

**LAWS RELATING TO
SUBSCRIPTIONS & C.**

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A
SUMMARY VIEW
OF THE
L A W S
RELATING TO
SUBSCRIPTIONS, &c.
WITH
REMARKS,
HUMBLY OFFERED
TO THE CONSIDERATION OF THE
BRITISH PARLIAMENT.



L O N D O N :

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A
S U M M A R Y V I E W

O F T H E

L A W S relating to S U B S C R I P T I O N S, &c.
W I T H R E M A R K S,

Humbly offered to the Consideration of the
B R I T I S H P A R L I A M E N T.

[A] I N the Year 1553, were published by the King's Majesty's authority, "Articles agreed upon by the Bishops and other learned and godly men in the last Convocation at *London*, in the year of our Lord 1552, to root out discord of opinions, and establish the agreement of true religion." Bishop *Sparrow's* Collection of Articles, &c.

Remark.—It is however certain, that these Articles were not agreed upon in *Convocation*. Archbishop *Cranmer's* account of the matter was this. "I was ignorant of the setting to of that title, and as soon as I had knowledge thereof, I did not like it; and when I complained thereof to the Council, it was answered by them, That the Book was so entitled, because it was set forth in the time of the Convocation." *Burnet's* Hist. Reform. Vol. III. p. 210, 211. And *Fox's* Martyrology. — Bishop *Burnet* says, "It seemed to be a great want, that this" [the publication of these Articles]

Articles] “ had been so long delayed, as the
 “ old Doctrine had still the *legal* authority of
 “ its side.” What *legal* authority the old Doc-
 trine had, except in the decisions of foreign
 Canons which were received in this Kingdom
 with great reservation of municipal Rights, &c.
 is not clear. The danger of dogmatizing was
 not unknown in those days, and it would have
 answered the end of the new Establishment just
 as well to have enjoined Subscription to the
 Article cited below in the Remark upon D
 only.

[B] A Mandate bearing date *June 19*, in
 the seventh year of the King's reign [1553]
 was issued, addressed to the Officers of the
 Archbishop of *Canterbury* [*Granmer*] (refer-
 ring to a previous Mandate addressed to the
 Archbishop himself, and giving him autho-
 rity to expound, publish, denounce, and
 signify the said Articles to the King's clergy
 and people within his jurisdiction) to sum-
 mon or peremptorily admonish all and sin-
 gular Rectors, Vicars, Presbyters, Stipendia-
 ries, Curates, Rural Deans, Ministers, Mas-
 ters of Grammar Schools, public and pri-
 vate Preachers of the Word of God, Lec-
 turers and all who exercised any Ecclesiastical
 function of whatever denomination, includ-
 ing even Churchwardens, to appear at *Lam-
 beth*, on *Friday* the 23d day of *June*, be-
 tween the hours of seven and nine, to do
 and

and receive what may be farther agreeable to reason, and becometh their duty to the royal dignity. *Burnet's Hist. Reform.* vol. III. Collection, p. 202.

Rem.—This Mandate was issued pursuant to a Letter of the Archbishop's to the King and Council, “desiring that all Bishops might have authority from the King to cause all Preachers, Archdeacons, Deans, Prebendaries, Parsons, Vicars, Curates, with all their Clergy, to subscribe the said Articles.”—The reason given by the Archbishop for such his desire was, “that he trusted such a concorde and quietness in Religion should shortly follow thereof, as else was not to be looked for of many Years.” Probably the good man found this expedient did not answer his expectation. For tho' his Powers by this Mandate were very full, we find him declaring at his Examination before *Weston*, that *he compelled no man to subscribe*. A Declaration that sufficiently shews, he had met with opposition to this measure of *Peace and Quietness*. And most probably it was not only the gentleness of his own disposition, but the conscientiousness of the incongruity of such compulsion, with the original principles of the Protestant Reformation, which occasioned his Forbearance. This is one instance of those difficulties the first Reformers found in accommodating the new Establishment to the temper of the times consistently with their own Professions of being determined in matters of Faith and Doctrine, by the Scriptures only. It is hardly necessary to observe,

observe, that such Expedients are not only useless now, but highly disparaging to the improvements we pretend to in the present times.

[C] A particular Mandate to the Bishop of *Norwich*, bearing date *June 9*, directing him to cause the said Articles to be subscribed by every manner of person presented unto him to be admitted to any Ecclesiastical Order, Ministry, Office, or Cure within his Diocese, and if any man in that case shall refuse to consent to any of the said Articles, and to subscribe the same, then his Majesty willeth and commandeth him the said Bishop, that neither he, nor any for him, or by his procurement in any wise, shall admit such recusant or allow him as sufficient or meet to take any Order, Ministry, or Ecclesiastical Cure. For which his so doing, his Majesty promises to *discharge* the Bishop from all manner of penalties or dangers of actions, suits, or pleas of *Premunire*, *Quare impedit*, or such like. *Burnet*, *Ibid.* p. 203.

Rem.—Here was a stretch of the Royal Prerogative which the end proposed would hardly justify. It was depriving the subject of the benefit of the Law by an arbitrary *Non obstante*. A writ of *Quare impedit* is a writ of *Right*, and, without the Royal interposition, would have compelled the Bishop to give the Clerk
institution,

institution, without some better Reason for denying it, than that the Clerk refused to subscribe these Articles.

