq;* by Warrant of our Lords of our Privy-Council, by our special Command; you are to take Notice, that this Commitment was for notable Contempts, by him committed, against our Self and our Government, and for stirring up Sedition against us; for which you are to detain him in your Custody, and to keep him close Prisoner, until our Pleasure be further known concerning his Deliverance.

Given at *Greenwich* the 7th of *May*, 1629. in the 5th Year of our Reign.

The Direction being, *To the Marshal of our Bench for the Time being. Et hæc sunt Causæ Captionis & Detentionis prædicti Gulielmi Stroud.*

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And upon another *Habeas Corpus* to the Marshal of the Household, to have the Body of *Walter Long*, Esq; in Court, it was returned according as the Return of *Mr. Stroud*.

Trinity, 15 CAROLI, Banco Regis.

Also Mr. Selden,

THE first Day of this Term, upon a *Habeas Corpus* to *Sir Allen Apsey*, the Lieutenant of the Tower, to bring here the Body of *John Selden*, Esq; with the Cause of Detainer; he returned the same Cause as in *Mr. Stroud's* Case. And *Mr. Littleton* of the Inner-Temple, of Counsel with *Mr. Selden*, moved, 'That the Return was insufficient in Substance; therefore prayed, That he might be bailed: And said, That it was a Matter of great Consequence, both to the Prerogative of the King, and to the Liberty of the Subject: But as for the Difficulty of Law contained in it, he said (under Favour) the Case cannot be said to be *Grand*. And so proceeded to his Argument, and concluded, That the Prisoner ought to be bailed.'

Likewise Sir
Miles Hobart,
Mr. Valentine,
and *Mr. Holles*.

The same Day *Sir Miles Hobart*, *Benjamin Valentine*, and *Denzil Holles*, Esq; appeared at the Bar, upon the *Habeas Corpus* directed to several Prisons. And their Counsel were ready to have argued the Case for them also: But, because the same Return was made for them as for *Mr. Selden*, they all declared, They would rely on this Argument made by *Mr. Littleton*.

Some few Days after, *Sir Robert Heath*, the King's Attorney-General, argued, 'That this Return was good; and that *Mr. Selden* and the rest of the Parties ought not to be bailed; and that, within the Return, there appears good Cause of their Commitment, and of their Detainer also. He said, The Case is great in Expectation and Consequence, and concerns the Liberty of the Sub-

Subject on one Part, whereof the Argument is plausible; and on the other Part it concerns the Safety and Sovereignty of the King, which (he said) is a Thing of great Weight; and that the Consideration of both pertained to the Judges, without slighting the one, or too much elevating the other: And so proceeded to his Argument, and concluded, That the Prisoners ought to be remanded.

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1629.

When the Court was ready to have delivered their Opinions in this great Business, the Prisoners were not brought to the Bar, according to the Rule of the Court: Therefore Proclamation was made, for the Keepers of the several Prisons to bring in their Prisoners; but none of them appeared, except the Marshal of the *King's Bench*, who informed the Court, 'That Mr. *Stroud*, who was in his Custody, was removed Yesterday, and put in the *Tower of London* by the King's own Warrant; and so it was done with the other Prisoners, for each of them was removed out of his Prison in which he was before:' But notwithstanding it was prayed by the Counsel for the Prisoners, that the Court would deliver their Opinion as to the Matter in Law; yet they refused to do so, because it was to no Purpose; for the Prisoners being absent, they could not be bailed, delivered, or remanded.

But are removed to other Prisons, by the King's Order.

The Evening before, there came a Letter to the Judges of this Court from the King himself, informing the Court with the Reasons, wherefore the Prisoners were not suffered to come at the Day appointed for the Resolution of the Judges. These were the Words of the Letter.

King's Attorney General, and the rest
turn was good; and that Mr. *Stroud* and the rest
of the Parties ought not to be bailed; and that
within the Return, there appears good Cause
their Commitment, and of their Detention also.
He said, The Case is great in Expectation and
Importance, and that the Liberty of the

An. J. Charles I.
1629.

To Our Trusty and Well-beloved, Our Chief Justice, and the rest of Our Justices of Our Bench.

C. R.

Trusty and well-beloved, We greet you well.

His Majesty's
Letter to the
Judges, on that
Occasion.

WHERE AS, by our special Commandment, we have lately removed Sir Miles Hobart, Walter Long, and William Stroud from the several Prisons where they were formerly committed, and have now sent them to our Tower of London; understanding there are various Constructions made thereof, according to the several Apprehensions of those who discourse of it, as if we had done it to decline the Course of Justice: We have therefore thought fit to let you know the true Reason and Occasion thereof; as also, why we commanded those and the other Prisoners should not come before you the last Day; We (having heard how most of them, a while since, did carry themselves insolently and unmannerly both towards us and your Lordships) were and are very sensible thereof; and though we hear yourselves gave them some Admonition for that Miscarriage, yet we could not but resent our Honour, and the Honour of so great a Court of Justice so far, as to let the World know how much we dislike the same: And, having understood, that your Lordships, and the rest of our Judges and Barons of our Court of Common Pleas and Exchequer (whose Advices and Judgments we have desired in this great Business, so much concerning our Government) have not yet resolved the main Question, we did not think the Presence of those Prisoners necessary; and until we should find their Temper and Discretions to be such as may deserve it, we were not willing to afford them Favour. Nevertheless, the Respect we bear to the Proceedings of that Court, hath caused us to give way, that Selden and Valentine should attend you To-morrow; they being sufficient to appear before you, since you cannot as

yet

yet give any resolute Opinion in the main Point in *An. 5. Charles I.*
Question. 1629.

Given under our Signet at our Manor at Greenwich, this 24th of June, in the fifth Year of our Reign.

Within three Hours after the Receipt of those Letters, other Letters were brought unto the said Judges, as followeth.

To Our Trusty and Well-beloved, Our Chief Justice, and the rest of Our Justices of our Bench.

C. R.

Trusty and Well-beloved, We greet you well,

Another Letter
from the King.

WHEREAS, by our Letters of this Day's Date, we gave you to understand our Pleasure, That of those Prisoners, which, by our Commandment, are kept in our Tower of London, Selden, and Valentine, should be brought To-morrow before you; now, upon more mature Deliberation, we have resolved, That all of them shall receive the same Treatment, and that none shall come before you, until we have Cause given us to believe they will make a better Demonstration of their Modesty and Civility, both towards us and your Lordships, than at their last Appearance they did.

Given under Our Signet at Our Manor at Greenwich, this 24th Day of June, in the 5th Year of Our Reign.

So the Court delivered no Opinion this Term; and the imprisoned Gentlemen continued in Restraint all the long Vacation.

Towards the latter End of this Vacation, all the Justices of the King's Bench, being then in the Country, received a Letter to be at Serjeant's-Inn upon Michaelmas-Day. These Letters were from the Council-Table; and the Cause expressed in them, was, That his Majesty had present and urgent Occa-

An. 5. Charles I.
1629.His Majesty
sends for the
Judges, and con-
fers with some of
them.

son to use their Service. The Judges came up accordingly on *Tuesday*, being *Michalemas-day*. The next Morning about four o'Clock, Letters were brought to the Chief Justice from Mr. *Trumbal*, Clerk of the Council then attending, that he and Judge *Whitlock*, one of the Judges of that Court, should attend the King that Morning, so soon as conveniently they could; which the Chief Justice and that Judge did at *Hampton* that Morning. Here, the King, taking them apart from the Council, fell upon the Business of the Gentlemen in the *Tower*; and was contented they should be bailed, notwithstanding their Obstinacy, in that they would not give the King a Petition, expressing, *That they were sorry he was offended with them*. He shewed his Purpose to proceed against them by the Common-Law in the *King's Bench*, and to leave his Proceeding in the *Star-chamber*. Divers other Matters he proposed to the said Judges by Way of Advice, and seemed well contented with what they answered, though it was not to his Mind; which was, *That the Offences were not capital; and that, by Law, the Prisoners ought to be bailed, giving Security for their good Behaviour*. Whereupon the King told them, *That he would never be offended with his Judges, so they dealt plainly with him, and did not answer him by Oracles and Riddles*. Both these Judges did, at that Time, what good Offices they could to bring on the King to heal this Breach.

A Motion to
bail the Prisoners.

The first Day of *Michaelmas Term*, it was moved, by Mr. *Mason*, to have the Resolution of the Judges; and the Court with one Voice said, *That they are now content, that they should be bailed, but that they ought to find Sureties also for their good Behaviour*. And Justice *Jones* said, *That so it was done in the Case which had been often remembered to another Purpose, to wit, Russel's Case in 9 E. III.* To which Mr. *Selden* answered (with whom all the other Prisoners agreed in opinion) *That they have their Sureties ready for the Bail, but not for the good Behaviour; and desire, that the Bail might first be accept-*

accepted, and that they be not urged to the other; An. 5. Charles I.
and that for these Reasons: 1629.

I. The Case here hath long depended in Court, they have been imprisoned for these thirty Weeks, and it had been oftentimes argued on the one Side and the other; and those that argued for the King, always demanded that we should be remanded; and those which argued on our Side, desired that we might be bailed or discharged; but it was never the Desire of the one Side or the other, that we should be bound to the good Behaviour. And, in the last Term, four several Days were appointed for the Resolution of the Court, and the sole Point in Question was, *If bailable or not.* Therefore they now desire, that the Matter of Bail and of good Behaviour may be severed, and not confounded.

II. Because the finding of Sureties of good Behaviour is seldom urged upon Returns of Felonies or Treasons. And it is but an Implication, upon the Return, that We are culpable of those Matters which are objected.

III. We demand to be bailed, in point of Right; and if it be not grantable of Right, we do not demand it; but the finding of Sureties for the good Behaviour, is a point of Discretion meerly; and we cannot assent to it, without great Offence to the Parliament, where these Matters, which, as furnished by the Return, were acted: And, by the Statute of 4 Hen. VIII. all Punishments of such Nature are made void and of none Effect, Therefore, &c.

CURIA, The Return doth not make mention of any thing done in Parliament; and we cannot, in a judicial way, take Notice that these Things were done in Parliament.—*Whitlocke*, The Surety of good Behaviour is as a preventing Medicine of the Damage, that may fall out to the Commonwealth; and it is an Act of Government and Jurisdiction, and not of Law.—*Crooke*, It is no Inconvenience to the Prisoners; for the same Bail sufficeth, and all shall be written upon

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The Opinion of
the Court.

An. r. Charles I.
1629.

one Piece of Parchment. — Hereupon Sir *Robert Heath*, Attorney-General said, 'That by the Command of the King, he had an Information ready in his Hand to deliver in the Court against them. — *Hild*, Chief-Justice, 'If now you refuse to find Sureties for the good Behaviour, and be for that Cause remanded; perhaps we, afterwards, will not grant *Habeas Corpus* for you, inasmuch as we are made acquainted with the Cause of your Imprisonment.'

Hereupon *Ashley*, the King's Sergeant, offered his own Bail for Mr. *Holles*, one of the Prisoners, (who had married his Daughter and Heirefs) but the Court refused it; 'For it is contrary to the Course of the Court unless the Prisoner himself will become bound also.' And this Mr. *Holles* had denied to do.

Mr. *Lang*, tho' he had found Sureties in the Chief Justice's Chamber, for the good Behaviour, refused to continue his Sureties any longer; inasmuch as they were bound in a great Sum of 2000 *l.* and the good Behaviour was a ticklish Point. Therefore, he was committed to the Custody of the Marshal; and all the other Prisoners were remanded to the Tower, because they would not find Sureties for the good Behaviour.

An Information
exhibited in the
King's-Bench, a-
gainst Sir *John
Elliot*, &c.

The same Term, an Information was exhibited, by the Attorney-General, against Sir *John Elliot*, *Denzil Holles*, and *Benjamin Valentine*, reciting, 'That a Parliament was summoned to be held at *Westminster*, 17 *Martii, tertio Caroli Regis, ibid. inchoat.* and that Sir *John Elliot* was duly elected, and returned Knight for the County of *Cornwall*, and the other two Burgesses of Parliament for other Places: And Sir *John Finch* chosen Speaker.

'That Sir *John Elliot*, machinans & intendens, omnibus Viis & Modis, seminare & excitare Discord, Evil-will, Murmurings and Seditions; as well versus Regem, Magnates, Prælatos, Proceres, & Justiciarios suos, quam inter Magnates, Proceres, & Justiciarios, & reliquos Subditos Regis, & totaliter deprivare & avertere Regimen & Gubernationem Regni Angliæ, tam in Domino Rege, quam in Con-
siliariis

Baris & Ministris suis cujuscunque generis; & intro- An. 5. Charles I.
ducere Tumultum & Confusionem in all States and 1629.
 Parts, & *ad intentionem*, That all the King's Sub-
 jects should withdraw their Affections from the
 King; did on the 23d of *February An. 4 Carol.* in
 the Parliament, and hearing of the Commons, *falsè,*
malitiose & seditiose, use these Words, *The King's*
Privy-Council, his Judges, and his Counsel learned,
have conspired together to trample under their Feet
the Liberties of the Subjects of this Realm, and the
Liberties of this House.

And afterwards, upon the 2d of *March, Anno 4*
 aforesaid, the King appointed the Parliament to be
 adjourned till the 10th of *March* next following,
 and so signified his Pleasure to the House of Com-
 mons: And that the three Defendants, the said 2d
 Day of *March, 4 Car. malitiose,* agreed, and amongst
 themselves conspired to disturb and distract the
 Commons, that they should not adjourn themselves
 according to the King's Pleasure before signified;
 And that the said Sir *John Elliot,* according to the
 Agreement and Conspiracy aforesaid, had maliciously
 in *Proposum & Intentionem prædictæ* in the House
 of Commons aforesaid, spoken these false, malicious,
 pernicious, and seditious Words precedent, &c.
 And that the said *Denzil Holles,* according to the
 Agreement and Conspiracy aforesaid, between him
 and the other Defendants, then and there, *falsè,*
malitiose, & seditiose, uttered *hæc falsa, malitiosa,*
& scandalosa Verba precedentia, &c. And that the
 said *Denzil Holles,* and *Benjamin Valentine, secundum*
Agreementum & Conspirationem prædictæ, & ad
Intentionem & Proposum prædictæ. uttered the said
 Words upon the said 2d of *March,* after the signify-
 ing the King's Pleasure to adjourn: And the said
 Sir *John Finch,* the Speaker, endeavouring to get
 out of the Chair according to the King's Command,
 They *Vi & Armis, Manu forti & illicito,* assaulted,
 evil-treated, and forcibly detained him in the Chair:
 And afterwards, he being out of the Chair, they
 assaulted him in the House, and evil-treated him,
 & *violenter, Manu forti & illicito,* drew him to the
 Chair,

Charles I.
1629.

Chair, and thrust him into it: Whereupon there was a great Tumult and Commotion in the House, to the great Terror of the Commons there assembled, against their Allegiance, *in maximum Contemptum*, and to the Dishonour of the King, his Crown and Dignity; for which, &c.

Their Plea.

To this Information the Defendants put in a Plea to the Jurisdiction of the Court: *Forasmuch as these Offences are supposed to have been done in Parliament, they ought not to be punished in this Court, or any other except in Parliament.* And the Attorney General moved the Court to over-rule the Plea, as to the Jurisdiction of the Court; and this he said, the Court might do, although he did not demur upon the Plea; but the Court would not over-rule the Plea; but gave a Day to join in Demurrer that Term; And on the first Day of the next Term, the Record to be read; and within a Day after argued, at the Bar.

In *Hilary* Term following, the Case of *Walter Long*, Esquire, one of the imprisoned Gentlemen, came to a Hearing in the *Star-Chamber*, which was as followeth:

Mr. *Walter Long's* Case in the *Star-Chamber*.

An Information was exhibited into the *Star-Chamber*, by Sir *Robert Heath*, Knight, his Majesty's Attorney General, Plaintiff, against the said *Walter Long* Defendant, 'For a great and presumptuous Contempt against his Majesty, for Breach of Duty and Trust of his Office, and for manifest and wilful Breach of his Oath taken as High Sheriff of the County of *Wilts*, and not residing and dwelling in his own Person in the said County, according to the said Oath; but being chosen one of the Citizens for the City of *Bath*, in the County of *Somerset*, to serve for the said City in the last Parliament, by Colour thereof he remained at *London* or *Westminster* during the Time of that Parliament, by the space of three Months and above; in Neglect of his Duty, and in manifest Contempt of the Laws of this Kingdom;

Which

Which Cause was now, by his Majesty's said Attorney General, brought to a Hearing upon the Defendants own Confession. An. 3. Charles I.
1629.

That upon opening the Answer, and reading the Examination of the said Defendant, it appeared to this Court, ' That the said Defendant, *Long*, was ' by his now Majesty made High Sheriff of the ' County of *Wilts*, in or about *November*, in the ' third Year of his Majesty's Reign, received his ' Patent of Sheriffwick for the said County about ' ten Days after; and that he took an Oath before ' one of the Masters of the Chancery, for the due ' Execution of the said Office of Sheriff of the said ' County.' In which Oath, as appeared by the same there read in Court, he did swear, That he would in his own Person remain within his Bailiffwick during all the Time of his Sheriffwick, unless he had the King's License to the contrary; and that at an Election of Citizens for the said City of *Bath*, the said Defendant, *Long*, was chosen one of the Citizens to serve for the said City of *Bath*, in the Parliament then summoned, to be holden and commence upon the 17th Day of *March*, in the said third Year of his Majesty's Reign; and being so chosen, and returned by the Sheriff of the County of *Somerset*, notwithstanding his said Oath taken to remain in his proper Person, within his Bailiffwick, unless he were licensed by his Majesty; he the said Defendant did make his personal Appearance in the Commons House of Parliament, at the City of *Westminster*, in the County of *Middlesex*; and did, during the most Part of the said Parliament, continue in and about the City of *London* and *Westminster*, and did attend in the Parliament, as a Citizen for the said City of *Bath*; during all which Time he likewise was, and continued High Sheriff for the said County of *Wilts*, and had no particular License from his Majesty to the contrary. Upon Consideration whereof, as also of the particular Causes and Reasons of the Defendant's Demurrer and Plea formerly exhibited unto the said Information; the Benefit whereof was by Order of the Court reserved unto the Defendant to be

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be debated and considered of at the hearing of this Cause; and of divers other Matters now urged for the Defendant, both to have justified his the said Defendant's Attendance in Parliament, and his not Residence in Person in the County whereof he was then Sheriff; and among other Things, that it properly belonged to the House of Parliament to judge of the Justness or Unjustness of the said Election; and upon grave and mature Consideration thereof had and taken by the Court; their Lordships did not only conceive the said Demurter and Plea, and other the Arguments and Reasons used by the Defendant and his Counsel, to be of no Weight or Strength, but also to be in Opposition and Derogation of the Jurisdiction of the Court; the Reasons moved and urged for the Defendant's Excuse or Justification being clearly answered, and the Charges of the Information made good by Mr. Attorney General, and others of his Majesty's Counsel learned.

And therefore the whole Court were clear of Opinion, and did so declare, *That the said Defendants, who at that Time, as High Sheriff, had the Custody and Charge of the County of Wilts committed unto him by his Majesty; had taken his Oath according to the Law to abide in his proper Person within his Bailiffwick, during all the Time of his Sheriffwick as aforesaid; and whose Trust and Employment did require his personal Attendance in the said County; had not only committed a great Offence in violating the said Oath so by him taken, but also a great Misdemeanor in Breach of the Trust committed unto him by his Majesty; and in Contempt of his Majesty's Pleasure signified unto him, by and under his Highness's Great Seal, when he granted unto him the said Office of Sheriffwick aforesaid. For which said several great Offences, in Breach of his said Oath, Neglect of the Trust and Duty of his Office, and the great and high Contempt of his Majesty, their Lordships did hold the same Defendant worthy the Sentence of the Court; the rather, to the End that, by this Example,*

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ample, the Sheriffs of all other Counties may be deterred from committing the like Offences hereafter; and may take Notice, that their personal Residence and Attendance is required within their Bayliffwicks during the Time of their Sheriffwick.

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The Court therefore thought fit, ordered, adjudged, and decreed, That the said Defendant should stand and be committed to the Prison of the Tower, there to remain during his Majesty's Pleasure, and also pay a Fine of two thousand Marks to his Majesty's Use; and further, make his humble Submission and Acknowledgment of his Offence both in the Court of Star-chamber, and to his Majesty, before his Enlargement from thence.

In the same Term, Mr. Mason argued, in the King's Bench, for Sir John Elliot, against the Information preferred against him (amongst others) by Sir Robert Heath, the King's Attorney-General; and the same Day the Attorney-General argued in Maintenance of the said Information: The Judges also, the same Day, spake briefly to the Case, and agreed with one Voice, That the Court, as this Case is, shall have Jurisdiction, although that these Offences were committed in Parliament; and that the imprisoned Members ought to answer.

The Judges give their Opinions, in the Case of Sir John Elliot, &c.

Mr. Justice Jones began, and said, 'That though this Question be now newly moved, yet it is an ancient Question with him; for it had been in his Thoughts these eighteen years. For this Information there are three Questions in it:

1. Whether the Matters informed be true or false; and this ought to be determined by Jury or Demurrer?

Mr. Justice Jones.

2. When the Matters of the Information are found or confessed to be true, if the Information be good in Substance?

3. Admit that the Offences are truly charged, if this Court hath Power to punish them? And that is the sole Question of this Day.

And

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And it seems to me, that of these Offences, although committed in Parliament, this Court shall have Jurisdiction to punish them. The Plea of the Defendants, here, to the Jurisdiction being concluded with a Demurrer, is not peremptory unto them, although it be adjudged against them; but if the Plea be pleaded to the Jurisdiction, which is found against the Defendant by Verdict, this is peremptory.

In the Discussion of this Point, I decline these Questions:

1. If the Matter be voted in Parliament, when it is finished, whether it can be punished and examined in another Court?

2. If the Matter be commenced in Parliament, and that ended, if afterward it may be questioned in another Court?

I question not these Matters, but I hold, That an Offence committed, criminally, in Parliament, may be questioned elsewhere, as in this Court; and that for these Reasons:

First, *Quia interest Reipublicæ, ut Maleficia non maneat impunita*; and there ought to be a fresh Punishment of them. Parliaments are called at the King's Pleasure, and the King is not compellable to call his Parliament; and if, before the next Parliament, the Party offending, or the Witnesses die, then there will be a Failure of Justice.

Secondly, The Parliament is no constant Court; every Parliament mostly consists of several Men, and, by Consequence, they cannot take Notice of Matters done in the foregoing Parliament; and there they do not examine by Oath, unless it be in *Chancery*, as it is used of late Time.

Thirdly, The Parliament cannot send Proceſs to make the Offenders to appear at the next Parliament; and being at large, if they hear a Noise of a Parliament, they will *fugam facere*, and so prevent their Punishment.

Fourthly, Put the Case that one of the Defendants be made a Baron of Parliament, then he cannot be

be punished in the House of Commons; and so he shall go unpunished. An. 5. Charles I.
1629.

‘It hath been objected, That the Parliament is a superior Court to this, therefore this Court cannot examine their Proceedings.

‘To this I say, That this Court of the King’s Bench is a higher Court than the Justices of Oyer and Terminer, or the Justices of Assize: But if an Offence be done where the King’s Bench is, after it is removed, this Offence may be examined by the Justices of Oyer and Terminer, or by the Justices of Assize. We cannot question the Judgments of Parliaments, but their particular Offences.

‘A second Objection is, That it is a Privilege of Parliament, whereof we are not competent Judges.

‘To this I say, That *Privilegium est privata Lex, & privata Legem*. And this ought to be by Grant or Prescription, in Parliament; and then it ought to be pleaded for the Manner, as is in 33 H. 8. (*Dyer*) as it is not here pleaded. Also, we are Judges of all Acts of Parliament; as 4 H. 7. Ordinance made by the King and Commons is not good, and we are Judges what shall be said a Session of Parliament, as it is in *Plowden*, in *Partridge’s Case*. We are Judges of their Lives and Lands, therefore of their Liberties. And, 8 Eliz. (which was cited by Mr. Attorney) it was the Opinion of *Dyer*, *Catlyn*, *Walsb*, *Brown*, and *Southcot*, Justices, ‘That Offences committed in Parliament may be punished out of Parliament. And 3 Ed. 5. 19. it is good Law. And it is usual, near the End of Parliaments, to set down some petty Punishment upon Offenders in Parliament, to prevent other Courts. And I have seen a Roll in this Court, in 6 H. 6. where Judgment was given in a Writ of Annuity in Ireland; and afterward the said Judgment was reversed in Parliament in Ireland; upon which Judgment Writ of Error was brought in this Court, and reversed.’

Hide,

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Lord Chief Justice *Hide*.

Hide, Chief Justice argued to the same Effect: 'No new Matter hath been offered to us, now, by them that argue for the Defendants; but the same Reasons and Authorities, in Substance, which were objected before all the Justices of *England*, and Barons of the *Exchequer*, at *Serjeant's-Inn* in *Fleet-Street*; upon an Information, in the *Star-chamber*, for the same Matter. At which Time, after great Deliberation, it was resolved by all of them, *That an Offence committed in Parliament, that being ended, may be punished out of Parliament: And no Court more apt for that Purpose than this Court, in which we are; for it cannot be punished in a future Parliament, because that cannot take Notice of Matters done in a foregoing Parliament.*

'As to what was said, *That an inferior Court cannot meddle with Matters done in a superior; True it is, that an inferior Court cannot meddle with Judgments of a superior Court; but if particular Members of a superior Court offend, they are oft-times punishable in an inferior Court: As, if a Judge shall commit a capital Offence in this Court, he may be arraigned thereof at Newgate. 3 E. 3. 19. and 1 Mar. which have been cited, over-rule this Case. Therefore, &c.*

Mr. Justice *Whitlocke*.

Whitlocke accordingly. 'I say in this Case,

'1. *Nihil dictum quod non dictum prius.*

'2. That all the Judges of *England* have resolved this very Point.

'3. That now we are but upon the Brink and Skirts of the Cause; for it is not now in question, if these be Offences or no; or, if true or false; but only if this Court have Jurisdiction.

'It hath been objected, *That the Offence is not capital, therefore it is not examinable in this Court. But though it be not capital, yet it is criminal; for it is sowing of Sedition to the Destruction of the Commonwealth.*

'The

‘ The Question, now, is not between us, that are An. 5. Charles 1629. Judges of this Court, and the Parliament, or between the King and the Parliament; but between some private Members of the House of Commons and the King himself: For here the King himself questions them for those Offences; as well he may. In every Common-Wealth there is one super-eminent Power, which is not subject to be questioned by any other; and that is the King in this Common-Wealth; who, as *Bracton* saith, *Solum Deum habet Ulterorem*: But no other, within the Realm, hath this Privilege. It is true, that that which is done in Parliament, by Consent of all the House, shall not be questioned elsewhere: But if any private Members, *excunt Personas Judicum, & induunt Malefacientium Personas, & sunt seditiosi*; is there such Sanctimony in the Place, that they may not be questioned for it elsewhere?

‘ The Bishop of *Ross*, as the Case hath been put, being Ambassador here, practised Matters against the State: And it was resolved, That although *Legatus sit Rex in alieno Solo*, yet when he goes out of the Bounds of his Office, and complots with Traitors in this Kingdom, that he shall be punished as an Offender here. A Minister hath a great Privilege when he is in the Pulpit; but yet if, in the Pulpit, he utter Speeches which are scandalous to the State, he is punishable. So in this Case, when a Burgess of Parliament becomes mutinous, he shall not have the Privilege of Parliament. In my Opinion, the Realm cannot consist without Parliaments, but the Behaviour of Parliament-Men ought to be parliamentary. No outrageous Speeches were ever used against a great Minister of State in Parliament, which have not been punished. If a Judge of this Court utter scandalous Speeches against the State, he may be questioned for them before Commissioners of *Oyer and Terminer*; because this is no judicial Act of the Court.

‘ But it hath been objected: *That we cannot examine Acts done by a higher Power.* To this I put

An. 5 Charles I. this Case: When a Peer of the Realm is arraigned
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of Treason, we are not his Judges, but the High-Steward; and he shall be tried by his Peers: But if Error be committed in this Proceeding, that shall be reversed by Error in this Court: For that which we do is *Coram ipso Rege*.

