

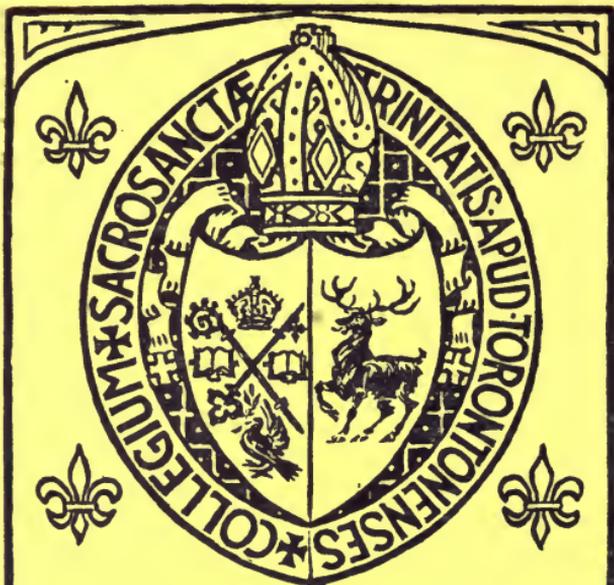
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THE  
STUMBLING-BLOCK  
OF

Disobedience and Rebellion,

Cunningly laid by *Calvin* in the Subjects way,  
*Discovered, Censured, and Removed.*

*W. O. 6/138*

By P. H.

*Wing H 1736*



ROM. 14. 13.

Offendiculum fratri tuo ne ponas.

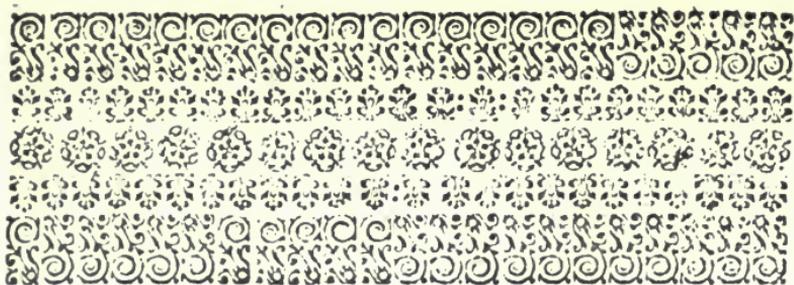
Let no man put a Stumbling-block, or an occasion to  
fall, in his brothers way.

1 SAM. 24. 6.

And David said to his men, The Lord forbid that I  
should do this thing unto my Master the Lords  
anointed, to stretch forth my hand against him, seeing  
he is the anointed of the Lord.

LONDON,

Printed by E. Cotes for Henry Seile over against St. Dunstons  
Church in Fleet street, 1658.



# THE PREFACE.



I will appear to any who shall read this *Treatise*, that it was written in the times of *Monarchical* Government, but in the later and declining times thereof, when the change of that Government was in agitation, and in part effected. In which respect I doubt not but the publishing of  
A 3 this

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## The Preface.

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this Discourse at this present time may seem unseasonable unto some, and yet it may be thought by others to come out seasonably enough for these following reasons.

1. To give warning to all those that are in Supreme Authority to have a care unto themselves, and not to suffer any *Popular* and *Tribunitian* Spirits to grow amongst them; who grounding upon *Calvins* Doctrine, both may, and will upon occasion, create new disturbances.

2. To preserve the Dignity of the Supreme Power, in what Person soever it be placed, and fix his Person in his own proper Orb, the *Primum Mobile* of Government, brought down of late, to be but one of the *three Estates*, and move in the same Planetary Sphere with the other two.

3. To keep on foot the claim and Title of the Clergy unto the Reputation, Rights, and Priviledges of the *Third Estate*, which doth of right belong unto them; and which the Clergy have antiently enjoyed  
in

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*The Preface.*

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several Ages; as the name of *Cæsar* in the *New Testament* signifieth not one man but three, that is to say, the Emperor *Tiberius* in the Gospels, *Claudius* in the Book of the *Acts*, and that most bloody Tyrant *Nero* in the Epistle to the *Philippians*. Which being premised, I shall no longer keep the Reader in Portch or Entrance; but let him take a view of the House it self, the several Rooms, Materials, and Furniture of it; long Prefaces to no long Discourses, being like the Gates of *Mindum* amongst the Antients, which were too great and large for so small a City.

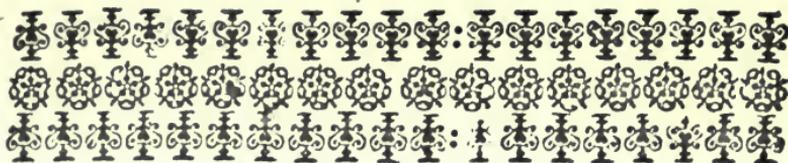
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*The Argument & occasion of this following Treatise.*

Job. Calvini Institution. Lib. 4. cap. 20. sect. 31.

**N**Eq; enim si ultio Domini est effrenata dominationis correctio, ideo protinus demandatam nobis arbitremur; quibus nullum aliud quam parendi & patiendi datum est Mandatum. De privatis hominibus semper loquor. Nam si qui nunc sint Populares Magistratus ad moderandum Regum libidinem constituti (quales olim erant qui Lacedæmoniis Regibus oppositi erant Ephori; aut Romanis Consulibus Tribuni Plebis, aut Atheniensium Senatui Demarchi; & qua etiam forte potestate, ut nunc res habent, funguntur in singulis Regnis tres Ordines, cum primarios Conventus peragunt) adeo illos ferocienti Regum licentiæ, pro officio, intercedere non veto, ut si Regibus impotenter grassantibus, & humili plebecule insulantibus conniveant; eorum dissimulationem nefaria perfidia non carere asfirmem, qua populi libertatem (cujus se, Dei ordinatione, tutores positos norunt) fraudulenter produunt.

**N**Or may we think because the punishment of licentious Princes doth belong to God, that presently this power is devolved on us, to whom no other warrant hath been given by God but only to obey and suffer. But still I must be understood of private persons. For if there be now any popular Officers ordained to moderate the licentiousness of Kings (such as were the Ephori, set up of old against the Kings of Sparta; the Tribunes of the people against the Roman Consuls, and the Demarchi against the Athenian Senate; and with wch power perhaps, as the world now goes, the three Estates are seized in each several Kingdom, when they are solemnly assembled) so far am I from hindring them to put restraints upon the exorbitant power of Kings, as their Office bindes them; that I conceive them rather to be guilty of a perfidious dissimulation, if they connive at Kings when they play the Tyrants, or wantonly insult on the common people, in that they treacherously betray the Subjects Liberties; of which they knew they were made Guardians by Gods own Ordinance.



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## Syllabus Capitem.

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(I) **T**He purpose and design of the work in hand.

(II) The Doctrine of Obedience unto Kings and Princes, soundly and piously laid down by CALVIN.

(III) And that not only to the good and gracious, but even to cruel Princes and ungodly Tyrants.

(IV) With Answer unto such Objections as are made against it.

(V) The principles of Disobedience in the supposal of some popular Officers ordained of-purpose to regulate the power of Kings.

(VI) How much the practise of CALVINS followers doth differ from their Masters doctrine in the point of Obedience.

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B.

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(V) *The Principles of Disobedience in the supposal of some popular Officers ordained of purpose, to regulate the power of Kings.*

(VI) *How much the practise of CALVIN'S followers doth differ from their Masters Doctrine in the point of Obedience.*

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(VIII) *More of the differences in point of Doctrine betwixt the Master and his Scholars.*

(IX) *The dangerous consequences which arise from his faulty Principles, in the point or Article of Disobedience.*

(X) *The method and distribution of the following Work.*



Some Writers may be likened unto *Jeremies Figs*, of which the Prophet saith, that if they were good, they were *very good*; if *evil*, *very evil*, such as could not be eaten they were so *evil*. Of such a temper and esteem was *Origen* amongst the Ancients, of whom it was observed (not without good cause) that in his Expositions on the Book of God and other learned

*Traſſates* which he writ and published, where he did well, none could do it better, and where he failed at all, no man erred more groſſly. And of this ſort and compoſition was Mr *Calvin* of Geneva, then whom there is not any *Minifter* of the Reformed Churches beyond the ſeas, who hath more poſitively and expreſſly laid down the *Doctrin*e of Obedience unto Kings and Princes, and the unlawfulness of Subjects taking Arms againſt their Sovereign; nor opened a more dangerous gap to diſobedience and rebellions in moſt States of Chriſtendom. In which it is moſt ſtrange to ſee how prone we are, (ſuch is the frailty and corruption of our ſinful nature) to reſuſe the good, and chooſe the evil; to take no notice of his words when it moſt concerns us, when we are plainly told our duties both to God and man; and on the other ſide to take his words for *Oracles*, his judgement for infallible, all his *Geefe* for *Swans*, when he ſaith any thing which may be uſeful to our purpoſes, or ſerve to the advancement of our lewd deſigns. The credit and authority of the man was deſervedly great, amongſt the people where he lived; and in ſhort time of ſuch authority and eſteem in the world abroad, that his works were made the only rule to which both *Diſcipline* and *Doctrin*e was to be conformed: and if a Controverſie did ariſe either in points *Dogmatical*, or a caſe of Conſcience, his *αυτης ἰσα* was ſufficient to determine in it, at leaſt to ſilence the gain-ſayers. And as it is obſerved in the works of Nature, that *corruptio optimi eſt peſſima*, and that the ſweeteſt meats make the ſowreſt ex-

crements; so the opinion and esteem which some of the *Reformed Churches* had conceived of him (which to say the truth was great and eminent) and the ill use they made of some words and passages in his writings, which most unfortunately served to advance their purposes, have been the sad occasion of those wars and miseries, which almost all the Western parts of Christendome, have been so fatally involved in since the times he lived. Which words and passages as they are cautelously laid down, and compassed round with many fair expressions of affection to the *Supreme Powers*, that they might pass without discovery, and be the sooner swallowed by unwary men: so by his followers (who are exceeding *wise in their generations*) have they been hidden and concealed with all art that may be. For though they build their dangerous Doctrines upon his foundation, and toss this *μῆλον ἑταῖρος*, this ball of discord and dissension from one hand to another; yet do they very cunningly conceal their Author, and never use his name to confirm their *Tenets*. And this they do upon this reason, that if their Doctrine give offence unto *Christian Princes*, and any of their Pamphlets be to feel the fire, or otherwise come under any publick censure, (as not long since happened to *PAROUS*) the Patron of their Sect might escape untouched, and his authority remain unquestioned, to give new life unto their hopes at another time. In which respects, and withall seeing that the heads of this monstrous *Hydra* of sedition do grow the faster for the cutting, and that the

lopping

lopping off the *Branches* keeps the *trunk* the *trusser*; I shall pass by the *petit Pamphleters* of these times, and strike directly at the head; and without meddling with the *boughs* or *branches*, will lay my *Axe* immediately *to the root of the tree*, and bring the first Author of these factious and *Antimonarchical* Principles (which have so long disturbed the peace of *Christendome*) to a publick trial. A dangerous and invidious undertaking I must needs confess; but for my *Countreys* and the *Truthes* sake, I will venture on it: and in pursuance of the same will first lay down the doctrine of *Obedience* as by him delivered, which I shall faithfully translate without *glosse* or *descant*; and next compare his *Doctrin*e with our present *practise*, noting wherein his *Scholars* have forsok their *Master*, with application unto those who do most admire him: and finally I shall discover and remove that *Stumbling-block* which he hath cunningly laid before us, (but hid so secretly that it can hardly be discerned) at which so many a man hath stumbled, both to the breaking of his own neck and his neighbours too. This is the race that I am to *run*; the *prize* I aim at is no other, then for as much as in me lieth to *do good to all men*, to those especially who think themselves to be *of the household of Faith*. And therefore *or* *Ad*, Let us on In Gods Name.

“ 2. *Subditorum erga suos Magistratus Officium* II.

“ *primum est, de eorum functione quam honorificen-* Calvini Instit.  
 “ *tissime sentire, &c.* The first duty of the Sub- l. 4. c. 20. § 11.  
 “ *jects towards their Magistrates, is to think won-* 22.

"drous honourably of their place and function,  
 "which they acknowledge to be a jurisdiction de-  
 "legated by Almighty God; and therefore are by  
 "consequence to respect and reverence them, as the  
 "Ministers and Deputies of God. For some there  
 "are, who very dutifully do behave themselves to-  
 "ward their *Magistrates*, and would have all men  
 "do the like, because they think it most expedi-  
 "ent for the *Common-wealth*, and yet esteem no  
 "otherwise of them then of some *necessary evils*  
 "which they cannot want. But *St. Peter* looks for  
 "more then this, when he commandeth us to *honour*  
 "*the King*; and so doth *Solomon* also where he re-  
 "quires us to *fear God and the King*. For the  
 "first under the the term of *honouring*, compre-  
 "hends a *good esteem*, a *fair opinion*; the other  
 "joyning *God and the King* together, shewes plainly  
 "that in the person of a *King* there is a ray of sa-  
 "cred majesty. And that of *Paul* is richly worth  
 "our observation, where he commands us to obey,  
 "*not for wrath only, but for conscience sake*. By  
 "which he means, that *Subjects* are not only to  
 "contain themselves within the bounds of their  
 "*obedience*, for *fear* they should incurre the anger  
 "and displeasure of their *Prince* or *Governor* (as  
 "men submit themselves to an *armed enemy*, whom  
 "they see ready to chastise them, if they should re-  
 "sist); but also to perswade themselves that the  
 "expressions of their duties which they make to  
 "them, are made indeed to God himself, from  
 "whom what ever power they have is devolved  
 "upon them. Nor speak I of the men themselves,

"as

1 P. 2. 17.

Prov. 24. 21.

Rom. 13. 5.

11

 11  
 11  
 11

“as if the vizard of authority were enough to hide  
 “either their follies or their sloth, on their lusts or  
 “cruelties, or gain the name of virtues to their  
 “filthiest vices; but that the function is so venera-  
 “ble and so full of honour, that they who execute  
 “the same and *bear rule over us*, are to be worthily  
 “esteemed and revered for their Office sake.

“The second duty of the Subjects doth arise SECT. 23.  
 “from this, which is that we express the reverence  
 “and respect which we owe unto them by the acti-  
 “ons of *obedience*; whether it be in yeelding  
 “obedience to their *Lawes*, or in paying tributes,  
 “or undergoing such publick services and burdens,  
 “as do relate unto the preservation of the publick,  
 “or executing such commands as are laid upon  
 “us. *Let every soul* (saith Paul) *be subject to the*  
 “*higher powers, for he that doth resist the power* Rom. 13. 1.  
 “*resists the ordinance of God. Put them in minde*  
 “(saith he to Titus) *to be subject to Principalities,* Tit. 3. 1.  
 “*and powers, to obey Magistrates, and to be ready to*  
 “*every good work.* And Peter thus, *Submit your*  
 “*selves to every Ordinance of man for the Lords*  
 “*sake, whether it be to the King as Supreme, or unto* 1 Pet. 2. 13.  
 “*Governors as to those which are sent by him for*  
 “*the punishment of evil doers, and for the praise of*  
 “*them that do well.* And to the end the subject  
 “may not think that it is sufficient to counter-  
 “feit or pretend obedience in the outward shew,  
 “but to perform it truly and sincerely from the  
 “very heart, Paul adds that we commend the  
 “health and flourishing estate of those under whom  
 “we live, in our prayers to God. *I exhort* (saith 1 Tim. 2. 1.  
 he)

" he) that first of all supplications, prayers, interces-  
 " sions, and giving of thanks be made for all men;  
 " for Kings, and for all that are in authority, that  
 " we may lead a quiet and peaceable life in all godli-  
 " ness and honesty: Let no man here deceive him-  
 " self. For seeing the *Magistrate* cannot be re-  
 " sisted, but that God is resisted also; though the  
 " unarmed *Magistrate* may possibly be contemned  
 " and slighted without fear of punishment, yet God  
 " is armed sufficiently to revenge those insolencies,  
 " which are thus offered to himself in them. Now  
 " under this *obedience*, I also do include that mo-  
 " deration and discretion, which private persons  
 " ought to have and to impose upon themselves as  
 " a rule or law, that so they neither intermeddle in  
 " affairs of State, nor invade the office of the Ma-  
 " gistrate, nor put themselves on any publick un-  
 "dertakings; if any thing be amiss in the publick  
 " Government, which stands in need of Reforma-  
 " tion, it appertains not unto them to be tumul-  
 " tuously active in it, or to put their hands unto the  
 " work, whose hands are tied (and to be tied) on  
 " all such occasions; but that they make it known  
 " unto the *Magistrate*, whose hands are only left  
 " at liberty to effect the same. My meaning is,  
 " that they do nothing uncommanded. For when  
 " the power or precept of the *Governor* doth in-  
 " tervene, they are then armed with just autho-  
 " rity, and may do accordingly. For as the *Princes*  
 " *Privy Councel* are said to be his Ears, and Eyes,  
 " so those inferiour *Ministers*, by whom he exe-  
 " cuteth his commands or mandates, are not unfitly  
 " called his Hands.

“ 3. The *Magistrate* being such as he ought to  
 “ be, and as before we have described him, that is  
 “ to say, The Father of the Countrey, the Shepheard  
 “ of his peop'e, the preserver of the publick peace,  
 “ the great distributor of justice, and the avenger  
 “ of the innocent; he must be somewhat more then  
 “ mad who is not pleased with such a Government.  
 “ But seeing that all Ages do afford examples of  
 “ negligent and slothful Princes, who have no care  
 “ at all of the publick safety; of others who are so  
 “ intent; of their private profit, as to make markets  
 “ of all laws and priviledges, and to expose their ju-  
 “ stice and their favours both unto open sale: of  
 “ some who drain their peoples purses to no other  
 “ end, but to maintain a vain and wastful prodigali-  
 “ tie, and some who spend their time in nothing  
 “ more, then either the rifling of the subjects houses,  
 “ the deflouring of their wives and daughters, or  
 “ in the slaughter of the innocent: that these should  
 “ be received for Princes, and their commands  
 “ obeyed at all, even in lawful matters, is such a  
 “ thing, as some will hardly be perswaded to consent  
 “ unto. For where men finde so much unworthi-  
 “ ness, and such filthy facts, as do not only mis-be-  
 “ come a *Magistrate*, but a private person; when  
 “ they see no resemblance of that Image of God,  
 “ which ought to shine most brightly in a Christian  
 “ *Magistrate*; when they behold no track nor foot-  
 “ step of such a *Minister of Gods*, as is ordained for  
 “ the encouragement and praise of those that do well,  
 “ and for the punishment of those that are evil

III.

SECT. 24.

“ *doers* : they take him not for such a Governour  
 “ whose office and authoritie is extolled so highly  
 “ in the Scriptures. And to say truth, it hath been  
 “ always naturally implanted in the souls of men,  
 “ not more to love and reverence a just vertuous  
 “ Prince, then to abeminate and detest an ungodly  
 “ Tyrant.

SECT. 35.

“ But if we look into Gods Book, we shall there  
 “ be taught not only to submit our selves to the  
 “ command of those Princes, who faithfully and  
 “ as they ought do discharge their office; but of all  
 “ those who are advanced unto the highest place of  
 “ Government, though they do nothing lessthen per-  
 “ form their duties. For though the *Magistrate* be one  
 “ of the greatest blessings given by God for the good  
 “ of mankind; and that he hath confined the Magi-  
 “ strate within certain limits: yet he declares, that  
 “ whatsoever they are they do receive their power  
 “ from no hand but his; that if they principally do in-  
 “ tend the publick good, they are the greatest testi-  
 “ monies and examples of his goodness to us; if they  
 “ prove insolent and unjust, they are the executioners  
 “ of his wrath and judgement for the sins of the peo-  
 “ ple; that all are equally invested with that sacred  
 “ Majesty wherewith he hath apparelled the most  
 “ lawful powers. I shall proceed no further in this  
 “ present business, till I have made some proof of  
 “ that which is said before. Not that I mean to  
 “ spend my time in the proof of this, that a wicked  
 “ King is one of Gods curses on the earth: for be-  
 “ sides that there is none who gainsay the same,  
 “ we should say no more in this of Kings, then of  
 “ the

“ the Theef that steals thy goods, or the Adulterer  
 “ that defiles thy marriage bed, or the Murderer  
 “ that seeks thy life, all which are reckoned for  
 “ Gods curses in the holy Scripture. The point we  
 “ purpose to make proof of, goeth not down  
 “ so easily; that is to say, That in the vilest men,  
 “ and most unworthy of all honour, if they be once  
 “ advanced to the publick government, there doth  
 “ reside that excellent and divine authoritie, which  
 “ God hath given in holy Scripture to those who are  
 “ the *Ministers* of his heavenly justice: who there-  
 “ fore are to be revered by the subject, for as  
 “ much as doth concern them in the way of their  
 “ publick duties, with as much honour and obedi-  
 “ ence, as they would reverence the best King, were  
 “ he given unto them.

“ And first the reader must take notice of the espe- SECT. 26.  
 “ cial Act and Providence of Almighty God, (not  
 “ without cause so oft remembred in the Scriptures)  
 “ in disposing Kingdoms, and setting up such Kings  
 “ as to him seems best. *The Lord* (saith *Daniel*) Dan. 2. 21. 27.  
 “ *changeth the times and the seasons; he removeth*  
 “ *Kings, and setteth up Kings.* And in another  
 “ place, *That the living may know that the most*  
 “ *High ruleth in the Kingdoms of men, and giveth*  
 “ *them to whomsoever he will.* Which kinde of sen-  
 “ tences as they are very frequent in the Scriptures;  
 “ so is that prophesie most plentiful and abundant in  
 “ them. No man is ignorant that *Nebu. hadnezzar*  
 “ who destroyed *Hierusalem*, was a great spoiler and  
 “ oppressor, yet the Lord tells us by *Ezechiel*, that  
 “ he had given unto him the land of *Egypt*, for the

- Dan. 2. 37. " good service he had done in laying it wast on  
 " his commandement. And Daniel said unto him  
 " thus, *Thou O King art a King of Kings, for the*  
 " *God of Heaven hath given thee a Kingdom, power*  
 " *and strength and glory; And wheresoever the*  
 " *children of men dwell, the beasts of the field, and*  
 " *the fowls of heaven hath he given into thy hand,*  
 " *and hath made thee Ruler over them all. Again*  
 Dan 5. 18. " *to Belshazzar his son, The most high God gave*  
 " *unto Nebuchadnezzar thy father a Kingdom, and*  
 " *majesty and glory and honour; and for the maje-*  
 " *sty that he gave him, all people, nations, and*  
 " *languages trembled and feared before him. Now*  
 " *when we hear that Kings are placed over us*  
 " *by God, let us be pleased to call to minde those*  
 " *several precepts to fear and honour them, which*  
 " *God hath given us in his Book; holding the*  
 " *vilest Tyrant in as high account, as God hath*  
 " *graciously vouchsafed to estate him in. When*  
 " *Samuel told the people of the house of Israel what*  
 " *they should suffer from their King, he expressed*  
 1 Sam. 8. 11. " *it thus, This will be the manner of the King which*  
 " *shall reign over you, he will take your sons and*  
 " *appoint them for himself, for his Chariots, and to be*  
 " *his Horsemen, and some shall run before his Cha-*  
 " *riots; And he will appoint him Captains over*  
 " *thousands, and Captains over fifties, and will set*  
 " *them to ear his ground and to reap his harvest, and*  
 " *to make his instruments of war, and instruments*  
 " *of his Chariots; And he will take your daughters*  
 " *to be his Confectionaries, and to be Cooks, and*  
 " *to be Bakers; And he will take your fields, and*  
 " *your*

" your Vineyards, and your Olive-yards, even the  
 " best of them, and give them to his servants; And  
 " he will take the tenth of your seed, and of your  
 " Vineyards, and give to his Officers, and to his  
 " Servants; And he will take your men-servants,  
 " and your maid-servants, and your goodliest young  
 " men and your Asses, and put them to his work; He  
 " will take the tenth of your sheep, and ye shall be his  
 " Servants. Assuredly their Kings could not do  
 " this lawfully, whom God had otherwise instructed  
 " in the Book of the Law: but it is therefore called  
 " *Jus Regis*, the right of Kings upon the subject,  
 " which of necessitie the Subjects were to submit  
 " unto, and not to make the least resistance. As  
 " if the Prophet had thus said, *So far shall the li-*  
 " *centiousness of your Kings extend it self, which you*  
 " *shall have no power to restrain or remedie, to whom*  
 " *there shall be nothing left but to receive the intima-*  
 " *tion of their pleasures, and fulfil the same.*

" But most remarkable is that place in the Pro. SECT. 27.  
 " phet *Jeremie*, which (though it be somewhat of  
 " the longest) I wil here put down, because it doth  
 " so plainly state the present question. *I have made* Jer. 27. 6:  
 " *the earth* (saith the Lord) *the man and the beast*  
 " *that are upon the ground, by my great power and by*  
 " *my out-stretched Arm, and have given it unto*  
 " *whom it seemed meet unto me; And now have I*  
 " *given all these lands into the hand of Nebuchad-*  
 " *nezzar King of Babylon my servant, and the beasts*  
 " *of the field have I given him also to serve him;*  
 " *And all Nations shall serve him, and his son, and*  
 " *his sons son, until the very time of his land come;*

" And it shall come to pass that the Nation and  
 " Kingdom which will not serve the same Nebu-  
 " chadnezzar King of Babylon, and that will not  
 " put their neck under the yoke of the King of Ba-  
 " bylon, that Nation will I punish, saith the Lord,  
 " with the sword, and with the famine, and with the  
 " pestilence, Wherefore serve the King of Babylon,  
 " and live. We see by this how great a measure  
 " of obedience was required by God towards that  
 " fierce and cruel Tyrant, only because he was ad-  
 " vanced to the *Kingly throne*, and did by conse-  
 " quence participate of that *Regal majesty*, which  
 " is not to be violated without grievous sin. Let  
 " us therefore have this always in our minde and  
 " before our eyes, that by the same decree of God,  
 " on which the power of Kings is constituted, the  
 " very wickedest Princes are established: and let  
 " not such seditious thoughts be admitted by us,  
 " that is to say, that we must deal with Kings no  
 " otherwise then they do deserve; and that it is no  
 " right nor reason, that we should shew our selves  
 " obedient subjects unto him, who doth not mu-  
 " tually perform the duty of a King to us.

## IV.

SECT. 28.

" 4. It is a poor objection which some men have  
 " made, *viz.* that that command was only pro-  
 " per to the *Israelites*; for mark upon what grounds  
 " the command was given. *I have given*, saith he,  
 " *the Kingdom unto Nebuchadnezzar, wherefore*  
 " *serve him, and ye shall live*: and thereupon it needs  
 " must follow, that upon whomsoever God bestows  
 " a Kingdom, to whom we must address our ser-  
 " vice

"vrce; and that as soon as God hath raised any  
 "to the *Regal Throne*, he doth sufficiently declare  
 "his will to be, that he would have that man to  
 "reign over us. Some general testimonies of this  
 "truth are in holy Scripture; For thus saith *SOLO-* Prov. 24. 2,  
 "*MON, For the transgression of a land many are the*  
 "*Princes thereof; and JOB, He looseth the band of* Job 12. 18.  
 "*Kings, and girdeth their loins with a Girde. Which*  
 "if confessed, there is no remedy at all, but we must  
 "serve those Kings, if we mean to live. There is ano-  
 "ther text in the Prophet *Jeremie*, by which the peo-  
 "ple are commanded, *to seek the peace of Babylon,* Jer. 29. 7.  
 "*whither God had caused them to be carried away cap-*  
 "*tive, and to pray unto the Lord for it, for in the peace*  
 "*thereof was their peace to be.* Behold the *Israelites*  
 "being dispoiled of their estates, driven from their  
 "houses, carried into exile, and plunged in a most  
 "miserable thraldom, are yet required to pray for  
 "the prosperitie of the Conquerour: not only as  
 "we are commanded in another place to pray for  
 "*them that persecute us*, but that his Empire might  
 "continue in peace and safetie, that they themselves  
 "might quietly enjoy the protection of it. Thus *Da-*  
 "*vid* being appointed King by the Lords own Or-  
 "dinance, and anointed with his holy Oyl, when un-  
 "deservedly he was persecuted and pursued by *Saul*,  
 "would not give way that any corporal hurt should  
 "be done to that sacred person, whom God had  
 "raised unto the Kingdom. *The Lord forbid*, saith 1 Sam. 24. 6.  
 "he, *that I should do this thing unto my Master the*  
 "*Lords anointed, to stretch forth my hand against*  
 "*him, seeing he is the Anointed of the Lord.* Again,  
 " " BUS

" But mine eye spared thee, and I said, I will not put  
 " forth my hand against my Lord, for he is the Lords  
 " Anointed. And again, who can stretch forth his  
 " hand against the Lords Anointed, and be guiltless?  
 " As the Lord liveth, the Lord shall smite him, or his  
 " day shall come to die, or he shall descend into battel  
 " and perish. The Lord forbid that I should stretch  
 " my hand against the Lords Anointed.

## SECT. 29.

" This reverence and dutiful regard we ought to  
 " carrie towards our Governours, to the very end,  
 " however they may chance to prove. Which there-  
 " fore I repeat the oftner, that we may learn not  
 " to enquire too narrowly into the men, but to rest  
 " our selves content with this, that they sustain that  
 " place or person by the Lords appointment, in which  
 " he hath imprinted and ingraved a most inviolable  
 " character of sacred Majestie. But some will say,  
 " that *Rulers* owe a mutual dutie to their *Subjects*.  
 " That hath been formerly confessed: from which if  
 " any should infer, that no obedience must be yeilded  
 " but to their just and *legal* power, he were a very  
 " sorry disputant. *Husbands* are bound in mutual  
 " bonds unto their *Wives*, and so are Parents to their  
 " Children. Suppose that both neglect their du-  
 " ties, that Parents who are prohibited by God to  
 " provoke their Children unto wrath, be so untract-  
 " able and harsh to them, that they do grieve them  
 " above measure with continual sowrenels; and that  
 " husbands who are commanded to love their wives,  
 " and to give honour to them as the weaker vessel,  
 " should use them with contempt and scorn: should  
 " therefore children be the less obedient to their

" Parents

“*Parents, or wives less dutiful to their husbands?*  
 “We see the contrary, that they are subject to them,  
 “though both lewd and froward. Since there-  
 “fore nothing doth concern us more, then that  
 “we trouble not our selves with looking into the  
 “defects of other men, but carefully endeavour to  
 “perform those duties which do belong unto our  
 “selves; more specially ought they to observe this  
 “rule, who live under the authority and power of  
 “others. Wherefore if we are inhumanely handled  
 “by a cruel Prince, or by a covetous and luxurious  
 “Prince dispoiled and rifled; if by a slothful one neg-  
 “lected, or vexed for our Religion by a lewd and  
 “wicked: let us look back upon our sins, which  
 “God most commonly correcteth with this kinde of  
 “scourges; the thought whereof will humble us, and  
 “keep down the impatience of our angry spirits.  
 “Let us consider with our selves, that it appertains  
 “not unto us to redress these mischiefs; that all  
 “which doth belong to us is to crie to God, in  
 “whose hands are the hearts of Kings, and he turn- Prov. 21. 1.  
 “eth them whither soever he will. He is that God  
 “which standeth in the Congregation of the mighty,  
 “and judgeth amongst the Gods: before whose face  
 “all Kings shall fall and be confounded, and all the  
 “Judges of the earth who do not reverence his  
 “CHRIST, but make unjust laws to oppress the  
 “poor, and offer violence to the man of low condi-  
 “on, and make a spoil of Widows, and a prey of  
 “Orphans.

“And here we may aswell behold his goodness, SECT. 30.  
 “as his power and providence. For sometimes he

“doth raise *Avengers* from amongst his servants,  
 “and furnisheth them with power sufficient aswell  
 “to execute vengeance on such wicked Rulers, as  
 “to redeem his people so unjustly vext, from the  
 “house of bondage: and sometimes useth to that  
 “end, the fierce wrath of others, who think of no-  
 “thing less then to serve his turn. Thus he redeemed  
 “his people *Israel* from the tyrannie of *Pharaoh*, by  
 “the hand of *Moses*; from *Cushan* King of *Syria*,  
 “by *Othoniel*; from other thraldoms by some other  
 “of their Kings and Judges. Thus did he tame the  
 “pride of *Tyre* by the arms of *Egypt*, the insolence  
 “of *Egypt* by the *Assyrians*, the fierceness of *Assy-*  
 “*ria* by the *Chaldeans*, the confidence of *Babylon* by  
 “the *Medes* and *Persians*, after that *Cyrus* had be-  
 “fore subdued the *Medes*. Thus did he sometimes  
 “punish the ingratitude of the Kings of *Judab* and  
 “*Israel*, and that ungodly contumacie which they  
 “carried towards him, notwithstanding all his bene-  
 “fits conferred upon them, by the *Assyrians* first, the  
 “*Babylonians* after. But we must know that though  
 “these several instruments did the self same work,  
 “yet they proceeded not in the self same motives.  
 “For the first sort being thereto lawfully authorized  
 “and called by Almighty God, by taking up Arms  
 “against their Kings, did nothing less then violate  
 “that sacred Majestie, which is inherent in a King.  
 “by Gods holy Ordinance; but being armed from  
 “heaven, did only regulate and chastise the lesser  
 “power by the help of the greater; as Princes use  
 “sometimes to correct their Nobles. The later  
 “sort, though guided by the hand of God as to  
 “him.

“him seemed best, so that they did unknowingly  
 “effect what he had to do, intended only the pursuit  
 “of their own designs.

“5. But whatsoever their designs and intenti-  
 “ons were, the Lord did *justly* use them to effect  
 “his business, when by their means he broke the  
 “bloudie Scepters of those insolent Kings, and  
 “overthrew their wicked and tyrannical Empires.  
 “Hear this ye Princes, and be terrified at the  
 “hearing of it. But let not this afford the least in-  
 “couragement unto the subject, to violate or despise  
 “the authoritie of the *Magistrate*, which God hath  
 “filled so full of majestie, and fortified by so many  
 “Edicts from the Court of Heaven, though some-  
 “times an unworthie person doth enjoy the same,  
 “and such a one as doth dishonor it by his filthie  
 “life. Nor may we think because the punishment  
 “of licentious Princes doth belong to God, that  
 “presently this power of executing vengeance is  
 “devolved on us, to whom no other precept hath  
 “been given by God, but only to obey, and suffer.

“But still I must be under-  
 “stood of private persons.  
 “For if there be now any *Pop-  
 “ular Officers*, ordained to  
 “moderate the licentiousness  
 “of Kings, (such as the *Epho-  
 “ri* of old set up against the  
 “Kings of *Sparta*, the *Tri-  
 “bunes* of the people against  
 “the *Roman Consuls*, and the  
 “*Demarchi* against the *Athe-*

*De privatis homini-  
 bus semper loquor.  
 Nam si qui nunc sint  
 populares magistrat-  
 us ad moderandum  
 Regum libidinem  
 constituti (quales o-  
 lim erant, qui Lace-  
 dæmoniis Regibus  
 oppositi erant Epho-  
 ri; aut Romanis*

“ *nian Senate*, and with which  
 “ power, perhaps, as the world  
 “ now goes, the *three Estates*  
 “ are furnished in each several  
 “ Kingdom, when they are  
 “ solemnly assembled): so far  
 “ am I from hindering them  
 “ from putting a restraint on  
 “ the exorbitant power of  
 “ *Kings*, as their *Office* binds  
 “ them, that I conceive them  
 “ guiltie rather of a *perfidious*  
 “ *dissimulation*, if they con-  
 “ rive at *Kings* when they  
 “ play the *Tyrants*, or wan-  
 “ tonly insult on the common  
 “ people; in that they trea-  
 “ cherously betray the sub-  
 “ jects *Libertie*, of which  
 “ they know they were made  
 “ guardians by *Gods own Or-*  
 “ *dinance* and appointment.

Consulibus Tribuni  
 Plebis; aut Atheni-  
 ensium Senatui De-  
 marchi: & qua eti-  
 am forè potestate, ut  
 nunc res habent, fun-  
 guntur in singulis  
 Regnis tres Ordines,  
 quum primarios con-  
 ventus peragunt):  
 adco illos ferocienti  
 Regum licentia pro  
 officio intercedere  
 non veto, nisi Regi-  
 bus impotenter graf-  
 santibus, & humili  
 plebecula insultanti-  
 bus conniveant, eo-  
 rum dissimulationem  
 nefariâ perfidiâ non  
 carere affirmem; quia  
 populi libertatem cu-  
 jus se Dei Ordinati-  
 one tutores positos  
 norunt, fraudulentè  
 produnt.

“ But this must always be excepted, in the  
 “ obedience which we have determined to be due to  
 “ the commands of our *Governors*, and first of all  
 “ to be observed; that it draw us not from that obe-  
 “ dience which is due to him, to whose will all the  
 “ commands of *Kings* must be subordinate, to whose  
 “ decrees

“decrees their strongest mandates must give place,  
 “and before whose Majestic they are bound to lay  
 “down their Scepters. For how preposterous were  
 “it to incur his anger, by our compliance with those  
 “men, whom we are bound no otherwise to obey,  
 “then for his sake only? The Lord is King of Kings,  
 “who when he speaks, is to be heard for all, and  
 “above them all. We must be subject to those men  
 “who have rule over us, but in him alone. If against  
 “him they do command us any thing, it is to be  
 “of none account. Nor in such cases is the dignity  
 “of the *Magistrate* to be stood upon, to which no  
 “injurie is done, if in regard of the more eminent  
 “and supreme power of God, it be restrained within  
 “its bounds. In this respect *Daniel* denied that Dan. 6. 22.  
 “he had trespassed any thing against the King, in not  
 “obeying his prophane and ungodly Edict, because  
 “the King had gone beyond his proper limits, and  
 “being not only injurious against men, but lifting  
 “up his horns against God himself, had first deprived  
 “himself of all Authoritie. The Israelites are  
 “condemned on the other side, for being so ready  
 “to obey their King, in a wicked action, when to  
 “ingratiate themselves with *Feroboam*, who had  
 “newly made the *Golden Calves*, they left the  
 “Temple of the Lord, and betook themselves to a  
 “new superstitious worship. And when their  
 “Children and posteritie with the like facility  
 “applied themselves unto the humors of their  
 “wicked Kings, the *Prophets* doth severely rebuke  
 “them for it. So little praise doth that pretence of  
 “modesty deserve to have, with which some Court-

"Parasites do disguise themselves and abuse the  
 "simple, affirming it to be a crime not to yeeld  
 "obedience to any thing that Kings command:  
 "as if God either had resigned all his rights and  
 "interests into the hands of mortal men, when he  
 "made them Rulers over others; or that the  
 "greatest earthly power were a jot diminished, by  
 "being subjected to its Author, before whom all  
 "the powers of heaven do trembling supplicate.  
 "I know that great and imminent danger may  
 "befall those men, who dare give entertainment  
 "to so brave a constancy; considering with what  
 "indignation Kings do take the matter, when they  
 "once see themselves neglected, *whose indignation*  
 "*is as the messenger of death*, saith the wise man  
 "*Solomon*. But when we hear this Proclamation  
 "made by the heavenly Cryer, that *we ought*  
 "*to obey God rather then men*; let this conside-  
 "ration be a comfort to us, that then we yeeld  
 "that obedience unto God which he looks for  
 "from us, when we rather choose to suffer any  
 "thing, then to deviate from the way of god-  
 "liness. And lest our hearts should fail us in  
 "so great a business, *S. Paul* subjoyns another  
 "motive, that being *bought* by Christ at so great  
 "a price; we shou'd not re-inthral our selves  
 "to the lusts of *men*, much less addict our selves  
 "to the works of wickedness.

Act. 5. 29.

1 Cor. 7. 23.

VI.

6. These are the very words of *Calvin*, from which his followers and Disciples most extremely differ both in their *doctrine*, and their *practise*. First, for their *practise*, *CALVIN* requires that we should *reverence and respect the Magistrate for his Office sake a*; and that we entertain no other then a *fair esteem, an honorable opinion* both of their actions, and their Counsels. His followers (like *filthy dreamers* as they are) do not only *despise dominion b*, but *speak evil of dignities*; that is to say, they neither reverence the *persons* of their Supreme *Magistrate*, nor regard their *Office*: and are so far from cherishing a *good opinion* of those *higher powers* to which the Lord hath made them subject, that their *hearts imagine mischief* against them *all the day long*; and though they see no cause to condemn their *actions*, they will be sure enough to misconstrue the *end*. *CALVIN* requires that we should manifest the *reverence and respect we bear them by the outward actions of obedience c*; and to the end, that this obedience should proceed from the *very heart* and not to be *counterfeit* and false, he adds that *we commend their health and flourishing estate in our prayers to God d*. His Followers study nothing more then to *disobey* them, in every one of those particulars which their Master speaks of, refusing to *obey their laws*, and to *pay them tribute*, and to undergoe such *services and burdens* as are laid upon them in reference to the *publick safety*, & spare not as occasion serves to manifest the *disaffection* of their hearts, by such outward acts as *disobedience* and.

a Sect. 22.

b Jude 8.

c Sect. 23.

d Ibid.

and *disloyalty* can suggest unto them: and are so far from *praying for them*, that many times they *pray against them*, blaspheming God because he will not *curse* the King, and making that which they call *Prayer* so dangerous and lewd a *libel*, that their very *prayers are turned to sin*. CALVIN requires such *moderation in the subject*, that they neither *intermeddle in affairs of State*, nor *invade the Office of the Magistrate*; and that *if any thing be amiss in the publick Government which stands in need of Reformation*, they presume not to *put their hands unto the work*, or be *tumultuously active in it*. His followers will not trust the *Magistrates* in the performance of their own *Office*, but are all *Counsellors and Statesmen*; and think that nothing is done well, but what is done as they would have it, and by their own hands too, none other. Whether things be *amiss* or not, they must needs be doing. Not by presenting their desires for a *Reformation*, and making known the fault (if such fault there be) to their *Supreme Magistrates*, which was the way their *Master* taught them; but by raising tumults to affright them: The attempt of the *French Hugonots* at *Ambois* upon *Charles* the ninth, and the two tumults at *Edenburgh*, the one about the year 1593. against the person of King *James*, and the other in the year 1637. against the Ministers of King *Charles*, will not be forgotten whilest *Calvin* and his *Institutions* are in print amongst us. CALVIN requires that we should yeeld obedience not only to such *Kings and Princes*, which *faithfully and as they ought do discharge their Office*, but even to all those

also

also which do nothing less then perform their duties f, f Sect. 25. not only to the meek and gentle, but even unto the fiercest and most cruel Tyrant, if any such be raised by God to the Kirgly throne g. His followers resolve not e Sect. 27. to yeeld obedience to their Kings and Princes, though they can charge them with no fault but their too much lenity; unless it be that they have caused them. to surfeit upon peace and plenty, or that the people grew too rich, and lived too happily, and drove too great a Trade, under their command: and are so far from yeelding obedience to a Tyrant, or a severe and cruel Prince, call him which you will, that neither the innocent minoritie of Charles the ninth, nor the moderate Government of the Duchesse of Parma, in the Netherlands; nor the milde peaceable temper of King James when he reigned in Scotland, could save them from their insolencies and insurrections. Finally CALVIN doth declare that though we be inhumanely handled by a cruel Prince, or by a covetous and luxurious Prince dispoyled and risted; though by a slothful one neglected, or vexed for our Religion by a lewd and wicked, yet it pertains not unto us to redress these mischiefs; that all the remedie that we have is to cry to God h, and till h Sect. 29. God takes the work in hand, to obey and suffer. i: i Sect. 31. and absolutely condemns those seditious thoughts, (which some men are too apt to harbour) that we must deal with Kings no otherwise then they shall deserve k: His Followers, if they think themselves k Sect. 27. oppressed, though indeed they are not; or that Religion is in danger, though indeed it be not; or the honor of the State neglected, though never of so

much repute, nor so bravely managed; will not descend so low as to cry to God, or be so pusillanimous and so poorly minded, as only to obey and suffer (that were a weakness fit for none but the *primitivè Christians*); but take the sword into their hands (be it right or wrong) to force their Kings to come unto a reckoning with them, as if they would have reparation from them for their former sufferings, and could have reparation no way but that. And as for dealing with their Kings no otherwise then they do deserve, although the *maxime* be unsafe, and the very thoughts thereof *seditionous*, as their Master tells them; would they would hold themselves to that, which had they done, so many Kings in Christendom had not been so unjustly handled, driven from their Palaces, expelled their Cities, robbed of their Fortresses and Revenues, assaulted in the open fields, and forced sometimes to change both their Counsel and their Guards, (the ordinary practise by the *Hugonots* in France, the *Presbyterians* in Scotland, the *Calvinists* in the *Netherlands*, and indeed where not?) had they been dealt withall no otherwise then they deserved.

## VII.

7. Next let us look upon them in their points of doctrine, and we shall finde the Scholars and their Master at a greater distance, then before we saw them at in point of practise. CALVIN determines very soundly that Kings have their authoritie from none but God, *non nisi a se habere imperium* 1, that the supreme Magistracie is a jurisdiction devolved from God upon the person of the Magistrate or *delegata*.

*delegata a Deo jurisdictione* m; that it is the singular work or act of God to dispose of Kingdoms, and to set up such Kings as to him seems meet, which he calls *Singularem Dei actionem in distribuendis Regnis, Fasuedisq;* *QUOS ILLI VISVM FVERIT REGIBVS* n, and finally that in every King or Supreme Governor, there is *inviolabilis majestas*, an indelible character of *Majestie* imprinted by the hand of God. His *Scholars* tell us that Kings are only creatures of the peoples making; and that whatever power they have, is derived from them. The *Observer*, and the *Fuller Answer unto Dr. Fern*, and almost all our later *Scriblers* do resolve it so. They tell us secondly, (which must needs follow from the former) that the people have the sole power of disposing Kingdoms, and setting up such Kings as they list themselves; and being so set up, that there is no more *Majestie*, no brighter beam of Gods divinitie in them, then in other men. *Buchannan* so affirms for certain, *Populo jus est, imperium cui velit deferat o*; and confidently reckoneth those reverend attributes of *Majestie* and *Highbness*, which usually are given to Kings and Princes, *inter solæcismos & barbarismos Aulicos p*, amongst the *Solecismos* and absurdities of Princes Courts. *CALVIN* determines very *Oxthodoxly*, that though the King degenerate and become a *tyrant*, though he infringe the subjects liberties, and invade their fortunes, persecute them for their pietie, and neglect their safetie, and be besides a vicious and libidinous person; yet still his Subjects are to look upon him, in all things which pertain to their publick duties, with as much honour

*o Buchannan de jure regni.*

*p Id. in Epist. ad*

nour and obedience, as they would do the justest and most vertuous Prince that was ever given unto a people. *Eadem in reverentia & dignatione habendum, quantum ad publicam obedientiam attinet, qua optimum Regem si daretur habituri essent q.* His Scholars sing another song, and use all arts imaginable to excite the people to rise against them and destroy them. The Author of that scandalous and dangerous *Dialogue*; entituled *Eusebius Philadelphus* doth expressly say, that of all good actions the murder of a Tyrant is most commendable. Buchanan accounts it a defect in *Politics*, *præmia eorum interfectoꝝ non decerni s;* that publick honors and rewards are not propounded unto such as shall kill a Tyrant: and some late Pamphleters conclude it lawful to rebel in the case of tyrannie, because forsooth, *If a King exercising tyrannie over his subjects may not be resisted*, (that is to say, if the subject may not take up Arms against him) he and his followers may destroy the Kingdom. And now we are fallen upon the business of *resistance*, CALVIN allows of no case (for ought I can see) in which the Subject lawfully may resist the Sovereign; *quandoquidem resisti magistratui non potest quin simul resistatur Deo t,* for as much as the Magistrate cannot be resisted, but that God is resisted also: and reckoning up those several pressures whereof Samuel spake unto the Jews, and which he calls *jus Regis*, as himself translates it, he concludes at last, *cui parere ipsi necesse esset, nec obsistere liceret u.*, that no resistance must be made on the Subjects part, though Kings entrench as much upon them, both in their liberties

q Sect. 25.

† Euseb. Philadelph. Dial.

‡ Buchanan de jure regni.

u Sect. 23.

v Sect. 26.

liberties and properties, as the Prophet speaks of. His *Scholars* are grown wiser, and instruct us otherwise. *Paræus* saith, that if the King assault our persons, or endeavour to break into our houses, we may as lawfully resist him, as we would do a Theif or Robber on the like occasions x. And our *new Masters* x Paræus in Rom. cap. 13. have found out many other Cases in which the Subject may resist, and which is more then so, is bound to do it, as namely in his own behalf, and in Gods behalf, in behalf of his Countrey, and in behalf of the laws; and in so many more behalves, that they have turned most Christian Kings out of half their Kingdoms.

But to go on, *CALVIN* determines very rightly, **VIII.** that notwithstanding any *contract* made or supposed to be made between a King and his people, yet if the King do break his *Covenants* and oppress the subject, the subject can no more pretend to be discharged of his Allegiance, then the wife may lawfully divorce herself from a froward husband; or children throw aside that natural dutie which they owe their Parents, because their Parents are unkinde, and it may be cruel. Those which doe otherwise conclude from the foresaid *contract*, he calls *insulsos ratio cinatores* y, but sorrie and un- y Sect. 29. favorable *disputants*: and reckoneth it for a *seditionous imagination*, that we must deal no otherwise with Kings then they do deserve, nec æquum esse ut subditos ei nos præstemus, qui vicissim Regem nobis non se præstet z, or to imagine that it is neither z Sect. 27. sense nor reason that we should shew our selves abe-

*diem* subjects unto him, who doth not mutually perform the dutie of a King to us. His Scholars are grown able to teach their Master a new lesson, and would tell him, if he were alive, that there is a mutual contract between King and Subjects; and if he break the Covenant, he forfeiteth the benefit of the Agreement, and he not performing the dutie of a King, they are released from the dutie of subjects. As contrary to their Masters Tenet as black to white; and yet some late Pamphlets press no doctrine with such strength and eagerness, as they have done this: Nor have the Pulpits spared to publish it to their cheated Auditories, as a new Article of faith, that if the Ruler perform not his dutie, the contract is dissolved, and the people are at liberty to right themselves. What excellent uses have been raised from this dangerous doctrine, as many Kings of Christendom have felt already, so posteritie will have cause to lament the mischiefs which it will bring into the world in succeeding Ages. Finally CALVIN hath determined, and ex. ceding piously, that if the Magistrate command us any thing which is contrarie to the Will and Word of God, we must observe S. Peters rule, and rather choose to obey God, then men: and that withal we must prepare our selves to endure such punishments as the offended Magistrate shall inflict upon us, for the said refusal; *Et quicquid potius perpeti quam a veritate deflectere a*, and rather suffer any torments, then forsake the way of Gods Commandements. The Magistrate, as it seems by him, must at all times be honoured by us, either in our *active* obedience, or in

in our *passive*, if we refuse to do his will, we must be content to *suffer* for it. His *Scholars* are too wise to submit to that, and are so far from suffering for the testimony of the Gospel and a good conscience, that they take care to teach the people that *it is lawful to rebel in behalf of God, so preserve the true religion when it is in danger* (or when they think it is in danger) *by force of Arms, and so procure the peace of Hierusalem by the destruction of Babylon.* Which being so, the difference being so great and irreconcilable between the *Followers* and their *leader* in the point of *practise*, between the *Master* and the *Scholars* in the points of *doctrine*: methinks it were exceeding fit the man were either less admired, or better followed; that they who cry him up for the *great Reformer*, would either stand to all his *Tenets*, or be bound to none; that they would be so careful of the Churches *peace*, and their own *salvation*, as not to swallow down his errors in his points of *discipline*, and pass him by with a *Magister non tenetur*, when he doth preach *obedience* to them, and doth so solidly discourse of the powers of *Government*. *b Aus undiq; religionem [suam] tollant, aut usquequaque conservent,* as *Tully* said of *Antony* in another case. But of this no more.

*b Tully Philip. 2.*

9. Hitherto *CALVIN* hath done well, few better; of the *Genevian* Doctors none, *ne unus quidem*, not so much as one. But there's an *herb* which spoils the *postage*, an *HERB* so venomous, that it is *mars in olla* unto them that taste it. The *figs* in the

IX.