[D] A Mandatorial letter from the Bishop of *Ely* (Goodricke) Chancellor, and three more appointed visitors of the University of *Cambridge*, dated *June 1, 1553*, addressed to *Dr. Sands* (probably Vicechancellor) and to the Regents and Non-Regents of the said University, enjoining an oath to be taken and subscribed by every Candidate for a degree in Divinity, or in Arts, containing, among others, the following engagement, *Deinde me Articulos de quibus in Sinodo Londinensi Anno Domini 1553. ad tollendam opinionum dissensionem, et consensum veræ Religionis firmandum inter Episcopos et alios eruditos viros convenerat et Regia Autoritate in lucem editos, pro veris et certis habiturum, et omni in loco tanquam consentientes cum verbo Dei defensurum, et contrarios Articulos in Scholis et Pulpitis vel respondendo vel concionando oppugnaturum.* Burnet, ubi supra, p. 205.

Rem.—In the former part of this oath the Candidate swore, *se veram Christi religionem omni animo complexurum, Scripturæ auctoritatem Hominum judicio præpositurum, regulam vitæ et summam fidei ex verbo Dei petiturum. Cætera quæ ex verbo Dei non probantur, pro humanis et non necessariis habiturum.* It was utterly inconsistent

sistent with the man's professing these things, to assert, that he would esteem these Articles for true and certain, and to defend them as such against all mankind, upon the mere presumption that they were agreeable to the word of God.

[E] Upon Queen Elizabeth's accession, an Act of Uniformity passed, wherein is no mention made of Subscription either to the Liturgy established by that Act or to any Articles of Religion, nor in the visitatorial Articles of Inquiry of the same year, is there any one intimating that such Subscription was required. See *Sparrow's Collection*.

Rem.—It is remarkable that by this Statute, the Clergyman offending against it, is to be lawfully convicted according to the Laws of this Realm, by verdict of twelve men, or by his own confession, or by the notorious evidence of the fact; and was not left solely to the Bishop or Ordinary either for his trial or his punishment; and as the words “and be thereof in form aforesaid lawfully convict,” or words equivalent, run through the whole Act, it was manifestly the intention of the Parliament to put the inferior Clergy on the footing of the rest of the free Subjects of the Realm, and not leave them to the arbitrary censures of their respective Ordinaries, as these were too apt to encroach upon the civil powers, by exercising
their

their jurisdiction, where the laws of the Realm should have restrained them, complaints of which were frequently made in Parliament, during this reign, and particularly with respect to Subscription, as will be seen by and by. N. B. There is one instance of a trial by Jury upon this Statute, before Lord Chief Justice *Catlin*, Bishop *Sandys*, &c. preserved in a Book, called *Part of a Register*, &c. p. 105. The Culprit was one *Robert Johnson*, Preacher at *Northampton*. He was indicted for administering the wine at the Communion without the words of Consecration, for marrying without the Ring, and baptizing without making the Sign of the Cross. He was convicted of the first offence, sentenced to suffer a year's imprisonment, and died in the Gate-house before the end of the year, *viz.* 1573. In the course of the Trial, and from the circumstances of *Johnson's* Defence, some points of Doctrine were discussed, and *Johnson* was said to defend a horrible Herefy, which was probably the chief inducement with the Jury to find him Guilty. For the Fact, as *Johnson* shewed, was not against the Order of the Book. Subscription was hotly urged this year. But *Johnson's* notion of the words of Institution, was not provided against in the Articles.

[F] IN the year 1562. King Edward's Articles were revised, and altered, some things added, others taken away, and the number reduced to thirty-nine. At the end of which, is the following Ratification.

tion. “ This Book of Articles before rehearsed, is again approved, and allowed to be holden and executed within the realm, by the assent and consent of our Sovereign Lady *Elizabeth*, by the Grace of God of *England, France and Ireland* Queen, Defender of the Faith, &c. Which Articles were deliberately read, and confirmed again by the Subscription of the hands of the Archbishop and Bishops of the upper House, and by the Subscription of the whole Clergy of the nether House in their Convocation in the year of our Lord 1571.”

Rem.—The Latin Articles of 1562, differ very much from those [Latin] Articles published by Convocation in 1571. It is probable there was the like difference between the English copies, nor is it possible now to know which of them is authentic. The Bishops and Clergy in 1562, subscribed Archbishop *Parker's* Latin copy, and it is likely they subscribed a Latin copy revised, in the Convocation of 1571. But the Act of Parliament of that year refers to an English book, and how that copy agreed with that now in use, is totally unknown. It may be said however with great truth, that, on account of the abovementioned differences, the articles now subscribed, are not the Articles agreed upon in the Convocation of 1562. There is likewise a fallacy in the *Ratification*, as it stands at present, with respect to the Queen's consent, as if both books of Articles were precisely the same,

same, and equally *approved* by her Majesty; whereas the words subjoined to the Latin Articles of 1562, so far as the Queen's authority is concerned, are these, *Quibus omnibus Articulis serenissima Princeps Elizabeth, Dei gratia Angliæ, Franciæ et Hiberniæ Regina, fidei Defensor, &c. per seipsam diligenter prius lectis et examinatis, suum assensum præbuit*; which her Majesty might do without imposing Subscription to them on her subjects.