It hath been objected, *That the Parliament-Law differs from the Law by which we judge, in this Court, in sundry Cases.* And for the Instance which hath been made, *That, by the Statute, none ought to be chosen Burgeses of a Town in which he doth not inhabit; but that the Usage of Parliament is contrary.* Yet if Information be brought upon the said Statute against such a Burgeses, I think the Statute is a good Warrant for us to give Judgment against him.

And it hath been objected, *That there is no Precedent in this Matter.* But there are sundry Precedents, by which it appears, that the Parliament hath transmitted Matters to this Court; as 2. *Rich. II.* there being a Question between a great Peer and a Bishop, it was transmitted to this Court, being for Matter of Behaviour: And although the Judges of this Court are but inferiour Men, yet the Court is higher; for it appears, by the 11. *Eliz. (Dyer)* That the Earl Marshal of England is an Officer of this Court; and it is always admitted in Parliament, That the Privileges of Parliament hold not in three Cases, to wit, First, *In case of Treason*; Secondly, *In case of Felony*; and, Thirdly, *In Suit for the Peace.* And the last is our very Case. Therefore, &c.

Mr. Justice
Crooke.

Mr. Justice Crooke argued to the same Intent, he said, These Offences ought to be punished in this Court, or no where; and all Manner of Offences, which are against the Crown, are examinable in this Court.

It hath been objected, *That by this Means, none will adventure to make his Complaints in Parliament.* That is not so; for he may complain in a parliamentary Course, but not falsely and unlawfully, as here is pretended; for that which is unlawful cannot be a parliamentary Course.

‘ It hath been objected, *That the Parliament is* An. 5. Charles I. 1629.
a higher Court than this. And it is true: But every Member of Parliament is not a Court; and if he commit Offence, he is punishable here. Our Court is a Court of high Jurisdiction, tho’ it cannot take Cognizance of real Pleas; but if a real Plea comes by Error in this Court, it shall never be transmitted. But this Court may award a *Grand Capias*, and other Proces usual in real Actions: But of all capital and criminal Causes we are, originally, competent Judges; and, by Consequence, of this Matter. But I am not of the Opinion of Mr, Attorney General, That the Word *Proditore* would have made this Treason.’

And for the other Matters, Mr. Justice *Crooke* agreed with the other Judges. Therefore by the Court, the Defendants were ruled to plead further; and Mr. *Lenthall*, of *Lincoln’s-Inn*, was assigned of Council for them.

But, inasmuch as the Defendants would not put in other Plea, on the last Day of the Term Judgment was given against them upon a *Nilil dicit*; which Judgment was pronounced by Mr. Justice *Jones*, to this Effect:

‘ The Matter of the Information now, by the
 ‘ Confession of the Defendants, is admitted to be The Judgment pronounced by Mr. Justice Jones.
 ‘ true; and we think their Plea to the Jurisdiction
 ‘ insufficient for the Matter and Manner of it.
 ‘ And we hereby will not draw the true Liberties
 ‘ of Parliament-Men into question; *to wit*, for
 ‘ such Matters which they do or speak in a parli-
 ‘ amentary Manner: But, in this Case, there was
 ‘ a Conspiracy between the Defendants to slander
 ‘ the State, and to raise Sedition and Discord be-
 ‘ tween the King, his Peers, and People; and this
 ‘ was not a parliamentary Course. All the Judges
 ‘ of *England*, except one, have resolved the Sta-
 ‘ tute of 4. *Henry VIII.* to be a private Act, and
 ‘ to extend to *Stroud* only. But, tho’ every Mem-
 ‘ ber of the Parliament shall have such Privileges
 ‘ as are there mentioned, yet they have no Privi-
 ‘ lege to speak at their Pleasure. The Parliament

An. 5. Charles I.
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is an high Court, therefore it ought not to be disorderly, but ought to give good Example to other Courts. If a Judge of our Court shall rail at the State or Clergy, he is punishable for it. A Member of the Parliament may charge any great Officer of the State with any particular Offence; but this was a malevolous Accusation, in the Generality, against all the Officers of State; therefore the Matter contained within the Information is a great Offence, and punishable in this Court. For the Punishment, although the Offence be great, yet that shall be with a light Hand, and shall be in this Manner:

1. *That every of the Defendants shall be imprisoned during the King's Pleasure: Sir John Elliot to be imprisoned in the Tower of London, and the other Defendants in other Prisons.*

2. *That none of them shall be delivered out of Prison, untill he give Security in this Court for his good Behaviour; and have made Submission and Acknowledgement of his Offence.*

3. *Sir John Elliot, inasmuch as we think him the greatest Offender, and the Ringleader, shall pay to the King a Fine of 2000l. and Mr. Hollis a Fine of 1000 Marks: And Mr. Valentine, because he is of less Ability than the rest, shall pay a Fine of 500l.*

And to all this all the other Justices, with one Voice, acceded.

Thus the Judges, who, in the Case of Sir Dudley Digges and Sir John Elliot, before-mentioned, gave it as their Opinion, 'That the Restraint of those two Members was equal to a Restraint of the whole House;' now found it better Law to say otherwise (a).

Some of these Gentlemen died in Prison, because they would not pay the Fine; others, not able to pay it, on their Petitions, Submission, and Condition not to come nearer the Court than ten Miles, and giving a Bond of 2000l. for their good Behaviour, were released. Amongst which was Mr. Strand, a younger

(a) See Vol. VII. p. 167.

a younger Son of Sir *John Straud*, then living; whose Sufferings, now, were afterwards amply rewarded. An. 5. Charles I.
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Soon after this Parliament was dissolved, his Majesty understanding, That several Members of the House of Commons had, industriously, spread it about, in different Parts of the Kingdom; That he was for destroying the Liberties of the People, by taking *Tunnage* and *Powndage* without Consent of Parliament; that Trade was quite ruined and gone; and Religion in Danger: The King, set forth another Proclamation; with which we shall take a final Leave of this Parliament (b).

By the KING.

THAT, notwithstanding his Majesty's late Declaration, for satisfying the Minds and Affections of his loving Subjects, some ill-disposed Persons do spread false and pernicious Rumours abroad; as if the scandalous and seditious Proposition, in the House of Commons, tumultuously taken by some few, after that by his Majesty's Royal Authority he had commanded their Adjournment, had been the Voice of the whole House, whereas the contrary is the Truth. Which Proposition was a Thing of a most wicked and dangerous Consequence to the good Estate of this Kingdom; and it appeareth to be so, by those Impressions which this false Rumour hath made in Men's Minds; whereby, out of causeless Fears, the Trade of this Kingdom is disturbed, and Merchants discouraged to continue their Traffick. His Majesty hath thought it expedient, not only to manifest the Truth thereof, but to make known his Royal Pleasure, That those, who raise or nourish false Reports, shall be severely punished; and such as cheerfully go on with their Trades, shall have all good Encouragement; not purposing to overcharge his Subjects by any new Burdens; but to satisfy himself with those Duties that were received by the King his Father, of blessed Memory, which his now Majesty neither can nor will dispence withal. And, whereas, for several

The King's Proclamation against false Rumours,

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(b) *Franklyn's Annals*, p. 361. This Proclamation is not in *Rugbworth*.

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An. 5. Charles I
1629.

ill Ends, the Calling again of a Parliament is divulged; howsoever his Majesty hath shewed, by his frequent Meeting with his People, his Love to the Use of Parliaments; yet, this late Abuse, having, for the present, driven his Majesty, unwillingly, out of that Course; he shall account it Presumption for any to prescribe any Time to his Majesty for Parliaments; the Calling, Continuing, and Dissolving of them being always in the King's own Power. And, his Majesty shall be more inclinable to meet in Parliament again, when his People shall see more clearly into his Intents and Actions; when such as have bred this Interruption shall receive their condign Punishment; and those that are misled by them, and such ill Reports as are raised upon this Occasion, shall come to a better Understanding of his Majesty and themselves.

A Review of the most remarkable Occurrences from the Dissolution of the Parliament, 1628, to the Meeting of the next.

Thus ended the third Parliament of King Charles I. and in the same Manner with the two former; the first, as has been said, being dissolved by the Influence of the Duke of Buckingham, and the last by the Lord Treasurer *Weston*. The Character of this Minister, and of others concerned in these Times, we leave to the descriptiōnal Pen of the noble Historian: The Design of these Enquiries, not being to enter into such Personalities; unless, we find some Minister of State, drawn to our Hands, in some particular Speech made in Parliament.

Whitlocke tells us, That, soon after the Dissolution of this Parliament, the King took a Course to gain the most eminent Members, that had been against him, to become of his Party, and to do him Service. Accordingly Sir *Dudley Diggs* was made Master of the Rolls, Mr. *Noy*, Attorney-General, and Mr. *Littleton*, Solicitor.

We have now a long Series of Years to run over, without the least Mention of a Parliament; the King and his Council being resolved to use their utmost Efforts in supporting the State, without the Assistance of that other great Branch of English Legislature. Lord *Clarendon* observes, 'That the unhappy

happy Assaults, made upon the Prerogative, had produced the untimely Dissolution of the last; and the King was resolved, now, to try if he could not give his People a Taste of Happiness, and let them see the Equity of his Government in a single State.

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To this End, by the Advice of his Council, the King first made a firm Peace with both the Crowns of France and Spain, upon better Terms and Conditions than could reasonably have been hoped for; especially, when these two Powers must know that the Sinews of War were wanting, in the English Ministry, to carry it on. Being secured in that grand Point, many Projects were set on Foot to support the State; which, in a free Country, must ever be termed illegal. Supplemental Acts of State were made to supply Defect of Laws. *Tunnage* and *Poundage*, denied by Parliament, and other Duties upon Merchandizes, were collected by Order of the Board; and new, and greater, Impositions laid upon Trade. Obsolete Laws were revived, and rigorously executed; 'By which, says the Noble Historian, the Subject might be taught how unthrifty a Thing it was, by too strict Detaining of what was his, to put the King, as strictly, to enquire what was really his own (c).'

For this Purpose, the antient Law of Knighthood was revived; by which a great Sum of Money was received from Men of Estates liable to this Fine; but, though, in it's Foundation, it was right, yet the Circumstances in Proceeding, this Way, were thought very grievous. Many other Projects were set on Foot, some ridiculous and some scandalous, says *Clarendon*, but all very grievous; the Envy and Reproach of which came to the King, the Profit to other Men. Inomuch, as the aforesaid Historian avers, that of 200,000 l. drawn from the Subject by these Ways, in one Year, scarce 1500 l. came to the King's Use or Account. To recompense the Damage the Crown had sustained by the Sale of the old Lands and the Grants of new Pensions, the old Forest Laws were revived; by which, not on-

Anno 1630.

(c) *Clarendon* Vol. I. p. 53. *Fol. Fdit.*

An. 10. Car. I. 1634. ly great Fines were imposed, but great annual Rents intended, and like to be settled by Way of Contract. This Burthen fell, mostly, on Persons of Quality and large Estates, who thought themselves above ordinary Oppressions; and were, therefore, the more likely to remember it with Bitterness.

But the most notorious of all these Impositions, and the most remarkable, in the Histories of these Times, was the Affair of *Ship-Money*. It is said to have been first projected, in the Year 1634, by the, then, Attorney-General *Noy*; who died soon after and left this Legacy; which, afterwards proved the greatest Make-bate, that ever yet happened between Prince and People. It was designed, at first, like our *Sinking Fund*, as an inexhaustible Spring, or Magazine, that should have no Bottom; and for an everlasting Supply, on all Occasions. To this End, a Writ was drawn in Form of Law, and directed to the Sheriff of every County in *England*; 'To provide a Ship of War for the King's Service; and to send it, amply stored and fitted up, by such a Day, to such a Place.' And, with the Writ, were sent Instructions to each Sheriff, 'That, instead of a Ship, he should levy upon his County such a Sum of Money, and return the same to the Treasurer of the Navy for his Majesty's Use; with Direction in what Manner he should proceed against such as refused.' By this Way, alone, the yearly Sum of 200,000*l.* accrued to the King's Coffers; but, tho' the Receipt of it was levied, regularly, for four Years together, yet it was, at last, put a Stop to, by one private Gentleman's Refusal to pay twenty or thirty Shillings as his Share. This occasioned a Law Suit, between the King and *John Hambden*, Esq; which was, publickly and solemnly, argued, in the *Exchequer-Chamber*, before all the Judges in *England*: Of whom ten gave their Opinions for the King's Right to impose, and the Legality of this Tax; but, as Lord *Clarendon* again observes, the Judgment proved of more Credit and Advantage to the Gentleman condemned, than to the King's Service.

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But, as all these Taxes and Impositions, as well as the Persons concerned in advising of them, will be more largely treated on, in the Proceedings of the next Parliament, we shall wave any further Disquisition of them here. We have, chiefly, followed the Noble Historian, in the preceeding Account; and sure, he says, he cannot be accused of much Flattery in the Inquisition. However, he adds, 'These Errors in Government were not to be imputed to the Court, at that Time, but to the Spirit and Over-Activity of the Lawyers of the Privy-Council; who should, more carefully, have preserved their Profession, and its Professors, from being profaned by those Services, which have rendered both so obnoxious to Repróach.'

And yet, notwithstanding all these Exactions looked so formidable, and seemed to threaten the utter Ruin of the Kingdom; it is certain, by the Testimony of the Noble Historian, *Rusworth* himself, and all other cotemporary Historians, That the Nation never was happier than in these very Times: For, during the whole Period that these Pressures were executed, and these new and extraordinary Ways were run; that is, from the fourth Year of this Reign, when the last Parliament was dissolved, to the Calling of another, a Sequel of about twelve Years, this Kingdom, and all the King's Dominions, enjoyed the greatest Calm, and the fullest Measure of Peace and Plenty, that any People in any Age, for so long a Time together, ever were blessed with; to the Wonder and Envy of all other Parts of *Christendom*; and was the more visibly manifest in *England*, at that Time, by the sharp and bloody Wars between the neighbouring Crowns of *France* and *Spain*; and from the universal Conflagration, which, from the Invasion of the *Swedes*, under their famous King *Gustavus Adolphus*, covered then the whole *German* Empire.

Indeed, some little Disturbances happened in *Scotland*, in the Year 1637, by the Introduction of the *English* Liturgy into that Kingdom. The Doctrine

An. 13. Car. I. 1637. doctrine of *John Knox* had gained so fast a footing there, that all Archbishop *Laud's* Injunctions, or Admonitions, could not remove it. The *Scots* began to be very tumultuous on this Occasion; they petitioned the King and Council against the Liturgy; and, at last, entered into a solemn League and Covenant to support their own Reformed Kirk. To quiet these perturbed Spirits, the Marquis of *Hamilton* was sent the King's Commissioner into *Scotland*; who had a Conference and Consultation with the *Covenanters*; and they, demanding a General Assembly of the Kirk, and a Parliament; and, at the same Time, doubling their Guards, the Marquis thought himself not safe amongst them; but retired to *Dalkeith*, and sent to the King for new Instructions.

Anno 1638. Soon after the King consented to the Desires of the *Scots*, and allowed of both a General Assembly of their Divines and a Parliament; but yet the *Covenanters* were not satisfied; and the Marquis had many Journeys, backwards and forwards, to settle this Affair. This Year, on his Return to *Edinburgh*, he summoned a Council, to whom he delivered the King's Letters, containing a Declaration for nulling the Service-Book, High Commission, Canons, &c. An Assembly of Divines met at *Glasgow*, against which the *Scots* Bishops protested; but it did not sit long, being quickly dissolved; and the Marquis of *Hamilton* again returned for *England*.

The Earl of *Argyle*, about this Time, joined the *Covenanters*; and the Acquisition of so potent a Lord, gave them such Spirits, that they began to arm in all Parts; and even solicited *France*, an old Ally to the *Scots* Nation, to assist them. State-Papers were dispersed in *England*, to vindicate their Actions and Intentions, which were suppressed by Proclamation.

Anno 1639. The King finding that nothing could reclaim his natural-born Subjects from this enthusiastic Attempt, resolved to reduce them by Force; and, accordingly, this Year, marched with an Army
to

to the Borders, and encamped within two Miles of *Berwick*, and in View of the *Scots* Army. At the same Time the Marquis of *Hamilton* appeared with the *English* Navy, at the Mouth of the *Firth* of *Edinburgh*. Reduced to these Straits, the *Covenanters* thought fit to capitulate; and the King soon granted them a Pacification, on their Promise to lay down their Arms and prove better Subjects for the future. Both the Armies were disbanded, and the King returning to *London*, the *Scots* seditious Papers, being disowned by the *Covenanters*, were publickly burnt.

But to return nearer home.—

The King's Councils were now said to be chiefly governed by Archbishop *Laud* and the Earl of *Strafford*; Names that are too well known in History to need any Explanation here. The former had been introduced to Court by the Favour of the Duke of *Buckingham*; made Bishop of *St. Davids*, afterwards of *London*, and, lastly, Archbishop of *Canterbury*. Sir *Thomas Wentworth* has, already, made a Figure, in these Enquiries, as a private Gentleman and a Member of the House of Commons; but is likely to make a much greater soon, under the Titles of Baron *Wentworth*, Lord-Deputy of *Ireland*, and Earl of *Strafford*.

The late Expedition against the *Scots* had greatly impoverished the King's Exchequer; and there being, again, Reason to fear another Insurrection in that Kingdom, an Army was judged necessary to be raised; but no Means could be found to support it, except by the Assistance of Parliament. Those Assemblies had now been dissolved for, near, twelve Years; some Disorders in the last, which occasioned the Dissolution of it, had so far disgusted the King that he was little inclined to call another Parliament, till the Exigencies of State and some favourable Insinuations obtained it from him. The Temper of the House of Peers was not to be apprehended; and it was believed, that the long Intermission, and the general Composure of Men's Minds, in a happy Peace and universal Plenty, would

An. 15. Car. I.
1639.

An. 15. Car. 1. would have induced the Nation to chuse such Men for their Representatives, as would not disturb those two great Blessings of Life; notwithstanding the Murmurs of the People against some Exorbitances of the State. Especially, too, when the Kingdom was highly exasperated against the *Scots*, for their late presumptive Invasion; it was believed that a Parliament would express a very sharp Sense of their Insolence and Carriage towards the King, and provide accordingly (d).

Upon these Motives and Reasons, and by the unanimous Advice of his whole Council, the King was induced to call a Parliament; and the Lord Keeper was directed to issue out Writs for one to meet the 13th (e) of April; which was in the Year 1640, and in the 16th of this Reign.

Mr. *Rushworth* hath given us the Names of all the Members of the House of Commons, who were elected to serve in this Parliament; but this we think needless to repeat here, since they were dissolved in three Weeks after their first Meeting; and, especially, as we design to give an exact List of the Members of the next, or long Parliament, with all the various Changes in that Body, down to the Restoration: By comparing which, the Reader may observe what particular Alterations there were made in it, by Death, or otherwise, during a Series of Twenty Years.

According to ancient Custom, Proclamation was made in the Lobby of the House of Commons, by Order of the Lord Steward, the Earl of *Arundel*, That all the Members should take the Oaths of Allegiance and Supremacy, before him, or they could not take their Seats in the House. He also gave Orders, That if there were more returned than ought to be, none should be sworn, until it should be decided by the House who were duly elected:

(d) *Clarendon's History*, Vol. I. *Fol. Edit.* p. 103.

(e) Lord *Clarendon*, by Mistake, says the *third*.

electd; And that no Earl's eldest Son should be called by the Title of Viscount, &c. Am. 15. Car. 1. 1639.

April 13. The three Estates of the Realm being met in the House of Lords, with the usual Ceremonies and Formalities, the King opened the Session with a few Words to this Effect (f): A new Parliament called, Anno Regni 16. 1640.

My Lords and Gentlemen,

THere never was a King that had a more great and weighty Cause to call his People together than myself: I will not trouble you with the Particulars; I have informed my Lord Keeper, and commanded him to speak and desire your Attention. The King's Speech at opening the Session;

Then Sir John Finch (g), Lord Keeper, spake thus:

My Lords, and you the Knights, Citizens, and Burgeses of the House of Commons,

YOU are here, this Day, assembled by his Majesty's gracious Writ and Royal Command, to hold a Parliament, the general, antient, and greatest Council of this renowned Kingdom. By you, as by a select Choice and Abstract, the whole Kingdom is presented to his Majesty's Royal View, and made happy in the beholding of his Excellent and Sacred Person. All of you, not only the Prelates, Nobles, and Grandees, but in your Persons that are of the House of Commons every one, even the meanest of his Majesty's Subjects, are graciously allowed to participate and share in the Honour of those Counsels, that concern the great and weighty Affairs of the King and Kingdom. You come all armed with the Votes and Suffrages of the whole Nation; and I assure myself, your Hearts are filled with that zealous and humble Affection to his Majesty Person and Government, that so just,

(f) From the Lords Journals. The Passages in Crotchets [] are omitted in Rushworth.

(g) Speaker of the last Parliament.

An. 16th Car. I.
1649.

so pious, and so gracious a King hath Reason to expect from all his Subjects.

I doubt not, but you rejoice at this Day's Meeting; and methinks you should do so too, for good Reason you have to do so; and with all Humbleness of Heart to acknowledge the great Goodness of his Majesty; who, sequestering the Memory of all former Discouragements in preceding Assemblies, is now, thro' a fatherly Affection to his People, and a Confidence that they will not be failing in their Duty to him, graciously pleased to invite you, and all his loving Subjects, to a sacred Unity of Hearts and Affections, in the Service of him and of the Common-Wealth; and in the Execution of those Counsels, that tend only to the Honour of his Majesty, and to the good Preservation of you all.

His Majesty's Kingly Resolutions are seated in the Ark of his sacred Breast, and it were a Presumption of too high a Nature, for any *Uzziab*, uncall'd, to touch it; yet his Majesty is now pleased to lay by the shining Beams of Majesty, as *Phœbus* did to *Phaeton*, that the Distance between Sovereignty and Subjection should not barr you of that filial Freedom of access to his Person and Counsels: Only let us beware how with the Son of *Clymene*, we aim not at the Guiding of the Chariot; as if that were the only Testimony of fatherly Affection: But let us ever remember, that though the King, sometimes, lays by the Beams and Rays of Majesty, he never lays by Majesty itself.

In former Parliaments you have been advis'd with, for the preventing and diverting of those Dangers, which by foreign and more remote Counsels, might have tended to the Dishonour and Ruin of this Nation; but herein his Majesty's great Wisdom and Providence hath, for many Years, eas'd you of that Trouble; his Majesty having with great Judgment and Prudence, not only seen and prevented our Danger, but kept up the Honour and Splendor of the

English

' *English* Crown, of which at this Day we find the An. 16. Car. 1.
 ' happy Experience; Almighty God having vouch- 1649.
 ' safed such Succes to his Majesty's Counsels, that
 ' our *Fleece is dry*, when it rained Blood in all the
 ' Neighbour States. But what availeth this to the
 ' Kingdom; *Si foris Hostem non inveniat, si modo*
 ' *domi inveniet?*

' You are, now, summoned to Counsels and Re-
 ' solutions, that more nearly concern you; to pre-
 ' vent a Danger and a Dishonour, that knocks at our
 ' Gates; and that moves from such, from whom
 ' we had little Reason to suspect it. It's well known
 ' upon what happy and solid Counsels, one of our
 ' wisest Kings made a Match with *Scotland* for his
 ' eldest Daughter. We cannot forget (I'm sure
 ' we should not) the blessed Succes that waited
 ' upon those Counsels, when the Crown of *Eng-*
 ' *land* descended upon King *James*, of ever blessed
 ' and famous Memory; who, with the Fulness of
 ' Joy to all true *English* Hearts, made his Entry
 ' [*here by Blood, and*] not by Bloodshed. The
 ' Wall of Separation was thereby taken away; and
 ' that glorious King, to make his Word good, *faci-*
 ' *am eos in Gentem unam*, made all *England* rejoice:
 ' And *Scotland*, I'm sure, had no Reason to be for-
 ' ry for it; since they participated of *English* Ho-
 ' nours; the Wealth and Revenue of this Nation
 ' they shared in; and no good Thing was with-
 ' holden from them; such was the Largeness of
 ' Heart in that most excellent King; -and such was
 ' the Comfort we took in this Fraternity, or rather
 ' Unity: When now both of us had but one Bra-
 ' zen Wall of Fortification to look unto, the Sea,
 ' and all Things so equally and evenly carried be-
 ' tween us, that

' *Tros Tyriusque mihi nullo discrimine babentur.*

' His Majesty, our most gracious Sovereign be-
 ' came Heir, as well to his Father's Virtues as to
 ' his Kingdoms,

' *Pacatumque regit patriis Virtutibus Orbem,*

' and in his gracious and tender Affection to that
 ' Nation,

An. 16. Car. 1.
1640.

Nation, hath given as many indulgent Testi-
 monies of Love and Benignity, as they could
 expect. Thus became we both like a Land
 flowing with Milk and Honey; Peace and Plen-
 ty dwelt in our Streets, and we have had all our
 Blessings crowned with the sweet Hopes of a Per-
 petuity. God found out for my Lord the King,
 a Companion meet for him, his Royal Consort,
 our most gracious Queen; who, as she is not to
 be paralleled for her Person and Virtue; so hath
 she made his Majesty and the whole Kingdom
 most happy and blessed, in the sweetest Pledges
 of their Love and our Hopes, which now stand
 like Olive-Branches about the Throne or Table;
 But what I sorrow for, *Civiles furares patrie
 nimia Infelicitas*. For when his Majesty had most
 Reason to expect a grateful Return of Loyalty
 and Obedience from all the *Scots* Nation, some
 Men of *Belial*, some *Zeba* hath blown the Trum-
 pet there; and, by their Insolences and rebellious
 Actions, draw many after them, to the utter De-
 fertion of his Majesty's Government; his Ma-
 jesty and his Kingly Father's Love and Bounty
 to that Nation quite forgotten, his Goodness and
 Piety unremembred.

They have led a Multitude after them into a
 Courte of Disloyalty and rebellious Treason;
 such as former Times have not left in Mention,
 nor this present Age can any where equal; they
 have taken up Arms against the Lord's Anointed,
 their rightful Prince, and undoubted Sovereign;
 and, following the wicked Counsels of some *Achi-
 topbels*, they have seized on the Trophies of Ho-
 nour, and invested themselves with Regal Power
 and Authority: Such and so many Acts of Dis-
 loyalty and Disobedience, as (let their Pretences
 be what they will) no true *English* or *Christian*
 Heart, but must acknowledge them to be the
 Effects of foul and horrid Treason.

The last Summer his Majesty, at his own
 Charge, and at the vast Expence of many of his
 faithful and loving Subjects of *England*, went
 with

with an Army; then they took upon them the An. 16. Car. I.
 Boldness to outface and brave his Royal Army, 1649.
 with another of their own raising: Yet, for all
 this, his Majesty's Goodness was not lessened by
 that; nor could his gracious Nature forget what
 he was to them, nor what they were to him; but
 considering with himself they were such, *quos nec*
vincere, nec vinci gloriosum fuerit, out of his Piety
 and Clemency he chose rather to pass by their
 former Miscarriages, upon their humble Protesta-
 tions of future Loyalty and Obedience, than by
 just Vengeance to punish their Rebellion.

But his Majesty, who is ever awake for the
 Good and Safety of all his Subjects, hath since
 too plainly discovered, that they did but prevaricate
 with him to divert the Storm which hung
 over their Heads; and, by gaining Time, to pur-
 chase to themselves more Advantage, for pursu-
 ing their rebellious Purposes.

For, since his Majesty came from *Berwick*, it
 is come to his certain Knowledge, that instead of
 performing that Loyalty and Obedience, which
 by the Laws of God, of Nature, and Nations
 they owe unto him; they have addressed them-
 selves to foreign States, and treated with them to
 deliver themselves up to their Protection and
 Power (as by God's great Providence and Good-
 ness, his gracious Majesty is able to shew under
 the Hands of the prime Ring-Leaders of that
 Faction) than which nothing could be of more
 dangerous Consequence to this and his Majesty's
 other Kingdoms. Whosoever they be that do,
 or shall, with *England* ill, they may know it to
 be of too tough a Complexion and Courage, to
 be assailed in the Face, or to be set upon at the
 Fore-door; and therefore it is not unlikely, but
 they may, as in former Times, find out a Poi-
 tern-gate.

There were heretofore two of them, *Scotland*
 and *Ireland*, and both of them had their several
 Defences.

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1640.