Jerem. 24.

the next *baskets* are *evill, very evill, not to be eaten,* (as it is in the Prophets words) *they are so evill.* In that before he did exceeding soundly and judiciously lay down the doctrine of *obedience* unto Kings and Princes, and the *unlawfulness of Subjects taking Arms against their Sovereign.* In this to come he openeth a most dangerous gap to disobedience and rebellions in most States in Christendom, in which his name is either revered or his works esteemed of. For having fully pressed the points before delivered unto the conscience of the *subject,* and utterly disabled them from lifting up their hands against the *Supreme Magistrate,* or any occasion whatsoever: he shews them how to help themselves, and what course to take, for the asserting of their *liberties,* and the recovery of their rights, if the Prince invade them; by telling them that all he spake before was of *private persons*, but that if there were any *popular Officers,* such as the *Ephori of Sparta,* the *Tribunes of Rome,* the *Demarchi of Athens,* ordained for the restraint of *Kings,* and *Supreme Governors,* it never was his meaning to include them in it. And such power he doth suppose to be in the *three Estates* of every Kingdom, when they are solemnly assembled; whom he condemns as guilty of *perfidious dissimulation,* and the betrayers of the Subjects liberties, *whereof they are the proper and appointed Guardians,* if they *connive at Kings when they play the Tyrants,* or *wantonly insult on the Common people.* This is the gap through which rebellions and seditions have found so plausible a passage in the Christian world,

Ecc. 31.

to the dethroning of some Kings and Princes, the death of others. For through this gap, broke in those dangerous and seditious doctrines, that the *inferiour Magistrates are ordained by God, and not appointed by the King, or the Supreme Powers; that being so ordained by God, they are by him enabled to compel the King to rule according unto justice and the laws established; that if the King be refractory and unreclaimable, they are to call him to account, and to provide for the safety of the Common-wealth by all ways and means which may conduce unto the preservation of it: and finally (which is the darling doctrine of these later times) that there is a mixture in all Governments, and that the three Estates convened in Parliament (or by what other name so ever we do call their meeting) are not subordinate to the King, but co-ordinate with him; and have not only a supplemental power, to supply what is defective in him, but a coercive also to restrain his Actions, & a corrective too to reform his Errors.* But this I give you now in the generals only; hereafter you shall see it more particularly, and every Author cited in his own words for the proof hereof. Many of which as they did live in *CALVIN'S* time, and by their writings gave great scandal to all sovereign Princes, but more as to the progress of the *Reformation*; so could not *CALVIN* choose but be made acquainted with the effects and consequences of his dangerous principles. Which since he never did retract, upon the sight of those seditious Pamphlets, and worse then those, those bloudie tumults and rebellions which ensued upon it; but let

it stand unaltered to his dying day: is a clear argument to me, that this passage fell not from his pen by chance, but was laid of purpose as a *Stumbling-block* in the Subjects way, to make him fall in the performance of his Christian duty both to God and man. For though the Book of *Institutions* had been often printed in his life time, and received many alterations and additions (as being enlarged from a small *Oktavo*, of not above 29 sheets, to a large *folio* of 160) yet this particular passage still remained unchanged, and hath continued as it is from the first Edition of it, which was in the year 1536. not long after his first coming to *Geneva*.

10. But to proceed in our design. What fruits these dangerous doctrines have produced amongst us, we have seen too plainly; and we may see as plainly, if we be not blinde, through what gap these doctrines entred, on what foundation they were built, and unto whose authoritie we stand indebted for all those miseries and calamities which are fallen upon us. Yet to say truth, the man desired to be concealed, and not reputed for the Author of such strange conclusions which have resulted from his principles: and therefore laies it down with great art and caution. *Si qui*, and *Fortè*, and *ut nunc res habent*, that is to say, *Perhaps*, and *as the world now goes*, and *if there be such Officers as have been formerly*, are the three disguises, which he hath masked himself and the point withall, that he might pass away unseen. And if *there be such Officers as perhaps* there are, or that *the world goes here* as it did at

*Sparta*, or in the States of *Rome* and *Athens*; as perhaps it doth; or that the *three Estates*, of each several Kingdom have the same authoritie in them as the *Ephori*, the *Demarchi*, and the *Tribunes* had, as perhaps they have; the *Subject* is no doubt in a good condition, as good a man as the best *Monarch* of them all. But if the *Ephori*, the *Demarchi* and the *Tribunes*, were not appointed at the first for the restraint and regulating of the *Supreme Powers*, as indeed they were not; and if the *three Estates* in each several Kingdom have not that authoritie, which the *Ephori*, and the *Tribunes* did in fine usurp, and the *Demarchi* are supposed to have, as indeed they have not; perhaps and peradventure will not serve the turn. The *subject* stands upon no better grounds, then before he did. Therefore to take away this *stumbling-block* and remove this *rub*, I shall propose and prove these three points ensuing. 1. That the *Ephori*, the *Demarchi*, and the *Roman Tribunes* were not instituted at the first, for those ends and purposes, which are supposed by the Author. 2. If they were instituted for those ends, yet the illation thereupon would be weak and childish, as it relates to Kings and Kingdoms; And 3. That the *three Estates* in each several Kingdom without all *peradventures* have no such authoritie, as the Author dreams of, and therefore of no power to controul their King. Which if I clearly prove, as I hope I shall, I doubt not but to leave the cause in a better condition then I found it. And in the proof of these, the first point especially, if it be thought that I insist longer then I needed on the condition

of the *Spartan Ephori*, the *Roman Tribunes*, and the *Demarchi* of *Athens*, and spend more cost upon it then the thing is worth; I must intreat the Reader to excuse me in it. I must first lay my grounds and make sure work there, before I go about my building: And being my design relates particularly to the information and instruction of the *English Subject*, I could not make my way unto it, but by a discoverie of the means and Artifices, by which some petit popular *Officers* attained unto so great a masterie in the game of Government, as to give the *Check* unto their Kings. [Which being premised once for all, I now proceed unto the proof of the points proposed, and having proved these points, I shall make an end. *Hæc trita cum docuero pererabo*, in the *Orators* language.

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CHAP. II.

*Of the Authority of Ephori in the State of Sparta; and that they were not instituted for the ends supposed by Calvin.*

(I) *The Kings of Sparta absolute Monarchs at the first.*

(II) *Of the declining of the Regal power, and the condition of that State, when Lycurgus undertook to change the Government.*

(III) *What power Lycurgus gave the Senate; and what was left unto the Kings.*

(IV) *The Ephori appointed by the Kings of Sparta to ease themselves, and curb the Senate.*

(V) *The blundering and mistakes of Joseph Scaliger about the first Institution of the Ephori.*

(VI) *The Ephori from mean beginnings grew to great authority; and by what advantages.*

(VII) *The power and influence which they had in the publick Government.*

(VIII) *By what degrees the Ephori incroached on the Spartan Kings.*

(IX) *The insolencies of the Ephori towards their Kings altered the State into a Tyrannie.*

(X) *The Spartan Kings stomach the insolencie of the Ephori, and at last utterly destroy them.*

(IX) *An application of the former passages to the point in hand.*

## I.

*a* Unlawfulness of resistance, p. 90.

1. I Know it is conceived by some that the *Kings of Sparta* were but *titularie a*, that they were little more then *Subjects*, at best of no more power and influence in the publick Government, then the Duke of *Venice* at this day in that *Republick*. And to say truth, they were but little better in the latter times, (though not altogether so restrained) after *Lycurgus* first, and the *Ephori* afterwards, had by their power and practises intrenched upon them; and pared away so many of the fairest Jewels in the Regal Diadem. But *ab initio non fuit sic*, it was not so from the beginning: the *Spartan Kings* being at first as absolute Monarchs as any other of those times, *ubi*

*b Tacit. Annal. addictius regnabantur b*, when men were most devoted to the will of Princes. For if we look into the antient stories of the States of *Greece*, it will there be found, that at the return of the *Heraclida* into *Peloponnesus*, under the conduct of *Temenus*, *Ctesiphon*, and *Aristodemus*, the sons of *Aristomachus* of the race of *Hercules*; *Temenus* possessed himself of *Argos*, *Ctesiphon* of *Messene*, and *Aristodemus* conquered the City and Dominion of *Sparta*; which, [dying very shortly after, he left unto his two sons *Eurystrenes*, and *Procles c*, with the authority and name of Kings. So that acquiring the estate by conquest, and claiming by no other Title then by that of Arms, there is no question to be made but that they governed in the way of absolute Monarchs: it being not the guise of such as come in by conquest to covenant and capitulate with their Subjects, but to impose their will, for a law,

*c Pausanias in Lacon. l. 3.*

law, upon them; In the first times, and in Dominion so acquired, *Arbitria Principum pro legibus erant*, as we read in *Justin.* 'Tis true, the Royal Familie was divided from the very first, into two Regal Stems or Branches, both honoured with the name of Kings, both ruling the Estate in common by their mutual Counseis; of which the eldest house was that of *Agide*, so called from *Agis*, son and Successor unto *Eurysthenes*; the second that of the *Eurypontide*, denominated from *Eurypom*, the third from *Procles*. It was appointed so to be by *Aristodemus*, confirmed by the Oracle of *Apollo*, and so continued till the subjugating of all Greece to *Macedon*. But this concludes no more against *absolute Monarchie*, then if it should be said on the like occasion, that the *Roman* Emperors were no *Monarchs*, or that State no *Monarchie*, because *Carus* and *Numerianus*, *Diocletian* and *Maximianus*, *Constantinus* and *Maximinus* ruled the same together; as after *Valentinian* and his Brother *Valens*, and the two sons of *Valentinian* and *Theodosius* did by their example. And so it seems it was conceived by *Cleomenes*, who having rooted out the *Ephori*, and being grown almost as absolute in the State of *Sparta*, as any of his Predecessors, caused his Brother *Euclidas* (upon the expiration of the *Eurypontide*) to be made King with him *f*: which certainly he would not have done, had he believed that the assuming of a partner would have made him less. For that the *Spartan* Kings were as *absolute Monarchs* as any others of those times (when there was almost no form of Government in the world but that)

doth

*f* *Plutarch. in Agis & Cleomen.*

*e Pausan. l. 3.*

*d Justin. Hist. l. 1.*

doth appear by *Plutarch*, where speaking of the condition of that Government in the time of *Eurypon* (whom he calls *Eurytion*) he saith that it was *g Plutarch. in* *ἄρα μοναρχία* *g*, sufficiently *Monarchical*, if it were *Lycurgo.* not more. And hereto *Aristotle* doth agree, who stiles the Government of *Sparta* under *Charilaus*, before whose times (by reason of the negligence and connivence of some former Kings) the people were become too head-strong to be kept in order, by the name of *ἡγεμονία* *ἢ ἀναρχία* *h*, the *tyrannie* or absolute command of *Charilaus* in the State of *Sparta*.  
*h Aristot. Polit.*  
*lib. 5. cap. 12.*

## II.

But whatsoever it was in the first foundation, it held not very long in so good condition. For *Eurypon* the Nephew of *Procles*, *δημοφιλὴς καὶ χαρίζομενος τοῖς πολλοῖς i*, affecting to be plausible and gracious with the common people, improvidently let loose the reigns of Government, and was the first that laid aside that sole and absolute power of a King; whereupon followed great disorder and distraction, which continued long. For the people finding themselves at liberty, became very bold and disobedient; some of the Kings which did succeed being hated to the very death, because they did endeavour the recovery of their old authority; others being forced to dissemble and wink at any thing, either in hope thereby to gain the love of the people, or because indeed they were not strong enough to rule them. And this did so increase the stomach of the dissolute and rebellious multitude, that *Eunomus* the Father of *Lycurgus*, being the fifth King from

*i Plutarch. in*  
*Lycurg.*

from *Procles*, and the third from *Eurypon*, was slain amongst them in a tumult. At such a dear and costly rate did *Eurypon* procure the favour and good will of the rascall rabble; by which he purchased nothing but the losse of Royalty, besides the empty honour of having the second house of the Royal Family to be called by his name, the *Eurypontida*. Things growing thus from bad to worse, and both the Kings and people waxing weary of that disorder and confusion which did reign amongst them; both parties cast their eyes upon *Lycurgus*, of whose integrity and wisdom they had conceived a great opinion. For the people finding that their Kings had nothing but the name and title, *ἄλλο δὲ μὴδὲν ἢ διαφέρει πρὸς πολλῶν*, and nothing else whereby they differed from the rest, sent many a several message to him to require his counsel: And on the other side, the Kings were as desirous that he should return (being then gone abroad to travel) in hope that the authority of his presence would bridle and restrain the people from their insolency and disobedience towards them.

*k* But herein they were both deceived. For *Lycurgus* seeing how things stood, resolved to apply himself to neither party; but presently began to project and cast how he might change and alter the whole frame of Government: which to effect, he armed himself and his Associates, and possessed the market-place, and so proceeded to the alteration which he meant to make. *l* *Chal-til* *Id. ibid. et in*  
*rilais* who was then King, being forced to fly for *Agh & Cico-*  
 sanctuary to the Temple of *Juno*. But *Plato* saith *men.*

there was another motive which induced him to attempt this change, which was the ill success the other Kings his kindred of the house of *Hercules* had found at *Argos* and *Messene*; where by degrees degenerating from a *Monarchy* unto a *Tyranny*, they were in a fair way *ἑαυτοὺς τε καὶ τὴν πόλιν διαφθείροντες*, to overthrow themselves, their subjects, and their whole estates. To prevent this at *Sparta*, which he dearly loved, and to preserve his Family and the State together, *φάρμακον ἐπέτελλε τὴν αὐτῆς γερουσίαν ἀρχὴν π*, he set up the authority of the *Senate* as the only medicine, to cure the miserable distemper which the *State* was in. So far, and somewhat further *Plato*; of which more anon.

m *Plat. Epist 8.*

### III.

n *Lycurgo.*

3. What the authority and power of this *Senate* was, we see best from *Plutarch*. n *Πλειόναυ διχαιολογικῶν μίτων, &c.* “In this change of State (saith “he) which *Lycurgus* made, his chiefest alteration was in the constitution of a *Senate*, which “he made to have a *Regal* power and equal authority with the Kings in matters of the greatest weight and importance; and was to be the healthful counterpoise of the whole body of the *Common-wealth*. The other State before was ever wavering, sometimes inclining to *tyrannie*, when the Kings were too mighty, and sometimes to confusion, when the people did usurp authority: between which two, the *Senate* was ordained as the fittest *medium* to keep even the scale, and fortifie the State of the *Common-wealth*. For taking sometimes the *Kings* part, when it was needfull to pull down the fury of the *people*; and “sometimes

"sometimes holding with the *people* against the  
 "*Kings*, to bridle their tyrannical Government;  
 "they were the means that neither of the two did  
 "oppress the other. This Court or *Senate* had  
 the supreme direction and command in all things  
 of moment, which did concern the Common-  
 wealth, both for peace and war; and had the  
 highest jurisdiction and *dernier resort*, from which  
 there could be no appeal: in which regard *Pausa-*  
*sianias* calls it *οὐδέτερον κρείετατον τῆς πολιτείας*, o the *Pausanias in*  
 the sovereign Court of the *Republick*. It consisted of Lacon. l. 3.  
 28. *Senators*, all chosen out of the Nobility and  
 chief men of the City; who together with the  
 two *Kings* (who were allowed their voices in it)  
 made up thirty in all; and unto these it did belong  
 to call the assemblies of the people, to propound  
 that to them which they thought convenient, and  
 to dissolve them too when they saw occasion. p Plutarch. ibid.  
 But for the people so assembled, it was not lawful for  
 them to propound any thing to be debated or de-  
 termined, nor to deliver their opinion in the point  
 proposed: there being nothing left to them, but  
 to testify their assent to the propositions, which  
 either by the Senate or the two *Kings* had been  
 made unto them. So that whatever the *Kings* lost,  
 the people got little by the alteration, being left  
 out of all employment in affairs of State, and  
 forced to yeeld obedience unto thirty Masters,  
 whereas before they had but two. And as for the  
 authority which remained unto the *Kings*, it con-  
 sisted especially in the conducting of the Armies,  
 and the *supremacy* in matters that concerned Reli-  
 gion

9 Xenophon de  
Repub. Lace-  
demon.

gion ( for this hath alwaies gone along with the Kingly office ). \*Εθνη γάρ διεν μὲ βασιλεία, &c. 9 For it was ordered by *Lycurgus*, that the King should offer sacrifice for the prosperity of the Commonwealth, when the necessity of their affairs did require the same, as one descended from the gods; that they should participate of the thing sacrificed when the gods were served, and have a pig of every litter, that they might never want a sacrifice, if upon any sudden accident the gods were to be advised withall. Καὶ σεμνὰν ὄποι ἀνὴ πῆλας ἐκπέμπη ἡγίως, &c. It also appertained to them to command the Armies, as oft as they were sent abroad on any military employment; and had a Pavilion allowed them at the publick charge, for entertainment of such company as repaired unto them. In these two points the honour and authority of the Kings consisted principally, which *Aristotle* also hath observed. \*Ὅταν ἐξέλθῃ τῆν χώραν ἡρώων ἐστὶν ἄρ' αὐτοῖς τὴν

7 Aristot. Po-  
litic. l. 3. c. 10.

πῆλαμον· ἐπὶ δὲ τὰ αὐτοῖς διὰς ἀποδέσσει τῆν βασιλείαν τ. Su-  
premacie in Divine, command in Military matters, was all in which they differed from the other *Senators*; and this command ( I mean in military matters ) was both perpetual and hereditary, as the same Author tells us there and in other places s. For matters which were meerly *honourary*, they had some *prerogatives*: the Kings being allowed a *double Messe* in all their *Ordinaries*, the *Senators* and all the people arising from their seats to do him reverence, when he came amongst them, yeelding him more then humane honours when he was deceased, as to a *Demi-god* at least. And for their

s. Id. ibid. c. 1.  
2 c. 7. & l. 3.  
c. 11.

main-

maintenance and support when they were alive, there was allotted to them a proportion of the richest lands in many of the Villages and fields adjoining  $\epsilon$ ; enough to keep them out of want, though not sufficient to make them either rich or powerful.

*Xerophon in  
Repub. Lacedæ-  
m.*

4. The royalty and power of the *Kings* being thus impaired, the *people* absolutely discharged from having any hand at all in the publick Government, and the authority of the *Senate* growing every day more insolent and predominant than at first it was, by reason that they held their place for term of life, as we finde in *Plutarch*; the Kings resolved upon a course of putting the *people* into such condition as might enable them to curb and control the *Senators*. To this end *Theopompus* the ninth King of the second house, with the consent of *Polydorus* his Associate, ordained certain *Officers*, being five in number  $\alpha$ , and chosen out of the body of the *common people*  $\gamma$ , and annually renewed or changed, as occasion was  $\zeta$ ; to whom authority was give, even in the highest points, and of most importance, as we are told by *Aristotle*  $\alpha$ , and shall see anon. These *Offices* he caused to be called by the name of *Ephori*, that is to say, the *Overseers*, and *Superintendents* of the State,  $\delta$ , because they had the charge and oversight of the Commonwealth. And as amongst the *Archontes* in the State of *Athens* which were nine in number, one of them was called the *Επιτιμίας Αρχων*, or the *Archon* in the way of excel-

IV.

*Plutarch in  
Agefilæo.*

*Aristot. Pol.  
l. 2. 8.  
y Id. Polit. l. 2.  
c. 7.*

*Plutarch in  
Agefilæo.*

*Aristot. Poli-  
tic. l. 2. c. 7.*

*Snidas.*

*lency*, after whose name the year was called, and their reckonings made (as *Titio & Sempronio Coss.* in the State of *Rome*); so had the *Ephori* their *Eponymus*, one who by way of eminency was called the *Ephorus* c. But for this first reason of their institution, take it thus from *Plutarch*, δ' οὕτω τὸ πολιτεύμα Λυκίργου μίξασθαι, &c. " *Lycurgus* having " thus tempered the form of his *Common-wealth*, " it seem'd notwithstanding unto those which came " after him, that this small number of thirty per- " sons which made the *Senate*, was yet too mighty " and of too great authority. Wherefore to bridle " them a little, they gave them (as he cites from *Pla-* " *to*) a bit in their mouthes, which was the authority " of the *Ephori*, erected in the time of King *Theopom-* " *pus*, about 130 years after the death of *Lycurgus*. A second reason which induced those Kings to ordain these *Ephori*, was to ease themselves, and delegate upon them that remainder of the *Royal* power, which could not be exercised but within the *City*. For the Kings having little or no command but in wars abroad, cared not for being much at home, and thereupon ordained these *Officers*, to supply their places. Concerning which *Cleomenes* thus discourseth to the *Spartans* e, after they had destroyed the *Ephori*, and suppressed the Office: " informing them that *Lycurgus* had " joyned the *Senators* with the Kings, by whom " the *Common-wealth* was a long time governed, " without help of any other *Officers*; that after- " wards the *City* having great wars with the *Mes-* " *senians*, the Kings were alwaies so employed in " that

c Pausan.lib.3.  
in Lacon.

d Plutarch in  
Lycurgo.

e Id. in Agis  
& Cleomenes.

“ that war that they could not attend the affairs of  
 “ the State at home, and thereupon made choice  
 “ of certain of their friends to sit in judgement in  
 “ their stead, whom they called the *Ephori*, *ἑπαισιῶν*  
 “ *τε ἀντὶς τοῦ ὅτου ὑπερέτας ἦν βασιλέων ὄντας*, and for a long  
 “ time did govern only as the Kings Ministers,  
 “ though afterwards by little and little they took  
 “ unto themselves the supreme authority. Ano-  
 ther reason hath been given of the institution,  
 which is, that if a difference grew between the  
 two *Kings* in a point of judgement, there might  
 be some to arbitrate between them, and to have  
 the casting voice amongst them when the difference  
 could not be agreed. And this is that which *Li-*  
*sander* and *Mandroclidas* (two that had been *Ephori*)  
 suggested unto *Agis* and *Cleombrotus* the two Kings  
 of *Sparta*; declaring, f “ That the office of the f *Id. ibid.*  
*Ephori* was erected for no other reason, *πὸ τὰ βελ-*  
 “ *τίονα λόγου, &c.* But because they should give  
 “ their voices unto that King who had the best rea-  
 “ son on his side; when the other would wilfully  
 “ withstand both right and reason; and therefore  
 “ that they two agreeing might lawfully do what  
 “ they would without controlment; that to resist  
 “ the Kings was a breach of law, considering that  
 “ the *Ephori*, by law, had no power nor privi-  
 “ ledge, but only to arbitrate between them, when  
 “ there was any cause of jarre or controversie.  
 And this was so received at *Sparta*, for an un-  
 doubted truth, that *Cleomenes* being sole King,  
 upon the death of *Agis* of the other house, re-  
 called

called *Archidamus* the brother of *Agis* from his place of banishment, with an intent to make him King, not doubting but they two should agree together, and thereby make the *Ephori* of no power nor use. So then we have three reasons of the institution, (and more then these I cannot finde) of which there is not one that favoureth the device of *CALVIN*; or intimateth that the authority of the *Ephori* was set up, to pull down the *Kings*. And to say truth, it is a most unlikely matter that the *Kings* of *Sparta* having so little power remaining, should need more *Officers* to restrain them then they had before; that they should make a new rod for their own poor backs, and add five Masters more to those eight and twenty, which *Lycurgus* had imposed upon them. Which makes me wonder much at *Tully*, who doth acknowledge that the *Ephori* were ordained by *Theopompus*, (as both *Aristotle* *h* and *Plutarch* do affirm) and yet will have them instituted for no other cause, *nisi ut oppositi sint Regibus*, but to oppose and curb the *Kings* *i*: but more that *Plato* (who had so much advantage of him both in time and place) should ascribe the institution to *Lycurgus*; and tell us that he did not only ordain the *Senate*, ἀλλὰ ἔτι καὶ τῶν Ἐφόρων *k*, but that he did also constitute the *Ephorase*, for the strength and preservation of the *Regal* power.

## V.

*l* *Plur.* in *Lycurgo.*  
*m* *Scalig.* *animadv.* in *Enf.* *b.* *Chron.*

5. For out of doubt it is affirmed by *Plutarch* *l*, confirmed by *Scaliger* *m*, and may be gathered from

*h* *Aristot.* *Polit.* *l.* *5.* *c.* *11.*

*i* *Cicero* de *legibus* *l.* *3.*

*k* *Plato* *Ep.* *8.* *edit* *g.* *lat.* *To.* *3.*

from some passages in *Eusebius Chronicon*, and the authority of *Aristotle*, who refers the same to *Theopompus*, as before was shewed, that the first Institution was no less then 130 years after the death of *Lycurgus*. Who was the first that bore this Office hath been made a question, but never till these later times, when men are grown, such *Sceptics* as to doubt of every thing. *Plutarch* affirms for certain, ἡ Ἐλατον φράσων τῶν Ἐφόρων, that the first *E-* n Plutarch. in Lycurgo.  
*phorus* (that is to say, the first *Ἐπόρουμ*, who had the name of *Ephorus* by way of excellencie, for otherwise there were five in all) was called *Ela-*  
*tus*: and hereto *Scaliger* did once agree, as appears expressly, pag. 67. of his Annotations on *Eusebius*, where he declares it in these words, *Primus Elatus renunciatur ἐπόρουμ Ἐφορ*. But after having a desire to controll *Eusebius*, he takes occasion by some words in *Diogenes Laertius* to cry up *Chilo* for the man: first positively, *Primus Ἐπόρουμ fuit Chilon*, and next exclusively of *Ela-*  
*tus*, *Quibus animadversis non fuerit Elatus primus Ephorus sed Chilon*. To make this good, being a fancie of his own (and as his own most dearly cherished) he produceth first the testimony of *Laertius*, and afterwards confirms the same by a new *emendatio temporum*, a Calculation and account of his own inventing. The words produced from *Laertius* are these *verbatim*; Γέροντι δὲ Ἐφορῶ  
 κτὶ τὴν πεντηκοστὴν πέμπτην Ὀλυμπιάδα. Παμφίλη δὲ οἶσι κτὶ τὴν  
 ἕκταν, καὶ φράσων Ἐφροσὺν γιγνῆσθαι ἐπὶ Εὐθυδημῶ, ὡς οἶσι Σάσιον  
 τῆ: καὶ πρώτῳ εἰσηγήσασθαι Ἐφροσὺν τοῖς βασιλευσὶν Ἐραζζῶν τῶν  
 βασιλευσὶν

Diogen. Laert. *Σατω, δε δε Λυκούργου ο.* Which is thus rendered in the  
 1.1. in Chilo.

Latine, and I think exactly. *Fuit autem Ephorus circa quinquagesimam & quintam Olympiada. Porro Pamphila circa sextam aut, primumq; Ephorum fuisse sub Euthydemo, auctore Socratico: primumq; instituisse ut Regibus Ephori ad jungerentur, Satyrus Lycurgum dixit.* If it be granted in the first place, that Chilo was not made Ephorus until the 55 Olympiad, as 'tis plain he was not, and Scaliger affirms as much, it must needs follow upon true account, that either Chilo was not the first Ephorus, or that the Ephori were not instituted in more then twice an hundred and thirtie years, after Lycurgus had new molded the Common-wealth, contrary unto that which is said by Plutarch, and out of him repeated by Joseph Scaliger. For from the time wherein Lycurgus made his Laws, which was in the 25 year of Archelaus, the eighth King of the elder house, unto the death of Alcamenes, which was the year before the first Olympiad p, were 112 years just, none under. From thence unto the last year of the 55. 220 years complete; which put together make no fewer then 332 years full, a large misreckoning. Whereas the second year of the fifth Olympiad, in which Eusebius puts the Institution of the Ephori, both in the Greek and Latine Copies set out by Scaliger himself q; that second year I say being added to the 112 before-remembered, in which King Alcamenes died, makes up the full number of 130, which we finde in Plutarch; and agrees punctually with the time of Theopompus, who

to Euseb. Chron.  
 lib. post. p. 114.  
 of Scaligers  
 edit.

q Pag. 115. of  
 the Latine, &  
 35. of the  
 Greek Edition.

who as it is confessed by *Scaliger*, did first ordain them. Nor doth *Laertius* say, if you mark him well, either that *Chilo* was the first that was ever *Ephorus*, or the first that joyned the *Ephori* to the Kings of *Sparta*, both which absurdities are by *Scaliger* imposed upon him. For unto any one who looks upon *Laertius* with a careful eye, it may be easily discerned, that he speaks no otherwise of the *Ephorate*, then of an Office instituted a long time before; with the condition of the which *Chilo* was well acquainted, and therefore thought himself more fit to undergo it then his Brother was, who very earnestly desired it *r.* All that *Laertius* saith, *r Laertius in vō-  
sa Chilon.* is no more but this, that *Chilo* was made *Ephorus* first, (not the first *Ephorus* which was made, as *Scaliger* would have it) under *Euthydemus*; and that as *Satyros* affirmed (who therein questionless was misled by *Plato*) *Lycurgus* was the first who joyned the *Ephori* to the *Spartan* Kings; which words, *viz. Σατυρός δὲ Λυκούργου*, he hath left out of purpose to abuse his Author, and make him speak the thing which he never meant. His other blunderings and mistakes to make good this business, first laying the dissolution of the *Ephorate* by *Cleomenes*, *non multo ante vel post initium Philippi s,* *(Pag. 67. of the  
Animadvess.)* either not long before or shortly after the beginning of the reign of *Philip* the last King of *Macedon*, but one (which indeed is true) and within nine lines, no more, laying it in the 13 year of the self same King *Philip*, (most extremely false) the changing of his Authors words from *Fuit autem*

*sub Regibus Lacedæmon annis 350*, as they occur in the Translation of *S. Hierom*, printed at *Basil*, into *Fuit sub Regibus Lacedæmoniorum Annis 350*, against the Authors minde and the rules of *Grammar*, only to bring about his device of *Chilo*, and blinde his Readers eyes with a new *Chronologie*; and others I could point to if my leisure served, I purpose to forbear at the present time. Nor had I been so bold with *Scaliger* at all, or at least not now, but that the proud man is more bold with the Antient Fathers, whom he is pleased to look on with contempt, and scorn, as often as they come before him: for which see *pag. 255* of his *Annotations*. And so I leave him with that censure which he gives *Eusebius*, as learned and industrious an Antiquarie, as any *Scaliger* of them all, (no man dispraised): *Erratis hujus Autoris enumerandis charta non suffecerit*; and so fare him well.

Animadvers.  
in Euseb. p. 255.

## VI.

6. But to proceed, the *Ephori* being thus ordained by *Theopompus*, became not presently of such authority and power, as by degrees they did attain to: For being chosen by the Kings as their proper Ministers as before was said, and many times *ἐκ τῶν φίλων*, even from their very neereſt friends, as we read in *Plutarch* *ii*; they were hard thrust at by the *Senate*; and forced to put up many an affront from that mightier body. And this was it that *Chilo* aimed at, when he told his Brother who at the same time desired the Office, and seemed offended that he lost it, *Ἐγὼ μὲν γὰρ ἐπισημαία δὲ συνέδοξ, σὺ δὲ ἔ. κ.*  
that

Plutarch. in  
Agri. & Cleo-  
zomen.

Laertius in  
vita Chilon.

that he was better skilled in bearing injuries and affronts, then his Brother was. But this continued for no longer then whilst the Kings served their turns upon them to oppose the *Senate*, and kept the nomination of them in their own hands. For afterwards the Kings relinquishing the election to the common people, upon a *forlorn hope*, of gaining their affections by so great a benefit; they began to set up for themselves, and in a very little time gained all the custom of the City. And of this new election I am apt to think that *Chilo*, whom before we spake of, was the first *ἐπιτροπὸς*. Which I propose not so much out of a desire to comply with *Scaliger*, who for ought I can see, aimed at no such matter; as on the credit of *Eusebius*, whom he so much slighteth. For in *Eusebius Chronicon* of *Joseph Scaligers* own Edition, after he hath put down the institution of the *Ephori* in the second of the fifth *Olympiad*, as before I told you; he gives this *Item* in the third of the five and fiftieth (which is the very same that *Laertius* speaks of) *Chilo qui de Septem Sapientibus fuit, Lacedamone Ephorus constituitur γ, dispositione communis gentis*, that *Chilo* one of the seven wise Masters was ordained *Ephorus* at *Sparta*, by the general consent of all the people. But whether this were so, or not, I am not able to determine absolutely. All I observe from hence is this, that it is past all question, that from this time they took upon them more then they had done formerly, and were intent on all advantages to improve their power. For whereas at the first

*Euseb. Chronic.*  
*lib. poster.*  
*p. 127.*

they were appointed by the Kings to sit in judgement in their steads, as before was said, by little and little *εἰς ἑαυτοὺς πωδὶξενίας* *z*, they drew that power unto themselves, and exercised it in their own name, by their own authoritie: not as the *Ministers* of the *Kings*, they would none of that, but as the *Officers* of the *Common-wealth*. And to that end they did erect a *Court of Judicature*, which for power and greatness of authoritie was little inferiour to the *Senate*; drawing unto them all such busineses as were *τὸ σπουδῆς μάλιστα ἀξία* *a*, most worthy of care and consideration. By means whereof, as they drew many of the people to depend upon them, whose busineses and suits of law were brought to be determined by them *b*; so they increased that dependance, by husbanding such difference as did oft arise between the *Senate* and the *Kings*, to their own advantage. For it is well observed by *Aristotle*, that as long as the *Senate* and the *Kings* did agree together, they kept all the power in their own hands: *εἰ δὲ μὴ, ἐν τέλει ὁ δῆμος* *c*, but when they jarred amongst themselves, they gave the people opportunitie to become their Masters. But that which raised them to the height, and made them terrible at last both to *King* and *Senate*, was the mutual tie and correspondence which was between them and the people: by whom they were not only chosen, and therefore cherished by them as their own deer creatures: but for the most part chosen *ἐν τῷ δήμῳ*, out of the body of the people, and sometime *ἐκ τῶν πτωχῶν* *d*: out of the very meanest

*z* Plutarch in  
Agē & Cleom.

*a* Pausan, l. 3.  
in Laconick.

*b* Aristot. Polit.  
lib. 3. cap. 1.

*c* Id. ibid. l. 2.  
c. 9.

*d* Aristot. Polit.  
l. 2. cap. 7.

meanest and the neediest of them; which made them on the other side to court the people, and to apply themselves unto them upon all occasions. And though it happened many times, that some of them being indigent and needie men, were easily wrought upon by money, and apt to sell as well the justice as the honor of the Common-wealth, to enrich themselves and raise their families; whereof *Aristotle* much complains, and that deservedly: yet this corruption served to advance their power, and put them into a condition to be the better able to oblige the people. So that the common sort of people doing all they could to advance the power and reputation of the *Ephori*, whom they accounted for their own, as indeed they were; and the *Ephori* striving by all possible means to gratifie the people, by obtaining new laws and large immunities to be enacted for them, as they saw occasion: they altered the whole frame of Government, and made it of an *Aristocracie* to become an *Oligarchie*, and in conclusion a plain *popular tyrannie*. e. id. ibid. et c. 8.

7. For trusting to the power and interests which they had in the Commonaltie, and the support they were assured from them, if the case required it; they drew unto themselves the managerie of the State-affairs; and grew so powerful at the last, that if they did not all things of their own authority, yet they had such an hand on the *Kings* and *Senate*, that nothing could be done without them.

Were

VII.

f Plutarch in  
Agis & Cleo-  
men.

g Id. in Lysan-  
dro.

h Xenophon. in  
vita Agesilai.

i Thucydides.  
l. v.

k Plut. in Nici-  
as.

l Pausan. l. 3. in  
Lacon.

Were any laws to be enacted, who but the *Ephori* must propound them? Or any Taxes to be levied for the necessarie uses of the Common-wealth, who but the *Ephori* must impose them? f When *Lysander* had reduced the City of *Athens* unto such extremities, that they were glad to yeeld unto such conditions as the Conquerors were pleased to impose upon them: from whom must the Capitulations come, but from the *Ephori*? It was the *ἄγμα τῶν Ἐφόρων* g, the final resolution of the *Ephori*, from which they were to expect either bonds or libertie. *Cynado* is accused of Treason against *Agesilauus* and the State of *Sparta*, the *Ephori* must take the information and proceed accordingly h: and if *Pausanias* be accused of holding correspondence with the King of *Persia*, the *Ephori* send out their commands, *ἡ δὲ ἐστὶν τὴν εἰρητὴν ἐπιπέσει*, and commit him presently to Prison. When any Ambassadors were sent forth on the publick service, from whom must they receive their power, from whom be furnished with instructions, but from the *Ephori* alone k: and who but they must appoint Commanders for the Wars, require accompt of their employments, and either punish or reward them as they have deserved? When *Cleonymus* was displeas'd because *Areus* was preferred before him in his pretensions to the Kingdom: the *Ephori* did not only take upon them to sweeten and demu'ce the man by great gifts and presents, *ἀλλὰ ἔ* l, but also to confer upon him the command of the Army, though of right be-  
longing

longing to the Kings. When *Mindarus* the Admiral of their Navie was miserably beat by the *Athenians* in the straight of *Hellespont*, an *express* is presently dispatched to *Sparta*, to give unto the *Ephori* an account thereof: *m: Lyfander* had no sooner revenged this quarrel, and beat the Fleet of the *Athenians* neer the self same place, but he acquaints the *Ephori* with his good success, with all speed that might be *n*. And if the Wars prove fortunate, and the spoil so great, that part thereof be sent to *Sparta*, to be laid up in the publick *Treasury*; the *Ephori*, and none but they must have the fingering of the money *o*. Finally there was no Commander of the Armies, or other Officer employed by the Common-wealth, whom they called not to an accompt as their stomachs served; not staying till the Office was expired, and the Commander or the Officer become a private man again, as in other States; but even in the midst of their Command and Magistracie whatsoever it was: and whom they did not punish when they came before them, either by imprisonment or death *p*, as to them seem'd best. Thus have we brought them to their height, and seen them absolutely possessed of the *Supreme Power*, in making peace or war as they thought convenient; and in disposing of the goods, the liberties, yea and the Lives too of the *Spartan* subject. It had been a strange temper in them had they tarried there, and not inroached as much (whilest the tide went with them) upon the persons and the power of the *Kings* themselves.

*m Plutarch. in Alcibiades.*

*n Idem in Lyfandro.*

*o Id ibid.*

*p Xenophon de Repub. Lacedaem.*

## VIII.

8. For howsoever at the first they were τῶν βασι-  
 λῶν ὑποφύτοι the *Ministers* of the *Kings* as before  
 was told you, and accomptable to none but them:  
 yet after they were reckoned for the *Officers* of the  
*Common wealth*, they cast off all relation to the  
*Kings*, their *Masters*, and thought themselves their  
*Equals* at the best, and at last their *bettters*. A  
 point which *Theopompus* did but little dream of,  
 when first he set them up to oppose the *Senate*, al-  
 though his *Queen* a wise and understanding *Ladie*,  
 did evidently see, and tell him, what would follow  
 on it. Of which we finde this storie in the works  
 of *Aristotle*, and from him borrowed by *Plutarch*  
 if I guess aright, that his wife seeing what design  
 he was bent upon, and how unluckily he was car-  
 ried on to effect the same, advised him to take heed  
 that by erecting this new *Magistracie*, he did not  
 leave the *Kingdom* in a worse condition to his  
*Heirs* and *Successors*, then he received the same  
 from his *Predecessors*; and that he answered there-  
 unto, ὅτι δίδωμι δὲ πλουχρωπίαν ε, that by this means  
 he hoped to leave it stronger and more durable then  
 it was before. But the event declared unto all the  
 world that the woman was the better *Prophet*, and  
 had the greater insight into things to come. The  
 power of *Soveraignty* when once communicated  
 to the common people, or otherwise usurped by  
 such popular *Officers*, as depend wholly on the  
 people for their place and being, is seldom times re-  
 covered into *Regal* hands. And though some *Kings*  
 may be perswaded by some subtile artifices (as it  
 seems

e Aristot. Polit.  
 l. 5. c. 11.

seems *Theopompus* was) that by this means the Chair of State will stand the faster; yet the proceedings of the *Ephors* in the State of *Sparta* will inform us otherwise, and easily lay open the apparent danger of such weak surmises. For being made *Officers of State*, one of the first points they obtained, was that the Kings made Oath unto them once in every moneth, καὶ τὸς τῆς πόλεως κειμένους νόμους βεβαιώσονται *q*, that they would govern the Estate according to the laws established in the Common-wealth, and that they would preserve the Kindom in the best condition that they could: the *Ephori* making oath to them in the name of the Citie, whose *Officers* they were, and by whom intrusted. Next they attempt to place such *Counsellors* about the Kings, as they might *confide* in, beginning with such Kings as were under Age; and the first trial which they made was in appointing one *Cleandrides* to be about King *Plastonax*, the 19. of the elder House, as his chief Counsellor and Director, without whose approbation nothing must be done *r*. Another of their usurpations and incroachments was to restrain their Kings in the point of *marriage*, and to impose some fine or disgrace upon them, if they presumed to marrie against their liking. *Anaxandrides* the 15. of the elder house, had married a Lady of brave parts, but it was her ill fortune to be barren a long time together. The *Ephori* command him without more ado ἀποπέμψαντες δὲ αὐτὸν *s*, ἢ Pausan. lib. 3. in Lacon. to give her a Bill of divorce, and send her going. *Archidamus* the 17. of the second House married a

wife which brought him children. But fault was found she was too little, and thereupon the *Ephori* condemned him in a sum of money; saying: ἰ βασιλῆς ἀλλὰ βραχέϊστα, that she would not bring them Kings, but *demy Kings* *t.* And that you may perceive, how difficult a thing it was to please them in this point, *Leonidas* had married one that was neither barren, nor too little; and yet was quarrelled by the *Ephori*, and in fine condemned, for marrying with a woman of another Nation *u.* The fundamental laws of *Sparta* conferred upon the Kings the Supreme command over the *Militarie* men in all wars abroad. The *Ephori* did not only dispose it otherwise, and gave it unto such whom they desired to oblige unto them, as you heard before: but kept the Kings at such a bay, that they neither could lead forth the Armies without their consent, nor tarry longer in the camp then they list to let them; and if the action did miscarry, the Kings were either fined or imprisoned for it. *Agessilas* being a very stirring Prince, and desirous to get honor in the wars, was not permitted to set forwards till he had bought the *Ephori* with a sum of money *x*: and yet being in the height of his good success was called back again, and glad to be conformable to the said commands. And so it fared with *Agis* and *Cleomenes* both, on the like occasions. And for the *fining* of their Kings, besides what we have seen before in the former instances, *Plistonax* being betrayed by *Cleandrides*, (whom the *Ephori* themselves had placed about him)

*Plutarch, in Agessilas.*

*Id. in Agis & Cleomenes.*

*Id. in Agessilas.*

him) and his Army forced to disband and turn home again; is presently condemned in so great a sum, that he was not able to discharge it  $\gamma$ . By <sup>Id. in Pericles.</sup> means whereof the Kings were brought at last unto that condition, *δυναστούντες αὐτὸς ἠναγκάσθησαν*, as *Aristotle*  $\zeta$  *Aristot. Polit.* truly noteth  $\zeta$ , that they were forced to court and bribe the *Ephori* upon all occasions, to the great disservice of the State, and sometimes to the fatal overthrow of their chief designs. So that it is no marvail, if considered rightly; either that the *Ephori* kept their state and rose not up to reverence their King; when he came before them; though all the residue of the people and the *Senate* did it, as we read in *Xenophon a*; or that *Agefilas* used to rise up to them, as often as they came unto him about any business, as we finde in *Plutarch b*; <sup>a De Repub. Lacedem. b Plut. in Agefilao.</sup> or that the Kings esteemed it such a point of *Sovereignie*, that when they were commanded to attend the *Ephori*, *τὸ πρῶτον ἀνπέλαυν ἢ τὸ δεύτερον*, they did refuse to goe upon the first and second summonings, and stirred not till the third command, as *Cleomenes* bragged in the said Historian *c*. <sup>c Id. in Agis and Cleomen.</sup> Which trust me was a point of no small importance.

(9) And yet they staid not here, they went further still. They thought it not enough to condemn their Kings in vast and unproportionable sums of money, unless they laid restraints on their persons also, and had command upon their bodies. And therefore it is noted by *Thucydides* not without good reason, that they did not only punish with

IX.

imprisonment their great and principal Commanders; *ἔπει δὲ Ἐφόροι τὸν βασιλέα δρᾶσαι τῆτο δ*, but that it was lawful for the *Ephori* to do the like unto their Kings. Which to avoid, *Pausanias* was enforced to retire himself, and live a voluntary exile in another Countrey *e*. Nothing remains but they take authoritie to depose, and in fine to murder them; and if they gain not this, all the rest is nothing. And this they are resolved to gain, or be foolishly foiled; nor did they fail in the attempt when they went about it. They quarrelled at *Leonidas* as before I told you, for marrying with a woman of another Countrey, without so much as seeking for their approbation. And that they may be sure to effect their business, Religion is pretended, and a star must fall, only to warrant their proceedings. Which preparations being past they cite him to appear before them, and on default of his appearance they *deposed* him instantly, and conferred the Kingom on *Cleombrotus f*. But these men being out of Office, he came out of *Sanctuarie*, and was restored again by the next years *Ephori*. Who to make proof that their authoritie was as great as their Predecessors, thought it not argument enough to restore one King, except they did depose and destroy another. And thereupon laid hands on *Agis* of the other House, and inhumanelie haled him to the common Prison, and there most barbarously murdered him with his Mother and Grand-mother. *Ἐν δὲ Λακεδαιμόνι φῶτον Ἄγρις βασιλεύσας, ὑπὸ Ἐφόρων ἀπίδατο g*. And this saith *Plutarch* was

*e Plutarch in Lysander.*

*f Id. in Agis & Cleomenes.*

*g Id. ibid.*

the first time, that ever the *Ephori* put a King to death. And so perhaps it was the first, but the last it was not. For *Archidamus* the Brother of *Agis* being recalled from banishment by *Cleomenes*, to the end he might enjoy the Kingdom which did by right belong unto him; was presently seized on by the murderers, and dispatched in private, for fear he should revenge the death of his slaughtered Brother *h*. By which it is most evident h Id. ibid. without further proof, that the *Spartan Aristocratie* was become a *tyrannie*, and of all *Tyrannies* the most insupportable, because meerlie popular. Or if more proof should be desired, both *Aristotle*, and his his Master *Plato* will not stick to say it; though they both died, before these two last *Tragedies* were acted on the *stage of Sparta*. For *Plato* being to declare what he conceived of the Government of that *Common-wealth* resolves that it did *περισσιωδὲς δεσποτικὴν εἶναι*, approach more neer to *tyrannie* then to any other form what ever; the i Plato de legib. lib. 4. power and empire of the *Ephori* being *τὸ περισσιωδὲς* plainly *tyrannical*, and no otherwise. And *Aristotle* who had studied the condition of that *State* exactly, though at the first he seemed to think that it was very well compounded of the three good forms; yet upon full debate thereof, he concludes at last, *Ἐποικίαν εἶναι περισσιωδικήν*, that the dominion of k Aristot. Politic. l. 2. c. 4. the *Ephori* was an absolute *Tyrannie*. Assuredly had they lived to have seen that day, wherein the *Ephori* embued their hands in the bloud of their Princes, under pretence of safetie to the *Common-wealth*, they

they would have voted it to have been a *tyrannie* in the highest degree; and then the most unferable *Tyrants* that ever wretched State groaned under. For though the Kings of *Sparta* were so lessened by *Lycurgus* laws, that little more was left unto them then the name and title; yet they were *Kings*, and held so sacred by their neighbors, even their very *Enemies*, that none did ever offer to lay hands upon them in the heat and furie of their fights, *δεδοτὸς ἔστι σεβόμενοι τὸ ἀξίωμα* I, out of the reverence they did bear to those beams of Majesty, which most apparently shined in them.

I Plutarch. in  
Agh & Cleom.

(10) The *Ephors* being grown to this height of *Tyrannie*, were the more ready for their fall; which followed not long after that most barbarous fact, upon the persons of their Princes. The Kings had long since stomached them and their high proceedings, bearing *τὴν πατρικὴν πρὸς τοὺς βασιλεῦσι* a kinde of *heritable* grudge betwixt them (as my Author calls it) ever since they took upon them to control their Masters: but either wanted opportunitie or spirit, to attempt any thing to their prejudice; and therefore thought it safer to procure their favours, then run themselves upon a hazardous experiment. *Pausanias*, the 20. of the Elder House, was the first that ever did attempt either by force or practise, to subvert the *Office*: the insolencies of the which were then grown so great, that being a stout and active Prince, he was not able to endure them. That he had entertained  
such

m Ed. in Agefil.

such thoughts is affirmed by *Aristotle*, where he informs us that *Lyfander* had a purpose to take away the King's Government (or rather to acquire it to himself, as we finde in *Plutarch n.*) *Παυσανίας δὲ τὸν βασιλέα τὴν Ἐφορείαν*, and that *Pausanias* had the like to destroy the *Ephorate o.* But what he failed to bring about, his Successors did at last accomplish. Of which *Cleombrotus* and *Agis*, joyning their hands and heads together did proceed so far, that going into the Market place well attended by their friends and followers, they plucked the *Ephori* from their seats, and substituted others in their rooms *p.* whom they conceived would be more pliant to their present enterprises: which was the first actual attempt, that ever had been made against them by the Kings of *Sparta*. But *evulgato imperii Arcano*, when so great a mysterie of State was once discovered, that the *Ephori* were but mortal men, and might as easily be displaced and deposed as any of the other Magistrates; *Leonidas* immediately upon his restitution to the Kingdom, made the like removal, and displaced those who had took part against him with the former Kings *q.* So that the ice being broken, and the way made open, *Cleomenes* son unto *Leonidas* had the fairer way to abrogate the Office utterly, which at last he did. For being a brave and gallant Prince, and seeing that the project he was bent upon for the reduction of the Common-wealth to its primitive honour, could not be brought about but by their destruction; he fell upon them with

*n Id. in Lyfan-**dro.**o Aristot. Polit.**lib. 5. c. 1.**p Plutarch in Agis & Cleom.**q Id. ibid.*

his Souldiers as they sate sate at supper, and killed four of them in the place, the fift escaping shrewdly hurt to the neereft Sanctuarie *r.* That done he went into the Market place, and overthrew all the Chairs of the *Ephori* saving only one, which he reserved for himself as his Chair of State, and sitting in the same in the sight of the people, gave them an accompt of his proceedings, and the reasons which induced him to it: “ Declaring how the “ *Ephori* were at first appointed by the Kings themselves; that for long time they governed only “ *ὡς βασιλέων ὑπηρέται* as the Kings Ministers, and no “ otherwise; that many years after this, *Asteropys* one of the *Ephori*, building upon a new foundation, and being the first Author of that “ dangerous change, they took the Government “ unto themselves, and exercised the same in their “ own names only; that though they had usurped “ a power which belonged not to them, yet had “ they managed it discreetly, they might perhaps “ have held it longer, and with better liking; but “ that licentiouslly abusing the authoritie which they “ had usurped by suppressing the lawful *Governors* “ ordained of old, by taking upon them to banish “ some of the Citizens, and to put some to death “ without law and justice, and finally by threatening “ those who were desirous to restore the Govern- “ ment to its antient form, they were no longer to “ be suffered: that for his part he should have “ thought himself the happiest King that ever was, “ if possibly he could have cured his Countrey of “ that

*Id ibid.*

*ibid.*

“that foul affection without grief or sorrow,  
 “but being it was not to be done that way, he  
 “thought it better that some few should be put to  
 “death, then the whole Common-wealth run on  
 “to a swift destruction. This said, he presently  
 dissolved the Assembly, and seriously betook him-  
 self to the Reformation which formerly he had pro-  
 jected, and in short time reduced the people to the  
 antient Discipline, the state and reputation of the  
 Common-wealth to its antient height.