[G] IN the year 1564 were published, Advertisements partly for due order in the public administration of the Sacraments, and partly for the Apparel of all persons Ecclesiastical. The Title of the last section is, "Protestations to be made, promised and subscribed by them that shall hereafter be admitted to any office, room or cure in any church, or other place Ecclesiastical." Under this Title are the following Protestations; "I shall not preach or publicly interpret, but only read what is appointed by public authority, without special licence of the Bishop under his Seal. I do also faithfully promise in my person—to observe, keep and maintain such order and uniformity in all external Policy, Rites and Ceremonies of the Church, as by the Laws, good Usages and Orders, are already well provided and established." *Sparrow's Collection.*

Rem.—What is here provided against, by this Protestation and Subscription, was in a great measure secured by the Act of Uniformity, save in the Article of preaching and interpreting, concerning which there seems to have been no Law or Ordinance in being at that time, except the Queen's Injunctions of 1559; which were not understood then to have the force, or to make a part of the Laws of this Realm. These advertisements seem to have been calculated by Archbishop *Parker* to take the Clergy intirely into the hands of the Bishops. What opposition these Advertisements met with in the Queen's Council and elsewhere, and how distasteful they were to many considerable men in different departments, may be seen in *Strype's* Life of Archbishop *Parker*, Book 2. chap. xx.

[H] IN the year 1571, An Act of Parliament passed injoyning Subscription in these words; “ Every person under the degree of a Bishop which doth or shall pretend to be a Priest or Minister of God's Holy Word and Sacraments, by reason of any other form of institution, consecration or ordering, than the form set forth by Parliament in the time of the late King of most worthy memory, King *Edward* the sixth, or now used in the reign of our most gracious Sovereign Lady, before the feast of the Nativity of *Christ* next following, shall in the presence of the Bishop
or

or the Guardian of the Spiritualities of some one Diocese, where he hath or shall have Ecclesiastical living, declare his assent, and subscribe to all the Articles of Religion, which only concern the Confession of the true Christian Faith, and the Doctrine of the Sacraments, comprised in a Book imprinted, intituled, *Articles whereupon it was agreed, &c.* and shall bring from such Bishop or Guardian of Spiritualities in writing, under his Seal authentic, a Testimonial of such his Assent and Subscription, and openly on some *Sunday* in the time of the public service aforenoon in every Church, where, by reason of any Ecclesiastical living he ought to attend, read both the said Testimonial and the said Articles, upon pain that every such person, which shall not before the said feast, do as is above appointed, shall be *ipso facto* deprived, and all his Ecclesiastical promotions shall be void, as if he then were naturally dead." *Statutes 13 Eliz. c. 12.*

Rem.—The noble stand made by the House of Commons in the reign of Queen *Elizabeth* on divers occasions against Ecclesiastical encroachments, and in favour of Religious liberty, plainly shews, that the limiting the Subscription of the Clergy to such Articles “ as only concern the Confession of the true Christian

faith, and the doctrine of the Sacraments," in this Act, was no idle provision, or words without meaning. Much has been said concerning the uncertainty, what Articles were not to be subscribed under this restriction, and an argument has been drawn from thence for an unlimited Subscription. It appears however from the Conversation between Archbishop *Parker* and Mr. *Peter Wentworth* in 1571, that the Articles for the Homilies, Consecrating of Bishops and such like, were put out of the book, and were doubtless struck out in the copy annexed to the Bill. And as that copy is now irrecoverable, and as it hath been said, separated by some unfair practice from the Act which refers to it, the Clergy must be left to their own judgement, which of the Articles are or are not excepted in the Statute. Some learned and worthy persons have thought that Subscription to the 6th and 25th Articles is sufficient to satisfy the intention of the Legislature, the rather as the article which concerns the Homilies was certainly intended to be left out; and therefore as most of the doctrinal articles are but abridgements of what the Homilies treat of at more length, the House of Commons had no more time to examine those Articles how they agreed with the word of God, than they had to examine the Homilies, as both must have been examined together. It is only necessary to observe farther, that whatever Articles were enjoined by this Act to be subscribed, the same and no other were to be read and assented to, as prescribed by the
subsequent

subsequent Sections of this Statute. See *D'ewes's Journal*, p. 239.