Ireland, through his Majesty's just and prudent Government, is not only reduced from the Distemper of former Times, but settled in such a Condition of Peace; and during his Majesty's happy Reign, so altered and civilized, that instead of being a Charge to him, as it was to his Predecessors, it hath yielded to him some Revenue; and his Subjects there do daily give very acceptable Testimonies of their loyal and dutiful Affection, both to his Person and Government. And now lately, at the Parliament assembled, they have not only, with full and free Consent, made his Majesty a cheerful Aid towards his present Preparations to reduce his disaffected Subjects in *Scotland* to their due Obedience; but they have also professed and promised, that they will be ready with their Persons and Estates, to the uttermost of their Ability, for his Majesty's future Supply; as his great Occasions, by the Continuance of his Forces against that Distemper, shall require; so that the Hopes of hurting *England* that Way are quite extinct.

Scotland then, only, remains; whither, as to a weak and distempered Part of the Body, all the Rheumes and Fluxes of Factions and seditious Humours make their Way.

His Majesty hath taken all these, and much more, into his Princely Consideration; and, to avoid so manifest and apparent a Mischief, threatened to this and his other Kingdoms, hath resolved, by the Means of a powerful Army, to reduce them to the just and modest Conditions of Obedience [*and Subjection.*]

It is a Course his Majesty takes no Delight in, but is forced unto it; for such is his Majesty's Grace and Goodness to all his Subjects, and such it is and will be to them, how undutiful and rebellious soever they now are; that, if they put themselves into a Way of Humility becoming them, his Majesty's Piety and Clemency will soon appear to all the World: But his Majesty will

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1643.

will not endure to have his Honour weighed at the
common Beam; nor admit any to step between
him and his Virtue; and therefore as he will,
upon no Terms, admit the Mediation of any
Person whatsoever; so he shall judge it as high
Presumption in any Person to offer it; and as
that which he must account most dangerous to
his Honour, to have any Conceit that the So-
licitation of others can, by any Possibility, bet-
ter incline him to his People than he is, and ever
will be, out of his own Grace and Goodness.

The Charge of such an Army hath been tho-
roughly advised, and must needs amount to a
very great Sum, such as cannot be imagined to
be found in his Majesty's Coffers; which, how
empty soever, have neither yet been exhausted
by unnecessary Triumphs, or sumptuous Build-
ings, or other Magnificence whatsoever; but
most of his own Revenue, and whatsoever hath
come from his Subjects, hath been by him em-
ployed for the common Good and Preservation
of the Kingdom; and like Vapours arising out
of the Earth, and gathered into a Cloud, are
fallen in sweet and refreshing Showers upon the
same Ground. Wherefore his Majesty hath now,
at this Time, called this Parliament; the second
Means, under God's Blessing, to avert these
publick Calamities threatned to all his Kingdoms,
by the mutinous Behaviour of the Scots.

And as his Majesty's Predecessors have accu-
stomed to do with your Fore-Fathers, so his
Majesty now offers you the Honour of working
together with himself, for the Good of him and
his, and for the common Preservation of your-
selves and your Posterity.

Counsels and Deliberations, that tend to Bene-
fit or Profit, may endure Disputes and Debates,
because they seem only accompanied with Per-
suasions: But Deliberations that tend to Preser-
vation are waited upon by Necessity, and cannot
endure either Debate or Delay; of such Nature

Ann. 16. Car. 1.
1640.

are the bleeding Evils that are now to be provided against.

This Summer must not be lost, nor any Minute of Time unbestowed, to reduce those of *Scotland*; lest, by Protraction here, they gain Time and Advantage to frame their Parties with Foreign States.

His Majesty doth therefore desire, upon these pressing and urgent Occasions, that you will, for a while, lay aside all other Debates; and that you would pass an Act for such and so many *Subsidies*, as you, in your hearty Affection to him and to your common Good, shall think fit and convenient for so great an Action; and withal that you would hasten the Payment of it, as soon as may be: [*With a Proviso in the Act, that his Majesty's Royal Assent shall not determine this Session*]. And his Majesty assures you all, that he would not have proposed any thing out of the ordinary Way; but that such is the Straitness of Time, that unless the *Subsidies* be forthwith pass'd, it is not possible for him to put in Order such Things as must be prepared before so great an Army can be brought into the Field.

And indeed, had not his Majesty upon the Credit of his Servants, and Security out of his own Estate, taken up and issued between 3 and 400,000*l.* it had not been possible for his Majesty to have provided those Things to begin with, which were necessary for so great an Enterprize; and, without which, we could not have secured *Berwick* and *Carlisle*; or avoided those Affronts, which the Insolency of that Faction might have put upon us, by injuring the Persons and Fortunes of his loyal Subjects, in the *Northern* Parts.

To avoid all Question and Dispute that may arise touching his Majesty's taking of Tonnage and Poundage, his Majesty hath commanded me to declare unto you, that he hath taken it only *de Facto*; according to the Example of former Kings, from the Death of their Predecessors, un-
till

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1640.

till the Parliament had passed an Act for it themselves. That, in like Manner, his Majesty desires not to claim it, but by Grant of Parliament; for this Purpose his Majesty hath caused a Bill to be prepared in the same Form as it passed to his Royal Father, of blessed Memory, adding only Words to give it him, from the first of his Majesty's Reign.

This and the Bill of *Subsidies* his Majesty expects, for the pressing Reasons before delivered unto you, may be dispatched with all Speed; which his Majesty commanded me to tell you he shall graciously accept, as the welcome Pledges of your loving, happy, and dutiful Affection to him, his Person, and Government.

And his Majesty is most graciously pleased to give you his Royal Word, that, afterwards, he will give you Time for considering of such Petitions as you shall conceive to be for the Good of the Common-Wealth; even now before you part, according as the Season of the Year, and the great Affairs in Hand will permit; and what is now omitted, his Majesty will give you Time to perfect towards Winter, when your own Leisure and Conveniency may better attend it; he knowing well that these Subsidies can be of little Use, without that more ample Supply which his Majesty expects upon the happy Conclusion of this Session; and therein his Majesty is graciously pleased, according to the antient Way of Parliaments, to stay till your just Grievances be heard and redressed.

And his Majesty assures you, that he will go along with you for your Advantage, thro' all the gracious Expressions of a just, a pious, and gracious King; to the end there may be such a happy Conclusion of this Parliament, that it may be a Cause of many more Meetings with you.

I have now delivered what I had in Command from his Majesty.

An. 15. Car. 1.
1649.

After this the King further expressed himself, and said,

*My Lords,***Y***OU shall see he hath spoken nothing hyperbolically, nor nothing but what I shall make good one way or other.*

His Majesty produces a Letter from several Scots Lords to the French King.

*And because he did mention a Letter, by which my Subjects in Scotland did seek to draw in foreign Power for Aid, here is the original Letter, which I shall command him to read unto you.**And because it may touch a Neighbour of mine, whom I will say nothing of but that which is just, God forbid I should; for my part, I think it was never accepted of by him: Indeed it was a Letter to the French King, but I know not that ever he had it; for, by Chance, I intercepted it as it was going unto him; and therefore I hope you will understand me right in that.*

His Majesty delivering the Letter to the Lord Keeper, his Lordship began to read it, and observed as followeth:

‘The Supercription of the Letter is this, AU ROY. For the Nature of this Supercription, it is well known to all that know the Style of France, that it is never written by any Frenchman to any but their own King; and therefore, being directed AU ROY, it is to their own King; for so, in effect, they do, by that Supercription, acknowledge.’

Then his Lordship read the Letter in *French*, being the original Language wherein it was wrote; which done, his Lordship added;‘His Majesty commanded me to read it in *English* to you, as it is translated from the Original in *French* under their own Hands.

S I R,

Translation of the said Letter.

Y*OUR Majesty being the Refuge and Sanctuary of afflicted Princes and States, we have found it necessary to send this Gentleman, Mr. Colvil, by him*

OF ENGLAND, 407

to represent unto your Majesty the Candor and Integrity, as well of our Actions and Proceedings, as of our Intentions; which we desire should be engraven and written to the whole World, with a Beam of the Sun, as well as to your Majesty. We most humbly beseech you, therefore, to give Faith and Credit to him, and all he shall say on our Part concerning us, and our Affairs; being most assured of an Assistance equal to your accustomed Clemency heretofore; and so often shewed to this Nation, which will not yield to any other whatsoever, the Glory to be, eternally,

Your Majesty's most humble,
obedient and affectionate Servants,

ROTHES, MONTGOMERY,
MONTROSS, LOWDON,
LESLEY, FORESTER (b):
MARRE,

Then the KING added,

Of these Gentlemen that have set their Hands to this Letter, here is one, and I believe you would think it very strange if I should not lay him fast; and therefore I have signed a Warrant to lay him close Prisoner in the Tower.

My Lords, I think (but that I will not say positively, because I will not say any thing here but what I am sure of) I have the Gentleman, that should have carried the Letter, fast enough; but I know not, I may be mistaken.

And then my LORD KEEPER concluded.

*Gentlemen, ' You of the House of Commons, his Majesty's Pleasure is, That you do now repair to your own House, there to make Choice of your Speaker; whom his Majesty will expect to be presented to him on *Wednesday* next, at Two of the Clock in the Afternoon.'*

The

(b) This Letter, in its original French, is in the *Lords Journals*; but is unnecessary here, because the Translation of it is enough.

An. 16. Car. I.
1640.John Glanville,
Esq; elected
Speaker.

The Commons, being returned to their House, made Choice of *John Glanville*, Esq; Sergeant at Law, for their Speaker; of whom Lord *Clarendon* gives this Character. That he was a Man very equal to the Work, very well acquainted with the Proceedings in Parliament; of a quick Conception, and of a ready and voluble Expression; dextrous in disposing the House, and very acceptable to them.

April 15, about Two in the Afternoon, the King came by Water, and landed at *Parliament-Stairs*. About Half an Hour after, a Messenger, who, by some of the Privy Council, was said to be a Quarter-Waiter on his Majesty, came and told the Speaker elect, That the King was set and staid for him (i). It is remarkable that the last Session of Parliament, Mr. *Maxwell*, Gentleman-Usher of the House of Lords, omitted also to come; and it was then taken ill, being thought an Undervaluing and Dishonour to the House, as it appears by the *Journal-Book* of that Session. However, upon this Occasion, the Speaker commanded the Waiter to tell Mr. *Maxwell*, That it was his Duty to have come and brought the Message himself: But because they would not, by any Disturbance, make the King wait; the Speaker, accompanied by the House, went up at this Summons. On his coming to the Bar of the House of Lords, he made three Obediences, and then spoke as follows;

May it please your Majesty,

His Speech to
the King, to be
excused.

THE Knights, Citizens, and Burgeses, of your Commons House of Parliament, in Conformity to most antient and most constant Usage, the best Guide in great Solemnities; according to their well-known Privileges, a sure Warrant for their Proceedings; and in Obedience to your Majesty's most gracious Counsel and Command, a Duty well becoming loyal Subjects;

(i) *Commons Journals.*

An. 16. Car. 1.
1645.

have met together in their House, and chosen a Speaker; one of themselves to be the Mouth, indeed the Servant, of all the rest; to steer, watchfully and prudently, in all their weighty Consultations and Debates; to collect, faithfully and readily, the genuine Sense of a numerous Assembly; to propound the same seasonably, and to mould it into apt Questions, for final Resolutions; and so represent them and their Conclusions, their Declarations and Petitions, upon all urgent Occasions, with Truth, with Right, with Life, with Lustre, and with full Advantage, to your most Excellent Majesty. With what Judgment, what Temper, what Spirit, what Elocution he ought to be endowed and qualified, that, with any Hope of good Success, should undergo any such Employment, your Majesty, in your great Wisdom, is best able to discern and judge; both as it may relate to your own peculiar and most important Affairs of State and Government, and as it must relate to the proper Business of your House of Commons; which was never small nor mean, and is like, at this Time, to be exceeding weighty.

Had your House of Commons been as happy in their Choice (as they were regular, well-warranted, and dutiful) of myself, who stand elected yet to be their Speaker; and am now presented, by them, to your Majesty, for your gracious and royal Approbation; I should not have needed to become troublesome to your Majesty in this Suit, for my Release and Discharge; which, now, in Duty to your Majesty and Care for the Good, Prosperity, and Success of your Affairs, I hold myself obliged to make. My Imperfections and Disabilities are best known to myself; and to your Majesty, I suppose, not altogether unknown; before whom, in the Course of my Practice and Profession, [it hath been your Goodness towards the meanest of your Subjects,] divers Times to do me the Honour and Favour to appear and bear a Part, as an ordinary Pleader.

It

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1649.

It is a learned Age wherein we live, under your Majesty's most peaceful and flourishing Government: And your House of Commons, as it is now composed, is not only the representative Body, but the abstracted Quintessence of the whole Commonalty, of this your noble Realm of *England*: There be very many amongst them, much fitter for this Place than I am; few or none, in my Opinion, so unfit as myself.

I most humbly beseech your Majesty (as you are the Father of the Common-wealth and Head of the whole Parliament, to whom the Care of all our Welfare chiefly appertains) have Respect to your own Ends; have Regard to your House of Commons; have Compassion upon me, the most unworthy Member of that Body, ready to faint with Fears, before the Burthen light upon me: [*Let not your Majesty, thro' my Defect, stand exposed to any Hazard of Disservice: I have only a hearty Desire to serve you; very little Abilities for Performance.*]

In the Fulneis, therefore, of your kingly Power, your Piety and your Goodness, be graciously pleased to command your House of Commons, once more to meet together to consult and deliberate better, about their Choice of a meet Speaker; till they can agree of some such Person, as may be worthy of their Choosing, and of your Majesty's Acceptation.

The Lord-Keeper, after Directions received from his Majesty, answered:

His Election confirmed by his Majesty.

HIS Majesty, with a gracious Ear and a princely Attention, hath listened to your humble and modest Excuse, full of Flowers of Wit, of Flowers of Eloquence, and Flowers of Judgment.

Many Reasons from your self he hath taken, to approve and agree to the Choice and Election, made by the House of Commons; but finds none, from any Thing that you have said, to dissent or disagree from it; since you have set forth your Inabilities with so much Ability; you have so well decyphered and delineated the
Paris,

Parts, Duties, and Office of a good Speaker; which is to collect the Sense of the House judiciously, to render it with Fidelity, to sum it up with Dexterity, and to mould it into fit and apt Questions for Resolutions; and those, as Occasion shall serve, to present with Vigour, Advantage, and Humility to his Majesty. He doubts not, but you, that are so perfect in the theoric, will, with great Ease, perform the practick Part, and with no less Commendation.

His Majesty hath taken Notice, and well remembers, your often waiting on him in private Causes; wherein you have always so carried yourself, and won so much good Opinion from his Majesty, as he doubteth not but that now, when you are called forth to serve him and the Public, your Affections and the Powers of your Soul will be set on Work with more Zeal and more Alacrity. It's that for which the Philosophers call a Man happy, when Men, that have Ability and Goodness, do meet with an Object fit to bring it into Act; and such, at this Time, is your good Fortune, an Occasion being ministered unto you, to shew your Ability and Goodness, your Fidelity to his Majesty's Service, and the Candor and Clearness of your Heart towards those of the House of Commons: In all which his Majesty nothing doubteth, but you will so discharge yourself, as he may, to his former Favours, find Occasion and Reason to add more unto you; That the House of Commons may rejoice in this Election of theirs; and that the whole Kingdom, by your good, clear, and candid Service, may receive Fruits that may be comfortable unto all.

His Majesty, therefore, doth approve and confirm the Choice of the House of Commons, and ratifies you for their Speaker.

Then Mr. Speaker addressed himself again to his Majesty.

Most Gracious Sovereign,

MY Profession hath taught me, that from the highest Judge and highest Seat of Justice, there lyeth no Writ of Error, no Appeal.

The Speaker's Reply, to the King's Confirmation.

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peal. Your Majesty, in full Parliament, hath
 been pleased, by the Mouth of the Lord-Keeper,
 to declare your Royal Judgement in Affirmation
 of the Election of your House of Commons,
 whereby I am become their Speaker, and their
 Servant. What is there, therefore, left unto me?
 But in the first Place devoutly to beseech Almighty
 God, the Author and Finisher of all good
 Works, to enable me, by his Blessing, to discharge,
 honestly and effectually, so great a Task,
 so great a Trust.

And, in the next Place, humbly to acknowledge,
 as I do, the great Grace and Favour, that
 is done unto me by your Majesty; and readily to
 conform myself to your good Pleasure and Command,
 to which I now submit with all possible
 Cheerfulness; lest else my too much Diffidence
 to undertake the Service might add a further
 Disadvantage to my Performance, than peradventure
 would arise out of my other Imperfections.

Two Enemies I might fear, the common Enemies
 of such Services, *Expectation* and *Jealousy*:
 I am not worthy of the former, and I contemn
 the latter. Time that trieth Truth, shall let the
 whole World see and know, that I am, and will
 be found, an equal Freeman; zealous to serve
 my gracious King, and zealous to serve my dearest
 Country.

Monarchy, royal and hereditary, is of all Sorts
 of Government the most compleat and excellent;
 whether we regard the Glory, the Wealth, or
 the Safety of the Governor or of the People, or
 of both. And I hope there are not of this Nation
 any that are of antimonarchical Spirits or Resolutions,
 no, nor Dispositions, nor Friends to
 to such as are so; if there be, I wish no greater
 Honour to this Parliament, than to discover them;
 and by all Means possible to assist your gracious
 Majesty to suppress them, or to confound them.

You are a great King at all Times, but, sitting
 now attended by your Prelates, your Lords, and
 People

People in free Parliament, are in the highest State of Majesty and Glory. An. 26. Cap. 1.
2040.

I remember well, I heard your Majesty's most Royal and Learned Father, our late dear Sovereign King *James* of sacred Memory, speak to that Purpose of himself and of Kings in general; his Majesty sitting then in Parliament, upon that Throne which, by Descent from him, and from innumerable royal Ancestors, is now become your Majesty's lawful Seat and rightful Inheritance.

To behold you thus in Peace and Safety, upon this great and good Occasion, after full fifteen Years Experience of your most peaceful Government, yields most compleat Joy to all your Majesty's loyal and well-affected Subjects; who cannot but concur with me in this Desire,

*Serus in Cælum redeas, diuque
Lætus intersis Populo Britannia.*

England is your Seat of Residence, not made a Province, nor governed by a Vice-Roy. God open all our Eyes and Understandings, to discern and value the great Blessings and Benefits we enjoy, by your Majesty's gracious Prefence and immediate Influence of Life and Chearfulness to all the Parts of these your noblest Kingdoms!

Scotland is your Birth-Place, and therein hath Advanrage of your other Realms; God make them, and keep them, ever sensible and worthy of that Honour.

Ireland begins a-pace to imitate *England*, in a great and quick Progression in Civility of Manners and Conversation; by many sedulous Plantations and Improvements of the Soil; by their receiving and enacting of the more wholesome Laws and Statutes of this Kingdom; and by many other good Effects and Fruits of Peace and blessed Government.

France is still an Attendant to your Royal Stile and Title.

The Prerogative of a King is as necessary, as it is great: Without it, he would want that Power

Ann. 76. Car. 1.
1695.

and Majesty which is, and ought to be, inseparable from the Crown and Scepter. Nor can there any Danger result, from such Prerogative in the King, to the Liberty of the Subject; so long as both of them admit the Temperament of Law and Justice: Especially under such a King as your Majesty, who, to your immortal Glory, among your printed Laws, have published this to the whole World for your Maxim, *The Liberty of the People strengthens the King's Prerogative, and the King's Prerogative is to defend the People's Liberty* (k). A Maxim like *Apples of Gold in Pictures of Silver!* Kings, as they are Kings, are never said to err, only the best may be abused by Misinformation. The highest Point of Prerogative is, *The King can do no Wrong*. If therefore, by the Subtilty of Misinformers, by the specious false Pretences of public Good, by cunning and close Contrivance of their Ways to seduce; the Sacred Royal Person shall, at any Time, be circumvented or surprized, or over-wrought and drawn to command Things contrary to Law, and that the same be done accordingly: These Commands will be void, and the King innocent, even in his very Person, being defended by his Prerogative: Nevertheless the Authors of such Misinformations, and Actors in those Abuses, will stand liable and exposed to strict Examination and just Censure; as having nothing to defend themselves but the Colour of a void Command, made void by just Prerogative, and by the fundamental and true Reason of State and Monarchy: And what Difference is there, or can be in Law, between a void Command, and no Command at all? If Religion, Justice, and Mercy, all happily assembled and graciously lodged together in your Royal Breast, may give to your well-affected Subjects a good Hope of the good Success of this Parliament; I know not why we should not, all of us, expect it with much Confidence. Some

(k) See the King's first Answer to the *Petition of Right*, p. 150.

few Particulars, pertaining to these general Heads, An. 16. Cap. 3.
 I humbly beg of your Majesty, that, without
 Offence to your sacred Ears, I may have Leave
 to mention and observe, for the further Comfort
 of myself and all that hear me: *mod. to God*
 What Prince of this Land was ever known to
 keep the Hours and Times set for Prayer, and for
 the Service of Almighty God, with that Regularity
 and Constancy as your Majesty? Nay more,
 have you not ever since your Access to the Crown,
 had one Day in every Week, besides the Lord's
 Day, dedicated and applied to Preaching and De-
 votion? I may not stay here, there is another
 Particular equalling, nay much excelling both the
 former: And that is your Majesty's great Care,
 to educate those Pledges of conjugal and most a-
 bundant mutual Love, that is between your Ma-
 jesty and your most gracious Consort, the best
 Queen and Woman, and the Foundation of our
 future Hopes, the most illustrious Prince *Charles*,
 and the rest of your Royal Progeny, in the true
 Religion of Almighty God, publickly profess'd
 and by Law established in this Kingdom: What
 Tongue is able to express the great Joy and Com-
 fort, which all your Majesty's most loyal and lov-
 ing Subjects do derive unto themselves, in Con-
 templation of your Majesty's great Piety and Pru-
 dence in this one Act express'd, extending itself
 not only to the present Time, but to the Good
 of Succession in all after-Ages! *ob. or. h. o. u. a. d. o. m.*
 Touching Justice, there is not any more cer-
 tain Sign to discern an equal Judge, than by his
 Patience to be well informed before he give his
 Sentence; and I may boldly say all your Judges,
 throughout all your Kingdoms, may take Exam-
 ple by your Majesty, and learn their Duty, from
 your Practice in this Kind. I myself have often
 been Witness of it, to my no little Admiration
 and Content. *ob. g. d. i. to. a. p. t. h. o. u. a. d. o. m.*
 From your patient Hearing, let me pass on to
 your righteous Judgement; and therein bring but
 one Instance, but it shall be a great one. When
 your

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your Lords and your People, in your last Parliament, presented to your Majesty a *Petition*, concerning divers Rights and Liberties of your Subjects; the *Petition* being of no small Weight and Importance, as by the same may well appear, your Majesty, after meet Deliberation, in few but effectual Words, (*soit Droit fait comme il est désiré.*) made them such an Answer, as shall renown you for just Judgment, in this Age and to all Posterity.

I make Haste to come to your Mercy, whereof I cannot but have Need again and again, before I have finished that Service to which I am enjoined; and am not, altogether, in Despair of obtaining it: Nevertheless the Mercy, which I mean to celebrate, is not only concerning single or particular Persons, but whole Nations; that unexampled Mercy and Clemency, which (in your Royal Wisdom and abundant Goodness, happily met together) your Majesty vouchsafed to shew to us and all your Kingdom; in not drawing your Sword of Justice, the last Summer, against your People of *Scotland*, though your Armies were much the better and the stronger.

It seems your Majesty remembered, with more Tenderness of Heart than they do, that they were Christians and your Subjects, and that your Power was *posse & nolle nobile*. Whatsoever might be the Rule that inclined you to Mercy, I am sure the Benefit redounds to us and ours; who, by this Means, are still in Peace and Tranquility, not without good Hope of long Continuance: A Blessing peradventure undervalued by us, we have had so much of it, under your Majesty's most gracious Father's Royal Government.

I have yet no Instructions from your House of Commons, therefore can propound nothing as by Warrant from them: But, if I may have Leave to present to your Majesty my own most humble and most hearty Wishes and Desires, they be directed

rected to Religion, and Chivalry, Commerce, Justice, and Unity. An. 16. Car. I. 1640.

That this Parliament may be famous for the Care and Contentment of God's true Religion in this World and that to come; and to that Purpose, that the most Reverend Prelates, your Majesty's Archbishops and Bishops, sitting on the Right Hand of your Throne, will be therein most forward, to whom it is most proper.

That the Lords Temporal, girt with their Swords in their Creation, as more specially rewarded, or designed for Actions Military, would call to Mind the most noble and most valiant of their Ancestors, whose Lands and Honours they inherit; and how famous this Land hath been at home and abroad, for Deeds of Arms and Acts of Chivalry; and to labour to restore it, by all Means, to its antient Glory. The best Way to preserve Peace is to be ready prepared and well fitted for War.

That your Majesty would be pleased to command, that your grave and reverend Judges, whose Observations should exceed all other Men's, tho' they be but Assistants in this Service; to contribute the best and utmost they can, to explain, to execute, to advance our good old Laws; and to propound such Things for the enacting of wholesome and plain new Statutes, that every Subject of this Realm may be enabled to know and understand himself clearly, both what he hath to do, and what he may possess, and what not. There are no considerable Mines royal in this Kingdom: Trade and Commerce, the Exportation of our Woods in Manufactures, and native Commodities, is that which furnisheth us with Gold and Silver, the Materials of our Monies; and hath the only Power to enable us to supply your Majesty, for the defending of ourselves, and offending of others. That Merchants and Tradesmen, therefore, should have all meet Encouragement, is a most special Interest of this Island.

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But, were we never so valiant, never so wealthy, if Love and Unity be not amongst us, what Good will our Wealth do to ourselves, or to your Majesty? He that commands a Heart in Love, he, and he only, commands, assuredly, the Purse to pay, and the Hands to fight. I pray God, therefore, that we may all endeavour to knit such a Knot of true Affection, betwixt the Head and Members; that all Jesuited foreign States, who look perchance with envious and malignant Eyes upon us, and would be glad to rejoice in our Divisions, may see themselves lost and defeated of all their subtle Plots and Combinations, and of all their wicked Hopes and Expectations, to render us, if their Endeavours might prevail, a People inconsiderable at Home, and contemptible abroad.

Religion teacheth us, *Si Deus nobiscum, quis contra nos?* And Experience, I hope, will teach us, *Si simus inseparabiles sumus insuperabiles.* It was wont to be, and I hope it ever will be, the Tenet and Position of your House of Commons, That the Good of the King and of the People cannot be severed: And cursed be every one that shall go about to divide them.

I fear I have ventured too far on your Royal Patience, tho' yet I confess I never knew it wearied; nevertheless I will here conclude. Only first beseech your gracious Majesty, in the Name and Right of the whole House of Commons, that, in your Justice, you would be pleased, to grant and confirm to them, for their better Encouragement to proceed in their great Business, these their antient and just Liberties, which, Time out of Mind, they have rightfully enjoyed.

The Speaker then made the usual Requests for Privilege, &c. which, being all granted and confirmed in another long Speech from the Lord-Keeper, (not inserted in *Rushworth's*;) the Commons returned to their House; and, after reading one Bill, accord-

ing to Custom, adjourned till the next Morning, An. 16. Car. 1.
 eight of the Clock. The old Parliament-Hour was 1640.
 to meet at eight and sit till twelve; that the Committees, on whom the greatest Business depended, might have the Afternoons for their Preparations and Dispatch.

We chuse to go on, principally, with the Proceedings of the House of *Commons*; because those of the *Lords* bear no Proportion to the other, in Matter proper for these Enquiries; the Disputes, in this Parliament, being ever between the King and the Lower House: The Lords were more obliging; and, by endeavouring to reconcile Matters in Debate, occasioned a Breach between these two Bodies, which proved of pernicious Consequence to all. We shall therefore make little Use of the *Lords Journal* for this Session; except when those Proceedings are particular, and lead to explain Things barely mentioned in the other.

On the 16th of *April*, the Business of the Commons was chiefly appointing Committees, receiving Petitions on Elections, &c.

Secretary *Windbank* acquainted the House with the Particulars of the *Scots* Letter to the *French King*, mentioned two Days before; and the Speaker declared, That he had the King's Commands to make a Report to the House of what was delivered by himself and the Lord Keeper, at the Opening. Ordered the Report the next Morning. A Motion was made for a Conference with the Lords about appointing a Fast, which was agreed to. A Religious Ceremony, then, constantly used at the Beginning of a new Parliament or Session; but became much more frequent, and served for more politic Purposes, in the Sequel.

The Scots Lords Letter to the French King laid before the Commons.