(II) Thus have we made a brief discoverie of  
 the *Spartan Ephori*, upon what grounds first insti-  
 tuted, and on what destroyed; by what foul  
 practises and unlawful means they gained the *So-  
 veraignie* of the State, and by what they lost it:  
 how, and by what degrees they came from low and  
 mean beginnings to so strange a *tyrannie*, and with  
 what suddenness they lost their power and their  
 lives together. But in all this there is not any shew  
 or colour for that which is affirmed by *CALVIN*,  
 no ground for, nor veritie at all in that *assertion*, that  
 the *Ephori* were at first ordained to *oppose the  
 Kings*, to regulate their proceedings, and restrain  
 their power: but rather that they were ordained  
 (as indeed they were) to curb the Senate, to be the  
 Ministers of the Kings, and sub-servient to them;  
 to sit in Judgement for them, and discharge such  
 Offices, as the Kings pleased to trust them with, in  
 their times of absence. If *Calvins* popular Magi-  
 strates have no more authoritie, then the *Spartan  
 Ephori*,

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*Ephori*, according to the rules of their Institution, they will have little colour to controll their *Princes*, and less for putting a restraint on the *Regal* power. The most they can pretend to must be usurpation, and that will hold no longer, if it ho'd so long, then they have power to make it good by blood and violence, which I hope *Calvin* did not aim at. And if they have no other ground then an unjust title, *prescription* will not serve the turn, (for *nullum tempus occurrat Regi*, as our Lawyers tell us) when a courageous Prince is concerned in it, and oppressed by it. If any *Popular* spirits entertain such hopes, if nothing else will satisfie their vast ambitions but to be equal with their Kings and Supreme Governors, and at last above them: let them remember what became of the *Spartan Ephori*, and that there was a *Cleomenes* which called them to a sad account for all those insolencies and affronts which they had put upon himself and his Predecessors. And let all Kings and Supreme Governors take heed by the example of these *Spartan* Princes, how they let loose the reins of Government, and lay them on the necks of the common people: which if unbridled once, and left at libertie, will not be easily induced to receive that *Bit* into their mouths which before they champed on: and that they give no way to such *popular Magistrates* as *Calvin* hath presented to us, who whatsoever colour and pretence they make, aim at no other mark then the Royal power, though  
out

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out of too much modestie they disclaim the title, and must be either Kings or nothing. Of which invasions and inroachments on the Supreme Power, our Author gives another hint in the *Roman Tribunes*; the truth and fitness of which supposition must be looked on next.

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K 3

CHAP.

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## CHAP. III.

*Of the Inroachments of the Tribunes on the State of Rome; and that they were not instituted for the ends supposed by Calvin.*

(I) *The Tribunes of the people why first Instituted in the State of Rome.*

(II) *And with what difficultie and conditions.*

(III) *The Tribunes fortifie themselves with large immunities, before they went about to change the Government.*

(IV) *The Tribunes no sooner in their Office, but they set themselves against the Nobilitie and the Senate, contrary to the Articles of their Institution.*

(V) *The many and dangerous Seditions occasioned by the Tribunes in the City of Rome.*

(VI) *The Tribunes and the people do agree together to change the Government of the State.*

(VII) *By what degrees the people came to be possessed of all the Offices in the State, both of power and dignity.*

(VIII) *The Plots and Practises of the Gracchi to put the power of the Judicature, and Supreme Majestie of the State, into the bands of the people.*

(IX) *The Tribunes take upon them to commit*  
the

the Consuls, and bring all the Officers of the State under their command.

(X) The Office and authoritie of the Tribunes reduced unto its antient bounds by Corn. Sylla; and at last utterly destroyed.

(XI) An application of the former passages to the point in hand.

(I) **A**Lthough the reasons which induced the people in the State of Rome to desire some Officers of their own, and the considerations which induced the Senate to give way unto it, are obvious to the eyes of every Reader, which hath perused the Roman stories: yet I shall briefly lay it down, the better to remove the intimation which we finde in Calvin, that they were purposely ordained to oppose the Consuls. The storie then in brief is this. The people having not long before expelled their Kings, and got some reputation by their prowess in those petit States which bordered neerest to the City, found quickly that the *libertie* which they expected was nothing but a *golden dream*, not able to protect them from the common *Gaols*, and that their reputation in the wars would not pay their debts, or save them from the hands of their cruel Creditors. For serving in the wars at their own proper charges, and having little else to subsist upon but their trades or labor, they were fain sometimes to take up money upon *usurie*. And though they did return from the wars with *victorie*, and shewed those honorable  
scars.

I.

a Plutarch in  
M. Coriolano.

b Livie. hist.  
l. 2.

scars which they had received, fighting in defence of their Country and the Common-wealth; yet this did edifie but little with their hungry Creditors: a who did not sell their goods, if they were not solvent, but apprehended their persons also, and either laid them up in the common prisons, or made them serve instead of Bond-men, and made them subject to the whip and other base corrections fit for none but *Slaves*. And somewhat to this purpose the old man complained, as we read in *Livie*, declaring to the people (who were apt to hear it) how his Patrimoine had been seized on by the merciless Usurers, his person apprehended by them, and that he was not only made a *Slave*, but marked out for slaughter: *Inde ostentare tergum factum recentibus vestigiis verberum* b, shewing withall upon his back the miserable prints which the whip had left. This made the people murmur, and at last to mutinie, and in tumultuous manner, *minaciter magis quam suppliciter*, rather with threats then supplications to require the Senate to take some course for their relief: resolving otherwise to go no more unto the wars, serve the State who would. The Senate promised fair, as there was good cause, (the *Volses* pressing hard upon them to their very gates); and by that promise won the people, and obtained a victorie. But when the wars were done, and performance looked for, instead of finding a redress of their former grievances, the rigor of the law took place, & *creditoribus tradebantur*, and they were seized on by their

their *Creditors* as in former times: the *Senate* thinking it unreasonable to make the law submit to the necessities of particular men, and against law to defraud any man of the debts which were due unto them. <sup>c</sup> But a new war approaching, a new promise made, and that neglected also when the war was ended; the people seeing no relief was like to come from the hands of the *Senators*, *Longè aliâ quam primò instituerant viâ grassabantur*, began to lend an ear to some desperate Counsels, and fell to entertain such hopes, as formerly they durst never dream of. For drawing themselves into a body under the conduct of *Sicinius* a troublesome and seditious person, they forsook the *City*, and incamped upon an hill adjoyning: resolving as they gave it out, to seek new dwellings, and that there was no place in *Italy* but would afford them air and water, *καὶ πῖνον ἐνταφύρου*, and ground in which they might be buried. There is no question to be made, but if the *Senate* had beheld the action with neglect and scorn, as *Appius d*, and *C. Martius e*, <sup>d</sup> *Dionys. Halicarn. l. 6.* did advise they should; the people out of love to their wives and children, would have returned to their houses: or if they had presented them in time with any tolerable mitigations of the former laws, they might have taken off their edge, and appeas'd the tumult. But giving way unto their turie till it grew too high, and shewing in their resolutions far more fear then courage; the people got the better of them, and thought they stood upon the higher ground, as indeed they did. Which pride

and high conceit of theirs was the more increased, by the authoritie and perswasions of one *Junius Brutus*, who came not to them till they were too far engaged, to go off with safetic. A man, as the Historian noteth, of a turbulent and seditious spirit, more apt to kindle a rebellion, then to quench the flame; but otherwise *ἔξυς τῆς γράμης περὶ δεῖν ἢ τῶν ἰσομένων* *f*, of very great fore-sight into business, and one that had a ready tongue upon all occasions. To him they gave the managing of the whole design, and he improved the trust to their best advantage. Infomuch that when *Menenius Agrippa* was employed unto them to demand their grievances, and had brought the point to such an issue, that there was nothing wanting to make up the breach, but some securitie to be given on the part of the *Senate*, that the people should be no more deluded with such emptie promises; this *Junius Brutus* took upon him to propose the terms: and no securitie would content him (as the plot was laid) but that some *popular Magistrates* should be forthwith made, for the protection of the people. *Concedite nobis (inquit) Magistratus aliquot quotannis à nostro corpore creare, &c.* *g* “Let us, saith he, “have certain *Magistrates* to be chosen yearly “out of our own body, on whom we shall not ask “you to confer more power, then that they have “authoritie to assist the *Commons*, when they are “either injured or oppressed by violence, and to “take order that they be not robbed of their rights “and liberties. Other securitie then this we will trust

“to

*f* Dioryf. Hali-  
carnass. l. 6.

*g* *Id. ibid.*

“to none. Which when the people heard (for few of them were made acquainted with the plot before) *μεγάλη βοή ἐν χειρὶ πολλῶν κατέχων*, they made many a loud and joyful shout, praising the man unto the skies, and absolutely resolving to admit of no other terms, then what their *Spokesman* had proposed.

(2) But yet the business was not done. It must first pass the approbation of the *Senate*, and there it met with very great heats and opposition before it passed, and passed not at the last but upon conditions. The people had a faction in the very *Senate*, and a strong one too, who laboured what they could to obtain the point. Of these *Valerius* was the chief, whose Brother had not long before expelled the Kings, and from his courting of the people was surnamed *Poplicola*: a family that had been always favourable to the *popular* party, and more endeavoured their content, than the honor or profit of the publick. In which regard *Appius* charged him to his face, *τὴν οἰκίαν αὐτῶν δημοκόλας ἐν νόμων* *πονηρῶν ἀρχαίων ἢ*, that the whole generation of them *h* *Id. Ibid.* were so partial in behalf of the people, that they had almost destroyed the Common-wealth. Others and those of greater courage and Nobility, scorning that such an innovation should be made in the publick Government, opposed it with all might and main; not sparing to assure the *Senate* that in the setting up of this new authority, they would in fine put down their own. And of these *Appius*

and *Caius Martius*, (who after had the name of *Coriolanus*) were the leading men: who standing upon point of honor, advised the *Senate* that having shaken off the *tyrannie* of their *Kings*, they should not prostitute themselves to the *lusts* of the *people*; that they should stand on their own ground, and not do any thing unworthy of their place and dignitie; that these were but the beginnings of sedition, and that the purpose of the Commons was to abolish law, and set up a *partick*: *Appius* fore-telling, as inspired with the spirit of Prophecie, ὅσον πνεῦμα κακῶν τῇ πολιτείᾳ βαλεῖν, how great a *Seminarie* of mischiefs it would prove to the *Common-wealth*, and calling all the *Gods* to witness that he had done his best to prevent the same. But when they found it like to pass, and that the *major* part of the house did incline that way, it was advised that they should hold the people to the terms by themselves proposed, and give their *Officers* no more power but to relieve the people from unjust oppression, and that they should only *interpose*, if any thing were passed in *Senate* to the peoples prejudice, but *propose* nothing of themselves; nor appear in any thing, untill the *Senate* had before considered of it; that the election should be made *in centuriatis Comitibus* only, where the *Patricii* and their followers bare the greatest stroke; and finally that in their applications and addresses to the *Lords* of the *Senate*, in any business whatsoever, they should all agree upon the point, so that if any one dissented

1 *Id. ibid.*

2 *Plutarch in Ad. Coriolano.*

dissented, the agreement and consent of all the rest should pass for nothing. For seeing that *Tribunes* must be granted, they hoped that by their disagreement the honor of the State might be kept upright, and that the *Common-wealth* was not quite past help, *ἐὰν σαμαζῆ τὸ ἄσχευ κί, μὴ ἄπαν τὸ αὐτὸ σέξη I*, as long as any discord or dissension might be sown amongst them. Which last condition (for all the rest were broken as soon as they were agreed on) was most religiously observed till the very last, as we read in *Plutarch*, who gives it for a rule amongst them, that if one *Tribune* did oppose *ἰδίῳ δὲ πάλαι κατεύεσθαι πειθίρσαν κ;* the agreement and command of all the rest did effect just nothing. Things being brought unto this temper, and all points agreed on, the people went to the election, and chose five new *Officers*, (according to the number of the *Spartan Ephori*) which they called *Tribunes of the people*; of which *Sicinius* and *Junius Brutus* must be two at least. We may be sure they took not all this pains for nothing.

*Dionys. Halicarn. l. 10.*

*m Plutarch. in Caic. & Tiber.*

(3) And yet all this was nothing if they got not more. The Articles and Conditions which they had agreed on had bound them too precisely to their *good-behaviour*; and if they did not break those bonds, they were *Prisoners* still. But first they must be fortified with some special *privileges*, to keep their persons out of danger, that they might boldly venture upon any project without fear of law; and put themselves into such con-

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dition, that whatsoever wrongs they did, they would not be called to an accompt. To that end *Brutus* taking his opportunite whilest the heats were up, and the *Senate* in a disposition to deny them nothing, causeth a law to be propounded & obtained for the perpetual indemnitie of the *Tribunes*, *ἵερὸν καὶ ἀπλῶν ἀπὸ δειξῶν τὸν ἀρχόν*, and for declaring of their Office to be *sacred* and *inviolable* n. The substance of the law was to this effect; "That  
 "no man should compell the *Tribunes* to doe any  
 "thing against their wills, nor beat, or cause them  
 "to be beaten, nor kill, or cause them to be kil-  
 "led; if any should presume to do the contrarie  
 "ἐξ ἀγίας ἕδω, he was to be pursued as an execrable  
 "person, and his goods confiscate, and whosoever  
 "slew him should escape unpunished, and do  
 "a meritorious service to the Common-wealth.  
 A Priviledge which they found good use of in the times succeeding, and made it serve their turns upon all occasions. *Martius* complained of them in the *Senate* for disobedience to the *Consuls*, and an intent to bring an *Anarchie* upon the State: o they vote this for a *breach of priviledge*, and nothing but his death or banishment will give them satisfaction for it. *Appius* being *Consul* sends his *Lictor* to lay hands upon them for raising tumults in the City p; this is another *breach of priviledge*, and he shall answer for it when his year was out. *Caso Quintius* like a noble *Patriot*, joyns with the *Consuls* and the *Senate* to oppress their insolencies, when neither law nor reason would prevail upon them;

n D'oyf. Hali-  
carn. l. 6.

o Plutarb. in  
Coriolano.

p Livie hist.  
Rom. lib. 2.

them; this also is a *breach of privilege*, and his life shall pay for it *q*. But to proceed, having <sup>*q Id. l. 3.*</sup> obtained this law for their own securitie, their next work was to break or pass by those laws by which the State was governed in all times before, and which themselves had yeilded to at their first creation. It was the practise of the City from the first foundation (and a continual custom hath the force of law) to give such respect unto the *Senate*, that the people did not *vote* nor determine any thing, *ἅπ' αὐτῶν ἐβλάσθηεν ἡ βουλὴ* <sup>*r Dionys. Halicarr. aff. l. 7.*</sup> which the *Senate* had not first debated and resolved upon. This though no *breach of privilege* was a main impediment to the advancing of those projects which they had in hand, and therefore fit to be removed, as removed it was: and so a way made open unto that confusion, which did expose the State to so many changes, that it was never constant to one form of government. Which being obtained, the next thing to be brought about, was to bring the election of the *Tribunes* into the hands of the people (who had before the least part in it) that so depending mutually upon one another, they might co-operate together to destroy the State, and bring it absolutely under the command of the common people. For at the first, according to the Articles of the Institution, the *Tribunes* were to be elected in *Comitiis Centuriatis* as before was said, where none but men of years and substance (such as were of the *Liverie*, as we speak in *England*) had the right of *Suffrage*;

By

By means whereof the *Patricians* had a very great stroke in the Elections, *Et per Clientum suffragia creandi quos vellent potestatem s*, and by the voyces of their Clients or dependents set up whom they listed. They must no longer hold this power. The *Tribunes* were the creatures of the Common people, and must be made by none but them. A law must therefore be propounded to put the Election wholly into the hands of the people, and to transact the same in *Comitiis Tributis*, where no *Patrician* was to vote, but all things carried by the voyces of the rascal Rabble. Which though it caused much heat and no small ado, yet it was carried at the last; *Appius* complaining openly as his custom was, *Rempub. per metum prodi*, that the *Senate* did destroy the Common-wealth by their want of courage. And whereas at the first they had so much modestie as not to come into the *Senate t*, *Sed positis subselliis ante fores decreta Patrum examinare*, but to sit without upon some benches, whilest they examined the decrees which had passed the house: they challenge now a place, though no vote in *Senate t*, and had free *ingress* and *egress* when they would themselves.

*s Livie. hist.*  
l. 2.

*s Valer. Max.*  
*lib. 2. c. 2.*

#### IV.

(4) But their main business was to pull down the *Nobles*, and make them of no more esteem then the *common* sort. And upon this they set their strength, and made it the first handle of their new authoritie. *Martius* had spoke some words in *Senate* which displeased the *Tribunes*, and they incense

incense the people to revenge the injury: who promising to assist them in their undertakings, an *Officer* is forthwith sent to apprehend him. This caused the *Patricians* whom the cause concerned, to stand close together, and to oppose this strange incroachment; and generally to affirm, as most true it was, that when they yeilded to the setting up of this new authority, there was no power given them by the *Senate* ἔξω τῆ συνθήκῃ πῖς ἀδικημένοις ἤδ' δημοτικῶν η, but only to preserve <sup>u Dionys. Halic. carn. l. 7.</sup> the *Commons* from unjust oppressions. The like did *Martius* plead in his own behalf, as we finde in *Livie*, *auxilii non pœna jus datum illi potestati, plebisq; non patrum Tribunos esse* x, that <sup>x Livie. hist. lib. 2.</sup> they were trusted with a power to help the *Commons*, but with none to punish, and were not *Tribunes* of the Lords, but of the people. And so much also was affirmed in the open *Senate*, that the authority of the *Tribunes* was at first ordained not to offend or grieve the *Senate*, but that the *Commons* might not suffer any grievance by it; and that they did not use their power, according to such limitations as were first agreed on, and as of right they ought to use it, ἀλλ' ἐπι διαθορᾷ καὶ οὐχ' ἐν τῆς πατρῆς πολιτείας γ, but to the ruine and <sup>y Dionys. Halic. carn. l. 7.</sup> destruction of the *Lawes* established. Enough of conscience to have staved them from the prosecution, but that they had it in design, and resolved to carry it. For *Brutus* had before given out and assured the people, μελειωτέραν αὐτῶν ἀποδύσειν τὴν ἰσθμῶν ζ, that he would humble the *Nobility*,  
M
and

and bring down their pride; and 'twas no reason that such a man as he should be disappointed, and not be master of his word. *Martius* being banished at the last, their next bout was with *Appius Claudius*, a constant and professed enemy of the popular faction: one who had openly took part against them in behalf of *Martius*, and after seeing them apprehend some Gentlemen who opposed their insolencies, had openly denied, *jus esse Tribuno in quenquam nisi in plebeium* <sup>a</sup>, that they could exercise their power on any but the *Commons* only. Him therefore they accused of *Treason*, or at least *sedition*, in that he had intrenched upon their authority, which was made sacred by the *Laws*: and doubtlesse had condemned him to some shameful punishment, had he not died before his triall. Which victory on *Martius*, and the death of *Appius*, did so discourage the Nobility and puffe up the *Tribunes*, that from this time forwards (as the Historian doth observe) the *Tribunes* cited whom they listed to answer for themselves before the people, and to submit their lives to their finall sentence: which as it did increase the power of the popular faction in the depressing of the *Nobles*, and weakning the authority of the *Senate*; so did it open them a way to aim at and attain to all those dignities in the *Common-wealth*, <sup>a</sup> *πυ-*

<sup>a</sup> *Livie. l. 2.*  
  
<sup>b</sup> *Dionys. Halicarn. l. 7.*

*ἀτάτα ἢ καὶ ἰδία τῶν πλεβίων μόνων* <sup>b</sup>, which were most honourable in themselves and had formerly belonged to the *Patricians*, and to none but them.

And

And yet the *Senate* and *Nobility* did not so give over, but that sometimes they put them in remembrance of their first conditions, and challenged them of breaking all those bonds and *Covenants*, which were so solemnly agreed on and accepted by them, at the first erection of their *Office*. For this did *Fabius* presse upon them when they went about to make some Law for the restraint and regulating of the power of the *Consuls*, *viz.* that their authority was given them *ad auxilium singulorum*, for the relief of such particulars as did want their help, not for the ruine of the publick; and that they should do well to bethink themselves, *et Tribunos plebis se creatos*, c Livio. l. 3. *non hostes Patribus*, that they were chosen *Tribunes* to protect the people, not *enemies* to oppresse the *Senate*. And the expostulation of the *Senate* was both just and necessary, when they demanded of the *Tribunes* on the same occasion, *πίας δὲ νόμον εἰσφέρειν ἢ ἀναρτίους ἐξείηαι ἔχει δ*, d Dionys. Halicarn. l. 10. who gave them power to introduce new Lawes and subvert the old; and told them in plain terms they had broke their *Covenants*, and that they were not made upon such *conditions* as to do all things that they listed, nor to do any thing at all, but only to protect the poor, and preserve the *Commons* from oppression. Which put together makes it a most evident truth, that in the creation of the *Tribunes* there was nothing lesse intended then to curb the *Senate*, or to set up a power to oppose the *Consuls*; as vainly and seditiously

ously is supposed by CALVIN, though true it is they did abuse their power with the Common people, and the authority of their office to suppress them both.

V.

5. And this they were resolved to do, although they had no other way to effect the same, then by raising seditions in the State, and putting the people into Arms upon all occasions: at which they were so perfect, and so constant in it, that seldome the whole year went round without some tumult or sedition of their setting forward, as will appear to any one who is versed in *Livie*. If they held quiet for one year, as they seldom did (till they had brought the City under their obedience) they broke out in the next that followed with the greater violence: and when the course of the distemper was so intermitted, that it held not alwaies a *Quotidian*, it proved a *Tertian* Fever, or at most a *Quartan*, and therefore like to tarry longer with the afflicted *Patient*. How many seditions did they raise about the law *Agaria*, of which *Livie* tells us that it was never moved *e sine maximis motibus* without great tumults and dissensions? How many tumults did they raise to oppose the *Consuls*, when they had any wars in hand, and were to press the Souldier to pursue those wars? How often finde we in that Author, *Tribunium bellum domi territare patres f*, that when the Fathers had no wars abroad, they found a *Tribunian* war at home which

*e Hist Rom. l. 2.*

*f. Id. lib. 3.*

which did more affright them? how often finde we them complaining, *non ultra ferri posse Tribunitios fureres g*, that the insolencies of the Tribunes were no longer sufferable; and that they could not look to be without continual alarms, and renewed distractions, whilest the seditions and the authors of them did succeed so prosperously? Nay they were so accustomed to it, that having had some intermission (and that no otherwise obtained, but by yeelding all things to the people which they had a minde to) *Livie* takes notice of it as a thing observable, *permultos annos esse h*, that many years had intervened since the *Patricians* and the *Tribunes* had their last contention. And all this while they managed their seditions by the tongues end only, seldom proceeding unto blowes, and much lesse to bloud. But when the two *Gracchi* came in play and attained the Office, they fell from words to blowes, and from blowes to murther: *Tiberius* one of the two Brothers, and many of his friends and followers being tumultuously slain in the *Common Forum*, as he was acting the part of a busie and seditious Tribune; whom *Caius* the other of the two not long after followed both in life and death. And this, saith the Historian, *initium in urbe Roma Civilis sanguinis gladiatorumq; impunitatis fuit i*, was the first time that the sword was suffered to range at liberty in the streets of *Rome*, and to be discoloured with the bloud of the Citizens; their differences before that day (though not often after-

wards) being determined by parlies, but not by bloodshed. Which being put together and considered seriously, it will appear to be no Paradox which we finde in *Florus*, where he affirmeth, *Seditionum omnium causas Tribunitiam potestatem excitasse* k, that the *Tribunitian* power was the source and fountain of all those seditions, where-with the quiet of the State had been disturbed. Nor was it said by *Quintius* without very good reason, that the authority of the *Tribunes*, in *seditione: & ad seditiones nata*, was born in a sedition and to raise seditions; \* that it was *pestifera potestas*, a pestilent pernicious office, and that *Pompey* did exceeding ill to re-invest the *Tribunes* with that height of power, of which they had been justly dispossessed by *Sylla*. Upon which grounds it had been formerly averred by the *Consuls* and the rest of the *Senate*, that the *Tribunes* were the cause of those distractions (*οἱ τῆς πατριῆς ἄντοι*, are the Authors words) which did so miserably afflict the *Common-wealth* \*. But this, to say the truth, is so clear a point, that it needs no proof. I only shall observe and so pass it by, how justly the *Nobility* and *Senate* were punished by their own example; and for how little time they enjoyed that *Sovereignty*, which they had wrested from their *Kings*. From the expulsion of the *Kings* to the creating of the *Tribunes* were but sixteen years; and from the death of *Tarquin* to the reign of *Brutus* and *Sicinius*, but one year, no more, and in that little span of  
time

k *Florus histor.*  
*Rom. l. 3.*

\* *Cicero de*  
*Legib. l. 3.*

\* *Dionys. Hali-*  
*carn. l. 10.*

time the people profited so well in the school of rebellion, that they did not only beat the *Senate* at their own weapon of disloyalty, but choaked them with their own objection: For when it was objected against the *Tribunes*, that their authority was gotten and maintained by seditious courses; the *Tribunes* handsomely replied, that that objection might aswell be made against the authority of the *Consuls*; which had been introduced and established by no other means, *ἢ ἀλλ' ἢ παρὰ τὸν βασιλέα τῶν Παρισίων* *Id. lib. 10.* then the rebellion of the Nobles or *Patricians* against their Kings. A very shrewd retortion, if you mark it well; and fit to be considered of in these present times.

(6) If any ask to what end all these stirs were raised, and these seditions set on foot, he may please to know, that there was an intent from the first creating of the *Tribunes* to change the government of the State, and to put the *Supreme Power* of all into the hands of the people; that is to say, to bring it under the command of a few factious persons, on whom the body of the people had devolved their power. And this is positively affirmed by *Florus*, where having told us that the *Tribunes* were the cause of all the tumults and seditions which had been raised within the City, he adds, that being at first ordained *specie quidem tuenda plebis*, under pretence of being *Protectors* of the *Commons*, and taking care

VI.

*Florus hist. Rom. l. 3.*

for

for the preserving of their rights and liberties; they sought in very deed to usurp the Sovereignty, *re autem dominationem sibi acquirere*, and to get the *Supreme* power into their own hands. To this end as the *Tribunes* strived to oblige the people by causing new Lawes to be made in their behalf, and for the increase of their authority; so did the people readily obey the *Tribunes*, and gathered into an head upon all occasions, atwell for the protection of their persons, as the confirmation of their power. When *Martius* had declaimed against them in the open *Senate* for their factious and seditious courses, the *Tribunes* presently made complaint to the people of it, calling upon them to assist them, *ε βοηθησιν αυτοις*, and to save their *Tribunes*: at which the people were so madded, and ran on so furiously, that they were like to have fallen desperately upon all the *Senate*. And *Appius* found unto his cost, that in offering to attach a *Tribune*, (though he well deserved it) *concio omnis coorta pro Tribuno in Consulem* o, the whole assembly rose against him as one man, to defend their *Tribune*, the rascall multitude gathering together out of all the *City* to do him right against the *Consul*. And *Plutarch* tells us in the life of *Tiberius Gracchus*, that the people were so sottishly affected to him, that many of the needy and seditious rout waited upon him all night long up and down the *Town*; p some of them buying tents and lying about his house to watch it, as a guard to his person. And  
on

Plutarch in  
Cortolano.

Livie. l. 2.

Plutarch in  
Tiber. & C.  
Gracchus.

on the other side the houses of the *Tribunes* were kept continually open aswell nights as daies, that they might serve as a *Protection* or a *Common Sanctuary* for men of all sorts to repair unto, whom either debt or misdemeanor, or some greater matter had made obnoxious to the *Sergeants*, or other *Ministers* of justice, to the great prejudice of the honest and well meaning *Subjects* in their suits and businesses. And besides this, the *Tribunes* never failed to flatter and bewitch the people by some piece of courtship, or by preferring some new *Lawes* (as before was said) for their ease and benefit. They had no sooner way then that to advance their power, or to obtain unto that absoluteness of command and empire, which they projected to themselves. For doubtlesse that of the *Historian* is exactly true,  $\delta\alpha\pi\ \pi\acute{o}\varsigma\ \tau\eta\ \gamma\epsilon\alpha\mu\acute{\nu}\tau\eta\ \alpha\kappa$

$\delta\mu\iota\omicron\lambda\alpha\kappa\omicron\varsigma\ \epsilon\upsilon\acute{\epsilon}\sigma\alpha\iota\ \eta\gamma$ , that he that means to be a *Tyrant* must be first a flatterer; there being no readier way to advance a *Tyranny* then by being popular, a profest servant of that people whom he would command. But this confederacy between the *Tribunes* and the people and the mutual ties that were between them, I cannot better lay before you then in *Plutarchs* words,  $\tau$  who speaking of the *Gracchi*, doth inform us thus, "That having received many favours from the peoples hands they were ashamed to be indebted to them, and therefore earnestly endeavoured to requite their courtesies, by making new *Decrees* and *Lawes* which they propounded and obtained for the

*Dionys. Halicarn. lib. 6.*

*Plutarch in Agis & Cleomen.*

"peoples profit; and on the other side, the  
 "people for their parts were not wanting to ad-  
 "mire and honour them the more, by how much  
 "they perceived them studious of their good and  
 "benefit. So that with like strife on either side,  
 "the one to gratifie and oblige the other, their  
 "interesses were so mingled; and their intenti-  
 "ons so concorporated, that they must needs  
 "hold on as they had begun, and either stand or  
 "fall together. By means whereof the people in  
 conclusion became lords of all, the *majesty* of the  
 State and the *power of judicature* being absolute-  
 ly vested in them: which since they could not  
 manage but by their *Attorneys*; nor otherwise  
 execute and discharge then by their *Proxies*, who  
 but the *Tribunes* their own creatures must be trusted  
 with it? And this is that which *Tacitus* observes  
 to be the issue of those quarrels which were kept  
 on foot between the Nobility and the Commons,  
*modo turbulenti Tribuni, s: modo Consules prava-*  
*lidi*, sometimes some factious *Tribunes* carried it  
 away, and then again the *Consuls* had the better,  
 and prevailed in power, according as they did  
 comply with the peoples humours; till *Marius* and  
*Sylla* first, and *Fulius Caesar* afterwards by their  
 example, by force of Arms subdued both parties, and  
 introduced an absolute Government.

Tacit. hist.  
 lib. 2.

## VII.

(7) Now for the steps by which the people  
 did ascend to this height of power, they were not  
 raised at once, but were long a making. When  
 first

first the discontented *Nobles* had expelled their *Kings*, and found they could not master all those difficulties which so great a business as that was did present unto them, without being sure to have the people theirs without fear of lapsing: *Publicola* advised, and at last enacted it for Law; that no man should presume upon pain of death to take upon him any Office, *ἢ ὁ δῆμος ἐκ ἑδωκεν τῷ*, unless it come unto him by the gift of the people; and that if any were condemned, and *appealed* to them, the execution should be respited, till the people should give sentence in it. But then withall the *Nobility* kept all Offices both of power and State in their own hands only, the people being incapable of the meanest office which did relate unto the Government of the Commonwealth; untill they gained the *Tribunes* and the two *Aediles* (which were under officers to the *Tribunes*) to be chosen out of their own body. Which once obtained, there was no place, how high soever, which they did not aim at, and which their *Tribunes* did not finde some way to compass for them; the *Nobles* and *Patricians* still in vain complaining how much they were dishonoured in the competition. First therefore having gained a Law (but with much adoe) that the Commons might be married into Noble Families, they presently propose another, *ut populo potestas esset, seu de Plebe, seu de Patribus vellet, Consules facienda*, that the people might have liberty to choose the *Consuls* out of which rank of men they listed; and

*Plutarch. in Publicola.*

*u Livie. l. 4.*

at the first attempt did prevail so far, that in stead of the two *Consuls* which they had before, six *Military Tribunes* should be chosen by them, to be possessed of all the *Consular* authority, and they to be promiscuously elected out of the *Patricians* and the *People*, as they saw convenient *x*; and having got this ground they went on a main. For not long after, *P. Licinius Calvus* a meer *Plebeian*, is made one of these *Military Tribunes*; and shortly after that the *Magister Equitum*, or the Commander of the horse. Thus *Silius* and *Aelius* are made *Questors*, those of *Patrician* rank having had the canvals; and next that followed a Decree, that the *Decemviri Sacrorum*, who had the custody and charge of the *Sibyls Books*, *partim ex Plebe*, *partim ex Patriciis*, should be indifferently chosen out of both Estates. In little time, the *Tribunes* pressing hotly for it, *L. Sextus* obtains the Consulship *b*, *C. Martius Rutilus* is first made *Dictator*, afterwards one of the *Censors* also *c*; and *P. Philo* is advanced to the place and dignity of the *Prator* *d*. Having thus took possession of all *Civil Magistracy*, which were of any power and dignity in the *Common-wealth*; the *Tribunes* would not rest nor content themselves, untill the *Commons* were made capable of the *Priesthood* also: which after some slight opposition made by *Appius Claudius* (a Family that never yeilded any thing to advance the people) was conferred upon them, five *Augures*, and four *Pontifices* being added to the former number, all chosen, and for ever to

be

a Liv. l. 4.

a Id. lib. 6.

b Id. ibid.

c Id. lib. 7.

d Id. lib. 8.

be chosen by and out of the *Commons* e. There <sup>e Id. lib. 10.</sup>  
 were only now two places of respect and credit,  
 that of the *Maximus Curio* and the *Pontifex Maxi-*  
*mus*, both which the *Nobles* did pretend to belong  
 to them: but the *Tribunes* were resolved to have  
 it otherwise. According to which resolution, *C.*  
*Manilius* got the Office of the *Maximus Curio* f: <sup>f Id. lib. 26.</sup>  
 and in the close of all, but a good while after, *Om-*  
*nibus honoribus plebi communicatis* g, after all other <sup>g Rosin. Antiq. Rom. l. 3 c. 22.</sup>  
 honors were conferred upon them, or rather com-  
 municated to them, one *T. Coruncanius* was de-  
 clared the *Pontifex Maximus*. All this and more  
 they had, but it would not satisfy.

(8) For there was wanting still both the *power* VIII.)  
*of Judicature*, and the *Supreme Majesty* of the  
 State to make all compleat; and to gain this the  
*Tribunes* must bestir themselves both with art and  
 violence; or else they could not hope to estate it  
 on them. A business of so high a nature, that it  
 was never in a way to be brought about, till the  
 two *Gracchi* undertook the contrivance of it: who  
 being men of excellent parts and great abilities,  
 did most unfortunately fall on the undertaking;  
 and being fallen upon it did devise all ways which  
 either art or wit could present unto them to effect the  
 work. Of these *Tiberius* was the eldest, who stumbling  
 in the way on the *Lex Agraria*, as being a means  
 to make the poor people more considerable, and the  
 rich less powerful; and finding that *Octavius* one of  
 his Colleagues did oppose him in it, deposed him  
 N 3 from

Plutarch in  
Tib. & Caio.

from his Office by force and violence, only because he stood upon the right of his *negative voice*. He had before inflamed the people by making a seditious speech to prefer their business; and now he takes a course to inflame them more, for the advancement of his own. For one of his friends being found dead upon a sudden, not without some suspicion of poyson, as he gave it out, he put on mourning apparel, and brought his sons before the people, into the Common *Forum*, beseeching them to have compassion on his Wife and Children; as one that utterly despaired of his own safetie, having for their sakes got the hatred of the *Noble* men. And sometimes he would be the first man in the *Market-place*, apparelled all in black, his face swelled with tears, and looking heavily upon the matter, would pray the people to stand to him, saying, he was afraid his Enemies would come in the night, and overthrow his house to kill him. By means of which devices he so wrought upon them, that many of them bought tents and lay about his house continually, to keep him from the hands of his deadly Enemies. So that being sure of their concurrence and assistance in any project which he should set on foot to advance himself; under pretence of doing service to the *Common-wealth*; he presently proposed a law, *ἐπιτρέψαι τὸν δῆμον εἰς τὸν δικαστήν*, that any man that would might appeal from the *Judges* to the people in what cause soever. And that he might be sure to embase the *Senate*, to the improvement and increase of the peoples

peoples power, he had prepared another of an higher nature, which was to adde unto the *Senate* an equal number of the *Equites*, or the *Roman Knights*, who were to be of equal power, and to have libertie of *voting* in all publick busineses with the antient *Senators*. In passing which and other of his *Popular* laws he got this trick, (and he was very constant to it) that if he found the sense of the house to be against him, and was not like to carry with him the major part of the voyces, he would quarrel with his fellow *Tribunes* to spin out the time till his partie were all come together; and if that could not do it neither, then he adjourned the Assembly to some other day. But yet for all these artifices and unworthy practises, he could not compass the design, but left it to be finished by his Brother *Caius*: Who taking the same course to ingage the people which his *Pr*ther had pursued before, brought those designes about which *Tiberius* failed in. i For first where- id. ibid. as the *Senate* were the only *Judges* in matters which concerned the affairs of the Commonwealth, which made them no less revered by the *Roman Knights*, then by others of the common people: *Caius* prevailed so far that he gained a law for adding three hundred of these *Equites* to as many *Senators* (for the *Senate* did consist of three hundred antiently) κ; τὰς κείων νόμων ἐπιλήν, gi- ving them equall power of judging in all causes which were brought before them. So that by gaining this and the former law of appealing to the  
 people

people upon all occasions, the people were estated in the power of *Judicature*, and the *dernier resort* (as the Lawyers call it) was in them alone. The only point now left was the *Supreme Majestie*, and that did *Cains* very handsomely confer upon them without noise or trouble. For whereas all other Orators when they made their speeches, turned themselves towards the *Palace* where the Senate sat: he on the contrary turned himself towards the Market place where the people were, and taught all other Orators by his Example to doe the like. And thus (saith *Plutarch*) by the only turning of his look he gained a point of infinite consequence and importance; ἡ μεταβολὴ τῆν πολιτικῶν ἐκ τῆς ἀριστοκρατίας εἰς τὴν δημοκρατίαν, changing the Commonwealth from an *Aristocratie*, to a meer *Democratie*: which was the matter so aimed at by his Predecessors.

## IX.

(9) The *Tribunes* had been insolent enough in the former times, but the obtaining of these laws made them more unsufferable. Before they used to quarrel all the greatest *Officers*, as if the State could not consist but by their contentions: there being no *Magistrate* so great, nor man so innocent, whom they exposed not sometimes to contempt and scorn, and made not subject to their *tyrannie*. The renowned *Scipio* himself, the very *Atlas* of the State when it was in danger, a man in whom there was not any thing but brave and gallant, could not scape so clear, but that he was accused by

by their factious *Tribunes k*, and forced to live k Livie. hist. lib. 28. retired in his Countrey-house, far from the employments of that State, which did not otherwise subsist but by his abilities. Nor could they look on their *Dictators* but with eyes of malice, although they had as much authority as that State could give them, or any of their *Kings* had enjoyed before, whom they endeavour to make subject to their pride and tyrannie by all means imaginable. And to that end, sometimes denied him the honor of a *Triumph*, though he had deserved it in all mens judgements but their own; and sometimes making this *Magister Equitum l*, to be of equal power and l Id. l. b. 22. authority with him: and finally sometimes they declaim against him *m*, to make him of no reputation with the common people. m Id. ibid. And for their dealing with the *Consuls*, it had been a complaint of old, even in the dawning of the day of their new authority, *Consulatum captum & oppressum a Tribunitia potestate n*; that the *Consulship* was suppressed n Id. lib. 2. and captivated by the power of the *Tribunes*; and we can no where finde that they improved their modestie, as they did their power. Nor did they only quarrel with the *Consuls*, and proceed no further, (though that had been an high affront to the *Supreme Magistrate*) but threatned to commit them to the *Prison* also, and many times their threatnings were not made in vain. For thus we read, that *Caius Marius* being *Tribune o*, threatned to o Plutarch in Mario. send *Cotta* the *Consul* unto *Prison*, but afterwards was taken off by fair perswasions: and *Sulpitius*,

one as violent as he, though not so valiant, assaulted both the *Consuls* as they sat in the *Senate* house *p*, and killed one of their sons there, who was not so quick of foot as to scape his hands. Which though they were but bare attempts were yet lewd enough, sufficiently to the dishonor of such eminent Magistrates, and to the infamy and disgrace of the publick Government. And therefore to make sure work of it, and that the world might see they could more then threaten, *Quintius* will tell you in the *Dialogue* with his Brother *Cicero*, *Brutum & P. Scipionem tales tantos utros hominum omnium infimum & sordidissimum* Trib. Pl. C. *Curiatium in vincula coniecisse q*, that *C. Curiatius*, a most base and unworthy person, had caused such gallant men as *Brutus* and *P. Scipio* to be cast in Prison. And if we make a further search we shall quickly finde, that *M. Drusus* being *Tribune* caused *Philip* the *Consul* to be cast headlong out of his seat, to the no small danger of his life, only for interrupting him in the middle of a factious speech; which was an insolencie beyond imprisonment. To speak of their behaviour towards the other Magistrates were a thing impertinent. For if the *Consuls* and *Dictators* could not scape their hands, there is no question to be made but that the *Prætors*, *Censors*, *Quæstors*, yea the *Pontifices* themselves, were most abundantly debased and insulted on by these popular Tyrants.

*p* *Id. ibid.*

*q* *Cicero de Le-*  
*gibus, lib. 3.*

X.

(10) Thus have we brought the *Tribunes* to as great an height both for power and insolencie, as were the *Ephori* before; and thereby made them ready for the greater fall. A fall which was not long a coming after they had made up the measure of their pride and *tyrannie*. For *Lucius Sylla* having brought the estate of *Rome* under his command, and knowing full well how dangerous these men would be to him, if they were suffered to continue in their former power, set forth a law by which they were reduced to their ancient bounds; enabled only to *relieve*, not to wrong the Subject. *Sylla Tribuni Plebis lege sua injuria faciendæ præsertim aditus, auxilii ferenas reliquit*, as we read in *Tullio* 1. A thing that much displeas'd the people, and the *Tribunes* more. But *Sylla* was no great applier of himself to the people's humors, and therefore cared but little how they took the matter. *Pompey* succeeding him in power and in purpose too, took a course quite contrary; and re-established them in that authority whereof *Sylla* had of late deprived them. For finding that the common people longed for nothing more then to see the Office of the *Tribunes* in the height again, and being resolv'd to lay the foundation of his greatness on the affections and dependence of the common people, he gratified them in that point, and thought himself an happy man to finde so fair an opportunity to

Id. ibid.

Plearch. in Pompeio.

oblige them to him. On which deceitful grounds (for they proved no other) he set them in their power again, as before was said; for which he stands accused by *Quintus*, and I think deservedly: Certain I am that *Pompey* bought the short affection and applause of the common people at no less a price than his own destruction: the *Tribunes* being the very men which pulled down his pride *w*, and set up *Caesar* to oppose him. Who going the same way to work that *Sylla* did, and knowing that a *Tribune* and a *Tribunian* spirit were no friends to *Monarchie*, left them the name, but nothing else. The power and privilege of the *Office* he kept unto himself for his own security *x*; as one that understood, none better, how many notable advantages he should gain thereby, for the confirming of his Empire. Which course *Augustus* followed also, taking the *Tribunian* power into his own hands, *posita Triumviri nomine y*, as soon as the *Triumvirate* was expired by the death of his partners; and from thence reckoned the years of his Government, as *Tribunianae potestatis tertium, quartum, &c.* which his Successors did after his example till the time of *Constantine*, when the name of *Tribune* was laid by as a thing forgotten *z*. The Empire was then cast into another kinde of mould then it had been formerly; new Offices ordained, new forms of Government introduced, and a new *Rome* built: and to what purpose should they keep the name, when the thing was gone?

1 Cicero de Le-  
gibus 3.

2 Phocarch in L.  
Caesare.

3 Dion histor.  
Rom. lib. 53.

4 Tacitus An-  
nal. lib. 1.

5 Ruffinus Hist.  
lib. 1.

XI.

(11.) Let us look back on ail that is said before, and we shall finde but little reason to relie upon *Calvins* word. He saith the *Tribunes* were set up to oppose the *Consuls*; but the best Writers do affirm that they were instituted only to protect the people, and to protect the people in such cases only when they did suffer any sort of unjust oppression. He reckoneth them for instances of such *popular Magistrates* as were ordained to moderate and restrain the vast power of *Kings* and other Supreme Magistrates; but the best Writers do affirm that the *Tribunes* were not instituted till the *Kings* were outed; nor instituted at the first to restrain the *Consular* power, though by degrees they did restrain it as they pleased; and finally that they were again abridged of their power and *tyrannie*, as soon as *Monarchie* was restored, and the State brought to be obedient to one *Sovereign* Prince. He seems to intimate that the *Consuls* were not wronged by such oppositions as the *Tribunes* daily made against them, and that the *Tribunes* did no more in such oppositions then by their place and office they were bound to do. But the best Writers do affirm that the *Consuls* made complaint from time to time of those wrongs and insolencies which those proud creatures of the people did afflict them with; and they complained not without cause, as their stories tell us. So that there is but little ground for the supposition, touching the first creation of these

mighty *Tyrants*, which *Calvin* truly puts upon us; less for the application of it to his end and purpose. What other power soever they enjoyed or exercised more then the power of *interceding*, when any *Bill* or *Ordinance* was to pass the *Senate*, by which the people might have suffered in their goods and *liberties*, was an inroad on the *Consuls*, and wrested from them by strong hand, sometimes with blood, but never without dangerous tumults. The best use can be made of such false surmises, especially when they are false and factious too (and some good uses may be made of the strongest poysons) is that an *Item* may be taken by all *Kings*, *Princes*, and *Supreme Governors* to have a care of their *Estates*, and neither suffer any *Tribunes*, or men of *Tribunitian* spirits, or such as challenge to themselves *Tribunitian* power, to grow up under them, or live within the verge of their *Dominions*. The *Tribune* and the *Tribunitian* spirit are no friend to *Monarchie*; and have so much of *Pompey* in them (who restored the Office) that they will never be content to endure an *equall*, much less to suffer a *Superior*. For further proof of which (if more proof be requisite) and for discovering to the world with what arts and practises those factious and seditious spirits did attain their height: it would be a most excellent piece of service to all *Sovereign Princes*, if a just *Tribunitian historie* were composed by some man of judgement, for the recovery of this Age from the present maladies, and a *Memento* to the future.

future. But this I leave to those who have time and leisure, and other fit abilities to goe through with it. I have another task in hand, and the *Demarchi* call upon me to pass onto *Athens*, where we are like to finde worse work then we met with hitherto. Worse work I mean in this respect, that we are like to finde less ground for the *supposition*; for otherwise we are like to finde no work at all, as will appear more evidently by that which followeth.

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CHAP.

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## CHAP. IV.

*Of what authority the DEMARCHI were in the State of ATHENS; and of the danger and unfitness of the instances produced by CALVIN.*

(I) *Athens first governed by Kings, and afterwards by one Sovereign Prince under other titles.*

(II) *The Annual Magistrates of Athens what they were, and of what authority.*

(III) *By whom and what degrees the State of Athens was reduced to a Democratic.*

(IV) *Of the authority of the Senate, and the famous Court of the Areopagites.*

(V) *What the Demarchi were in the State of Athens, and of what authority.*

(VI) *The Demarchi never were of power to oppose the Senate, nor were ordained to that end.*

(VII) *Calvins ill luck in making choyce of three such instances, which if true, would not serve his turn.*

(VIII) *The danger which lyeth hidden under the disguise of such popular Magistrates, as are here instanced in by Calvin.*

(IX) *What*

(IX) *What moved Calvin to lay these dangerous stumbling-blocks in the Subjects way.*

(X) *The dangerous oppositions and practises which have hence ensued in most parts of Europe.*

(XI) *The sect of CALVIN professed Enemies to Monarchie, and the power of Princ.s.*

(1) **T**He State of *Athens*, as were all others. I.  
 at the first, was under the Govern-  
 ment of Kings, all of them of the race of *Cecrops*,  
 from whom his *Successors* were called *Cecropida*:  
 and they, as other Kings in those antient times,  
*ut libitum imperitabant a*, governed the people un- *a Tacit. Annal.*  
 der them by no other rule then their own discre- *lib. 3.*  
 tion. *Theseus* the tenth from *Cecrops*, was the  
 first King of *Athens* which let goe his hold, and  
 parted with so many of the *Regal* rights, as made  
 the Kings weak and the Subjects wanton. For  
 having a desire to incorporate all the Inhabitants  
 of *Attica* into the City of *Athens*, the better to  
 unite them against forein force, and to assemble  
 them together as occasion served, he was fain to  
 win them to it by large promises of giving them  
 some share in the publick Government: without  
 which bair, the wealthier sort, and such as had  
 authoritie in their severall *Burroughs*, could not be  
 drawn into the City *b*. Yet still he kept unto him- *b Plutarch in*  
 self and to his successors *πλάμω χ' νόμων φυλακήν*, as we *Thefig.*  
 finde in *Plutarch*, the chief Commandery in the  
 wars, and the preservation of the laws, together  
 P with

with a *superintendency* in matters which concerned *Religion*; the main points of *Soveraignty*. And in this State things stood till the death of *Codrus*, the seventh from *Thescus*, who giving up his own life to preserve his *Countrey*, became so honored and admired amongst his people, that they resolved for his sake to have no more *Kings*, for fear they should never meet with any who might be worthy to succeed him: which was one of the prettiest wanton quarrels that ever was picked against a *Monarchie*. The *Princes* which succeeded after his decease, they called not *Kings*, but

*Ἀρχητες*, or *Governors*; but the change was only in the name, and in the manner of their getting the *Supreme* authority. For being once invested with the *Supreme* power, they held it during life without check or censure; as is affirmed by *Africanus*, an antient writer: who laying down the succession of the *Kings* of *Athens*, to the death of *Co-*

*African. apud  
Eufib. Chron.  
otic. Scaliger.*

*drus d*, adds this, *ἔπειτα αὐτὸς οἱ δὲ βίη λεγόμενοι Ἀρχητες*, that after them succeeded the perpetual *Archontes*, who held the Government during life. The like *Eusebius* doth affirm *e*, and all Authors else, which treat of the affairs of *Athens*. The difference was, that formerly the Kingdom was *successive* meerly, entailed upon the *Princes* of the line of *Cecrops*, now it began to be *Elective*, and to be given to them who best pleased the people:

*e Eufeb. in Chro.*

*f Tacit. Hist. l. 1.*

*Et loco libertatis erat, quod eligi ceperunt f*, and it was some degree of liberty, (and a great one too) that they had power to nominate and elect their

their *Princes*. But long they did not like of this, although no doubt a great intrusion on the *Regal* dignity. The *Princes* were too absolute when they held for life, not so observant of the people as it was expected; because not liable to account, nor to be called unto a reckoning till it was too late, till death had freed them from their faults, and the peoples censure. And therefore having tryed the Government of 13 of these perpetual *Archontes*, of which *Medon* the son of *Codrus* was the first, and the last *Alcmaeon*; *In decem annos Magistratum consuetudo conversa est g*, they introduced another custom, and every tenth year changed their *Governors*. These they called *Ἀρχοντες δαετηῖς h*, or *Decennial Archontes*; of which they had but seven in all, and then gave them over: and from that time were governed by nine Officers or *Magistrates* chosen every year, who for that cause was called *ἐπιεταῖοι Ἀρχοντες*, or the *Annual Magistrates*. And yet it is to be observed that in both these changes, the *Archon* whosoever he was, and whether he was for term of life or for ten years only, had all the power which formerly was belonging to the Kings, save the very name; in which regard *Eusebius* doth not stick to call them by the name of *Kings*: where speaking of the institution of these *Annual Magistrates*, he doth thus express it, *Athenis Anni principes constituti sunt cessantibus Regibus i*, as *St. Hierom* *i Euseb. Chron.* renders it.

*g Euseb. in Chr.*

*h African. apud Euseb. Chronic.*

## II.

(2) Now for these *Annual Magistrates*, they

were these that follow, that is to say, ὁ τῷ ἑαυτοῦ ἐπιπρωμῶν Ἄρχων, ὁ Βασιλεὺς, ὁ Πολέμαρχος, οἱ ἕξ Θεσμοδίται κ, which we may call the *Provost* (who κατ' ἐξουσίαν was called the *Archon*) the *Bishop* or High Priest, the *Marshal*, and the six *Chief Justices*. Of these the *Provost* was the chief, ἀφ' οὗ ὁ χρόνος ἀειδιέμεται, of whom they did denominate the ensuing year, and by whose name they dated all their private contracts, and Acts of State. To him it appertained to have a care of celebrating the *Orgies* of *Bacchus*, and the great festival which they termed *Thargelia*, consecrated to *Apollo* and *Diana*; as also to take cognizance of misdemeanors, and in particular to punish those who were common drunkards; and to determine in all cases which concerned matter of inheritance: and furthermore to nominate *Arbitrators* for the ending of suits and private differences, to appoint *Guardians* unto *Orphans*, and *Overseers* unto women left with child by their husbands. The Βασιλεὺς whom we call the *Bishop* or *high Priest*, had the charge of all the sacred mysteries, καὶ τὰ πρὸς τοῖς πατρίαις θυσίαις ποιεῖν, and the administration of the usual and accustomed sacrifices; together with the cognizance of sacrilege, prophaneness, and all other actions which concerned *Religion*, as also power to interdict litigious persons (or *Common Barretters* as we call them) from being present at the celebrating of the holy mysteries. And he retained the name of Βασιλεὺς, because that antiently their *Kings*,

(as

κ Id. Pollux in  
Onomast. l. 8.  
c. 9.

l Id. ibid.  
Sect. 2.

m Id. ibid.  
Sect. 3.