[1] IN the same year (1571.) the Bishops put forth a Collection, intituled, *Liber quorundam Canonum Disciplinæ Ecclesiæ Anglicanæ, Anno 1571.* in which, under the Title *de Episcopis*, it is ordained, that persons approved for public preachers, should have their Licences renewed, *ita tamen ut prius subscribant articulis christianæ religionis publice in Synodo approbatis, fidemque dent se velle tueri et defendere doctrinam eam quæ in illis continetur ut consentientissimam veritati verbi divini.* And under the Title *Concionatores*, there is the following injunction. *Et quoniam articuli illi religionis christianæ in quos consensus est ab Episcopis in legitima et sancta synodo, jussu et auctoritate serenissimæ principis Elizabethæ convocata et celebrata haud dubie collecti sunt ex sacris literis veteris et novi Testamenti, et cum cælesti doctrinâ quæ in illis continetur, per omnia congruunt; quoniam etiam liber publicarum precum, et liber de inauguratione archiepiscoporum, episcoporum, presbyterorum et diaconorum, nihil continent ab illa ipsa doctrina alienum, quicumque mittentur ad docendum populum, illorum articulorum, auctoritatem et fidem, non tantum concionibus suis, sed etiam subscriptione confirmabunt. Qui*

secus fecerit, et contrariâ doctrinâ populum turbaverit, excommunicabitur. Sparrow's Collection.

Rem.—The intention of these Injunctions for Subscription to the Articles, was to supply, what the Bishops thought the Parliament had left short, namely, to require a Subscription to *all* the Articles, as appears by their making the Subscriber assert their agreement with the word of God, and particularly mentioning the Book of Consecrating of Bishops, &c. It is however certain, that the Queen never gave her Sanction to these Canons, and *Grindal* then Archbishop of *York* “doubted whether they had *vigorem legis*,” [which out of all doubt they had not] “and “thought the Queen’s *verbal* assent would not “serve them, if they should be impleaded in “a Case of *Premunire*,” in which he was very much in the right.

[K] In the year 1584. the Bishops and Clergy of the Province of *Canterbury* assembled in Convocation, put forth a Collection intituled, *Articuli pro Clero*, in which it was enjoyned, that no Bishop should thereafter admit any person to Holy Orders, except he was of his own Diocese, &c. *vel saltem, nisi rationem fidei suce juxta articulos illos Religionis in Synodo Episcoporum et cleri approbatos latino sermone reddere possit, adeo ut sacrarum literarum testimonia quibus eorundem*

eorundem Articulorum veritas innititur recitare etiam valeat. Sparrow's Collection.

Rem.—Archbishop *Whitgift* was now promoted to *Canterbury*. His predecessor *Grindal* had complained greatly of the ignorance of the Clergy, and had used his utmost endeavours to supply the Church with abler men; but generally without effect. By this time, it is likely, the Bishops began to see the impropriety of requiring Subscription of poor Curates and Candidates for Orders to a set of Articles of which they knew so little; and to obviate any reproach that might arise from this practice, enjoined the examination mentioned in these Canons. And had they stuck to this expedient, it may easily be imagined they must not have ordained a Tithe of the Candidates who aspired to the Priesthood. Perhaps very few at this day would undertake to recite the testimonies of Holy writ, on which the truth of these Articles depends. The Spirited Commons, however, became sensible of this arbitrary imposition, and in the Parliament of 1585 petitioned the House of Lords, among other matters relating to the Church, “ That for the encouragement of many to enter into the Ministry which are kept back by some conditions of Oaths and Subscriptions whereof they make scruple, it may be considered, whether this favour may be shewed them, that hereafter no Oath or Subscription be tendered to any that is to enter into the Ministry, or to any Benefice with Cure, or to any place of preach-
“ ing,

“ ing, but such only as be expressly prescribed
 “ by the Statutes of this Realm; save only that
 “ it shall be lawful for every Ordinary to try
 “ any Ministers presented to any Benefice
 “ within his Diocese by his Oath, whether he
 “ is to enter corruptly or incorruptly into the
 “ same.” *Dewes's Journal*, p. 358. It is hum-
 bly presumed, that the Answer of the Arch-
 bishop of *York* to this reasonable Petition, is far
 from being satisfactory upon Protestant princi-
 ples.

[L] In the year 1597 were put forth,
Capitula sive Constitutiones Ecclesiasticæ, by
 the Archbishop, Bishops, and Clergy of the
 Province of *Canterbury* assembled in Con-
 vocation, said in the Title-page to be con-
 firmed under the Great Seal of *England*.
 In this collection, the requisite qualifica-
 tion of Ministers, so far as relates to the
 Articles, is prescribed in the same words.
Sparrow's Collection.

Rem.—By this time Archbishop *Whitgift* had
 so far established his power that all opposition
 to his system of Discipline became fruitless even
 in Parliament. *Strype* relates that, “ a great
 “ heap of Grievances in the Church were thrown
 “ into the Parliament [of 1597] by Bills put in
 “ by divers persons; but were not read, by
 “ means, no doubt, of some higher influence.”
 Among others, “ A grievance no way inferior
 “ to the former the ungodly use of the Statute
 “ of

“ of 13 *Eliz.* concerning Faith and Sacraments,
 “ by which men are forced to Subscription,
 “ and forced to accuse themselves,” i. e. by de-
 claring their dissent from such Articles as did not
 concern Faith and Sacraments. N. B. These
 Canons were confirmed under the Great Seal,
 and they seem chiefly to aim at reforming some
 abuses in the Ecclesiastical courts; by way, one
 may suppose, of precluding enquiries into such
 matters, in Parliament. *Strype's Life of Whit-*
gift, p. 509.