April 17, the Commons began with regulating Elections, &c. after which the Speaker made a Report of the Speeches delivered by the King and the Lord Keeper, which was ordered to be entered in their *Journals*; but, with this Proviso, That it was done by his Majesty's special Command; and that

An. 16. Car. 1. this should be no Precedent to following Speakers, but upon the like special Command, or the Desire of the House.

But they begin with the Consideration of Grievances ;

In this Recapitulation of the foregoing Speeches, the Affronts and Indignities offered by the King's Scots Subjects, as also their palpable practising of Treason with the *French* King, were mentioned ; but no Manner of Notice taken of them by the House. Instead of that they fell, again, upon Grievances : And the following Plan was proposed as a Rule to go by : 1. Against the Liberty of Parliament ; 2. Against the Preservation of Religion ; 3. Against the Conservation of the common Liberties of the Kingdom : These Grievances being accounted more hurtful to the King, both in point of Honour, Profit and Safety, than to any other Member whatsoever, in respect of the great Interest he has in the Kingdom.

Petitions from the Counties of *Northampton*, *Middlesex* and *Sussex*, were delivered to the House by the respective Knights of those several Shires, complaining of different Grievances, which were postponed to be debated on, by a Committee of the whole House, the next Morning.

Debate on Petitions from several Counties relating thereto.

April 18, two more Petitions were delivered this Day, from the Counties of *Essex* and *Hertford*, in the same Manner as the former ; the latter of them was affirmed to be given to the Knights that served for that County, by the principal Inhabitants of it. This last complained expressly against *Ship-Money*, *Projects*, *Monopolies*, the *Star-Chamber*, *High-Commission-Court* ; and other Grievances to the People, both in Church and State. Other Petitions, to the like Purpose, being received and read, *Harbottle Grimstone*, Esq; stood up, and spoke to the Effect following :

Mr. Speaker, ' We are called by his Majesty, to consult together of the great and weighty Affairs of the State and Kingdom. There hath, now, a great and weighty Business been presented to this House ;

House; and a Letter hath been read, importing, An. 16. Car. I. 1640. according to the Interpretation which hath been collected out of it, a Defection of the King's natural Subjects. This is a great Cause, and very worthy of the Consideration and Advise of this great Council: But, I am very much mistaken, if there be not a Case here at home of as great Danger as that which is already put. The one stands without at the Back-Door, for so Dangers from thence in all our Histories have ever been termed; but the Case we will put, is a Case already upon our Backs. And in these great Cases of Danger, which so much concern the Welfare of the Body Politick, we ought to do like skilful Physicians, that are not led in their Judgments so much by outward Expressions of a Disease, as by the inward Symptoms and Causes of it; for it fares with a Body Politick, as it doth with a natural Body. It is impossible to cure an ulcerous Body, unless you first cleanse the Veins, and purge the Body from the Obstructions and pestilent Humours that surcharge Nature; and, that being once done, the Bloches, Blanes and Scabs, which grow upon the Superficies and Outside of the Body, will dry up, shed, and fall away of themselves. The Danger that hath now been presented to the House, it standeth at a Distance; and we heartily wish it was further off: Yet, as it stands at a Distance, it is so much the less dangerous. But the Case I shall put, is a Case of greater Danger here at home; and is so much the more dangerous, because it is home-bred, and runs in the Veins.

‘ If the one shall appear to be as great a Danger as the other, we hope it will not be thought unreasonable at this Time, to put the one as well as the other.

Mr. Speaker, ‘ The Case is this, The Charter of our Liberties, called *Magna Charta*, was granted unto us by King *John*; which was but a Renovation and Restitution of the antient Laws of this Kingdom. This Charter was afterwards, in the Succession of several Ages, confirmed unto us a-

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bove thirty several Times; and in the third Year of his Majesty's Reign that now is, we had more than a Confirmation of it; for we had an Act declaratory pass'd: And then, to put it out of all Question and Dispute for the future, his Majesty by his gracious Answer, *Soit Droit fait comme il est desiré*, invested it with the Title of *Petition of Right*. What Expositions contrary to that Law of Right, have some Men given to the undermining the Liberty of the Subject, with new-invented subtil Distinctions; and assuming to themselves a Power, I know not where they had it, out of Parliament, to supercede, annihilate and make void the Laws of the Kingdom? The Common-Wealth hath been miserably torn and massacred, all Property and Liberty shaken, the Church distracted, the Gospel and Professors of it persecuted, and the whole Nation over-run with Swarms of projecting Canker-Worms and Caterpillers, the worst of all the *Egyptian Plagues*: Then, as the Case now stands with us, I conceive there are two Points very considerable in it. The first is, What hath been done any way to impeach the Liberties of the Subject, contrary to the *Petition of Right*? The second is, Who have been the Authors and Causes of it?

The serious Examination and Discussion of these two Questions do highly concern his Majesty in point of Honour, and his Subjects in point of Interest: And all that I shall say to it, are but the Words that *Ezra* used to King *Artaxerxes* of the Settlement of that State, which at that Time was as much out of Frame and Order, as ours at this present; that which cured theirs, I hope will cure ours: His Words are these, *Whosoever, saith he, hath not done the Laws of God and the King, let Judgment be speedily executed upon him, whether it be unto Banishment, or to Confiscation of Goods, or to Imprisonment*. It may be, some do think this a strange Text, and 'tis possible some may think it as strange a Case: As for the Text, every Man may read it that will; and, for the Case, I am afraid

afraid there are but few here, that do not, experimentally, know it as bad as I have put it; and how to mend a bad Case, I take it is Part of the Business we now meet about.

His Majesty, Yesterday, did graciously confirm unto us, our great and antient Liberties of Freedom of Speech; and having his Kingly Word for it, I shall rest as confidently upon it, as the greatest Security under Heaven, whilst I have the Honour to have a Place here; and I shall, with all Humility, be bold to express myself like a Freeman.

The Diseases and Distempers, that now are in our Bodies politic, are grown to that Height, that they pray for and importune a Cure. And his Majesty, out of his tender Care and Affection to his People, like a nursing Father, hath now freely offered himself to hear our Grievances and Complaints. We cannot complain we want good Laws: For the Wit of Man cannot invent better than are already made: There want only some Examples, that such as have been the Authors and Causes of all our Miseries and Distractions in Church and Common-Wealth, contrary to these good Laws, might be Treacle to expel the Poyson of Mischief out of others.

But my Part is, only *ostendere Partem*; therefore, having put the Case, I must leave it to the Judgment of this House, Whether our Dangers here at home, be not as great and considerable, as that which was even now presented?

Sir Benjamin Rudyard. There is a great Door opened unto us of doing Good, if we take the Advantage thereof: We are here met, by the Blessing of God and our King. Parliaments have, of late Days, become unfortunate; it is our Duty, by our good Temper and Carriage, to restore them to their antient Lustre.

There be some here present who can remember the Breaking up of the last Parliament; a Business certainly from which the *Papists*, at that
Time,

1640. *16. Car. 1.* Time, were not exempt; who now, by the Continuance of Parliaments, are come to that Arrogance and Boldness, that they contend with us, who are the better Subjects. Their Envy I like, but their Presumption is not to be borne. I wish them no Harm, but Good; for I desire their Conviction: And the Way to do that, is to set up better Lights who have Warmth in them, and are not lake-warm in Religion. Surely they that quarrel betwixt Preaching and Prayer, and would have them contend, never meant well to either: But both must have their Due. And yet I know not how it comes to pass, but it happeneth to us, which is in no other Religion in the World, that a Man may be too religious; and many a one, by that Scandal, is frighted into a deep Dissimulation. It is Wisdom in us, to preserve Temper and Moderation; for breaking of Parliaments makes dangerous Wounds in the Body Politick; and, if the Splinters be not pulled out with a gentle Hand, we may hereafter despair of Cure.

14. Edward III. *Subsidies* were given to the King for his Expedition into *France*; but by the ill Management of his Treasure here, he was so slow, that he was glad to make Truce with the *French King*.

15. Edward III. he returns, and summoned a Parliament, wherein there was nothing but Jealousies and Distempers.

17. Edward III. he called another Parliament, to procure an Atonement with his Subjects, which took good Success by their humble Carriage to him, and his Willingness to ratify their Liberty; whereby all Breaches were then made up.

A Parliament is the Bed of Reconciliation between King and People; and, therefore, it is fit for us to lay aside all Exasperations, and carry ourselves with Humility: Howbeit the King's Prerogative may go far, yet if it be swayed with Equanimity, it may be the better borne.

Princes are, and will be, as jealous of their Power, as the People of their Liberties; tho' both are

are then best, when kept within their several Bounds. An. 26. Car. 1.
 Levying of Monies is a great Disturbance to the Subject; and so will be the Scarcity of the King's Revenues, untill they be supplied. And where the Power of the King and Necessity meet in one Hand, he will not long be disappointed. But, before the ending of this Parliament, (the untimely breaking whereof would be the breaking of us) I doubt not but his Majesty's Revenues may be so settled, that he may live plentifully at home and abroad; and without taking any Thing from his Majesty, save that which, of itself, would fall away.

' In former Parliaments, the Carriage of some hath been so haughty, as tho' Parliaments would last always; and the Carriage of others, as if there would be never any again. And therefore a Moderation, if we love ourselves, is requisite.

' The Delays of Remedies are well known, how dangerous they are to the Common-wealth and Religion; seeing that, during this Vacation of Parliaments, so many Disorders have been committed, by Innovations in Religion, Violation of Laws, and Intrusions upon our Liberties.

' To set all these aright, is now our Task: And, if in these tempting Provocations, we bear a temperate Moderation, we shall not miss of our End; but shall vindicate God in his Religion, the King in his Honour, and the Common-wealth in its gasping Extremities.

' If Temper and Moderation be not respected by us, beware of having the Race of Parliaments rooted out.

' Men and Brethren, What shall we do? If it were for my Life, I would desire nothing more, than that we proceed with Moderation; that so we may have many happy Parliaments, and that no dismal Event may happen to any: For, when Parliaments are gone, we are lost.

The last Member, we find, that spoke in this Debate, was Mr. *Pym*, whom Lord *Clarendon* (1) calls a Man

(1) *Clarendon's History*, Vol. I. p. 25.

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Man of good Reputation, but much better known afterwards; and as long acquainted with those Assemblies as any Man then living. His Speech of two Hours long, is thus abridged by Mr. *Rushworth*:

‘ He that takes away Weights from the Motions, doth as good Service, as he that adds Wings unto them. These Weights are old Grievances. He, therefore, will do a good Work for the King, who, to expedite his Designs, will set good Rules and Patterns for effecting thereof.

‘ When God made the World, he did it by a Pattern which himself had conceived: And *Moses* did according to the Pattern he saw in the Mount.

‘ I shall, therefore, offer you a Model of the Grievances which afflict the Common-wealth; which have disabled us to administer any Supply, untill they be redressed, and will still disable us; which Grievances may be reduced to three Heads.

‘ The *first* are those Grievances, which, during these eleven Years Interval of Parliaments, are against the Liberties and Privileges of Parliament.

‘ The *second*, Innovations in Matters of Religion.

‘ The *third*, Grievances against the Property of our Goods.

‘ Which Grievances I will *first* propound: *Secondly*, Shew that the Permission of them is as prejudicial to his Majesty, as to the Common-wealth: And *thirdly*, I will shew what Way they may be remedied.

‘ In all these, I shall take Care to maintain the great Prerogative of the King; which is, *That the King can do no Wrong*.

‘ And *first*, I will begin with the Grievances against the Privileges and Liberties of Parliament. We all know, that the intellectual Part, which should govern all the rest, ought to be kept from Distemper; for it is that which purgeth us from all Errors, and prevents other Michiefs for Time to come.

‘ If the understanding Part be hurt, the Mind cannot perform her Function.

‘ A Parliament is that to the Common-wealth, An. 26. Car. 1. 264b. which the Soul is to the Body; which is only able to apprehend and understand the Symptoms of all such Diseases, which threaten the Body politic. It behoves us, therefore, to keep the Faculty of that Soul from Distempers.

‘ I shall briefly, therefore, give you a View of such Occurrences, as have altered the happy and healthful Constitution of it: And, in the first Place, I must remember the Breaches of our Liberties and Privileges of Parliament, which are:

‘ *First*, In that the Speaker, the last Parliament, the last Day of it, being required to put the Question, the House was commanded they should not speak. These are conceived to be the Grounds of whatsoever befel those Gentlemen, which so lately suffered. ’Tis true, the House was commanded to adjourn presently; yet whilst the House sat, God forbid we should be barred from offering the last Sighs and Groans to his Majesty.

‘ *Secondly*, In that the Parliament was then dissolved, before our Grievances had Redress; or before we could make our Wills known, which is the Privilege of dying Men; and to be heard before Condemnation, is not denied to private Persons.

‘ *Thirdly*, That the Judges presumed to question the Proceedings of this House; it is against Nature and Order, that inferior Courts should undertake to regulate superior. The Court of Parliament is a Court of the highest Jurisdiction, and cannot be censured by any other Law or Sentence; but by its own.

‘ *Fourthly*, The several Imprisonments of divers Gentlemen, for Speaking freely in Parliament.

‘ *Fifthly*, That inferior Courts should be informed to punish Acts done in this Court; whereby divers Members of the House were so kept in Prison, till they had put in Security for their good Behaviour; and some of them died in Prison, others not released untill Writs came for this Parliament.

‘ *Lastly*, which I conceive to be the greatest, That the Parliament was punished; without being suffered

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suffered to make its own Defence. I call the Dissolution of the Parliament a Punishment, and justly: The Breaking of a Parliament, is Death to a good Subject.

But it is to be observed, that in this and the other Grievances, tho' the King be no Party, for his Highness's Prerogative is *to do no Wrong*; yet most of these Distempers of State arise and do invade the Subjects, by means of Misinforming him: As the celestial Bodies of themselves send forth nothing but Wholtsomeness to Man; but by the ill Distemper in inferior Bodies, much Hurt ariseth from them.

The next Sort of Grievances I deliver, are those that concern Matters of Religion.

Wherein I will first observe, the great Encouragement which is given to them of the Popish Religion, by an universal Suspension of all Laws that are against them; and some of them admitted into public Places of Trust and Power.

I desire not to have any new Laws made against them, God be thanked we have enough; nor a strict Execution of the old ones, but only so far forth, as tends to the Safety of his Majesty; and such a Practice of them, that that Religion, which can brook no Cor-Rival, may not be the Destruction of ours, by being too concurrent with it.

There is an Intention of a Nuncio from the Pope, who is to be here, to give secret Intelligence to *Rome*, how we incline here, and what will be thought fit to win us thither.

I observe as a great Grievance, there are divers Innovations in Religion amongst ourselves, to make us more capable of a Translation; to which Purpose Popish Books have been published in Print; Disputations of Popish Points are, and have been, used in the Universities and elsewhere with Privilege; preached in the Pulpit, and maintained for sound Doctrine; whereby Popish Tenets are maintained.

The introducing of Popish Ceremonies, as Altars, bowing towards the East, Pictures, Crosses, Crucifixes,

Crucifixes, and the like; which, of themselves considered, are as so many dry Bones, but being put together, make the Man. We are not now contented with the old Ceremonies, I mean such as the Constitution of the Reformed Religion hath continued unto us: But we must introduce again many of those superstitious and infirm Ceremonies, which accompanied the most decrepid Age of Popery, bowing to the Altar and the like.

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I shall observe the daily Discouraging of all godly Men, who truly profess the Protestant Religion, as tho' Men could be too religious.

Some Things are urged by Ecclesiastical Men, without any Ground by any Canon or Article established; nay without any Command from the King, either under his Great Seal, or by Proclamation.

The Parliament, ever since Queen Elizabeth's Time, desired the Bishops to deal moderately; but how they have answered those Desires we all know, and these good Men for the most part feel.

I may not forget, that many of the Ministers are deprived, for refusing to read the Book for Sports and Recreation upon the Sabbath, which was a Device of their own Heads; which Book, I may affirm, hath many Things faulty in it.

Then the Encroaching upon the King's Authority by Ecclesiastical Courts, as namely the High Commission, which takes upon it to fine and imprison Men; enforcing them to take the Oath *Ex Officio*, with many of the like *Ulrpations*, which are Punishments belonging only to Temporal Jurisdiction: And it hath been resolved, in the Time of King James, that the Statute of 1. *Eliz. cap. 1.* gives them no such Power; moreover, the Power which they claim, they derive not from the King, nor from any Law or Statute; but they will immediately have it from Heaven, *Jure Divino*. Divers particular Ordinaries, Chancellors and Archdeacons, take upon them to make and ordain Constitutions within their particular Limits. — All these Things are true, to the Knowledge of most that hear me. — I now come to the general Head

of

1649. of Grievances, which is the Grievances belonging to our Goods, and are in civil Matters: The Heads thereof are too many.

The taking of *Tonnage* and *Poundage*, and divers other Impositions, without any Grant or Law to do so, is a great Grievance.

These are divers antient Customs due to the King, but these are certain what they are, and are due by Prescription: These Customs being too narrow for his Service, and the Affections of the People growing stronger and stronger to their Prince, *Tonnage* and *Poundage* were granted for Years to the King; and afterwards, by this House, granted for Lives; but never were taken by the King's own Act, without a Parliament; for doing which, there is no Precedent, unless in a Year or two in the latter End of Queen *Elizabeth*.

In the next Place of these Grievances, I rank *Knighthood*, the Original whereof was, that Persons fit for Chivalry might be advanced: But this, after, was stretched for another End, for Money; and extended not only to Terre-Tenants, but to Lessees and Merchants, who were first to appear, and then to plead for themselves at the Council-Board; but were delayed from Day to Day, to their great Charge and Inconvenience: And, notwithstanding the just Defence they have made for themselves, there have been infinite Distresses laid upon them untill the Fines were paid; which were imposed, not by Courts, but by Commissioners assigned for that Purpose; and this being a continuing Offence, they are by the same Rule, as liable now to Fines, as ever.

Monopolies, and Inundations of them, where by a Burthen is laid not only upon foreign, but upon native Commodities; as Soap, Salt, Drink, &c. the Particulars whereof are fit for the Committee of Grievances.

Ship-Money: And although there be a Judgment given for it, yet I dare be bold to say it is against all former Precedents and Laws; and not one Judgment that ever maintained it. This is a Grievance

vance that all are griev'd at, having no Limits either for Time or Proportion: If therefore any shall endeavour to defend this, he must know, that both his Reputation and Conscience lye at Stake in the Defence.

'The *Enlarging the Bounds of the Forest*. Tho' our Ancestors were heretofore questioned for the same Thing, yet upon the Satisfaction of all the Objections that were, or could be made, they then saved themselves; yet now the same Things are turned upon us.

'The *Sale of public Nuisances*, for so they are pretended to be. Many great Nuisances have been complained of: But when there hath been Money given, and Compositions made, then they are no more Nuisances; such as Buildings and Depopulations.

'*Military Charges and Impositions upon Counties*, by Letters only from the Council Table; whereby Soldiers Conduct-Money and Coats are to be provided at the Country's Charge; and Horses also provided without Ground of Law; many Things in this Kind being done by Deputy-Lieutenants of their own Accord.

'*Extrajudicial Judgements and Opinions of the Judges*, without any Cause before them; whereby they have anticipated the Judgement which is legal and public; and circumvented one of the Parties of their Remedies, in that no Writ of Error lies, but only upon the judicial Proceedings.

'The next Sort of Grievances is, that the great Courts do countenance these Oppressions; as I may instance in the Court of *Star-Chamber* advancing and countenancing of Monopolies, which should be instead of this great Council of the Kingdom; and the *Star-Chamber* now is become a Court of Revenue; Informations there being put in against Sheriffs, for not making Returns of Money upon the Writs of *Ship-Money*: It was not usual for *meum & tuum* to be disputed there.

'The Privy-Counsellors should be Lights of the Realm; Sure in them is the greatest Trust; and they,

LS. 16. Car. 1. they, by *Magna Charta*, are to do Justice, as was urged by one in this House the last Parliament: But now, if these Counsellors should so far descend below themselves, as to countenance, nay to plot Projects and Monopolies, what shall we think of this? Surely it is much beneath their Dignity: This is a great Grievance, but I must go higher.

‘ I know the King hath a transcendent Power in many Cases, whereby, he may, by Proclamation, guard against sudden Accidents: But that this Power should be applied to countenance Monopolies (the Projectors being not content with their private Grants without a Proclamation) is without Precedent. — But yet I must go higher than this: It hath been in the Pulpit applied, and also published in Books and Disputations, asserting a Power unlimited in the King, that he may do what he pleaseth.

‘ This Grievance was complained of in the last Parliament, in the Case of Dr. *Manwaring*, who, for maintaining that Opinion in a Sermon, *That a Subject had no Property in his Goods, but that all was at the King’s Pleasure*, made his Submission upon his Knees in this Place; and was then brought so low, that I thought he would not have leaped so soon into a Bishoprick (m).

‘ I have, by this Time, wearied you as well as myself; but I am come to the last Grievance, which is the Fountain of all these, and that is the *Intermission of Parliaments*; whereas by two Statutes, not repealed nor expired, a Parliament ought to be held once in a Year.

‘ These Grievances are as prejudicial to his Majesty, as to the Common-wealth.

‘ The Breach of Parliaments is much prejudicial; for by this Means the great Union and Love, which should be kept and communicated betwixt the King and his Subjects, is interrupted: They cannot make known their *Petitions*, nor the King his *Wants*,
to

(m) In the Year 1635, Dr. *Manwaring* was made Bishop of *St. David’s*. — See the Proceedings against him p. 151, et seq.

to have Supplies. Where the Intercourse of the Spirits, betwixt the Head and the Members is hindered, the Body prospers not. An. 26. Car. I.
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‘ If Parliaments had been more frequent, the King would have had more Supplies.

‘ By our Grievances in Religion, the King’s Party abroad is much weakened; and, that great Part of his Aids abroad do forsake us, is for that they think we are forsaking our Religion.

‘ Many of the King’s Subjects, for that they cannot be quiet in Things indifferent, and know not where they shall have an End of them, have departed this Land with their Goods, Estates and Posterities.

‘ The Preferment of Men ill-deserving, and Neglecting others of great Integrity and Merit, hath much weakened and discouraged us.

‘ There are but a few now, that apply themselves either to do well or to deserve well; finding Flattery and Compliance to be the easier Way to attain their Ends and Expectations.

‘ The not observing of Laws, but countenancing of Monopolies and such like, breed Jealousies in the Minds of many; and may prepare a Way for Distempers, tho’, Thanks be to God, as yet there have been none; our Religion having preserved us. But if any Thing but well should happen, one Summer’s Distempers would breed great Change, and more than all unlawful Courses could recompence.

‘ We know how unfortunate *Henry III.* and other Princes have been, by the Occasion of such Breaking of their Laws. I pray God that we never see such Times.

‘ We are not content to multiply Impositions upon Merchants Goods, which are exported and imported into the Kingdom: But now there is a growing Mischief in plotting for an Imposition upon such Goods as never see *England*, but are conveyed from *France* to *Spain*, or the like, by *English* Merchants. A Course, before this Time never

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ever heard of; and such illegal Things are badly accounted for to the King; whereas legal Things will soon be discovered, if not accounted for.

‘ Besides, in Monopolies and such like, the third Part comes not to his Majesty’s Coffers, as to Instance in that of Wines.

‘ The King hath only 30,000*l.* *per Annum* upon them, whereas the Wines, in the Gains by the Patent, come to 80,000*l.* at the first, from the Time of their Arrival; and, being drawn, come to 230,000*l.* *per Annum*; and the same Proportion holds in all other Monopolies: Hereby it appears, how much the Subject is damnified, and how little the King gains.

‘ I come now to the last Thing, The Remedy of these Grievances; which is thus:

‘ I advise to present them to the Lords, that they may join with us to go to the King, and pray that these Grievances, being clear in Fact, may be voted. If any Thing, in the Vote, be stuck upon, that it may be debated; and drawn, according to the Course of the House, into a Remonstrance; with an humble Petition of both Houses for Redress. And I hope the Wisdom of this House will prepare such a Remedy, as will make the King a great King, and the People happy.’

After these Speeches the House came to a Resolution, and it was ordered, ‘ That the Records and Proceedings in the *Star-Chamber* and *King’s Bench*, that concerned several Members of this House in the last Parliament, should be sent for immediately, *viz.* Sir *John Elliot*, Mr. *Strode*, Mr. *Selden*, Mr. *Valentine*, Mr. *Hollis*, Sir *Peter Hayman*, and others, that were questioned, after the last Parliament, for any Passages done in that Parliament.’

Ordered also, ‘ That a select Committee be appointed to meet for the stating of the Matter of Fact, touching the Violation of the Privilege of Parliament, the last Day of the last Parliament; and to report their Opinion of it to the House.’

Or-

The Proceedings
against some
Members of the
last Parliament
inquired into;

Ordered also, ' That the Records, Inrolments, An. 26. Car. 1640. Judgments, and Proceedings, in the Exchequer, and all other Courts whatsoever, concerning *Ship-Money*, Also the Affairs should be sent for: And Warrants, signed by the Speaker, directed to the Officers of the several Courts for all these Matters, were issued out accordingly.'

Secretary *Windsbanke*, from the Committee on the Fast, delivered in a Paper, agreed on by them, for a Conference with the Lords about it; which was read, importing, ' That the Knights, Citizens, and Burgeses of the House of Commons, taking into Consideration the great and weighty Affairs, now in Agitation, in both Houses of Parliament, concerning the Welfare of the King and the whole Kingdom; and believing the principal Way and Means to attain to a happy and prosperous Conclusion of the same, is, to beg the divine Assistance and Direction of Almighty God in all their Consultations, by one solemn Humiliation by Fasting and Prayer to his Heavenly Majesty; they have commanded us to acquaint your Lordships, that you will be pleased to join with them, to move his Majesty for his gracious Allowance of so pious a Work to both the Houses of Parliament; and also that he would be pleased to grant and appoint a Day for a Fast throughout the whole Kingdom.'

The Lords agreed to this Proposal; and *Saturday*, the 2d of *May*, was appointed for this Solemnity; but Matters growing critical between the King and Parliament, about that Time, the Fast was put off to another Day; which never came in this Parliament.

April 20. The Treasurer of the Household, Sir *Henry Vane*, reported from the Committee for stating the Fact of the Violation of the Privilege of this House, the last Day of the last Parliament; That he was helped by two Members Notes, taken at that Time, in this Manner:

' That the Speaker being pressed, he answered, *He was the Servant of the House; but let not the Reward of my Service be my Ruin.—The Reason*

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why he left the Chair was, not to disobey the House, but obey his Majesty.—I will not say, I will not put the Question; but I say, I dare not.—That the Speaker, as soon as he was set in his Chair, delivered the King's Pleasure, That the House should be adjourned for a Sevennight: That he was commanded to leave the Chair, and to put no Question; but to wait upon his Majesty presently.—And, being pressed again to put the Question, he answered, He was commanded to put no Question.—That the Command itself being searched into, it appeared to be the King's, by the Declaration published in the Year 1628 (n).

On this Report a Motion was made, “That a select Committee be appointed, to prepare a Representation to his Majesty of the Violation of the Liberties of this House; that happened the last Day of the last Parliament; humbly beseeching his Majesty, that the like Violation may not, hereafter, be brought in practice to his Prejudice or theirs.”

But no Resolution on this yet happened, for a long and various Debate ensued upon it; at last, being put to the Question, it was resolved, *That it is the Opinion of this House, That the Speaker's refusing to put the Question, after a verbal Command from his Majesty, signified to this House by the Speaker, to adjourn, and no Adjournment made by this House, is a Breach of the Privilege of this House.*

The Behaviour
of the late
Speaker censured.

The next Day Sir *Henry Vane* delivered a Message from the King to the House, “That it is his Pleasure they should attend him, at Two in the Afternoon, in the *Banqueting-House, Whitehall.*”

Nothing else material happening, except taking in Records from the several Offices, concerning *Ship-Money, &c.* the Speaker, attended by the whole House, went up, in the Afternoon, to *Whitehall*; where, meeting with the Lords, the King being present, the Lord Keeper addressed himself to both Houses as follows:

My
(n) See the Declaration itself, p. 333. &c.

My Lords and Gentlemen (o),

Anno. 16. Car
1640.

YOU may well remember, upon the Beginning of this Parliament, his Majesty commanded me to deliver unto you the Causes of Calling of it; which was, for the Assistance and Supply of his Majesty in so great, weighty, and important Affairs, as ever King of England had to require at his Subjects Hands.