(as in all places else) had the chief hand in mat-  
 ters which related to the publick service of the  
 Gods, and the solemn sacrifices. On the which  
 reason and no other, the Romans had their Re-  
 gem Sacrificulum, (whom Plutarch calls Πῖζα σακερ-  
 γου'n, in imitation of the Latine, but Dionysius <sup>n Plutarch in</sup>  
 Βασιλῖα τῶν ἱερῶν ο, in the true Greek phrase); of <sup>Problem.</sup>  
 which Livie thus. *Rerum deinde divinarum ha-* <sup>o Dionys. Hall-</sup>  
*bita cura: & quia quedam publica sacra per ipsos* <sup>carnens. bist.</sup>  
*Reges factitata erant, necubi Regum desideri-* <sup>l. 5.</sup>  
*um esset, Regem Sacrificulum creant.* <sup>p Livie lib. R.</sup> But to <sup>man. lib. 2.</sup>  
 proceed, the Polemarchus whom we English by  
 the name of Marshall, sate judge in cases of sedi-  
 tion, and such whereby the grandour of the State  
 might suffer detriment; as also in all actions which  
 concerned either Denizens, or Merchant-strangers:  
 and unto him it appertained to sacrifice to Diana  
 and to Mars, the two military Deities q, <sup>q Jul. Pollux</sup>  
 καὶ τὴν ἐπιπέριον Ἀγῶνα τῶν ἐν πολέμῳ ἀποθανόντων, and to pre- <sup>in Onomast.</sup>  
 scribe the funeral pomp for such as lost their lives <sup>l. 8. c. 93.</sup>  
 in their Countries service. Each of these had  
 their two Assessors, of their own election; but  
 so that they were bound to choose them out of  
 the Senate of five hundred r, from no lower <sup>r Id. ibid. Sect.</sup>  
 rank. Finally for the Θεσμοδέτας, whom we call  
 Chief Justices, they were six in number, <sup>κὶ κώριοι</sup>  
 ἕξ ὡς τὰς διὰς ἀποζηλείς ποιῆσθαι s, and had authority to <sup>s Suidas in Lexic.</sup>  
 give judgement absolutely in all civil pleas, to  
 judge of strangers which abused the priviledges  
 which they had in the City, of briberie, conspi-  
 racies, false inscriptions, in cases of adultery and  
 publick

Jul. Pollux in  
Ouzimall. l. 8.  
c. 9. f. 1.

publick crimes; in points of trade, and actions in which concerned the *Stannaries* t; as also to review the sentence of the *Provost*, and the decrees of the Senate if occasion were; and to give notice to the people, *ἢ πρὸς τὴν ἐπιτροπὴν νόμων γράψαι*, as *Julius Pollux*, if any man preferred a law which was not profitable and expedient for the Commonwealth. Such were the *Officers*, and such the duty of those *Officers*, ordained at *Athens*, upon the last alteration of the Government which before we spake of: and amongst these we finde not any *popular Magistrate*, who was to have a care of the Common people, and to preserve them in their rights and liberties from the oppression of the greater and more powerful *Citizens*; much less set up of purpose to oppose the *Senate*. And to say truth, we must not look for any such amongst the *nine*, nor in these times in which this alteration of the Government was first established. They could not fall immediately from a *Regal* State, to a *Democratical*, but they must take the *Aristocratie* in the way unto it. They had been under *Kings* at first, or such as had the power of *Kings*, although not the name. And when they chose these *Annual Officers*, they chose them *ex nobilibus urbis*, out of the Nobles only, as *Eusebius* hath it u: which *Scaliger* is forced to grant to be so at first x, though out of a desire to contute his Author, he would very fain have had it otherwise. Whether or no they had such *Officers* as *Calvin* dreams of, when they had settled their

u *Euseb. Chron.*  
x *Scaliger in*  
*Arinadv. f.*



a popular man, but otherwise of the Royal blood, he so fed that humor, and wrought so finely on them by his wit and cunning, that *Theseus* was in fine deposed, and his sons disinherited, and the remainder of the Royaltie conferred by them upon *Menestheus*, as their deed of gift. And though no doubt the people did improve their power, both when their Kings became *elective*, and when their *Governors* were elected but for term of years, and specially when the *Magistrates* were no more then *Annual*; yet they could get no further then an *Aristocratic*, till the time of *Solon*; which were about 170 years after the *Annual Officers* were first established: the *Annual Officers* being established in the first year of the 5. *Olympiad*, and *Solons* reformation hapning in the second of the 47. But *Solon* being chosen *Provost* (or the *πρόεδρος Ἄρχων*) and finding the *Republick* much embroyled in dangerous factions which had been long since bred between the *Nobles* and *Commons*, in the change of Governments: took on him by the joynt consent of both parties, the emendation of the laws, and the reducing of the State of the Common-wealth to a more peaceable and equal temper. And he so ordered their affairs, that the chief Offices of the City remained in the hands of the *Nobilitie*, as before they were; which for the time contented them: but the election of those Officers, and the *dernier resort*, or the admittance of *Appeals* upon *Writts* of *error* (as we call them); that he confirmed unto the people; which did not only please the

*a Id. in Solone.*

the people for the present time, but put them into a condition of drawing to themselves the *supreme* authority. Inſomuch that *Aristotle* though he ſeem to ſay, that *Solon* ſetled in the City a mixt form of Government, the Court of *Areopagites* (which he alſo inſtituted) pretending to an *Oligarchie*, the *Annual Officers* or *Archontes* to an *Ariſtocratie*, and the power of *judicature* being veſted in the common people, unto a *Democratie* <sup>b</sup>: yet he confeſſeth at the laſt, that this power of *judicature*, and the neceſſity which all men found of applying themſelves unto the people, *την πολιτειαν εις την ενν δημοκρατιαν μεταβησαν*, changed the *Republick* in concluſion to a meer *Democratie*, as it continued till his time. But yet it was not brought about but with great adoe, *Piſiſtratus* firſt reducing the eſtate to an *absolute Monarchy* <sup>c</sup>, (which becauſe he got it from them by fraud and force, they called a *Tyranny*) and after *Cliſthenes* freeing his countrey from that yoke (by driving his poſterity out of *Atica*) reſtoring it unto an *Ariſtocratie* <sup>d</sup>, as before it was. At laſt it ſeemed good to *Ariſtides*, though for a time he concurred with *Cliſthenes* in his form of government, to caſt a more indulgent eye on the common people, who had behaved themſelves exceeding gallantly in the dreadful war againſt the *Persians*: and to cauſe a law to be enacted that all authority and power of government ſhould be communicated equally to all the Citizens, *επι της των Αρχωντων εις Αθηνας παντων αρετων*, <sup>e</sup> and that they ſhould be capable of all the Offices <sup>f</sup>.

<sup>b</sup> *Ariſtot. Politic. l. 2. c. 10.*

<sup>c</sup> *Plutarch. in Solone.*

<sup>d</sup> *Id. in Ariſtides, in Pericle, et Cimone.*

<sup>e</sup> *Id. in Ariſtides.*

Q

and

and honours in the Common-wealth. Which as it added much to the authority of the common people, so that authority was increased much more by the Arts of *Pericles*; who bearing a grudge unto the Court of the *Areopagites*, whereof he was never any Member, and finding that the power thereof, and of the *Senate* of five hundred, did derogate exceeding much from the power of the people, to whose faction he was wholly wedded: by the help and setting on of *Ephialtes* (a busie and popular man) took from them the hearing and determining of the weightiest causes, and put them over to the judgement and decision of the common people, who had no more before but the last appeal: and thereby perfected and produced that pure *Democratie*, which had so often been desired, but in vain attempted.

feld. in Pericle  
& Cimone.

IV.

(4) The people being screwed to this height of power, and the dignity of the supreme Courts so much diminished, a man would think there was but little need of such popular Officers as *Calvin* speaks of, ordained of purpose (as he thinks) to oppose the *Senate*, and counter-balance their authority. Nor were those Courts at any time so inclined to *tyranny*, or likely in their constitution to oppress the people, when their authority was greatest, and their power most eminent, as that the people needed any special Officers to restrain their insolencies, or to confine them to the limits of their Jurisdiction. Now for the *Se-*

nate

mate, it consisted at the first of 400 persons, an hundred out of every Tribe ; and to that number was restrained by *Solon*, whose device it was *g* : but *Clisthenes*, having increased the number of the Tribes to ten, added one hundred more, which made five in all, ( for each tribe fifty ) and so continued till the expiration of that Common-wealth. A chief part of their business was, *σεβλεύειν τὰ δίκαια καὶ μηδὲν εἶναι ἀσεβέστατον, &c.* to deliberate and debate of all such matters as were to be commended to the care of the common people, that when the whole body of the people was assembled together, no point should be propounded to them but what the Councell of *five hundred* had fitted and prepared for their resolution *h*. It also appertained to them *βελεύειν τὰ περὶ τῶν πολέμων, &c.* to consult about denouncing war and raising moneys, to advise upon the making of new Lawes, to judge of any accident which at any time hapned in the City, and of such matters which concerned their *Allies* and neighbours ; to impose tribute on the Subject, and to take care both of the *Navie* and the *Temples* ; and furthermore to inquire into the carriage of the City Magistrates, to appoint keepers unto Prisoners taken in the wars, to judge of suits concerning Orphans, and sometimes in such cases as belonged more properly to a Court of war *i*. Other particulars there are which they were to deal in, but these the principal : and these though points of great concernment, and arguments of the power and trust committed to them, were little

*g Id. in Solone.*

*h Id. ibid.*

*i Xenophon de Repub. Athen.*

*k Xenophon de  
Repub. Athen.*

like to tempt them to abuse their power in the oppressing of the people. For besides that they were choien but for one year only *k*, and that too not without a previous inquisition into their former life and conversation; which were sufficient to induce them to hold fair quarter with the people by all means imaginable: they were bound by oath at their admission to that honour, to consult the peoples good and benefit in most special manner, and not to imprison any of them, how mean soever, unlesse he were found guilty of some practise to betray the City; and diminish the authority and power of the people; or that being one of the *Farmers* of the Tolls and Taxes, or a Collector of the Tributes, he became *non-solvent*, and had not cleared his accompt with the

*l Demosthen. in  
oratione cont.  
Nicetiam.*

Common-wealth *l*. As for the Court or Council of the *Areopagites*, it consisted from the first beginning, *ἐκ τῶν καὶ ἐνιοῦτων Ἀρχόντων*, of such and such alone who had formerly been of the number of the nine chief Magistrates *m*; and they being once admitted held for term of life: which made them, being men of eminence and reputation, to be more able to annoy the people, and to intrench upon them in their rights and liberties, had their minde been answerable. For unto them belonged the general superintendency of all things in the Common-wealth, and them did *Solon* trust with this special power, that they shou'd be *τῶν νόμων*

*m Thwarch in  
Solone, & Pe-  
ricle.*

*n Id. in Solon.*

*φύλακας n*, and see the Lawes to be maintained and to have their course: and in particular to judge in  
the

the case of murder, and man-slaughter, and briefly in all Capital causes. And with these Courts or Counsels, call them which you will, the prudent *Legislator* thought that he had settled and confirmed the Common-wealth, *ἡ πόλις συν ἀγκύραις*, as with two strong *Anchors*, in such a firm and constant manner, that neither the fabrick of the State should be easily shaken, nor the people apt to take offence, or run themselves upon unpeaceable and seditious courses.

(5) But if the Senate or the Councell should abuse their power, and use that sword to the oppression of the common people, which was committed to their hands for their weal and benefit: might not, and did not the *Demarchi* take the peoples part, and save them from the wrongs and injuries intended towards them? *Calvin* so intimates indeed, but he speaks without book, being more guided to that error by the sound and etymologie of the word, then by the nature of the office. The best Greek Authors who have written the affairs of *Rome*, do call the *Tribunes* of the people by this name *Demarchi*, and their authority or Office by the name of *δημαρχία* also. Nothing more common in *Polybius*, *Halicarnensis*, *Plutarch*, and whosoever else have left us any thing of the *Roman* stories in that language. But the *Demarchi* of *Athens* were of no such power, and had but small authority (God wot) in affairs of State. Measure them by the definition which is given by

*Suidas*, and he will tell you that they were certain *Officers* appointed in the *Burroughs* and free *Towns* of *Attica*, (being twelve in number)

*a Suidas in Lex.*

Ὁ Ἐπίστυς δὴμος ἦν ἐν Ἀθήναις ὁ ἐπιτάχων Δῆμαρχος ἐλέγχετο. And for his power, he tells us that it did especially consist in making a *Terrier* of the lands of every *Township*, and keeping of the publick *Registers* which concerned the *Burrough*, in calling the people of the *Town* together when their occasions did require it, and calculating of their voices by the poll, or *scrutinie*, and sometimes in distraining on their goods and chattels, if any of them were indebted to the State either in *amerciaments* or *contributions*. But take his own words with you for the more assurance. Οὗτοι (saith he)

τὰς ἀπογραφὰς ἐπιείσοτο ἢ περὶ τῶν ἐκείνων δημοχειρίων, ἐπὶ δὲ καὶ τὰ δεξιαρχικὰ γραμματεῖα παρ' αὐτοῖς ἦν, ἀλλὰ καὶ συνῆζον τὰς δῆμους ἀπολε δεικτεῖς, καὶ ψῆφον αὐτοῖς ἐδίδοσαν, καὶ ἐνεχειρίαζον δὲ

*p Id. ibid.*

ἔτοι *p*. The Author of the *Etymologicon magnum* saith the same with *Suidas*, but in fewer words; and he describes this mighty man of whom *Calvin* dreams, to be no other then the *Bailiff* of some ancient *Burrough* is with us in *England*, his power being limited and confined within the *perambulation* of his own *Parish*, in which he could do little more then take the valuation of his neighbours estate, and tell how much he was to be assessed at in the *Subsidie* Book. *q*

*q Etymologicon Magnum in Denarcho.*

ὅς καὶ τὸ καὶ χῶρον δῆμου ἐπέειλε, καὶ ἀπογεγράφει τὰς ἐοίας ἐκείνων ὡς δῆμοσιν ἀρρήματα. So he, which is in sum what we had before. 'Tis true; there was another *Of-*

*ficer*

*ficer* of the same name in the City also, and for each tribe one; the *Alderman of the Ward* we may first call him; but not of much more power and reputation than the *Countrey-Bailiff*. Of these saith *Harpocratio* an old *Grammarians*, that they were called *Naucrari* at the first, and had authority to arrest or restrain such persons as stood indebted to the *Exchequer* or the *Common-wealth*. † Δῆμαρ-† Harpocrat. ρει οἱ παλαιὸν καλούμενοι Ναυκράροι Ἄρχοντες δὲ ἦσαν, ἃ ἵσ- in Demarcho. χέζον ἔτι τὰς ἀρχαίας, so Harpocratio briefly in his wonted manner. But *Fulius Pollux* in his *Onomasticon* goes to work more plainly, and telleth us of these *Demarchi*, that they were οἱ κατὰ δήμους ἄρχοντες, the governours or *Aldermen* of their several *Wards*, that formerly they were called *Naucrari*; that anciently the twelfth part of a *Tribe* or *Ward* was called *Naucraria*, and in the later times the whole *Ward* it self; that these *Demarchi* had the ordering of the *Taxes* raised in every *Ward*, and looked unto the issuing of them for the publick use; and finally, that every *Naucraria* or *Ward* was to finde two horse-men and one ship for the service of the *Common-wealth*, ἀπ' ἧς ἴσως ἀνέβησαν, from whence in probability they derived the word. Add unto this from *Suidas*, as the close of all, ἔτι δὲ δεκόμενοι τὴν ἑορτὴν εἶς παναθηναίων, that they had also the setting forth of the great festivall called *Panathenaea*; ordained by *The- sennus* on the incorporating of all the people of *Attica* into the City of *Athens* u. † Suidas in Lex. † Plutarch in Theseo.

VI. (6) Put all that hath been said together touching these *Demarchi* (and more then this I cannot finde which concerns that Office) and we may easily perceivè that they were men of no authority in affairs of State: so far from being likely to protect the people from the power and pressures of the *Senate*, that they were rather *executioners*, or Ministers of justice to afflict the people when the occasions of the *Senate* did require it of them. That the *Demarchi* were ordained to oppose the *Senate*, when it lay heavy on the necks of the common people; or actually did make head against them in behalf of the people if at any time they were oppressed and injured by it, cannot be found (I dare with confidence affirm) in any Author of good credit, either *Greek* or *Latine*. 'Tis true, there were some people-pleasers in the State of *Athens*, whom they called *δημαγογοι*, who by applying themselves to the peoples humour, and seeming zealously affected to their power and profit, could lead them whither they would, and to what they listèd: and sometimes did oppose themselves for the peoples sake, not only against the *Senate*, but all other Magistrates. Of these it is that *Aristotle* doth make frequent mention in his books of *Politicks*, and seems to prophecy, that if not looked into in time, *εἰς τυραννίδα μεταβολὸν*  $\times$ , they would change the State into a Tyrannie. But these were neither *Officers of State*, nor justice, nor indeed any *Officers* at all, though many

$\times$  *Aristot. Politic. l. 5 c. 5.*

many times they did ill Offices to the Commonwealth, the better to advance the hopes of the popular faction, and by it themselves. And it is true which *Aristotle* tells us in another place, *δυναμὴ τῷ δήμῳ τὸ τὰς ἀρχὰς ἀίρειναι καὶ ἐπιδύειν*, that the people had not only power to elect their *Magistrates* γ, but <sup>Id. *ibid.* l. 2.</sup> to call them also to account, in case of *mal-administration*; and had their proper Officers appointed to that end and purpose. But then it is true withall, that amongst them we meet not these *Demarchi* of whom *Calvin* dreams; or any others which stood up in behalf of the common people, but only in behalf of the *Common-wealth*. Of this sort were the *Εὔθυροι* superadded to the nine *Archontes*, and of authority to call them to an afterreckoning, if they found them guilty of extortion ζ: and of this sect were also those whom <sup>Jul. *Pollux.* l. 8. c. 9. *Secl.* 16.</sup> they called *Logista*, some of the which (ὁ μὲν τῆς βουλῆς α, <sup>Id. *ibid.* *Secl.* 13.</sup> saith mine Author) were purposely appointed to observe and enquire into the Acts of the *Senate*, and to proceed against them when their time was out, according as they saw occasion: which kinde of Overseers had an eye also on the *Areopagites*. And this is that which is observed by *Aeschines* the famous Orator, where speaking of the Fundamental constitutions of the Commonwealth, he tells us, that it was ordained by the *Legislators*, *τὴν βουλὴν τὰς πεντακοσίας ὑπιδύουσαν* <sup>Id. b,</sup> that <sup>b *Aeschin.* in *Orat. contra Demosth.* & *Ctesiphor.*</sup> even the *Senate* of five hundred should give up an account of their ministration; and that the holy Council of the *Areopagites* should be obnoxious

to the censure of the *Logista*, for by that very name he calls them. Of any account they were to give to these *Demarchi*, or any thing they did *de facto*, or might do *de jure*, with reference to the ease and benefit of the common people, nothing but silence to be found in all Antiquity. And to say truth, it was not necessary that any *popular Magistrates* should be made of purpose, to save the people from the pride and tyrannic of the higher Courts, which were accountable to the people upon all occasions, and were to be accountable to them according to the fundamental institution of the Common-wealth. The State of *Athens* being one of the absolute *Democracies* which was ever extant, and so accounted of by all who write of *Politicks*, had little need or use of such *popular Magistrates* which *Calvin* fancieth in that place; which may be serviceable to the people in an *Aristocratie*, but in a *popular estate* of no use at all. Which makes me wonder by the way, why *Plato* should affirm against right & reason, that the State of *Athens* in his time and the times before (*ἡ τὸ πρὶν ἢ ἡ νῦν Αἰσιοκρατία*) was an *Aristocratie* *c*: when by the current of all writers and the course of story, it appears most evidently that it was not only a *Democratie*, but *ἀκρατὸς δημοκρατία* *d*, the purest and most unmixt *Democratie* that was ever read of.

*c* *Plato* in *Me-*  
*reximo*.

*d* *Plutarch* in  
*Cimone*.

## VII.

(7) Thus have we proved the first of the three points propounded in the beginning of this work, *viz.* that the *Ephori*, the *Demarchi*, and the *Ro-*

*man Tribunes* were not ordained at first for those ends and purposes which are supposed by the Author: but more particularly, that neither the *Ephori* of *Sparta* were first instituted to oppose the *Kings*, nor the *Tribunes* first ordained to oppose the *Consuls*, nor the *Demarchi* of authority to oppose the *Senate*. And we have proved (which is directly contrary unto *Calvins* aim) that the *Ephori* were at first ordained to ease the *Kings*, and to be aiding to them against the *Senate*, who began sensibly to inroach on the *Regal* power: that the *Tribunes* were first instituted to no other end but to preserve the people from unjust oppression, and that their opposition to the *Consuls* was accounted always to be against the rules of their institution, and a breach of Articles: And as for these *Demarchi* whom we spake of last, that neither by their institution nor by *usurpation*, they did oppose against the *Senate* in behalf of the people, but executed their commands upon the people, as their duty bound them. So that the great imagination which the Author had of shewing to the world a view of such *popular Magistrates*, as might encourage men of place and eminence to think themselves ordained after these examples to moderate their licentiousness of *Kings* and *Princes*; is fallen directly to the ground without more ado, as being built upon a weak, nay a false foundation; not able to support the building. And more then so, in case the instances proposed had been rightly chosen, and that the *Ephori* in *Sparta* had been

first ordained to oppose the *Kings*, the *Tribunes* to oppose the *Consuls*, and the *Demarchi* to keep under the *Athenian Senate*: yet these would prove but sorry instances of such popular *Officers* as were ordained *ad moderandum Regum libidinem*, to moderate the licentiousness of *Kings* & *sovereign Princes*, for proof of which they were produced. The *Ephori* were not instituted in the State of *Sparta* till the *Kings* were brought under the command of the *Senate*, and the State become an *Aristocratie*, in which the *Kings* had very little left them of the Royal dignity but the empty name, and were in power no other then the *Dukes* of *Venice*; save that they were to have the command of the *Armies*, which those *Dukes* have not. And for the *Tribunes*, 'tis well known to every one who hath perused the *Roman* story, that there were no such creatures to be found in *Rome*, till the *Romans* had expulst their *Kings*, & were under the command of *Consuls*; the *Monarchie* being changed to an *Optimatie*, and the people bound by solemn oaths never to admit of a *King* amongst them. The like may be affirmed also of the *Demarchi* of *Athens*, supposing that they were of as great authority, as either the *Ephori* or the *Tribunes*; that they were instituted in a time when the affairs of State were managed by nine *Annual Magistrates*, all of them chosen by the people and accomptable to them. In all these cases, *cum non in regno populus esset sed in libertate e*, when the people had sued out their *Wardship*, and thought themselves to be at

liberty,

liberty, freed from those bonds which nature and allegiance formerly had laid upon them: they did no more then what a wise and understanding people had good cause to do, in taking the best course they could for their future safety. And in my minde the people pleaded most unanswerably in their own behalf, when they alleadged, *se foris pro imperio & libertate dimicantes, domi a civibus captos & oppressos* f, that fighting valiantly abroad both for their own liberty and their Countries honor, against their Kings, they were oppressed and wronged at home by their fellow Citizens; that their condition as things stood, was better in times of war, then in times of peace; their liberty never more assured then when they were amongst their Enemies: and therefore being no otherwise bound to submit themselves to that change of Government, then as it had been introduced by their own consent, they had all the reason in the world to get as good terms as they could, and be no losers by the bargain. Which though it were the case and plea particularly of the people of Rome, might be used also very fitly by the Spartans and Athenians on the self same reasons. But this can no way be pretended or alleadged by those, who live in an established and successional Monarchie, where there is one only to command in chief, and nothing left to the Subject *g prater g Tacit. Annal.* *obsequit gloriam*, but the glory of obedience only, and the necessity of submitting with a loyal heart to those commands and impositions which

may be laid upon them with an unjust hand. So that admitting it for true (as indeed it is not) that the *Ephori*, the *Demarchi*, and the *Tribunes* were ordained for the ends supposed; yet it can follow by no rules of *law* or *logick*, that because such *popular Officers* have been sometimes instituted to keep the scale upright and the balance even, betwixt the *Nobles* and the *People* in an *Aristocratie*, therefore the like are to be fancied in a settled *Monarchie*, for *moderating the licentiousness*, that is to say, (for that no doubt must be his meaning) for regulating the authority of the *Sovereign Prince*.

## VIII.

(8) Thus have we seen a manifest discovery of *Calvins* purpose for setting up some *popular Officers* in every Kingdom to regulate the authority and restrain the power of *Sovereign Princes*; and we may see a secret and more subtle danger included in that short *Parenthesis*, then what is obvious at first sight to the unwary Reader. For by the instances proposed and presented to us, it seems to be his meaning, that these *popular Officers* should not have power only to restrain their Kings when they transgress the bounds of law or equity, and either tyrannically oppress the Subject, or wilfully dilapidate the patrimony of the *Common-wealth*: but that they should set themselves against them and control their doings, in the same way & after the same manner, as the *Ephori* did the Kings of *Sparta*, or the *Tribunes* did the *Roman Consuls*. Now we have

have shewn before out of several Authors *h*, that *h* *Vide chap. 2.*  
the *Ephori* did not only take upon them to appoint such Privie Counsellors about their Kings as to them seemed best, to limit and prescribe them in the choyce of their wives; to send them out unto the wars and recall them home, as if they had been hirelings only and of no more reckoning; to put them upon fine and ransome, if they did any thing which was not pleasing to these humorous Gentlemen; to have them at command both to come and goe as often as they whistled for them, or held up a finger, and finally to look for lowly reverence from them, whensoever they vouchsafed to summon them to attend their pleasures: but also to imprison; next to banish, and in fine to murder them. And we have shewed you of the *Tribunes i*, that after they had fortified themselves with large priviledges, and grew predominant in the affections of the common people; they did not only quarrel and oppose the *Consuls* under pretence of setting forth new laws for the peoples benefit, nor were content to put the people into the possession of all the offices and honors of the Common-wealth (which formerly belonged to the Nobles only) whether the *Consuls* would or not: but sometimes clapt them up in prison, and sometimes forced them to flie the Senate-house for their lives and safety, and sometimes threw them down headlong out of their Chairs of State, to the great danger of their lives, and disgrace of their persons. Princes should be in worse condition then their  
meanest.

meanest subjects, if they were under the command of such powerful masters, who being exalted from mean fortunes and ignoble families, little acquainted with good manners, and less with any thing which is brave and royal, would think themselves unworthy of so great an Office, should they not Lord it to the purpose, and exercise all kinde of tyrannie on their captived Kings, which insolence and malice could suggest unto them. If *Jack* be once in office he must be a *Gentleman*; and gallop to the Devil if he get on Horse-back. *Asperius nihil est humili cum surgit in altum*, as the Poet hath it *k.* It once the bramble come to have Dominion over the trees of the Forrest, he will not only rob the Olive of his fatness, the Vine of his rich Wines, and the Fig-tree of his sweetness, but also will devour the Cedars *l*, even the Cedars of Lebanon. No King or other Supreme Magistrate shall dare to stand before them; or if he do, a fire shall come out of the Bramble, and consume him utterly. Such popular Officers as those of whom Calvin speaks, are of such credit and authority with the common people (whose Officers they are in name, but in fact their masters) that if they do but blow the Trumpet, and say, *We have no part in David, nor no inheritance at all in the son of Jesse; m every man will unto his tents*, and forsake the King or Supreme Magistrate to follow after them though men of Belial. And this I do believe the rather to be Calvin's meaning, because *G. Buchanan* who built on his foundation, and pursued his Principles, doth

*k* Juvenal.  
Sat.

*l* Judg. c. 9.

*m* 2 Sam. 10.

doth not only exceedingly commend the act of *Theopompus*, in setting up the *Ephori* in the State of *Sparta*, and the Answer which he made his wife when she murmured at it: but thinks it very meet and reasonable that a free people (as all Subjects are in his opinion) should be armed with the like authority *in reprimenda tyrannidis acerbitate n*, for the suppressing of tyrannical Government (in which themselves must be Judges) which the *Ephori* enjoyed at *Sparta*, and the *Tribunes* in the City of *Rome*. For though he durst not go so far *in terminis*, as to advise the instituting of such popular *Magistrates* as *Calvin* speaks of in this place; yet he comes very neer it, to a *tantamount*. For that which *Calvin* doth ascribe to his popular *Magistrates*, *Buchannan* gives to the whole body of the people generally, to whom he doth allow as much authority over the persons of their Kings, *Quod isti in singulos è multitudine habent o*, as they have

*n De jure regni.  
apud Scolas.*

*o Id. ibid.*

over any one of the common people: and thinks it both unreasonable and absurd that they should not be called to account before the ordinary Judges of their several Kingdoms (which must supply the place of these popular *Magistrates*) as often as any of their Subjects shall accuse them, of murder, or adultery, or neglects in government, or whatsoever else they shall charge them with; instancing in no fewer then twelve Kings of *Scotland*, who either were condemned to perpetual prison, or else by voluntary death or exile, *Fustas scelerum penas fugerunt*, escaped the punishment which

was most justly due unto them (as he most impudently saith) for their wicked lives.

IX. (9) If any ask (as some justly may) what might induce our Author to these different courses, to lay so sure a ground-work for obedience in the first part of his discourse, and afterward to build upon it such a *superstructure*, as absolutely pulls up his own foundation: the answer is, that the man was very much distracted between his reason and his passion, his conscience and his private interests. *Aliudq; cupido, mens aliud suadet.* His reason and his conscience told him, that every subject was to yeeld obedience to the authoritie and commands of the *Soveraign Prince*; and that if any other doctrine should be plainly preached, it would conduce both to the scandal and the hinderance of the *Reformation*. And his experience in the world could not choose but tell him, that many of the chief *Reformers* by their heat and violence had given too great advantage to the publick Enemy; and made the *Protestant Religion* to be much suspected, *Nil aliud querere & captare quam Seditio-  
num opportunitatem p,* for giving too much ground to seditious courses, and publishing some doctrines which were inconsistent with the rules of Government. This made him write so soundly of the Subjects duty even to wicked Princes, and the *unlawfulness* of *resisting* in the way of Arms, though open force and violence were offered to them by ungodly *Tyrants*: and this he doth so well,

Calvin in E-  
pistola Dedic.  
ad Franciscum.  
J. 1536.

well, that few do it better. *Utinam sic semper er-  
rasset CALVINUS*, as once the learned Cardinal  
said of him in another case. But then his *interest*  
in the cause and quarrel of *Geneva*, who by the  
help of some such *popular Officers* as he speaks of  
here, had not long before expelled their Bishop,  
who had also all the jurisdiction of a temporal Prince  
within the City and the territory which belonged  
unto it, inclined him to say somewhat which might  
serve to defend that action, and give the like ad-  
vantage unto other Cities to follow the example  
which was laid before them. The case is briefly  
touched by *Thuanus* thus; *q Jus Supremi Do-*  
*minii in Civitatem Geneva Episcopos semper penes*  
*se retinuisse, donec mutata religione, Syndici qui*  
*sub Episcopali autoritate libertatem antea tuebantur,*  
*illud proprium sibi fecere, & ejectis Episcopis sub*  
*imperii patrocinio Rempub. administrabant.* The  
Soveraigntie (saith he) or *Supreme Dominion* over  
the City of *Geneva* the *Bishops* still kept unto them-  
selves, till in the alteration of *Religion* the *Syn-*  
*dicks*, who before preserved the *libertie* of the people  
under the government of the *Bishops*, assumed the  
same unto themselves, and absolutely casting out the  
*Bishops* governed it like a *Common-wealth* under  
the patronage or protection of the *German Em-*  
*perours*. In which it is first clear on the *Bishops*  
side, that they had *jus Supremi Dominii*, the *Sove-*  
*raigntie* or *Supreme Dominion* of the City. And  
so much is affirmed by *Calvin*, in another place,  
*Habebat jus gladii & alias civilis jurisdictionis*

v Calvin in Epi-  
stola ad Sadole-  
tum.

*partes r.* He had, saith he, the power of the Sword, and other parts of *temporal* jurisdiction; but as he thinks (but foolishly and against all records) *Magistratus criptas*, either by fraud or force extorted from the *Civil Magistrate*. Next it is clear, that the Bishops did continue the possession of this *Supreme Power*, till *Viret* and *Farellus*, two zealous Gospellers, came to live amongst them; who finding that those of *Berne* in the year 1528. had made an alteration of Religion, practised the like upon the City of *Geneva*. Which not being likely to effect with the Bishops leave, and as little able to effect against his liking, considering the great power and sway, which legally and properly was inherent in him: they set the *Syndicks* (whom they had wrought upon before) to make head against him; who by a popular tumult made him flee the City, which presently they changed to a *Common-wealth*, after the manner of the *Free* or *Imperial Cities*. In which respect *Calvin* bestows upon *Farellus* the title of *libertatis Patrem s.*, the Father of that common *libertie*, which by his means the people of *Geneva* at that time enjoyed. As for the *Syndicks* by whose power and countenance they advanced the business, they were a kinde of *popular Officer*, who had the care of looking to the conservation of the peoples *liberties*, as *Tbuannus* intimates; and were much used in many parts of *France* and *Italy*, as *Bodin* tells us *t.* Their Office did consist of two special points: the one a *Magistratibus rationem reposcere*, to call the ordinary

*Magistrates*

v In Epistola ad  
Mim. s. Tigrin.  
1533.

v Bodin de Re-  
pub. lib. 4. c. 4.

Magistrates to an after reckoning, as if they did any thing unworthy of their place and dignitie, or to the hinderance and disservice of the Commonwealth; which had somewhat in it of the Ephori in the State of Sparta: the other was, *prospicere ne tenuiores & infima sortis homines a nobilibus, uti fit, premirentur*, to have a care that the poor people be not wronged or injured (as many times it hapneth) by the power of the Nobles; which was the main reason for the institution of the Roman Tribunes. In this regard the Civil laws interpret *Syndicus* to be the same with *defensor Civitatis* & the Conservator of the liberties of a Town or City, as full well they might: the Office being made up (as it seems it was) of that of the Ephori and the Tribunes mixt together. Now though this change was made before Calvins coming to Geneva, which was not till the year 1535, yet he affirms it of himself that whatsoever had been done in the alteration, *suffragio meo comprobavi*, he had confirmed and approved as a thing well done: and therefore thought himself to be no less obliged to defend the action, then if it had been done at first by his own command. For doubtless that of Tully is exceeding true, *Nil refert utrum voluerim fieri vel gaudeam factum*: between the doing of a foul and d'sloyal act, and the approbation of it when it is done, is but little difference.

¶ *ibid.*

¶ Calvin in Lexico Jurid. verbo Syndicus.

¶ Calvin in Epistola ad Cardinalem. Sadolet.

¶ Cicero in Pbilip. 2.

(10) But to proceed; our Author being thus made a party in the cause and quarrel of Geneva, X.

thought himself bound not only to justify unto others what himself approved; but also to lay down such grounds whereby the example might be followed, and their disloyalty and rebellion the less observed, because they did not goe alone without company. In which respect (and 'tis a thing to be observed) although that Book of *Institutions* hath been often printed, and received many alterations and additions (as before was noted) yet this particular passage still remains unaltered, and hath continued as it is from the first Edition, which was in the year 1536. when the rebellion of *Geneva* was yet fresh and talked of as an ill example. Nor was the man deceived in his expectation; For as he grew into esteem and reputation in the world abroad, so he attained at last to that power and empire over the souls and consciences of his followers, that his errors were accounted *Orthodox*, his defects perfections, and the revolt of the *Genevians* from their natural Prince must by no means be called *Rebellion*, because projected and pursued by such *popular Officers*, to whom it appertained of common course to regulate the authority of Kings and Princes. And though he doth not say expressly that there either are or ought to be such *popular Officers* in every Realm or Common-wealth, but brings it in upon the by with his *ifs* and *ands*: yet *ifs* and *ands* are not allowed of in the laws to excuse rebellions *b*, and by the setting up of that dangerous *Si quis* (*si qui sint populares Magistratus*, as his words there are) he seems to make a *procal-*

*b* Bacons history of King Henry the seventh.

*Proclamation* that where there were such *popular Officers*, it was their bounden duty to correct their Princes after the manner of *Geneva*, where there were none, the people were (God help them) in an ill condition, unless some other means were thought of, for their ease and remedie. Upon which Principles of his, his followers raised such *Positions*, and pursued such *practises* as have distracted and embroyled the most parts of *Europe*, and made it of a *Garden* to become a *Wilderness*. For finding that they could not easily create such *Popular Magistrates* to lord it over Kings and Princes who had not been accustomed to the like controlments; they put that power of regulating the Supreme Authoritie either upon the body of the people generall'y, whereof you were told before from *Buchannan*, or upon such to whom they should communicate or transfer their power, as occasion served, whereof you may hear further in that which followeth. And that not only in the case of *civil libertie*, for which the examples of the *Ephori* and the *Roman Tribunes* were at first found out, and that of the *Demarchi* thrust upon the Readers for the like foul end; but specially in such matters which concerned *Religion*, wherein the extraordinary calling of some men in the holy Scriptures must serve for Precedents and examples to confirm their *practises*. From hence it was that *Buchannan* doth not only subject his King unto the Ordinary Judges and Courts of Justice as before was noted: but fearing that

that Kings would be too potent to be so kept under, adviseth this, *Eorum interfectores premia decerni e*, that rewards should publickly be decreed for those who kill a Tyrant (and Kings and Tyrants are the same as heretofore in the word and notion, so now in the opinion of the *Presbyterian* or *Calvinian* faction) as usually are proposed to those who kill Wolves, or Bears. From hence it was that the inferiour or *Subordinate Magistrate* is advanced so high, as to be entituled to a power, *adversus Superiorem Magistratum se, Rempub. & Ecclesiam etiam armis defendere d*, of taking Arms against the King or superiour Magistrate, in defence of himself, his Countrey and true Religion: which though they are the words of *Parvus* only, yet they contain the minde and meaning of all the rest of that faction, as his son *Philip* doth demonstrate. *e*. Hence was it that *John Knox*, delivered for sound *Orthodox* doctrine, *Procerum esse propria autoritate Idololatriam tollere, & Principes intra legum rescripta per vim reducere f*, that it belonged unto the *Peers* of each severall Kingdom to reform matters of the Church by their own authoritie, and to confine their Kings and Princes within the bounds prescribed by law, even by force of Arms. Hence that *Geselius* one of the *Lecturers* of *Rotterdam* preached unto his people, that if the Magistrates and Clergie did neglect their duty in the reformation of Religion, *necesse est id facere plebeios*, that then it did belong to the Common people *g*, who were bound to have a care

*e* Rucharn. de  
jur. Regni.

*d* Parvus in  
Epistola ad  
Rom. cap. 13.

*e* In Append.  
ad Cap. 3. E-  
pist. ad Rom.

*f* Camden. An-  
nal. Eliz. An.  
1559.

*g* Necessaria  
Respons.

care thereof and proceed accordingly. And as for points of *practise*, should we look that way, what a confusion should we finde in most parts of *Europe*, occasioned by no other ground then the entertainment of these *principles* and the scattering of these *positions* amongst the people? Witness the Civil wars of *France* *g*, the revolt of *Holland* *h*, *g* *Jean de Serres* the expulsion of the Earl of *East-Friezland* out *inventaire de Fr.* the City of *Emden* *i*, the insurrections of the *h* *History of the Neiberlands.* *Scots* *k*, the tumults of *Bohemia* *l*, the commotions of *Brandenbourg* *m*, the translation of the Crown of *Sweden* from the King of *Pole* to *t. 114.* *Charles Duke of Finland* *n*, the change of Government in *England*: all acted by the Presbyterian or *Calvinian* partie in those several States, under pretence of *Reformation* and redress of grievances. *k* *Camden. Annal. An. 1559.* *l* *Laurea Austriaca.* *m* *Continuati. Thuan. hist. l. 8.* *n* *Thuan. hist. l. 8.*

( 11 ) And to say truth, such is the *Genius* of the sect, that though they may admit an equal (as *paritie* is the thing most aimed at by them both in Church and State) yet they will hardly be perswaded to submit themselves to a *Superiour*; to no Superiours more unwillingly then to *Kings* and *Princes*: whose persons they disgrace, whose power they ruate, whose calling they indeavour to decry and blemish by all means imaginable. First for their *calling*, they say it is no other then an *humane Ordinance*, and that the King is but a creature of the peoples making; whom having made, they may as easily destroy and un-

T

make

XI.

make again. Which as it is the darling doctrine of this present time, so is it very eagerly pursued by *Buchannan*, who affirms expressly, *Quicquid juris populus alicui dederit, idem justis de causis posse repossere* o, that whatsoever power the people give unto their King or Supreme Magistrate, they may resume again upon just occasions. Their power they make so small and inconsiderable, that they afford them very little even in matters temporal, and no authority at all in things spiritual. *CALVIN* professeth for himself, that he was very much agrieved to hear that King *Henry* the eight, had took unto himself the title of *Supreme Head* of the Church of *England*, accuseth them of inconsiderate zeal, nay blasphemie, who conferred it on him; and though he be content at last to allow Kings a *Ministerial* power in matters which concern the Reformation of Gods Publick Worship, yet he condemns them as before of great inconsiderateness, *Qui facerent eos nimis spirituales* p, who did ascribe unto them any great authority in spiritual matters. The designation of all those who bear publick office in the Church, the calling of Councils or Assemblies, the *Presidencie* in those Councils, ordaining publick Fasts, and appointing Festivals, which anciently belonged unto *Christian* Princes as the chief branches of the *Ecclesiastical* Jurisdiction which is vested in them; are utterly denied to Kings and Princes in their Books of *Discipline*. In so much that when the Citizens of *Embsden* did expel their Earl, they did it chiefly for this reason,

*Quod*

*Buchann. de  
jure Regni.*

*p Calvin in A-  
mos cap. 7.*

*Quod se negotiis Ecclesiasticis & Consistorialibus prater jus & aequitatem immisceret q,* that he had q Thuan. hist. l. 114. intermeddled more then they thought fit in Ecclesiastical causes, and intrenched too much upon their *Consistorie*. As for their power in temporal or civil causes, by that time *Knoxes* Peers and *Buchannans* Judges, *Parais* his inferior Magistrates, and *CALVINS* popular Officers have performed their parts, in keeping them within the compass of the laws; arraigning them for their offences, if they should transgress; opposing them by force of arms, if any thing be done unto the prejudice of the Church or State; and finally in regulating their authoritie, after the manner of the *Spartan Ephori*, and the *Roman Tribunes*: all that is left will be by much too little for a *Roy d' Ivoir*, or for a *King of Clouts*, as we *English* phrase it. Last of all, for their persons which God held so sacred, that he gave it for a law to his people *Israel*, not to speak evill of their *Princes*, saying, *Thou shalt not speak evil of the Ruler of thy people*; Let us but look upon these men, and we shall finde the basest attributes too good for the greatest Kings. *Calvin* calls *Mary Queen of England* by the name of *Proserpine r*, and saith that she did *superare omnes Diabolos*, that all the Devil of hell were not half so mischeivous. r Calvin in A. mos cap. 7. *Beza* affords *Queen Mary of Scotland* no better titles then those of *Medea* and *Athaliah s*; of which the s Beza in E. pist. ad Jo. last was most infamous in *divine*; the other no less scandalous in *humane* stories; the one a Sorceress and a Witch, the other a Tyrant and usurper. The

† Didoclauium  
in Epistola ad  
Iacob.

Author of the *Altare Damasienum*, whosoever he was, can finde no better attribute for King *James* of most blessed memorie, then *insensissimus Evangelii hostis* †, the greatest and deadly enemy of the Gospel of Christ. And Queen *Elizabeth* herself did not scape so clear, but that the zealous Brethren were too bold sometimes with her name and honor, though some of them paid dearly for it, and were hanged for their labour. How that seditious *Hagonot*, the Author of the lewd and unworthy *Dialogue*, entituled *Eusebius Philadelphus*, hath dealt with three great Princes of the House of *France*, and what reproachful names he gives them, I had rather you should look for in the Author then expect from me; being loath to wade too far in these dirtie puddles; save that I shall be bold to adde this general Character which *Didoclauius* gives to all Kings in general; *viç. Naturâ insitum est in omnibus Regibus Christi odium*, that all Kings naturally hate *Christ*; which may serve for all. This is enough to let us see, how irreconcilable an hatred these of the *Calvinian* faction bear against Kings and Princes; how well they play the part of the very *Antichrist* in exalting themselves against whatsoever is called *God*; and that the special reason why they affect so much to be called *the Saints*, is out of a strong probable hope to see the day in which they shall binde Kings in chains, and all the Princes of the earth in fetters of iron. Finally such is their disaffection unto sacred *Monarchie*, which they have sucked out of the grounds and principles here laid

laid down by *Calvin*, that we may justly say of them what was most truly said of the ancient *Romans*, *quasi nefas esset Regem aliquem prope eorum terminos esse u*, they have bestirred themselves so bravely in defiance of the *Regal Government*, as if they did account it an unpardonable sin to suffer any King, though most good and gracious, to border near them. Which lest they should not be of power to compass by their *popular Magistrates*, or by the *Judges*, or the *Peers*, or the *People* severally; which make the *main Battel* for this combat: let us next look on the *Reserve*, and see what hopes they have to effect the business by the *three Estates* conjoined in *Parliament*, (or by what other name soever we shall call their meeting) which *CALVIN* in the last place doth reflect upon, but cautiously with a *quasi* *forte*, or a *peradventure*, as in that before.

The first of these was the...  
 The second was the...  
 The third was the...  
 The fourth was the...  
 The fifth was the...  
 The sixth was the...  
 The seventh was the...  
 The eighth was the...  
 The ninth was the...  
 The tenth was the...  
 The eleventh was the...  
 The twelfth was the...  
 The thirteenth was the...  
 The fourteenth was the...  
 The fifteenth was the...  
 The sixteenth was the...  
 The seventeenth was the...  
 The eighteenth was the...  
 The nineteenth was the...  
 The twentieth was the...

CHAP.

3

CHAP. V.

*What are the three Estates in each severall Kingdome, of which CALVIN speaks, and what particularly in the Realm of ENGLAND.*

- (I) *Of the division of a People into three Estates, and that the Priests or Clergie have been alwayes one.*
- (II) *The Priests employed in Civill matters and affairs of State, by the Egyptians and the Persians, the Greeks, Gaules, and Romans.*
- (III) *The Priests and Levites exercised in affairs of Civill Government by Gods own appointment.*
- (IV) *The Prelates versed in Civill matters and affairs of State, in the best and happiest times of Christianity.*
- (V) *The Clergie make the third Estate in Germany, France, Spain, and the Northern Kingdomes.*
- (VI) *That anciently in the Saxon times the Ecclesiasticks of this Realm were called to all publick Councils.*

(VII) *The*

(VII) *The Prelates an essential fundamental part of the English Parliament.*

(VIII) *Objections answered, and that the word Clerus in the Legal notion, doth not extend unto the Prelates.*

(IX) *That the inferior Clergie of the Realm of England had anciently their votes in Parliament, to all intents and purposes as the Commons had.*

(X) *Objections answered; and that the calling of the Clergie to Parliaments and Convocations, were after different manners, and by several writs.*

(XI) *The great disfranchisement and slavery obtruded on the English Clergie, by the depriving of the Bishops of their Votes in Parliament.*

(XII) *A brief discussion of the question, whether any two of the three Estates conspiring or agreeing together, can conclude any thing unto the prejudice of the third.*

I.

**B**Ut first before we fall on the point it self, and search into the power ascribed by *Calvin* to the three Estates of every Kingdome, we must first see what kinde of men they are, and of what condition, who constitute the said Estates: which being first settled and determined, we shall the better be inabled to proceed accordingly in the inquiry after that authority which our Author gives

gives them of regulating the proceedings of the sovereign Prince, and putting a restraint on the exorbitant power of Kings. In which we shall presume for granted what our Author gives us, *viz. tres Ordines in singulis Regnis*, that in each several Kingdome there are *three Estates*; and those three we shall prove to be (though our Author is no otherwise to be understood) the *Clergy*, the *Nobility*, and the *Common people*: which distribution of the Subject into *three Estates* as 'tis very ancient, so was the distribution of them into *three*, neither more nor less, founded on good prudential motives and grounds of *Polity*. For as judicious *Bodin* very well observeth, should there be only two *Estates*, and no more then so, either upon such differences as might rise between them the one side would be apt to compell the other by force of violence; or else, *aquatis Ordinum suffragiis a*, the ballance being even between them, their meetings would be many times dissolved without producing any notable effect to the benefit of the *Common-wealth*. In which respect the counterpoise or addition of a third *Estate* was exceeding necessary, *ut alterutri sese adjungens utrumq; conciliet*, that joyning unto either of the other two, it might unite them both into one opinion, and advance the service of the publick. And on the other side were there more then three, *opinionum multitudo*, the difference of opinions, and pretence of interesses, would keep them at perpetual distance, and hinder them from pitching

a *Bodin de  
Repub. l. 3.  
cap. ult.*

upon any point, in which all their purposes and aims were to be *concentred*. So that the casting of the body of a people into *three Estates*, seems most convenient for the furtherance of the publick service: and of those three *three Estates* the *Priests* (or *Clergy*, as we call them since the times of *CHRIST*) have generally been accounted one. For though *Hippodamus* (whom *Aristotle* justly taxeth for defects *b* in *Politie*) ordained his *three Estates* to be the *Souldiery*, the *Handicraftsman*, and the *Husbandman*: yet wiser Statists saw no reason that the two last should passe for severall *estates* or ranks of men, being that both might be more fitly comprehended under the name and rank of the common people. And therefore the *Egyptians* did divide the peop'e into these three ranks, the *Priest*, which is respondent to the *Christian Clergy*; the *Souldier*, who carrieth most resemblance to the State of *Nobles*; and those which lived by trades and labours, whom by one generall name they called *Operarii c*, as we now the *Commons*: which course we finde to be observed also by the ancient *Ganles* dividing their whole body into these three *orders*, *d* the *Druides*, who had the charge of matters which concerned *Religion*; the *Equites* who managed the affairs of war; and then the *Plebs*, or common people, who were subordinate to the other two, and directed by them. How this division hath succeeded in the States of Christendom we shall see hereafter.

*b* *Aristot. Politic. l.*

*c* *Diodor. Siculus.*

*d* *Cesar. de Bello Gallico. l. 6.*

(2) In the mean time we may take notice that the *Priests of Egypt*, the *Druides of Gaul*, and those who had the ordering of those services which concerned the gods, by whatsoever name or title they were known and called in other Countreys, were not so tied unto the *Altars*, and other *ministerial Offices* which concerned the gods, as not to have some special influence in ordering the affairs of the Common-wealth. The *Priests of Egypt*, as we read in *Ælian* (an Author of unquestioned credit) possessed the highest seats of *judicature*, and were the only Judges which that people had: *Judices apud Egyptios* itaem quondam fuerunt qui & sacerdotes, as Ælian in V. ria histor. l. 14. c. 34. that Author hath it. And so much is assured us by *Synesius* also a Christian Bishop of the East f. Synesius Ep. 57. where he resembleth them in this particular to the *Priests of Judah*. The like we finde in *Agathias* of the *Priests of Persia*, men better known in ancient Writers by the name of *Magi*: of whom he telleth us, *eorum consilio publica omnia administrari*, &c. g. Agathim in hist. Persic. l. 1. that by their counsell and advice the principal affairs of the State were ordered, rewards proportioned and conferred upon well-deservers, and several punishments inflicted on the *Malefactors*, according to the quality of the misdemeanor; and finally that nothing was conceived to be rightly done, *quod Magorum sententia non sit confirmatum*, which had not passed the approbation of these *Priests* or *Magi*. If we

draw nearer towards the West, and look into the Government of the State of *Athens*, we shall finde the chief authority thereof to consist in the *Senate* of 500, and in the famous Court of the *Areopagites*, as was noted in the former Chapter: in which the *Priests*, or at the least the principal of that rank or order had both place and suffrage. For in that honourary Edict which they made in favour of *Hyrannus*, we may clearly see that *Dionysius* the son of *Asclepiades* was one of the *Priests*, and also one of the *Prystanai* *h*, or *Presidents* of the Councell, as we call them now; and that in calculating of the voices, ἐπιφύρουσι Δοροθεῖς Ἄρχιερεὺς, *Dorotheus* the chief *Priest* had the greatest stroke, and pronounced the Edict to be passed. And for the Court of *Areopagites*, it consisted as before we told you of such and such alone as formerly had bore the Office of the nine *Annual Magistrates*, whereof the βασιλεὺς, or *Rex Sacrorum*, (whom we may English the chief Bishop) had the second place *i*. And this appears yet further by a passage in the life of *Pericles*, where we are told of his design for the abasing of the power of the *Areopagites*, ἢς αὐτοῖς ἡ μετέπειθε *k*, of which Court he was not any Member, as the Author tells us, in that he had never borne the Office either of the *Provost*, or the *King*, or the *Polemarchus*, or any of the six chief *Justices*. So that the βασιλεὺς, the *Rex Sacrorum*, or chief Bishop being of course to be admitted into the Court or Councel of the *Areopagites* when his year

*h* Joseph. Judaic. Antiqu. l. 14. c. 16.