[M] IN the year 1603, the Convocation
 composed the Book of Canons now in use,
 the thirty-sixth of which enjoyns Subscrip-
 tion, 1. To the King's Supremacy. 2. To
 the Book of Common Prayer, as containing
 in it nothing contrary to the word of God.
 3. To the thirty-nine Articles, acknow-
 ledging all and every the said Articles to be
 agreeable to the word of God. Which
 Subscription is to be made in this form of
 words. “ I N. N. do willingly and *ex*
animò subscribe to these three Articles above-
 mentioned, and to all that are contained in
 them.” The Royal assent to these Canons
 is attested under the Great Seal of *England* *.

Rem.—It is questionable how far these Canons
 are binding. Some great authorities say, they have
 no force with respect to the Laity, and that they
 bind the Clergy only by virtue of their Oath of

* See the *GRACE* annexed.

Canonical obedience, which however is limited to *things lawful and honest*, and what is *lawful and honest* in Canonical commands or injunctions cannot *in equity* be determined before the Person against whom the crime of disobedience is committed. It is against the principles of justice, and the genius of the British constitution, that the same man should be both judge and party. Prohibitions from the temporal Courts lye against the Courts ecclesiastical, in cases which concern the Clergy as well as the laity. Why should not the case of this Canonical Subscription (as the temporalities of beneficed Clerks are *now* made to depend upon a compliance with it) be subject to the verdict of twelve men, as other cases of less importance are made to be, by the Act 1. *Eliz.* cap. 2? Very many of these Canons are totally fallen into disuse, on account of the impracticability of carrying them into execution. Others, which might be executed, are wholly neglected, possibly because the execution of them might set the exercise of Canonical discipline in so many trifling matters, in too odious a light. But can any thing be more odious than to compel a learned and Protestant clergy to subscribe implicitly to all these antiquated propositions, on the pain of being excluded from the benefit of any temporal emolument in the Church, where they might be of the greatest use to the people?

[N] IN the year 1613. A Grace was passed by the University of *Cambridge*, in consequence of Letters from King *James I.*

pre-

prescribing Subscription to the three Articles in the 36th Canon to the Candidates for the Degree of Batchelor of Divinity, and of Doctor in each faculty*.

[O] IN the year 1616, the King (*James I.*) sent directions to Dr. *John Hill*, then Vice Chancellor, and the Heads of Houses in the University of *Cambridge*, signifying his pleasure that he would have *all* who take any degree in the Schools, to subscribe to these Articles.

Rem.—Remarks on these Royal Directions, will be found under the Letter [S].

[P] IN the year 1628 King *Charles I.* caused the 39 Articles to be republished, prefixing thereto a *Declaration*, prohibiting the least difference from the said Articles, and consigning those who should affix any new sense to any Article to the Church's censure in his Majesty's Commission Ecclesiastical, declaring that his Majesty would see due execution done upon them.

Rem.—Nothing can be more inconsistent than to continue this Declaration at the head of the 39 Articles, while every Subscriber is, by Canon 36, confined to a particular invariable form of words, in expressing his assent and consent to

* See the GRACE annexed,

them; nor can any judgment be made, where an article is ambiguously expressed, which of the senses given to it by different interpreters, may be called *drawing it aside from the plain and full meaning thereof*: Nor is the punishment threatened, for offences against this declaration, now possible to be executed, as, thanks be to God and a virtuous Legislature, the Commission ecclesiastical, to which the Offender is consigned for his censure, is no longer in being.

[Q] IN the year 1640 were framed by the Archbishops, Bishops, and Clergy in Convocation, Constitutions and Canons Ecclesiastical, in the sixth of which an Oath is enjoined to be taken by all Archbishops and Bishops and all other Priests and Deacons, all Masters of Arts (the Sons of Noblemen only excepted) all Batchelors and Doctors in Divinity, Law or Physic, all that are licensed to practise Physic, all Registers, Actuaries and Proctors, all Schoolmasters, all such as being Natives or naturalized, do come to be incorporated into the Universities here, having taken a degree in any foreign University, “that they approve the Doctrine and Discipline or Government established in the Church of *England*, as containing all things necessary to Salvation.” *Sparrow’s Collection*.

Rem.—For the objections made to this arbitrary

trary oath, See *Fuller's Church Hist.* xi. Book, p. 170, 171. And *Heylin's Life of Archbp. Laud*, P. 443.

[R] December 16 : 1640. Upon a debate in the House of Commons concerning these Canons, it was resolved, *nemine Contradicente*, "that the Clergy of *England* convened in a Convocation or Synod, or otherwise, have no power to make any Constitutions, Canons or Act whatsoever in matter of Doctrine, Discipline or otherwise, to bind the Clergy or Laity of the land, without common consent of Parliament." And at the same time it was unanimously resolved "that these particular Canons do contain in them matter contrary to the King's Prerogative, the fundamental Laws and Statutes of the Realm, to the Rights of Parliament, to the property and liberty of the Subjects, and matters tending to sedition, and of dangerous consequence." *Rushworth*, Vol. IV. p. 112.