The Lord Keeper's Speech to hasten a Supply

I am now to put you in Mind what I then said unto you, and withal to let you know, that such and so great are his Majesty's Occasions at this Time, that if the Supply be not speedy, it will be of no Use at all: For the Army is now marching, and doth stand his Majesty at least in 100,000 l. a Month; and if there be not Means used to go on with this as is fitting, his Majesty's Design will be lost, and the Charge all cast away. It is not a great and ample Supply for the Perfecting of the Work, that his Majesty doth now expect; but it is only such a Supply, as without which the Charge will be lost, and the Design frustrated; being built upon those weighty Reasons which tend to the infinite Good of the Kingdom, and Preservation of you all.

This done, his Majesty will give you Scope and Liberty to present your just Grievances unto him; and he will hear them with a gracious Ear, and give them such an Answer, as you and all the Kingdom shall have Reason to joy therein.

His Majesty taketh Notice of one Particular, and that is concerning Ship-Money; wherein his Majesty hath commanded me to declare thus much unto you: First, His Majesty never had it in his Royal Heart, to make an annual Revenue of it, nor ever had a Thought to make the least Benefit or Profit of it: But whatsoever he did or intended in it, was for the common Good of you all; for the Honour, Glory and Splendor of this Nation; and that every one of

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(o) The Lord Keeper made a Report of this Speech, the next Day, in the House of Lords, much to the same Purport as this is.

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us are made Sharers and Partakers in the Benefits, Fruits and Successes of it, of which otherwise you would have felt the Woes. He hath been so far from making the least Benefit of it; that he hath expended great Sums of Money, out of his own Coffers, to work with, to those necessary Ends I have named unto you.

The Accompts of such Monies so received, have been brought to the Council Table; the Monies delivered to Sir *William Ruffel*, the Treasurer of the Navy; and, by them all, it may appear whether there hath been a Fulness and Clearness of Truth in the Disbursements thereof, for the Good and Safety of the Kingdom.

It is true, his Majesty had once intended, this Year, not to have taken that Course, but to have raised an Army; which his Majesty, so just a King, for the Preservation of the Kingdom, hath now taken into Consideration: And I must tell you, that his Majesty prizeth nothing more than his Honour; and he will not lose, for any earthly Thing, his Honour in the least; ye cannot make those Expressions of Love, Duty and Affection to him, which the Graciousness of his Nature will not exceed in.

Of all his Kingdoms, this ought to be the nearest and dearest unto him; yet for his Kingdom of *Ineland*, the last Parliament before this, the very second Day of the Parliament, they gave him six Subsidies; they relyed upon his gracious Words; the Success was, that before the End of the Parliament, they had all they did desire granted, and had it with an Advantage. This last Parliament there, it is well known unto you all, what a chearful Supply they have given unto his Majesty, for their Hearts went with it; and let it not be apprehended, that Subsidies there are of small Value; there is not a Subsidy that is granted, but it is worth 50 or 60,000 l. at the least: Consider that Kingdom, how small Proportion it holdeth with this of *England*; and you will find, that it is as considerable

derable a Gift, as hath been given in many Years. An. 16. Car. 1.
 It hath wrought this Effect, That certainly his Majesty will make it apparent to all the World, 1640.
 what a good Construction, and how graciously, he doth esteem and interpret this Act of theirs.
 I have directed hitherto my Speech to you that are of the House of Commons; now I shall address myself to your Lordships.

It is true, the proper and natural Supply proceeds from the House of Commons; yet, in Aid at this Time, his Majesty hath called you hither; and hopeth that he shall not find the House of Commons backward to his Desires, nor your Lordships unwilling to concur with them.

To you of the House of Commons, I did forget one Thing, of an Objection that might perhaps be made, That *Tonnage* and *Poundage* is given towards the Maintenance of a Fleet at Sea; let me tell you, that *Tonnage* and *Poundage* was never intended but for ordinary Preservation of the Sea; not that it should be to defend the Dominion of the narrow Seas, when the Navies of all the Princes of Christendom are so increased as they are. It is fit for his Majesty (as Things now stand) to have such a Strength at Sea, as may be a Terror to others abroad.

His Majesty was, once, resolved that no Shipping Writs should have issued out this Year; but he was enforced, for your Good, for the Good of the Kingdom, and for his own Honour, upon necessary and weighty Reasons, to send forth the Writs; and those Reasons were these.

It was of Necessity for his Majesty to prepare an Army, to reduce his disaffected Subjects of *Scotland* to their due Obedience. This very Year, all the Neighbouring Princes are preparing with great Fleets of Ships; so as it is Time for his Majesty to put himself into a Strength, that he may be able to preserve the Dominion of the narrow Seas; without which this Kingdom will be lost, and he not able to maintain his Right of being the Moderator of the Sea, whereby there may be Free-

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Freedom and Commerce, of Trade, which adds exceedingly to the Flourishing of this Kingdom. Another Reason for Shipping-Writs this Year is, That those of *Algier* are grown to that Insolency, that they are provided of a Fleet of sixty Sail of Ships, and have taken divers *English* Ships, particularly one, called the *Rebecca of London* (well known to the Merchants upon the *Exchange*) taken upon the Coasts of *Spain*, worth at the least 260,000 l. And therefore, the Writs having gone out upon those weighty Reasons, before it was possible the Parliament could give any Supply to provide for those Things, his Majesty cannot this Year forbear it; but he doth expect your Concurrence in the Levying of it for the Future. I shall speak that unto you by his Majesty's Command, which may comfort any *English* Heart: His Majesty hath no Thoughts of enriching himself by the Monies coming in upon these Writs; he doth desire but to live as it behoves a King of *England*, able to defend you and this Nation in Honour, and in Lustre, which is famous Abroad, and glorious at Home; and to live but like such a King, as every true *English* Heart desireth their King should be.

Be Masters of your own Way; settle it so secure, that it may never come to the least Benefit and Advantage to himself; but for the common Good, and those necessary Ends wherein you shall all share in; your Plenty, Peace, Honour, and whatsoever any *Englishman* can glory in.

His Majesty commands me to tell you, you shall propound nothing wherein you may receive all Security for the Property of your Goods, nor nothing for securing your own Liberties, wherein he will not most readily listen unto you; and be as willing to grant, as you to ask. His Majesty doth now offer unto you the Reasons, Occasions, and the Way to make this the most blessed and most happy Parliament that ever was; and that it may produce such Effects, that the

King

King may delight in his People, and the People An. 16. Car. 1.
 in their King. And he layeth before you not 1640.
 only the Counsel to do so, but he will tell you
 the Way; and that is, by putting an Obligation
 of Trust and Confidence upon him, which shall
 more secure you, than all that you can invent;
 or Fears, or Jealousies, can imagine to be pro-
 vided for. It is a Course that good Manners,
 Duty and Reason, should require of you to take
 into Consideration.

April 22. Nothing of Moment done by the Com-
 mons, except ordering the Consideration of the Lord
 Keeper's last Speech to be referred to the next Day:
 At which Time, as *Rushworth* informs us, *Ed-
 mund Waller*, Esq; rose up, and spoke to this Ef-
 fect:

Mr. Speaker, I will use no Preface, as they Debate thereon.
 do who prepare Men for something in which they
 have a particular Interest. I will only propose
 what I conceive fit for the House to consider; and
 shall be no more concerned in the Event than they
 that shall hear me.

Two Things I observe in his Majesty's De-
 mands: *First*, The Supply. *Secondly*, Your speedy
 Dispatch thereof.

Touching the *first*, His Majesty's Occasions
 for Money are but too evident; for, to say no-
 thing how we are neglected abroad, and distracted
 at home, the Calling of this Parliament, and our
 sitting here, (an Effect, which no light Cause in
 these Times hath produced) is enough to make any
 reasonable Man believe, that the Exchequer abounds
 not so much with Money, as the State doth in Oc-
 casions to use it: And I hope we shall appear wil-
 ling to disprove those, who have thought to dis-
 suade his Majesty from this Way of Parliaments,
 as uncertain; and to let him see that it is as ready,
 and more safe for the Advancement of his Affairs,
 than any new or pretended old Way whatsoever.

For the speedy Dispatch required, which was
 the *second* Thing, not only his Majesty; but *Res ipsa*
 loquitur:

An. 16. Car. 1. *loquitur*: The Occasion seems to importune no less; Necessity is come upon us like an armed Man.

1640.

The Use of Parliaments heretofore, as appears by the Writs that call us hither, was to advise with his Majesty, of Things concerning the Church and Common-Wealth. And it hath ever been the Custom of Parliaments, by good and wholesome Laws, to refresh the Common-Wealth in general; yea, and to descend into the Remedies of particular Grievances, before any Mention made of a Supply. Look back upon the best Parliaments, and still you shall find, that the last Acts are for the free Gifts of Subsidies on the People's Part, and general Pardons on the King's Part: Even the wisest Kings have first acquainted their Parliaments with their Designs and the Reasons thereof; and then demanded the Assistance both of their Counsel and Purse. But Physicians, tho' they be called of the latest, must not stomach it, or talk what might have been; but apply themselves roundly to the Cure: Let us not stand too nicely upon Circumstances, nor too rigidly postpone the Matter of Supply to the healing of our lighter Wounds: Let us do what possibly may be done, with Reason and Honesty on our Part, to comply with his Majesty's Desires, and to prevent the imminent Evils that threaten us. Consider that they who think themselves already undone, can never apprehend themselves in Danger; and they that have nothing left can never give freely; nor shall we ever discharge the Trust of those that sent us hither, or make them believe that they contribute to their own Defence and Safety, unless his Majesty be pleased first to restore them to the Property of their Goods and lawful Liberties, whereof they esteem themselves now out of Possession. One need not tell you that Property of Goods is the Mother of Courage, and the Nurse of Industry; it makes us valiant in War, and industrious in Peace. The Experience I have of former Parliaments, and my present Observation of the Care the Country has had to chuse

Per-

Persons of Worth and Courage, make me think this House like the *Spartans*; whose forward Valour required some softer Musick to allay and quiet their Spirits, too much moved with the Sound of martial Instruments. 'Tis not the Fear of Imprisonment, or, if need be, of Death itself, can keep a true-hearted *Englishman* from the Care to leave this Part of his Inheritance, as entire to his Posterity, as he received it from his Ancestors.

This therefore let us first do, and that speedily, that we may come to the Matter of Supply. Let us give new Force to the old Laws, which have been heretofore for the maintaining of our Rights and Privileges; and endeavour to restore this Nation to its fundamental and vital Liberties, the Property of our Goods, and the Freedom of our Persons; no way doubting but that we shall find his Majesty as gracious and ready, as any of his Royal Progenitors have been, to grant our just Desires therein; for not only the People do think, but the wisest do know, that what we have suffered in this long Vacancy of Parliaments, we have suffered from his Ministers; that the Person of no King was ever better beloved of his People; and yet that no People were ever less satisfied with the present Ways of levying Money. These are two Truths which may serve, the one to demonstrate the other; for such is the Opposition to the present Courses, that neither the Admiration they have of his Majesty's natural Inclination to Justice and Clemency, nor the pretended Consent of the Judges, could make them willingly submit themselves to this late Tax of *Ship-Money*: And such is their natural Love and just Esteem of his Majesty's Goodness, that no late Pressure could provoke them, nor any Example invite them to Disloyalty or Disobedience: What is it then that hath bred this Misunderstanding betwixt the King and his People? How is it that, having so good a King, we have so much to complain of? Why, Mr. Speaker, we are told of the Son of *Solomon*, that he was a Prince of a tender Heart; and yet, by the

Ad-

An. 16. Car. I.
1640.

Ann. 16. Car. 1.
1640.

Advice of violent Counsellors, how rough an Answer he gave to his People, *That his Fingers should be as heavy as his Father's Loyns*: This was not his own, but the Voice of some Persons about him, that wanted the Gravity and Moderation requisite for the Counsellors of a young King.

I love not to press Allegories too far, but the Resemblance of *Job's* Story with ours, holds so well that I cannot but observe it unto you: It pleased God to give his Enemy leave to afflict him more than once or twice, and to take all that he had from him; and yet he was not provoked so much as to rebel with his Tongue, although he had no very good Example of one that lay very near him, and felt not one Half that he suffered. I hope his Majesty will imitate God in the benigner Part too; he was severe to *Job*, only while he discoursed with another concerning him; but when he vouchsafed to speak himself to him, he began to rebuke those who had mistaken and misjudged his Case; and to restore the patient Man to his former Prosperity: So, now his Majesty hath admitted us to his Presence, and spoken Face to Face with us, I doubt not but we shall see fairer Days; be restored again to the Possession of our Property and Liberty; and that his Majesty will frown upon those who have given the ill Counsel.

I wonder at those that seem to doubt the Success of this Parliament; or that the Misunderstanding between the King and his People should last any longer, when now they are so happily met.

His Majesty's Wants are not so great, but that we may find Means to supply him; nor our Desires so unreasonable or incompatible with Government, but that his Majesty might well satisfy them: For our late Experience, I hope, will teach us what Rocks to shun, and how necessary the Use of Moderation is; and for his Majesty, he has had Experience enough how that prospers which is gotten without the concurrent Good-will of his People: Never more Money taken from the Subject; never more Want in the Exchequer: If we look upon
what

what has been paid, it is more than usually the People of *England* were wont to pay in such a Time: If we look upon what has been effected therewith, it shews as if never King had been worse supplied; so that we seem to have endeavoured the filling of a Sieve with Water. Whosoever gave Advice for these Courses, has made good the Saying of the Wise Man, *Qui conturbat Dominum suam possidebit Ventum*: By new Ways they think to accomplish Wonders, but in Truth they grasp the Wind; and are at the same Time cruel to us and to the King too: For let the Common-Wealth flourish, and then he that hath the Sovereignty can never want, nor do amiss; so as he governs not according to the Interest of others, but go the shortest and easiest Way to his own and the common Good.

The Kings of this Nation have, always, governed by Parliament; and if we look upon the Successes of Things since Parliaments were laid by, it resembles that of the *Grecians*,

*Ex illo fluere, & retro sublapsa referri,
Res Danaum* ———

especially on the Subjects Parts; for though the King hath gotten little, they have lost all: But his Majesty shall now hear the Truth from us, and we shall make appear the Errors of Divines, who would persuade us that a Monarch must be absolute, and that he may do all Things *ad Libitum*; receding not only from their Text, though that be a Wandering too, but from the Way their own Profession might teach them, *stare super Vias antiquas*, and remove not the antient Bounds and Land-Marks, which our Fathers have set: If to be absolute were to be restrained by no Laws, then can no King in Christendom be so; for they all stand obliged to the Laws Christian, and we ask no more; for to this Pillar is our Government fix'd; our Kings, at their Coronation, taking a sacred Oath to secure us.

I am sorry these Men take no more Care to gain our Belief of those Things, which they tell us
for

An. 15. Car. 1.
1640.

for our Souls Health; while we know them, so manifestly, in the wrong in that which concerns the Liberties and Priviledges of the Subjects of *England*; but they gain Preferment, and then 'tis no matter though they neither believe themselves, nor are believed by others: Yet, since they are so ready to let loose the Conscience of their King, we are the more carefully to provide for our Protection against this Palpit-Law; by declaring and reinforcing the municipal Laws of this Kingdom. It is worthy the observing how new this Opinion, or rather this way of Rising is, even amongst themselves; for Mr. *Hosker*, who was no refractory Man (as they term it) thinks, *That the first Government was Arbitrary, untill it was found, that to live by one Man's Will, became all Men's Miseries.* These are his Words, concluding that *This was the Original of inventing Laws.* And if we look further back, our Histories will tell us, That the Prelates of this Kingdom have often been the Mediators between the King and his Subjects, to present and pray Redress of their Grievances; and had, reciprocally, then as much Love and Reverence from the People; but these Preachers, more active than their Predecessors, and wiser than the Laws, have found out a better Form of Government.

The King must be a more absolute Monarch than any of his Predecessors; and, to them he must owe it, though in the mean Time they hazard the Hearts of his People, and involve him in a thousand Difficulties: For suppose this Form of Government were inconvenient (and yet this is but a Supposition, for, during these five hundred Years, it hath not only maintained us in Safety, but made us victorious over other Nations:) I say, suppose they have an Idea of one more convenient; We all know how dangerous Innovations are, though to the better; and what Hazard those Princes must run, that enterprize the Change of a long establish'd Government! Now, of all our Kings that have gone before, and of all that are to succeed in this happy Race, why should so pious and so good a King

King be expos'd to this Trouble and Hazard? Besides that Kings, so diverted, can never do any great Matter abroad. An. 16, Car. 1640.

But whilst these Men have thus bent their Wits against the Laws of their Country, whether they have not neglected their own Province; and what Tares are grown up in the Field which they should have tilled, I leave to a second Consideration; not but that Religion ought to be the first Thing in our Purposes and Desires, but that which is first in Dignity is not always to precede in order of Time: For Well-being supposes a Being, and the first Impediment, which Men naturally endeavour to remove, is the Want of those Things without which they cannot subsist.

God first assigned to *Adam* Maintenance of Life, and gave him a Title to the rest of the Creatures, before he appointed him a Law to observe. And let me tell you, that if our Adversaries have any such Design, as there is nothing more easy than to impose a Religion on a People deprived of their Liberties; so there is nothing more hard, than to do the same upon Free-Men.

And therefore, Mr. Speaker, I conclude with this Motion, That there may be an Order presently made, that the first Thing this House will consider of, shall be the Restoring of this Nation in general to their fundamental and vital Liberties, the Property of our Goods, and Freedom of our Persons; and that then we will, forthwith, consider of the Supply desired.

Thus shall we discharge the Trust reposed in us, by those that sent us hither: His Majesty will see that we make more than ordinary Hastē to satisfy his Demands; and we shall let all those know, that seek to hasten the matter of Supply, that they will so far delay it, as they give Interruption to the former.

After this, and some more Speeches to the same Purpose, it was ordered, upon the Question, 'To

King

Ann. 16. Car. 1.
1640.

The Commons
resolve to prefer
Grievances to
the Supply;

consult with the Lords how to prevent Innovation in Matters of Religion; also concerning the Property of Goods, and the Liberties and Privileges of Parliament; the better to give a present Supply to his Majesty. And a Conference was desired accordingly. But,

The next Day the Lords sent an Answer to the Request of the Commons, by the two Chief Justices, importing, 'That their Lordships did give this House many Thanks for their Respects shewed unto them in the Message: That the Reason the Messengers could not be admitted, was because of great and weighty Business then before them, the King being there present; but, so soon as ever the Leisure and State of Affairs, in that House, would permit, they would send Notice of it by Messengers of their own.'

We must here look into the *Lords Journals*, to find the Reason and Meaning of this Visit; and there we are told, That the King came to the House of Lords, very unexpectedly, on this Day; and sitting down in his Chair of State, without his Robes, he spake to them to this Effect (p):

My Lords,

Which the King,
in a Speech to
the Lords, re-
sents.

THE Necessity of calling this Parliament, makes me come this Day hither, contrary to Expectation: You remember what the Lord Keeper said concerning the Occasion of this Meeting, the first and second Day, but chiefly on the Day of Conference of both Houses at Whitehall. The House of Commons did seem to take into Consideration my weighty Affairs, but they have, in a Manner, concluded the contrary; for, instead of performing my Occasions, in the first Place, they have held Consultation of Innovations in Religion, Property of Goods, and Privileges of Parliament; and so have put the Cart before the Horse. If it was a Time to dispute, I should not much stand upon it; but my Necessities are so urgent,

(p) Mr. Rushworth hath omitted this Speech.

that there can be no Delay. If the House of Commons will trust me, I will make good what I promised by my Lord-Keeper. As for Religion, my Heart and Conscience, with the Religion now established in the Church of England, shall go together. For the Ship-Money, God is my Witness, I never converted any of it to my own Profit, but to the end of preserving my Dominion on the Seas, nor ever intended it. For Property of Goods, it is a Thing I never designed to molest: It is my Desire to be King of a free and a rich People; and if no Property in Goods, no rich People. I told the Commons, that if they would speedily supply my Occasions, for the present, I would give them further Time, in Winter, to debate and present all their just Grievances. If they will not trust me in this first, all my Business this Summer will be lost; and, before the Year goeth about, I must be trusted at last; for, in the Winter, I must call them to give me a greater Supply, if the House of Commons will not join to prefer my Occasions before their Grievances. I conjure your Lordships to consider your own Honour and mine, and the preposterous Course of the Commons; and desire that your Lordships will not join with them, but leave them to themselves. I desire you to be careful in this Point, else, if the Supply come not in Time, I will not say what Mischiefs may, and must, follow.

An. 16. Car. 1.
1643.

The King having made this short Speech, and left the House, the Lord Keeper acquainted the Peers with one Particular his Majesty had forgot; which was, That the House would determine, before they parted, on what the King had proposed to them.

Hereupon it was moved, That the House might be put into a Committee, for every Lord to speak his Mind, and to be adjourned during Pleasure. After long and great Debates, as the Journal expresses it, on the King's Speech, the House was again resumed, and these two Questions were agreed upon to be proposed:

Whether the Supply should have Precedency, and be resolved upon before any other Matter whatsoever?

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An. 16. Car. 1. *Whether there should be a Conference desired with the Commons, in order to dispose them thereto?*
1643.

These were both carried in the Affirmative. And a Message was sent to the Lower House for the last named Purpose; as is before related in their *Journals*, to which we now return.

The same Day that the King came to the House of Lords, the Committee of the Commons, appointed to prepare Heads, or Inductions, for a Conference, delivered a Series of them to the House.

Rajeworth hath given us a very loose and imperfect Account of these important Matters, and the Resolutions of the House thereupon; besides committing a great Error in placing them, in his Diurnal, two Days after the Conference was held. To set these Affairs in as clear a Light as possible, because Things were, again, growing very critical between King and Parliament, we shall give them at length, as they are entered in the *Journals* of the *Commons*.

I N D U C E M E N T S.

I. *Concerning INNOVATION in Matters of RELIGION.*

Heads of Grievances prepared by the Commons.

1. 'The Commission that was lately granted to the Convocation-House.—The rather, because of the Innovations brought in and practised, when there was no such Commission.

2. 'The Complaints arising from Petitions brought in from several Counties, by the Members of the House, against Innovations in Religion.

3. 'The molesting and depriving of godly and conformable Ministers, for not yielding to Matters enjoined without Warrant of Law.

4. 'The publishing of *Pepish* Tenets, in licensed Books, Sermons, and Disputations.

5. 'Restraining conformable Ministers from preaching in their own Charges.'

II.

II. Concerning PROPERTY of GOODS. An. 16. Car. I.
1640.

1. ' Monopolies, and Restraint of Trade.
2. ' Ship-Money.
3. ' Enlarging the Bounds of Forests beyond what they have been for some hundred Years last past.
4. ' Military Charges, viz, Coat and Conduct Money, Wages, Arms taken from the Owners, forcing the Country to buy or provide, at their own Charge, Horses and Carts, by way of Tax.
5. ' Denial of Justice in the Courts of *Westminster*, to the Subject's Prejudice, in point of the Property of his Goods.
6. ' Frequent Imprisonments and Vexations for Nonpayment of unwarrantable Taxes, and not submitting to unlawful Monopolies.'

III. LIBERTIES and PRIVILEGES of PARLIAMENT.

1. ' Punishing Men out of Parliament, for Things done in Parliament.
 2. ' That which is already voted in the House, concerning Privilege of Parliament.
 3. ' Sudden Dissolution of Parliaments, without Redress of Grievances.—But this was laid by for the present, and not put to the Question.
- Lastly*, ' As that which relates to all, and is a great Cause of all our former Grievances, the not holding of Parliaments every Year, according to the Laws and Statutes of this Realm.'—This also was put off for the present.

Resolved, upon different Questions, on each particular Article of the first Charge, relating to Religious Matters, ' That they should all be made Use of in the intended Conference with the Lords.'—The same on the second and third, except the two last Articles of it, which were deferred to another Opportunity.

April 25, being *Saturday*, while the Commons were employed about some Matters of less Moment,

An. 16. Car. 1. they received a Message from the Lords, by two of
1640. the Judges, 'That his Majesty having been ple-

sed to be in their House Yesterday, and some Oc-
casions having risen from thence, on which some
Debate had happened, their Lordships desired a
speedy Conference with a Committee of both
Houses about the same.' A Committee of the
Commons were instantly appointed, who were to
attend the Lords, and make a Report of the Con-
ference on *Monday Morning* (9).

April 27. The said Report was made to the
Commons by Mr. *Herbert*, the Queen's Solicitor,
to this Effect; repeating the Heads of the King's
Speech, at the Conference, and what the Lord
Keeper subjoin'd to it. The former has already
been given at large, and the latter, being much
better digested in the *Lords Journals*, we shall add
from that Authority.

The Lords, at a
Conference, re-
commend Prece-
dency of Supply;

'The Lord Keeper acquainted the Commons
with the Effect of what his Majesty said to the
Lords the Day before, and at the Meeting at
Whitehall. He also put them in mind of what
was said the first and second Days of this Parliament;
and that the King had said he would make it
all good. He told them, That his Majesty's Af-
fairs would admit of no Delay; but required a pre-
sent and speedy Supply. He let them know the
great Distemper that *Scotland* was now in; that
the *Scots Army* had pitched their Tents in the
Fields near *Dunce*, and had taken four *English*
Troops; and threaten the Invasion of *Northumber-*
land; That the *Scots* had put themselves under the
Protection of the *French King*: That his Majesty's
Honour is concerned in this Business; which he is
determined to uphold as his Life.

'That there is a Necessity to trust his Majesty
at present, yet he must trust them hereafter; that
he

(9) This Day we find that Mr. *John Russeworth*, the Author of
the *Historical Collections*, was admitted as a Clerk-Assistant to the
House of Commons, *Journ. Dem. Com.*

he will not break his Word with them; and that Delay was as bad as Denial; and Time lost cannot be recovered. They had the Word of a King; and not only so, but of a Gentleman.

For the three Propositions, *viz.* Religion, Property of Goods, and Privileges of Parliament, he told them, his Majesty would graciously hearken unto them, and relieve them; and give them what, in Reason, can be desired.

For Religion: He said, his Majesty's Heart and Conscience would go together; and that he will die in the Religion of the Church of England. That Ship-Money was never Profit to the King; for he spent that, and more out of his own Revenue, to preserve the Dominion of the Seas; and if they would put the King into any other way to secure the Seas, he would hear them.

Lastly, He told the Commons, That the Lords had voted and declared, as their Opinion, That his Majesty's Supply should have the Precedency, and be resolved on before any other Matter whatsoever: Therefore he desired the House of Commons to go on with that first, as that which, in the Opinion of the House of Lords, is held most necessary. That their Lordships in this did not move Subsidies, but rather declined it, and only gave their Advice therein. That this being done, their Lordships would be ready to join in any Thing for carrying on the other great Business.

This Report of the Lord Keeper's Speech being made in the House of Commons, a long Debate ensued upon it; and, at last, they came to the following Resolutions:

1. Resolved, upon the Question, 'That by the late Matter propounded, in the late Conference with the Lords, the Privileges of this House are violated.'

Which the Commons vote to be a Breach of their Privileges:

2. Resolved, upon the Question, 'That the Words now read by the Solicitor, were a faithful and true Report of part of that Conference had with the Lords; and that the said Words shall be entered in the Journal.'

An. 16. Car. I.
1640.

3. *Resolved*, upon the Question, ‘ That their Lordships voting, propounding, and declaring concerning Matter of Supply, in such Sort as is contained in this Report, before it was moved from this House, is a Breach of Privilege of this House.’

And, after ordering the last Section of the Report to be read once more, it was further *Resolved*, ‘ That a select Committee should be appointed to consider of this Day’s Debate and Resolutions; and to prepare, in Writing, an Address unto the Lords, for righting the Privileges of this House.’

The next Day, after hearing some Election-Matters canvassed over, the Commons agreed and approved on an Address to the Lords, and that Mr. *Pymm* should go up to that House with it; which he delivered to their Lordships in Manner following:

Their Reasons
for such a Vote.

THAT at the last Conference, by a Committee of both Houses, it was admitted by your Lordships, That Matters of *Subsidy* naturally belong to the Commons; and that your Lordships would not meddle therein, nor give Advice in it, but had declined it. That, notwithstanding this Declaration, your Lordships have meddled with, and advised concerning both the Matter of Supply, and the Time when the same should be made: And this before such Time as the same was moved to them by the Commons, as appears by your Lordships Declaration, *viz.* ‘ That you had voted you held most necessary and fit, that the Matter of *Supply* should have Precedency before any other Matter or Consideration whatsoever: And therefore desired that Conference with the Commons, to let them know your Lordships Reasons for it: Which being taken into Consideration, and done by the Commons, your Lordships would freely join with them in all that concerns Religion, Property of Estate, and Privilege of Parliament.’