*i* Suidas in verbo Ἄρχων.

*k* Plutarch in Pericle.

year was ended, it cannot be, but that there must be many of them in that famous *Sission*; an equall number at the least, with those who had been *Polemarchi*, or the yearly *Ἀρχοντες*. Add here, that we are told by *Julius Pollux* in his *Onomasticon* 1, <sup>1 Lib 8. cap</sup> that it pertained to this *Βασιλεύς*, or *Rex Sacrorum*, <sup>8. sect. 3.</sup> besides the service of the Gods, *πρὸς τῷ φόρῳ δίξας εἰς Ἄρειον πύλον εἰσάγειν*, to endite those before the Court who were guilty of murther; but then withall, that having put in the enditement, and laid by his Crown, *σὺν αὐτοῖς δίξεται*, he sate upon the Bench with the other Judges and passed sentence on them. Thus was it with the *Druides* or the Priests of *Gallia*, who did not only take the charge of all sacred matters which did relate unto the service of the gods, but *de omnibus fere controversiis publicis privatisq; m*, they did determine in <sup>m Caesar de</sup> almost all *suits* and *controversies*, as well publick <sup>B: No Gallio</sup> as private; particularly in matters of inheritance, <sup>l. 6.</sup> reall actions, capitall crimes, as murther and the like offences; and also had a power to decree both rewards and punishments as they saw occasion. And for the better dispatch of business both for their own ease and the peoples too, they chose some certain times or *Terms* in which they met together not far from *Chartres* (being in the middle of the Countrey) whither all sorts of people who had suits and differences did repair unto them, *eorumq; judiciis & decretis parebant*, and to their Judgements and Decrees did submit themselves. And thus it also was with the *Pontifices* or Priests

of Rome who had not only a chief place in the holy Mysteries, such as concerned the publick worship of their gods; but also a great power and sway, in the greatest and most important businesses which concerned the State: which Tully makes one of those *Constitutions* or Arts of Government, which seemed to have been devised by the gods themselves. *n Cum multa divinitus a majoribus nostris inventa atq; instituta sunt, tum nihil præclarior quam quod Pontifices eosdem & Religionibus Deorum immortalium & summa reipub. præesse voluerunt.* And as the principal Priests in Athens had their place and Vote not only in the Court of *Areopagitis*, but in the Senate of five hundred as before was noted: so some of the more eminent sort of Priests had the like pre-eminence, of sitting and voting in the Roman Senate, which was as high an honour as that State could give them. For besides that *Rosinus* hath observed that some of the Priests were chosen out of the number of the Senators, who doubtless did not lose the right of suffrage which before they had; there is a memorable case in *Livie* touching *C. Flaccus*: who was no sooner chosen the *Flamen Dialis*, or Priest of *Jupiter*, but presently he put in his title to a place in Senate, which anciently belonged unto his predecessors in the right of their Office, though of late years it seemed to have been forfeited by *discontinuance*, The issue of which plea was this, that though *Licinus* the *Pretor* did the best he could to crosse the

*n Cicero in Oratione pro Domo sua.*

*o Rosin. Antiqu. Rom.*

the business, alleading, *Non exoletis vetustate Annalium exemplis stare jus p*, that they were not <sup>p Livie hist. Kom.lib.26.</sup> to be guided in the case by worm-eaten *Precedents*, but by the late practise of the State; yet it was otherwise determined by the Fathers generally, and *Flaccus* settled in his place in the *Roman* Senate, *Magno assensu Patrum Plebisq*; with the joynt consent of all the people. But what need these particulars have been brought to confirm this point, when as it affirmed in generals by *Synesius*, a right godly Bishop of the Primitive times? ὁ πάλαι χεῖρον ἤνευκε τὰς αὐτὰς ἱερέας τε καὶ κριτὰς q, that in old <sup>q Synes. Epist. 57.</sup> times the same men were both *Priests* and *Judges*. Which said, he instanceth in the particulars of the *Jews* and *Egyptians* who for long time ὑπὸ τῶν ἱερέων ἐβαλλεύθησαν, had been chiefly governed by their *Priests*.

(3) This brings me on to the power and practise of the *Priests* in the land of *Judah*, who from the very first beginning of that State and Nation to the final dissolution of it, were of great authoritie; not only in composing of inferiour *differences* which casually did arise amongst the people, but in the managerie of the chief affairs both of State and Government: and that not gained by *connivence* of Princes, or by *entrenching* on the rights of the *secular* powers, but by the *institution* and appointment of the *Lord* himself. When *Moses* first complained that the sole Government of the people was a burden too heavie for

III.

for him to bear, it pleased God to appoint a standing Consistory of *7* *Seventie Elders*, men of abilitie and wisdom, who were to have a share in the publick Government, and to decide amongst themselves such weightie busineses, *great matters*, as the Scripture calls them, which were reserved to *Moses* by a former *Ordinance*. Of these, the *Priests*, as men who for the most part were at better leisure then the rest to attend the service, and generally of more abilities to goe through with it, made alwayes a considerable number, and many times the major part. In which respect it was ordained by the Lord, when a *matter did arise* to be scanned in judgement between *bloud and bloud*, *between plea and plea*, and *stroke and stroke*, being matters of controversy within their gates, the people should arise and goe unto the place which the Lord should choose, and come unto the *Priests*, the *Levites*, and unto the *Judge that shall be in those days*, and enquire and they shall shew them the sentence of judgement. The like is also ordered in the case of *false witnesses*, where it is said, that *If a false witness rise up against any man to testifie against him that which is wrong; then both the men between whom the controversie is shall stand before the LORD, before the Priests and Judges which shall be in those dyes* *u*. Which passages are not understood of any particular *Priests* or *Judges*, dispersed in their severall dwellings up and down the Countrey; but of the *Priests* and other *Judges*

united

7 Numb. 11.  
v. 16.

1 Exod. 18.  
v. 25.

1 Deut. 17.  
v. 8, 9.

11 Deut. 19.  
v. 17.

united and assembled in that famous Consistorie of  
 the 70 Elders, convened together in that place  
 which the Lord should choose; called by the Jews  
 the Sanhedrim, by the Greeks Συνέδριον, and was  
 the great Council of estate for the Jewish Na-  
 tion. To this Josephus doth attest, where he in-  
 formeth us *πῶντων τῶν ἀποστολῶν μὲν διὰ τὸ οἰεῖσθαι ὅτι  
 τὸ συνέδριον ἔστιν* x, that the Priests of Jewrie had the  
 cognizance of all doubtful matters; more plainly *x Joseph. adv.  
 Appion. lib. 2.*  
*Philo*, who knew well the customs of his native  
 Countrey, where he affirms expressly and in termi-  
 nis; *συνέδριον μὲν οἱ ἱερεῖς γ*, that the Priests had place  
 and suffrage in this great *συνέδριον*, or Court of *Moys.*  
*Sanhedrim*. And this is that which *Casaubon*  
 doth also tell us from the most learned and ex-  
 pert of the Jewish Rabbins, *Non nisi nobilissimos e  
 sacerdotibus, Levitis, cateroq; populo, & in lege  
 peritissimos in Sanhedrim eligi* z, that is to say, *z Casaub. Ex-  
 erciz. in Baron.*  
*Levites* and the rest of the people, and such as were  
 most conversant in the Book of the Law, were to be  
 chosen into the *Sanhedrim*. But to return again  
 to the Book of God, the power and reputation  
 of this Court and Consistorie having been much  
 diminished in the times of the Kings of Judah,  
 was again revived by *Jehosaphat*. Of whom we  
 read, that he not only did appoint *Judges in the  
 land throughout all the fenced Cities of JUDAH* a: a *2 Chron.*  
 but that he established at *HIERSALEM* a stand- *19. 5.*  
 ing Council, consisting of the *Levites* and of the  
*Priests, and of the chief of the Fathers of ISRAEL,*

b *Ibid.* r. 2.

c *Ezeck.* 44.  
v. 12, 4.

d *Id.* c. 3. v. 11.

e *Ezra* 6. 7.  
v. 25.

for the judgements of the Lord and for controversies *b*: according to the model formerly laid by God himself in the Book of *Deuteronomie*. Which Court or Council thus revived continued in full force, authoritie and power, during the time of the captivitie of *Babylon*; as appears plainly by that passage in the prophesie of *Ezekiel*, where it is laid of the *Priests* even by God himself, in controversy they shall stand in judgement *c*; compared with another place of the same Prophet, where he makes mention of the *Seventie*, of the *Antients* of the house of *ISRAEL* *d*, and *JaaZaniah* the son of *Shaphan* standing in the midst, as Prince of the Senate. And after their return from that house of bondage, they were confirmed in this authoritie by the Edict and Decree of *Artaxerxes*, who gave Commission unto *EZRA* to set *Magistrates* and *Judges* *e* over the people; not after a new way of his own devising, but after the wisdom of his God *e*, declared in the foregoing Ages by his servant *Moses*. In which estate they stood all the times succeeding, until the final dissolution of that State and Nation: with this addition to the power of the holy *Priesthood*, that they had not only all that while their place and suffrage in the Court of *Sanhedrim*, as will appear to any one who hath either read *Josephus* or the four *Evangelists*; but for a great part of that time, till the reign of *Herod*, the Supreme Government of the State was in the hands of the *Priests*. In which regard, besides

sides what was affirmed from *Synesius* formerly, it is said by *Justin*, *Morem esse apud Judæos ut eisdem Reges & sacerdotes haberent*, that it was the custom of the *Jews* for the same men to be *Kings* and *Priests* f: and *Tacitus* gives this general note, *Judæis Sacerdotii honorem firmitatem potentie esse*, that the honour given unto the *Priesthood* amongst the *Jews*, did most especially conduce to the establishment of their power and Empire g. And yet I cannot yeeld to *Baronius* g. *Tacit. hist. l. 2.* neither, where he affirms (the better to establish a Supremacie in the *Popes* of *Rome*) *Summus Pont. arbitrio suo moderari magnum illud Concilium, &c. h*, that the *high Priest* was always b *Baron. Annal. An. 57.* *President of the Council* or *Court of Sanhedrim*: *An. 57.* it being generally declared in the *Jewish* Writers, that the *High Priest* could challenge no place at all therein, in regard of his office and descent, but meely in respect of such personal abilities as made himself to undergo such a weightie burden; for which see *Phagius* in his notes on the 16. of *Deuteronomie*.

(4) Thus have we seen of what authoritie and power the *Priests* were formerly as well amongst the *Jews* as amongst the *Gentiles*; we must next see whether they have not been employed in the like affairs, under the Gospel of *Christ*, and that too in the best and happiest times of the *Christian* Church. In search whereof it is not to be looked for by the ingenuous Reader, that we should aim

IV.

so high as the first 300 years after Christs Nativitie. The *Prelates* of the Church were suspected then to have their different aims and *interesses*, from those who had the government of the *Civil State*, and therefore thought uncapable of trust and imployment in it. But after that, according to that memorable maxime of *Optatus*, *Ecclesia erat in Republicâ* i, the Church became a part of the *Common-wealth*, and had their ends and aims united; there followed these two things upon it: first that the *Supreme Government* of the Church depended much upon the will and pleasure of the *Supreme Magistrate*, infomuch as *Socrates* observeth, *ἡ δὲ μέγιστοι συνέδοι τῆ αὐτῶν γιωμῆ γέγοναν* k, that the greatest Councils have been called by their authoritie and appointment; And 2ly, that the Governours and Rulers of the Church of God, came to have place and power in disposing matters that appertained to the well ordering of the *Civil State*. And this they did, not out of any busie or *pragmatical* desire to draw the cognizance of secular causes into their own hands, or to increase their power and reputation with the common people: but meerly for the ease and benefit of those who did repair unto them for their help and counsel, and to comply with the command of the *Apostle*, who imposed it on them. *S. Austin* tells us of *S. Ambrose* with how great difficultie he obtained an opportunitie of conversing with him privately, and at large, as his case required: *Secludentibus cum ab ejus aure atq; ore catervis negotiosorum hominum*

i De schismat.  
Donatist. l. 3.

k Socrat. Eccl.  
hist. lib. 5. c. 14.

minum

*minum*, the multitude of those who had busi-<sup>l. August. Confes.</sup>  
ness to him, and suits to be determined by <sup>l. 6. c. 3.</sup>  
him, debarring him from all advantages of ac-  
cess and conference. Which took up so much  
of his time, that he had little leasure to refresh  
his body with necessary food, or his minde with  
the reading of good Authors. And *Posidonius*  
tel's us of *S. Austin*, *causas audisse diligenter*  
& *piè*, that he diligently and religiously attended  
such businnesses as were brought before him, not  
only spending all the morning in that trouble-  
some exercise *m*, but sometimes fasting all day <sup>*m* *Posidon. in*  
*vita August.*  
*c. 19.*</sup>  
long, the better to content the suitor, and dis-  
patch the businness. The like *S. Austin* tells us  
of himself, and his fellow Prelates, first that  
the Christians of those times *pro secularibus*  
*causis suis nos non raro quærerent n*, did ordi-<sup>*n* *August in*  
*Psalm. 1. 8.*  
*Serm. 74*  
*Epist. 147.*</sup>  
narily apply themselves unto them for the de-  
termining of *secular* causes, and cheerfully submit-  
ted unto their decisions: next that the *Prelates*  
did comply with their earnest solicitations and  
desires, therein *Tumultuosissimas causarum alie-*  
*narum perplexitates patiendo o*, by intermitting <sup>*o* *Id. de opere*  
*Monach c. 29.*</sup>  
their own studies to ingage themselves in the  
determining of such *secular* causes as were brought  
before them, for the contentation of the people,  
and the discharge of their own duty both to  
God and man. And this is that which both  
*S. Ambrose* and *S. Augustine* tell us in their  
several writings, *viç.* that they did undergoe

this trouble for no other reason then out of a conformitie and obedience to the words and intimation of *S. Paul*, *1 Cor. cap. 6.* touching the ending of such suits and differences as did arise amongst the Faithful: *S. Austin* saying, *Constituise Apostolum talibus causis Ecclesiasticos cognitores p,* and *iisdem molestis eos affixisse Apostolos; q* *S. Ambrose*, that he had undertook the busineses which were brought before him, *Secundum sacra formam preceptionis qua cum r*, which did impose such a necessitie upon him, that he was not able to decline it. Both of them doe agree in this, and *Posidonius* doth agree with both in the same particular *s*, that they were not only warranted, but obliged by *S. Pauls* injunction, to undertake the cognizance of such *secular* causes as were from time to time committed to their care and trust; and that they had not done their dutie, had they made any scruple of the undertaking. But these being only private matters, let us next see, whether their service was not used in affairs of State, and we shall finde that *Constantine* did always take some Bishops with him when he went to war; not only for their ghostly counsel in *spiritual* matters, but for advise in matters which concerned the occasion *t*, the prosecution of the war which was then in hand: that *Ambrose* was twice sent Ambassadour from *Valentinian* the younger to the

*p* *Id.* in *Psal.*  
118. *serm.* 174.

*q* *Id.* de opere  
*Monach.* 29.

*r* *Amb.* *Epist.* 24.

*s* *Posidon.* in *vi-*  
*ta* *August.* c. 19.

*t* *Euseb.* in *vita*  
*Constant.* l. 4.  
c. 54.

the Tyrant *Maximus*; which he performed to the great contentment of his Prince, and the preservation of the Empire *u*; whereof he gives *u* *Amb. Epist.* us an accompt in an express unto the Empe- *27. lib. 5.* rour: that when *Firmus* had rebelled in *Africk*, and saw himself too weak to resist the Forces which were raised against him under *Theodosius*, *Antislites ritus Christiani pacem oraturos misit x*, *Ammian. Mar-* he sent the *African* Prelates his Ambassadors *cel. hist. l. 29.* to treat of peace: that *Marutha* Bishop of *Mesopotamia* was in like nature sent to the Court of *Persia y*, in the time of the Empe- *y Socrat. Eccles.* rour *Honorius*. I. as after that *Epiphanius* Bi- *hist. l. 7. c. 8.* shop of *Ticinum* (which we now call *Pavie*) employed from the *Ligurians* to *Athalaricus* King of the *Goths* in *Italy*, from him unto the Court of *Burgundie*, as *Cassiodorus* and *Ennodius* doe describe at large: that *James* the godly Bishop of *Nisibis*, (a frontier Town against the *Persians*) was also *πολιάρχης ἔ στρατῶς*, both Governour of the place, and Captain of the Souldiers which were there in Garrison *z*; *z Theodores.* and did most manfully defend it, against all *hist. Eccl. l. 2.* the force and fury of the *Persian* Armies, *An. c. 30.* 338. or thereabouts: and finally (which was an argument of great power and trust) that the Bishops in *Justinians* time were by him appointed to oversee the *Civil Magistrates*, and to give notice to the Emperour if they failed in any thing which did concern the Government of

a Novel. 56. &  
in Append. ad  
Novel. 8.

of the Estate in their severall places; of which the very Edicts are still extant in the Book of Novels a.

V.

(5.) The *Prelates* being grown into this esteem for their integritie and wisdom, with the *Roman* Emperours; it is no wonder if they were employed in the greatest Offices of trust and countel, after the *Empire* was dismembred and shared betwixt such severall Princes as grew up in the place of those mighty *Monarchs*: And this they did on so good motives, and with such success, that in short time the *Prelates* were not only used for advice and counsel, but the *inferiour Clergie* also were called unto employments of the highest nature, and in conclusion with the *Prelates* made up the *third Estate* in most *Christian* Kingdomes. For being that the study of *Divinitie* is diffused and large, and that the knowledge of *Philosophie* and the *Arts* and *Histories*, is but attendant on the same and subservient to it; there was no question made at all, in the times we speak of, but that a *Church-man* so accomplished might be as useful in the service of the *Common-wealth*, as those who wanted many opportunities to be so versed in Books the best guides to business: especially when to those helps in point of *learning*, were joyned a *suddenness* of apprehension, a *perspicacity* of judgement, and which swayed most

most of all *integritie* of life and conversation. These when they met together (as they often did) in men admitted by the Church unto *holy Orders*, it was not either thought or found (and indeed how could it?) that their admittance into *Orders* did take off from any of those natural or acquired indowments of which before they were possessed, or that it was a *disabling* to them to make use thereof, in any matter of debate or action which concerned the publick. And that it hath been so of old in all *Christian Kingdomes*, besides that it is intimated by our Author here, we shall clearly see by looking over such particulars as have most influence and power in the affairs of *Christendom*.

And first beginning (as of right) with the *German Empire*, *Thuanus* gives this note in general *b*, *Imperium in tria omnino membra* *b* August. Thuan. an. bist. lib. 2. *dividi*, that that Empire is divided into *three Estates*, over all which the *Emperour* is the head or the Supreme Prince. Of these the first Estate is *ex sacro Ordine*, of the holy *Hierarchie*, composed of the three *spiritual Electors*, together with the residue of the Archbishops and Bishops, and many Abbots, Priors, and other Prelates. The second is of the *Nobilitie* consisting of the three *temporal Electors*, the Dukes, Marquesses, Lantgraves, Burgraves, Earls and Barons, of which there

is no determinate number; the Emperour having power to adde dayly to them, as he sees occasion. The *third Estate* is of the free or *Imperial Cities*, in number 60. or thereabouts, who represent themselves at the General *Diets*, by such Commissioners or Deputies as are authorized to that purpose. Now for these *Diets*, (for by that name they call their *Conventus Ordinum*, or Assembly of the *three Estates*) they are summoned at the will and pleasure of the Emperour only, and at such place and time as to him seems meetest. Where being met, (as all the *three Estates* must meet either in person or by their Ambassadors) they use to treat of Peace, and War, of raising Subsidies and Taxes to support the State, of leagues and confederacies, of raising and decrying moneys, of making, abrogating, and expounding laws, and of such other points and matters as do pertain unto the honour of the Empire and the publick safetie. Nor is this any new authoritie which the *Ecclesiastical Estate* hath gained in the latter times; but such wherein they were intrusted from the first beginning of that Empire: It being affirmed by *Aventinus* (a Writer of unquestioned credit) that long before the institution of the seven Electors, (which was in *An. 996.*) the *Prelates*, the *Nobilitie*, and the chief of the people had

et Id. *ibid.*

had the election of the Emperour *d.* And if the Prelates were intrusted in so high a point, as the election of the Emperour or the Sovereign Prince; no question but they were employed also in his publick Councils, in matters which concerned the managerie of the Common-wealth.

*d. Aventini An-  
nal. Brixiorum.  
l. 5.*

Next pass we over into *France*, and there we finde the Subjects marshalled into three *Estates*; whereof the *Clergie* is the first. *Rex coactis tribus Ordinibus, Sacerdotio, Nobilitate, Plebe, subsidia rei pecuniariae petit*, that is to say, the King assembling or convening the three *Estates*, *viz.* the *Clergie*, the *Nobilitie*, and the *Commons*, demanded subsidies for the support of his Estate; So *Paulus Aemilius* doth inform us: Out of these three are chosen certain *Delegates* or *Commissioners*, some for each *Estate*, as often as the Kings occasions doe require their meeting, the time and place whereof is absolutely left unto his disposing; and these thus met doe make up the *Conventus Ordinum*, or *L'Assemblee des Estats*, as the *French* men call it, in form much like the *English* Parliament, but in nothing else: the power and reputation of it being much diminished in these latter times, especially since the great improvement of the Court of *Parliament*, fixed and of long time fixed in *Paris*.

*e Paul. Aemili-  
us hist. Franc.  
l. 9.*

Which Court of Parliament, as it was instituted at the first by *Charles Martell*, Mayre of the Palace to the *Merovignian* line of France and Grandfather to *Charle magne*; so it consisted at the first of the same ingredients, of which the great Assembly *des Estats* consisteth now, that is to say, the *Prelates*, and the *Peers*, and certain of the principal Gentry which they call *La nobless*, together with some few of the most considerable Officers of the Kings household. A Court of such esteem in the former times, that the Kings of *Sicilie*, *Cyprus*, *Bobemia*, *Portugal*, *Scotland*, and *Navarre*, have thought it no disparagement unto them to be members of it: and which is more, when *Frederick* the second had spent much time and treasure in his quarrels with Pope *Innocent* the fourth, he was content to submit the whole cause in difference unto the judgement of this Court. But being at last become *sedentaire* and fixed at *Paris*, as other ordinary Courts of Justice were, (which was in *An. 1286.* or thereabouts) the *Nobles* first, and after them the *Bishops* withdrew themselves from the troubles of it, and left it to the ordering of the *Civil Lawyers*: though still the *Peeres* doe challenge and enjoy a place therein as oft as any point of moment is in agitation; the Bishop of

*Paris,*

f. And: e du  
C. bofne.

*Paris*, and the Abbot of *St. Denys*, continuing constant members of it to this very day. But for the *Assemblée des Estats*, or *Conventus Ordinum*, made up of the *Clergie*, the *Nobilitie* and the *Commons*, as before I told I you: he that would see the manner of it, the points there handled, and that remainder of authority which is left unto them, let him repair unto *Thuanes*, and look upon the great Assembly held at *Blois*, An. 1573. g Thuan hist. sui temp. lib. He shall finde it there.

Pass we next over the *Pyrenees*, to the *Pealms of Spain*, and we shall finde in each the same three *Estates*, whose meeting they call there by the name *h* of *Curia*, the h Bodin. de Re- pub. lib. 3. c. *Court*, *κατ' ἐξουσίαν*, or by way of eminencie; consisting of the *Clergie*, the *Nobilitie*, and the *Commissioners* of the *Provinces* and most *antient Cities*. But we must tell you by the way, that long before the institution of these *Courts*, and long before the division of *Spain* into so many *Kingdomes*, the *Prelates* of that *Church* were of such authority, that a chief stroke in the election of their *Kings* did belong to them. For in the eighth Council of *Toledo* summoned by *Racesvintus* the 25. of the *Gothish* race of the *Kings of Spain*, An. 653. so long agoe, in which were present 52 *Bishops*, 12 *Abbots*, and the *Delegates* or *Vicars* of ten other *Bishops*, who could

not personally attend the service; it was ordered with the Kings consent, that from thenceforth the Kings of *Spain* should be elected in the Regal City, or in what other place soever the King should happen to decease, by the joynt suffrages of the *Prelates*, and the great Lords of the Court, *Majores Palatii* as the Canon calls them *i*. But take the whole Canon with you for the more assurance, and you finde it thus. *Abhinc ergo & deinceps ita erunt in Regni gloria proficiendi Rectores, ut aut in urbe Regia, aut in loco ubi Princeps decesserit, cum Pontificum Majorumq; Palatii omnimodo eligantur assensu.* But after *Spain* became divided into several Kingdomes, and that each Kingdome had its Court, or *Curia*, as they call their Parliament, the *Clergie* were esteemed in each for the *third Estate* (the first indeed of all the three) and either in person or by their *Proxies*, made up the most considerable part in those publick meetings. For proof of which we need but look into the *General history of Spain*, translated out of *French* by *Grimston*, and we shall finde a Court or Parliament for the Realm of *Aragon*, consisting of the *Bishops, Nobles, and Deputies of Towns and Commonalties*, having place in the said *Estates* convened by King *James*

at

*i* Concil. Tolet.  
VIII. Can. 10.

at Saragossa Anno 1325. for settling the Succession, and declaring the Heir *k*, another *k* Gen. hist. of Spain. l. 14. at Monson, where the Estates of Aragon and Catalogne did convene together 1236, to consult about the conquest of Valentia *l*; and 1<sup>st</sup> d. lib. 11. before that another Assemblée of the Bishops and Noblemen called at Saragossa by Alfonso the Great, touching the War against the Moores *m*. And as for the Realm of m *Id. lib. 9.* Naples, and Sicily, being appends on this Crown, there is little question to be made but that the Bishops and Clergie of both enjoyed the place and priviledges of the third Estate; both Kingdomes being antiently holden of the Pope, and of his Ereccion and the Italian Bishops (as lying directly under his nose) more amply priviledged for the most part then in other Countries. Thus for Castile, we finde a Parliament of Lords, Prelates, and Deputies of Towns summoned at Toledo by Alfonso the Noble, *An. 1210.* upon occasion of an invasion made by the Moores; *n* another before that at Bur- n *Id. lib. 10.* gos, under the same King, Anno 1179. for levying of money on the people to maintain the Wars *n*; that great Convention of the States held at Toledo by Ferdinand the Catholick 1479. for swearing to the succession of his Son, Don John, in which the  
 Prelates,

o. Id. lib.

*Prelates, the Nobility, and almost all the Towns and Cities, which sent Commissioners to the Assembly, are expressly named o. Thus finally doe we finde a meeting of the Deputies of the three Estates of Navarre at the Town of Tafalla, Anno 1481. for preserving the Kingdome in obedience to King Francis Phæbus, being then a minor, under age p: and that the Deputies of the Clergie, Nobilitie, Provinces and good Towns of Portugal, assembled at Tomara, An. 1581. to acknowledge Philip the second for their King, and to settle the Government of that Kingdome for the times to come q.*

p. d. lib. 22.

q. Id. lib. 30.

Now let us take a view of the Northern Kingdomes, and still we finde the people ranked in the self same manner, and their great Councils to consist of the Clergie, the Nobilitie, and certain Deputies, sent from the Provinces and Cities, as in those before. In Hungarie, before that Realm received the Gospel, we read of none but *Nobiles & Plebei* r, the Nobilitie and common people who did concur to the election of their Kings; but no sooner was the Faith of Christ admitted, and a Clergie instituted, but instantly we finde a third Estate, *Episcopos & Sacerdotum Collegia* s, Bishops and others of the Clergie super-added

r. Bonfinius in  
hist. Hungar.  
Dec. l. 1.

s. Id. ibid. Dec.  
2. l. 2.

to them, for the election of the Kings, and the dispatch of other businesses which concerned the publick, as it continueth to this day. In *Danemark* we shall finde the same, Id. Decad. 2. l. 3. if we mark it well. For though *Pontanus* seem to count upon *five Estates*, making the Regall Family to be the first, and subdividing the *Commons* into two, whereof the Yeomanry makes one, and the Tradesman or Citizen the other: yet in the body of the History we finde only *three*, which u Pontan in 1 Doria descrpt. are the *Bishops*, the *Nobility*, and *Civitatium delegati* x, the Deputies or Commissioners of Towns and Cities: Take which of x Id. in histor. Rerum Danic. l. 7. these Accompts you will, and reckon either upon Five or on *three Estates*, yet still the *Ecclesiastick State*, or *Ordo Ecclesiasticus*, as himself entitleth it, is declared for one; and hath been so declared, as their stories tell us, ever since the first admittance of the Faith amongst them: the *Bishops*, together with the *Peers* and *Deputies*, making up the *Comitia* or *Conventus Ordinum*. In *Poland* the chief sway and power of government, next to the King, is in the Councill of Estate. *Secundum Regem maxima & Augustissima Senatus autoritas*, as *Thuanus* hath it y. y Thuan. hist. sui temp. l. 56. And that consisteth of nine Bishops, whereof the Archbishops of *Guisna* and *Leopolis*.

Z

make

make alwaies two; of fifteen *Palatines*, for by that name they call the greater sort of the Nobility, and of sixty five *Chastellans*, which are the better sort of the *Polish* Gentry; who with the nine great Officers of the Kingdome, (of which the *Clergy* are as capable as any other sort or degree of subjects) doe complete that Councell. The Common people there are in no authority, (*a procuracione Reipub. omnino summissa*) not having any *Vote* or suffrage in the great *Comitia* *a*, or generall Assemblies of the Kingdome, as in other places. For *Sweden*, it comes neer the government and formes of *Danemark*, and hath the same *estates* and degrees of people as amongst the *Danes*, that is to say, *Proceres & Nobiles*, the greater and the lesse Nobility, *Episcopi & Ecclesiastici*, the Bishops and inferiour Clergy, *Civitates & universitates*, the Cities and Towns Corporate (for so I think he means by *universitates*) as *Thuanus* *b* mustereth them. And in this Realm the Bishops and Clergy enjoy the place and priviledges of the third Estate (notwithstanding the alteration of Religion) to this very day; the Bishops in their own persons, and a certain number of the Clergy out of every *Sochen* (a

di-

*a Thuan. hist. sui. temp. l. 56.*

*b. Id. lib. 131.*

division like our *Rurall Deapries* ) in the name of the rest, having a necessary Vote in all their Parliaments. And as for *Scotland*, their Parliament consisted anciently of *three Estates*, as learned *Camden* doth informe us, that is to say, the *Lords spirituall*, as Bishops, Abbots, Priors; the *Temporall Lords*, as Dukes, Marquesses, Earles, Vicounts, Barons; and the Commissioners of the Cities and Burroughs *c*; To which *c Camden in descripi. Scotia.* were added by King *James* two Delegates or Commissioners out of every County to make it more conforme to the *English* Parliaments. And in some Acts the Prelates are by name declared to be the third Estate, as in the Parliament, *Anno 1597. Anno 1606, &c.* for which I do referre you to the Book at large.

Z 2

(6) And

## VI.

(6) And now at last we are come to *England*, where we shall find that from the first reception of the Christian Faith amongst the *Saxons*, the *Ecclesiasticks* have been called to all *Publick Councils*, and their advice required in the weightiest matters touching the safety of the Kingdome. No sooner had King *Ethelbert* received the Gospel, but presently we read that as well the *Clergy* as the *Laity* were called unto the Common Councell: which the *Saxons* sometimes called *My-cell Synoth*, the Great Assembly, and sometimes *Wittenagemots*, the Councell or Assembly of the Wise men of the Realm. *Anno 605. Ethelbertus Rex in fide roboratus Catholica &c. Cantuarie convocavit commu-*

*d Coke on Liteson l. 2. sect.*

*e H. Spelman in Concil. P. 116.*

*ne concilium tam Cleri quam populi, &c. e*  
 “ King *Ethelbert*, as my Author hath it, being  
 “ confirmed in the Faith in the year 605.  
 (which was but nine years after his conver-  
 “ sion) together with *Bertha* his Queen, their  
 “ Son *Eadbald*, the most Reverend Archbi-  
 “ shop *Augustine*, and all the rest of the No-  
 “ bility, did solemnize the Feast of Christs  
 “ Nativity in the City of *Canterbury*; and did  
 “ there cause to be assembled on the ninth of  
 “ *January* the *Common-Councell* of his King-  
 “ dome, aswell the *Clergy* as the *Lay Subject*,  
 “ by whose consent and approbation, he cau-  
 “ sed

"sed the Monastery by him built, to be de-  
 "dicated to the honour of Almighty God, by  
 "the hand of *Augustine*. And though no  
 question other examples of this kinde may be  
 found amongst the *Saxon Heptarchs*, yet being  
 the *West Saxon* Kingdome did in fine prevail,  
 and united all the rest into one *Monarchy*:  
 we shall apply our selves unto that more pun-  
 ctually. Where we shall finde besides two  
 Charters issued out by *Athelstan, Consilio Wlfel-*  
*mi Archiepiscopi mei & aliorum Episcoporum*  
*meorum f,* by the advice of *Wlfelm* his Arch-<sup>f Ap. eund.</sup>  
 bishop and his other Bishops: that *Ina* in the <sup>p. 402, 403.</sup>  
 year 702. caused the great Councell of his  
 Realm to be assembled, consisting *ex Episco-*  
*pis, Principibus, proceribus, &c.* of Bishops,  
 Princes, Nobles, Earls, and of all the *Wise*  
*men, Elders, and People* of the whole King-  
 dome, and there enacted divers lawes for the  
 Weal of his Realm g. Thus do we read that <sup>g Apud eund.</sup>  
*Egbert*, who first united the seven Kingdomes <sup>p. 219.</sup>  
 of the *Saxons* under the name of *England*, did  
 cause to be conveened at *London* his Bishops  
 and the Peers of the highest rank, *pro consi-*  
*lio capiendo adversus Danicos Piratas h,* to ad-<sup>h Charta whit-</sup>  
 vise upon some course against the *Danish* Pi-<sup>lasi Mercio-</sup>  
 rates who infested the sea coasts of *England*.<sup>rum Regis ap.</sup>  
 Another Parliament or Councell, call it which  
 you will, called at *Kingsbury, Anno 855.* in  
 the time of *Ethelwolp* the Son of *Egbert, pro*  
nego-

i Chart. Ber-  
tulsi. Merc. Re-  
gii. ap. Ingulf.

*negotiiis regni* i. to treat of the affaires of the Kingdome: the Acts whereof are ratified and subscribed by the *Bishops, Abbots,* and other great men of the Realme. The same King *Ethelwolp* in a Parliament or Assembly of his States at *Winchester*, Anno 855.

k Ingulf. Cro-  
land. bish.

*Cum consilio* *Episcoporum & principum* k, by the advice and counsell of the *Bishops* and Nobility, confirmed unto the Clergy the tenth part of all mens goods; and ordered that the Tithe so confirmed unto them should be free *ab omnibus secularibus servitutibus*, for all secular services and impositions. In the reigne of *Edred* we finde this, Anno 948. *In Festo igitur nativitatis B. Mariæ cum universi Magnates regni per Regium edictum summoniti, tam Archiepiscopi & Episcopi ac Abbates, quam ceteri totius regni proceres & optimates Londoniis convenissent ad tractandum de negotiis publicis totius Regni* l: viz. That in the Feast of the

l id. ibid. p.  
497 edit. Lond.

Nativity of the blessed *Virgin*, the great men of the Realm, that is to say, *Archbishops, Bishops, Abbots, Nobles, Peeres*, were summoned by the Kings Writ to appear at *London*, to handle and conclude about the publick affaires of the Kingdome. Mention of this Assembly is made againe at the foundation and endowment of the Abbie of *Crowland* m: and afterwards a confirmation of the same by

m id. p. 500.

*Edgar,*

Edgar, Anno 966. *presentibus Archiepiscopis, Episcopis, Abbatibus & Optimatibus Regni n,* <sup>n Id. pag. 501.</sup>  
 in the presence of the *Archbishops, Bishops,* <sup>& 502.</sup>  
 Abbots and Peers of the Kingdom. Like convention of *Estates* we finde to have been called by *Canutus* after the death of *Edmund Ironside*, for the setting of the Crown on his own head, of which thus the Author o. *Cu-* <sup>o Rog. Hoveden. Annal part prior. p. 150.</sup>  
*jus post mortem Rex Canutus omnes Episcopos & Duces, nec non & principes cunctosq; optimates gentis Angliæ Londoniæ congregari jussit.* Where still we finde the *Bishops* to be called to *Parliament* as well as the *Dukes, Princes,* and the rest of the *Nobility;* and to be ranked and marshalled first (which clearly shewes that they were alwaies reckoned for the *first Estate*) before the greatest and most eminent of the *secular Peers.* And so we finde it also in a Charter of King *Edward the Confessor,* the last King of the *Saxon* race) by which he granted certain Lands and priviledges to the Church of *Westminster,* Anno 1066. *Cum consilio & decreto Archiepiscoporum, Episcoporum, Comitum, aliorumq; Optimatum p,* with the counsell and decree of <sup>p Ap. H. Spelman in Concil. p. 630.</sup>  
 the *Archbishops, Bishops, Earls,* and others of his *Nobles.* And all this while the *Bishops* and other *Prelates* of the Church did hold their Lands by no other tenure, then *in pura & perpetua eleemosyna q,* or *Frank al-* <sup>q Camden in Brit.</sup>  
*moigne,*

*moigne*, as our Lawyers call it: and therefore late in *Parliament* in no other capacity then as Spirituall persons meerly, who by their extraordinary knowledge in the word of God, and in such other parts of learning, as the world then knew, were thought best able to direct and advise their Princes in points of judgement. In which capacity and no other the *Priors* of the Cathedrall Churches of *Canterbury, Ely, Winchester, Coventry, Bath, Worcester, Norwich, and Durham*, the *Deans* of *Excester, York, Wells, Salisbury, and Lincoln*, the *Officiall* of the Archbishop of *Canterbury*, and the *Dean* of the *Arches*, the *Guardian* of the *Spiritualties* of any Bishoprick when the See was vacant, and the *Vicars generall* of such Bishops as were absent beyond the Seas, had sometimes place and suffrage in the house of Lords in the Ages following.

r Selden Titles of hon. part. 2. c. 5.

(7) But



*episcopi, sed Barones; nos Barones, vis Barones; Pares hic sumus (u).* We fit not here say they, as *Bishops* only, but as *Barons*; We are *Barons*, and you are *Barons*; here we sit as *Peers*. Which last is also verified *in terminis*, by the words of a Statute, or Act of Parliament, wherein the *Bishops* are acknowledged to be *Peers of the Land* (x). Now that the *Bishops* are a fundamental and essential part of the Parliament of *England*, I shall endeavour to make good by two manner of proofs; wherof the one shall be *de jure*, & the other *de facto*. And first we shal begin with the proofs *de jure*, and therein first with that which doth occur in the Laws of King *Athelstan*, amongst the which there is a Chapter (it is *Cap. 11.*) entitled *De officio Episcopi, & quid pertinet ad officium ejus*; and therein it is thus declared. *Episcopo jure pertinet omnem relictitudinem promoveri, de iis scilicet & seculi &c.* (z) *et convenit ut per consilium & testimonium ejus omne legis scitum, & Burgi mensura, & omne pondus sit secundum dictionem ejus institutum*, that is to say, it belongeth of right unto the Bishop to promote justice, in matters which concern both the Church and State; and unto him it appertaineth shat by his counsel and award, all Laws & Weights, and Measures be ordained thorowout the Kingdom.

2. Next we will have recourse to the old Record entitled *Modus tenendi Parliamentum*. In which it is affirmed, *ad Parliamentum summoniri & venire debere Archiepiscopos, Episcopos, Abbates, Priores, & alios majores cleri, qui tenent per Comitatum aut Baroniam ratione hujusmodi tenu-*

(u) Ap Sel-  
den. titles of  
hon. p. 2. c. 5.

(x) Stat. 25  
Edw. 3. c. 5.

(z) Spelm.  
concil. p. 402.

*ra* (\*), that all the *Arch-bishops, Bishops, Abbats, Priors, and other Prelates* of the Church, who hold their lands either by an *Earls fee* or a *Barons fee*, were to be summoned and to come to *Parliament* in regard of their tenure. 3. Next look we on the chartularies of King *Henry* the first, recognized in full Parliament at *Clarendon* under *Henry* the 2d. where they are called *actas consuetudines*, which declare it thus, *Archipiscopi, Episcopi, & universæ personæ qui de Rege tenent in Capite, habeant possessiones suas de Rege sicut Baroniam, &c. & sicut cæteri Barones debent interesse judiciis Curia Regis cum Baronibus, quousque perveniat ad diminutionem membrorum vel ad mortem* (\*). The meaning is in brief, that *Arch-bishops, Bishops, and all other ecclesiastical persons* which hold in *Capite* of the King, are to have and hold their lands in *Barony*, and that they ought as *Barons* to be present in all Judgements with the other *Barons* in the Court of *Parliament*, untill the very sentence of death or mutilation (which was very common in those times) was to be pronounced. And then they commonly did use to withdraw themselves, not out of any incapacity supposed to be in them by the Law of *England*, but out of a restraint imposed upon them by the *Canons* of the Church of *Rome*. 4. In the *great Charter* made by King *John* in the last of his reign, we have the form of summoning a *Parliament*, and calling those together who have votes therein, thus expressed at large. *Ad habendum commune consilium Regni de auxilio assidendo, &c. & de scutagiis assidendis, faci-*

(\*) *modus tenendi Parliament.*

(\*) *Matth. Paris in Hen. 2.*

1000.55 (5)

emus summoneri Archiepiscopus, Episcopus, Abba'es, Co-  
 mites, & Majores Barones Regni sigillatim per literas  
 nostras: Et præterea summoneri faciemus in generali  
 per Vice-Cornites & Ballivos nostros omnes alios qui in  
 Capite tenent ad certum diem, sc. ad terminum 40 die-  
 rum ad minus, et ad certum locum, &c. (a) In which we  
 have not only a most evident proof, that the Bishops  
 are of right to be called to Parliament, for grant-  
 ing subsidies and Escuage, and treating of the  
 great affairs which concern the kingdom, but  
 that they are to be summoned by particular Let-  
 ters, as well as the Earls and Barons or either of  
 them; A former Copy of which summons issued  
 in the time of the said King John, is extant on  
 Record, and put in print of late in the (b) Titles of  
 Honour. And we have here (I note this only by  
 the way) a brief intimation touching the form  
 of summoning the Commons to attend in Parliament,  
 and the time of 40 daies expressly specified to in-  
 tervene between the summons and the beginning  
 of the Parliament: Which Commons being such as  
 anciently did hold in Capite, and either having a  
 Knights fee or the degree of Knighthood, did first  
 promiscuously attend in these publick meetings,  
 and after were reduced to four (quatuor discretos  
 milites de Comitatu tuo, as (c) the writ ran unto the  
 Sheriff) and at last to two, as they continue to  
 this day. 5. We have it thus in the Magna  
 Charta of King Henry the 3d. the birth-right of the  
 English Subject, according as it stands translated  
 in the book of Statutes. First we have granted to  
 God, and by this our present Charter have confirmed for  
 us

(a) Id. in loh.

(b) Pt. 2: c. 5.

(c) Id. ibid.

us and our heirs for ever, that the Church of England shall be free, and shall enjoy all her whole Rights and Liberties *inviolable* (d). But it was a known *Right and Liberty* of the Church of England, that all the *Bishops*, and many of the greater *Clergy* (and peradventure also the *inferiour Clergy* whereof more anon) had their *Votes* in *Parliament*; and therefore is to be preserved *inviolable* by the Kings of *England*, their *Heirs* and *Successors* for ever. Which Charter as it was confirmed by a solemn Curse denounced on all the *Infringers* of it by *Boniface* Arch-bishop of *Canterbury* (e), and ratified (c) *Matth. Paris* in *Henr. 3.* in no fewer than 30 succeeding *Parliaments*: so was it enacted in the reign of *Edward* the first, that it should be sent under the *great Seal* of *England*, to all the *Cathedral Churches* of the *Kingdom*, to be read twice a year before the people (f); that they should be read four times every year in a full *County-Court* (g), and finally that all *judgements* given against it should be void (h). 6. We have the *Protoc.* of *John Stratford* Arch-bishop of *Canterbury* in the time of King *Edward* the 3d. who being in disfavour with the King, and denied entrance into the *House of Peers*, challenged his place and suffrage there as the *first Peer* of the *Realm*, and one that ought to have the *first Voice* in *Parliament* in right of his *See*. But hear him speak his own words, which are these that follow. *Amici* (for he spake to those who took witness of it) *Rex me ad hoc Parliamentum scripto suo vocavit, & ego tanquam major Par Regni post regem, & primam vocem habere debens in Parlamento, jura Ecclesie*

(d) Magna Charta cap. 1.

(c) Matth. Paris in Henr. 3.

(f) 25 Edw. 1. c. 2.

(g) 28 Edw. 1.

(c. 3.)

(h) 25 Edw. 1. c. 3.

(i) Antiqu.  
Britan. in Joh.  
Stratford.

meæ Cantuariensis *vendico*, & *ideo ingressum in*  
Parliamentum *peto* (i), which is full and plain.  
7. And lastly, there is the Protestation on Re-  
cord of all the Bishops in the reign of King *Richard*  
the 2d. at what time *William Courtney* was Arch-  
bishop of *Canterbury*: who being to withdraw  
themselves from the House of *Peers* at the pro-  
nouncing of the sentence of death on some guilty  
Lords, first made their *Procurators* to supply their  
rooms, & then put up their *Protestation* to preserve  
their Rights; the sum whereof, for as much as  
doth concern this business, in their own words  
thus. *De jure & consuetudine regni Angliæ ad*  
*Archiepiscopum Cantuariensem qui pro tempore fue-*  
*rit, nec non cæteros Suffraganeos confratres & com-*  
*patres, Abbates & Priores aliosq; Prælatos quoscunq;*  
*per Baroniam de domino Rege tenentes, pertinet in*  
*Parliamentis Regis quibuscunque, ut Pares regni præ-*  
*dicti personaliter interesse, ibidemque de regni negotiis*  
*ac aliis tractari consuetis cum cæteris dicti regni Pari-*  
*bus & aliis ibidem jus interessendi habentibus consu-*  
*lere & tractare, ordinare, statuere, & diffinire, ac cæ-*  
*tera facere quæ Parlamento ibidem imminent facien-*  
*da.* This put together makes enough abundantly  
for the proofs *de jure*, and makes the Bishops  
*right* to have *Vote* in Parliament to be undeniable;  
Let us next see whether this *right* of theirs be not  
confirmed and countenanced by continual pra-  
ctice, and that they have not lost it by *discontinu-*  
*ance*; which is my second kind of proofs, those I  
mean *de facto*. And first beginning with the reign  
of the *Norman Conquerour*, we find a Parliament  
af-

(k) In vita  
Gul. Court-  
ney.

assembled in the fifth year of that King, wherein  
 are present *Episcopi, Abbates, Comites, & Primate*  
*totius Angliæ* (l), the *Bishops, Abbats, Earls,* and (l) *Matth. Pa-*  
 the rest of the Baronage of *England*. In the 9th. *ris in Williel-*  
 year of *William Rufus* an Old Author telleth us, *mo 1.*  
*de regni statu acturus, Episcopus, Abbates, & quoscunque*  
*Regni proceres in unum precepti sui sanctione egit;*  
 that being to consult of the affairs of the King-  
 dom he called together by his writ the *Bishops,*  
*Abbots* and all the Peers of the Realm (m). Du- (m) *Eadmer.*  
 ring the reign of *Henry* the 2d. (for we will take *hist. Nov. l. 2.*  
 but one example out of each King reign, though  
 each Kings reign would yield us more) a *Parlia-*  
*ment* was called at *London*, wherein were many  
 things dispatched aswell of *Ecclesiastical* as secular  
 nature; the *Bishops* and *Abbats* being present with  
 the other Lords. *Coaesto apud Londoniam magno*  
*Episcoporum, & Procerum, Abbatumq; Concilio, mal-*  
*ta ecclesiasticarum & secularium rerum ordinata nego-*  
*tia, decisa litigia,* saith the Monk of *Malmesbu-*  
*ry* (n). And of this Parliament it is, I take it, (n) *Malmesb.*  
 that *Eadmer* speaketh, *Hist. Novell. l. 4. p. 91.* *hist. reg. Angl.*  
 Proceed we to King *Henry* the 2d. (for King *Ste-*  
*phens* reign was so full of wars and tumults that  
 there is very little to be found of *Parliaments*) and  
 there we find the *Bishops* with the other Peers con-  
 vened in Parliament for the determination of the  
 points in controversie between *Alfonso* King of  
*Castile* and *Sancho* King of *Navarre*, referred by  
*comprise* to that King of *England*, and here deter-  
 mined by King *Henry* amongst other things, *habito-*  
*cum Episcopis Comitibus et Baronebus cum delibera-*  
*tione*

(o) *Hoveden* *ratione consilio*, as in *Roger Hoveden* (o). Next him comes *Rich.* the first, his Son, during whose imprisonment by the D. of *Austria*, his Brother *John* then Earl of *Moriton* indeavoured by force and cunning in *Normandy* to set the Crown on his own head; which caused *Hubert* the Arch-bishop of *Canterbury* to call a Parliament (*Convocatis coram eo Episcopis, Comitibus et Baronibus regni*) (p) wherein the *Bishops*, Earls, and Barons did with one consent agree to seize on his estate, and suppress his power, the better to preserve the Kingdom in wealth, peace and safety. After succeeded *John*, and he calls a *Parliament*, wherein were certain Laws made for the defence of his Kingdom, *Communi assensu Archiepiscoporum, Episcoporum, Comitum, Baronum & omnium fidelium suorum Angliæ*; by the common counsell and assent of the *Arch-bishops*, *Bishops*, Earls, Barons, and the rest of his Leiges. (Remember what was said before touching the writ of Summons in the said Kings time) From this time till the last Parliament of King *Charles*, there is no Kings reign, of which we have not many (though not all) the Acts of Parliament still in print amongst us. Nor is there any Act of *Parliament* in the printed Books, to the enacting of the which the *Bishops* approbation and consent is not plainly specified, either in the general *Proeme* set before the *Acts*, or in the body of the *Act* it themselves; as by the books themselves doth at large appear. And to this kind of proof may be further added the form and manner of the writ by which the Prelates in all times have been

called to Parliament, being the very same *verbatim* with that which is directed to the temporal Barons, save that the *Spiritual* Lords are commanded to attend the service, *in fide & dilectione*, the temporal *in fide & homagio*, and of late times *in fide & ligeantia*. A form or copy of which summons as ancient as King *Johns* time, is still preserved upon Record, directed *nominatim* to the Arch-bishop of *Canterbury* (r); and then a *scriptum est similiter* to the residue of the *Bishops*, *Abbats*, *Earls*, and *Barons*. Then add the *Privilege* of Parliament for themselves and their servants, during the time of the *Sessions*; the liberty to kill, and take one or two of the *Kings Deer* as they pass by any of his *Forests* in coming to the Parliament upon his commandment (s); their enjoying of the same immunities, which are and have been heretofore enjoyed by the *Temporal* Barons (t): and tell me if the *Bishops* did not sit in Parliament by as good a title, and have not sat there longer by some hundreds of years in their *Predecessours*, as or than any of the *Temporal* Lords do sit or have sat there in their *Progenitours*; and therefore certainly *essential*, *fundamental* parts of the Court of Parliament.

(r) V. Titles of hon. pt. 2. c. 5.