Rem.—This Resolution most certainly reprobated the Canons of 1603, as well as those of 1640. The former, any more than the latter, never had any common consent of Parliament. It is in vain to pretend that this vote was passed in times of irregularity. The forms of Parliament were never more solemnly or religiously observed: and, as it seems, this resolution is not at all

different from the language of the Statute 13 *Car.* 2. chap: xii. wherein it is said, that nothing in that Statute shall be construed “ to confirm
 “ the Canons made in the Year 1640, nor any
 “ of them, nor any other Ecclesiastical laws or
 “ canons not formerly confirmed, allowed or
 “ enacted by Parliament, or by the established
 “ Laws of the Land, as they stood in the year
 “ of our Lord 1639.” The Canons of 1603, had no *establishment* but King *James’s* License and Ratification: and no less had the Canons of 1640, the License and Ratification of King *Charles I.* And if ever the matter should come to a fair Trial, King *James’s* Canons could no more stand before the established Law of the Land, than those of King *Charles.* And whatever authority one of these Princes derived from the 25th of *Hen.* 8. the other had equally the same.

[S] *January* 19 : 1640-41. “ Upon Mr. *White’s* report from the Grand Committee for Religion, it was resolved upon the question, that the Statute made about twenty-seven years ago in the University of *Cambridge,* imposing upon young Students a Subscription according to the 36th Article of the Canons, made in the Year 1603, is against the Law and Liberty of the Subject, and ought not to be pressed upon any Student or Graduates whatsoever.” *Ibid.* p. 149.

Rem.—From the manner in which this Resolution

lution is expressed, it is probable the Case stood thus. King *James's* Letters to the University required Subscription of Batchelors in Divinity and Doctors in each Faculty. This became a *Statute*, but was probably extended to other graduates *pro arbitrio*, and this being objected to, the University might apply in 1616 to the King for his *farther* pleasure in this matter, and the affair coming before the Parliament in 1640, they seem to have taken both orders together. Otherwise it is certain that the Statute of 1613 extends to no *younger students* than Batchelors in Divinity, and Doctors in each Faculty. But this is wholly conjectural. The material observation is, that the whole Practice is justly and severely condemned in a most wise and righteous Parliament.

[T] IN the year 1662. 13 & 14 *Car. II.* was passed the last Act of Uniformity, by which Subscription to the Declaration of Conformity to the Liturgy of the Church of *England*, as by Law established, is required of every Dean, Canon, Prebendary of every Cathedral or Collegiate Church, and of all Masters and other Heads, Fellows, Chaplains and Tutors, of or in any College, Hall, House of learning or Hospital, and of every public Professor and Reader in either of the Universities, and in every College elsewhere, and of every Parson, Vicar, Curate, Lecturer, and of every other person in holy Orders, and every Schoolmaster keeping any
C · public

public or private School, and of every person instructing or teaching any Youth in any house or private family as a Tutor or Schoolmaster. And by the same Statute Subscription unto the nine-and-thirty Articles mentioned in the Statute made in the 13th year of the reign of the late Queen *Elizabeth*, is required of the Governor or Head of every College or Hall in either of the Universities, and of the Colleges of *Wesminster*, *Winchester* and *Eaton*, and all upon the pain of forfeiting their respective offices or preferments, from the Dean down to the petty Schoolmaster.

Rem.—This vindictive Statute, having now compleatly done its work, and occasioned such a variety of distress from the Restoration to this present hour, to such of the clergy as could not assent to the principles of King *Charles* the second's Bishops, may now, we hope, be softened and qualified, without any detriment to the Church of *England*. Neither King, Lords nor Commons have any thing to fear from the mutinous spirit of a peevish, irritated and obstinate generation of Nonconformists. The Toleration laws have rendered Protestant Dissenters of all Denominations, peaceable, rational and valuable Subjects to the Civil Government; and the Clergy of the established Church, who solicit a relaxation of their present bonds, derive their pretensions only from the original principles of the Protestant reformation, and those generous

maxims of Civil and Ecclesiastical policy which give a sanction to the Revolution of 1688, and to the Settlement of the Crown in the lineage of our most gracious Sovereign, to whom and his Royal House they profess the most sincere and cordial attachment. They fly for assistance on the present occasion to that august Body, who have ever been the Protectors of the Rights and Privileges of the *British* Subject, and who have in many periods of our History, from the first dawn of Reformation, shewn their care and concern to deliver the pious and conscientious Clergy, not only from the oppressions of the Roman Pontiff, but from the attempts and encroachments of many in high places, whose ambition disposed them to establish the like usurpations, under a more plausible pretext. The time is now come, they hope, when a candid hearing will be given to their reasonable and modest Remonstrances, and all obstructions to their relief removed, which are founded in nothing, but a desire of exercising a despotic Rule over the Consciences, or in pretended fears and apprehensions of Consequences, which can have no place, where the freedom solicited has no other object than the promotion of peace and unity, virtue and true piety among Clergy and People in the present state of things, and the everlasting Salvation of all in the world to come.