‘ That the Course this Committee did offer for Repair of this Breach of Privilege, was, That your Lordships would, in your Wisdoms, find out, yourselves,

selves, some Sort of Reparation, and of Prevention of the like Infringement for the future. And whereas the Committee was induced to conceive, that your Lordships had been informed the Commons had entered into Consideration and Debate of the aforesaid Matters of Religion, &c. and that they were to have Precedency before *Supply*, which might occasion your Lordships voting as they had done; they humbly desire to present the same to your Lordships, in Words to this Effect:

‘ That, in case your Lordships have taken Notice of any Orders or Proceedings of the Commons, concerning *Religion, Property, and Privileges*, and that they were to proceed to the *Supply*; which they have some Cause to conceive by these Words, ‘ That this being done, your Lordships would ‘ freely join with the Commons in those three ‘ Things:’ For the avoiding all Misunderstandings between your Lordships and the Commons, for Time to come, they desire your Lordships, hereafter, to take no Notice of any Thing which shall be debated by the Commons, untill they shall, themselves, declare the same unto your Lordships; which the Commons shall always observe towards your Proceedings, conceiving the contrary not to consist with the Privileges of either House.’

The Committee being returned, Mr. *Pym* informed the House of what he had done and delivered; and that their Lordships Answer, at present, was, ‘ They would send one in convenient Time.’ It was ordered, That the Thanks of the House should be given to Mr. *Pym*, for the good Service he did them, in his exact and faithful Delivery of their Address.

We shall now see how the Lords repented this Business: And we are told, by their *Journals*, That when the Lord Keeper had made a Report to the House (*April 29.*) of what was delivered by the Commons, at the Conference the Day before, their
 Lord-

An. 16. Car. 1.
1640.

Lordships entered into a long and serious Debate upon it, and afterwards came to the following Resolution, 'That by their Lordships first voting, *They were of Opinion the Matter of his Majesty's Supply should have Precedency, and be resolved on before any other Matter whatsoever,* there was no Breach of the Privilege of the House of Commons.'

Which the Lords resent.

The next Day (*April 30.*) the Lords passed another Vote, to the same Purpose, 'That it was no Breach of Privilege of the House of Commons, for their Lordships to hear what his Majesty declared to them, and thereupon to report the same to the House of Commons.' And, in order to be more able to support these two Resolutions, the Lords ordered, That Notice should be given to the Keeper of the Records in the *Tower* to attend the House the next Morning, with the original Record of the 9th of *Henry IV.* concerning the Indemnity of the Peers and Commons (*r*). Likewise a Committee of Lords was appointed to meet that Afternoon, in the Council-Chamber at *Whitehall*, to prepare and draw up Heads for another Conference with the Commons about this great Affair. — But to return to that Body.

The Commons proceed with Grievances.

April 29. After some Bills were read, and some other Business of less Moment was done, Sir *Walter Exle* reported from the Committee, appointed to prepare and give Directions for the managing of a Conference, to be desired with the Lords, about the Matters contained under the *Heads* or *Inducements*, before mentioned; That they had thought fit to assign three Men, for the Charge of the three Heads: Mr. *Pym* for the first, and to make an Introduction to the whole Business: Mr. *St. John* for the second; who desired, That, in regard of the large Extent of this Head, another might be join'd with him to undertake the Charge: And Mr. *Hollorn* for the third.

Upon
(*r*) See this in our second Volume, p. 109.

Upon Delivery of this Report the following Particulars were, by Question, resolved upon. An. 16. Cap. 1
1640.

1. That, in this Conference with the Lords, there shall be a Protestation and a Saving made, to preserve and keep entire the Right of the Commons, not to be bound by any Canons, that are or shall be made, upon any Commission granted, or to be granted, to the Convocation, without the Consent of Parliament.

2. That, in the said Conference, one Head shall be, touching the Removing of the Communion Table, in Parish Churches, and Chapels in the Universities, and placing them, Altar-wise, at the East End of the said Churches and Chapels, close to the Wall.

3. That another Head of this Conference shall be, the setting up of Crosses, Images, and Crucifixes, in Cathedral and Parochial Churches and Chapels, both in the Universities, and divers other Places of this Kingdom.

4. Another Head shall be, the refusing to administer the Sacrament to such as will not come up to the Rail before the Communion-Table, set Altar-wise; and excommunicating some for not doing of it.

5. To be the making and enjoining of Articles at Visitations, without any other Authority than that of the Bishops of the Diocess.

6. That, in this Conference, another Head shall be, touching the molesting, suspending, or depriving of many godly and conformable Ministers, for not yielding to Matters enjoined without Warrant of Law; instancing such as have been deprived for not reading the Book for Recreations on Sundays.

7. That, in this Conference, one Head shall be, touching the Preaching, Printing, and Determining of and for *Pepish* Tenets, contrary to the Doctrine of the Church of *England*.

8. Another Head to be, touching the Enjoining and Preaching of Bowing to the Altar, and the Enquiry for the Doing, or not Doing of it.

9. That

16. Car. 1. 2640. 9. 'That, in this Conference, another shall be, concerning the Restraining of conformable Ministers from preaching in their own Charges.

Lastly, It was resolved, 'That, in this Conference with the Lords, there shall be a Reservation to the Parties, appointed to carry it on, of further Liberty to add more Particulars as there shall be Occasion.'

Mr. *Rusworth* informs us, That this grand Conference, on so many extraordinary Topics, was held as this Day; but it does not appear so by either of the *Journals*; on the contrary, the last Thing entered there for this Day, is an Order to go on the next Morning with the Debate upon the Report, where it was then left off. Neither is there any Certainty of this particular Conference being held at all in this Session; the Difference then subsisting between the two Houses preventing it.

April 30. Nothing material was done, except some Debates on the Legality of *Ship-Money*; and a Resolution of the Commons, That the King's Counsel may be heard there, as soon as they are ready, concerning the Lawfulness of it; with other Matters relating to that Enquiry.

May 1. Whilst the House of Commons was debating about giving an Admonition to Dr. *Beale*, Master of St. *John's* College, in *Cambridge*, concerning a Sermon he had preached against the *Puritans*; a Message was brought from the Lords to desire a present Conference, concerning somewhat that fell out in the last. The House was divided on this Message, and the Question being put, Whether to agree to this Conference, or not? it passed in the Negative, 257 against 148.

Rusworth tells us, That this Division of the House discovered the Temper of it; for the Majority, that voted against the Conference, were for *Redress of Grievances* before the *Supply*: But he does not

acquaint us, That soon after the Conference was agreed to, and the Treasurer of the Household sent up to inform the Lords of it; tho' he has given us the Lord Keeper's Speech made at this Meeting. The *Collector* is very faulty in his Diurnal of this Session; ascribing Facts to be done on one Day which happened on another; which we, from the Authority of the *Journals*, have corrected. The Speech, before mentioned, for which this Conference was desired, had been reported and agreed upon by the Lords; and was delivered to the Committee of the Commons, by the Lord Keeper, to the Effect following:

MY Lords have commanded me to let you know, that the Desire and Care on your Part at the last Conference, represented unto them for preserving a good Union and Correspondence between their Lordships and you, is by them entertained with all Respect, and requited with all good Affection; as that which is the best way to bring our Consultations and Resolutions to an happy Issue, to give his Majesty a dutiful Account of our Zeal and Forwardness in those great and weighty Affairs, for which we were assembled; and to further those united Proceedings that may tend to the Happiness of this Kingdom, and the Contentment of both Houses.

Their Lordships well know the great Privileges belonging to both Houses of Parliament, of which they and you alike participate: And they are not ignorant of those that are distinctly proper to each House: What belongs to you of the House of Commons, they never had thought to impeach or diminish in the least Kind; and what they may justly challenge to themselves, they presume you will not attempt upon; since you cannot doubt but they will be as tender of their Honour in the Preservation and Upholding of their own, as they are and shall be careful not invade or violate any of yours.

This, their Lordships commanded me to tell you, will best and most clearly appear, by the Course that

The Lords, at a Conference, give their Reasons for preferring the Supply.

An. 16. Car. I. 1640.

An. 76. Car. I.
1640.

that hath been held in their own House, and by their Proceedings with you.

Their Lordships, as in Duty and Affection to his Majesty's Crown and Government they are bound, took into serious Consideration the great and weighty Motive of his Majesty's calling us together at this Time; the great Evils and Calamities that hang over our Heads, and the apparent Danger this Kingdom is like to run into, if, by speedy and fitting Supply, his Majesty be not enabled to prevent it?

These, with other Reasons inforcing how un-supportable Delay and Protraction was, and how impossible it is for both Houses to recover the Loss of Time, in a Matter of so urging and pressing Consequence, were, by his Majesty's Command, delivered to their Lordships and you, both in the Lords House and in the *Banqueting House* at *Whitehall*; his Majesty being present.

His Majesty, I say, at both those Times, expressed his gracious and princely Desire to do all that from a just and a gracious King might be expected; whereby this Parliament might have an happy and blessed Conclusion, to bring Joy and Consolation to his Majesty and all his Subjects. He told you, that all your just Grievances should be graciously heard and relieved; that he would therein let you be at no Loss of Time; [*but for the present, before you parted, you should have, without abridging, as much Time as the Season and great Affairs in Hand would possibly permit; and, what you could not now prefer, you should have Time towards Winter to go thro' with.*]

Their Lordships were Witnesses, that his Majesty gave his Royal Word herein; and, for their Parts, lodge it in their Hearts with as much Trust and Confidence of his Majesty's Royal Performance, as ever Subjects did.

Not long after, his Majesty was pleased to honour the Lords House with his Presence again; to renew their Remembrance of all that before had been delivered to both Houses, both for the Necessity of the Supply desired, with an Impossibility of admitting
Delay;

Delay; and the Clearness of his Majesty's Intention. An. 16. Car. 1640.
 and Resolutions to give all just Satisfaction to what, with Reason, could be desired of him.

His Majesty then took Notice to their Lordships of somewhat that had been voted in your House concerning Religion, Property of Goods, and Liberty of Parliament; whereby his Majesty conceived the Matter of his Supplies set aside, which he had so often, and with such Weight of Reason, desired might have Precedence; after very gracious Assurances to their Lordships of his Majesty's constant Affection and Zeal for the true Religion, for preventing all Innovation therein, of his so often iterated Promise to give a gracious Ear and just Relief to all your just Grievances; expressing his Royal Intentions in that of *Ship-Money*, which he found so much stood upon.

He was further pleased to desire their Lordships, (as Persons in their Ranks and Degrees nearest to him in Honour, as much and more concerned than others; and, in the Safety and Prosperity of his Kingdom, at least equally interested with the rest of his Subjects, in a Case of this great and important Weight) that they would, by their Counsel and Persuasion, incline you of the House of Commons to give his Majesty a speedy Answer and Resolution, in the Matter of Supply.

Their Lordships took this his Majesty's Desire into serious and dutiful Consideration; and, after a great and solemn Debate, they resolved, that their Opinion was, *That the Matter of his Majesty's Supply should have Precedency, and be resolved of before any other Matter whatsoever*; and did think fit, there should be a Conference desired with you of the House of Commons to dispose you thereunto. And this was all they then voted or concluded, with which other Conference their Lordships acquainted you: This as it was just and honourable for them to do, so it neither extended the Bounds and Limits of their own Privilege, nor narrowed or straitned any of yours. And yet at the last Conference (which their Lordships are apt and willing to believe

in. 16. Car. 1.
1645.

I lieve, proceeded rather from some Mistaking than any Intention to lessen their, or enlarge your own Priviledges) it was urged in your Name, *That the Voting of this was a Breach of your Priviledge, and that therein their Lordships had been transported beyond those Bounds, which they had set to themselves; because, in their former Conference, their Lordships had admitted, that Matter of Supply ought to be given in the House of Commons, as naturally belonging to that House, and wherein their Lordships would not meddle, no not so much as to give Advice: And yet by Voting what they did, had not only meddled in Matter of Supply, but as far as in their Lordships lay, had concluded both of Matter and Order of Proceeding, for which you demanded Reparation from their Lordships: Herein, I'm commanded by their Lordships to let you know, that they have neither varied nor been transported from their own Bounds; nor voted any thing contrary to your Rights and Priviledges, or to the admitting of them at that Conference, which is pretended. For their Lordships did and do admit, That the Bill of Subsidies ought to have its Inception and Beginning in your House; and, that when it comes up to their Lordships, and is by them agreed unto, it must be returned back to you; and be, by your Speaker, presented.*

And therefore, as they do disclaim any Thought or Intention of such Beginning in their House; so they did, at their Debate and Conference with you, disclaim to meddle with the Matter of Subsidies or Supplies; that is by naming the Time or Number, or any such Circumstances incident to the Bill, which ought to begin with you; or therein to give you any the least Advice, but only to confer and talk with you about Supplies in general. For, to give you their Advice therein, they do not, nor ever did, hold derogatory to yours, or exceeding the Priviledges of their own House; since as you frequently impart your Grievances to them, so it's all the Reason in the World they should communicate their Fears and Foresights of Dangers to you: Their Lordships being a Body, that moveth
in

in an Orb nearer unto the Royal Throne than you do; and thereby the likelier to communicate in the Counfels and Secrets of State; and, for their Persons and Fortunes, at least as considerable in point of Danger.

An. 16. Car.
1640.

‘ Their Lordships are not unacquainted with that Establishment in Parliament, which was by you, at the Conference, styled, *The Indempnity of the Commons*; but it is indeed the *Indempnity of the Lords and Commons*; and so styled in the Record itself. By that Record, made at *Glocester 9 Hen. IV.* it appears there was a Conference between the Lords and Commons, about the State of the Realm and Defence of it; after which the King demanded of the Lords, What Aid was fit to be granted? They said a Tenth and an Half in Cities and Boroughs, and one Fifth and an Half of others, and a Subsidy of *Tonnage* and *Poundage* for two Years. Upon which the King sent to the Commons, to send up to him and the Lords, twelve of their Company; when they came, it was by the Kings Command declared, what had been by the King demanded of the Lords, and what the Lords Answer thereto was; which the King willed to report to their Companions, that they might with better Speed conform themselves to the Intention of the Lords. — This indeed the Commons were troubled at, as being a great Derogation to their Liberties; whereupon, to prevent, for the future, any thing that might turn to the prejudice of their Liberty, or against the Liberty of the Lords, It was established, *That it should always be lawful for the Lords to commune among themselves, in the King’s Absence, of the State of the Realm, and the Remedies needful; and so for the Commons among themselves. Provided always, that neither the Lords, or Commons, report to the King any Things granted by the Commons and assented to by the Lords; nor the Communication of it, before the Lords and Commons be agreed, and then be represented by the Speaker of the House of Commons.*

‘ This is the Subtance of that Establishment, which only hath Relation to the Manner of present-
ing

16. Car. 1. ing Subsidies and Aids to the King, and giving him
 1640. Knowledge of them. And, as it hath not one
 Word that bars the Lords and Commons from
 conferring about them; so it plainly declares, that
 both Lords and Commons, in their several Houses,
 may equally treat amongst themselves of the Dan-
 gers the Kingdom is in, and of the Way to remedy
 them. This my Lords have well weighed, and,
 are satisfied, verifies their Proceedings to have been
 according to ancient Usage and Custom, as they are
 grounded upon just and weighty Reasons.

Many other Reasons their Lordships have, to
 justify their Proceedings in this Particular; but they
 conceive this Record, alone, mentioned by your-
 selves, will give you herein abundant Satisfaction;
 and plainly shew that the House of Commons had
 no Cause to demand Reparation herein from their
 Lordships.

A second Thing objected, wherein their Lord-
 ships have been said to have broke another great
 Privilege of the House of Commons established by
 that Ordinance, which I have mentioned before,
 is, that their Lordships have taken Notice of some
 Proceedings in the House of Commons concerning
 three Particulars, *viz. Religion, Property of Goods,*
and Privilege of Parliament. To which their
 Lordships have commanded me to give you this just
 and honourable Answer.

His Majesty told their Lordships, you had re-
 solved something concerning these three Heads;
 and, by that way of Proceeding, preferred Grievan-
 ces before Matter of Supply. How his Majesty
 knew that you had so resolved, belongs not to their
 Lordships to enquire into; their Lordships not
 meddling with any thing that others say to the
 King. But as to what his Majesty said to their
 Lordships, and what their Lordships heard his Ma-
 jesty declare to them: — Certainly for them,
 thereupon, to report the same to the House of
 Commons, their Lordships are so far from holding
 it any Diminution, or Violation of your Privileges;
 that, on the contrary, in Duty to his Majesty they
 could

could do no other: And the Communicating it to you, in that Manner, they think rather merits your Opinion and Belief of their Affections to you, and Desire of Correspondence with you, than any other Misconstruction whatsoever.

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‘ As to that which you called the *Indemnity of the Commons*, it hath no Word in it that can be construed to make any Breach of your Priviledge. Therefore, their Lordships, having thus cleared and justified their own Proceedings, and freed themselves from any Imputation of invading your Liberties, cannot but return to their first Grounds and Resolution; which were, in all fair and affectionate Manner, to stir up in you the just Consideration of those great and imminent Dangers that threaten this Kingdom at this Time, and how dangerous and irrecoverable Delay is: And withal to dispose you to take, into your first and best Thoughts, the Matter of his Majesty’s Supply, and give him a speedy Answer therein.

‘ This, their Lordships are confident, will be the Means to preserve and continue a good Union and Understanding between their Lordships and you; to make this a happy Parliament; and to avert the publick Calamities, that menace the Ruin and Overthrow of this famous and renowned Monarchy.’

May 2. Whilst the House was preparing to hear the Report made of Yesterday’s Conference with the Lords, the Treasurer of the Household, Sir Henry Vane, delivered a Message from the King to them, which was read *in hæc Verba*;

‘ That his Majesty hath, by divers and sundry Ways, acquainted this House with the urgent *[Necessity of Supply, and with the great]* Danger, inevitably, to fall upon the whole State, upon his own Honour, and the Honour of this Nation, if more Time shall be lost therein.

‘ That, nevertheless, his Majesty hath, hitherto, received no Answer at all; though, heretofore,

A Message from the King to the Commons, to hasten a Supply.

An. 16. Car. 1. 1640. fore, his Majesty had told the House, That a
 ' Delay in this Case is as destructive as a Denial;
 ' and doth again desire them to give him a present
 ' Answer concerning his Supply; his Majesty be-
 ' ing still resolved, on his Part, to make good
 ' [whatsoever he hath promised] by himself or the
 ' Lord Keeper.'

On the receiving this Message, the House pre-
 sently resolved itself into a Committee, *William
 Lentball*, Esq; in the Chair. But, though a De-
 bate ensued on the Message, which lasted 'till Six
 o' Clock at Night, they came only to the following
 Resolution. ' That, because of the Difficulty of
 the Matter debated, there should be further Time
 granted to the Committee, to begin it again on
 Monday the 4th Instant, at Eight in the Morning.
 And that the Treasurer, Comptroller, and Mr. Se-
 cretary *Windebank*, be intreated, from this House,
 to acquaint his Majesty with this Order.'

May 4. Mr. Treasurer acquainted the House,
 That they had made known to his Majesty their
 Order of *Saturday*; in Answer to which, the King
 had sent another Message, which was also read in
 these Words:

A second Message
 to the same Pur-
 pose.

' Whereas, upon *Saturday* last, his Majesty was
 pleased to send a Message to this House, desiring
 ' you to give a present Answer concerning his Sup-
 ' ply; to which, as yet, his Majesty hath had no
 ' other Answer, but that, upon this Day, you will
 ' again take it into further Consideration: There-
 ' fore his Majesty, the better to facilitate your Re-
 ' solutions, this Day, hath thought fit to let you
 ' know, that, of his Grace and Favour, he is plea-
 ' sed, (upon your granting twelve Subsidies to be
 ' presently passed, and to be paid in three Years,
 ' with a Proviso that it shall not determine the
 ' Sessions) not only, for the present, to forbear
 ' the further levying of any *Ship-Money*, but will
 ' also

* also give Way to the utter abolishing of it, by AN. 16. CAP. I
 * any Course that yourselves shall like best. 1690.
 * And for your Grievances, his Majesty will
 * (according to his Royal Promise) give you as
 * much Time as may be now, and the next *Mi-*
 * *chaelmas*; and he expects a present and positive
 * Answer upon which he may rely, his Affairs
 * being in such a Condition as can endure no longer
 * Delay.

The Commons went, again, into a Committee To which the
 of the whole House, to consider of his Majesty's Commons not
 Messages of *Saturday* and of this Day. The Ser- giving a present
 jeant was sent to the several Bars, in *Westminster* Answer,
Hall, to summon the Members to come to the Ser-
 vice of the House. But tho' they spent this whole
 Day, also, in the Debate, about preparing an An-
 swer to the King's Messages, they came to no more
 Resolution than to adjourn it till the next Morn-
 ing at Eight of the Clock; and that the former
 Officers should acquaint his Majesty with it.

But, the next Day, *Rushworth* informs us; That
 Secretary *Windebank* went early to the Speaker's
 House in *Chancery-Lane*, with a Command to
 bring him to *Whitehall*: That the Commons met
 at the usual Hour; but the Speaker not appearing,
 according to Custom, they concluded they were
 to be dissolved. And, as they were discoursing with
 one another, *James Maxwell*, Esq; Gentleman-
 Usher of the Black Rod, came to require their Ap-
 pearance in the Upper House; where the King
 spake as follows:

My Lords,

There can no Occasion of my Coming to this House The King dis-
 be so unpleasing unto me, as this at this Time. solves the Parli-
 The Fear of doing that, which I am to do this Day, ament.
 made me not long since come into this House; where
 I express as well my Fears as the Remedy, which I
 thought necessary for the eschewing of what is to
 follow.

An. 16. Car. 1.

1640.

I must confess and acknowledge that you, my Lords of the Higher House, did give me so willing an Ear, and with such Affection did shew yourselves; that, certainly I may say, if there had been any Means to have given an happy End to this Parliament, you took it; so that it was neither your Lordships Fault nor mine, that it is not so. Therefore, in the first Place, I must thank you, my Lords, for your good Endeavours.

My Lords, I hope you remember what, the first Day of the Parliament, my Lord Keeper said to you in my Name; and what likewise he said in the Banqueting House in Whitehall; and what, lately, I said unto you in this Place myself. I name all this unto you, not doubting that you do not well remember it; but to shew you that I never said any Thing in way of Favour to my People, but, by the Grace of God, I will punctually and really perform it.

I know they have insisted very much on Grievances; I will not say but there may be some, tho' I will confidently affirm, that there are not, by many Degrees, so many as the public Voice doth make them. Wherefore I desire you to take Notice, now especially at this Time, that out of Parliament I shall be as ready, if not more willing, to hear and redress any just Grievances, as in Parliament.

There is one Thing much spoken of, I mean as to Matters of Religion. Concerning which, albeit I expressed myself fully the last Day in this Place, yet I think it fit again on this Occasion to tell you, that as I am concerned, so I shall be most careful to preserve that Purity of Religion which, I thank God, is so well established in the Church of England; and that, as well out of, as in, Parliament.

My Lords, I shall not trouble you long with Words, it being not my Fashion; wherfore to conclude, what I offered the last Day to the House of Commons, I think is very well known to you all; as likewise how they accepted it, which I desire not to remember; but wish they had remembered, how at first they were told by my Lord-Keeper, that Delay was the worst Kind of Denial: Yet I will not lay th's Fault on the whole House

House of Commons; I will not judge so uncharitably of those whom, for the most part, I take to be loyal and well-affected Subjects; but it hath been the malicious Cunning of some few seditiously affected Men that hath been the Cause of this Misunderstanding.

I shall now end as I have begun, in giving your Lordships Thanks for [the Care you have of my Honour and Affairs], desiring you to go on and assist me in the maintaining [of my Government and the Liberties] of the People, that they now so much startle at; for, my Lords no King in the World shall be more careful [to maintain] the Property of their Goods, the Liberties of their Persons, and the true Religion, than I shall be.

And now, my Lord-Keeper, do as I have commanded you.

The Lord-Keeper then added.

My Lords, and you the Gentlemen of the House of Commons, the King's Majesty doth dissolve this Parliament.

All that is entered in the Commons Journals for this Day is,

Die Martis 5to. Maii, 16mo. Regni Regis CAR.

PRAYERS.

The Gentleman-Usher of the Upper House came from his Majesty, to require the Knights, Citizens and Burgesses of this House, to come up presently to his Majesty: And, there, by his Majesty's Command, my Lord-Keeper dissolved this present Parliament.

Soon after the Dissolution of this Parliament the King published a Declaration of the Grounds and Reasons, which induced him to take such a Step; in which is a Recapitulation of all his Speeches, Messages, and Answers to them, from the Beginning to the End of this Parliament: To avoid Tautology, we shall not repeat them here, but only give the Declaration itself.

And publishes a Declaration of his Reasons for dissolving them.

16. Car. I.
1649.

His Majesty's DECLARATION to all his loving Subjects, of the Causes which moved him to dissolve the late PARLIAMENT.

THE King's most Excellent Majesty well knoweth, that the Calling, Adjourning, Proroguing and Dissolving of Parliaments, are undoubted Prerogatives inseparably annexed to his Imperial Crown; of which he is not bound to render any Account, but to God alone, no more than of his other Regal Actions.

Nevertheless his Majesty, whose Piety and Goodness have made him ever so to order and govern all Things, that the Clearness and Candor of his Royal Heart may appear to all his Subjects; especially in those great and publick Matters of State, that have Relation to the Weal and Safety of his People, and the Honour of his Royal Person and Government; hath thought fit (for avoiding and preventing all sinister Constructions and Misinterpretation, which the Malice of some ill-affected Persons to his Crown and Sovereignty, hath or may practice to infuse into the Minds and Ears of his good and faithful Subjects) to set down by Way of Declaration, the true Causes, as well of his Assembling, as of his Dissolving, the late Parliament.

It is not unknown to most of his Majesty's loving Subjects, what Discouragements he hath formerly had, by the undutiful and seditious Carriage of divers of the Lower House in preceding Assemblies of Parliaments; enough to have made him averse to those antient and accustom'd Ways of Calling his People together; when, instead of dutiful Expressions towards his Person and Government, they vented their own Malice and Disaffections to the State; and, by their subtil and malignant Courses, endeavoured nothing more than to bring into Contempt and Disorder all Government and Magistracy.

Yet his Majesty, well considering that but few were guilty of that seditious and undutiful Behaviour;

viour; and hoping that Time and Experience had made his loving Subjects sensible of the Disorder the whole Kingdom was like to be put into, by the ill-governed Actions of those Men: And his Majesty, being ever desirous to tread in the Steps of his most noble Progenitors, was pleased to issue forth his *Writs* under the Great Seal of England for a Parliament, to be holden the 13th Day of April last.

On that Day his Majesty, by the Lord-Keeper of his Great-Seal, was graciously pleased to let both Houses of Parliament know how desirous he was, That all his People would unite their Hearts and Affections in the Execution of those Counsels, that might tend to the Honour of his Majesty, the Safety of his Kingdoms, and the Good and Preservation of all his People: And withal, how confident he was that they would not be failing in their Duties and Affections to him and to the Public.—He laid open to them the manifest and apparent Mischiefs threatened to this and all his other Kingdoms, by the mutinous and rebellious Behaviour of divers of the *Scots* Nation; who had, by their Examples, drawn many of his Subjects there into a Course of Disloyalty and Disobedience, not fit for his Majesty in Honour, Safety, or Wisdom to endure. And how that, to strengthen themselves in their disloyal Courses, they had addressed themselves to foreign States, and treated with them to deliver themselves up to their Protection and Defence; as was made apparent under the Hands of the prime Ringleaders of that rebellious Faction.

These Courses of theirs tending so much to the Ruin and Overthrow of this famous Monarchy, limited by the Descent of the Crown of England upon his Majesty and his Father of blessed Memory: His Majesty, in his great Wisdom, and in Discharge of the Trust reposed in him by God, and by the fundamental Laws of both Kingdoms, for the Protection and Government of them, resolved

An. 16. Car.
1649.

An. 15. Car. 1.
1645.

solved to suppress; and, thereby, to vindicate that Sovereign Power intrusted to him.