(s) Charra de Foresta cap.

(t) Cambden in Britannia.

8. But against this it is objected, first, that some *Acts* have passed in Parliament, to which the *Prelates* did not vote, nor could be present in the House when the Bill was passed; as in the sentencing to death or mutilation of a guilty person: as doth appear both by the laws & constitutions recognized at *Clarendon*, and the following pra-

VIII.

tice. This hath been touched on before, & we told you then; that this restraint was laid upon them, not by the Common law of *England*, or any *Act* or *Ordinance* of the House of *Peers*, by which they were disabled to attend that service. It was their own voluntary *Act*, none compelled them to it, but only out of a conformity to some former *Canons* (*ad sanctorum Canonum instituta* (x), as their own words are) by which it was not lawfull for the *Clergy men* to be either *Judges* or *Assessors* in *causa Sanguinis* (y). And yet they took such care to preserve their Interests, that they did not only give their *Proxies* for the representing of their persons, but did put up their *Protestation* with a *salvo jure* for the preserving of their rights for the time to come: *jure Paritatis & interessendi in dicto Parlamento* (z) *quoad omnia & singula ibi exercenda in omnibus semper salvo*, as the manner was. Examples of the which are as full and frequent, as their withdrawing themselves on the said occasions. But then the main objection is, that as some *Acts* have passed in Parliament *absentibus Prelatis*, when the *Bishops* did absent themselves of their own accord; so many things have been transacted in the Parliament *excluso Clero*, when the *Clergy* have been excluded or put out of the House by some *Act* or *Ordinance*. A precedent for this hath been found and published by such as envied that poor remnant of the Churches honour: though possibly they will find themselves deceived in their greatest hope, and that the evidence will not serve to evince the cause. The Author

(x) Antiqu.  
Brit. in Gul.  
Courtney.

(y) Constitur.  
O. liobon. fol.  
45.

(z) Antiqu.  
Britan. in Gul.  
Courtney.

of the Pamphlet entituled, *The Prerogative and practice of Parliaments*, first laying down his *Tenet*, that many good *Acts of Parliament* may be made though the Arch-bishops and Bishops should not consent unto them (a) (which is a point no man doubts of, considering how easily their *negative* may be over-ruled by the far greater number in the House of *Peers*) adds, that at a Parliament holden at *St. Edmundsbury* 1196 in the reign of *Ed: 1.* a Statute was made by the King, the Barons, and the *Commons*, *Excluso Clero*, & for the proof hereof refers us unto Bishop *Jewell*. Now Bishop *Jewell* saith indeed, "that in a *Parliament* solemnly holden at *St. Edmundsbury* by King *Edward 1.* Anno 1296. "the *Arch-bishops* and *Bishops* were quite shut forth, and yet the *Parliament* held on, and good, "and wholsome laws were there enacted, the departing or absence of the *Lords Spiritual* notwithstanding (b). In the Records whereof it is written thus, *Habito Rex cum Baronibus suis Parlamento, & Clero excluso statutum est*, &c. the King keeping the *Parliament* with his Barons; "the *Clergy* (that is to say, the *Arch-bishops*, and " *Bishops*) being shut forth, it was enacted, &c. Wherein who doth not see, if he hath any eyes, that by this reason (if the proof be good) many good *Acts of Parliament* may be made, though the *Commons* either out of absence or opposition should not consent unto them; of whose consent unto that Statute (whatsoever it was) there is as little to be found in that *Record*, as the concurrence of the *Bishops*. But for Answer unto so much

(a) Printed at  
London.  
1628. p. 37.

(b) Defence  
of the Apolog.  
pt. 6. c. 2. §. 1.

of this Record so often spoke of and applauded as concerns the Bishops, we say, that this (if truly fenced as I think it be not) was the particular act of an angry and offended King against his *Clergy*, not to be drawn into example as a proof or Argument against a most clear, known, and undoubted right. The case stood thus, A Constitution had been made by *Boniface* the 8th. *Ne aliqua collecta ex ecclesiasticis proventibus Regi aut curvis alii Principi concedatur* (c), that *Clergy men* should not pay any tax or tallage unto Kings or Princes out of their *Spiritual* preferments, without the leave of the Pope: under pretence whereof the *Clergy* at this Parliament at *S. Edmundsbury*, refused to be contributory to the Kings occasions, when the Lay-Members of the House had been forwards in it. The King being herewith much offended, gives them a further day to consider of it, adjourning the *Parliament* to *London*, there to begin on the morrow after *S. Hilaries* day; and in the mean time commanded all their *Barns* to be fast sealed up. The day being come, and the *Clergy* still persisting in their former obstinacy, *excluso e Parlamento Clero Consilium Rex cum solis Baronibus & populo habuit, totumque statim Clerum protectione sua privavit* (d); the King (saith the Historian) excluding the *Clergy* out of the Parliament, advised with his *Barons* and his people only, what was best to be done, by whose advise he put the *Clergy* out of his protection, and thereby forced them to conform to his will and pleasure. This is the *summa totalis* of the business, and comes unto no

(c) Marth.  
Westm. in  
Edw. 1.

(d) Antiqu.  
Brit. in R.  
Winchelsey.

more but this, that a particular course was advised in Parliament on a particular displeasure taken by the King against the body of his *Clergy* then convened together, for their particular refusal to contribute to his wants & wars, the better to reduce them to their natural duty. Which makes not any thing at all against the right of Bishops in the House of *Peers*, or for excluding them that House, or for the validity of such Acts as are made in Parliament during the time of such exclusion: especially considering that the King shortly after called his *States* together, and did excuse himself for many extravagant Acts which he had committed (e) against the liberties of the Subject (whereof this was one) laying the blame thereof on his great occasions, and the necessities which the wars which he had abroad, did impose upon him. And so much as in Answer unto that Record, supposing that the words thereof be rightly fenced, as I think they are not, and that by *Clerus* there we are to understand *Arch-bishops* and *Bishops*, as I think we be not, there being no Record (I dare boldly say it) either of History or Law, in which the word *Clerus* serves to signify the *Arch-bishops*, and *Bishops*, exclusive of the other *Clergy*; or any writing whatsoever, wherein it doth not either signify the whole *Clergy* generally, or the *inferiour Clergy* only exclusive of the *Arch-bishops*, *Bishops*, and other *Prelates*. Therefore in answer unto that so much applauded Cavil of *Excluso Clero*, from what Record soever it either hath been hitherto or shall hereaf-

(e) *Walsingh.*  
in *Edw. 3.*  
anno 1297.

ter be produced, I shall propose it to the consideration of the sober Reader, whether by *Clerus* in that place, or in any other of that kind and time, we must not understand the *inferiour Clergy*, as they stand distinguished in the Laws from my Lords the Bishops. For howsoever it be true, that *Clerus* in the *ecclesiastical* notion of the word doth signifie the whole *Clergy* generally, Arch-bishops, Bishops, Priests, and Deacons: yet in the *legal* notion of it, it stands distinguished from the *Prelates*, and signifieth only the *inferiour Clergy*. Thus do we find the *Ecclesiasticks* of this Realm divided into *Prelates, men of Religion, and other Clerks*, 3. *Edw. 1. c. 1.* the *Seculars* either into *Prelates and Clerks*, 9 *Edw. 2. c. 3.* 1 *Rich. 2. c. 3.* or *Prelates and Clerks beneficed*, 18 *Edw. 3. c. 2.* or generally into the *Prelates and the Clergy*, 9 *Edw. 2. c. 15.* 14 *Edw. 3. c. 1.* & 3. 18 *Edw. 3. 2. 7.* & 25 *Edw. 3. 2. 4.* & 8 *Hen. 6. c. 1.* and in all acts and grants of Subsidies, made by the *Clergy* to the Kings or Queens of *England* since the 32 of *Henry 8.* (when the *Clergy* subsidies first began to be confirmed by act of Parliament) So also in the *Latin* idiom, which comes nearest home, *Nos Praelati & Clerus* in the submission of the *Clergy* to King *Henry 8.* (f), and in the sentence of divorce against *Anne of Cleve* (g), and in the instrument of the grant of the *Clergy* subsidies presented to the Kings of *England* ever since the 27 of Queen *Elizabeth*, and in the form of the Certificates (per (h) *Praelatos & Clerum*) returned by every Bishop to the Lord High Treasurer, and

(f) Regist.  
Waltham.

(g) Regist.  
Cranmer.

(h) Statut. 8  
Eliz. c. 17. &  
ever since.

finally, *Nes Episcopi & Clerus Cantuariensis Provincia in hac Synod. more nostro solito dum Regni Parliamentum celebratur, congregari* (i), in the petition to K. K. Phillip and Mary, about the confirmation of the Abby lands to the Patentees. So that though many Statutes have been made in these later times, *exclaso Clero*, the Clergy (that is to say the inferiour Clergy) being quite shut out, and utterly excluded from those publick Counsaills; yet this proves nothing to the point that any act of Parliament hath been counted good to which the *Bishops* were not called, or at the making of which Act they either were *shut out* by force, or excluded by cunning. As for *Kilbancies* book which that Author speaks of (k), in which the Justices are made to say 7 H. 8. that *our Sovereign Lord the King may well hold his Parliament by him and his Temporal Lords, and by the Commons also, without the Spiritual Lords, for that the Spiritual Lords have not any place in the Parliament chamber by reason of their Spiritualities, but by reason of their Temporal possessions*: besides that it is only the opinion of a private man, of no authority or credit in the Common wealth, and contrary to the practice in the *Saxon* times in which the Bishops sat in Parliament as *Spiritual* persons, not as *Barons*; the reason for ought I can see, will serve as well to pretermitt all or any of the *Temporal* Lords, as it can serve to pretermitt or exclude the Bishops, the *Temporal* Lords being called to Parliament on no other ground, than for the *Temporal* possessions which they hold by *Barony*.

(i) Stat. i  
Phil. & Mar.  
c. 8.

(k) Prerog. &  
priv. of Parli.  
p. 38.

IX.

9. If it be said that my second answer to the argument of *Excluso Clero* supposeth that the inferior clergy had some place in Parliament, which being not to be supposed makes the Answer void: I shall crave leave to offer some few observations unto the consideration of the sober and impartial Reader, by which I hope to make that supposition probable, and perhaps demonstrative. First then we have that famous Parliament (call it *Concilium magnum*, or *Concilium commune*, or by what other name soever the old writers called it) summoned by King *Ethelbert*, anno 605. which my (l) Author calleth *Commune concilium tam Cleri quam Populi*, where *Clerus* comprehendeth the body of the Clergy generally, as well the *Presbyters*, as the *Bishops*; as the word *populus* doth the lay-subject generally, as well *Lords* as *Commons*; or else the *Lords* and *Commons* one of the two must be needs left out. And in this sense we are to understand these words in the latter times, as where we read that *Clerus* (m) *Angliæ & populus Univerſus* were summoned to appear at *Westminster*, at the Coronation of King *Henry* the first, where divers Laws were made and declared, subscribed by the *Arch-bishops*, *Bishops*, and others of the principal persons that were there assembled: that *Clero & populo convocato* (n), the Clergy and people of the Realm were called to *Clarendon*, anno 1163. by King *Henry* the second, for the declaring and confirming of the Subjects liberties: that in the year 1185 towards the later end of the

(l) Concil.  
Hen. Spelm.

(m) Matth.  
Paris in Hen.  
1.

(n) Rog. Hov.  
in Hen. 2.

the

the said Kings reign, *Convocatus est Clerus & populus cum tota Nobilitate ad fontem Clericorum* (o), the (o) Matth. Paris in Hen. 2. Clergy, Commons, and Nobility were called unto the Parliament held at *Clerkenwell*: and finally that a Parliament was called at *London*, in which the Arch-bishop of *Canterbury* was present, *cum toto Clero & tota secta Laicali* (p), in the time of (p) Quadri- log. ap. Selden Tir. of Hon. Pr. 2. c. 5. King *John*. Hitherto then the *Clergy* of both ranks and orders, as well as *Populus* or *tota secta Laicallis*, the Subjects of the *Laity*, or the Lords and Commons, had their place in *Parliament*. And in possession of this right the *Clergy* stood when the *Magna Charta* was set out by King *Henry* the 3d, wherein the freedoms, rights, and privileges of the *Church of England* ( of which this evidently was one ) was confirmed unto her (q): of the (q) Magna Charta cap. 1. irrefragable and *inviolable* authority whereof we have spoke before. The Cavill of *Excluso Clero* which hath been used against the voting of the Bishops in the house of *Peers*, comes in next for proof, that the *inferiour Clergy* had their place or *vote* with the house of Commons; (if in those times the Lords and Commons made two houses, which I am not sure of) the *Clergy* could not be excluded in an angry fit, or out of a particular design to deprive them of the benefit of the Kings protection; if they had not formerly a place amongst them: & if we will not understandly *Clerus*, the inferior *Clergy*, which much about that time (as before we shewed) began to be the *legal English* of the word; we must needs understand the whole *Clergy* generally, the *Clergy* of both ranks and orders.

ders. But our main proofs are yet to come, which are these that follow. First it is evident that anciently the *Clergy* of each several *Diocese* were chargeable by Law for the expences of their *Proctors* in attending the service of the Parliament; according as the *Counties* were by *Common law* (since confirmed by Statute 23 *H. 6. c. 11.*) to bear the charges of their *Knights*, the *Burroughs* and *Cities* of their *Representees*: which questionless the Laws had not taken care for, but that the *Clergy* had their place in Parliament, as the *Commons* had. And this appears by a Record (z) of 26 of King *Edward* the 3<sup>d</sup>. in which the *Abbat* of *Leicester* being then, but never formerly commanded to attend in Parliament, amongst others of the *Regular Prelates*; petitioned to be discharged from that attendance, in regard he held in *Frank-Almoigne* only, by no other tenure. Which he obtained upon this condition, *ut semper in Procuratores ad hujusmodi Parliamentia mittendos consentiat, & ut moris est, eorundem expensis contribuat*, that is to say, that he and his Successors did give their voyces in the choyse of such *Procuratours*, as the *Clergy* were to send to Parliament, and did contribute towards their charges as the custom was. Next in the *Modus tenendi Parliamentum*, which before we spake of, there is a *modus convocandi Clerum Angliæ ad Parl. Regis* (r), a form of calling the *English Clergy* (that is the *Prelates & Clergy* as *John Selden* (e) renders it) to the Court of Parliament; said to be used in the time of *Edward* the Son of *Ethelred*, presented to the *Conquerour*, and

(z) Rotul.  
Parent. 26 Ed.  
3. pt. 1. M. 22.

(r) Modus re-  
nendi Parl. &  
Mr.

(s) V. Titles  
of hon. pt. 2.

and by him observed: which shews the *Clergy* in those times had their place in Parliament. Which being but a general inference shall be delivered more particularly from the *Modus* it self, which informs us thus, *Rex est caput, principum & finis Parliamenti, &c.* (t) "The King is the head, the beginning and end of the *Parliament*, and so he hath not any equal in the first degree; the second is of *Arch-bishops, Bishops, and Priors, and Abbats* holding by *Barony*; the third is of *Procurators* of the *Clergy*; the fourth of *Earls, Barons, and other Nobles*; the fifth is of *Knights of the Shire*; the sixth of *Citizens and Burgeses*: and so the whole *Parliament* is made up of these six degrees. But the said *Modus* tells us more, and goeth more particularly to work than so. For in the ninth chapter, speaking of the course which was observ'd in canvassing hard and difficult matters, it telleth us that they used to choose 25 out of all degrees, (like a grand Committee) to whose consideration they referred the point; that is to say, two *Bishops*, and three *Proctors for the Clergy*, two *Earls*, three *Barons*, five *Knights*, five *Citizens*, and as many *Burgeses*. And in the 12th. that on the fourth day of the *Parliament* the *Lord high Steward*, the *Lord Constable*, and the *Lord Marshal* were to call the house, every degree or rank of men in its several Order; and that if any of the *Proctors of the Clergy* did not make appearance, the *Bishop of the Diocese* was to be fined 100*l.* And in the 23d. chapter it is said expressly, that as the *Knights*,

(t) *Modus tenendi Parl Ms. c. 12.*

Citizens, & Burgesſes in things which do concern the *Commons* have more authority than all the Lords; ſo the *Proctors for the Clergy*, in things which do concern the *Clergy*, have more authority than all the Biſhops. Which *Modus* if it be as antient as the *Norman Conquerour*, as both Sir *Edward Coke* conceiveth (u), and the title ſignifieth, it ſheweth the *Clergies* claim to a place in Parliament to be more antient than the *Commons* can pretend unto; but if no older than the reign of King *Edward third*, as confidently is affirmed in the *Titles of Honour* (x), it ſheweth that in the uſage of thoſe later times the *Procurators* of the *Clergy* had a right and place there as well as Citizens and Burgesſes, or the Knights of the Shires. And this is further proved by the *writs of Summons* directed to the *Arch-biſhops* and *Biſhops*, for their own coming to the Parliament; in the end whereof there is a clauſe for warning the *Dean* and *Chapter* of their *Cathedralls*, and the *Arch-deacons* with the whole *Clergy* to be preſent at it, that is to ſay the *Deans* and *Arch-deacons* perſonally, the *Chapter* and *Clergy* in their *Proctours*, then and there to conſent to ſuch Acts and Ordinances as ſhall be made by the *Common counſail* of the Kingdom. The whole clauſe word for word is this (y), *Præmunientes Priorem & Capitulum (or Decanum & Capitulum as the caſe might vary) Eccleſiæ veſtræ N. ac Archidiaconos totumque Clerum veſtræ Dioceſeos, quod iidem Decanus & Archidiaconi in propriis perſonis ſuis, ac dictum Capitulum per unum, idemque Clerus per duos Procura-*

(u) Preface to the 9th. part. of Reports.

(x) Titles of hon. pt. 2. c. 5.

(y) Exant ibid. pt. 2. c. 5.

tores idoneos plenam & sufficientem potestatem ab ipsis Capitulo & Clero habentes, predicto die & loco personaliter interfint, ad consentiendum iis quæ tunc ibidem de communi consilio ipsius Regni nostri divina favente clementia contigerit ordinari. Which clause being in the Writs of King Edward 1. and for the most part of the reign of his next Successors', till the middle of King Richard the second, at which time it began to be fixt and formal; hath still continued in those writs (*without any difference almost between the Syllables*) to this very day (z). (z) Id. ibid.

Now that this clause was more than Verbal, and that the Proctors of the Clergy did attend in Parliament, is evident by the Acts and Statutes of King Richard the second: the passages whereof I shall cite at large, the better to conclude what I have in hand. The Duke of Gloucester and the Earl of Arundel having got the mastery of the King, obtained a Commission directed to themselves and others of their nomination, to have the rule of the King and his Realm (a): and having their Commission confirmed by Parliament, in the 11 year of his reign, did execute divers of his Friends and Ministers, and seized on their Estates as forfeited. (a) Statut. 21 R. 2. c. 2.

But having got the better of his head-strong and rebellious Lords, in the one and twentieth of his reign he calls a Parliament, in the Acts whereof it is declared, "That on the Petition of the Commons, of the assent of all the Lords Spiritual and Temporal, and of the Proctors of the Clergy, he repealed the said Statute and Commission (b), (b) Ibid. c. 25

"and with the assent of the said Lords and Com-

"mons did ordain and establish that no such Commis-  
 "sion nor the like be henceforth purchased, pursued or  
 "made. This done, the heirs of such as had  
 "been condemned by vertue of the said Com-  
 "mission, demanded restitution of their Lands  
 "and Honors. And thereupon the Lords Spiritual  
 "and Temporal, and the Procuratours of the Cler-  
 "gy (the Commons having prayed to the King before  
 "as the Appellants prayed) severally examined did  
 "assent expressly that the said Parliament and all the  
 "Statutes, &c. should be voyd, &c. and restitution  
 (c) Ibid. c. 12. "made as afore is said. (c) And also the Lords Spi-  
 "ritual and Temporal, the Procuratours of the  
 "Clergy, and the said Commons were severally  
 "examined of the Questions proposed at Nottingham,  
 "and of the Answer which the Judges made unto the  
 "same; which being read aswell before the King  
 "and the Lords, as before the Commons, it was  
 "demanded of all the States of the Parliament, what  
 "they thought of the Answers, and they said that  
 "they were lawfully & duly made, &c. And then  
 "it followeth, whereupon the King, by the assent of the  
 "Lords Spiritual and Temporal, and the Procura-  
 "tours of the Clergy and the said Commons, and  
 "by the advise of the Iustices and Sergeants a'ore-  
 "said (who had been asked their opinion in point  
 "of Law) ordained and established that the said  
 "Parliament should be annulled and held for none".  
 Adde unto this that passage in the 9 of Edward 2.  
 where it is said, that many Articles containing  
 divers grievances committed against the Church of  
 England, the Prelates & Clergy, were propounded by  
 the

the Prelates and Clerks of our Realm, in Parliament, and great instance made that convenient remedy might be appointed therein (d): that of the complaints made to the King in Parliament by the Prelates and Clergy of this Realm, 50 Ed. 3. 5. & 8 Rich. 2. c. 13. and that of the Petition delivered to the King in Parliament by the Clergy of England, 4 Hen. 4. c. 2. And finally that memorable passage in the Parliament, 51 Edw. 3. which in brief was this. The Commons finding themselves agrieved aswell with certain Constitutions made by the Clergy in their Synods, as with some laws or Ordinances which were lately passed, more to the advantage of the Clergy than the Common people, put in a Bill to this effect, viz. "That no Act nor Ordinance should from thenceforth be made or granted on the Petition of the said Clergy, without the consent of Commons; and that the said Commons should not be bound in times to come, by any constitutions made by the Clergy of this Realm, for their own advantage, to which the Commons of this Realm had not given consent". The reason of the which is this (and 'tis worth the marking) "*car eux ne veullent estre obligez a nul de vos estatuz ne Ordinances faitz sanz leur assent*", because the said Clergy did not think themselves bound, (as indeed they were not in those times) by any Statute, Act, or Ordinance, made without their Assent in the Court of Parliament". Which clearly shews that in those times the Clergy had their place in Parliament as the Commons had. Put all which hath been

(d). Proem ad articulos Cleri.

Selden hist. of Tithes. c. 8. 33.

been sayd together, and tell me; if it be not cleer and evident that the *inferiour Clergie* had their place in Parliament; whether the Clause touching the calling of them thither, were not more than verbal in the Bishops writs, and is true that in the writ of summons directed to their severall and respective Bishops they were called only *ad consentiendum*, to manifest their consent to those *Acts* and *ordinances*, which by the *Common counsell* of the Realm were to be ordained. But then it is as tru withall, that sometimes their advice was asked in the weighty matters, as in the 21 of *K. Richard the 2.* and sometimes they petitioned and remonstrated for redress of grievances, as in the instances and cases which were last produced. And 'tis as true that if they had been present only *ad consentiendum*, to testifie their assent to those Acts which by the common Counsell of the Realm were proposed unto them: their presence was as necessary, and their voice as requisite to all intents and purposes (for ought I can see) as the voice and presence of the *Commons* in the times we speak of. For in the writs of summons issued to the severall Sheriffs for the electing of Knights, Citizens and Burgesses to attend the Parliament, it is said expressly, first that the King resolveth upon weighty motives touching the weal and safety both of Church and State to hold his Parliament, (e) *et ibidem cum Prælati, Magnatibus et Proceribus dicti regni nostri colloquium habere et tractare*, then and there to advise and treat with

(e) Fo ma  
Brevis pro  
summonit.  
Parliamenti.

with

with the *Prelates*, *Peers* and *Nobles* of this Realm: Which words are also expressly used in the writs of summons directed to the *Bishops*, and to every of them; who also are required in a further clause *consilium suum impendere* (f), to give (f) *Titles of* the King their best advice in his great affairs. hon. part 2. cap. 5.

So that the *Prelates* and *Nobility* convened in Parliament made the Kings great Counsel, and were called thither to that end. What then belonged unto the *Commons*? 1. No more than did belong to the *Clergy* also; that is, to say, the giving of their consent to such *Laws* and *Statutes* as should there be made. VVhich notwithstanding in tract of time gave them such a sway, and stroak in the course of Parliaments, that no law could be made, nor no tax imposed without their liking and allowance. And this is that which is expressed in the last clause of the said writ, by which the *Knights* and *Burgeses* are to come prepared (g) *ad faciendum et consentiendum* (g) Forma Brevis, &c. *is quæ tunc ibidem de consilio dicti Regni nostri super negotiis antedictis contigerint ordinari.* VVhich is the very same which you had before in the writ directed to the *Bishops*, for summoning the *Clergie* of their several *Diocesses*, and that here is a *faciendum* which the other had not. A word which if you mark it well, hath no operation in the Construction of the text, except it be in paying *subsidies*, or doing such things as are appointed to be done by that great Counsel of the Kingdom; VVhich clause, though it be cunningly left out (that I may say no worse) in

(h) Declaration of the treaty P. 15.

the recital of the writ by the Author of the Book entitled, the *Prerogative and practice of Parliaments*: is most ingenuously acknowledged in the *Declaration* of the Lords and Commons assembled at Oxon, (h) where it is said, that *the writs of summons, the foundation of all power in Parliament, are directed to the Lords in expresse termes to treat and advise with the King and the rest of the Peers of the Kingdom of England; and to the Commons to do and consent to those things, which by that Common councill of England should be ordained.* And thus it stands, as with the Common people generally in most states of *Christendom*, so with the Commons anciently in most states of *Greece*; of which *Plutarch* telleth us (i), that when the people were assembled in Counsell, “it was not  
 “lawful for any of them to put forth matters to  
 “the Counsel to be determined, neither  
 “might any of them deliver his opinion what he  
 “thought of any thing, but the people had only  
 “authority *την ωνδ την γερουσιαν κ; την βασιλειαν προσεδεισαν*  
 “*συμμνην επιριπαι*, to give their assent unto such  
 “things as either the Senators or their Kings do  
 propound unto them.

(i) Plutarch in Lyncorgo:

X

10. But against this it is objected, first, that it is not to be found at what time the *Clergie* lost their place and *vote* in Parliament, and therefore it may reasonably be presumed that they had never any there: and 2ly. that if they had been called *ad consentiendum* (though no more than so) we should have found more frequent  
 mention.

mention of their consent unto the Acts & Statutes in our printed Books. For answer unto which it may first be said, that to suppose the Clergie had no voice in Parliament, because it is not to be found when they lost that Privilege, is such a kind of Argument (if it be an argument) as is made by *Bellarmino*, (k) to prove that many of the controverted Tenets of the Church of *Rome*, are neither erroneous nor new, because we cannot say expressly, *quo tempore*, *quo autore*, when and by whose promoting they first crept in. And though we cannot say expressly when the *inferiour Clergy* lost their place in Parliament, in regard it might be lost by *discontinuance* or *non-usage*; or that the clause was pretermitted for some space of time the better to disuse them from it; or that they might neglect the service in regard of their attendance in the Convocation, which gave them power and reputation both with the Common people: yet I have reason to beleve, that this pretermision and disuse did chiefly happen under the government of the Kings of the house of *Lancaster*, who being the true heirs and successours of *John of Gaunt*, cast many a longing eye on the Church revenues, and hardly were perswaded to abstain from that height of sacrilege, which *Henry the 8* did after come to. And this I am induced to beleve the rather, in regard that in the *confirmation* of the Churches rights so solemnly confirmed and ratified in all former *Parliaments*; there was a clog put to or added in these times, which shook the Fabrick:

(k) *Bellarmino*.  
de *Eccl. lib.*  
4. cap. 5.

the confirmation being first of such rights and liberties as were not repealed; 3 Hen. 5. cap. 1. & 4 Hen. 5. cap. 1. and afterwards of such as by the Common law were not repealeable, 2 Hen. 6. cap. 1. which might go very far indeed. And secondly I find that in the 8 of Henry the 6. an Act of Parliament was passed, that all the Clergy called to Convocation by the Kings writ, and their servants and Family shall for ever hereafter fully use and enjoy such liberty and defence in coming tarrying and returning, as the great men and Comminalty of the Realm of England called to the Kings Parliament

(1) 8 Hen. 6. do enjoy, (l) &c. Which being an unnecessary care or caution when the Clergie had their voice in Parliament, and very necessary to be taken formerly, if they had never had such voice: makes me conceive, that it was much about this time that they lost that privilege. But this I leave as a conjecture, and no more than so. For answer to the second argument, that if they had been called of old *ad consentiendum*, we should have found more frequent mention of their consent unto the Acts and Statutes of the former times; besides that it is a *negative* proof, and so *non concludent*, it strikes as much against the presence and consent of the *Knights* and *Burgesses* in the elder Parliaments, as it can do against the *Clergie*. For in the elder Parliaments under K. Henry 3. and K. Edward the first there is no mention of the *Commons* made at all, either as present or consenting; nor much almost in all the Parliaments till K. Henry 7. but that they did petition for

For redresse of greivances, and that upon their special instance and request (m) several laws were made for the behoof and benefit of the Commonwealth: which part the Clergie also acted in some former Parliaments, as before was shewed. So that this negative Argument must conclude against both or neither. But secondly I answer, that in these elder times in which the *Proctors* for the Clergie had their place in *Parliament*, they are included generally in the name of the *Commons*. And this I say on the authority of the old *modus tenendi Parliamentum*, in which the *Commons* are divided in the *Spirituality* and the *Temporality*; and where it is expressly said that the *Proctors for the Clergie, the Knights, the Citizens* and the *Burgesses* did represent the whole *Comminality* of the Realm of England (a). (a) Cap. ult.

And this holds good in law ( for ought I find unto the contrary ) to this very day. Certain I am that *Crompton* in his book of the *Jurisdiction of Courts*, where he speaks of Parliaments, doth tell us that the *Knights, Citizens, Burgesses, and Barons of the Cinque ports, (b) ove le Clergie qu' eux assemble au Pawles, represent le corps de tout le Comminality Dengliterre,* together with the Clergie which assembled at *S. Pauls*, doe represent the body of the whole *Comminality of England*. So then, the *Clergie* were not only called but were present also, according to that clause in the writ of *Summons* ( which before I spake of ) directed to their several and respective *Bishops, as the Kings spiritual Sheriffs, if I may so say, enabled*

(m) In the Proem to the several Sessions.

(b) Grompton Jurisd. des. Courts, cap.

inabled by the Laws to that end and purpose. Which some endeavouring to avoid, have at last found out that the clause before recited out of the Writ to the *Bishops*, is not a calling of the *Clergy* to attend in *Parliament*, but to command them to attend in the *Convocation*: which I have heard much pressed by those who pretend unto some knowledge in the course of things. Which though it be a gross mistake, and inconsistent with the words and circumstances of the Writ it self, which relates meerly to the *Parliament*, and business of a *Parliamentarie* nature: yet for the clearing of the point, and undeceiving such as have been deceived, they may please to know, that besides this Writ by which the *Clergy* are commanded to appear in *Parliament*, there is another writ and another form of calling them unto the service of the *Convocation*, which is briefly this. The King sends out his Writ or *Mandat* to the Arch-bishop of *Canterbury*, requiring him *super quibusdam arduis & urgentibus negotiis, &c.* (n). for divers great and weighty reasons concerning the Kings honour, the Churches safety, and the publick peace of his dominions, to summon all the *Bishops*, *Deans* and *Chapters*, *Archdeacons*, and the whole *Clergy* of his Province to meet in *Convocation* at a day and place appointed. On the reception of which Writ the Arch-bishop sendeth out his *Monitory* to the Bishop of *London* (who by his place is *Dean* of the *Episcopal* College (o), and to disperse the *Mandates* of the *Metropolitan*): requiring him to appear himself in person,

(n) Regist.  
Warham.

(o) Antiqu.  
Britan. in  
initio.

person, and to send out his warrant unto every Bishop of the Province, to appear there also, and to take order that the *Deans* of the Cathedrals, and *Arch-deacons* personally, the Chapter by one *Procurator*, the Clergy of the Diocese by two, (whom we usually call *Clerks of the Convocation*) do attend that service (p). VVhich comming to the hands of each severall Bishop they do accordingly give intimation to their *Deans* and Chapters, to their *Arch-deacons* and the Clergy; and they accordingly prepare themselves to obey the *Monitory*, and to return Certificate of their doings in it. The like proceeding is observed also for the Province of *York*. So that the calling of the Clergy to the *Convocation* being by a different *VVrit* and another form, which hath no reference to nor dependance on the writs directed by the K. to each severall Bishop for their attendance in the Parliament, it must needs be (as I conceive it) that by that clause remaining in the *VVrits* aforesaid, the Clergy have good right and title to a voice in Parliament, though they have lost their *ius in re*, the benefit, the use and possession of it.

(p) Regist.  
Watham,

II. But I speak this as once the *Apostle* said in another case, *not by commandement but by permission*. For I perswade my self the Clergy do not aim so high at the recovery of a right so long antiquated and disused, but would be well enough content with the restitution of the *Bishops* to their *vote* in Parliament, of which they stood possessed by so strong a Title, as the very constitution of the *Parliament*, and the *fundamental*

XI.

tal laws of the *English* government could confer upon them. For though the Bishops sat in Parliament in their own *personal capacities*, and not as the *representative* body of the *Clergy*; yet the poor *Clergy* found it some respect unto them to be thus honoured in their *heads*: and were the more obliged to obey such Acts as were established in that Court, wherein these *heads* had opportunity of interceding, if perhaps any thing were propounded which might be grievous to the *Clergy*, and many times a power of *hindering* and diverting if not by voice and numbers, yet by strength of reasons. They were not altogether *Slaves* and *Bond-men* whilest the Church held that remnant of her antient rights; for whilest the *heads* retained that honor, the body could not choose but rejoyce in it and be cherished by it. But since they have been stripped of that (by what unworthy Acts the world knows too well) they are become of such condition, that the most despicable Tradesman in a *Corporate* Town is more considerable in the eye of the State, and hath a greater interest in the affairs thereof, than the greatest *Prelate*, and to say truth than all the *Clergy* of the Realm. For being there are three Ingredients which make up a Freeman (as *S. Francis Bacon* well observed in his speech concerning the *Post-nati*) that is to say, 1. *ius Civitatis*, which did enable a man to buy and sell, and to take Inheritances; 2. *ius suffragii*, a voice in the passing of Laws and Election of Officers; and 3. *ius honoris*, a capability of such offices

and

and honors as the State could give him: the Clergy by this means are limited to the first right only, & utterly excluded from the other two, and thereby put into a worse condition, than the meanest Freeman in the Kingdome. In somuch that whereas every needy *Artizan* if he be free of any *Corporate Town* or *City*, every *Cottager* that dwelleth in an antient *Burrough*, and every *Clown* which can lay claim to forty shillings *per Annum* of free hold, either for life or of inheritance, hath a voyce in Parliament, either in person or by *Proxie*; and is not bound by any law but what himself consents to in his *Representatives*: the Clergy only of this Realm (as the case now stands) being *one of the greatest States of this Kingdom*, as is acknowledged expressly *in terminis* by Act of Parliament (p), are neither capable of place there in their personal capacities, nor suffered to be there (p) 8 Eliz. c. 1. in their *Procuratours*, as of old they were; nor have so much as any voice in choosing of the *Knights* and *Burgesses* which represent the body of the people generally. I know it hath been said in reply to this, that the Clergy may give voices at the election of the *Knights* and *Burgesses*, and that it is their own neglect if they do it not. But I know too, that this is only yielded unto such of the Clergy, as are possessed of Lands and Houses in those several places where such elections are to be made, and not then neither in most places, except it be to make a party for particular ends, especially where some good man or the

main cause it self is concerned therein : which as it totally excludeth the greatest part of the *Clergy* from having any voice at all in these Elections, (the greatest part of the *Clergy* (the more the pity) having neither Lands nor Houses to such a value in *fee simple*) so it gives no more power unto those that have, than what of necessity must serve (I am sure occasionally it may) to their own undoing. For to say truth, those that give out that the *Clergy* may give voice at such elections, use it but as a thift for the present turn : intending nothing less indeed (as hath oft been seen) than that the *Clergy* should be capable of so great a trust. The reason is, because there is not any *Free-man* of a City or a Corporate town who hath a voice in the election of a *Citizen* to serve in Parliament, nor almost any *Cottager* or *Free-holder* who hath a voice in the election either of a Knight or Burgesse, but is directly eligible to the place himself. Of Citizens & Burgessees slected from the very meanest of the people, we have many instances, and shall have more according as they find their strength, and have received a taste of the sweets of Government. And for the choosing of the Knights of the severall Shires, it is determined by the Statutes that as 40 s. land of free-hold *per Annum* (q), is enough to qualifie a Clown for giving a voice at the election ; so the same Clown if he have 20 l. land *per Annum* is capable of being chosen for a Knight of the Shire, as appears plainly and expressly by the Statute law. For though the writ

di-

(q) 8 Hen. 6.  
c. 7.

directed to the severall and respective Sheriffs prescribe a choice of *duos milites gladio cinctos*; yet we know well that by the Statute of King Henry 6. which is explanatory in this case of the Common law, *such notable Esquires or Gentlemen, born of the same Counties, as shall be able to be Knights* (r), are made as capable as a *dubbed Knight* to attend that service; and he that hath no more than 20*l. per Annum* either in *Capite* or *Socage* is not only able by the law to be made a *Knight* (s), but was compellable thereunto even by the Statute-Law it self, untill the Law was lately altered in that point (t). And on the other side it is clear enough (for there have been of late some experiments of it) that though a *Clergy-man* be born an *Esquire* or *Gentleman* (for they are not all born *ex fece Plebis*, as the late Lord Brook (u) forgetting his own poor extraction hath been pleased to say) and though he be possessed of a fair *Estate* descended to him from his *Ancestors*, or otherwise possessed of some *Lands* or *Houses* in *Town*, *Burrough*, or *City*, whereby he stands as eligible in the eye of the Law, as any *Lay-Gentleman* of them all; yet either he is held incapable, and so pretermitted; or if returned, rejected at the House it self to his sowl reproach. It is a Fundamental constitution of the Realm of *England*, that every *Free-man* hath a voice in the *Legislative* power of *Parliament*: & it is an old rule in *Politics*, *quod omnes tangit ab omnibus tractari debet* (x). Which being now denyed to the *English Clergy*, reduceth to them to that

(r) 23 Hen. 6.

(s) 1 Ed. 2. c. 1.

(t) 17 Carol. c. 1.

(u) L. Brook against Epl-ccpacy.

(x) And so acknowledged in a writ of Summons of K. Edw. 1.

condition which *St. Paul* complains of; and make them no otherwise accounted of by the Common people, than as, *καθ' ἑαυτὰ καὶ μετὰ πάντας, the filth and off-scouring of the world to this very day.*

## XII.

12. This tempts me to a brief discussion of a question exceeding weighty in it self, but not so much as thought of in this great *disfranchisement*, the slavery obtruded lately on the *English Clergy*; that, is to say, *whether that any two of the three Estates conspiring or agreeing together can conclude on any thing unto the prejudice of the third.* *Bodin* that renowned *States-mandorh* resolve it negatively; and states it thus, *nihil a duobus ordinibus discerni posse, quo uni ex tribus incommodum inferatur, si res ad singulos ordines seer-*

(z) *Bodin. de Rep. l. 3. c. 7.*

*sum pertinet* (z), that nothing can be done by two of the *Estates* to the disprofit of the *third*, in case the point proposed be such as concerns them severally. The point was brought into debate upon this occasion. *Henry* the 3<sup>d</sup>. of *France* had summoned an *Assembly* of the *three Estates* or *Conventus Ordinum* to be held at *Blois*, *Anno 1577*. (The form and order of the which we have at large described by *Thuanus Lib. 63.*) But finding that he could not bring his ends about so easily with that numerous body, as if they were contracted to a narrower compass, he caused it to be mov'd unto them that they should make choice of 36, twelve of each *Estate*. *quos Rex cum de postulat* *decerneret in consilium adhibere dignaretur* (a),

(a) *Thuanus in hist. temp. 4. 63.*

whom

whom the King would deign call to counsaile for the dispatch of such affairs and motions as had been either moved or proposed unto him. Which being very readily assented to by the Clergy and Nobility, who hoped thereby to find some favour in the Court, and by degrees to be admitted to the *Privy Counsel*, was very earnestly opposed by *Bodin*, being then Delegate or Commissioner for the Province of *Veromandois*, who saw full well that if businesses were so carried, the *Commons* (which made the *third Estate*,) would find but little hopes to have their grievances redressed, their petitions answered. (b) And therefore labour-  
 ed the rest of the Commissioners not to yield (b) *Bodin. de Rep. l. 1. c. 7.*  
 unto it, as being utterly destructive of the Rights and Liberties of the Common people: which having done, he was by them intrusted to debate the business before the other *two Estates*, and did it to so good effect, that at the last he took them off from their resolution, and obtained the cause. What Arguments he used in particular, neither himself nor *Thuanus* telleth us. But sure I am that he insisted both on the ancient customes of the Realm of *France*, as also of the Realms of *Spain* and *England*, and the *Roman Empire*; in each of which it was received for a *ruled case*, *nihil a duobus ordinibus statui posse, quo uni ex tribus prejudicium crearetur*, that nothing could be done by any of the two Estates unto the prejudice of the third.

And if it were a *ruled* case, then in the Parliament of *England*, there is no reason why it should be otherwise in the present times, the equity and justice of it being still the same, and the same reasons for it now as forcible, as they could be then. Had it been otherwise resolved of in the former ages, wherein the *Clergy* were so prevalent in all publique Counsaills, how casie a matter had it been for them either by joyning with the *Nobility* to exclude the *Commons*, or by joyning with the *Commonalty* to exclude the *Nobles*? Or having too much conscience to adventure on so great a change, an alteration so incompatible and inconsistent with the Constitution of a Parliament; how easily might they have suppressed the *potency*, and impaired the *Privileges* of either of the other two, by working on the humours or affections of the one to keep down the other? But these were Arts not known in the former daies, nor had been thought of in these last, but by men of *ruine*, who were resolved to change the Government (as the event doth shew too clearly) both of Church and State. Nor doth it help the matter in the least degree, to say that the exclusion of the Bishops from the House of *Peers*, was not done meerly by the practice of the two other Estates, but by the asserc of the King, of whom the Laws say *he can do no wrong*, and by an Act of Parliament wincrof our Laws yet say, *quæ nul doit imaginer chose dishonourable*,

nourable (c), that no man is to think dishonourably. For we know well in what condition the King was when he passed that Act, to what extremities he was reduced, on what terms he stood, how he was forced to flye from his City of *London*, to part with his dear Wife and Children, and in a word so overpowred by the prevailing party in the two Houses of *Parliament*, that it was not safe for him (as his case then was) to deny them any thing. And for the Act of *Parliament* so unduly gained, besides that the Bill had been rejected when it was first brought unto the Lords, and that the greater part of the Lords were frighted out of the House, when contrary unto the course of *Parliament* it was brought again; it is a point resolved both in Law and reason, that the Parliament can do nothing to the destruction of it self, and that such Acts as are extorted from the King are not good and valid, whereof we have a fair example in the Book of Statuers (d). “For (d) 15 Ed. 3: “whereas the King had granted certain Articles pretended to be granted in the form of a Statute, expressly contrary to the Laws of the Realm and his own Prerogative and rights royal (mark it, “for this is jult the case) which he had yielded “to eschew the dangers, which by denying of the “same were like to follow:” in the same Parliament it was repealed in these following words; It seemed good to the said Earls, Barons, and other wise

(c) Plowden  
in Commen-  
tar.

*wise men, that since the Statute did not proceed of our free will, the same be void; and ought not to have the name nor strength of a Statute, and therefore by their counsail and assent we have decreed the said Statute to be void, &c. Or if it should not be repealed in a formal manner, yet is this Act however gotten, void in effect already by a former Statute, in which it was enacted in full Parliament, and at the self same place where this Act was gained, that the Great Charter (by which and many other Titles the Bishops held their place in Parliament) should be kept in all points, and if any Statute be made to the contrary, it shall be holden for none (e).*

(e) 4<sup>th</sup> Ed. 3.  
c. x.

CHAP.

## C H A P. VI.

*That the three Estates of every Kingdom where<sup>d</sup> of CALVIN speaks, have no authority either to regulate the power, or controll the Actions of the Sovereign Prince.*

(I.) *The Bishops and Clergy of England, not the King, make the third Estate, and of the dangerous consequences which may follow on the contrary Tenet.*

(II.) *The different influence of the three Estates upon conditional Princes, and an absolute Monarch.*

(III.) *The Sanhedrim of no authority over the persons, or the actions of the Kings of Judah.*

(IV.) *The three Estates in France of ~~a~~ small how authority over the actions of that King.*

(V.) *The King of Spain not over-ruled, or regulated by the three Estates.*

(VI.) *Of what authority they have been antiently in the Parliaments of Scotland.*

(VII.) *The King of England alwaies accounted heretofore for an absolute Monarch.*

(VIII.) *~~The~~ part of Sovereignty invested legal-ly in the English Parliaments.* No

(IX.) *The three Estates assembled in the Parliament of England, subordinate unto the King, not co-ordinate with him.*

(X.) *The Legislative power of Parliaments is*  
G g
properly

*properly and legally in the King alone.*

(XI.) *In what particulars the power of the English Parliament doth consist especially.*

(XII.) *The Kings of England ordinarily overrule their Parliaments by themselves, their Counsel, and their Judges.*

(XIII.) *Objections answered touching the power and practice of some former Parliaments, and the testimonies given unto them.*

(XIV.) *No such Authority given by God in Holy Scripture to any such Popular Magistrates, as CALVIN dreams of and pretends.*

(XV.) *The Application and Conclusion of the whole Discourse.*

**I** Have been purposely more copious in the former Chapter, because I thought it necessary to declare and manifest who made the *three Estates* in each several Kingdom, which are pretended by our Author to have such power of regulating the authority, and censuring the actions and the persons of their *Sovereign* Princes. And this the rather in regard it is thought of late, and (more than thought) presented to the world in some publick writings, (especially as it relates to the Realm of *England*) that the King, the Lords, and Commons, make the *three Estates*: which brings the King into an equal rank with the other two in reference to the businesse and affairs of Parliament. A fancy, by what Accident soever it was broached and published, which

which hath no consistence either with truth, or ordinary observation, or with the practice of this Realm, or of any other. For the proof of this my position, that the *King is none of the three Estates* as is now pretended, if all proofs else should fail, I have one from *Calvin*, whose judgement in this point amongst many of us, will be *instar omnium*. For where he saith *in singulis Regnis tres esse Ordines*, (e) that there are three Estates in each severall Kingdom, and that these three Estates convened in *Parliament*, (or by what other name soever they call their meeting) are furnished with a power *Regum libidinem moderandi*, of moderating the licentiousness of *Kings* and *Princes*; and that they become guilty of perfidious dissimulation, *si Regibus impotenter grassantibus*, &c. If they connive at *Kings*, when they play the *Tyrants*, or wantonly insult on the *Common-people*: I trow it cannot be conceived that the *King* is any one of the *three Estates*, who are here trusted (or at least supposed to be intrusted) with sufficient power, as well to regulate his authority, as to controll his actions. If *Calvin* be allowed to have common sense, and to have wit and words enough to expresse his meaning, (as even his greatest Adversaries do confesse he had) it must be granted that he did not take the *King* of what Realm soever, to be any of the *three Estates*: or if he did, he would have thought of other means to restrain his insolencies, than by leaving him in his own hands, to his own correction. Either then *Calvin* is mistaken in the

(e) Calvin, instit. 4. cap. ult.

three Estates, (& if he be mistaken in designing the men he aims at, may he not be mistaken in the power he gives them?) or else the King is no e, & indeed can be none of the *three Estates, qui primarios conventus peragunt*, who usually convene in Parliament for those ends and purposes before remembered. But not to trust to him alone, though questionlesse he be *ideoneus testis* in the present case; Let us behold the Assembly of the *three Estates* or *Conventus Ordinum* in France (from whence it is conceived that all *Assemblies* of this kind had their first *Original*) and we shall find a very full description of them in the *Assemblée des Estats* at Bloys under Henry 3. Anno 1577. of which thus

(f) Thuanus  
in histor. sui  
temp. l. 63.

Thuanus. (f) “*Rex in sublimi loco sub uranisco sedebat,*  
“ &c. The King, saith he, sate on an high erect-  
“ ed Throne under the Canopy of State, the  
“ Queen-mother, and the Queen his wife, and all  
“ the Cardinals, Princes, Peers upon either hand.  
“ And then it followeth, *Transtris infra dispositis*  
“ *ad dextram suam sacri Ordinis Delegati, ad levam*  
“ *Nobilitas, & infra plebetus ordo sedebat*, that  
“ on some lower forms there sate the Delegates  
“ of the *Clergy* towards the right hand of the King,  
“ the *Nobility* towards the left, and the *Commis-*  
“ *sioners* for the Commons in the space below.”

We may conjecture at the rest by the view of this : Of those in *Spain*, by those Conventions of the States which before we spoke of, at *Burgos*, *Monson*, *Toledo*, and in other places, in which the King is alwaies mentioned as a different person, who called them, and dissolved them as he saw

occasion. For *Scotland*, it is ordinary in the stile of Parliaments, to say the *King and the Estates do ordain and constitute*; (g) (for which I do refer (g) Statutes of *Scotland*.) which clearly makes the K. to be a different person from the Estates of that Kingdome. And as for *England*, besides what may be gathered from the former Chapter, we read in the History of *Titus Livius*, touching the Reign and Acts of K. *Henry* the 5th. that when his *Funerals were ended*, the *three Estates of the Realm of England did assemble together and declared his Son K. Henry the 6. being an Infant of 8 months old to be their Sovereign Lord*, (h) as his Heir and Successor. (h) *Tit. Liv. M. S. in Bibl. Bodl.*

“And in the Parliament Rolls of K. *Richard* the 3d. there is mention of a Bill or Parchment presented to that Prince, being then Duke of *Glocester*, on the behalf and in the name of the *three Estates of this Realm of England*, that is to wit, of the *Lords Spiritual and Temporal*, and of the *Commons* by name: which forasmuch as neither the said *three Estates*, nor the persons which delivered it on their behalf were then assembled in form of *Parliament*, was afterwards in the first Parliament of that King by the same *three Estates* assembled in this present Parliament (I speak the very words of the Act it self) and by authority of the same, enrolled, recorded, and approved: (i) And at the request, and by the assent of the *three Estates of this Realm*, that is to say, the *Lords Spiritual*, and *Temporal*, and *Commons* of this Land assembled in this present Parliament, and by authority of the same, it

(i) *Ap Speed in K. Rich. 3<sup>d</sup>*

(k) 1 Eliz.  
cap. 3.