UPON the whole, the several Statutes enjoining Subscription to the thirty-nine Articles are, in their present state, liable to different constructions, particularly with respect to the limitation in the Statute, 13 *Eliz.* c. 12.——And the Statute,

tute, 13 & 14 *Car. II.* commonly called the Act of Uniformity, referring where Subscription to the Articles is by that Act enjoined, to the Statute of Queen *Elizabeth* before-mentioned ; it is now become uncertain to which, or to how many of the said Articles, the Clergy are bound, by the said Statutes, to subscribe : And with respect to their Obligation to subscribe the said Articles, as a condition of holding their Temporalties, the said Uncertainty is not removed by the requisition of the 36th Canon to subscribe to *all* and *every* the said Articles, inasmuch as the said Canon hath never been authorised or confirmed by Parliament ; and as by the Constitution of this Realm no Freehold can be passed or legally held by Virtue of the Canon Law only, as that would give the Canon Law a paramount authority over the common and statute Law of these Kingdoms, and would be moreover an infringement of his Majesty's Supremacy.

F I N I S.

APPENDIX.

Since the foregoing summary View was printed off, we have been favoured with the following account of the Origin of Subscriptions to the 39 Articles and the 36th Canon, in the University of Oxford.

“ **A**FTER Queen *Elizabeth* had visited Oxford, several Regulations, respecting Dress and Discipline, were by her recommended to the University. Accordingly, in the year 1573, among many other Acts to put her Majesty’s Reformation in execution, it was decreed *in Convocation*, That each Candidate for the future, previous to his taking his Degree, should subscribe the Articles, as the form requires at present.

“ Afterwards, in the year 1576, it was farther decreed, That every person above the age of sixteen, who entered his name in any College or Hall, should, before the *Friday* se’nnight after his entrance, be matriculated, and then subscribe the Articles of the Church; and that the Vice-
 D “ chan-

“ chancellor or Proctors should give him a
 “ certificate of having done so.

“ *Anthony Wood* says, that the Puritans
 “ of those days complained sadly of this
 “ *unchristian restraint*; that many of them
 “ refused to comply with it, and absolutely
 “ suffered themselves to be deprived of their
 “ emoluments in the University.

“ But whether it was owing to the oppo-
 “ sition of the Puritans, or because these
 “ Decrees of Convocation were not armed
 “ with sufficient authority, this Subscrip-
 “ tion soon came into disuse.

“ In the year 1616 the University ap-
 “ plied to King *James*, for powers to make
 “ new Decrees to enforce Subscription. The
 “ account which *Wood* gives of it, is as fol-
 “ lows:

“ Having mentioned the founding of
 “ *Jesus* and *Wadham* Colleges, he adds, that
 “ this additional number of Colleges, con-
 “ tributed to the spreading of Calvinism;
 “ it was therefore intimated to the King,
 “ that there was danger that Presbyterian-
 “ ism would overrun the whole kingdom,
 “ if Students should imbibe the Principles
 “ of it along with the rudiments of acade-
 “ mical learning; and that this was the ra-
 “ ther to be apprehended, in that so very
 “ few subscribed their assent to the three
 “ Articles contained in the 36th canon;
 whence

“ whence it would happen, that they who
 “ were disaffected to the ecclesiastical go-
 “ vernment of the Church, and the Liturgy,
 “ and made no account of the other sacred
 “ offices, would give their whole attention to
 “ Sermons; by which means those silly fel-
 “ lows, called *Lecturers*, would have an op-
 “ portunity of spreading opinions directly
 “ contrary to the doctrine of the Church of
 “ *England*. These things being insinuated
 “ to the King, he held a consultation with
 “ his Bishops, and some other Churchmen
 “ about him, on the 18th of *January*; and,
 “ after mature deliberation, transmitted cer-
 “ tain orders to the Vice-chancellor, some
 “ Heads of Houses, the Doctors of Divi-
 “ nity, and the two Proctors, requiring
 “ them to assist in the execution of them.
 “ The first of them was, That every one ad-
 “ mitted to a Degree in the University
 “ should subscribe to the three Articles
 “ abovementioned. The execution of these
 “ orders was committed by the Earl of *Pem-*
 “ *broke*, newly made Chancellor of the
 “ University, to the Vice-chancellor, Heads
 “ of Houses, and some others, whom his
 “ lordship exhorted to put them in prac-
 “ tice with all diligence. And that these
 “ orders might not want the authority of
 “ Statutes, or rather might be reduced into
 “ the form of Statutes, certain Delegates

“ out of the Heads of Colleges were ap-
 “ pointed, who, by their joint labours and
 “ counfels, finished and iffued, on the laft
 “ day of *March*, the following Decrees.—
 “ With refpect to the Articles of faith, it
 “ was decreed, that Subscription fhould be
 “ made in this form :

“ Ego A. (vel nos, A. B.) perlectis pri-
 “ us, vel ab alio coram me (vel nobis)
 “ recitatis Orthodoxæ fidei et Religionis
 “ Articulis xxxix, et in Sacra Synodo
 “ Londini habita A. D. 1562, conftabi-
 “ litis, fimulque tribus capitibus in alia
 “ Synodo Londinenfi fub annum 1604 de-
 “ cretis, et in Canonem 36to. redactis,
 “ fcians volensque (feu fcientes et volen-
 “ tes) ex animo fubfcribo (vel fubfcribi-
 “ mus.”)