He had, by the last Summer's Trial, found that his Grace and Goodness was abused; and that, contrary to his Expectation and their faithful Promises, they had, since his being at *Berwick* and the Pacification there made, pursued their former rebellious Designs: And therefore it was necessary now, for his Majesty, by Force, to reduce them to the just and modest Condition of their Obedience and Subjection; which, whenever they should be brought unto, or, seeing their own Errors, should put themselves into a Way of Humility and Obedience becoming them; his Majesty should need no other Mediator for Clemency and Mercy to them, than his own Piety and Goodness, and the tender Affection he hath ever born to that his native Kingdom.

This being of so great Weight and Consequence to the whole Kingdom, and the Charge of an Army fit to master such a Business amounting to such a Sum as his Majesty hath no Means to raise; having not only emptied his own Coffers, but issued between three and four [*hundred*] thousand Pounds, which he borrowed of his Servants upon Security out of his own Estate, to provide such Things as were necessary to begin such an Action with: His Majesty, after the Example of his Predecessors, resorted to his People in their representative Body, the Parliament; whom he desired, with all the Expressions of Grace and Goodness which could possibly come from him, That, taking into serious and dutiful Consideration the Nature of these bleeding Evils, and how dangerous it was to lose the least Minute of Time, lest thereby those of *Scotland* should gain the Opportunity to frame their Parties with foreign States: They would, for a while, lay aside all other Debates, and pass an Act for the speedy Payment of so many *Subsidies*, as might enable his Majesty to put in Readiness, for this Summer's Expedition, those Things which were to be prepared
before

before so great an Army could be brought into the Field. But for a further Supply, necessary for so great an Undertaking, his Majesty declared, That he expected it not, till there might be a happy Conclusion of that Session; and till their just Grievances might be, first, graciously heard and relieved.

And therein as his Majesty would, most willingly, have given them the Precedence before Matter of Supply, if the great Necessity of his Occasions could have permitted; so he was graciously pleased, for their full Assurance and Satisfaction therein, to give them his Royal Word, That, without determining the Session, upon granting of the *Subsidies*, he would give them, before they parted, as much Time as the Season of the Year and the great Affairs in hand would permit, for considering all such Petitions as they conceived to be for the Good of the Common-wealth; and what they could not now finish, they should have full Time to perfect towards Winter: His Majesty graciously assuring them, That he would go along with them for their Advantage, thro' all the Expressions of a gracious and pious King; to the end there might be such a happy Conclusion of that, as might be the Cause of many more Meetings with them in Parliament.

From their first Assembling untill the 21st of April, the House of Commons did nothing that could give his Majesty any Content or Confidence in their speedy Supplying of him: Whereupon he commanded both the Houses to attend him in the Banqueting-House, at Whitehall, in the Afternoon of that 21st of April; where, by the Lord-Keeper, His Majesty put them in Mind of the End for which they were assembled, which was for his Majesty's Supplies: That if it were not speedy it would be of no Use unto him, Part of the Army then marching at the Charge of above a hundred thousand Pounds a Month; which would all be lost, if his Majesty were not, presently, supplied,

An. 76. Car. II.
1646.

supplied, so as it was not possible to be longer
 forborn. Yet his Majesty then expressed, That
 the Supply he, for the present, desired, was on-
 ly to enable him to go on with his Designs for
 three or four Months; and that he expected no
 further Supply till all their just Grievances were
 relieved.

And, because his Majesty had taken Notice of
 some Misapprehensions about the levying of *Ship-
 Money*, his Majesty commanded the Lord-Keeper
 to let them know, That he never had any Inten-
 tion to make any Revenue of it, nor had ever
 made any; but that all the Money collected had
 been paid to the Treasurer of the Navy, and by
 him expended, besides several great Sums of
 Money every Year out of his Majesty's own
 Purse.—That his Majesty had once resolved,
 this Year, to have levied none; but that he was
 forced to alter his Resolution, in regard he was of
 Necessity to send an Army for reducing those of
Scotland, during which Time it was requisite the
 Seas should be well guarded. And besides, his Ma-
 jesty had Knowledge of the great Fleets prepared
 by all neighbouring Princes this Year, and of the
 Insolencies committed by those of *Algiers*, with
 the Store of Ships they had in Readiness.—And
 therefore, tho' his Majesty, for this present Year,
 could not forbear it, but expected their Concur-
 rence in the levying of it; yet, for the future, to
 give all his Subjects Assurance, how just and roy-
 al his Intentions were, and that all his Aim was,
 but to live like their King; able to defend him-
 self and them; to be useful to his Friends, and
 considerable to his Enemies; to maintain the So-
 vereignty of the Seas, and so make the Kingdom
 flourish in Trade and Commerce: He was gra-
 ciously pleased to let them know, That the or-
 dinary Revenue, now taken by the Crown, could
 not serve the Turn; and therefore that it must
 be by *Ship-Money*, or some other Way, wherein
 he was willing to leave it to their Considerations,

H

• what

what better Course to find out; and to settle it An. 16. Car. 1.
 how they would, so the Thing were but done, 1640.
 which so much imported the Honour and Safety
 of the Kingdom.—That his Majesty, for his Part,
 would most readily and chearfully grant any
 Thing they could desire, for securing them in the
 Property of their Goods and Estates, and in the
 Liberty of their Persons: His Majesty telling
 them, It was in their Power to make this as hap-
 py a Parliament as ever was; and to be the Cause
 of the King's delighting to meet with his People,
 and his People with him: And that there was no
 such Way to effect this, as by putting Obligati-
 ons of Trust and Confidence upon him; which,
 as it was the Way of good Manners with a King,
 so it was a surer and safer Course for themselves,
 than any that their own Jealousies and Fears
 could invent; his Majesty being a Prince that
 deserved their Trust, and could not lose the Ho-
 nour of it; and of so gracious a Nature, that he
 disdain'd his People should overcome him by
 Kindness: That he had made this good to some
 other Subjects of his; and, if they followed his
 Counsel, they should be sure not to repent it;
 being the People that were nearest and dearest un-
 to him, and Subjects that he did and had Reason to
 value more, than the Subjects of any of his other
 Kingdoms.

His Majesty, having thus graciously expressed
 himself unto them, he expected the House of
 Commons would have, the next Day, taken into
 Consideration the Matter of Supply; and laid a-
 side all other Debates, till that was resolved of
 according to his Desire. But, instead of giving
 an Answer therein, such as the pressing and ur-
 gent Occasions required, they fell into Discourses
 and Debates about their pretended Grievances;
 and raised up so many, and of so several Natures,
 that, in a parliamentary Way, they could not
 but spend more Time, than his Majesty's great
 and weighty Affairs could possibly afford.

His

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His Majesty foreseeing, in his great Wisdom, that they were not in the Way to make this a happy Parliament, which he so much desired and hoped; yet, that nothing might be wanting, on his Part, to bring them into the right Way, he resolved, for his Honour, the Safety of the Kingdom, and their own Good, to desire the Assistance of the Lords of the Higher House, as Persons in Rank and Degree nearest to the Royal Throne; and who, having received Honour from him and his Royal Progenitors, he doubted not would, for those and many other Reasons, be moved in Honour and dutiful Affection to his Person and Crown, to dispose the House of Commons to express their Duties to his Majesty; in expediting the Matter of Supply, for which they were called together, and which required so present a Dispatch.

For this Purpose his Majesty, in his Royal Person, came again to the Lords House on *Wednesday*, the 24th of *April*; where he himself declared to the Lords the Cause of his Coming; which was to put them in mind of what had been, by the Lord Keeper in his Name, delivered to both Houses the first Day of the Parliament, and after at *Whitehall*: And how, contrary to his Expectation, the House of Commons, having held Consultation of Matter of *Religion, Property of Goods*, and *Liberty of Parliament*; and voted some Things concerning those three Heads, had thereby given them the Precedence before the Matter of his *Supply*: That his Necessities were such, they could not bear Delay: That whatever he had, by the Lord Keeper, promised, he would perform, if the House of Commons would trust him. — That, for *Religion*, his Heart and Conscience went together with the Religion established in the Church of *England*; and he would give Order to his Archbishops and Bishops, that no Innovation in Matter of Religion should creep in. — For *Ship-Money*, that he never made, nor intended to make any Profit to himself of it, but only

4 only to preserve the Dominion of the Seas; An. 76. Cap. 8.
 5 which was so necessary, that without it the King- 1640
 6 dom could not subsist: But for the Way and
 7 Means, by *Ship-Money*; or otherwise, he left it to
 8 them. — For *Property of Goods*, and *Liberty of*
 9 *Parliament*, he ever intended his People should
 10 enjoy them; holding no King so great, as he that
 11 was King of a rich and free People; and if they
 12 had not *Property of Goods and Liberty of Per-*
 13 *sons*, they would be neither rich nor free; —
 14 That, if the House of Commons would not first
 15 trust him, all his Affairs would be disordered, and
 16 his Business lost. That tho' they trusted him
 17 in part at first, yet, before the Parliament ended,
 18 he must totally trust them; and, in Conclusion,
 19 they must, for the Execution of all Things,
 20 wholly trust him. Therefore since the Matter
 21 was no more, than who should be first trusted;
 22 and that the Trust of him first, was but a Trust
 23 in part; his Majesty desired the Lords to take in-
 24 to their Considerations his and their own Honour,
 25 the Safety and Welfare of this Kingdom, with
 26 the great Danger it was in; and that they would,
 27 by their Advice, dispose the House of Commons
 28 to give his Supply the Precedency before their
 29 Grievances.
 30 His Majesty being departed, the Lords took in-
 31 to serious Consideration what his Majesty had
 32 commended to their Care; and, forthwith, lay-
 33 ing aside all other Debates (such was their Lord-
 34 ships dutiful and affectionate Carriage, they well
 35 remembering what had been formerly declared in
 36 his Majesty's Name to both Houses, his Majesty's
 37 gracious Promises and Expressions then, and at
 38 this Time, with the pressing and urgent Occa-
 39 sions which so much imported the Honour of
 40 his Majesty, and the Good of his Kingdom) their
 41 Lordships delivered their Votes in these Words:
 42 *We are of Opinion, that the Matter of his Maje-*
 43 *sty's Supply should have Precedence, and be resolved*
 44 *on before any other Matter whatsoever. And we*
 45 *think fit, that there shall be a Conference desired*
 46 *with*

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with the House of Commons, to dispose them there-
unto.

Accordingly the next Day, being *Saturday*, the 25th of *April*, a Conference was held in the *Painted Chamber*, by a Committee of both Houses; where the Lord Keeper, by Command of the Lords, told the House of Commons of his Majesty's being, the Day before, in Person, in the Higher House; how graciously he had expressed himself in Matter of *Religion, Property of Goods, and Liberty of Parliament*; and that he would therein graciously hear and relieve them, and give them what, in Reason, could be desired; with the Effect of what else had been graciously delivered unto them by his Majesty, as well touching his constant Zeal and Affection to the Religion established in the Church of *England*, as touching the *Ship-Money*.

Next follow the Proceedings in Parliament, as before related, then the Declaration goes on thus:

By all the Proceedings herein declared, it is evident to all Men, how willing and desirous his Majesty hath been, to make Use of the antient and noble Way of Parliaments, used and instituted by his Royal Predecessors, for the Preservation and Honour of this famous Monarchy: And that, on his Majesty's Part, nothing was wanting, that could be expected from a King, whereby this Parliament might have had a happy Conclusion; for the Comfort and Content of his Majesty's Subjects, and for the Good and Safety of this Kingdom.

On the contrary it is apparent, how those of the House of Commons, whose finister and malicious Courses enforced his Majesty to dissolve this Parliament, have vitiated and abused that antient and noble Way of Parliament; perverting the same to their own unworthy Ends, and forgetting the true Use and Institution of Parliaments.

For whereas these Meetings and Assemblies of his Majesty with the Peers and Commons of this
 Realm

Realm, were, in their first Original, and in the Practice of all succeeding Ages, ordained and held as Pledges and Testimonies of Affection between the King and his People; the King, for his Part, graciously hearing and redressing such Grievances as his People, in humble and dutiful Manner, should represent unto him; and the Subjects, on their Part, as Testimonies of their Duty, supplying his Majesty, upon all extraordinary Occasions, for Support of his Honour and Sovereignty, and for preserving the Kingdom in Glory and Safety: Those ill-affected Members of the House of Commons, instead of an humble and dutiful Way of presenting their Grievances to his Majesty, have taken upon them to be the Guides and Directors in all Matters that concern his Majesty's Government, both Temporal and Ecclesiastical: And, as if Kings were bound to give an Account of their regal Actions, and of their Manner of Government to their Subjects assembled in Parliament, they have, in a very audacious and insolent Way, entered into Examination and Censuring of the present Government; traduced his Majesty's Administration of Justice; and, as much as in them lay, rendered odious to the rest of his Majesty's Subjects, not only the Officers and Ministers of State, but even his Majesty's Government itself; which hath been so just and gracious, that never did this, or any other Nation, enjoy more Blessings and Happiness, than hath been, by all his Majesty's Subjects, enjoyed ever since his Majesty's Access to the Crown; nor did this Kingdom ever so flourish in Trade and Commerce, as at this present, or partake of more Peace and Plenty in all Kinds whatsoever.

And whereas, the ordinary Revenues of the Crown not sufficing to defray extraordinary Charges, it hath ever been the Usage, in all Parliaments, to aid and assist the Kings of this Realm with free and fitting Supply, towards the Maintenance of their Wars, and for making good their Royal Undertakings; whereby the Kingdom,

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intrusted

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‘ intrusted to their Protection, might be held up in
 ‘ Splendor and Greatness: These ill-affected Per-
 ‘ sons of the House of Commons have been so far
 ‘ from treading in the Steps of their Ancestors, by
 ‘ their dutiful Expressions in this Kind, that, con-
 ‘ trarily, they have introduced a Way of Bargain-
 ‘ ing and Contracting with the King; as if nothing
 ‘ ought to be given him by them, but what he
 ‘ should buy and purchase of them; either by quit-
 ‘ ting somewhat of his Royal Prerogative, or by
 ‘ diminishing and lessening his Revenues; which
 ‘ Courses of theirs, how repugnant they are to the
 ‘ Duty of Subjects; how unfit for his Majesty, in
 ‘ Honour, to permit and suffer; and what Hazard
 ‘ and Dishonour they subject this Kingdom to; all
 ‘ Men may easily judge, that will but equally and
 ‘ impartially weigh them.

‘ His Majesty hath been, by this Means, reduced
 ‘ to such Straits and Extremities, that, were not his
 ‘ Care of the Public Good and Safety far greater
 ‘ than theirs, these Men, as much as in them lies,
 ‘ would quickly bring Ruin and Confusion to the
 ‘ State, and render contemptible this glorious Mo-
 ‘ narchy.

‘ But this Frowardness and undutiful Behaviour
 ‘ of theirs cannot lessen his Majesty’s Care of pre-
 ‘ serving the Kingdoms intrusted to his Protection
 ‘ and Government; nor his gracious and tender
 ‘ Affection to his People, for whose Good and
 ‘ Comfort his Majesty, by God’s gracious Assist-
 ‘ ance, will so provide, that all his loving Subjects
 ‘ may still enjoy the Happiness of living under the
 ‘ blessed Shade and Protection of his Royal Scepter.

‘ In the mean Time, to the end all his Majesty’s
 ‘ loving Subjects may know, how graciously his
 ‘ Majesty is inclined to hear and redress all the just
 ‘ Grievances of his People, as well out of Parlia-
 ‘ ment as in Parliament; his Majesty doth hereby
 ‘ further declare his Royal Will and Pleasure, that
 ‘ all his loving Subjects who have any just Cause to
 ‘ present, or complain of any Grievances or Op-
 ‘ pressions, may freely address themselves, by their
 ‘ humble

• humble Petitions, to his Sacred Majesty; who An. 16. Car. I.
 • will graciously hear their Complaints, and give 1640.
 • such fitting Redress therein, that all his People
 • shall have just Cause to acknowledge his Grace
 • and Goodness towards them; and to be fully sa-
 • tisfied, that no Persons or Assemblies can more
 • prevail with his Majesty, than the Piety and Ju-
 • stice of his own Royal Nature, and the tender Af-
 • fection he doth, and shall ever, bear to all his
 • People and loving Subjects.

But, before we take Leave of this Parliament, it is necessary to observe, that something more was done, by the Commons, or intended to be done, besides Redress of Grievances. There were some Bills framed and read in the House, in order to pass into Acts; the Titles of which, to shew the occasional Laws they thought proper to have had enacted, may not be unacceptable to the Reader.

1. *An Act to prevent the Abuse of Common Recoveries suffered by Infants.*
2. *An Act to prevent Inconveniencies suffered by Occupancy.*
3. *An Act to prevent divers Abuses in Ecclesiastical Courts.*
4. *An Act against the Exportation of Wools and Woolfells, Mortlings, Shorlings, Yarn made of Wool, Woolsocks, Fuller's Earth, and Fulling Clay.*
5. *An Act for the more due Election of Knights, Citizens, and Burgesses to serve in Parliament.*
6. *An Act concerning hearing the Word of God preached.*
7. *An Act concerning the disposing of Money received for Commutation of Penance.*
8. *An Act concerning the granting of Administrations.*
9. *An Act concerning the Disposal of Goods unadministered.*
10. *An Act that certain Clergymen shall not be Justices of Peace.*
11. *An Act for avoiding of causeless Suits, and for Ease in just Suits, at Common Law.*

Bills framed in the late Parliament.

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1640.12. *An Act concerning Non-Residents, Pluralities of Benefices, and taking Farms by Spiritual Men.*
With some few others of less public Notice.

Besides giving the King's Declaration of his Reasons for Dissolving this Parliament, it will be necessary also to give the Sentiments of cotemporary Historians, concerning the occasional Debates in the House of Commons, in this Session; particularly, of the last two Days of it. We have hitherto, altogether, followed the Authority of the *Journals* and Mr. *Rushworth*, in the foregoing Account; but they not entering so deeply into these Proceedings as some others have done; particularly Lord *Clarendon*, who was himself a Member of this Parliament, it cannot be amiss to give that Noble Author's own Account of them first; and, chiefly, in his own Words (s).

Remarks on the
Proceedings
thereof.

After giving an Abstract of the King's and Lord-Keeper's Speeches, at the Opening, with some subsequent Speeches in the House of Commons made by Mr. *Pym*, Mr. *Grimston*, and others, on Grievances, particularly *Ship-Money*; and that one *Peard*, a bold Lawyer of little Note, said, It was an *Abomination*; he tells us, ' That they were smartly taken up by *Herbert*, the King's Solicitor; who, with all imaginable Address, put them in Mind, with what Candour his Majesty had proceeded in that, and all other Things, which related to the Administration of Justice to all his People: And that howsoever he was persuaded within himself of the Justice, as well as the Necessity, of levying *Ship-Money*, he would not send out a Writ for the doing thereof, till he received the affirmative Advice of all the Judges in *England*: And when the Payment thereof was opposed by a Gentleman, (whom he then took Occasion to stroke and commend, for his great Temper and Moderation in that Suit) the King was very well contented that all the Judges of *England* should determine the Right: That never

(s) *Hist. of the Rebellion, Fol. Edit. Vol. I. p. 105. &c.*

ver any Cause had been debated and argued more An. 16. Car. I.
solemnly before the Judges; who, after long De- 1640.
liberation amongst themselves, and being attended
with the Records, which had been cited on both
Sides, delivered each Man his Opinion and Judg-
ment, publickly, in Court; and so largely, that
but two Judges argued in a Day. And, after all
this, and a Judgment with that Solemnity pro-
nounced for the King, by which he was as legally
possessed of that Right, as of any Thing else he
had; that any particular Man should presume to
speak against it with that Bitterness, as to call it an
Abomination, was very offensive and unwarrantable:
And desired that the Gentleman, who had used the
Expression, might explain himself and then with-
draw.' On this Speech several of the Members
were for Calling *Peard* to the Bar; and he hardly
got off without a severe Reprimand. Which Af-
fair the Noble Historian mentions, chiefly to shew
the Temper and Sobriety of the House; and that
their Dissolution, afterwards, was the more to be
lamented.

Our Author next proceeds to relate the several
Transactions, in the succeeding Days, pretty much
as they are given in *Rushworth* and the *Journals*,
till he comes to the Debates on the King's Message
for Supply; where he mentions the particular *Sub-
sidies* he wanted. On which Account, he says, Mr.
Hambden, the most popular Man in the House, in
regard of his, singly, opposing *Ship-Money*, thought
it fit Time to put the Question, 'Whether the
House would consent to the Proposition made by
the King, as it was contained in the Message?
Which would have been sure to have found a Ne-
gative from all who thought the Sum too great, or
were not pleased that it should be given in Re-
compence for *Ship-Money*.—Now take the Noble
Author's own Words for the rest; observing that,
when he mentions Mr. *Hyde*, it was himself he
speaks on; who seems to have had a great Sway,
and to have been well heard; in the House, at that
Time.

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* When many called to have this Question, Sergeant *Glanville*, the Speaker, (who fate by amongst the other Members whilst the House was in a Committee, and had rarely used to speak in such Seasons) rose up, and, in a most patheticall Speech, in which he excelled, endeavoured to persuade the House
 ‘ To comply with the King’s Desire, for the Good
 ‘ of the Nation, and to reconcile him to Parli-
 ‘ ments for ever ; which this seasonable Testimony
 ‘ of their Affections would infallibly do.’ He made it manifest to them how very inconsiderable a Sum *twelve Subsidies* amounted to, by telling them,
 ‘ That he had computed what he was to pay for
 ‘ those *twelve Subsidies* ;’ and when he named the Sum, he being known to be possessed of a great Estate, it seemed not worth any farther Deliberation. And, in the Warmth of his Discourse, which he plainly discerned made a wonderful Impression upon the House, he let fall some sharp Expressions against the Imposition of *Ship-Money*, and the Judgment in the Point ; which he said, plainly, ‘ Was
 ‘ against Law, if he understood what Law was,’ (who was known to be very learned) which Expression, how necessary and artificial soever to reconcile the Affections of the House to the Matter in question, very much irreconciled him at Court, and to those on whom he had the greatest Dependance.

‘ There was scarce ever a Speech that more gathered up and united the Inclinations of a popular Council to the Speaker : And, if the Question had been presently put, it was believed the Number of the Dissenters would not have appeared great : But, after a short Silence, some Men, who wished well to the Main, expressed a Dislike of the Way ; so that other Men recovered new Courage, and called again, with some Earnestness, ‘ That the Question, formerly proposed by Mr. *Hambden*, should
 ‘ be put ;’ which seemed to meet with a Concurrency. Mr. *Hyde* then stood up, and desired ‘ That
 ‘ Question might not be put ;’ and said, ‘ It was a
 ‘ captious Question, to which only one sort of Men
 ‘ could

‘ could clearly give their Vote ; which were they An. 16. C
 ‘ who were for a Rejection of the King’s Proposi- 1640.
 ‘ tion, and no more resuming the Debate upon that
 ‘ Subject : But that they, who desired to give the
 ‘ King a Supply, as he believed most did, tho’ not
 ‘ in such a Proportion, nor, it may be, in that
 ‘ Manner, could receive no Satisfaction by that
 ‘ Question ; and therefore he proposed, to the End
 ‘ that every Man might frankly give his Yea, or
 ‘ his No, that the Question might be put, only,
 ‘ upon the giving the King a Supply ; which being
 ‘ carried in the Affirmative, another Question might
 ‘ be upon the Proportion and the Manner ; and if
 ‘ the first were carried in the Negative, it would
 ‘ produce the same Effect as the other Question,
 ‘ proposed by Mr. *Hambden*, would do.’

‘ This Method was received by some with great
 Approbation, but opposed by others with more than
 ordinary Passion, and diverted by other Propositions ;
 which, being seconded, took much Time without
 pointing to any Conclusion. In the End Sergeant
Glanville said, ‘ That there had been a Question
 ‘ proposed by his Countryman that agreed very well
 ‘ with his Sense ; and moved, That the Gentle-
 ‘ man might be called upon to propose it again.’
 Mr. *Hyde* stated the Case again as he had done, an-
 swered somewhat that had been said against it, and
 moved, ‘ That Question might be put.’ Where-
 upon for, a long Time, there was nothing said, but
 a confused Clamour and Call, Mr. *Hambden*’s
Question, Mr. *Hyde*’s *Question* ; the Call appearing
 much stronger for the last than the former : And it
 was generally believed that the Question had been
 put and carried in the Affirmative, tho’ it was posi-
 tively opposed by *Herbert*, the Solicitor-General, for
 what Reason no Man could imagine, if Sir *Henry*
Vane, the Secretary, had not stood up and said, ‘ That,
 ‘ as it had been always his Custom to deal plainly
 ‘ and clearly with that House in all Things, so he
 ‘ could not but now assure them, That the putting
 ‘ and carrying that Question could be of no Use ;
 ‘ for that he was most sure, and had Authority to

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‘ tell them so, That if they should pass a Vote for the giving the King a Supply, if it were not in the Proportion and Manner proposed in his Majesty’s Message, it would not be accepted by him; and therefore desired that Question might be laid aside:’ Which being again urged by the Solicitor-General, upon the Authority of what the other had declared; and the other Privy-Counsellors saying nothing, tho’ they were much displeas’d with the Secretary’s Averment, the Business was no more press’d: But it being near five o’Clock in the Afternoon, and every Body weary, it was willingly consented to, that the House should be adjourn’d till the next Morning.

‘ Both Sir *Henry Vane*, and the Solicitor-General, whose Opinion was of more Weight with the King than the others, had made a worse Representation of the Humour and Affection of the House than it deserv’d; and undertook to know, that if they came together again, they would pass such a Vote against *Ship-Money* as would blast that Revenue and other Branches of the Receipt; which others believed they would not have had the Confidence to have attempted; and very few, that they would have had the Credit to have compass’d. What followed in the next Parliament, within less than a Year, made it believed, That Sir *Henry Vane* acted that Part maliciously, and to bring all into Confusion; he being known to have an implacable Hatred against the Earl of *Strafford*, Lieutenant of *Ireland*, whose Destruction was then upon the Anvil. But what transport’d the Solicitor, who had none of the Ends of the other, could not be imagin’d, except it was his Pride and Peevishness, when he found he was like to be of less Authority there than he look’d to be; and yet he was heard with great Attention, tho’ his Parts were most prevalent in puzzling and perplexing that Discourse he meant to cross. Let their Motives be what they would, they two, and they only, wrought so far with the King, that without so much Deliberation as the Affair was worthy of, his Majesty,
the

the next Morning, which was on the 5th of *May*, An. 16. C. 1640. near a Month after their first Meeting, sent for the Speaker to attend him, and took Care that he should go directly to the House of Peers, upon some Apprehension, that if he had gone to the House of Commons, that House would have entered upon some ungrateful Discourse, which they were not inclined to do: And then sending for that House to attend him, the Keeper, by his Majesty's Command, dissolved the Parliament.

There could not a greater Damp have seized upon the Spirits of the whole Nation, than this Dissolution caused; and Men had much of the Misery in View, which shortly after fell out. It could never be hoped that more sober and dispassionate Men would ever meet together in that Place, or fewer who brought ill Purposes with them; nor could any Man imagine what Offence they had given, which put the King upon that Resolution. But it was observed, that, in the Countenances of those who had most opposed all that was desired by his Majesty, there was a marvellous Serenity; nor could they conceal the Joy of their Hearts: For they knew enough of what was to come, to conclude that the King would be shortly compelled to call another Parliament; and they were as sure, that so many, so unbiaſſed Men, would never be elected again.

Within an Hour after the Dissolving, Mr. *Hyde* met Mr. *Saint-John*, who had naturally a great Cloud in his Face, and very seldom was known to smile; but then had a most chearful Aspect; and, seeing the other melancholic, as in truth he was from his Heart, asked him, 'What troubled him?' Who answered, 'That the same that troubled him, he believed troubled most good Men; that in such a Time of Confusion, so wise a Parliament, which alone could have found Remedy for it, was so unseasonably dismissed.' The other answered with a little Warmth, 'That all was well; and that it must be worse before it could be better; and that this Parliament could never have done

An. 16. Car. 1. 1640. 'done what was necessary to be done?' As indeed it would not, what he and his Friends thought necessary.'

We are persuaded this long Quotation cannot be disagreeable; since it lays open a Piece of secret History, without which it is impossible to understand the Subject-Matter on which those tedious Debates turned, and employed the whole House from eight in the Morning till six at Night, for two Days together: Which, as our Author observes, was a Thing very rare at that Time, tho' it came into more frequent Use afterwards.