“be pronounced, decreed, and declared, that our  
 “said Sovereign Lord the King was, and is the  
 “very and undoubted heir of this Realm of Eng-  
 “land, &c.” And so it is acknowledged in a  
 (k) Statute of 1 Eliz. ca. 3. where the *Lords Spiritual  
 and Temporal, and the Commons in that Parliament as-  
 sembled*, being said expressly and in *terminis* to re-  
 present the three Estates of the Realm of England, did  
 recognize the *Queens Majesty to be their true, lawfull,  
 and undoubted Sovereign Liege Lady, and Queen.*  
 This makes it evident, that the King was not  
 accounted in the times before for one of the *three  
 Estates* of Parliament, nor can be so accounted in  
 the present times. For considering that the *Lords  
 and Commons* do most confessedly make two of the  
*three Estates*, and that the *Clergy* in an other Act of  
 Parliament of the said Queens time, are confes-  
 sed to be *one of the greatest States of the Realm*, (l) which  
 Statute being still in force, doth clearly make the  
*Clergy* to be the third; either there must be more  
 than *three Estates* in this Kingdome, which is a-  
 gainst the Doctrine of the present times, or else  
 the King is none of the *Estates*, as indeed he is not,  
 which was the matter to be proved. But I spend  
 too much time in confuting that which hath so  
 little ground to stand on, more than the *dangerous  
 consequences* which are covered under it: For if the  
 King be granted once to be no more than one of  
 the *three Estates*, how can it choose but follow from  
 so sad a *Principle*, that he is of no more power and  
 consideration in the time of *Parliament*, than the  
 House of *Peers*, which sometimes hath consisted of

(l) Statut. 8  
Eliz. cap. 1.

three Lords, no more; or than the House of *Commons* only, which hath many times consisted of no more than 80 or an hundred Gentlemen: but of far lesse consideration to all intents and purposes in the Law whatever, than both the *Houses* joyned together. What else can follow hereupon but that the King must be *co-ordinate* with his two Houses of Parliament, and if *co-ordinate*, then to be over-ruled by their Joynt concurrence, bound to conform unto their Acts, and confirm their *Ordinances*; or upon case of inconformity and *non-compliance* to see them put in execution against his liking and consents, to his foul reproach. And what at last will be the issue of this dangerous consequence, but that the *Lords* content themselves to come down to the *Commons*, and the King be no otherwise esteemed of than the chief of the Lords, the *Princeps Senatus* if you will, or the Duke of *Venice*, at the best no more, which if Sir *Edward Dering* may be credited, as I think he may in this particular, seems to have been the main design of some of the most popular and powerfull Members then sitting with him, for which I do refer the Reader to his book of Speeches. Which dangerous consequents whether they were observed at first by these who first ventured on the expression; or were providently looked over, I can hardly say. Certain I am, it gave too manifest an advantage to the *Antimonarchical* party in this Kingdome, and hardned them in their proceeding against their King, whom they were taught to look on and esteem

steem no otherwise than as a *Joynt-tenant* of the *Soveraignty* with the *Lords* and *Commons*. And if *Kings* have partners in the *Soveraignty*, they are then no *King*; such being the nature and law of *Monarchy*, that *si divisionem capiat interitum capiat* *neesse est*, (m) if it be once divided, and the authorities thereof imparted, it is soon destroyed. Such is the dangerous consequence of this new Expression, that it seemeth utterly to deprive the *Bishops*, and in them the *Clergy* of this Land, of all future hopes of being restored again to their place in *Parliament*. For being the *Parliament* can consist but of *three Estates*, if the *King* fall so low as to pass for one, either the *Bishops* or the *Commons*, or the *Temporal Lords* must desert their claim, the better to make way for this new pretension: and in all probability the *Commons* being grown so potent, and the *Nobility* so numerous and united in blood and mariages, will not quit their *interesse*; and therefore the poor *Clergy* must be no *Estate*, because lesse able, as the world now goeth with them, to maintain their title. I have often read that *Constantine* did use to call himself *ὁ ἐπίσκοπος ἐπίσκοπος* (n) the *Bishop* or *Superintendent* of his *Bishops*; and I have oft heard our *Lawyers* say, that *the King is the general Ordinary of the Kingdome*: but never heard nor read till within these few yearrs, that ever any *King* did possess himself of the *Bishops* place or *vote* in *Parliament*, or sate there as the first of the *three Estates* (as antiently the *Bishops* did) to supply their absence. By which device, whether the *Clergy*

(m) Lactant  
Institut. Div.  
l. i. c.

(n) Euseb.  
de vita Con-  
stant.

or the King be the greater losers (though it be partly seen already) future times will shew.

(2.) This rub removed, we next proceed to the examination of that power, which by our Author is conferred on the *three Estates*: which we shall find on search and tryal to be very different, according to the constitution of the Kingdome in which they are. For where the Kings are *absolute Monarchs*, as in *England, Scotland, France, and Spain*, (l) the *three Estates*, have properly and legally little more authority, than to advise their King, as they see occasion, to represent unto his view their common grievances, and to propose such remedies for redresse therof, as to them seem meetest, to canvass and review such erroneous judgements as formerly have passed in inferior Courts, and finally to consult about, and prepare such laws as are expedient for the publick. In other Countries where the Kings are more *conditional*, and hold their Crowns by compact and agreement between them and their Subjects; the reputation and authority of the *three Estates* is more high and eminent, as in *Polonia, Danemark*, and some others of the *Northern Kingdomes*, where the *Estates* lay claim to more than a *directive power*, and think it not enough to advise their King, unless they may dispose of the Kingdome also, or at least make their King no better than a *Royal Slave*. Thus and no otherwise it is with the *German Emperors*, who are obnoxious to the Laws, (m) and for their Government

II.

(l) Bodin de  
Repub. l. 7. c.

(m) Thuan:  
hist. sui temp.

accomprable to the *Estates* of the Empire : inso-  
much that if the Princes of the Empire be per-  
swaded in their consciences that he is likely by  
his *mal-administration* to destroy the Empire, and  
that he will not hearken to advice and counsel

(n) Anonym.  
Script. ap Phi-  
lip. Parzū in  
Append. ad  
Rom. 13.

(n) *ab Electorum Collegio Casaria potestate privari po-  
test*, he may be deprived by the *Electors*, and a more  
fit and able man elected to supply the place. And  
to this purpose in a Constitution made by the  
Emperor *Jodocus*, about the year 1410. there is  
a clause, that if he or any one of his Successors  
do anything unto the contrary thereof, the *E-  
lectors* and other States of the Empire *sine rebelli-*

(o) Goldast.  
Constit. Imp-  
rial. Tom. 3.  
P. 424.

*onis vel infidelitatis crimine libertatem habeant*, (o)  
should be at liberty without incurring the crimes  
of Treason or Disloyalty, not only to oppose,  
but resist them in it. The like to which occurs  
for the Realm of *Hungary*, wherein K. *Andrem*  
gives authority to his Bishops, Lords, and other

(p) Bonfi-  
nius de Edict.  
publ. p. 37.

Nobles *sine nota alicujus infidelitatis*; (p) that  
without any imputation of disloyalty, they may  
contradict, oppose, and resist their Kings, if they  
do any thing in violation of some Laws and san-  
ctions. In *Poland* the King takes a solemn oath at  
his Coronation, to confirm all the Privileges,  
rights and liberties which have been granted  
to his Subjects of all ranks and orders by any of  
his *Predecessors*: and then adds this clause, *quod si  
Sacramentum meum violavero, incolæ Regni nullam no-  
bis obedientiam præstare tenebuntur*; which if he vi-

(q) Bodin de  
Rep. lib. 1.  
c. p. 8.

olates, his Subjects shall no longer be obliged to  
yield him obedience. (q) Which oath as *Bodine*  
well

well observeth, doth favour rather of the condition of the *Prince of the Senate*, than of the *Majesty of a King*. The like may be affirmed of *Frederick* the first King of *Danemark*, who being called unto that Crown on the ejection of *K. Christian* the 2d. *An. 1523.* was so conditioned with by the “the Lords of the Kingdome, that at his coronation, or before, he was fain to swear, that he “would put none of the *Nobility* to death or banishment, but by the judgement of the Senate, “that the great men should have power of life “or death over their *Tenants* and *Vassals*, and “that no *Appeal* should lye from them to the “*Kings tribunal*, nor the King be partaker of “the confiscations; *nec item honores aut imperia “privatis daturum, &c* (r) nor advance any private (r) *Id. ibid.* “person to commands or honors, but by authority of his *great Counsel*.” Which oath being also taken by *Frederick* the second, made *Bodin* say, that the Kings of *Danemark*, *non tam reipsa quam appellare Reges sunt*, were only titular Kings, but not Kings indeed: Which character he also gives of the Kings of *Bohemia*. (s) But in an absolute Monarchy the case is otherwise, all the prerogatives and rights of Sovereignty being so vested in the Kings person, *ut nec singulis civibus nec univ. fac est, &c.* that it is neither lawful to particular men, nor to the whole body of the Subjects generally to call the Prince in question for life, fame, or fortunes: (t) and amongst these he reckoneth the kingdoms of *France, Spain, England, Scotland, the Tartars, Muscovites, &c* (c) *Id. ibid.* p. 210.

Africa & Asiae imperiorum, and of almost all the Kingdomes of *Africk*, and *Asia*. But this we shall the better see by looking over the particulars as they lye before us.

## III.

(3.) But first before we come unto those particulars we will look backwards on the condition and authority of the *Jewish Sanhedrim*; which being instituted and ordained by the Lord himself, may serve to be a leading case in the present business. For being that the *Jews* were the Lords own people, and their Kings honored with the title of the *Lords Anointed*: it will be thought, that if the *Sanhedrim*, or the great Council of the *seventie* had any authority and power over the Kings of *Judah*, (of whose *ius Regni* such a large description is made by God himself in the first of *Sam. cap. 8.*) the *three Estates* may reasonably expect the like in these parts of *Christendom*. Now for the authority of the *Sanhedrim*, it is said by Cardinal *Baronius*, that they had power of judicature over the Law, the Prophets, and the Kings themselves. (u) *Erat horum summa autoritas ut qui de lege cognoscerent, & Prophetis, & simul de Regnibus judicarent.* Which false position he confirms by as false an instance, affirming in the very next words, *horum iudicio Herodem Regem postulatum esse*, that King *Herod* was convicted and convicted by them; for which he cites *Iosephus* with the like integrity. I should have wondred very much what should occasion such a grosse mistake in the learned Cardinal, had I

(u) Baron.  
Annal. Eccl.  
An. 31 §. 10.

not shewn before, that as he makes the *Sanhedrim* to rule the King, so he hath made the high Priest to rule the *Sanhedrim*: which to what purpose it was done every man can tell, who knoweth the Cardinal endeavoureth nothing more in his large Collections, than to advance the dignity and *supremacy* of the Popes of *Rome*. (x) But for the power pretended to be in the *Sanhedrim*, and their proceedings against *Herod* as their actual King; *Iosephus* when he cite's is so far from saying it, that he doth expressly say the contrary. For, as *Iosephus* tells the story, *Hyrchanus* was then King, not *Herod*; and *Herod* of so little hopes to enjoy the Kingdom, that he could not possibly pretend any Title to it. But having a command in *Galilee* procured by *Antipater* his Father, of the good King *Hyrchanus*, he had played the wanton Governor amongst them, and put some of them to death against Law and Justice. For which the Mothers of the slain παρακαλέσαι τὸν Βασιλέα καὶ τὸν δῆμον, did often call upon the King and people in the open Temple, ἵνα δικάσῃ Ἡρώδην ἐν τῷ Συνηδίῳ, (y) &c. that *Herod* might answer for the murder before the *Sanhedrim*, Which being granted by the King, he was accordingly convented by them, and had been questionlesse condemned, had not the King, who loved him dearly, given him notice of it; on whose advertisement he went out of the Town, and so escaped the danger. This is the substance of that story: and this gives no authority to the Court of *Sanhedrim*, over the persons or the actions of the Kings of *Judah*. Others there

(x) Id. in Epist. dedicat.

(y) Joseph. Ant. q. Judic. l. 14. cap. 17.

- are, who make them equal to the Kings, though not superiour, (*Magnam fuisse Senatus auctoritatem & Regiæ velut parem*), (z) saith the learned *Grotius*: And for the proof thereof allege those words of *Sedechias* in the Book of *Jeremie*: who when the Princes of his Realm required of him to put the
- (z) *Grotius* in *Matth. cap. 5. v. 22.*
- (a) *Jerem. 38. 5.* Prophet to death, returned this Answer, (a) *Behold he is in your hand*, *Rex enim contra vos nihil potest, for the King is not he that can do any thing against you.* Which words are also cited by Mr. *Prynne* to prove that the King of *England* hath no
- (b) *Prynne* of *Negative voyce*; (b) but by neither rightly. For *Calvin* (who, as one observeth, composed his expostitions on the book of *God* according to the doctrine of his *Institutions*) (c) would not have lost so fair an evidence for the advancing of the power of his *three Estates*: had he conceived he could have made it serviceable to his end and purpose. But he upon the contrary finds fault with them, who do so expound it, or think the King did speak so honorably of his Princes, *ac si nihil iis sit nequandum* (d) as if it were not to deny them any thing.
- (c) *Hookers* *preface.*
- (d) *Calvin*, in *Jerem. 6. 38. v. 5.* Not so, saith he, it rather is *amerulenta Regis querimonia*, a sad and bitter complaint of the poor captivated King against his Counsellors; by whom he was so over-ruled, *ut velit nolit cedere iis cognitur*, that he was forced to yield to them whether he would or not: which he expressly calls *inexcusabilem arrogantium*, an intollerable piece of sawciness in those Princes, and an exclusion of the King from his legal rights.

IV.

(4) Let us next take a view of such Christian Kingdoms as are under the command of absolute Monarchs. And first we will begin with the Realm of *France*, the government wherof is meerly *Regal*, if not *despoticall*, such as that of a Master over his Servants: which *Aristotle* defineth to be a form of Government, καθ' ἣν ἕρχεται πάντα κατὰ τὴν ἑαυτοῦ βουλὴν ; Βασιλεύς, (c) wherin the King may do whatsoever he list, according to the counsel of his own mind. For in his *Arbitrary Edicts* which he sendeth abroad, he never mentioneth the consent of the People, or the approbation of the Counsel, or the advice of his Judges ( which might be thought to derogate too much from his *absolute power* ) but concludes all of them in this *Regal* form, *Car tel est nostre plaisir*, for such is our pleasure. And though the Court of *Parliament* in *Paris* do use to take upon them to peruse his *Edicts*, before they passe abroad for (d) *Laws*, and sometime to demurr on his grants, and patents, and to petition him to reverse the same, as they see occasion; yet their perusal is a matter but of meer *formality*, and their demurs more dilatory than effectual. It is the *Car tel est nostre plaisir* that concludes the business, and the Kings pleasure is the Law which that Court is ruled by. As for the *Assemblée des Estats*, or *Conventus Ordinum*, it was reputed anciently the Supreme Court for government and justice of all the Kingdom; and had the cognizance of the greatest and most weighty affairs of State. But these meetings have been long since

(c) *Aristot. Politic. l. 3.*

(d) *View of France by Dallington.*

(e) Thuanus  
hist. sul temp.

since discontinued, and almost forgotten: there being no such *Assembly* from the time of K. Charles the eighth, to the beginning of the reign of K. Charles the ninth, (e) which was 70 years, and not many since. And to say truth, they could be but of little use, as the world now goeth, were the meetings oftner. For whereas there are three Principal, if not sole occasions of calling this *Assembly*, or *Conventus Ordinum*, that is to say, the disposing of the *Regency*, during the nonage or sickness of the King, the granting *aids* and *subsidies*, and the redress of the *grievances*: there is now another course taken to dispatch their business. The Parliament of *Paris*, which speaks most commonly as it is prompted by power and greatness, appointeth the *Regents*, (f) the Kings themselves together with their Treasurers and Under-officers determine of the taxes, (g) and they that do complain of *grievances* may either have recourse to the Courts of justice, or else petition to the King for redress thereof. And for the making new Laws or repealing the old, the naturalization of the Alien, and the regulating of his sales or grants of the Crown-lands, the publick patrimony of the Kingdome, which were wont to be the proper subject and debates of these *grand Assemblies*: they also have been so disposed of, that the *Conventus Ordinum* is neither troubled with them, nor called about them. The *Chamber of Accompts* in *Paris* (which hath some resemblance to our Court of *Exchequer*) doth absolutely dispose of *Naturalizations*, and superficially surveyeth

(f) Contin.  
Thuan. An.  
1610.  
(g) View of  
France.

veyeth the Kings grants and sales, \* which they seldom cross. The Kings *Car tel est nostre plaisir* is the Subjects law, and is as binding as any Act or Ordinance of the *three Estates*: and for repealing of such Laws as upon long experience are conceived to be unprofitable, the Kings sole Edict is as powerfull as any Act of Parliament. Of which *Bodin*, doth not only say in these general terms, *Sape vidimus sine Ordinum convocacione & consensu leges à Principe abrogatas* (k). that many times these Kings did abrogate some antient laws without the calling and consent of the *three Estates*: but saith, that it was neither new nor strange that they should so do, and gives us some particular instances, not only of the later times but the former ages. Nay when the power of this *Assemblée des États* was most great and eminent, neither so curtailed nor neglected as it hath been lately; yet then they carried themselves with the greatest reverence and respect before their King, that could be possibly imagined. For in the Assembly held at *Tours* under *Charles* the 8. though the King was then no more than 14 years of age, and the authority of that Court so great and awfull that it was never at so high an eminence for power and reputation, *quant a illis temporibus*, as it was at that time: yet when they came before the King, *Monseieur de Rell* being then *Speaker* for the *Commons* or the *third Estate*, did in the name of all the rest, and with as much humility and reverence as he could devise, promise such duty and obedience, such a conformity of his will and

\* Andr. Du Mein.

(k) Bodin. de Rep. lib. 1. cap. 8.

(1) *Id. ibid.*

pleasure, such readines to supply his wants, and such alacrity in hearking unto his Commandments, that as *Bodinus* well observes, his whole Oration was nothing else, *quam perpetua voluntatis omnium erga Regem testificatio* (1), but a constant testimony and expression of the good affections of the subject to their Lord and Sovereign. But whatsoever power they had in former times is not now material, King *Lewis* the thirteenth, having (on good reason of State) discharged those *Conventions* for the time ensuing, Instead whereof he instituted an Assembly of another temper, and such as should be more obnoxious to his will and pleasure, consisting of a certain number of persons out of each Estate, but all of his own nomination and appointment, which joyn'd with certain of his Counsel and principal Officers, he caused to be called *L' Assembly des Notables*, assigning to them all the power and privileges which the later Conventions of the three Estates did pretend unto; right well assured that men so nominated and intrusted would never use their powers to his detriment, and disturbance of his Heirs and Successors.

V.

5. But to proceed, *Bodinus* having shewn what dutifull respects the Convention of Estates in *France* shewed unto their King, addes this note, *nec aliter Hispanorum conventus habentur*, that the Assembly of the three Estates in the Realms of *Spain* carry themselves with the like reverence and

and submission to their Lord the King : *Nay major etiam obedientia & majus obsequium Regi exhibetur, (m)* the King of *Spain* hath more obedience (m) *Id. ibid.* and observance from his *three Estates*, than that which is afforded to the Kings of *France*. Which being but general and comparative, is yet enough to let us see that the Assembly of *Estates* in the Realms of *Spain*, which they call the *Curia*, is very observant of their King and obsequious to him, and have but little of that power which is supposed by our Author to be inherent in the *three Estates* of all the Christian Kingdoms, But this *Boëtinus* proveth more particularly, ascribing to the King, and to him alone, the power of calling this Assembly when he sees occasion, and of dissolving it again when his work is done; according as is used both in *France* and *England*. And when they are assembled and met together, their Acts and consultations are of no effect, further than as they are confirmed by the Kings consent. Which he declareth in the same form (*eadem formula, quæ apud nos*) that hath accustomedly been used by the Kings of *France*, which is authoritative enough; that is to say (n) *decernimus, statuimus, volumus*, We will, and we appoint, and we have decreed. The Kings of *Spain*, though not so *despotic* in their Government as the *French* Kings are, are as absolute *Monarchs*, and have as great an influence on the *three Estates*, to make them pliant to their will, and to work out their own ends by them, as ever had the *French* Kings on their Courts of *Parliament*: a touch whereof we had

(n) *Id. ibid.*  
P. 90.

before in the former Chapter. And this we may yet further see by their observance of the pleasure of King *Philip* the 2d. Who having married the Lady *Elizabeth* Daughter of *Henry* the 2d. of *France*, *Convocatos Castella & reliquarum Hispaniæ Provinciarum Ordines*, (o) calling together the *Estates* of *Castile* and his other Provinces of *Spain*, he caused them to swear to the succession of his Son Prince *Charles*, whom he had by the Lady *Mary* of *Portugal*, and after having on some jealousies of State put that Prince to death, caused them to swear to the succession of another son by the Lady of *Austria*. And for the power of his Edicts, which they call *Pragmaticas*, they are as binding to the Subject as an Act of Parliament, or any kind of Law whatever: examples of the which are very obvious and familiar in the *Spanish* Histories. For though there be a body of Laws in use amongst them, partly made up of some old *Gothish* Laws and Constitutions, and partly of some parts of the *Law imperial*: yet for the explanation of the Laws in force, if any doubt arise about them, or for supplying such defects which in the best collection of the Laws may occur sometimes, the Magistrates and Judges are to have recourse to the King alone, and to conform to such instructions as he gives them in it. And this is it which was ordained by *Alfonso* the tenth, *quietiam magistratus ac iudices Principem adire iussit, quoties patrio jure nihil de proposita causa scriptum esset* (p), as *Bodin* hath it. 'Tis true that for the raising of supplies of money, and the imposing of extraordinary

(o) *Thuan.*  
(ill. sui temp.  
h 23.

l.

(p) *Bodin. de*  
*Rep. lib. 1.*  
*cap. 8.*

nary

nary taxes upon the subject, the Kings of *Spain* must be beholden to the *three Estates*, without whose consent it cannot legally be done. But then it is as true withall, that there are customary tributes called *Servitia* (q) which the King (q) Id. ibid. P. 92. raiseth of his own authority without such consent. And their consenting to the extraordinary is a thing of course: the *Spanish* Nation being so well affected naturally to the power and greatness of their Kings, whom they desire to make considerable if not formidable in the opinion of their Neighbours, that the Kings seldom fail of monies if the Subjects have it. Finally that we may perceive how absolute this Monarch is over all the Courts or *Curias* of his whole dominions; take this along according as it stands *verbatim* (f) in the *Spanish* Historic. “The King (f) *Spanish* of *Spain* as he is a potent Prince and Lord of *hist. 67. by Tyrannell.* many Countries, so hath he many Counsels for “the managing of their affairs distinctly and a “part without any confusion: every *Counsel* treating only of those matters which concern their “Jurisdiction and charges: with which Counsels and with the Presidents thereof, being men “of chief note, the King doth usually confer “touching matters belonging to the good Government, preservation, and increase of his Estates, and having heard every mans opinion, “he commands that to be executed which he “holds most fit and convenient.

6. Next let us take a view of *Scotland*, and we shall

shall find it there no otherwise (I mean in reference to the point which is now in question) than in *France* or *Spain*. For besides that *Bodin* makes it one of those absolute *Monarchies*, *ubi Reges sine controversia omnia jura Majestatis habent per sese*,

(t) *Bodin*, de  
Repub. l. 2.  
c. 7.

(t) in which the Kings have clearly all the rights of Majesty inherent in their own persons only: it is declared in the Records of that very Kingdom, that the King is *directus totius dominus*,

(u) *Camden*  
in Britan. de-  
scripr.  
f

(u) the Sovereign Lord of the whole State, and hath all authority and jurisdiction over all estates and degrees, as well Ecclesiastical as lay or temporal. And as for those Estates and Degrees convened in Parliament, we may conjecture at their power, by that which is delivered of the form or order which they held it in; which is briefly this.

(x) Form of  
holding the  
Parl. in Scotl.

(u) “As soon  
“as the Kings writ is issued out for summoning  
“the Estates to meet in Parliament, he maketh  
“choyse of eight of the *Spiritual* Lords, such on  
“whose wisdom and integrity he may most rely;  
“which eight do choose as many of the *Temporal*  
“Lords, and they together nominate eight more  
“out of the Commissioners for the *Counties*, and as  
“many out of the Commissioners for the *Towns*  
“or *Burroughs*. These 32 thus chosen are called  
“*Domini pro Articulis*, Lords of the Articles: and  
“they together with the *Chancellor*, *Treasurer*, *Keeper*  
“of the *Privy Seal*, and *Principal Secretaries* of  
“State, and the *Master of the Rolls* (whom they call  
“*Clerk Register*) do admit or reject every bill, [but  
“not before they have been shewn unto the King]  
“if they pass there they are presented afterwards

“to the whole *Assembly*, where being thorowly  
“weighed, and examined, & put unto the votes of  
“the house; such of them as are carried by the ma-  
“jor part of the Voices (for the *Lords* and *Commons*  
“sit together in the same house there) are on the  
“last day of the *Sessions* exhibited to the King: who  
“by touching them with his Scepter pronoun-  
“ceth that he either ratifieth and approveth  
“them, or that he doth disable them and make  
“them void. But if the business be disliked by  
“the *Lords of the Articles* it proceeds no further,  
“and never comes unto the consideration of the  
“Parliament, or if the King dislikes of any thing  
“in it when they shew it to him, it either is ra-  
“zed out or mended before it be presented to the  
“publick view. King *James* of blessed memory,  
“who very well understood his own power and the  
“forms of that Parliament, describes it much to  
“the same purpose, in his Speech made at *White-*  
“*hall*, March 31. *Anno* 1607. “About twenty  
“daies (saith he) before the Parliament, Procla-  
“mation is made throughout the Kingdom to de-  
“liver unto the Kings Clerk of Register all Bills  
“to be exhibited that Session before a certain  
“day. Then are they brought unto the King, and  
“perused and considered by him, and only such  
“as he alloweth of are put into the Chancellors  
“hands to be propounded to the Parliament, and  
“none others. And if any other man in Parlia-  
“ment speak of any other matter than is in this  
“sort first allowed by the King, the Chancellor  
“tellet him that the King hath allowed of no  
“such.

“such Bill. Besides, when they have passed  
 “them for Laws they are presented to the King,  
 “and he with his Scepter put into his hands by  
 “the Chancellor, must say, *I ratifie and approve all*  
 “*things done in this present Parliament.*” And if  
 “there be any thing that he disliketh it is razed  
 “out before.” So the eldest Parliament-man  
 as he said himself, at that time in *Scotland*.  
 This was the form of holding Parliaments in  
*Scotland*, which, whosoever doth consider with  
 a serious eye may perceive most plainly, that it  
 is wholly in the Kings power to frame the *Parliament*  
 to his own will, or at the least to hinder it  
 from doing any thing to the prejudice of his *Royal*  
 Crown and Dignity: in that the nominating  
 of the *Lords of the Articles* did in a manner totally  
 depend on him. Which being observed by the  
*Scots*, they took the opportunity when they were  
 in Arms to pass an Act during the Presidency of  
 the Lord *Burley*, Anno 1640. (y) for the abolition  
 of this Order, and for reducing of that Parliament  
 to the forms of *England*; as being thought more  
 advantagious to their purposes, than the former  
 was. So that the violent disloyalty of the *Scottish*  
 Subjects, their Insurrections against their Kings,  
 and murdering them sometimes when their heels  
 were up, which makes that Nation so ill spoke of  
 in the Stories of Christendom, are not to be impu-  
 ted to the *three Estates* convened in Parliament, or  
 to any power or Act of theirs, but only *præfer-  
 wido Scotorum ingenio* (z) as one pleads it for  
 them, unto the natural disposition of that fierce  
 and

(y) Acts of  
 Parliaments,  
 16 Carol.

(z) Rivet  
 cont. tenuit.

and head-strong people, yet easilier made subject unto rule and government. The *three Estates* assembled in the Court of *Parliament*, (when in the judgement of our Author they are most fit to undertake the business) have for the most part had no hand in those desperate courses.

7. And now at last we are come to *England*, where, since we came no sooner, we will stay the longer: and here we shall behold the King established in an absolute *Monarchy*, from whom the meeting of the *three Estates* in *Parliament* detracteth nothing of his power and authority Royal. *Bodin* as great a *Politick* as any of his time in the Realm of *France*, hath ranked our Kings amongst the *absolute Monarchs* of these Western parts (a). And *Camden* as renowned an (a) *Bodin de Rep. l. 1. c. 8.* Antiquary as any of the Age he lived in, hath told us of the King of *England*, *supremam potestatem & merum imperium habere* (b), "that he hath (b) *Camden in Britan. de script.* "supreme power and absolute command in his "dominions; and that he neither holds his "Crown in vassallage, nor receiveth his investiture of any other, nor acknowledgeth any Superior, but God alone." To prove this last, he cites these memorable words from *Bracton* an old *English* Lawyer, *omnis quidem sub Rege, & ipse sub nullo sed tantum sub deo*, that every man is under the King, but the King under none saving only God. But *Bracton* tells us more than this, and affirms expressly, that the King hath supreme power and jurisdiction over all causes and per-

ions in this his Majesties Realm of England, that all jurisdictions are vested in him and are issued from him, and that he hath *jus gladii*, or the right of the sword, for the better governance of his people. This is the substance of his words, but the words are these, (c) *Sciendum est* (saith he) *quod ipse dominus Rex ordinariam habet jurisdictionem & dignitatem & potestatem super omnes qui in regno suo sunt. Habet enim omnia jura in manu sua que ad coronam & laicalem pertinent potestatem, & materialem gladium qui pertinet ad Regni gubernandum, &c.* He addes yet further, *Habet item in potestate sua leges & constitutiones* (d), that the Laws and constitutions of the Realm, are in the power of the King: by which words, whether he meaneth that the *Legislative power* is in the King, and whether the *Legislative power* be in him, and in him alone, we shall see anon. But sure I am, that he ascribes unto the King the power of interpreting the Law in all doubtfull cases, *in dubiis & obscuris domini Regis expectanda interpretatio & voluntas*, which is plain enough. For though he speaketh only *de chartis Regis & factis Regum*, of the Kings *deeds* and *charters* only, as the words seem to import; yet considering the times in which he lived (being Chief Justice in the time of King Henry the 3d.) wherein there was but little written Law more than what was comprehended in the Kings Grants and Charters, he may be understood of all Laws whatever. And so much is collected out of *Braçons* words by the L. Chancellor *Egerton*, of whom it may be said

(c) *Braçon de leg. A. gl. l. 2. c. 24.*

(d) *Id. l. 2. c. 16.*

with-

without envy, that he was as grave and learned a Lawyer, as ever sat upon that Bench. "Who gathereth out of *Bracton*, that all cases not determined for want of foresight are in the King, to whom belongs the right of interpretation, not in plain and evident cases, but only in new questions and emergent doubts; and that the King hath as much right by the constitutions of this Kingdom, as the Civil law gave the *Roman* Emperors, where it is said, *Rex solus judicat de causa a jure non definita* (e)." And though the Kings make not any Laws without the counsel and consent of his *Lords* and *Commons*, whereof we shall speak more in the following Section, yet in such cases where the Laws do provide no remedy, and in such matters as concern the politick administration of his Kingdoms, he may and doth take order by his *Proclamations*. He also hath authority by his *Prerogative* Royal to dispense with the rigour of the Laws, and sometimes to pass by a Statute with a *non obstante*, as in the Statute 1 *Henr. 4. cap. 6.* touching the value to be specified of such lands, offices, or annuities, &c, as by the King are granted in his Letters patents. But these will better come within the compasse of those *jura Majestatis* or rights of Sovereignty, which our Lawyers call *sacra & individua* (f): *sacred*, by reason they are not to be pryed into with irreverent eyes; and *individual* or inseparable, because they cannot be communicated unto any other. Of which kind are the levying of Arms (g), suppressing of tumults and

(e) Case of the Post-nari. p. 107, 108.

(f) Camden in Brit.

(g) Case of our Affairs. p.

rebellions, providing for the present safety of his Kingdom against sudden dangers, convoking of *Parliaments*, and dissolving them, making of *Peers*, granting liberty of sending *Burgesses* to *Towns* and *Cities*, treating with *foreign States*, making war, leagues, and peace, granting safe conduct and protection, indenizing, giving of honor, rewarding, pardoning, coyning, printing, and the like to these. But what need these particulars have been looked into, to prove the absoluteness and sovereignty of the *Kings of England*, when the whole body of the *Realm* hath affirmed the same, and solemnly declared it in their *Acts of Parliament*. In one of which is affirmed,

(h) 16 Rich.  
2. c. 5.

(h) that the *Crown of England* hath been so free at all times, that it hath been in no earthly subjection, but immediately to God, in all things touching the regality of the said *Crown*, and to none other. And in another *Act*, that the *Realm of England* is an *Empire* governed by one *supreme head and King*, having the *Dignity and Royal Estate of the Imperial Crown of the same*, unto whom a *Body politic* compact of all sorts and degrees of people, divided in terms and by names of *Spirituality and Temporality* been bounden and ought to bear next to God a natural and humble obedience (i).

(i) 24 Henr.  
8. c. 12.

And more than so, that the *King* being the *supreme head of this Body Politick* is instituted and furnished by the goodness and sufferance of *Almighty God* with plenary whole and entire power, preheminence, authority, prerogative, and jurisdiction to render and yield justice and final determination to all manner of *Subjects* within this *Realm*, and in all causes whatsoever.

Nor

Nor 'was this any new Opinion invented only to comply with the Princes humour, but such as is declared to have been fortified by *sundry Laws and Ordinances made in former Parliaments* (k): and such as hath been since confirmed by a solemn Oath, taken and to be taken by most of the Subjects of this Kingdom, Which Oath consisting of two parts, the one *Declaratory*, and the other *Promissory*; in the *Declaratory* part the man thus taketh it doth declare and testifie in his conscience, that the Kings Highness is the only supreme Governor of this Realm and of all other his Dominions, and Countries, as well in all spiritual or ecclesiastical things or causes as temporal, &c. (l) And in the *Promissory* part, they make Oath and swear, that to their power they will assist and defend all Jurisdictions, Privileges, Preeminences, and Authorities granted or belonging to the Kings Highness, his Heirs and Successors, or united and annexed to the Imperial Crown of this Realm. Put all which hath been said together, and it will appear, that if to have *merum imperium*, a full and absolute command, and all the *jura majestatis* which belong to Sovereignty; if to be so supreme as to hold immediatly of God, to have all persons under him, none but God above him; if to have all authority and jurisdiction to be vested in him, and proceeding from him, and the *material sword* at his sole disposal for the correcting of offenders and the well ordering of his people; if to have whole and entire power of rendering justice and final determination of all causes to all manner of Subjects, as also to interpret and dispence with Laws; and

(k) Ibid.

(l) 1 Eliz. c. 1.

all this ratified and confirmed unto him by the solemn Oath of his Subjects in the Court of Parliament, be enough to make an *absolute Monarch*: the Kings of *England* are more *absolute Monarchs* than either of their Neighbours of *France* or *Spain*.

VIII. 8. If any thing may be said to detract from this, it is the new devile so much pressed of late, of placing the chief *Soveraignty*, or some part thereof, in the two Houses of Parliament: concerning which Mr. *Prynne* published a discourse entituled *The supreme power of Parliaments and Kingdoms*; and others in their Pamphlets upon that Argument have made the Parliament so *absolute*, and the King so limited, that of the two the Members of the Houses are the greater *Monarchs*. But this is but a new devise, not heard of in our former Monuments & Records of Law: nor proved, or to be proved indeed by any other *Medium*, than the Rebellions of *Cade*, *Tiler*, *Straw*, *Kett*, *Mackerell*, and the rest of that rascall rabble ( *m* ) ; or the seditious Parliaments in the time of K. *Henry* the 3d. King *Edward* the 2d. and King *Richard* the 2d. when civil war and faction carried all before it. For neither have the Houses or either of them enjoyed such *Soveraignty de facto* in times well settled, and *Parliaments* lawfully assembled, nor ever could pretend to the same *de jure*. Or if they did, as many have been apt enough to raise false pretences, it would much trouble them to determine whether this *Soveraignty* be conferred upon them by the King or the people, whether it be in either of the Houses severally

(m) Prynnes  
book of Parl.  
&c, pr. 3.

verally, or in both united. If they can challenge this pretended *Sovereignty* in neither of these capacities, nor by none of these Titles, it may be warrantably concluded that there is no such *Sovereignty* as they do pretend to. And first there is no part nor branch of *Sovereignty* conferred upon them by the King. The writs of Summons which the *Declaration of the Lords and Commons assembled at Oxon. 1643.* doth most truly call the *foundation of all power in Parliament* (n), tell us no such matter. The writ directed to the Lords doth enable them only to confer and treat with one another, & *consilium vestrum impendere*, and to advise the King in such weighty matters as concern the safety of the Kingdom. But they are only to advise, not compell the King, to counsell him, but not controll him; and to advise and counsel are no marks of *Sovereignty*, but rather works of service and *subordination*. Nor can they come to give this Counsel without he invite them, and being invited by his writ cannot choose but come, except he excuse them: which are sure notes of duty and subjection, but very sory signs of power and sovereignty. 'Tis true, that being come together they may and sometimes do, on a *writ of Error*, examin, and reverse or affirm such judgements as have been given in the *Kings Bench*: and from their sentence in the case there is no appeal, but only to the whole body of that Court, the King and both the Houses, the Head and Members (o). But this they do, not as the upper house of *Parliament*, but as the distinct court of the

(n) *Declaration of the Treaty. p. 15.*

(o) *Case of our Affairs. p. 7, 8.*

Kings

Kings *Barons of Parliament* of a particular and ministerial jurisdiction, to some intents and purposes, and to some alone: which though it doth invest them with a power of *judicature*, confers not any thing upon them which belongs to *Sovereignty*. Then for the *Commons*, all which the writ doth call them to, is *facere & consentire*, to do and consent unto such things which are ordained by the Lords and Common Counsel of the Kingdom of *England*, and sure *conformity* and *consent*, (which is all the writ requireth from them) are no marks of *Sovereignty*, nor can an Argument be drawn from thence by the subtillest Sophister, to shew that they are called to be partakers of the *Sovereign* power, or that the King intends to denude himself of any branch or leaf thereof to hide their nakednesse. And being met together in a body *collective*, they are so far from having any share in *Sovereignty*, that they cannot properly be called a *Court of Judicature*, as neither having any power to minister an Oath (p), or to imprison any body (except it be some of their own Members if they see occasion) which are things incident to all Courts of Justice, and to every *Steward* of a *Leet*, insomuch that the House of *Commons* is compared by some (and not incongruously) unto the *Grand Inquest* at a general Sessions (q), whose principal work it is to receive bills, and prepare businesses, and make them fit and ready for my Lords the Judges. Nay so far were they heretofore from the thoughts of *Sovereignty*, that they were lyable to fines and punishments for things done

(p) *Id.* p. 9.

(q) *Review of the Observat.* p. 22.

done in Parliament, though only to the prejudice of a private Subject, untill King *Henry 8.* most graciously passed a Law for their indemnity. For whereas *Richard Strode* one of the company of *Tinners* in the County of *Cornwall*, being a Member of the *Commons House*, had spoken somewhat to the prejudice of that Society, and contrary to the *Ordinances* of the *Stanneries*; at his return into the Country, he was arrested, fined, imprisoned. Complaint whereof being made in Parliament, the King passed a Law to this effect, *viz.* (r) *That all sutes, condemnations, executions, charges and impositions put or hereafter to be put upon Richard Strode, and every of his Complices that be of this Parliament, or any other hereafter, for any Bill, speaking, or reasoning of any thing concerning the Parliament to be communed and treated of, shall be void and null: but neither any reparation was allowed to Strode, nor any punishment inflicted upon those that sued him, for ought appears upon Record.* And for the Houses joyned together (which is the last capacity they can claim it in) they are so far from having the *supreme authority*, that (as it is observed by a learned Gentleman) they cannot so unite or conjoyn as to be an entire Court either of *Sovereign* or *Ministerial* jurisdiction; no otherwise co-operating than by concurrence of Votes in their several Houses, for preparing matters in order to an Act of Parliament (s): Which when they have done, (r) *Case of* they are so far from having any *legal authority* in our *Affairs*. p. the State, as that in Law there is no stile nor

" form of their joynt Acts ; nor doth the Law to  
 " much as take notice of them until they have the  
 " *Royal Assent*. So that considering that the two  
 " Houses alone do no way make an entire Body  
 " or Court, and that there is no known stile nor  
 " form of any Law or *Edict*, by the *Votes* of the  
 " two Houses only, nor any notice taken of them  
 " by the Law ; it is apparent that there is no *Sovereignty*  
 " *veraignty* in their two *Votes* alone." How far  
 the practise of the Lords & Commons which remaind at *Westminster*, after so many of both Houses had repaired to the King, &c. may create *Precedents* unto posterity, I am not able to determine: but sure I am, they have no *Precedent* to shew from the former Ages. But let us go a little further and suppose for granted, that the Houses either joynt or separate be capable of the *Sovereignty*, were it given unto them : I would fain know whether they claim it from the King, or the people only. Not from the King, for he confers upon them no further power than to *debate* and treat of his great Affairs, to have access unto his person, *freedom* of *Speech* (as long as they contain themselves within the bounds of Loyalty ) authority over their own Members : which being customarily desired ( *t* ), and of course obtained ( as it relates into the *Commons* ) shews plainly, that these vulgar privileges are nothing more the *rights* of *Parliament*, than the *favours* of *Princes*, but yet such favours as impart not the least power of *Sovereignty*. Nor doth the calling of a Parliament *ex opere operato* as you know who phrase it, either denude the King of  
 the

( *t* ) Hakewell  
 of passing bills  
 in Parliament.

the poorest robe of all his *Royalty*, or confer the same upon the Houses, or on either of them; whether the King intend so by his call, or otherwise. For *Bodin* (whom Mr. *Prynne* hath honored with the title of a *grand Politician* (u)) doth affirm expressly, *Principis majestatem nec Comitum convocacione, nec Senatus popularique presentia minui* (x), that the majesty or *Soveraignty* of the King is not a jot diminished either by the calling of a Parliament or *Conventus Ordinum*, or by the frequency and presence of his *Lords* and *Commons*. Nay to say truth, the *Majesty* of *Soveraign* Princes is never so transcendent and conspicuous as when they sit in Parliament, with their States about them, the King then standing in his highest *Estate*, as was once said by *Henry 8.* who knew (as well as any of the Kings of *England*) how to keep up the *majesty* of the *Crown Imperial*. Nor can they claim it from the people, who have none to give; for *nemo dat quod non habet*, as the saying is. The King (as hath been proved before) doth hold his *Royal Crown* immediately from God himself, not from the contract of the people. He writes not *populi clementia*, but *Dei gratia*, not by the favour of the people, but by the *grace of God*. The consent and approbation of the people (used and not used before the day of coronation) is reckoned only as a part of the solemn pomps which are then accustomably used. The King is actually King to all intents and purposes in the Law whatever, immediately on the death of his Predecessor. Nor ever was it otherwise objected in the

(u) Pryn of  
Parliam. par.  
2. P. 45.  
(x) Bodin, de  
Repub.

(y) Speeds  
History in K.  
James.

Realm of *England*, till *Clark* and *Watson* pleaded it at their arraignment in the first year of King *James* (y). Or grant we that the *Majesty* of this Kingdom was first originally in the people, and by them devolved upon the King by their *joynt consent*: yet having given away that power by their said *consent*, and settled it upon the King by an Act of State, confirmed by Oaths and all solemnities which that Act requires; they cannot so retract that grant, or make void that gift, as to pass a new *conveyance* of it, and settle it upon their *Representees* in the House of *Commons*. Or if they could, yet this would utterly exclude all the *Lords* from having the least share or portion in this new found *Sovereignty*; in that they *represent* not the common people, but sit there only in their own *personal capacities*, and therefore must submit at last to these new-made *Sovereigns*, who carry both the *Purse & Sword* at their own girdles. So then the people cannot give the *Sovereignty*, and if they have no power to give it, the *Lords* and *Commons* have no claim thereunto *de jure*. See we next therefore how much of this *Sovereignty* they or their Predecessors rather have enjoyed *de facto*, in peaceable and *regular* times, fit to be drawn into example in the Ages following. The chief particulars in which the *Sovereignty* consists we have seen before; and will now see whether that any of them been exercised and enjoyed in peaceable and *regular* times by both or either of the two Houses of *Parliament*. And first for *calling and dissolving* Parliaments, *making of Peers*,

Peers, granting of liberty to Towns and Citics, to make choise of Burgeses, which antiently had no such liberty, treating with forein States, denouncing war, or making Leagues or Peace after war commenced, granting safe conduct and protection, indenzing of Aliens, giving of honors unto eminent and deserving persons, rewarding, pardoning, coyning, printing, making of corporations, and dispensing with the Laws in force; they are such points which never Parliament did pretend to till these later times, wherein every thing almost is lawfull ( I am sure more lawiull ) than to fear God and honor the King. Nor do I find that Mr. Prynne hath laboured to entitle them to these particulars. For levying of Arms and the command of the Militia, besides that the Kings of England have ever been in possession of it, and that possession never disturbed or interrupted by any claim of right made in the behalf of the two Houses, ( which is as sure a title as the Law can make ): the Houses have declared by a Act of Parliament (a), that of right it belongs unto the King streightly to defend (that is prohibit) all force of Arms, and that the Parliament is bound to aid him in that prohibition. Touching the Royal navy and the ports and forts, the Kings prescription to them is so strong and binding, that in the 3d. of Edward 3. the House of Commons; did disclaim the having cognisance of such matters as the guarding of the Seas, and marches of the Kingdome: which certainly they had not done had they pretended any title to the ports and navy. As for suppressing tumults, and providing for the

(a) Stat. 7  
Ed. 1. cap. 1.

Edw. 3. c. 1.

- safety of the Kingdom against sudden danger, the Law commits it solely to the care of the King: obliging every Subject by the duty of his allegiance to aid and assist him at all seasons when need shall require (b). And for their power of declaring law in the House of Peers, wherein they deliver their opinion in the point before them, in true propriety of speech they have none at all (c). And this is that which was affirmed by his Majesty at the end of the Parliament, Anno 1628. saying, that it belonged only to the Judges under him to interpret laws, and that none of the Houses of Parliament joyn't or separate (what new Doctrine soever might be raised) had any power either to make or declare law without his consent (d). And if it be done with his consent, it is not so properly the declaring and interpreting of an old law, as the making rather of a new, saith a learned Gentleman (e).

(b) 11 Henr.  
7. c. 18.

(c) Case of  
our Affairs,  
P. 4.

(d) 3 Car.

(e) Case of  
our affairs, p.

## IX.

9. Others have found out a new way to invest the Parliament with the robes of Sovereignty, not as superiour to the King, but co-ordinate with him: and this say they appears sufficiently in that the two Houses of Parliament have not only a power of consulting but of consenting, and that too in the highest office of the Monarchy, (whereof they are a Coordinative part) the making of Laws (f). Which dangerous doctrine as it was built at first on that former error which makes the King to be one of the three Estates in Parliament, so it is super-structed with some necessary consequents; whether more treasonable or ridiculous, it is hard to say. For on these

(f) Fuller.  
Answer to D.  
F. p. 2.

these grounds the Author of the *Fuller Answers* hath presented us with these trim devices (g), viz. (g) Id. pag. 11. that *England is not a simple subordinate and absolute, but a coordinative and mixt Monarchy*; that this mixt Monarchy is compounded of three coordinate Estates, a King and two Houses of Parliament; that these three make but one supreme, but that one is a mixt one, or else the Monarchy were not mixt; and finally, which needs must follow from the premises, that although every Member of the Houses scorsim, taken severally, may be called a Subject, yet all collective in their houses are no Subjects. *Audium admissi risum teneatis?* Can any man hear these serious follies and abstain from laughter? or think a fellow who pretends both to wit and learning should talk thus of a Monarchy (which every one that knoweth any thing in Greek, know to imply the supreme government of one) compounded of three coordinate Estates, and those coordinate Estates consisting of no fewer than 600 persons? Or that a man who can pretend but to so much use of reason as to distinguish him from a beast, could fall on such a senseless Dotage, as to make the same man at the same time to be a Subject and no Subject; a Subject in the Streets and in his private House, no Subject when he sits in *Haberdashers Hall* for advance of moneys, or in either of the two Houses of Parliament? And yet this senseless Doctrine is become so dangerous, because so universally admired and hearkned to, that the beginning and continuance of our long Disturbances may chiefly be ascribed unto this opinion, to  
which

(h) As in the  
book called  
Conscience  
satisfied.

which they have seduced the poor ignorant people. The rather in regard that some who have undertook the confutation of these brainless folies, have most improvidently granted not only (h) that the two Houses of Parliament are in a sort coordinate with the King ad aliquid, to some Act or exercising of the supreme power, that is to the making of Laws; but that this coordination of the three Estates (of which the King is yielded every where for one) is fundamental, and held by the two Houses on no worse a title than a fundamental Constitution; which is as much as any reasonable *Parliamentarian* need desire to have. Therefore in Answer to the Fuller, (not taking notice of his foolish and seditious inferences) we will clear those points. 1. That the two Houses of Parliament are not coordinate with the King, but subordinate to him; And 2. that the power of making laws is properly and legally in the King alone. As for the first we had before a Recognition made by Act of Parliament, by which the Kingdom of England is acknowledged to be an Empire governed by one supreme head and King, to whom all sorts and degrees of people ought to bear next to God a natural and humble obedience (i): which certainly the Lords and Commons had not made to the dethroning of themselves, their heirs and successors from this coordinative part of Sovereignty, if any such coordination had been then believed. Or if it be supposed, to excuse the matter, that K. Henry the 8th. being a severe and terrible Prince did wrest this Recognition from them (which yet will hardly serve for a good defence:)

(i) 24 H. 8.  
c. 22.

what

what shall we say to the like *recognition* made in the beginning of Queen *Elizabeths* reign (k), when (k), *Eliz. c. 1.* she was green in State, and her power unsettled, and so less apt to work upon her people by threats and terrors? Assuredly had the *Houses* dream't in those broken times of that *coordinative Sovereignty*, which is now pretended, they might have easily regained it, and made up that breach which by the violent assaults of King *Henry* the 8th. had been made upon them: which was a point they never aimed at. Besides, if this *coordinative majesty* might be once admitted, it must needs follow, that though the King hath no *Superiour*, he hath many *Equalls*; and where there is *Equality* there is no *Subjection*. But *Bracton* tells us in plain terms, not only that the King hath no *Superiour* in his Realm, except God almighty, but no *Equal* neither: and the reason which he gives is exceeding strong, *Quia sic amitteret præceptum, cum par in Parem non habeat potestatem* (l), because he could not have an *Equal*, but with the losse of his Authority and *Regal Dignity*, considering that one *Equal* hath no power to command an other. Now lest the *Fuller* should object (as perhaps he may) that this is spoken of the King out of times of *Parliament*, and of the Members of the *Houses severim*, taken *severally* as particular persons; but when they are convened in *Parliament*, then they are *Sovereigns* and no *Subjects*: first he must know, that by the Statute of Queen *Elizabeth* all of the House of *Commons* are to take the oath before remembered for the *defending of all preheminences*,

(l) *Bracton*  
de leg. Angl.  
l. 1. c. 8.

and authorities united and annexed to the Imperial Crown of this Realm; and for bearing faith and true allegiance to the King, his Heirs, and lawfull Successors, and that if any of them do refuse this Oath, he is to have no voice in Parliament (m). 2. He cannot choose but know, that even *sedente Parlamento*, both the Lords and Commons use to address themselves to his sacred Majesty in the way of supplication and petition, (and certainly it is not the course for men of equal rank to send *Petitions* unto one another); and that in those *Petitions* they do stile themselves *his Majesties most humble and obedient Subjects*. Which is not only used as the common Complement which the hypocrisie of these times hath taken up, (though possibly it might be no otherwise meant in some late addresses) but is the very phrase in some Acts of Parliament (n), as in the Acts at large doth at full appear. 3. They may be pleased to know, how happy a thing it was for the Realm of *England* that this *Fuller* did not live in former times: For had he broached this Doctrine some Ages since, he would have made an end of Parliaments. Princes are very jealous of the smallest points of *Sovereignty*, and love to reign alone without any *Rivals*: their Souls being equally made up of *Pempeys* and *Cæsars*, and can as little brooke an *Equal*, as endure a *Superiour*. And lastly, I must let him know what *Bodin* saith, who telleth us this, *Legum ac edictorum probatio aut publicatio quæ in Curia vel Senatu fieri solet, non arguit imperii majestatem in Senatu vel Curia inesse* (o), viz. That the pub-

(m) Stat. 5  
E. 12. 1.

(n) 3 Hen.  
8. c. 22. &c.

(o) Bodin de  
Rep. l. 1. c. 8.

pub-

publishing and *approbation* of Laws and Edicts which is made ordinarily in the *Court* or *Parliament*, proves not the *Majesty* of the State to be in the said Court or Parliament. And therefore if the power of confirmation or rejecting be of a greater trust and more high concernment, than that of *consulting* and *consenting*, as no doubt it is, the power of *consulting* and *consenting*, which the *Fuller* doth ascribe to the two Houses of Parliament, will give them but a sory Title to *Co-ordinate* sovereignty.