“ The prefent form of prefenting people
 “ to their degrees was alfo at the fame time
 “ appointed, to be faid by their refpective
 “ Deans, ending—*Quem infuper fciolegiffe,*
 “ *vel lectos audiviffe omnes articulos fidei*
 “ *quibus coram Procuratoribus fubfcripfit.”*

“ *Wood* fays, that when thefe Statutes
 “ came to be published, they gave great of-
 “ fence to, and were confidered as grievances
 “ by, the Puritans, and occafioned not a few
 “ invidious reflections upon Doctör *Laud*,
 “ as he was not only the advifer of thefe
 “ Articles” (meaning the particulars com-

prehended in these new Statutes) “ but
 “ one of the delegates who framed the said
 “ Statutes; to which however the Puritans
 “ conformed, though with reluctance, left,
 “ by slighting what was enjoined by the
 “ King’s authority, they should expose them-
 “ selves not only to expulsion, but to some
 “ more grievous punishment.”

R E M A R K S.

All this, in the opinion of *Wood*, was extremely right, and as it should be. Passing by, however, the practising in this manner upon the King, and the views of distressing those who were distinguished by the name of *Puritans* (views, worthy only of the wretched Policy of those days) we may be allowed to examine what *legal* authority these *injunctions* may be supposed to have in the present times. It does not appear that Queen *Elizabeth* gave any particular directions concerning Subscription to the 39 Articles. This was merely the effect of a Decree of the University assembled in Convocation. The disuse of Subscription, notwithstanding this Decree, and the subsequent application to King *James*, discover a consciousness in the Governors of *Oxford*, that a Decree of their Convocation was void of authority to enforce Subscription. With respect to King *James*’s Orders or Mandates, it does not appear, whether, by the word, *Edixit*, we are to understand a formal *Edict* in writing, authenticated by the King’s sign manual; or some general directions, to put in execution what his Majesty would have decreed by
 the

the University; or lastly, some verbal Orders given to their Chancellor, the Earl of *Pembroke*. It may be questioned, whether the Delegates, in reducing these Orders into the form of Statutes, did not exceed their Commission; or indeed, whether the University had any such authority to delegate. For to whatever the Royal Mandate might amount, previously to the composing new Statutes, the academical doctrine *has been*, if I mistake not, that no Statutes are binding upon them, which have not the Royal Assent or Ratification; and nothing of that sort appears from *Wood's* account, which, indeed, is very confused, and wants explanation in many particulars. If, on the other hand, our Universities have authority to *make* valid Statutes, without the Royal Ratification, they must have authority to *repeal* them. And yet this is what the *Cambridge* men lately denied, and thought moreover, that recourse must be had to the *Legislature* to have such Statute repealed or altered, tho' it has only the sanction of a Grace passed in the Senate. Which suggests a question, By what authority their predecessors abolished the practice of requiring Subscription from the Students at the time of their matriculation? It should be mentioned, to the honour of *Cambridge*, that there was no Subscription required of the Students, or Candidates for Degrees, in that University, in the days of Queen *Elizabeth*; which I think amounts to a proof, that the Queen did not give any *particular* directions concerning that matter at either of the Universities, and that without such directions, *Cambridge* did wisely in not taking the Decree of *Oxford* for a precedent fit for them to follow. The authority, given by
King

King *James* to the University of *Cambridge*, in 1616, to require Subscription of young Students, seems to be very weak. It is only *the signification of his Majesty's pleasure*, seconded by a letter from the Bishop of *Winchester*, to the Vice-chancellor, which seems to leave much to the *option* of the University, the Heads of which did not, that I can find, solicit his Majesty's directions on this behalf, after the example of *Oxford*. But, since the practice of requiring Subscription of young Students, obtains at both Universities, it had been well if *Cambridge* had followed the example of *Oxford*, in taking care that the young Subscribers should either read the Articles, or hear them read, previous to their signing their assent to them. The formality with which this circumstance is attested, by the person who presents the Candidates at *Oxford*, should seem to imply more than a bare reading; something, perhaps, like an explanatory Lecture upon these Articles. But this is conjecture; and, by an easy figure, *reading* may include *understanding* them. Indeed, as reading the Articles before taking the first Degree, would be a novelty at *Cambridge*, some of the young sophisters might be pert enough to ask questions, or form syllogisms upon particular passages, which it might take more time to answer than could well be spared at the busy season of conferring Degrees. And probably they who have the ordering of such things, may think it sufficient to say, *They may read the Articles if they will. No-body hinders them. If they do not, it is their own fault.* This is easily said; but some people may be of opinion, that, be the *legal* obligation to subscribe what it may, there is a point
of

of *equity* inseparable from such cases as this, namely, That they who undertake the education of these young men, should not content themselves with knowing that they have *read* these Articles. If they will have Degrees, it is not at their option whether they will subscribe them or not. Must not honest and conscientious Tutors and Governors be sensible, that it pertaineth to the faithful discharge of their offices, to instruct these young men in the Doctrines of these Articles, to apprize them of the nature and tendency of Subscription, and to give satisfactory answers to such doubts or difficulties as the sense and apprehension of the Candidates may suggest to them? The whole affair is too melancholy to be farther dwelt upon. Let us blush for what is past, and unite our endeavours, that these shameful blemishes in our discipline, may be no longer our *opprobrium*.

F I N I S.