Some other Writers of the History of these Times, and cotemporary with them (*t*), say expressly, That the King was informed the Commons intended to vote against the Scots War that very Morning they were dissolved; and to blast a Design, which they shewed so little Inclination to support. Lord *Clarendon* is not so positive in asserting this; but his Intimations are strong, That the Scots War was no Ways displeasing to the Majority of the Commons, at that Time: For, when a Member of that House said, somewhat abruptly, 'That he observed the Supply was to go in supporting *Bellum Episcopale*, which he thought the Bishops were fittest to do themselves,' he received no Check or Censure for this from the House; only was slighted in his Motion, by No-body's seconding it at that Time.—To go on with our History.

Lord *Clarendon* farther tells us, That when the King had reflected on what he had done, and what was like to fall out; and was better informed of the Temper and Duty of this House of Commons; and that they had voted a Supply, if Sir *Henry Vane* had not hindered it, by so positive an Assertion, That the King would refuse it; he was heartily sorry for what he had done; and declared, with great Anger, 'That he had never given him such Authority; and that he well knew the giving him any Supply

(*t*) *Sanderfon's History of King Charles I. Franklyn's Annals.*

Supply would have been welcome to him; because the Reputation of his Subjects assisting him, in that Conjunction, was all that he looked for and considered. That the King consulted the same Day, whether he might, by his Proclamation, recall them to meet together again; but finding that impossible, he went upon trying all Expedients for raising Money without them: In which he had such wonderful Success, that, in less than three Weeks, by the voluntary Loan of the particular Lords of the Council, and of other private Gentlemen about the City, there was no less than 300,000*l.* paid into the Exchequer for his Majesty's Use. A Sum, adds our Author, that sufficiently manifests the Plenty of that Time; and greater than most Princes in *Europe* could have commanded, at so short Warning; and was an unanswerable Argument, that the Hearts of all his Subjects were not then alienated from their Duty to their King, or a just Jealousy for his Honour.

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Before we enter upon the Proceedings of the next Parliament, it is absolutely necessary, for clearing the Way, to be a little particular in the Recital of those Affairs, which happened since the Dissolution of the last.—The Day after it was dissolved, Warrants were issued out from the Council for Searching the Study and Pockets of the Lord *Brooke*, on a great Suspicion that he held a Correspondence with the *Scots*. Sir *Henry Bellasisse* and Sir *John Hotbam*, two *Yorkshire* Baronets, were also convened before the Council; who, refusing to answer to Questions, about Matters done in Parliament, were committed to the *Fleet*. Mr. *Crew*, another Member also, and Chairman to the Committee on Religion, for refusing to deliver the Petitions and Complaints, made to the Committee, on those Matters, was sent to the *Tower*.

Remarkable Pa
sages after the
Dissolution.

Tho' the Parliament was dissolved, yet the King ordered the Convocation to sit still; which occasioned a new Dispute, in Pamphlets; some arguing That

An. 16. Car. 1. 1649. That both those Assemblies were to end together: Others to the contrary; for that the Writ, for Calling the Convocation, run for their Continuance *durante bene placito Regis*. And the Sages of the Law being consulted, they gave it, 'That the Convocation, called by the King's Writ, was not to dissolve but by the King's Writ, notwithstanding the Dissolution of the Parliament.' Some synodical Affairs were done here; as the Imposition of a new Oath, to support Episcopacy and the present Church-Government; which they did, in opposition to the Lay-Elders in *Scotland*, who had framed a *Covenant* for the Destruction of it. But this, and some other Matters, must have been done in Fear and Trembling; for the King was forced to set a Guard about *Westminster* Abbey, during their whole Sitting; in Danger of the King's Displeasure, if they rose, and of the People's Fury, if they sate on. The Archbishop of *Canterbury's* Palace was assaulted in the Night, by above 500 Apprentices; who, if he had not been provided for his Defence, might have fallen a Sacrifice to popular Fury, without the Form and Ceremony of a Trial.

Whilst these Tumults were in agitation, the King lost no Time in raising another Army, in order to suppress the Invasion of the *Scots*. There is no Reason to doubt but that these were, under-hand, encouraged and assisted by many in *England*, of their own Persuasion as to Church-Discipline; the Sequel very plainly shews it. For tho' the King found Means to raise another gallant Army, in Appearance; yet, either by Cowardice or Treachery, or both, they were beat at *Newburn*, on the Banks of the River *Tyne*; which the *Scots* passing, made themselves Masters of *Newcastle* and *Durham*, and all the Country round them.

This last Overthrow did not much diminish the King's Forces, and he had still a very good Army on Foot; yet his Affairs were very perplexed and intricate. Money, the Sinews of War, was wanting;

ing; and, since the last Parliament had resolved to grant none till the public Grievances were redress'd, in Consequence of which the King had been, unfortunately, persuaded to dissolve them; his Majesty was now, again, reduced to borrow Money of the *Spanish* Merchants, and others concerned in the Bullion, then in the *Tower*, to the Sum of 40,000 l. But this being soon dissipated, his Army only acting in the defensive Way, the King was now driven to the utmost Distress. This unhappy Situation of Affairs produced two Petitions to the King, (the one from several Peers, and the other from the City of *London*) complaining of Grievances and recommending the Calling of a Parliament as the only Way to redress them. These Petitions, as they are productive of what is to follow, must find a Place. They were presented to the King, at *York*, and were in these Words :

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1640.

To the KING'S Most Excellent Majesty.

The HUMBLE PETITION of your Majesty's most Loyal and Obedient Subjects, whose Names are here under-written, in behalf of themselves and divers others.

Most Gracious Sovereign,

THE Sense of that Duty and Service, which we owe unto your sacred Majesty, and our earnest Affection to the Good and Welfare of this your Realm of England, have moved us, in all Humility, to beseech your Royal Majesty, to give us Leave to offer unto your most Princely Wisdom, the Apprehension which we, and other your faithful Subjects, have conceived of the great Distempers and Dangers now threatening the Church, the State, and your Royal Person, and the fittest Means by which they may be prevented.

Petition to the King, from several Peers, to call another Parliament.

The Evils and Dangers whereof your Majesty may be pleased to take Notice, are these;

1. That your sacred Majesty is exposed to Hazard and Danger, in the present Expedition against the

Scots

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1640.

Scots Army; and, by the Occasion of the War, your Revenue is much wasted, your Subjects burthened with Coat and Conduēt Money, Billetting of Soldiers, and other Military Charges; and divers Rapines and Disorders committed in several Parts in this your Realm, by the Soldiers raised for that Service; and your whole Kingdom become full of Fear and Discontent.

2. The sundry Innovations, in Matters of Religion; the Oath and Canons lately imposed upon the Clergy, and other your Majesty's Subjects.

3. The great Increase of Popery, and employing of Popish Recusants, and others ill-affected to the Religion by Law established, in Places of Power and Trust; and especially commanding of Men and Arms, both in the Field and divers Counties in this Realm; whereas, by the Laws, they are not permitted to have Arms even in their own Houses.

4. The great Mischief which may fall upon this Kingdom, if the Intentions, which have been credibly reported, of bringing in of Irish Forces shall take Effect.

5. The urging of Ship-Money, and Prosecution of some Sheriffs in the Star-Chamber for not levying of it.

6. The heavy Charges of Merchandize, to the Discouragement of Trade; the Multitude of Monopolies, and other Patents, whereby the Commodities and Manufactures of the Kingdom are much burthened, to the great and universal Grievance of your People.

7. The great Grief of your Subjects, by the Intermission of Parliaments, in the late and former Dissolving of such as have been called; with the hopeful Effects which, otherwise, they might have procured.

For a Remedy whereof, and Prevention of the Danger that may ensue to your Royal Person, and to the whole State, we do, in all Humility and Faithfulness, beseech your Most Excellent Majesty, that you would be pleased to summon a Parliament within some short and convenient Time; whereby the Cause of these, and other great Grievances, which your poor Petitioners now lye under, may be taken away; and the Authors and

Counsellors

Counsellors of them, may be there brought to such legal Trial, and condign Punishment, as the Nature of the Offence does require; and that the present War may be composed, by your Majesty's Wisdom, without Bloodshed, in such Manner as may conduce to the Honour and Safety of your Majesty's Person, the Content of your People, and Continuance of both your Kingdoms against the common Enemy of the Reformed Religion.

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BEDFORD,	SAY and SEAL,
ESSEX,	HOWARD,
HERTFORD,	BOLINGBROOKE,
WARWICK,	MANDEVILLE,
BRISTOL,	BROOKE,
MULGRAVE,	PAGET.

To the KING's most Excellent Majesty.

The HUMBLE PETITION of your Majesty's Subjects the Citizens of London.

Most Gracious Sovereign,

BEing moved with the Duty and Obedience, which, From the Citizens of London. by the Laws, your Petitioners owe unto your sacred Majesty, they humbly present unto your Princely and Pious Wisdom, the several pressing Grievances following, viz.

1. The pressing and unusual Impositions upon Merchandize imported and exported, and the urging and levying of Ship-Money; notwithstanding both which, Merchants Ships and Goods have been taken and destroyed, both by Turkish, and other Pirates.

2. The Multitude of Monopolies, Patents, and Warrants; whereby Trade in this City, and other Parts of the Kingdom, is much decayed.

3. The sundry Innovations in Matters of Religion.

4. The Oath and Canons lately enjoined by the Convocation; whereby your Petitioners are in danger to be deprived of their Ministers.

5. The great Concourfe of Papists, and their Inhabitations in London, and the Suburbs; whereby they have more Means and Opportunity of plotting, and executing their Designs, against the Religion established.

6. The

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1640.

6. *The seldom Calling, and sudden Dissolutions of Parliaments, without Redress of your Subjects Grievances.*

7. *The Imprisonment of divers Citizens for Non-payment of Ship-Money, and Impositions; and the Prosecution of many others in the Star-Chamber, for not conforming themselves to Commissioners in Patents of Monopolies; whereby Trade is restrained.*

8. *The great Danger your sacred Person is exposed unto in the present War, and the various Fears that seized upon your Petitioners, and their Families, by reason thereof; which Grievances and Fears have occasioned so great a Stop and Distraction in Trade, that your Petitioners can neither buy, sell, receive, or pay as formerly; and tends to the utter Ruin of the Inhabitants of the City, the Decay of Navigation and Cloathing, and the Manufactures of this Kingdom.*

Your humble Petitioners conceiving, that the said Grievances are contrary to the Laws of this Kingdom; and finding, by Experience, that they are not redress'd by the ordinary Course of Justice, do therefore, most humbly, beseech your most sacred Majesty to cause a Parliament to be summoned with all convenient Speed; whereby they may be relieved in the Premises. And your Petitioners and loyal Subjects shall ever pray, &c.

These Petitions, we are told, were delivered to the King at York; but, before he received them, his Majesty had issued out Writs for summoning a great Council of the Peers to convene in that City, on the 24th Day of September following: Therefore, for Answer to the Petition of the Lords, his Majesty commanded them to offer what they had to propose, for his Honour and the Safety of the Kingdom, in that Council. About this Time, also, the Scots sent a Petition from their Army to the King, but directed to the Earl of Lanerk, Secretary of State for Scotland; which was delivered to his Majesty and answered by him, in the Form following:

To

To the KING's Most Excellent Majesty.

An. 16. Car.
1640.

The HUMBLE PETITION of your Commissioners of the late Parliament, and others of your Majesty's most Loyal Subjects of the Kingdom of Scotland.

Humbly Sheweth,

THAT whereas through many Sufferings in this Time past, extream Necessity hath constrained us, for our Reliefs, and obtaining our humble and just Desires, to come into England; where, according to our Intentions formerly delivered, we have, in all our Convey, lived upon our own Means, Victuals, and Goods brought along with us; and neither troubling the Peace of the Kingdom of England, nor hurting any of your Majesty's Subjects, of whatsoever Quality, in their Persons or Goods; having carried ourselves in a most peaceable Manner, till we were pressed, by Strength of Arms, to put such Forces out of the Way, as did without our Deservings, and (as some of them at the Point of Death have confessed) against their own Consciences, opposed our peaceable Passage at Newburn upon Tyne; and have brought their own Blood upon their own Heads, against our Purposes and Desires, expressed by Letters sent to them at Newcastle: For preventing of the like, or greater Inconveniencies, and that, without further Opposition, we may come to your Majesty's Presence, for obtaining, from your Majesty's Justice and Goodness, full Satisfaction to our just Demands; we, your Majesty's most humble and loyal Subjects, do persist in that most humble and submissive Way of Petitioning which we have kept from the Beginning; and from the which, no Provocation of your Majesty's Enemies and ours, no Adversity we have hitherto sustained, no prosperous Success that can besal us, shall be able to divert our Minds; most humbly entreating, that your Majesty would, in the Depth of your Royal Wisdom, consider at least our pressing Grievances; provide for the repair of our Wrongs and Losses; and, with the Advice of the States of the Kingdom of England,

And from the Scots Commissioners, to the same Purpose.

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England, convened by Parliament, settle a firm and durable Peace against all Invasions by Sea and Land; that we may, with Chearfulness of Heart, pay unto your Majesty, as our native King, all Duty and Obedience, that can be expected from loyal Subjects, against the many and great Evils which at this time threaten both Kingdoms; whereat all your Majesty's good, loyal, and loving Subjects tremble to think, and which we unanimously beseech God Almighty to avert, that your Majesty's Throne may be established, in the Midst of us, in Religion and Righteousness.

Your Majesty's Answer we humbly desire, and earnestly wait for.

According to the Prayer of this Petition, the King sent an Answer as follows;

At the COURT at York, Sept. 5, 1640.

The King's Answer to the latter.

HIS Majesty hath seen and considered this within-written Petition, and is graciously pleased to return this Answer by me, That he finds it in such general Terms, that till you express the Particulars of your Desires, his Majesty can give no direct Answer thereunto: Wherefore his Majesty requireth, that you would set down the Particulars of your Demands with Expedition; he having been always ready to redress the Grievances of his People. And for the more mature Deliberation of the weighty Affairs, his Majesty hath already given out Summons for the Meeting of the Peers of this Kingdom in the City of York, the 24th Day of this Month, that, with the Advice of the Peers, you may receive such Answer to your Petition, as shall most tend to his Honour, and the Peace and Welfare of his Dominions. And, in the mean time, if Peace be what you so much desire, as you pretend, he expects, and by this his Majesty commands, That you advance no further with your Army into these Parts; which is the only Means that is left, for the present, to preserve Peace between the two Nations,

‘ Nations, and to bring these unhappy Differences An. 16. Car. 1.
 ‘ into a Reformation ; which none is more desirous 1640.
 ‘ of than his most sacred Majesty.

LANERK.

Notwithstanding what the *Scots* asserted, in the Beginning of their Petition, their Army was not so light a Burthen to the *Northern* Parts of this Kingdom, as they would have it believed. *Whitlocke* tells us, That, at *Newcastle*, they seized four great *English* Ships laden with Corn ; that they laid a Tax, of 350l. a Day, on the Bishoprick of *Durham*, and 300l. on the County of *Northumberland* on pain of Plundering ; and committed many Injuries and Insolencies on the *English* where they quartered (u). The Rents and Revenues of the Bishop, and Dean of Chapter of *Durham*, they also seized to their own, and converted, as they termed it, from superstitious Uses. Inroads were made from their grand Army to plunder different Parts of the Country ; and, as another Author observes (x), being seated in warm Quarters, with *Newcastle* Coal, good Fires, Meat, Drink, and Lodging of the best, all in great Plenty, they seemed to be in no Haste to return into their own Country.

Whilst Things were in this untoward Situation, A Meeting of the great Assembly of Peers met at *York* ; which the Peers at Convention, being in the Nature of a Parliament, *York*. must have a particular Disquisition.

Lord *Clarendon* writes, ‘ That this Assembly of the Peers was a new Invention, not before heard of ; or so old, that it had not been practised, in *England*, for some Hundreds of Years. And that the Grounds and Intentions of this particular Summons was never known ;’ but adds, ‘ That it, probably, was the Result of troubled and afflicted Thoughts, since no other Way at that Time occurred.’ — But whoever will look back into these Enquiries will find, that, in the former *Scots* Wars,

(u) *Whitlocke's* Memorials, p. 35.

(x) *Sunderfon's* Life of King *Charles*.

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many Consultations of this Kind were held at *York*, on any sudden Invasion, where the Commons were not called nor concerned. In the Year 1298, *Edward I.* summoned all the Peers of the Kingdom, exclusive of the Commons, to meet at *York*, on an extraordinary Occasion. In his Son's unfortunate Reign, there were several more; and, indeed, all those Meetings at *York*, which were termed Parliaments, during the *Scots Wars*, were no other than a great Council of the Bishops, Abbots, and Barons of the Realm, hastily convened by the King's Writ; and if any of the Commons were called amongst them, it was by the same Authority, and not by any Election of the People: Affairs, then, were much too pressing to wait for a general Election; as also, at this Time, when the *Scots* had entered into the Country, plundered and spoiled the Inhabitants; and had raised their Contributions to 850 l. a Day, which they exacted with great Rigour.

However, this Affair made a great Noise at that Time, and gave Occasion to a Report, That the King intended to lay aside one of the three Estates of the Realm: Tho', as Lord *Clarendon* tells us, it was no more than an Expedient for the present Purpose, since no other Way occurred. The Form of the Writ, itself, may be matched with several of the same Kind in the *Fœdera Ang.* and, since it much respects this Subject, we shall give it in its own Terms.

A COPY of the KING'S WRIT, sent to all the PEERS to meet, as a great Council, at *York*, the 24th of *Septemper*, 1640.

REX Reverendissimo in Christo Patri, ac fideli Consiliario nostro, Willielmo, eadem gratia Cantuar. Archiepiscopo, totius Angliæ Primate & Metropolitano, Salutem. Quia super quibusdam arduis & urgentissimis Negotiis Nos & Regni nostri Statum, Coronæque nostræ Jurâ, specialiter concernentibus, Vobiscum & cum aliis Prælatiis, Magnatibus & Proceribus ipsius Regni, apud Civitatem nostram Ebor. Die

Die Jovis, 24 Die instantis Mensis Septembris, Col- An. 16. Car. loquium habere volumus & Tractatum: Vobis in fide 1640. & dilectione quibus nobis tenemini, firmiter injungimus & mandamus, quod, cessante Excusatione quacumq; dictis Die & Loco, personaliter, interfitis; Nobiscum & cum Prælatiis, Magnatibus & Proceribus prædictis, super dictis Negotiis, tractaturi, vestrorumque Consilium impensuri; & hoc, sicut Nos & Honorem nostrum ac Tranquillitatem Regni nostri, Juriumq; nostrorum prædictorum, diligitis, nullatenus omittatis.

Teste Meisso, apud Eboracum, septimo Die Septembris, 1640.

The King's whole Army, consisting of 12,000 Foot and 3000 Horse, was then in York, or were quartered in the Villages round it. Several more Petitions, from different Counties, were now also presented to the King; all tending to advise him to call a Parliament, as the only Way to compose the Difference between the two Kingdoms.

The Time being come appointed by the King's Writ for the grand Assembly of the Peers, a great Number of them met at York; and, on September the 24th, this Convention was opened in the Hall of the Deanery House, within the Close of the Cathedral; which was richly ornamented with Tapistry, &c. for that Purpose. (y) The King's Chair of State was placed upon the Half-Pace of the Stairs, at the upper End of the Hall; from whence his Majesty delivered himself in the following Speech to them.

My Lords,

UPON sudden Invasions, where the Dangers are near The King's and instant, it hath been the Custom of my Pre- Speech to them.decessors to assemble the Great Council of the Peers, and, by their Advice and Assistance, to give a timely Remedy to such Evils, which could not admit a Delay so long, as must of Necessity be allowed for the Assembling of the Parliament.

An. 16. Car. I. 1640. *This being our Condition at this Time, and an Army of Rebels lodged within this Kingdom, I thought it most fit to conform myself to the Practice of my Predecessors in like Cases; that, with your Advice and Assistance, we might justly proceed to the Chastisement of these Insolencies, and securing of my good Subjects.*
In the first Place, I must let you know, that I desire nothing more, than to be rightly understood of my People. And, to that End, I have of myself resolved to call a Parliament; having already given Order to my Lord Keeper to issue the Writs instantly, so that the Parliament may be assembled by the third of November next: Whither if my Subjects bring those good Affections which become them towards me, I shall not fail on my Part to make it a happy Meeting. In the mean Time, there are two Points wherein I shall desire your Advice, which indeed were the chief Cause of your Meeting.

First, What Answer to give to the Petition of the Rebels, and in what Manner to treat with them. Of which, that you may give a sure Judgment, I have ordered that your Lordships shall be clearly and truly informed of the State of the whole Business, and upon what Reasons the Advices that my Privy-Council unanimously gave me, were grounded.

The Second is, How my Army shall be kept on Foot and maintained, untill the Supplies of a Parliament may be had. For so long as the Scots Army remains in England, I think no Man will counsel me to disband mine: For that would be an unspeakable Loss to all this Part of the Kingdom, by subjecting them to the greedy Appetite of the Rebels, besides the unspeakable Dishonour that would thereby fall upon this Nation.

*This Meeting, not being strictly Parliamentary, does not require so exact an Account of the Proceedings thereof as the other. We shall not, therefore, trouble the Reader with each Day's Transactions, at full, which are to be found in *Rushworth, Clarendon, &c.* but shall content ourselves with a*

short

short Recital, or Abstract of them, to shew the An. 16. Car. 1640.
Result and End of this famous Assembly.

The Noble Historian tells us, That when the Proceedings thereupon.
Scots Petition came to be read, which was one of the first Things the King ordered, it necessarily begat a Treaty. The *Scots* had always given the King as good and as submissive Words as can be imagined. And this Petition, full of as much Submission as a Victory itself could suggest, as was urged by some Lords, produced a Treaty; and sixteen of the *English* Peers, then assembled, were appointed for it. These Commissioners, to give no Umbrage to the *Scots*, were chosen out of those Lords, who, as *Whitlocke* describes them, were well affected to a *Parliament*, and no bitter Enemies to the *Covenanters*. *York* was the Place mentioned by the King for the Treaty, which the *Scots* would not consent to; giving for Reason, That it was not a secure Place for them, since their great Enemy, the Earl of *Strafford*, commanded there in chief, who had proclaimed them Traitors in *Ireland*, before the King had done it in *England*, threatening to destroy their A Treaty with the Scots at Ripon.
Memory; against whom they had high Matters of Complaint: So *Ripon* was nominated by them, and agreed to by the King.

The Treaty being opened, the great Council of the Peers continued still to meet; and took into Consideration the King's second Proposition, concerning the keeping on Foot and paying his Forces; and being acquainted by the Lord *Strafford*, that it would take 200,000 l. to support them, it was resolved, That this Sum should be borrowed of the City of *London*; and a Letter from the Lords was prepared and sent accordingly.

In one of these Day's Debates, *Edward* Lord *Herbert*, commonly called the black Lord *Herbert*, unsatisfied with the Demands of the *Scots* Commissioners, which was no less than 40,000 l. a Month, advised the King to fortify *York*, and refuse it. The Speech of an *English* Nobleman on so extraordinary an Occasion, cannot be unpleasing to an *English* Reader. To the King's first Proposition he argued;

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1st, That *Newcastle* being taken, it is necessary to fortify *York*, there being no other considerable Place betwixt the *Scots* and *London*, which might detain their Army from advancing forwards.

2^{dly}, That Reason of State having admitted Fortification of our most Inland Towns against Weapons, used in former Times, it may as well admit Fortification against the Weapons used in these Times.

3^{dly}, That Towns have been observed always averse to Wars and Tumults, as subsisting by the peaceable Ways of Trade and Traffick; inso-much that when either great Persons, for their private Interests, or the Commons for their Grievances, have taken Arms, Townsmen have been noted ever to continue in their accustomed Loyalty and Devotion.

4^{thly}, That this agreeth with the Custom of all other Countries, there being no Town of the Greatness of *York*, any where I know in *Christendom*, that hath not his Bastions and Bulwarks.

As for the Charges; the Townsmen of *York* might undertake that, by his Majesty's Permission: For since it is a Maxim of War, That every Town may fortify its Circumference within the Space of two Months, the Expences cannot be great.

As for the Manner of doing it; nothing else is needful, but that, at the Distance of every five-and-twenty Score Paces round about the Town, the Walls should be thrown down, and certain Bastions or Bulwarks of Earth to be erected by the Advice of some good Engineer.

For the performing whereof every Townsman might give his helping Hand, digging and casting up Earth only, where the said Engineer, according to a Line given, should appoint. And for Ordnance, Ammunition, and a Magazine, the Townsmen likewise, for their Security, might be at the Charges thereof in these dangerous Times; it being better to employ some Money so to prevent the Taking of the Town, than to run the Hazard

of

of being in that Estate in which the *Newcastle* Men now are. I could add something concerning an antient Law or Custom, called *Murage*, by which Money was raised for Fortifying of Inland Towns; but because I know not of what Validity this Law or Custom is at this Time, I shall refer the further Consideration thereof to the learned in our Antiquities.

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‘ I will conclude therefore, with your Majesty’s good Favour, for the Fortifying of *York*, as assuring myself, that if, for want of Fortification, it fall into the *Scotsmen’s* Hands, they will quickly fortify it, as they have already done *Newcastle*.’

His Lordship further spake concerning the second Particular.

‘ 1st, That Treaties are light, thin, airy Things, and have no real Being in themselves, but in the Imaginations of those who projected them, and might quickly dissolve and come to nothing; and to give so great a Sum of Money for the Treating only of a Peace, might be Loss both of the Money, Time, and many Advantages.

‘ 2^{dly}, That he never read that ever Prince bought a Treaty of his Subjects at so dear a Rate; but it is true, that Princes have bought Peace at a great Price of their Subjects, and that they have thought it a good Purchase, and found Means at last to bring them to Reason.

‘ 3^{dly}, That it would reflect upon the Honour of his Majesty abroad, when foreign Nations should hear of such an Affront given to his Majesty and this Kingdom, that he could not find Means to come to a Treaty with his Subjects for a Peace, but by giving that Money to defray the Charges of their Army, which should pay his own.

‘ 4^{thly}, It is probable that the Citizens of *London*, when they should hear that any of their Money was employed that Way, would detain the rest in their Hands for defending themselves.

‘ 5^{thly}, If his Majesty would try whether they meant really a Treaty or an Invasion, the Commillioners should move for disbanding the Armies on both Sides,

An. 16. Car. 1. Sides, all Things else remaining in the State they
1640. now are, untill the Treaty were ended; howsoever
the 40,000 l. monthly should be kept rather for
paying the King's Army, and reinforcing it, if
Need were, than any other Way whatsoever.

It may not be improper here to take Notice, That
whilst the King was at *York* this Time, and the
Treaty subsisting, the Marquis of *Montrose*, one of
the *Scots* Generals, disgusted at the Proceedings of his
Countrymen, at the Treaty, wrote a loyal and
submissive Letter to the King, offering to support
him with his Life and Fortune. A Copy of this
Letter (to shew what Sort of People the King had
about him) was immediately sent back to *Lesley*,
the other General; who challenged the Marquis,
with holding Correspondence with the Enemy; the
Marquis, undauntedly, owned it, and asked, *Who*
it was that durst reckon the King an Enemy? Which
resolute Answer so quashed the Charge, that they
did not think proper to proceed against him in a ju-
dicial Way.

From the 24th of *September* to the 18th of *Oc-*
tuber following, did the King and his great Council
of Peers continue to sit as usual; the Commis-
sioners, from Time to Time, repairing to *York*, to
acquaint them how they proceeded: But it all end-
ed in nothing; for, as *Whitlocke* remarks, 'Too
many not only favouring, but joining with, and as-
sisting the Proceedings of the *Scots* Covenanters,'
the King was persuaded to remove the Treaty to
London, and subject the Country still to pay a Con-
tribution of 850 l. a Day, till all was concluded on.
At which, adds the *Memorialist*, 'Many wonder-
ed, and some inveighed against this Treaty, wish-
ing the King would have put it rather to the *Issue*
of a Battle; than to have given such Terms to his Sub-
jects in Rebellion; and of this Judgment was *Straf-*
ford and the Episcopal Party. But the other Party
cried up this Treaty, as *Just, Honourable, and Pi-*
ous, to prevent Effusion of Blood, and to settle Peace:
And the King saw plainly, that both divers Officers

Which is remo-
ved to London.