10. This leads me on unto the power of *making* Laws, which as before I said, is properly and legally in the King alone, *tanquam in proprio Subiecto*, as in the true and adequate subject of that power. And for the proof thereof, I shall thus proceed. When the *Norman* Conqueror first came in, as he wonne the Kingdom by the sword, so did he govern it by his power: His *Sword* was then the *Scepter*, and his *will* the *Law*. There was no need on his part, of an Act of Parliament; much less of calling all the *Estates* together, to know of them after what form, and by what Laws they would be governed. It might as well be said of him, as in the flourish and best times of the *Roman* Emperors (p); *Quod Principi placuerit legis habet vigorem*, that whatsoever the King willed it did pass for Law. This King and some of his Successours being then *Παμβασιλεις*, and having a *despotical* power on the lives and fortunes of their Subiects, which they disposed of for the

(p) Justin. In-  
stitur. l. i. c.

benefit of their friends and followers, *Normans*, *French*, and *Flemings*, as to them seemed best. But as the Subjects found the yoke to be too heavy and insupportable; so they addressed themselves in their *Petitions* to the Kings their *Sovereigns*, to have that yoke made easier, and the burden lighter, especially in such particulars, of which they were most sensible at the present time. By this means they obtained first to have the Laws of *Edward the Confessor*, contain'd for the most part in the *great Charter* afterwards : and by this means, that is to say, by powring out their prayers and desires unto them, did they obtain most of the Laws and Statutes, which are now remaining of the time of King *Henry* the 3d. and King *Edward* the first. Many of which as they were issued at the first either in form of *Charters* under the Great Seal, or else as *Proclamations* of Grace and favour ; so do they carry still this mark of their first procuring, the *King willeth*, the *King commandeth*, the *King ordaineth*, the *King provideth*, the *King grants*, &c. And when the Kings were pleased to call their *Estates* together, it was not out of an opinion that they could not give away their power, or dispence their favours, or abate any thing of the severity of their former government, without the approbation and consent of their people : but out of just fear lest any one of the *three Estates* ( I mean the *Clergy*, the *Nobility*, and the *Commons* ) should insist on any thing, which might be prejudicial to the other two. The *Commons* being alwaies on the *craving* part, and suffering

fering as much perhaps from their *immediate Lords*, as from their King, might possibly have asked some things which were as much derogatory to the *Lords* (under whom they held) as of their *Sovereign Liege the King*, the *chief Lord of all*. In this respect, the *Counsel* and *consent* as well of the *Prelates* as the *Temporal Lords*, was accounted necessary, in passing of all Acts of *Grace* and *Favour* to the people: because that having many *Royalties* and large immunities of their own, a more near relation to the person; and a greater interest in the honour of their Lord the King; nothing should passe unto the prejudice and diminution of their own Estates, or the disabling of the King to support his *Sovereignty*. And this for long time was the *Stile* of the following Parliaments, *viz.* (q) (q) Preface, an. 1 Ed. 3.

“To the honour of God and of holy Church,  
 “and to the redresse of the oppressions of the  
 “people, our *Sovereign Lord the King*, &c. at  
 “the *request of the Commonalty of his Realm*, by their  
 “*Petition* made before him and his *Counsel* in  
 “the Parliament, by the Assent of the *Prelates*,  
 “*Earls*, *Barons*, and other great men assembled  
 “in the said Parliament, hath granted for him  
 “and his Heirs. &c.” To this effect, but with  
 some little (and but a very little) variation of the words, was the usual *Stile* in all the *Prefaces* or *Preambles* of the Acts of Parliament, from the beginning of the Reign of King *Edward* the third, till the beginning of the reign of King *Henry* the 7th. save that sometimes we

- (r) <sup>10</sup> Ed. 3. find the Lords *complaining* (r), or *petitioning* (f),  
&c.  
(f) <sup>21</sup> Ed. 3. and the Commons *assenting* (t); as their occasi-  
&c.  
(r) <sup>28</sup> Ed. 3. ons did require : and sometime also no other  
&c.  
motive represented, but the Kings great desire  
to provide for the ease and safety of his people,  
upon *deliberation had with the Prelates and Nobles,*  
*and learned men assisting with their mutual Counsell*
- (u) <sup>23</sup> Ed. 3. (u). And all this while there is no question to  
be made, but that the power of making Laws  
was conceived to be the chiefest flower of the  
*Royal Diademe*, to which the Lords and Commons  
neither joynt nor separate, did not pretend the  
smallest Title more than *petitioning* for them, or  
*assenting* to them : it being wholly left to the  
Kings grace and goodness, whether he would  
give ear or not unto their *petitions*, or hearken  
unto such *advise* as the Lords or other great men  
gave him in behalf of his people. And this is  
that which was declared in the Parliament by  
the Lords and Commons (and still holds good as  
well in point of Law as Reason) that it *belong-*  
*ed unto the regality of the King to grant or deny what*  
(x) <sup>2</sup> Her. 5. *Petitions* (x) *in Parliament he pleaseth*. But as  
the Kings came in upon doubtfull Titles, or other-  
wise were necessitated to comply with the peo-  
ples humours, (as sometimes they were) so  
did the Parliaments make use of the opportuni-  
ties for the increase of their authoritie, at  
least in the *formalities* of Law, and other ad-  
vantages of expression. So that in the *minority*  
of King Henry the sixth, unto those usual  
words *by the advise and assent of the Lords Spiritual*  
*and*

and Temporal, and at the special instance and request of the Commons (which were inserted ordinarily into the body of the Acts from the beginning of the reign of King Henry the 6th.) was added this, *By the authority of the said Parliament* (y). But still it is to be observed, that though those words were added to the former clause, yet the power of *granting* or *ordaining* was acknowledged to belong to the King alone; as in the places in the *Margin*, where it is said, *Our Lord the King considering the premises, by the advise and assent, and at the request aforesaid, hath ordained and granted by the authority of the said Parliament*, 3 H. 6. 2. and *our Lord the King considering, &c. hath ordained and established by authority of this Parliament*, 8 H. 6. 3. And thus it generally stood, (but every general rule may have some exceptions) till the beginning of the reign of King Henry the 7th. about which time that usual clause, the *special instance or request of the Commons*, began by little and little to be laid aside, and that of their *advise or assent* to be inserted in the place thereof: for which I do refer you to the book at large. Which though it were some alteration of the former stile, and that those words *By the authority of this present Parliament*, may make men think that the *Lords and Commons* did then pretend some title unto the power of *making laws*: yet neither *advising* or *assenting* are so operative in the present case as to transfer the power of *making laws* to such as do advise about them, or *assent* unto them; nor can the alteration of the *forms and stiles* used in ancient

(y) 3 Hen. 6.  
c. 2 & 8 H. 6.  
3. &c.

(z) Cited in  
the unlawfulness  
of resist.  
P. 107.

tient times, import an alteration of the *form of Government*, unless it can be shewed, (as I think it cannot) that any of our Kings did *renounce* that power, which properly and solely did belong unto them, or did by any solemn Act of *Communication*, confer the same upon the *Lords and Commons* convened in Parliament. And this is that which is resolved and declared in our Common law, where it is said (z), *Le Roy fait les loix avec le consent du Seigneurs et communs, et non pas les Seigneurs et communs avec le consent du Roy*, that is to say, that the King makes Laws in Parliament by the assent of the *Lords and Commons*, and not the *Lords and Commons* by the assent of the King. And for a further proof of this, and for the clearing of this point that the *Lords and Commons* pretend to no more power in the *making of laws*, than opportunity to propound and advise about them, and on mature advise to give their several *Assents* unto them, we need but look into the first Act of the Parliament in the third year of King *Charles*, being a *Recognition* of some antient Rights belonging to the *English* subject. An Act conceived according to the primitive form, in way of a *Petition to the Kings most excellent Majesty* (a), in which the *Lords and Commons* do most humbly pray as their *Rights and Liberties*, that no such things as they complained of, might be done hereafter; that his Majesty would vouchsafe to declare that the *Awards, doings, and proceedings* to the prejudice of his people in any of the premises, shall not be drawn hereafter into consequence or

(a) Statut. 3  
Carol.

ex-

example, and that he would be pleased to declare his Royal pleasure, that in the point aforesaid all his Officers and Ministers should serve him according to the Laws and Statutes of this Realm. To which although the King returned a fair general Answer, assuring them that his Subjects should have no cause for the time to come to complain of any wrong or oppressions contrary to their just Rights and Liberties; yet this gave little satisfaction till he came in person, and causing the Petition to be distinctly read by the Clerk of the Crown (b), returned his Answer in these words, *Soit droit fait come est desire*; that is to say, let right be done as is desired. Which being the very formal words by which the said Petition and every clause and Article therein contained, became to be a law and to have the force of an Act of Parliament, and being there is nothing spoken of the concurrent authority of the Lords and Commons for the enacting of the same, may serve instead of many Arguments for the proof of this, that the Legislative power as we phrase it now, is wholly and solely in the King; although restrained in the exercise and use thereof by constant custome, unto the counsel and consent of the Lords and Commons. *Le Roy veult* (c), or the King will have it so, is the imperative phrase by which the Propositions of the Lords and Commons are made Acts of Parliament. And let the Lords and Commons agitate and propound what Laws they please for their ease and benefit (as generally all Laws and Statutes are more for the ease and benefit of the Subject, than the advantage of the

(b) Ibid.

(c) Smith de Rep. Angl.

King): yet as well now, as formerly in the times of the Roman Emperors, *Quod Principi placuerit legis habet vigorem*, nothing but that which the King pleaseth to allow of, is to pass for Law: *th: laws not taking their coercive force (as judicious Hooker well observeth) from the quality of such as devise them, but from the power which giveth them the strength of laws* (d). I shut up this Discourse with this expression and comparison of a late learned Gentleman, *viz.* “That as in a *Copyhold Estate*, the *Copyholder* of a meer *Tenant at will* comes by custom “to gain an *Inheritance*, and so to limit and restrain the will and power of the Lord, that he “cannot make any determination of the *Copyholders Estate* otherwise than according to the *custom of the Mannour*; and yet doth not deprive the “Lord of his Lordship in the *Copyhold*, nor participate with him in it, neither yet devest the “*Fee* and *Franktenement* out of the Lord, but that “they still remain in him, and are ever parcel of “his *Demefn* (e): so in the restraining of the Kings “*Legislative power* to the concurrence of the *Peers* “and *Commons*, though the custom of the Kingdom hath so fixed and settled the restraint, as “that the King cannot in that point use his Sovereign power without the concurrence of the “*Peers* and *Commons* according to the custom of “the Kingdom; yet still the *Sovereignty* (and with “it the inseparable *Legislative power*) doth reside “soly in the King.

(d) Hooker  
Ecclesiast.  
Pol. 2.

(d) Case of  
our Affairs. p.  
6.

serve Parliaments, and what benefit can redound to the Subject by them; I say in the Apostles words, *much every way* (f). Many vexations often (f) Rom. 3. 2. times do befall the Subjects without the knowledge of the King, and against his will; to which his ears are open in a time of *Parliament*. The King at other times useth the eyes and ears of such as have place about him, who may perhaps be guilty of the wrongs which are done the people: but in a Parliament he seeth with his own eyes, and heareth with his own ears, and so is in a better way to redresse the mischief than he could be otherwise. Nor do the people by the *opportunity* of these Parliamentary meetings, obtain upon their Prayers and petitions a redress of grievances only, but many times the King is overcome by their *importunity* to abate so much of his power, to grant such points, and pass such Laws and Statutes for their ease and benefit, as otherwise he would not yield to. For certainly it is as true in making our approaches and *petitions* to our Lord the King, as in the pouring out of our *prayers* and supplications to the Lord our God: *the more multitudinous and united the Petitioners are, the more like to speed*. And therefore said Bodinus truly, *Principem pleraque universis concedere quæ singulis denegarentur* (g), that Kings do many times grant those favours to the whole body of their people, which would be absolutely denied or not so readily yielded to particular persons. There are moreover many things of greater concernment, (besides the *abrogating* of old Laws and *making* new) which

(g) Bodin. de  
Rep. l. r. c. 8.

having been formerly recommended by the Kings of England, to the care and counsel of their people convened in Parliament, are not now regularly dispatched but in such *conventions*: as are altering the tenure of Lands; confirming the rights, titles, and possessions of private men; naturalizing Aliens; legitimating Bastards; adding sometimes the secular authority to such points of Doctrine and forms of worship as the *Clergy* have agreed upon in their *convocations*, if it be required, changing the publick weights and measures thorowout the Kingdom, defining of such doubtfull cases as are not easily resolved in the Courts of Law, raising of Subsidies and Taxes, attainting such as either are too potent to be caught, or too hard to be found, and so not tryable in the ordinary Courts of Justice; restoring to their blood and honours such, or the Heirs of such, as have been formerly attainted; granting of free and general pardons

(b), with divers others of this nature. In all and each of these the *Lords* and *Commons* do *co-operate* to the publick good, in the way of means and *preparation*, but their *co-operation* would be lost and fruitless, did not the King by his *concomitant* or *subsequent grace* produce their good intentions into perfect Acts; and being Acts either of *special grace* and favour, or else of *ordinary right and justice*, no way derogatory to the *Prerogative Royal*, are usually confirmed by the *Royal assent*, without stop or hesitancy. But then, some other things there are of great importance and advantage to the *Common wealth*, in which the Houses

(h) Sir Tho. Smith, de Rep. Angl. Camden in Brit. Crompr. of Courts, &c.

usually do proceed even to final sentence (the *Commons* in the way of imquisition or *impeachment*, the *Lords* in that of *judicature* and determination) with the consent and approbation of the King, though many times without his personal assent and presence. The King may be abused in his Grants and Patents; to the oppression of the people, or the dilapidation and destruction of the Royal Patrimony; Judges, and other the great Officers of Law and Equity are subject to corruptions, and may smell of gifts, whereby the passages of Justice do become obstructed; The Ministers of interiour Courts as well *Ecclesiastical* as *Civil*, either exhaust the miserable subject by extortions, or else consume him by delays; *Erroneous judgements* may be given through fear or favour to the undoing of a man and his whole posterity, in which his Majesties *Justices* of either *Bench* can afford no remedy; The great ones of the State may become too insolent, and the poor too miserable; and many other waies there are by which the Fabrick of the State may be out of Order: for the removing of which mischiefs, the rectifying of which abuses, the *Lords* and *Commons* in their severall waies before remembered, are of special use; yet so, that if the Kings Grants do come in question, or any of his Officers are called to a reckoning, they used heretofore to signifie unto his Majesty what they found therein, and he accordingly either revoked his Grants, or displaced his Servants, or by some other means gave way unto their contentment: the Kings consent

being alwaies necessary, and received as a part of the final sentence, if they went so far. So that we may conclude this point with these words of *Bodin*, who being well acquainted with the Government of this State and Nation, partly by way of conference with Dr. *Dale* the Queens Ambassadour in *France*, and partly in the way of observation when he was in *England*, doth give this resolution of the point in controverſie (i), *Habere quidem Ordines Anglorum auctoritatem quandam, jura vero majestatis, & imperii summam in unius Principis arbitrio versari.* The States saith he of *England* have a kind of authority, but all the rights of *Soveraignty* and command in chief, are at the will and pleasure of the *Prince* alone.

(i) *Bodin*. de  
Repub. l. 1.  
c. 8.

## XII.

12. And to say truth, although the *Lords & Commons* met in Parliament are of great authority, especially as they have improved it in these later times; yet were they never of such power, but that the *Kings* have for the most part over-ruled them, & made them pliant & conformable to their own desires: and this not only by themselves, but sometimes also by their Judges, by their counsel often. For such was the great care and wisdom of our former *Kings*, as not to venture single on that numerous body of the two Houses of *Parliament*, whereby the *Soveraignty* might be so easily over-matched; but to take with them for Assistants as well the *Lords* of their *Privy Counsel* with whom they might advise in matters which concerned them

them in their *Sovereign rights*, as their learned Counsel (as they call them) consisting of the Judges and most eminent Lawyers, from whom they might receive instruction as the case required, and neither do, nor suffer wrong in point of Law: and by both these, as well as by the power and awe of their personal presence, have they not only regulated but restrained their Parliaments. And this is easily demonstrable by continual practice. For in the Statute of *Bigamie* made in the fourth (k) year of King *Edward 1.* it is said expressly, (k) 4 Ed. 1. "that in the presence of certain reverend Fathers, *Bishops of England*, and others of the Kings Counsel, the Constitutions under-written were recited, and after published before the King his Counsel, forasmuch as all the Kings Counsel, as well *Justices* as others did agree, that they should be put in writing and observed." In the *Articuli super Chartas*, when the Great Charter was confirmed at the request of the *Prelates, Earls, and Barons*, (l) we find these two clauses: the one in the beginning thus, *Nevertheless the King and his Counsel do not intend, by reason of this Statute, to diminish the Kings right* (m), &c. The other in the close of all in these following words, *And notwithstanding all these things mentioned, or any part of them, both the King and his Counsel, and all they which were present at the making of this Ordinance, do will and intend that the right and prerogative of his Crown shall be saved in all things.* In the 27th. of King *Edward the 3d.* (n) The *Commons* (n) 27 Ed. 3<sup>d</sup> presenting a Petition to the King, which the Kings Coun-

(l) 28 Ed. 1.

(m) Ibid. c. 20.

(n) 27 Ed. 3<sup>d</sup>

*Counsel* did mislike, were content thereupon to mend and explain their Petition, the form of which *Petition* is in these words following. “ To  
 “ their most redoubted *Sovereign* Lord the King,  
 “ praying the *Commons*, that whereas they have  
 “ prayed him to be discharged of all manner of  
 “ Articles of the *Lyre*, &c. which *Petition* seemeth  
 “ to his *Counsel* to be prejudicial unto him, and  
 “ in disherison of his *Crown*, if it were so generally granted : his said *Commons* not willing  
 “ nor desiring to demand things of him, which  
 “ should fall in disherison of him or of his *Crown*  
 “ perpetually, as of *Escheats*, &c. but of *trespasses*,  
 “ *misprisions*, *negligences*, and *ignorances*, &c.” In the 13 of the reign of King *Richard* the 2d. when the *Commons* did pray that upon pain of forfeiture, the *Chancellor*, or *Counsel* of the King should not after the end of the Parliament make any Ordinance against the Common law(o), the King (by the advise of his *Counsel*) answered, *Let it be used as it hath been used before this time, so as the Regality of the King be saved, for the King will save his Regalities, as his Predecessors have done.* In the 4th. year of King *Henry* 4. (p) when the *Commons* complained against *Sub-pœna*'s and other writs grounded upon false suggestions, the King (upon the same advise) returned this answer, that he would give in charge to his Officers, that they should abstain more than before time they had to send for his Subjects in that manner. But yet (saith he) it is not our intention that our Officers shall so abstain, that they may not send for our Subjects in matters and causes necessary,

(o) 13 Rich.

20

(p) 4 Hen. 4.

*cessary*, as it hath been used *in the time of our good Progenitors*. Finally, not to bring forth more particulars in a case so clear, it was the constant custom in all Parliaments, till the Reign of King Henry 5. (q) that when any Bill had passed both (q) *Henr. 5.* houses, and was presented to the King for his *Royal Assent*, the King by the advise of his *Privy Counsel*, or his *Counsel learned in the Laws*, or sometimes of both, did use to crosse out and obliterate as much or as little of it as he pleased, to leave out what he liked not, and confirmed the rest; that only which the King confirmed being held for Law. And though in the succeeding times the Kings did graciously vouchsafe to pass the whole Bill in that form which the *Houses* gave it, or to reject it wholly as they saw occasion: yet still the *Privy Counsel*, and the *Judges*, and the *Counsel learned in the Laws*, have and enjoy their place in the House of *Peers*, as well for preservation of the Kings rights and *Royalties*, as for direction to the *Lords* in a point of Law, if any case of difficulty be brought before them; on which occasions the *Lords* are to demand the opinion of the *Judges*, and upon their opinions to ground their Judgement. As for example, In the Parliament 28 of *Hen. 6.* The Commons made sute that *William de la Pole Duke of Suffolk*, should be committed to Prison for many treasons and other crimes (r), and thereupon the *Lords* demanded (r) *28 Hen. 6.* the opinion of the *Judges*, whether he should be committed to Prison or not; whose Answer was, that he ought not to be committed in re-

gard the Commons had not charged him with any particular offence, but with general only; which opinion was allowed and followed. In another Parliament of the said King, held by *Prorogation*, one *Thomas Thorpe* the *Speaker* of the House of Commons, was in the *Proregation*-time condemned in 1000 *l.* damages, upon an *Action of Trespass* at the sute of *Richard Duke of York*, and was committed to Prison for execution of the same. The parliament being reassembled, the Commons made sute to the King and Lords to have their *Speaker* delivered to them, according to the *privilege of Parliaments* (t): the Lords demanded the opinion of the *Judges* in it, and upon their Answer, did conclude, that the *Speaker* should still remain in Prison according to Law, notwithstanding the *privilege of Parliament*; and according to this resolution the Commons were commanded in the Kings name to choose one *Tho. Carleton* for their *Speaker*, which was done accordingly. Other examples of this kind are exceeding obvious, and for numbers infinite; yet neither more in number, nor more obvious than those of our Kings serving their turns by and upon their *Parliaments*, as their occasions did require. For not to look on higher and more *Regal* times, we find that *Richard the 2d.* a Prince not very acceptable to the *Common* people, could get an *Act of Parliament* (t), to confirm the *extrajudicial* opinion of the *Judges*, given before! at *Nottingham*; that King *Henry 4th.* could by an other *Act* reverse all that *Parliament*,

(s) The privilege of the Barons, p. 15.

(t) 21 Ric. 2.

(u) 1 Hen. 4. (u) entayl the Crown to his posterity, and keep his

Dut.

Dutchy of *Lancaster* and all the Lands and Seignuries of it, from being united to the Crown; that King *Edward* the 4th. could have a Parliament to declare all the Kings of the House of *Lancaster*, to be Kings in fact but not in right (x), and for uniting of that Dutchy to the Crown (x) Ed. c. 1. Imperial, notwithstanding the former Act of separation; that King *Richard* the 3d. could have a Parliament to bastardize all his Brothers Children, to set the Crown on his own head, though a most bloody Tyrant, and a plain Usurper (y); (y) Speeds that King *Henry* 7. could have the Crown entailed by an Act of Parliament, to the issue of his own body (z) without relation to his Queen of the house of *York*, which was conceived by many at that time to have the better Title to it; another, for paying a *Benevolence* which he had required of the subject (a), though all *Benevolences* had been damned by a former Statute made in the short, but bloody reign of King *Richard* the 3d. that King *Henry* 8. (b) could have one Act of Parliament to bastardry his Daughter *Mary*, in favour of the Lady *Elizabeth*; another to declare the Lady *Elizabeth* to be illegitimate, in expectation of the issue by Queen *Jane Seymour*; a third for settling the succession by his Will and Testament, and what else he pleased; that Queen *Mary* could not only obtain several Acts in favour of her self and the See of *Rome* (c), but for the settling of the Regency on the King of *Spain*, in case the Children of that Bed should be left in non-age. And finally that Queen *Elizabeth* did not only

(x) Ed. c. 1.

(y) Speeds hist. in K. Richard. 3.

(z) Verulams hist. of K. Hen. 7.

(a) 11 Hen. 7. c. 10.

(b) 65 Hen. 8. c. 22, & 28. c. 7. & 35 H. 8. c. 1.

(c) 1 Mar. sess. 2. c. 1, 2. & 1. & 2 Ph. & M. c. 8. 10.

gain many several Acts for the security of her own Person, which were determinable with her life, but could procure an Act to be passed in Parliament for making it high treason to affirm and say, *That the Queen could not by Act of Parliament, bind and dispose the Rights and Titles which any person whatsoever might have to the Crown.* (d) And as for railing monies, and amassing treasures by help of *Parliaments*, he that desires to know how well our Kings have served themselves that way by the help of *Parliaments*, let him peruse a book intituled, *the Privilege of Parliaments*, writ in the manner of Dialogue between a *Privy Counselor*, and a *Justice of Peace*, and he shall be satisfied to the full. Put all that hath been said together, and sure the kingdom of *England* must not be the place, in which the *three Estates* convened in Parliament have power to regulate the King, or restrain his actions, or moderate his extravagances, or where they can be taxed for *perfidious treachery*, if they connive at Kings when they play the Tyrants, or wantonly insult on the *Common-people*, or otherwise abuse that power which the Lord hath given them. *Calvin* was much mistaken if he thought the contrary; or if he dreamt that he should be believ'd on his *ipse dixit*, without a punctual enquiry into the grounds and probability of such a dangerous intimation as he lays before us.

## XIII.

13. But against this it is objected, that *Parliaments* have disposed of the *Militia* of the Kingdom, of the *Forts*, *Castles*, *Ports*, and the *Navie* Royal, not only without the Kings leave, but against his liking: that they have deposed some Kings,

Kings, and advanced others to the top of the Regal Throne : And for the proof of this they produce examples out of the reign of K. *Henry 3.* K. *Edw. 2.* and K. *Richard the 2.* (e) Examples, which if rightly pondered, doe not so much prove the power, as the weakness of Parliaments, in being carried up and down by the privat conduct of every popular pretender. For 'tis well known that the Parliaments did not take upon them to rule, or rather to over-look K. *Henry 3.* but as they were directed by *Simon Montfort* Earl of *Leicester*, who having raised a potent faction in the State, by the assistance of the Earls of *Glocester*, *Hereford*, *Derby*, (f) and some others of the great Lords of the kingdom, compelled the King to yeeld unto what terms he pleased, and made the Parliaments no other than a means and instrument to put a popular gloss on his wretched purposes. And 'tis well known that the ensuing Parliaments which they instance in, moved not of their own accord to the deposing of King *Edward the 2.* or King *Richard the 2.* but failed as they were steered by those powerfull Counsels, which Queen *Isabel* in the one, and *Henry* Duke of *Lancaster* in the other, did propose unto them. (g) It was no safe resisting those ( as their cold wisdoms and forgotten loyalties did suggest unto them ) *qui tot legionibus imperarent*, who had so many thousand men in arms to make good their project, and they might think as the poor-spirited Citizens of *Samaria* did in another case ( but a case very like the present ) *Behold two Kings*

(e) Prynnes  
Book of Parl.  
part. 2.

(f) Mat. Parl.  
ris, Henr. 3.

(g) Walsingham in Hist.  
Angl. & Hy-  
podig. Ne-  
ustria.

stood

(h) 3 Kings  
10. 4.

stood not before him, how then can we stand? (h) For had it been an argument of the power of Parliaments, that they deposed one King to set up another, dethroned King *Richard* to advance the Duke of *Lancaster* to the Regal diadem; they would have kept the house of *Lancaster* in possession of it, (for the full demonstration of a power indeed) and not have cast them off, at the first attempt of a new plausible pretender, declared then to be kings in fact, but not in right, whose lawfull right they had before preferred above all other titles, and set the Crown upon the heads of their deadly Enemies. In the next place it is objected that *Parliaments* are a great restraint of the Sovereign power (according to the Doctrine here laid down by *Calvin*) in that the King can make no laws, nor levy any money upon the Subject, but by the counsel and assent of the Lords and Commons assembled in Parliament. But this objection hurts as little as the former did. For Kings, to say the truth, need no laws at all. In all such points wherein they have not bound themselves by some former laws made for the common use and benefit of the Subject, they are left at liberty, and may proceed in governing the people, given by God unto them, according to their own discretion, and the advice of their *Counsel*. New Laws are chiefly made for the *Subjects benefit*, at their desire, on their importunate requests, for their special profit; not one in twenty, may, I dare boldly say not one in an hundred, made for the advantage of the King, either in the improvement  
of

of his power, or the increase of his Revenue. Look over all the Acts of Parliament, from the beginning of the reign of King *Henry 3.* to the present time, and tell me he that can, if he finds it otherwise: Kings would have little use of Parliaments, and less mind to call them, if nothing but the making of new Laws were the matter aimed at. And as for raising monies and imposing taxes, it either must suppose the Kings to be always unthrifts, that they be always indigent and necessitous, and behind-hand with the world (which are the ordinary effects of ill husbandry) or else this argument is lost, and of little use: For if our Kings should husband their estates to the best advantage, and make the best benefit of such *escheats* and *forfeitures & confiscations* as day by day do fall unto them; If they should follow the example of K. *Henry 7.* and execute the *penal Laws* according to the *power* which those Laws have given them, and the *trust* reposed in them by their People; if they should please to examine their *revenue*, and proportion their expence to their comings in, there would be little need of subsidies and supplies of money, more than the ordinary aids and impositions upon Merchandize, which the Law alloweth of, and the known *rights* of *Sovereignty* backed by *prescription*, and long *custom* have asserted to them: So that it is by *Accident*, not by right and nature, that the Parliament hath any power or opportunity to restrain their King in this particular; for where there is no need of asking, there is no occasion of denying;

by

by consequence no restraint upon, no baffle or affronting offered to the *Regal* power. And yet the *Sovereign* need not fear (if he be tollerably carefull of his own estate) that any reasonable demand of his in these mony matters, will meet with opposition or denial in his Houses of Parliament. For whilest there are so many Acts of *Grace* and *favour* to be done in Parliament (as what almost in every Parliament but an enlargement of the Kings favours to his people) and that none can be done in Parliament but with the Kings *fiat* and consent: there is no question to be made, but that the two Houses of Parliament will far sooner choose to supply the King (as allwise Parliaments have done) than rob the Subject of the benefit of his grace and favours, which is the best fruit they reap from Parliaments. Finally, whereas it is objected (but I think it in sport) that the old Lord *Burleigh* used to say, that he *knew not what a Parliament in England could not do*; and that King *James* once said in a Parliament, that *then there were 500 Kings*, which words were took for a Concession that all were Kings as well as he in a time of Parliament; they who have given us these Objections do either mis-understand their Authors, or abuse themselves. For what the Lord *Burleigh* said of Parliaments (though it be more than the wisest man alive can justify) he spake of Parliaments, according as the word is used in its proper sense; not for the *two Houses*, or for either of them *exclusive* of the Kings presence and consent; but for

for the *supreme Court*, for the highest Judiciary, consisting of the Kings most excellent Majesty, the Lords *Spiritual* and *Temporal*, and the *Representees* of the Commons; and then it will not serve for the turn intended. And what King *James* said once in jest (though I have often heard it used in earnest upon this occasion) was spoke only in derision of some daring Spirits, who laying by the modesty of their Predecessors, would needs be looking into the *Prerogative*, or finding errors and mistakes in the present Government, or meddling with those *Arcana imperii* which former Parliaments beheld at distance, with the eye of reverence. But certainly King *James* intended nothing less than to acknowledge a *co-ordinative Sovereignty* in the two Houses of Parliament, or to make them his Co-partners in the *Regal* power. His carriage and behaviour towards them in the whole course of his Government, clearly shews the contrary: there never being prince more jealous in the points of *Sovereignty*, nor more uncapable of a *Rival* in those points than he.

14. But yet the main objection (which we may call the *Objection paramount*) doth remain unanswered. For if the *three Estates* convened in Parliament, or any other *popular Magistrate*, whom *Calvin* dreams of, be ordained by the Word of God, as Guardians of the peoples

P p.

Liberties;

XIV.

Liberties; and therefore authorised to moderate and restrain the power of Kings as often as they shall invade or infringe those liberties, as *Calvin* plainly saies they were; or that they know themselves to be ordained by Gods word to that end and purpose (*cujus se lege Dei Tutores positos esse norunt*) as he saies they do: then neither any *discontinuance* or non-usage on their parts, nor any *prescription* to the contrary alledged by Kings and supreme Princes, can hinder them from resuming and exercising that Authority which God hath given them, whensoever they shall finde a fit time for it. But first I would fain learn of *Calvin* in what part of the Word of God we shall finde any such Authority given to those *popular Magistrates* (by what name soever they are called in their several Countreys) as he tels us of. Not in the *old Testament* I am sure, though in the institution of the *seventy Elders* there be some hopes of it. For when *Moses* first ordained those *Elders*, it was not to diminish any part of that *power* which was vested in him, but to ease himself of some part of the *burthen* which did lie upon him. And this appears plainly by the 18. Chapter of the Book of *Exodus*. For when it was observed by *Jethro* his Father in Law, that he attended the businesses of the people *from morning till night*, he to'd him plainly *ultra vires suas negotium esse*, that the *burthen* was too heavy for him, *vers. 18.* and therefore that

that he should choose some *Under-officers*, and place them *over Thousands, over Hundreds, and over Fifties, and over Tens*, Vers. 21. *Leviusq; sit tibi partito in alios onere*: that so it might be the easier for him, those *officers* bearing some part of the *burthen* with him. Yet so that these *inferior Officers* should only judge in matters of *inferior* nature, the greater matters being still reserved to his own Tribunal. Which counsel, as it was very well approved by *Moses*, so was it given by *Feibro* and approved by *Moses*, with reference to the will and pleasure of All-mighty God, vers. 23. And what the Lord God did in it we shall finde in the Book of *Numbers* chap. 11. For when *Moses* made complaint to God, that the *Burthen of all the people was laid on him*, vers. 11. (where note it is the *burden* still which he makes complaint of) and that *he was not able to bear all the people alone, because it was too heavie for him*, vers. 14. God willed him to make choice of *seventy* of those *Officers*, which before he had placed over the people, and to present them to him *in the Tabernacle of the Congregation*, where he would give unto them the *Spirit of Government*, *ut sustentent tecum onus populi*, to the end that they might bear the *burthen of the people* with him, vers. 17. Nothing in all this, but the easing of the *Supreme Magistrate* of some part of the *Burthen*, which was before too *heavie* for him, without any diminution of his power in the least respect.

Nor doth it make for *Calvins* purpose, that God said to *Moses*, that he would take of the Spirit which was upon him, and put it on the seventy Elders, *vers. 17.* the Spirit resting upon *Moses* in as full a measure as at first it did, not lessened by the communication of it to those *Under-officers*. And so the point is stated by two learned writers, though otherwise of different persuasions in the things of God. By *Estius* for the *Pontificians* it is so determined, *Non significatur per hoc, quod minus haberet Moses de spiritu quam antea, sed significatur, quod ex eodem spiritu gratia, quo repletus Moses populum illum regebat, etiam alii adiutorium essent habituri, ad eundem populum regendum.* The very same with that of *Deodatus* for the *Protestant* or *reformed* writers. *Not that the gift of the Spirit* (saith he) *should be in any manner truly* (or really) *diminished in Moses, but because that infallible conduct of the Spirit of God, which untill then had been peculiar to Moses, should be made common to all the seventy in the publick government.* And much lesse did it derogate from the spirit and power of *Moses*, that the seventy were indued by God with the gift of *prophecie*, *vers. 25.* that being but a personal grace, and perhaps but temporary to those persons neither, to gain them at the first the greater estimation amongst the people, whom they were to govern; never pretended to by any of their Successors in that Magistracy for the times

*Estius in diffi-*  
*cilio a sacra*  
*scriptura loca.*  
*Num. 11. v. 17.*

*Deodat. Annot.*  
*in Num. 11.*

times insuing. And therefore when *Moses* was told of it, he made light of the matter, and was so far from envying at it, that he seemed to wish that all Gods people might be able to prophesie to one another, vers. 29. conceiving rightly *nihil abesse dignitati sua persona*, as my Author hath it, that it did nothing derogate from his power and dignity; though *Jeshua* out of an honest zeal to his Masters greatnesse might fear it tended, or might tend unto the diminution of his Masters dignity and credit, as is observed by *Deodate*. What power these seventy Elders had in succeeding times, when they were drawn into a body, and made up that great Court which was called the *Sanhedrim*; and how far they were then from curbing and restraining the power of those several Kings under which they lived, hath been shewn already.

Now if the *old Testament* do give so little countenance to that great Authority which *Calvin* hath assigned so peremptorily to his three Estates, or any other popular Magistrates in their several Countreys, I am sure the *New Testament* doth afford them lesse; in which obedience to the Supreme Magistrate, is punctually and frequently required of all sorts of persons. *Let every soul be subject to the higher powers;* saith the Apostle of the Gentiles, *Rom. 13. 1.* If every soul, then neither any *Papal*, *Presbyterian* or popular pretender can challenge any exemption from that obedience and subjection to the

*Esliu in Num.*  
11. v. 29.

*Calvinus*  
*de Regimine*

Hieronym. in  
Rom. 13.

higher powers, which is required of them in this Text; and much lesse exercise any jurisdiction or Authority over them, whereby they may be brought in *subjection* to him. "St. *Ferome* tels "us that this rule is given by the Apostle, "for fear lest some presuming on that *Christi-* "an Liberty unto which they were called, might "possibly refuse to yeeld obedience and pay "their just Tributes to those *higher powers* "to which the Lord had made them *subject*. And therefore he desires to humble them and bring them unto a better understanding of their Christian duty, *ne forte propter superbiam, magis quam propter Deum contumeliam patiantur*. Lest the reproach or punishment which they suffered for it, should be imputed rather to their pride and arrogancy, then their zeal to God. Now what St. *Ferome* tels us in the general only, is by St. *Chrysofome* prest particularly, with reference almost to all degrees and estates of men: Here the Apostle sheweth (saith he) that these things are commanded to all men, both Priests and Monks, and not to tempora' men only, which he declareth in the beginning, when he said, Let every soul be subject to the highest powers: although thou be an Apostle, although thou be an Evangelist, although thou be a Prophet, although thou be whatsoever thou art. Which said he gives this reason for it, that Religion is not overthrown by this *subjection*. If no Apostle could pretend to an exemption from those

Chrysof. in  
Rom. Rom. 23

those common duties which Subjects owe unto their Princes; then certainly the *Pope* who pretends to sit in *Peters Chair*, and to challenge all the priviledges which belonged unto him, must needs be in as great subjection to a *Christian Emperor*, as the *Apostles* were (in their times) to any *Heathen King*. If those things were required of *Priests* and *Monks*, as he saies they were, then must the *Papal Clergie*, (whether they be *Monasticks* or *secular Priests*) perform those duties, and yeeld that due obedience unto those Kings and Princes under whom they live, which are here required. But so it is, that partly by strong hand, and partly by taking their opportunities in the darker Ages of the Church, the *Pope* hath not only freed his Clergie from the power of Princes, in matters even of Civill nature and concernment; but challengeth for himself a power above them, and exercised it for a long time with great pride and Tyranny, contrary to the *Apostles Rule* and the *Fathers Commentary*. If no *Evangelist* or *Prophet* could challenge any such exemption as the *Father* plainly saith they could not; then much lesse can the *Presbyterian Minister* pretend unto it, though he be both a *Prophet* and an *Evangelist* also in his own conceit. Which notwithstanding, the *Scottish Presbyterians* had got unto so great a head in the minority of King *James*, in all matters, which related to Ecclesiastical cognizance (and to that cognizance they reduced all

all matters) they commonly declin'd the Kings judgement; and his Courts of Judicature as altogether incompetent; appealing from them either to their own *Presbyteries*, or to the next *general Assembly* of their own appointing: and standing so wilfully to those Appeals, that some of them had like to have paid dear for it, (after that Kings coming into *England*) if the King had not been more mercifull to them, then they deserved at his hands. If *no man whatsoever he be*, can lawfully acquit himself from this subjection as is said by *Chrysostome*; what will become of *Calvins popular Magistrates*, and of the great authority which he gives them over Kings and Princes; those *popular Officers* being included equally with the rest of the people, in *St. Pauls* injunction? It's true that *Calvins popular Officers* may seem to have some colour for it, both from our *English Translation* and the vulgar *Latine*; by which obedience is required *sublimioribus potestatibus*, to the *higher powers*; and all such *popular Officers*, whatsoever they be, may warrantably be lookt upon as *higher powers*, in respect of the residue of the people. But first the words in the original, *viz. ὑπεριωραῖς ἐξουσίαις*, do not so properly signifie the *higher*, as the *supreme powers*: and so the word is rendred in the first of *St. Peter* cap. 2. vers. 13. in which submission is required to every ordinance of man for the Lords sake, whether it be unto the King, *as ὑπεριωραῖς*, as to the  
*Supreme,*

Supreme, or unto such as are sent by him, &c. *ἰμπεριον*, saith St. Peter in the singular, *ἰμπεριους*, saith St. Paul in the plural number; both words proceeding from *ἰμπερα*, in the Nominative Case, and consequently being of the same sense and signification. But secondly permitting them the benefit of these translations, yet will they finde but little colour for that coercive power, that sovereign Authority and Jurisdiction, which Calvin hath assigned to the *three Estates*; or any other *popular Officers* over Kings and Princes. For though such *popular Officers* may warrantably be lookt upon as *higher powers* in respect of the residue of the people, as before was said, yet are they *lower powers* in respect of the King, from whom as they receive all the Authority which they have, whatsoever it be, so unto him they are to render an accompt of their actings in it, whensoever he pleaseth. So that these *popular Officers* may be compar'd not unfitly unto the *Genera subalterna* in the Schools of *Logick*; each of them being *subordinate* to one another (the Constable to the Maior or Bayliff in a *corporate Town*, or to the Justices of the Peace in the County at large, the Maiors and Justices to the Judges in their several Circuits, the Judges in their several Circuits and their Courts of Judicature to the Lord Chancellor for the time being, and he unto the *three Estates* when convened in Parliament) till they end all in *genus summum*, in that supreme power which

is subordinate to none, and unto which the rest are *Species subalterna* (as the *Logicians* phrase it) in their several orders, till they end all in *Specie infimâ*, even in the lowest of the People.

Less comfort can I give them from the *Apostle* of the *Jewes* from the words of *St. Peter*, in which submission is required (as before was said) *to every ordinance of man, whether it be unto the King as unto the Supreme, or unto Governors, as unto them that are sent by him for the punishment of evill doers, and for the praise of them that do well.* Now those which are thus authoris'd, and sent by Kings to the ends and purposes before mentioned, may very properly be resembled unto *Jehosophats* Commissioners in the Kingdome of *Judah*, or the *itinerary* Judges in the Realm of *England*; and can neither claim nor exercise any other Authority, then what in their Commissions and instructions is assigned unto them. And certainly no King did or will ever grant any such Commission whereby his *Vnder-officers* and *inferior Magistrates*, may challenge any power above him, or exercise any jurisdiction or Authority over him. If any thing in this Text may be thought to favour *Calvin* in this strange opinion, it is that Kings are said to be *arbitrium vltimâ, humana creatura*, saith the *vulgar Latin*, an ordinance of man, as the *English* reads it; and being but a *Creature* of the peoples making, the rest may think themselves as good men as he. "The

" Rbc.

“*Rhemists* will have Kings to be called *humane*  
 “*creatures*, because elected by the people, or  
 “holding their Sovereignty by birth and cir-  
 “nall propagation, ordained for the wealth,  
 “peace and prosperity of the Subjects; to put  
 “a difference betwixt that *humane Superiority*,  
 “and the spiritual Rulers and Regiment, gui-  
 “ding and governing the people to an higher  
 “end, and instituted by God himself immedi-  
 “ately, Christ having expressly constituted the  
 “form of Regiment, used ever since in the  
 “Church. Whereunto Dr. *Fulk* for want of a  
 better doth return this Answer, *viz.* *That though*  
*there be great difference between the government of*  
*Princes, and Ecclesiastical Governors, yet the Apostle*  
*calleth not Princes an humane creation, as though*  
*they were not also of Gods Creation (for there is*  
*no power but of God) but that the form of their*  
*Creation is in mans appointment. All the Gene-*  
*vians generally do so expound it, and it con-*  
*cerns them so to do in point of interesse. The*  
 Bishop of that City was their Sovereign Prince,  
 and had *jus utriusq; gladii*, as *Calvin* signified  
 in a Letter to Cardinal *Sadolet*, till he and all  
 his Clergy were expelled the City in a *popular*  
*Tumult, Anno 1528.* and a new form of Go-  
 vernment established both in Church and State.  
 So that having laid the foundation of their Com-  
 mon-wealth in the expulsion of their Prince, and  
 the new model of their Discipline in refusing to  
 have any more *Bishop*; they found it best for justi-  
 fying their proceedings at *home*, and increasing

their Partizans *abroad*, to maintain a *parity of Ministers* in the Church of Christ, and to invest the people and their *popular Officers* with a chief power in the concernments and affairs of State, even to the deposing of Kings, and disposing of Kingdoms.

But for this last they finde no warrant in the Text which we have before us, For first admitting the Translation to be true and genuine (as indeed it is not) the *Roman Emperor*, and consequently other Kings and Princes, may be said to be an *humane Ordinance*, because their power is most visibly conversant, *circa humanas Actiones*, about ordering of humane Actions, and other civill affairs of men, as they were subjects of the Empire, and Members of that Body politic, whereof that Emperor was head. Secondly, to make sovereign Princes by what name and Title soever called, to be no other then an *humane Ordinance*, because they are *ordained* by the people and of their appointment; must needs create an irreconcilable difference between *St. Peter* and *St. Paul*, by which last the *Supreme Powers*, whatsoever they be, are called the *Ordinance of God*. *The Powers* (saith that Apostle) are ordained of God, and therefore he that *resisteth the Powers resisteth the Ordinance of God*. Upon which words *Deodite* gives this Glosse or Comment. "That the *supreme Powers* are called the " *Ordinance of God*, because God is the Author " of this Order in the world: and all those who  
" attain

"attain to these Dignities, do so, either by his  
 "manifest will and approbation, when the means  
 "are lawfull: or by his *secret* Providence by  
 "meer permission or toleration, when they are  
 "unlawfull. Now it is fitting that man should  
 "approve and tolerate that which God approves  
 "and tolerates. But thirdly, I conceive that  
 those words in the Greek Text of *St. Peter*,  
*ὡς πᾶσι ἀνθρώπων κτίσι*, are not so properly tran-  
 slated as they might have been; and as the  
 same words, *πᾶσι κτίσι*, are rendred by the same  
*Translators* (somewhat more neer to the Original)  
 in another place. For in the 8. chapt. to  
 the *Romans* vers. 22. we finde them rendring  
*πᾶσι ἢ κτίσι*, by the *whole Creation* (and why not  
 rather *every Creature*, as both our *old Transla-*  
*tion* and the *Rhemists* read it, conform to *om-*  
*nis Creatura* in the vulgar *Latine*?) which had  
 they done and kept themselves more neer to the  
*Greek Original* in *St. Peters Text*, they either  
 would have rendred it by *every humane Crea-*  
*ture*, as the *Rhemists* do; or rather by *all Men*, or  
 by *all Man-kinde*, as the words import. And  
 then the meaning will be this, that the *Jewes*  
 living scattered and disperst in *Pontus*, *Galatia*,  
*Cappadocia*, and other Provinces of the Empire,  
 were to have their conversation so meek and  
 lowly (for fear of giving scandal to the *Gen-*  
*tiles* amongst whom they lived) as to submit  
 themselves to all *Man-kinde*, or rather to *every*  
*Man* (unto every *humane Creature*, as the *Rhe-*  
*mists* read it) that was in Authority above, whe-

ther it were unto the Emperor himself, as their supreme Lord, or to such Legats, Prefects, and Procuratois, as were appointed by him for the government of those severall Provinces, to the end that they may punish the *evil-doers*, and encourage such as *did well*, living conformably to the Lawes by which they were governed. Small comfort in this Text, as in any of the rest before, for those *popular Officers* which *Calvin* makes the Overseers of the soveraign Prince, and Guardians of the Liberties of the common people.

If then there be no Text of Scripture, no warrant from the word of God by which the *popular Officers*, which *Calvin* dreams of, are made the Keepers of the Liberties of the Common people, or vested with the power of opposing Kings and soveraign Princes as often as they wantonly insult upon the people, or wilfully infringe their Priviledges: I would fain learn how they should come to know that they are vested with such power, or trusted with the defence of the Subjects Liberties (*cujus se Dei ordinatione Tutores positos esse norant*) as *Calvin* plainly saies they do. If they pretend to know it by *inspiration*, such *inspiration* cannot be known to any but themselves alone; neither the Prince or people, whom it most concerneth, can take notice of it. Nor can they well assure themselves whether such *inspirations* come from God or the Devil; the Devil many times insnaring proud ambitious and vain-glorious Men by such strange

strange Delusions. If they pretend to know it by the Dictate of their *private Spirit* (the great *Diana* of *Calvin* and his followers in expounding Scripture) we are but in the same uncertainties, as we were before. And who can tell whether the *private Spirit* they pretend unto, and do so much brag of, may not be such a *lying Spirit* 1 King. 22. 22. as was put into the mouthes of the Prophets, when *Ahab* was to be seduced to his own destruction? *Adeo Argumenta ex absurdo petita ineptos habent exitus*, as *Lactantius* notes it.

All I have now to add, is to shew the difference between *Calvin* and his followers, in the propounding of this Doctrine; delivered by *Calvin* in few words, but *Magisterially* enough, and with no other Authority then his *ipse dixit*; enlarged by *David Paraus* in his Comment on the 13. chapter to the *Romans* into divers branches, and many endeavours used by him (as by the rest of *Calvins* followers,) to finde out Arguments and instances out of several Authors to make good the cause. For which though *Calvin* scap'd the fire, yet *Paraus* could not. *Ille Crucem pretium sceleris tulit, hic Diadema*. For so it hapned, that one Mr. *Knight* of *Brodegates* (now *Pembroke Colledge*) in *Oxford*, had preach'd up the Authority of these *popular officers* in a Sermon before the University, about the beginning of the year 1622. for which being presently transmitted to the King and Council, he there ingenuously confessed, that he had borrowed both his Doctrine, and his proofs and in-

stance:

stances from the Book of *Paras* above mentioned. Notice whereof being given to the University, the whole Doctrine of *Paras* as to that particular, was drawn into several *Propositions*; which in a full and frequent *Convocation* held on the 25. of *June*, 1622. were severally condemned to be erroneous, scandalous, and destructive of Monarchical Government. Upon which Sentence or determination, the King gave order that as many of those books as could be gotten, should solemnly and publicly be burnt in each of the *Universities*, and *St. Pauls Church-yard*, which was done accordingly. An accident much complained of by the Puritan party for a long time after, who looked upon it as the funeral pile of their Hopes and Projects; till by degrees they got fresh courage, carrying on their designs more secretly, by consequence more dangerously then before they did. The terrible effects whereof we have seen and felt in our late *Civil Wars* and present confusions. But it is time to close this point, and come to a conclusion of the whole Discourse; there be no other Objections that I know of, but what are easily reduced unto those before, or not worth the Answering.

15. Thus have we took a brief *Survey* of those insinuations, grounds or *Principles* (call them what you will) which *CALVIN* hath laid down in his Book of *Institutions*; for the encouragement of the Subjects to rebellious courses,

courses, and putting them in Arms against their Sovereign, either in case of *Tyrannie*, *Licentiousness*, or *Mal-administration*, of what sort soever; by which the Subjects may pretend that they are oppressed either in point of *liberty*, or in point of *property*. And we have shewn upon what false and weak foundations he hath raised his building; how much he hath mistook or abused his Authors; but how much more he hath betrayed and abused his Readers. For we have clearly proved, and directly manifested, out of the best Records and Monuments of the former times, that the *Ephori* were not instituted in the State of *Sparsa* to oppose the *Kings*; nor the *Tribunes* in the State of *Rome* to oppose the *Consuls*; nor the *Demarchi* in the Common-wealth of *Athens* to oppose the *Senate*: or if they were, that this could no way serve to advance his purpose of setting up such *popular Officers* in the Kingdoms of *Christendom*; those *Officers* being only found in *Aristocracies*, or *Democracies*, but never heard or dreamt of in a *Monarchical Government*. And we have shewn both who they are which constitute the *three Estates* in all *Christian Kingdoms*; and that there is no *Christian Kingdom* in which the *three Estates* convened in *Parliament* (or by what other name soever they do call them) have any authority either to regulate the person of the *Sovereign Prince*, or restrain his power, in case he be a *Sovereign Prince*, and not

meerly titular and conditional; and that it is not to be found in Holy Scripture, that they are or were ordained by God to be the *Patrons* and *Protectors* of the Common people, and therefore chargeable with no lesse a crime than a most *perfidious Dissimulation*, should they connive at Kings when they play the Tyrants, or wantonly abuse that power which the Lord hath given them, to the oppression of their Subjects. In which last points, touching the designation of the *three Estates*, and the authority pretended to be vested in them, I have carried a more particular eye on this Kingdom of *England* where those *pernicious Principles* and insinuations which our Author gives us, have been too readily imbraced, and too eagerly pursued by those of his party and opinion. If herein I have done any service to Supreme Authority, my Countrey and some misguided Zelots of it, I shall have reason to rejoyce in my undertaking. If not, posterity shall not say that *Calvins* memory was so sacred with me, and his name so venerable, as rather to suffer such a *Stumbling-block* to be laid in the Subjects way without being *ensured* and *removed*, than either his authority should be brought in question, or any of his *Dictates* to a legal tryal. Having been purchased by the Lord at so dear a price, we are to be no longer the *Servants of men*, or to have the *trust of God with respect of persons*. I have God to be my Father, and the Church my Mother, and therefore have not only pleaded the Cause of

Kings

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Kings and Supreme Magistrates who are the Deputies of *God*, but added somewhat in behalf of the Church of *England*, whose Rights and privileges I have pleaded to my best abilities. The issue and success I refer to him by whom *Kings* do reign, and who appointed *Kings*, and other Supreme Magistrates to be nursing Fathers to his Church; that as they do receive authority and power from the hands of *God*, so they may use the same in the protection and defence of the Church of *God*: and *God*, even their own *God* will give them his Blessing, and save them from the striving of unruly people, whose mouth speaketh proud words, and their right hand is a right hand of iniquity.

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**FINIS.**

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